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PROGRAM BRIEF

Court Delay Reduction

PREPARED IN CONJUNCTION WITH
REGULATIONS IMPLEMENTING THE
JUSTICE ASSISTANCE ACT OF 1984

98250

U.S. Department of Justice
National Institute of Justice 98250

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March 1985

PROGRAM BRIEF

Information Guide for the Judiciary, Court Administrators,
and Concerned Criminal Justice Personnel

COURT DELAY REDUCTION

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ACQUISITION

I. PREFACE

A. The Problem

In recent years, lengthy trial delays and large backlogs of court cases have presented a serious challenge to the American judicial system. Protracted delay is frequently cited for its adverse consequences relating to terms of evidence, hardship on victims and witnesses, infringement of constitutional rights to speedy trial, and, ultimately, reduced public confidence in the justice system.

Commonly identified factors such as case load, court size, or length of trial do not account for the persistent nature of this problem. Furthermore, no longer can traditional solutions, such as additional judges or more resources, serve as effective long-term answers, particularly in these times of limited budgets.

A full understanding of court delay requires emphasis on the underlying attitudes, practices, and dynamics within each court system which foster a tolerance for delay — what has come to be known as the "local legal culture."

B. Benefits

For those courts that succeed in bringing their case loads under control, the results can be most beneficial. Some potential benefits include:

1. Substantially improved judicial efficiency;
2. Lower pending case loads for the court and for each judge;
3. Improved order and communication among attorneys, witnesses, jurors, and court staffs;
4. Substantial reduction in pretrial jail populations, thereby saving public funds and relieving jail overcrowding;
5. Increased support and responsiveness of state and local legislatures during budget development;
6. Improved press relations and public support; and,
7. Improved standards of fairness and due process.

C. Promising Answers

This Program Brief discusses a proven response to the problem of court delay. It describes a variety of effective methods used to reduce criminal and civil case backlogs and processing times. These methods are consistent with fundamental standards of fairness and due process.

Recent research has established that court congestion and delay need not be inevitable features of trial court operations. Without a substantial investment of financial or manpower resources, courts can reduce processing time. The following are components of some the more promising strategies.

1. Formation and use of a Justice System Advisory Committee.
2. Definition and understanding of the range of case processing management problems confronting the court.
3. Analysis of the case processing system of the court.
4. Collection of statistical data on the processing time for each step in a case, from commencement through disposition.
5. Development of case processing goals, including time increments for each step in the process.
6. Implementation of changes in current practices through special task forces and subcommittees, which should include non-judicial representatives from the local bar and court support agencies.
7. Establishment of a permanent monitoring and control system to measure court performance.
8. Creation of a statewide trial court reporting and accountability system.

II. INTRODUCTION

The initial step toward more timely adjudication is court control of cases within tighter case processing goals.

A. The Ultimate Goals: Improved Justice, and an Efficient Judicial System

Tight case management can put trial courts on an efficient, businesslike basis. It fosters increased productivity at a time when courts, like all governmental units, are receiving fewer tax dollars. In an era of increased public accountability for all government operations, a speedy trial offers one appropriate test of the quality of a community's justice. Recent research points toward speedy trials as providing a more uniform quality of justice, while protecting the public's right to safety and the accused's right to a prompt finding of guilt or innocence.

B. Early Objectives: Expose the Myths; Support Basic Research

Serious planning for a Court Delay Reduction Program began in the latter part of 1976 under the Law Enforcement Assistance Administration (LEAA). Initial efforts emphasized basic research. A joint project between the National Center for State Courts and the National Conference of Metropolitan Courts attempted to define the dimensions of delay by collecting and analyzing case processing data from 21 metropolitan trial courts. Products which emanated from that research included a literature review and critique, entitled "Pretrial Delay: A Review and Bibliography," and a study report, "Justice Delayed: The Pace of Litigation in Urban Trial Courts."

A second research effort documented the highly successful criminal case processing methods used in Portland, Oregon, with the intent of developing a transferable model. The Portland Criminal Court was processing felony cases from arrest to trial in less than 60 days. A research team from the Whittier Justice Institute drew upon the Portland experience to identify seven principles or "critical factors" for successful speedy criminal case processing. These were published in a report, entitled "Arrest to Trial in 45 Days."

C. Model Building in Delay Reduction

Further study and experimentation by the Whittier Justice Institute, in cooperation with the court systems in Miami, Florida; Dayton, Ohio; Houston, Texas; and, the State of Rhode Island, confirmed the importance of those "critical factors" in delay reduction. This research resulted in a detailed set of recommendations for establishing a criminal case management program, which was presented in a report, entitled "Justice in Felony Courts."

The National Center for State Courts similarly tested an array of case management techniques at eight trial courts around the country. In its summary report, "Managing to Reduce Delay," specific case management techniques and obstacles to their implementation were noted. Total case management was advocated as the best means by which to reduce overall case processing time.

D. Standards Relating to Case Backlogs and Delay

Several sets of standards for reasonable case processing times have been issued. The standards established by the American Bar Association, the National Advisory Commission on Criminal Justice Standards and Goals, and the Federal Speedy Trial Act vary in their scope and specificity. The ABA standards deal with the right to speedy trial in a general manner. The standards of the National Advisory Commission propose quantifiable time limits for the implementation of speedy trial rights. The Federal Speedy Trial Act (1974) prescribes precise time requirements and exceptions, and offers a plan for phased implementation.

A major impetus to court delay reduction efforts was provided in 1980 when the Conference of Chief Justices, the Conference of State Court Administrators, and the ABA Judicial Administration Council passed resolutions designating the year 1981 as a special year of emphasis and renewed dedication for prompt justice in the nation's courts. Further impetus to court delay reduction efforts occurred in July, 1983, when the State Court Administrators adopted national time standards for all categories of cases: criminal (felony and misdemeanor); civil (jury and non-jury); domestic relations; and, juvenile.

E. Training

Proven methods of delay reduction were presented to most of the nation's metropolitan courts in a series of workshops in 1980, and to 44 state court teams in 1981. Many of the court teams participating in those workshops developed new case processing time standards, and outlined tentative delay reduction plans. The workshops were conducted with the support of the National Judicial College, the Institute for Court Management, and the National Center for State Courts.

III. CRITICAL ELEMENTS

A number of elements have been synthesized from research, demonstration, and evaluation findings. These elements have provided effective guidance in moving a trial court from inefficient processing of its cases to management of its cases within prescribed time frames.

A. Form a Justice System Coordinating Committee.

The committee should serve as a coordinating mechanism for affected justice system decision makers. Regularly scheduled meetings should be held. An agenda of issues to be resolved at each meeting should be provided in advance.

B. Define the range of case processing management problems confronting the court.

Narrow the scope of concern to the critical factors affecting efficient case processing. Previous studies and existing data should be examined. Task forces should focus initially on perceived problems and report back to the full committee.

C. Analyze the case processing system of the court.

Graph the sequence of key events in the adjudication process from the time of arrest or filing through trial or other disposition. Document interactions and the relationships between organizational units. Identify the critical events for case management control. Delay due to organizational or procedural causes or practice should be noted for corrective action.

D. Collect statistical or sampling data on case processing times from commencement through disposition.

The time interval experienced between case processing events should be measured and analyzed. Active, pending cases should be inventoried to determine the magnitude of the backlog and to pinpoint events contributing to delay.

E. Organize the court for effective case management.

The court must be organized to bring case loads under control. A single judge should be designated as administrative or chief judge, and that role should be an active one. A trained court administrator with properly delegated responsibilities is important. The scheduling office and the clerks' offices must be organized to support the case control policies of the judges. The judges and court staff should meet frequently when planning and carrying out new policies. The court must be organized so that everyone is accountable to someone for the efficient performance of duties. In larger courts, it may be necessary to decentralize, with judges assuming greater responsibility for the movement of specific blocks of cases, be they civil, criminal, juvenile, or probate.

F. Develop case processing and operating goals.

Establishment of new case processing goals and operating standards is an essential step if the court is to measure its performance. Time limits should be set, from arrest in criminal cases and filing in civil matters, to cover each step in the case process. Case processing goals should be developed in cooperation with the bar, prosecutors, defenders, and other affected parties. Complex cases may be treated on an exception basis, but should never become the norm for case processing. While time standards, in some cases, may be spelled out in state statutes or supreme court rules, each court should seek to improve upon these general standards by introducing specific case processing goals that meet its own needs.

G. Implement changes through task forces and committees.

Once the board of judges defines the policies to be adopted, mechanisms for implementing changes must be created. Interagency problems can be resolved through a coordinating committee. Some issues can be directly handled by the clerk or court administrator, while other significant changes in rules and operating procedures might require detailed work by special task forces and subcommittees. The bar associations should be represented on these task forces whenever attorney workloads and practices are affected. The basic purpose of these "working groups" is to specify responsibility for individual tasks, and to ensure cooperation of the members of the "local legal culture" in the change process.

H. Establish a permanent monitoring and control system.

Few automated information systems generate case flow data. Statistical information to monitor the movement of cases within the limits of the new goals may have to be drawn from a number of manual and automated systems. Once the information is collected, the critical need is for analytical capability to separate procedure or time standard problems from resource problems. The most cost effective means of developing monitoring and control functions appears to be the integration of these functions into the clerk's office, or the court administrator's office. In some situations, new staff with special technical skills must be hired.

The monitoring system must be permanent and integrated into the policy-making function. Interagency problems that emerge from the monitoring should be immediately added to the agenda of the next coordinating committee meeting, or dealt with directly through the appropriate agency head.

I. Create a statewide trial court reporting and accountability system.

State supreme courts almost universally require some trial court reports, implying some level of accountability for the efficient movement of cases throughout the state court system. Uniform case reports and overall judicial performance reports are necessary for the state supreme court to ensure long term accountability.

To assist trial courts to improve their case management, supreme courts and court administrative offices might adopt some type of "service model" for assistance. The service model concept has several different components which can be adopted wholly or in part: a uniform record keeping system (e.g., as in Illinois); a case management technical assistance unit (e.g., Alabama); statewide rules of superintendence (e.g., Ohio); or a management analysis team (e.g., California).

IV. SPECIAL LESSONS

Some lessons have been learned from the implementation of the various strategies by state and local courts.

- A. Delay is not inevitable. Courts willing to confront the challenge of backlog and delay have found ways to reverse trends of uncontrolled continuances, scheduling conflicts, inaccurate information systems, courtroom downtime, and inefficient use of judges, attorneys, and court staffs.
- B. The key factor in reducing delay and backlog is the commitment of the managers of the adjudication process. Particularly important is the role that judges play in maintaining control over the case process from filing to termination. Encouragement by the judiciary for early disposition of cases avoids needless expenditure of court resources, resources often expended for cases that never come to trial.
- C. Structural and procedural characteristics of a given court may significantly impede efficiency in case processing. However, within any framework, the exercise of consistent management control will promote attitudinal changes and can result in significant improvements in case processing time.
- D. Where case processing changes pose unacceptable risks to some judges, an experimental program, involving only several of the judges in a given court, is a practical method to prove the efficacy of a delay reduction program.

- E. One obstacle to undertaking a delay reduction program is the inability of most existing court information systems to provide essential data for diagnosing case processing problems, e.g., aging of cases, "active" vs. "inactive" cases, reasons for continuances, and the attorneys or judges most often responsible for delays. Some of this information may have to be manually collected in the short term.
- F. A detailed analysis of current case processing, including the charting of critical events and interrelationships, is a necessary first step to correct misconceptions and engender cooperation. Such analysis makes possible an informed, factual view of case processing in a particular court.
- G. Where outside consultants or state court administrative staff are involved in trial court delay reduction efforts, a relatively long-term planning and start-up period (often up to six months) is necessary to build competence and self-confidence among the court managers and participants. This should be a period of constant interaction between court personnel and the outside support group.
- H. Once a delay reduction effort is in place in a trial court, monthly monitoring by local or state support staff or outside consultants is necessary for an extended period. This monitoring function is important to provide needed support to judges and staff implementing the plan, to improve program performance, and to identify potential redesign requirements.
- I. Some form of judicial accountability system at the state level is necessary for case processing goals and productivity goals to survive over the long term. This should be fostered by maximum possible local court review and control of its operations and case processing, with the state playing a monitoring, technical assistance, and service role.
- J. There are no simple "formulas" or panaceas for trial court delay reduction which can be mechanically superimposed on various courts. Each court needs to conduct a detailed analysis of its case processing system and of the efficiencies and dysfunctions in its operations and practices. However, contact with courts that have successfully brought criminal or civil case loads under control can provide practical assistance to a court implementing a court delay reduction program.
- K. Lastly, processing of court cases must be viewed as a "system" involving court clerks, prosecutors, public defenders, private attorneys, pretrial service and probation staffs, and sheriffs and police. Where serious breakdowns or weaknesses occur in prosecutor or defender staffing and practices, for instance, or in the attitudes or practices of attorneys, those deficiencies must be dealt with through the coordinating council, advisory committee, or bench/bar committees. Although judicial leadership is essential for delay reduction efforts, a maximum level of cooperation with other justice system agencies is essential for lasting reform.

V. AGENDA FOR ACTION

A. Statewide Services in Case Management

The major emphasis in the 1980's is on developing statewide strategies for delay reduction which build on the earlier projects. One promising strategy involves organizing and training special staff from state court administrative offices to work with local trial courts in analyzing delay factors, and helping trial courts eliminate backlogs and delay. This "service model" of delay reduction is at the heart of efforts in Alabama, New Jersey, and Massachusetts.

Beginning in 1985, the Office of Justice Programs, to the extent possible, will provide financial and technical assistance for states and metropolitan courts to improve case processing. Emphasis will be on statewide programs. The purposes will be: (1) to train state court administrative staffs to organize and manage statewide court delay reduction programs; and, (2) to assist metropolitan courts in implementing delay reduction projects.

Major program efforts will include distribution of program documentation, conduct of regional workshops for state program teams and local project teams, and provision of technical assistance through field teams of experienced practitioners.

B. Education and Training

For a number of years, basic trial court management skills and principles of case management have been part of the curricula of the Institute for Court Management and the National Judicial College. Some state judicial colleges also have incorporated these topics into their state education and training programs. To accelerate these efforts, it is proposed that regional workshops, drawing upon the most recent experiences, be conducted.

C. National Technical Assistance

Within the limits of technical assistance resources, national technical assistance teams will be available to support either short-term or more intensive delay reduction efforts in state court systems or selected metropolitan courts. Most of the more intensive technical assistance efforts are expected to evolve from the planning accomplished during the regional workshops.

At the state level, technical assistance will involve evaluation of information systems and case monitoring statistics, training of court administrative staffs, joint efforts with metropolitan courts, and orientation of supreme court or trial judges regarding delay reduction objectives.

Technical assistance efforts to local courts will include assistance in data collection and analysis to define case backlog and points of delay, suggested organizational and task force approaches to resolve problems, changes in procedures and forms, orientation and training of key staff, and monthly monitoring of performance to gauge program impact.

VI. SOURCES FOR FURTHER INFORMATION AND ASSISTANCE

A. Successful Demonstration Efforts

A number of states have reduced both criminal and civil court delay through the exercise of rule making powers, and through statewide case reporting systems. A unique capacity exists, at the state supreme court level, to assure that efficiencies in case processing are not only achieved but maintained.

In brief, rule making powers have been used to establish and/or address:

1. Administrative judges;
2. Case time limits;
3. Random case assignments;
4. Uniform procedures for use of audio and video technology;
5. Restriction of case continuances;
6. Sentencing time limits;
7. Quarterly reviews of judges' personal dockets, and case dismissal where no action has been taken within six months; and,
8. Monthly summary reports to the chief justice by each trial judge.

Alabama: Alabama developed a technical assistance team to work with volunteer trial courts to improve case management, and developed a prototype trial court case management information system. A number of pilot trial courts agreed to implement new case management techniques in accordance with detailed plans. These plans were developed and monitored by local committees, assisted by the State technical assistance team. Based on the success of these pilot efforts, Statewide training is now provided and model State case control procedures have been developed.

Massachusetts: Two years after reorganizing its trial courts, the Superior Court Department initiated a campaign to reduce the tremendous civil backlog and introduce case management for criminal and civil cases. The initial effort concerned the large civil case backlog in Suffolk County (Boston). New standards for processing criminal cases also were issued, and the Boston Bar Association joined the effort with a case flow management symposium.

The trial court administrator, with only modest funding and staff, took a number of administrative actions: a statistical sampling of case processing times was completed; a manual case tracking system was developed; policy committees for criminal and civil case processing improvements were organized; and training sessions for judges, administrators/clerks, and other court personnel were completed. Civil case backlogs were pared by extensive screening and through mediation and special courts. Improvements were made in the Statewide case reporting system and in accountability.

New Jersey: The State is well along on what may be the nation's most intensive speedy trial program. Planning guidelines were developed by the Administrative Office of the Courts, and each trial court then developed its own criminal speedy trial project. The program began with experiments in new policies and procedures in two pilot courts. The annual State Judicial Conference focused attention on the speedy trial program.

New criminal case time standards were developed and phased in over a three-year period. After a year of intensive planning and a year of implementation, a summary report noted substantial progress, "...median age from indictment to disposition at the Superior Court level was reduced from 284 days to 128 days..., and the proportion of cases achieving goals rose from 33% to 73%...."

Kansas: In 1980, Kansas developed new Statewide standards, and then set about implementing those standards. A committee of judges and citizens developed new case processing standards for civil and criminal cases. After testing and modification, the standards were implemented by the State Supreme Court. The Judicial Administrator's Office then established baseline data for verification of the standards from sample court sites. Finally, an information system to monitor the standards was developed by a statistical committee.

Ohio: A highly successful set of corrective actions resulted in the virtual elimination of a backlog of 10,000 cases, despite a 21 percent increase in case filings. The key was a system of judicial accountability and the cooperation and support of the trial judges around the State. These accountability criteria were set forth in a set of trial court procedures, entitled the "Rules of Superintendence."

B. Selected Bibliography

1. "Criminal Justice Block Grant Guidelines"; Office of Justice Programs; U. S. Department of Justice; FY 1985.
2. "State Trial Court Delay: Efforts at Reform"; J. Trotter and C. Cooper; 31 American University Law Review 213; Winter, 1982; NCJ #82496. (This is an overall summary of past efforts to reduce trial court delay, and of the research and demonstration programs carried out under the LEAA Court Delay Reduction Program.)
3. "Justice Delayed: The Pace of Litigation in Urban Trial Courts"; Thomas Church, Jr., et al.; National Center for State Courts; 1978; NCJ #52357.
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 7. "Pretrial Delay: A Review and Bibliography"; Thomas Church, Jr., et al.; National Center for State Courts; 1978; NCJ #48395.
 8. "The Nature of System Change: Reform Impact in the Criminal Courts"; Raymond Nimmer; American Bar Foundation; 1978; NCJ #53258.
 9. "Case Flow Management in the Trial Court"; Maureen Solomon; American Bar Association; 1973; NCJ #12226.
 10. "Guide to Court Scheduling: A Framework for Criminal and Civil Courts"; Institute for Law and Social Research, National Science Foundation; 1976; NCJ #38326.
 11. "Standards Relating to the Administration of Criminal Justice"; Chapter 12, American Bar Association; 1978.
- Most of the preceding information is available from the cited source or, through microfiche, from:

National Criminal Justice
Reference Service (NCJRS)
P.O. Box 6000
Rockville, Maryland 20850
Telephone: (301)251-5500 or
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C. Project Contacts

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Alabama

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Boston, Massachusetts 02108
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New Jersey

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California

Debbie Kanter, Manager
Court Consultative Services
California Judicial Council
350 McAllister Street, Room 3154
San Francisco, California 94102
Telephone: 415/557-2552

Local Programs

Michigan

Detroit Recorder's Court (Criminal)

Honorable Sam Gardiner, Chief Judge
Susan Boynton, Manager
Docket Control Center
Frank Murphy Hall of Justice
1441 St. Antoine Street
Detroit, Michigan 48226
Telephone: 313/224-2474 or 224-2192

Washtenaw County (Ann Arbor), Michigan Court Delay Elimination Project

Honorable William F. Ager, Jr.
Chief Judge
22nd Judicial Circuit
P. O. Box 8645
Ann Arbor, Michigan 48107
Telephone: 313/994-2551

Nevada

Las Vegas "Track and Team" Calendar System (Criminal)

Anna Peterson, Court Administrator
Clark County Courthouse
200 East Carson Street
Las Vegas, Nevada 89101
Telephone: 702/386-4277

Arizona

Maricopa County Superior Court (Civil)

Honorable Robert C. Broomfield
Presiding Judge
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Phoenix, Arizona 85003
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D. Federal Program Contact

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VII. PERFORMANCE INDICATORS

During implementation of the program described in this Program Brief, sponsoring agencies or organizations should find it useful to track and maintain certain program information in order to provide some indication of program performance. While basic in nature, this information will not only provide an indication of program progress and performance, but will also serve as a benchmark for continued program implementation and allow for comparison with similar program efforts in other jurisdictions. Attached is a suggested reporting form listing several performance indicators which should be helpful in tracking program performance.

PERFORMANCE REPORT
(Please type)

Program Category: Court Delay Reduction

Project I.D. No.:

(Limited to 10 characters)

Implementing Agency:

Address:

Report Date:

____/____/____

Period Covered:

____/____/____ through ____/____/____

Performance Indicators: In order to gather basic information regarding project implementation, please provide responses to the following performance indicators.

(1) Total amount of Federal/non-Federal expenditures:

(2) Number of cases backlogged at the beginning and at the end of the project period (days from arrest to trial):

	<u>Beginning</u>	<u>End</u>
(A)	1 - 90 days:	
(B)	91 - 180 days:	
(C)	181 - 270 days:	
(D)	271 - 360 days:	
(E)	360+ days:	

(3) Number and percentage of cases disposed of during the project period that met time to disposition standards:

(4) Reduction in the average number of continuances from the corresponding period prior to the project:

(5) Additional comments/information:

END