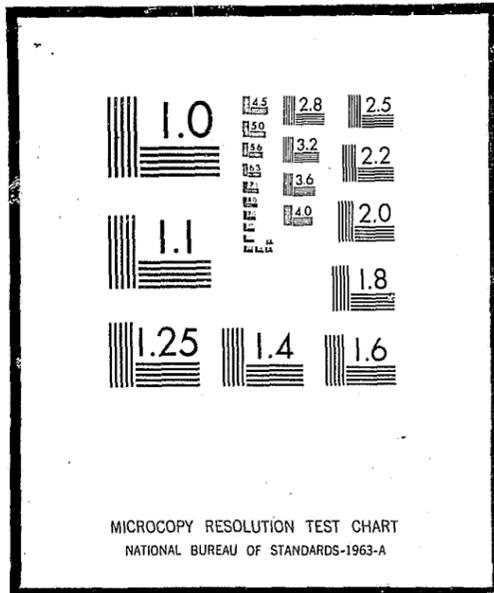


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Superior Court of California  
San Francisco

WALTER F. CALCAGNO, JUDGE

THE SAN FRANCISCO MASTER CALENDAR  
SYSTEM  
FOR CRIMINAL CASES

### Background

In January, 1970 there were 504 felony cases pending in the San Francisco Superior Court. By January, 1971 the pending caseload had swollen to 788 cases (1003 defendants). The rate of increase was growing each month.

We were faced with the enormous task of stemming this increase with the same number of personnel, the same facilities, and the same budget that could not hold down a backlog that was 284 cases lighter.

The system was nearing a state of chaos. It was not uncommon in bail cases to find delays of twelve months between filing date and trial. It was obvious that our management policies needed drastic revision if we hoped to maintain any system of justice at all.

### New Procedures

1. Before anything could be done to reduce the growing backlog of pending cases we had to take a complete inventory of the cases on hand. Without this there would have been no way to evaluate objectively the scope of the problem. To this end we began to compile and report the following monthly statistics:

- (1) CASES PENDING: a roster indicating for each case: (a) name of defendant(s); (b) court number; (c) charge(s); (d) date indictment/information filed; and (e) assistant district attorney assigned to case.
- (2) MONTH-BY-MONTH COMPARISON: a chart reporting the total number of pending cases, filings, and disposition; included in this chart is a monthly comparison with prior years.
- (3) TRIAL COURT ACTIVITY: a report indicating the cases assigned to each trial court in the criminal division during the month, including the date jury selection commenced, the length of the trial, and the final disposition of the case. This report is circulated to each of the judges in the Criminal Division; each judge is apprised of the activity in each of the trial departments.

2. In January, 1971 the Presiding Judge assigned two additional trial departments to the Criminal Division, increasing the total complement to four trial departments at City Hall, three trial departments and a master calendar department at the Hall of Justice.

3. In 1971 the Criminal Division began to utilize electronic computer facilities to print daily and trial master calendars. The programmed calendars provided the master calendar judge with current information as to both caseload and court availability. This allowed free movement of the calendar at all times and permitted efficient usage of all court time.

#### Maintaining the System

We strengthened our control of the daily and trial calendars by adhering to the following practices and policies:

1. Combining of the multiple activities of arraignment, plea, pretrial and trial settings into one (at most two) court

session (s). Trials were set within 60 days of filing whether time was waived or not. Pre-trial conferences were set approximately 10 days before the trial date and all pre-trial motions had to be made in writing and in sufficient time to avoid interference with the trial date;

2. The instituting of a strict policy against continuances. Effective calendar management demands a firm and consistent policy regarding continuances. Each court appearance must contribute productively to the ultimate disposition of the case. Delay for the sake of delay is anathema to all principles of sound judicial administration.

3. Mandatory pre-trial conferences. This device was aimed at reaching non-trial disposition whenever appropriate, and at disposing of all foreseeable procedural and evidentiary matters prior to trial;

4. The willingness and ability of magistrates conducting preliminary hearings to evaluate realistically the ultimate dispositions of felony filings and, where appropriate, to dispose of cases as misdemeanors in municipal court. This led to a "levelling" effect on the felony filings in the Superior Court.

#### Results

The assignment of the additional courts, the installation of computers, and the implementation of the standards of practice heretofore mentioned resulted in a dramatic reversal of the trend of increasing case backlog and long waits for trial. In the first year the system was in operation, the 788 pending cases as of January, 1971 were reduced to 563 cases by the end of the year, in

spite of the filing of a record 2,507 new felony cases in Superior Court during 1971. The success has been continuous. December 31, 1973 marked the end of the third consecutive year in which caseloads were reduced in the criminal division. There were 141 cases pending in Superior Court as of January 1, 1974. Of these case only 17 had been filed in Superior Court more than 60 days previously, and all 17 had been delayed by appellate court stays, mistrials, or other causes outside the control of the Master Calendar.

The drop from 788 cases to 141 cases is placed in proper perspective when we consider that in the 36 months from January 1, 1971 to January 1, 1974 there were felony filings in Superior Court for 6,644 cases; during the same period of time there were total dispositions of 7,291 cases. (Dispositions include trial, change of plea, dismissals, etc.).

Our initial goal in 1971 was to reduce the pending case backlog to manageable proportions. The result we achieved exceeded our most optimistic expectations. In the first 24 months our backlog evaporated. Since January, 1973 our inventory of cases has been current, and the cases are proceeding to trial on the assigned date. No difficulty is experienced in bringing any case to trial within the statutory 60 days from filing in Superior Court.

#### Underlying Factors

Impressive statistics fail to give credit to the countless person-hours that were expended in initiating and maintaining the system. The success of any calendar reform program necessarily

depends on the firmness and uniformity of administrative practices coupled with the cooperation of all personnel and agencies involved with the court. In San Francisco we solicited the joint efforts of the district attorney, the public defender, the probation department, the criminal bar, superior court staff and the court attaches. The outline of the program was presented, discussed and accepted. This initial spirit of cooperation was invaluable to the successful launching of the system and to its continuous success.

#### How the San Francisco System Works

The Criminal Division of the Superior Court utilizes a Master Calendar Department wherein a single judge processes and assigns all cases that enter the Superior Court.

At the time a defendant is arraigned in Superior Court he is assigned a pre-trial conference date that is scheduled seven to ten days before his trial date. The defense attorney is instructed to submit any pre-trial motions he intends to make in sufficient time for them to be heard and decided before the pre-trial conference.

By the time of the pre-trial conference both parties should be fully aware of the merits of the case on each side and prepared to decide whether the case should be tried or disposed of by plea.

On the date of the pre-trial conference the attorneys for both sides meet with the Master Calendar Judge in his chambers and announce the progress of settlement discussions. If the case is close to disposition the judge may, if requested, suggest what he

believes to be a just disposition.

If the defendant desires to change his plea to guilty during the conference, the plea is entered on the record in open court, and sentencing is set for a date 21 days later to allow the preparation of a pre-sentence report by the Adult Probation Department.

At the time of sentencing the defendant is arraigned for judgment and sentence is passed. If the judge has decided that he cannot follow the terms of the disposition after reading and considering the probation report or because of other information that has come to his attention since the plea of guilty was entered, he will allow the defendant to withdraw his plea of guilty and enter a plea of not guilty if the defendant desires to do so.

Experience has demonstrated that the Master Calendar must be operated in an organized, businesslike manner to insure that all defendants are treated fairly and are assured of going to trial on the date assigned if they so desire. This encourages early disposition of those cases that will not be tried which, in turn, keeps trial courts available for those defendants who do not wish to plead guilty.

In efforts to strike this balance the San Francisco Master Calendar Department has found the following policies to be useful:

(1) On a defendant's first appearance in Superior Court he is arraigned, his initial plea is entered, a pre-trial date is assigned, and the case is given a certain trial date;

(2) All pre-trial motions must be scheduled by attorneys for both sides, to be heard and determined before the pre-trial conference;

(3) Section 1050 of the Penal Code is strictly followed, and once a trial date is set continuances are not granted without a proper showing;

(4) The Master Calendar Judge must be fair and consistent in his handling of pre-trial dispositions so both parties will not be tempted to "judge shop" among the trial courts hoping to obtain a more favorable disposition. It should be the policy of the court to terminate plea discussions before the date of trial. Once the trial date arrives both parties must be fully prepared to proceed to trial;

(5) The judge at the pre-trial conference must evaluate and analyze each case carefully and be prepared to offer the defense attorney a disposition that he feels is appropriate were the defendant to plead guilty;

(6) The Master Calendar must be controlled to insure there are sufficient trial courts available on trial setting days. The judge must not be tempted to take matters under submission routinely, since each delay in the daily calendar eventually reflects on the trial calendar;

(7) The Master Calendar Judge must maintain a close liaison with the judges of the Municipal Court and encourage a realistic evaluation of the pending felony complaint. A close screening of every felony charge before the Municipal Court by the prosecutor, defense counsel and judge at the arraignment, and thereafter at the preliminary hearing within the provisions of section 17(b) of the Penal Code, keeps out of the Superior Court those cases capable of disposition without a felony conviction. This dual screening saves time in the Superior Court by weeding out those cases that will ultimately be resolved without a felony

conviction;

(8) The Master Calendar Judge must be available to meet with representatives of the District Attorney's office, the criminal defense bar, and other agencies of the court to solve potential problems before they can interfere with the business of the court. If the judge perceives any weakness in the system he must call responsible parties into his chambers for informal discussion.

(a) District Attorney's Staff: During informal discussions with representatives of the District Attorney, the San Francisco Master Calendar Judge has offered the following suggestions to that office:

(i) All cases should be charged realistically and re-evaluated at each stage of criminal proceedings. The District Attorney must avoid overcharging merely for the sake of making a case seem more serious than it actually is;

(ii) Realistic and appropriate sentencing recommendations should be tendered to the defense as soon as possible. Prosecutors should not approach defense counsel with unrealistic proposals and expect to "come down" on the offer as the trial date approaches. The District Attorney should strive to have his offer recognized as an honest evaluation of a case and have the defendant realize that should he choose not to accept it, his case will then proceed to trial;

(iii) The Assistant District Attorney assigned to an individual case should have full authority to dispose of the case and should be available for discussions with defense counsel at the time of arraignment, as well as at the pre-trial conference;

(iv) The District Attorney's assistants should approach plea discussions with a professional attitude rather than a spirit of barter and concession. Their goal should be one of just disposition rather than seeking the maximum punishment possible.

(b) Criminal Defense Bar/Public Defender: In meeting with the members of the criminal defense bar and the Public Defender's staff, the Master Calendar Judge should encourage counsel to obtain discovery and complete their investigations early so it is possible for their clients to evaluate their positions intelligently as soon as possible. The individual defendant does not participate personally in settlement discussions with the District Attorney, but he must be immediately available to instruct his attorney and to decide whether to accept the proposed terms of the disposition or not. His availability also makes it possible for the plea to be taken and entered immediately upon the parties' reaching agreement. At the time the plea of guilty is taken, the trial date is removed from the calendar, and the judge sets a date for sentencing and return of a pre-sentence report by the Adult Probation Department.

(c) Adult Probation Department: The Master Calendar Judge maintains close relations with the Adult Probation Department to insure a smooth coordination between the court and the Department. Each probation officer is encouraged to evaluate the assigned case individually and offer independent sentencing recommendations without regard to any agreed on disposition. This report is often the only disinterested presentation of a case the judge has to guide him when he sentences a defendant. If the probation report is at variance with the facts presented to the judge at the pre-trial

conference to the extent that the judge believes the disposition agreement is inappropriate, he may set the plea aside and permit the defendant to reinstate his previous plea of not guilty if the defendant so desires.

Taking the Plea of Guilty or Nolo Contendere

The judge who takes a plea of guilty or nolo contendere from an accused must insure that the record clearly reflects the defendant has been fully apprised of his rights and the consequences of the court's acceptance of the plea. If the case is submitted to the judge on the transcript of the preliminary hearing after the defendant's plea of not guilty, the same admonition must be given. In Re Moseley, 1 Cal.3d 913 (1970); People vs Levey, 8 Cal.3d 648 (1973).

A procedural guideline was prepared and circulated among all the judges for their assistance in taking a plea of guilty from a defendant. The form encompassed the following constitutional requirements:

(1) The defendant must be advised of and he must personally waive his rights to (a) trial by jury, (b) confrontation of the witnesses against him and (c) the privilege against self-incrimination. Boykin vs Alabama, 395 U.S. 238 (1969); In Re Tahl, 1 Cal.3d 122 (1969). If the guilty plea is entered in the Municipal Court prior to the preliminary hearing, the defendant must also waive his right to the hearing;

(2) The defendant must be advised of the direct consequences of his plea. This includes advising him of the maximum and minimum possible penalty for the offense to which he has pleaded, the effect a conviction may have on subsequent convictions, or any other disabilities that automatically obtain on certain crimes. In Re Birch, 10 Cal.3d 314 (1973);

(3) The record of the proceedings must reflect that defense counsel has discussed the case with the defendant, that the defendant is acquainted with the law as it applies to the facts of the case, and that both counsel and the accused agree to the terms of the proposed sentence. The defendant can also plead to a lesser offense that is not necessarily included in the offense charged. People vs. West, 3 Cal.3d 595 (1970);

(4) All terms of the disposition agreement must be stated clearly on the record. It must be announced whether the court intends to suspend imposition of sentence or whether the court intends to sentence the defendant and suspend execution of the sentence; the court must state whether it will order credit for time served if county jail time is awarded as a condition of probation. If a condition of probation is not included in the record, and the defendant claims he was unaware of it, the condition cannot be enforced by the court. People vs. Ramos, 26 Cal.App.3d 108 (1972);;

(5) The court must advise the defendant that if the terms of the proposed sentence cannot be followed at the time of sentencing, then the court will allow the defendant to withdraw his guilty plea and reinstate his not guilty plea if he so desires. This admonishment must be given at the time the plea is entered. Penal Code, Sec. 1192.5;

(6) The defendant must be advised that if he is placed on felony probation and subsequently violates any of the conditions of probation he may be sentenced to State Prison for the term prescribed by law;

(7) The defendant must personally acknowledge waiver of each of his rights, and he must personally enter his plea of guilty;

(8) After the defendant has entered his plea of guilty the court should make specific findings that the defendant understood the rights that were explained to him, that he voluntarily and intelligently waived those rights, and that he entered his plea of guilty with full knowledge of the consequences of the plea;

(9) In those cases where a plea of "not guilty by reason of insanity" has been entered in conjunction with a plea of "not guilty", and the defendant desires to withdraw the "not guilty" plea and have his case determined on the sanity issue alone, he must be fully admonished since he is in effect acknowledging his guilt of the offense. People vs Rizer, 4 Cal.3d 35 (1971); and

(10) The record of the proceedings wherein the plea of guilty is entered should be transcribed by the court reporter and entered into the official court's file. People vs West, supra.

#### Conclusion

Proper maintenance of any system of court management requires each judge to exercise his or her duties forcefully and decisively. He must not be misdirected or sidetracked by the myriad problems that come up each day. By setting a pattern and example of expedience the judge can cause all the cogs in the machine to turn more efficiently. On the other hand, it must not be forgotten that the effective administration and management of the calendar is but a vehicle by which the ends of justice are served--not an end in and of itself.

**END**