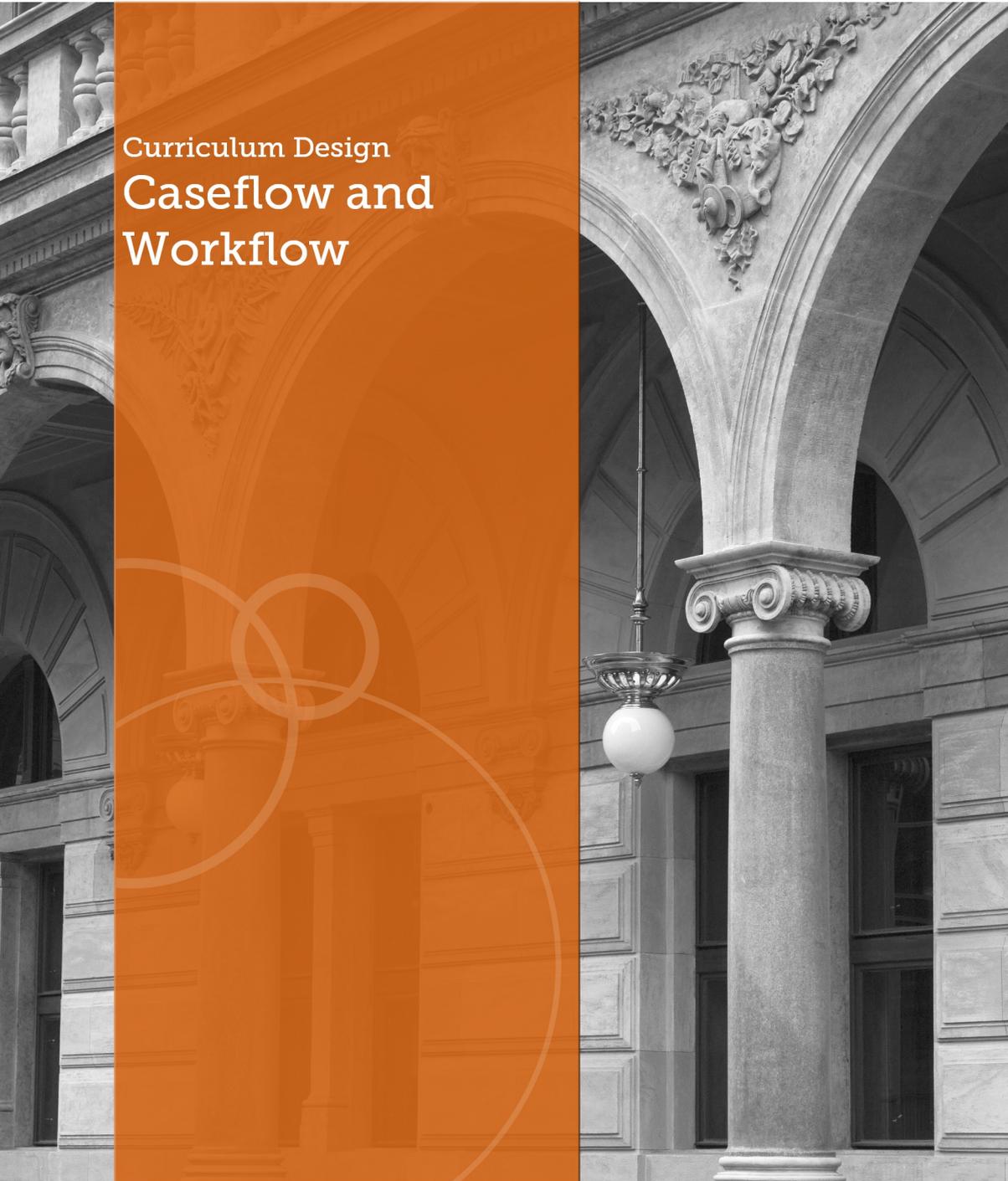




**CORE**<sup>®</sup>

National Association  
for Court Management

Curriculum Design  
**Caseflow and  
Workflow**



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## Use of Curriculum Design

Taken together, the curriculum designs in this series provide an overarching plan for the education of court managers; this overarching plan constitutes a curriculum. Individually, each curriculum design and associated information provide faculty with resources and guidance for developing courses for court managers.

The designs are based on the NACM Core®. Each of the curriculum designs, based on the competency areas, may be used either in its entirety or in segments to meet the needs of the individual circumstance or situation, the particular audience, and time constraints, among many other contextual factors.

Each curriculum design includes a series of learning objectives and educational content to support those learning objectives. Associated information for each curriculum design includes: (1) faculty resources, (2) participant activities, and (3) a bibliography. Each faculty resource and participant activity includes information explaining its use. Participant activities have been designed to measure whether the learning objectives have been achieved. Also included in each design is a section entitled “Special Notes to Faculty,” which provides important information to assist faculty in effectively preparing to design and deliver a course, and a section entitled “Target Audience,” which provides some guidance on which audiences are most appropriate for the curriculum design.

### Participant Activities

Participant activities include many types of group and individual interaction. Suggested participant activities are provided in the curriculum design, including how to use, direct, and manage each activity. Instructions may be modified for the audience and setting, but the highest goal is to integrate each activity into the learning process and the

content of the course. Direction for the use of each activity and associated topics is provided in the cover sheet to each activity.

### Faculty Resources

Faculty Resources have been included to assist faculty with the competency and may also be used as handouts to be used with associated topics in the **Educational Content**. Faculty Resources are a combination of resources referenced within the Educational content and recreations of those images embedded in the Educational Content. They may be used in any course, but their applicability and use need to be determined by faculty, based on the topics, design of the curriculum, length of the course, audience, and other factors. Faculty Resources often include examples of documentation and other data that are time-based. Faculty members are encouraged to update time-based material as well as use material that is specific to the presentation or training audience.

### Bibliography

While a bibliography may be viewed as optional by faculty, they are often important adult learning tools, foster reflection, and follow up research and study.

## Needs Assessment

A needs assessment is a process whereby information about the participants’ proficiency on the topic of the session is gathered and considered. Unless a needs assessment is conducted, you may tell your audience things they cannot or will not use, or already know, or that fail to satisfy learners’ expectations. Assessing needs allows you to focus upon the presentation’s content with much greater accuracy. As a result, it is recommended that you perform a needs assessment before your presentation by survey or focus group and/or at the beginning of your presentation through an informal question and answer exercise or a short pre-test.

Using surveys or focus groups in advance of a course is preferred as it provides you the opportunity to adapt and adjust your presentation to your audience in advance of the actual course. However, it is also advisable to use some time at the beginning of your presentation to also seek information about your audience.

Whether you are able to conduct a needs assessment prior to the day of the session or not, the goal is to determine the essential knowledge, skills, and abilities the court managers who will be attending the session must have to perform their duties competently. Two key areas to explore are as follows:

- What level of knowledge, skills, and abilities do the participants currently have about the topic?
- What gaps in their knowledge would they like to close?

Questions enable the faculty member to make necessary adjustments to meet learning needs. If you find out that participants are much more knowledgeable about your topic than you had thought, you can adapt your presentation to a higher-level discussion. If you find that they are less knowledgeable, you can adapt your presentation to be more basic.

## NACM Core® Reference

### Competency: Caseflow and Workflow

**Caseflow Management** is the process by which courts carry out their primary function of moving cases from filing to disposition. The management of caseflow is critical because it helps guarantee every litigant receives procedural due process and equal protection.

**Workflow Management** involves the coordination and support of all tasks, procedures, resources (human and other) necessary to guarantee the work of the court is conducted efficiently and is consistent with the court's purposes and responsibilities. While Workflow Management includes Caseflow Management, it also includes all tasks and functions necessary for the court to operate as an organization.

## Learning Objectives

The following learning objectives are designed for a comprehensive course on caseflow and workflow.

As a result of this education, participants will be able to:

1. Identify individual learning needs and objectives related to caseflow management;
2. Define the purpose of courts;
3. Identify the universal and distinguishing characteristics of local legal cultures.
4. Map caseflow from a systemic perspective;
5. Evaluate the culture of public access with a focus on self-represented litigants;
6. Complete a detailed, systemwide evaluation of caseflow management strengths and weaknesses;
7. Use a structured analysis to create the elements of a differentiated case management plan;
8. Evaluate caseflow time standards as a key performance measure;
9. Apply high level diagnosis to determine caseflow management performance;

10. Identify calendaring systems and how judges use case management plans and orders to manage cases;
11. Assess postponement policies and practices; and
12. Create a focused action plan for specific caseflow management changes.

## Target Audience

This curriculum design is suitable for a broad audience including elected and appointed court managers and staff with court wide and departmental responsibilities as well as leadership judges from every jurisdiction and type of court. This content may be best suited for learners who have some experience in the courts. The best class composition is a mix of court managers and judges from similar jurisdictions and types of courts.

## Special Notes to Faculty

The educational content in the next section is the core of the Caseflow and Workflow curriculum design. It includes graphics that may be useful for a presentation, and numbered indicators for activities and faculty resources. The graphics often include references to illustrative examples, timelines, or data sets that are time-based. When planning a course, faculty should plan to update time-based materials as well as incorporate examples, data, scenarios that are pertinent to the specific audience.

Caseflow and workflow demand applied learning. **Section 6 -- Accountability**, and **Section 7 -- Information and Diagnosis**, are best taught from the perspective of the state or court from which the participants are attending, or, for a geographically diverse audience, from a similar court. Wherever possible, and budget permitting, faculty should assemble sample data that illustrates standards, performance measures, and how they are used from participant courts or from a sample court. In other words, two dynamics may be initiated to make the learning process more effective, where feasible:

1. Faculty members should learn about the local procedural rules, standards, and performance measures used by participant courts and organizations and assemble comparable data to illustrate their use and application; and
2. Faculty members should use local procedural rules, standards, and data throughout the course to illustrate the principles and practices of caseflow management.

It is also important to help set expectations for the participants to have a good working knowledge of their system and caseflow. It may be helpful to request that participants collect and review caseflow information prior to the course. Activity Six, for example, asks questions of participants about their court that may be easier and more valuable for them to collect prior to the start of the course.

## Educational Content

### Section 1 – Overview

#### Learning Objectives

As a result of this section, participants will be able to:

1. Identify individual learning needs and objectives related to caseflow management; and
2. Define the purpose of courts.

#### 1.1 Introductions

**Activity One – Caseflow Management Fundamentals Self-Assessment** provides a venue for participants to introduce themselves and their role in their courts and to identify: a) a learning need from their self-assessment in which they are most interested and b) a knowledge, skill, ability, or attitude that is especially strong and why.

#### 1.2 Judiciary Goals

Court leaders must understand court purposes and promote vision and action through the court and justice community organized around the impact caseflow management has on justice.

- A. The purposes of courts are central to caseflow management.<sup>1</sup> Seven of eight purposes focus on procedural justice, access, outcomes, and public expectations.
  - Do individual justice in individual cases;
  - Appear to do justice in individual cases;
  - Provide a forum for the resolution of legal disputes;
  - Protect litigants against disproportionate power;<sup>2</sup>
  - Create a formal record of legal status;
  - Deter criminal behavior;
  - Rehabilitate persons convicted of a crime; and
  - Separate some convicted people from society.<sup>3</sup>

**Activity Two – How Are Our Courts Doing?** asks participants how U.S. courts are doing relative to each purpose of court above. The goal of the exercise is to link court purposes with public perceptions about court performance, especially related to public surveys and current events. Examples include the very positive litigant views of judges and jurisprudence as contrasted with

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<sup>1</sup> See Purposes and Responsibilities Core Competency.

<sup>2</sup> This purpose originally was, “To protect citizens against the arbitrary use of government power.” While one of the key objectives of the Bill of Rights was for the judiciary to act as a check and balance to the power of the executive branch, this objective has broadened the purpose of courts to act as a check on unequal power between litigants, from case initiation through enforcement of judgments. This purpose includes both the government and intrinsic power imbalances between litigants, built in to dispute resolution.

<sup>3</sup> Friesen, Ernie [AmericanUnivJPO]. [2014, March 31]. The Purpose of Courts [Video file]. Retrieved from <http://youtu.be/saHb06PNadQ>.

the perceptions of bias and unfairness regarding the justice system as a whole; large prison populations; and a focus on sanctions as punishment rather than rehabilitation.

- B. The American system of justice and our disproportionate realization of its purposes is rooted in historical and structural factors that cause public dissatisfaction. These factors are central to caseflow management and were identified in a seminal speech by Roscoe Pound to the American Bar Association in 1906. See *Faculty Resource – Roscoe Pound, The Causes of Popular Dissatisfaction with the Administration of Justice*. They include:
- A judge acting as a mere umpire, “to pass upon objections and hold counsel to the rules of the game, and that the parties should fight out their own game in their own way without judicial interference.”
  - Multiplicity of courts
  - Concurrent jurisdictions
  - Waste of judicial power, resulting from the first three factors.

These factors are still relevant today. American courts have made many strides forward, but the progress is still uneven. Experiences with court unification and simplification have, at times, been rocky. Many courts and judges still struggle with the central role of the judiciary to control case progress and to ensure procedural fairness.

- C. Litigants usually do not understand the courts, the process and rules, or the language of the law. In repeated public surveys across the United States, the perception of the public and litigants is that dispute resolution and criminal actions take too long, cost too much, are opaque and difficult to understand, and are not fair to the poor and minorities.
- D. Thematically, judiciary goals for caseflow management should include:
- Focus on a litigant-centric view of dispute resolution;
  - Recognize that a dispute or alleged offense occurs before the court is involved;
  - Advocate for measurable outcomes that resolve disputes and enhance broader court purposes in the community; and
  - Embrace the court’s role and significance at the center of a broad, complex system of justice stakeholders.

### 1.3 History of Caseflow Management in the U.S.

Historically, U.S. courts have followed a trajectory that emerged from British Common Law Courts. In his 1906 speech, Roscoe Pound traces many of the organizational characteristics and dysfunction of courts from earlier in the 20<sup>th</sup> century. History is important to court managers today, because it helps us understand the roots and causes of our ongoing challenges. It also helps to see the trajectory of progress in American courts and understand why constant evaluation and improvement is needed.

- A. Characteristics of U.S. courts, prior to 1970, included the following:
- **External dominance – administration.** This is a reference to the dual role of a local elected clerk as a keeper of government records and judicial case files. In addition, judges often had a small judicial staff and were entirely dependent on local

- government for many aspects of administration, including case scheduling, budget administration, human resources, facilities, technology, and document management.
- **Unprofessional.** Judges had little administrative or managerial training and typically no professional support for these functions. This exacerbated their dependence on local government for administration.
  - **Disorganized.** Without professional administration, courts were disorganized and inefficient, especially in areas related to decision-making and information flow.
  - **Case scheduling left to attorneys.** While basic procedural rules awaited attorney action, including management of discovery and declarations of readiness for trial, lack of professional administration, amplified the abdication of control over litigation. This was especially compounded, post-WWII, as the population and urbanization of the U.S. increased and caseloads expanded.
  - **Growing delays in handling of cases.** A common outcome of leaving case scheduling to attorneys and increasing caseloads was widespread case delay.
- B. External factors drove historical change. The most important factor was population growth and urbanization. The population of the U.S. has more than doubled from 1950 (158 million) to 2015 (est. 321 million)<sup>4</sup>, while the population of the world has nearly tripled. Urbanization in the U.S. has grown from 64% in 1950 to 82.4% of the population by 2011.<sup>5</sup> Population growth drove caseload increases resulting in pressure to keep up. Urbanization and its cousin, suburbanization, increased the number and size of large courts, resulting in larger organizations and budgets, and greater complexity. Ad hoc management of caseloads and dependence on external administration became increasingly difficult in non-professional, disorganized courts. Case delay became a chronic problem.
- C. Changes in court organization and caseflow management in the U.S. since 1970 have been extraordinary:
- **Leadership by the U.S. Supreme Court.** Creation of the National Center for State Courts by Chief Justice Warren Burger in 1971, as a central resource for the state courts.
  - **Advocacy by the American Bar Association for reductions in delay.** *ABA Standard 2.5, Caseflow Management and Delay Reduction.* From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events, is unacceptable and should be eliminated.<sup>6</sup>
  - **Court performance metrics.** Time standards: ABA time standards 1968; Conference of State Court Administrators time standards 1983; ABA amended time standards 1982; Model Time Standards 2011. Trial court performance measures: CourTools

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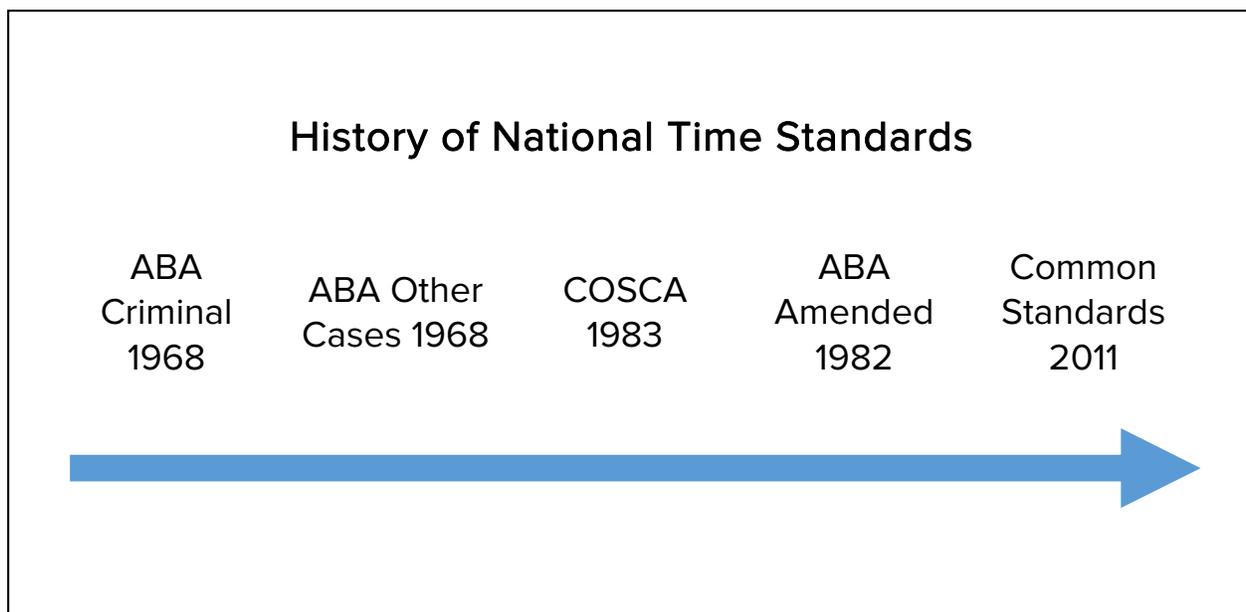
<sup>4</sup> U.S. Census Bureau.

<sup>5</sup> United Nations, Department of Economic and Social Affairs.

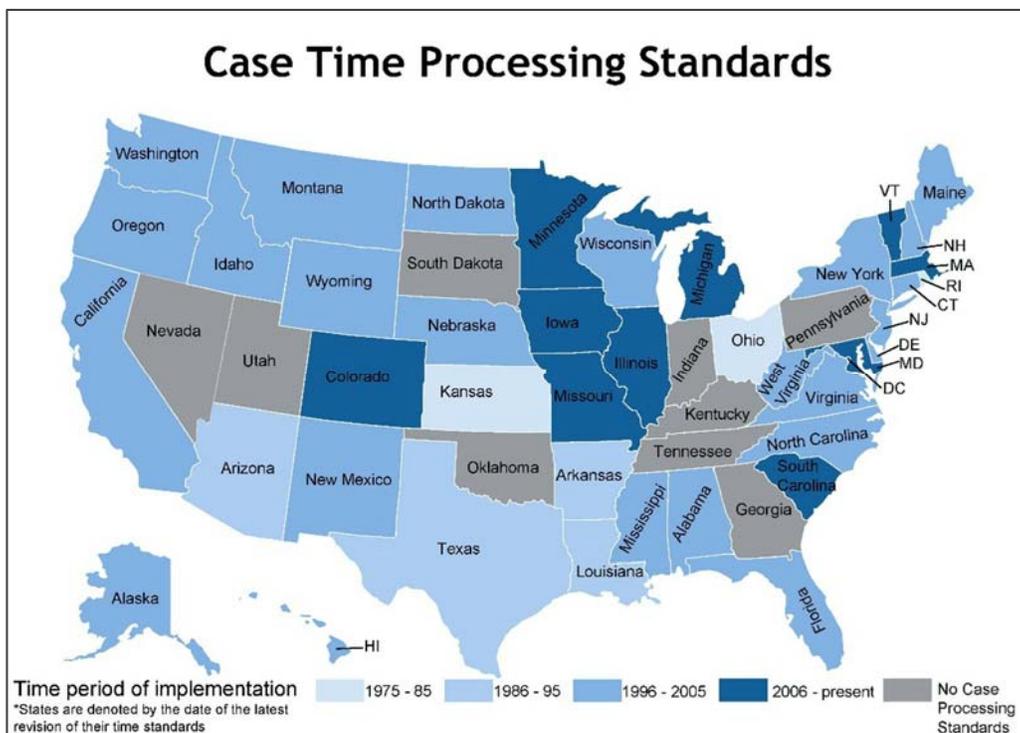
<sup>6</sup> National Conference of State Trial Judges, Standards Relating to Court Delay Reduction (American Bar Association, 1985).

(NCSC); International court performance measures, International Framework for Court Excellence (IFCE).

- **Creation and development of trial court institutions and resources.** Examples include government creation, support and/or funding of The National Judicial College (1963), National Consortium for Justice Information and Statistics (1969), the Bureau of Justice Assistance (1979), and the State Justice Institute (1984). In addition, many state administrative offices formed institutes for judicial education and departments to collect and monitor judicial performance.
- **Recognition and institutionalization of court responsibility for managing cases.** Many states introduced statutes and rules of procedure that granted authority to court leadership and judges to manage cases, especially statutes and rules about the pace of litigation. Examples of early adopters include New Jersey (1970's), Massachusetts (1980's) and Michigan (1980's).<sup>7</sup>
- **Professionalization and skill-building.** Development of curriculum guidelines for caseflow management as one of ten core competencies by the National Association for Court Management.



<sup>7</sup> The introduction of case management statutes and rules was often gradual and included data collection, draft rules, re-drafts, and further refinements. Exemplary states modify and update the rules at least every decade or promulgate authority to add local rules. As an example, the Maryland Administrative Office of the Courts required that each circuit court draft differentiated case management plans after formalizing case time standards in 2002.



- D. Current developments in the use of caseflow management are built on statewide initiatives to promote consistent caseflow management practices across the trial courts. For each of these states, elements of statewide leadership included the development of time standards, differentiated case management, and performance measurement. Examples of early adopters include:
- New Jersey Courts (1970's)<sup>8</sup>
  - Massachusetts Courts (1980's)
  - Michigan Courts (1980's)
- E. Many states and local courts have since developed caseflow performance measures and case management guidelines. See the *Model Time Standards*,<sup>9</sup> for examples of time standards and other performance measures for each case type.

## Section 2 – Local Legal Culture

### Learning Objective

As a result of this section, participants will be able to:

3. Identify the universal and distinguishing characteristics of local legal cultures.

<sup>8</sup> Rabner, Stuart; Hon. Glenn A. Grant, J.A.D., *Practitioner's Guide to New Jersey's Civil Court Procedures*, January 2011, NJ Courts.

<sup>9</sup> *Model Time Standards for State Trial Courts*, 2011, National Center for State Courts, <http://www.ncsc.org/Services-and-Experts/Technology-tools/~media/Files/PDF/CourtMD/Model-Time-Standards-for-State-Trial-Courts.ashx>.

## 2.1 Local Legal Culture – A Definition

The speed of disposition of civil and criminal litigation in a court cannot be ascribed in any simple sense to the length of its backlog, any more than court size, caseload, or trial rate can explain it. Rather, both quantitative and qualitative data generated in this research suggest that both speed and backlog are determined in large part by established expectations, practices, and informal rules of behavior of judges and attorneys.

For want of a better term, we have called this cluster of related factors the ‘local legal culture.’ ... These expectations and practices, together with court and attorney backlog, must be overcome in any successful attempt to increase the pace of litigation. Thus, most structural and caseload variables fail to explain inter-jurisdictional differences in the pace of litigation.<sup>10</sup>

Structural and procedural variables do not correlate and cannot consistently explain local legal culture:

- Size of court
- Case type
- Judge/caseload ratio
- Trial practice
- Strength of case management

Local legal culture refers to the practitioner norms governing case handling and participant behavior in a court. Local courthouse norms relate to the pace and mode of disposition and to the sentences imposed in court cases.<sup>11</sup>

**Activity Three** – *Local Legal Culture* helps participants explore what their local legal culture is.

## 2.2 Universality and Differences

Local legal culture has been demonstrated to be consistent across a local legal community, regardless of jurisdiction. These observations support the implication that the local bar association and practicing attorneys carry culture across multiple jurisdictions and influence the pace of litigation in limited and general jurisdiction courts within the same community.

In 1994, a study (Aequitas) of Maryland courts related to the pace of litigation found a very high (+.72) correlation in performance across limited (district) and general (circuit) jurisdiction courts in 23 of 24 counties. The blue line represents the correlation between performance in the circuit and district courts. The closer to a 45 degree (red) line, the higher the correlation. Each diamond represents the rank performance of the district court (x-axis) and the circuit court (y-axis). If the

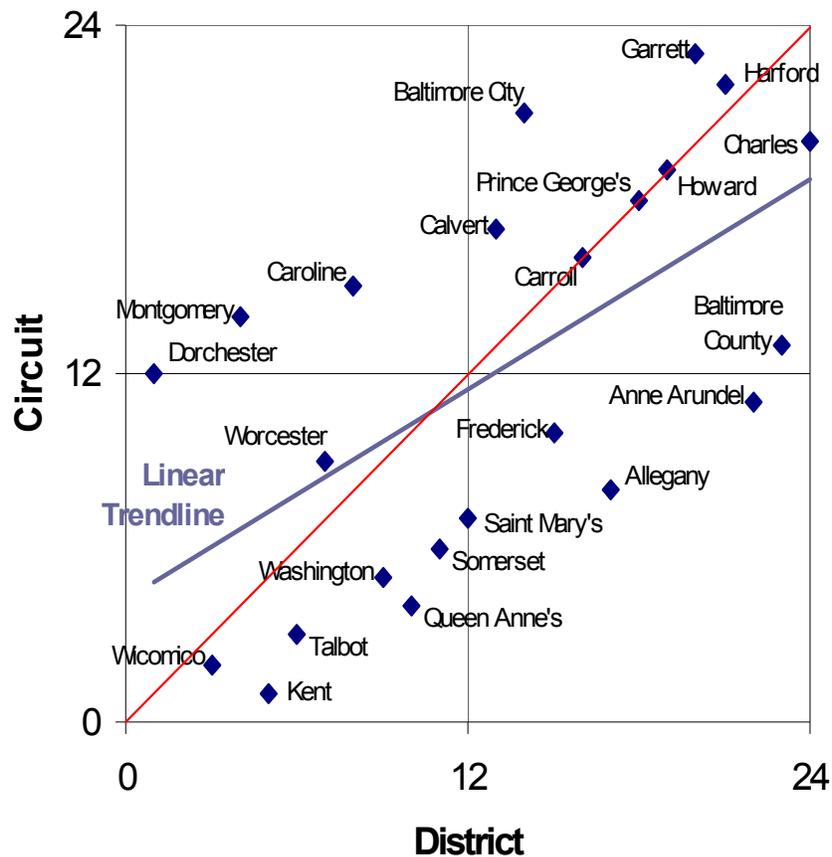
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<sup>10</sup> Church, T. W., Carlson, A., Lee, J., Tan, T., (1978). *Justice Delayed: The Pace of Litigation in Urban Trial Courts*. Williamsburg, VA: National Center for State Courts. Retrieved from <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=0>.

<sup>11</sup> Church, T W. (1986). Examining Local Legal Culture. *American Bar Foundation Research Journal*. 1985(3) 451. Retrieved from [http://spokane.wsu.edu/academics/crimj/Brody/class\\_readings/church.pdf](http://spokane.wsu.edu/academics/crimj/Brody/class_readings/church.pdf).

district court performed well statewide, the circuit court generally also performed well statewide. Statewide performance is both a relative and absolute measure. The statewide time standards closely correspond or exceed the national model time standards.

Maryland Correlation of Performance  
Circuit vs. District

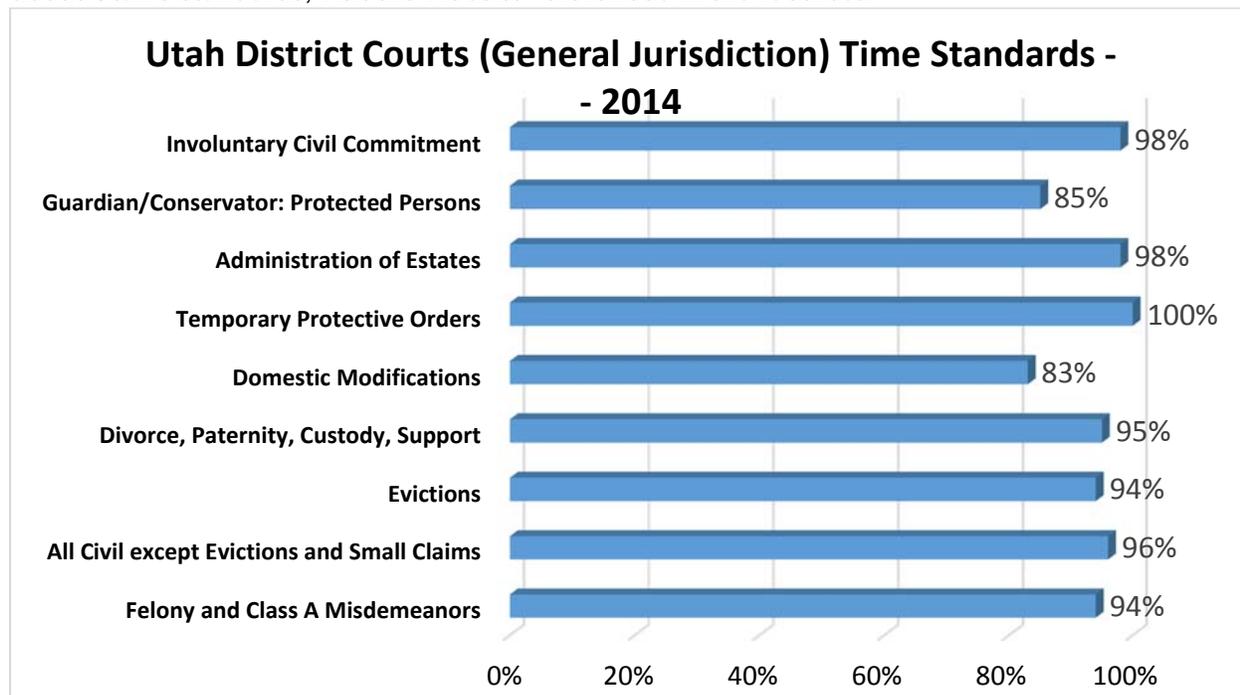


### 2.3 Jurisdiction and Size

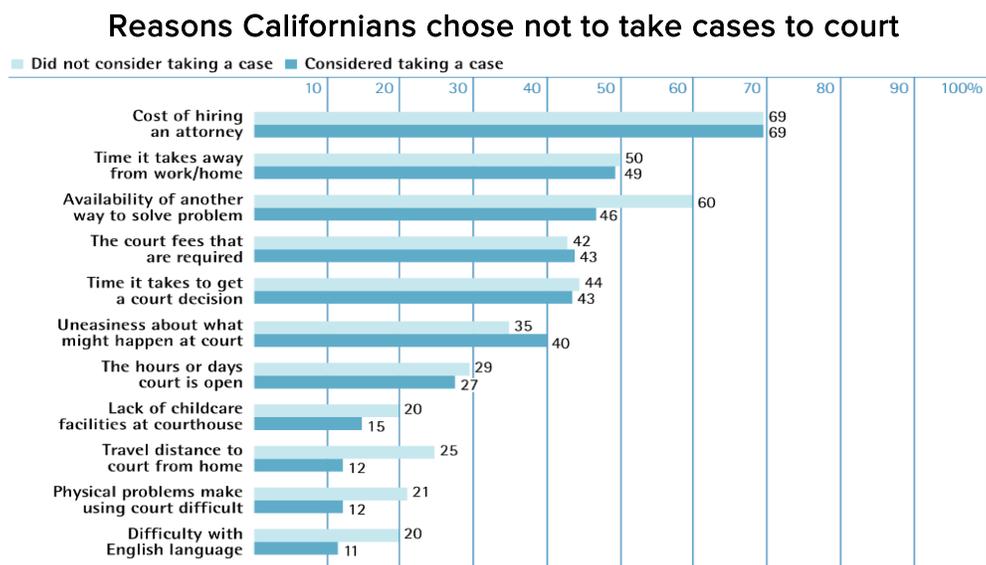
Factors include:

- Jurisdiction: limited, general, and appellate courts
- Size: small (1-3 judges), medium (4-9 judges), and large (more than 10 judges)

The below graph depicts the time standards for Utah District Court for 2014. For more information about Utah’s standards, visit the website referenced in the footnote.<sup>12</sup>



The below graph illustrates public identification of time and cost as key factors in taking a case to court. Among eleven reasons, time is a factor in four, and cost a factor in two reasons. Other barriers include complexity and physical impediments.<sup>13</sup>



<sup>12</sup> Utah State Courts Court Performance Measure. Retrieved from <http://www.utcourts.gov/courtools/reports.asp?measure=disposition&court=dist&detail=all>.

<sup>13</sup> Rottman, David B. (2005). Trust and Confidence in the California Courts: A Survey of the Public and Attorneys. Retrieved from [http://www.courts.ca.gov/documents/4\\_37pubtrust1.pdf](http://www.courts.ca.gov/documents/4_37pubtrust1.pdf).

## Section 3 – Principles and Practices

### Learning Objective

As a result of this section, participants will be able to:

4. Map caseflow from a systemic perspective.

### 3.1 What Is Caseflow Management

Caseflow management is the court supervision of the case progress of all cases filed in that court. It includes management of the time and events necessary to move a case from the point of initiation (filing, date of contest, or arrest) through disposition, regardless of the type of disposition. Caseflow management is an administrative process; therefore, it does not directly impact the adjudication of substantive legal or procedural issues. Reference **Faculty Resource** -- *Sample Caseflow Maps*, as a way of illustrating caseflow as a linear sequence of events that starts with a dispute or arrest and ends with enforcement of court orders. The court case process is central and dispositive, but neither the beginning of the dispute nor the final closure for litigants.

- A. Caseflow management includes early court intervention, establishing meaningful events, establishing reasonable timeframes for events and disposition, and creating a judicial system that is predictable to all users of that system. In a predictable system, events occur on the first date scheduled by the court. This results in counsel being prepared, less need for adjournments, and enhanced ability to effectively allocate staff and judicial resources.<sup>14</sup>
- B. A predictable, regulated flow for each case from filing to termination will achieve important goals in addition to expeditious disposition. Court management of case progress as part of an organized, predictable system should assure:
  - Equal treatment of all litigants by the court;
  - Timely disposition consistent with the circumstances of the individual case;
  - Enhancement of the quality of the litigation process; and
  - Public confidence in the court as an institution.

### 3.2 Psychology of Dispute Resolution

Below is a list of approaches to dispute resolution.<sup>15</sup> Note that some approaches are better defined as assistance and are not necessarily aimed at the immediate resolution of a dispute.

- Collaborative law
- Cooperative practice
- Early neutral evaluation
- Facilitation
- Litigation
- Mediation

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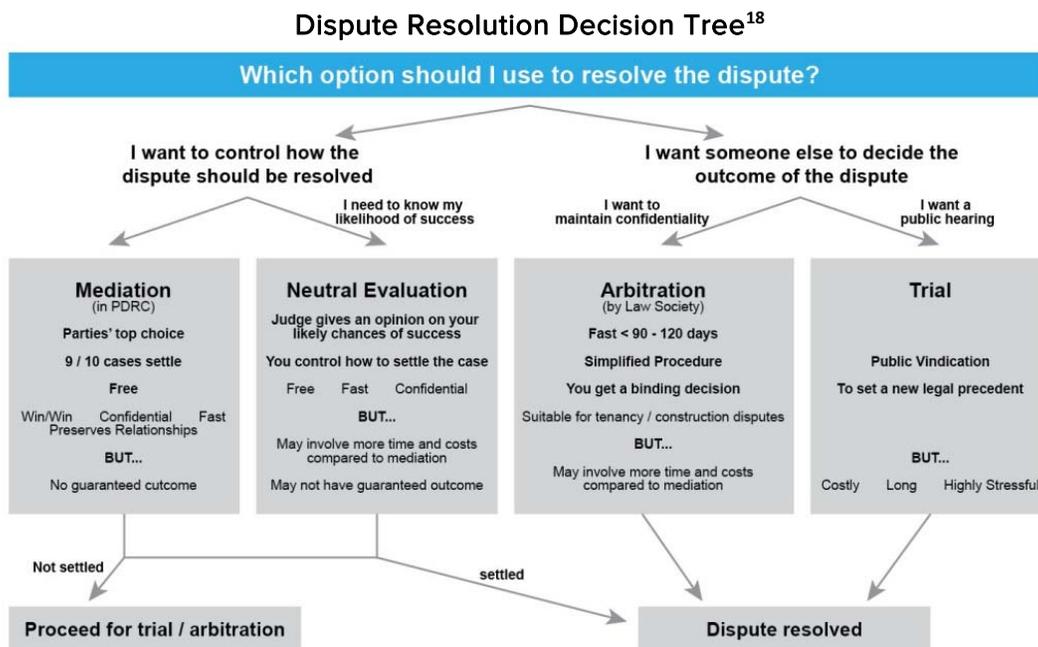
<sup>14</sup> State Court Administrative Office, Michigan Supreme Court (2013). *Caseflow Management Guide*. Retrieved from <http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/cfmfg.pdf>, 1.

<sup>15</sup> American Bar Association Section of Dispute Resolution. *Dispute Resolution Process*. Retrieved from [http://www.americanbar.org/groups/dispute\\_resolution/resources/DisputeResolutionProcesses.html](http://www.americanbar.org/groups/dispute_resolution/resources/DisputeResolutionProcesses.html).

- Mini-trial
  - Multi-door program
  - Negotiation
  - Neutral fact-finding
  - Ombuds
  - Pro tem trial
  - Private judging
  - Settlement conferences
  - Special master
  - Summary jury trial
  - Unbundled legal services
- Family Disputes**
- Divorce coaching
  - Family group conference
  - Parent coordinator

Litigation is by definition a contested action. The presence of a third-party (the court) as decision-maker is generally due to the inability for the parties to a dispute to reach a resolution. This role is not that different from many of the other approaches listed above (e.g. arbitration, mediation, private judge), except the decision of a court is always binding<sup>16</sup> and assumes the power of the state to enforce judgments.<sup>17</sup>

The dispute resolution decision tree places adversarial court processes in a continuum of remedies and approaches to problem-solving. The illustration clearly distinguishes between the need to use a third party, and the recognized ability to reach a resolution with direct or mediated negotiation.



<sup>16</sup> Other types of dispute resolution approaches may also be binding. Arbitration can often be binding, if agreed by both parties, or the parties can agree to escalation to litigation or other forms of dispute resolution.

<sup>17</sup> American Bar Association, Section of Dispute Resolution (2015). Adapted from, [http://www.americanbar.org/groups/dispute\\_resolution/resources/DisputeResolutionProcesses.html](http://www.americanbar.org/groups/dispute_resolution/resources/DisputeResolutionProcesses.html).

<sup>18</sup> Mediation Advocacy for Civil Disputes in the Subordinate Courts: Perspectives from the Bench (2012, September). *Law Gazette*. Retrieved from <http://www.lawgazette.com.sg/2012-09/525.htm>.

### 3.3 Anticipatory Caseflow Management

- A. **What it takes.** The fundamental themes of effective caseflow management are leadership, teamwork, and constant evaluation and improvement. The following characteristics are the dynamics that make these outcomes possible:
- Cooperation
  - Commitment
  - Feedback
  - Program modifications
  - Small, continuous improvements
- B. **Systems Approach – Results.** Often, courts underestimate the importance of system outcomes and their impact on perception and the community. Accountability, regularity, and predictability are hallmarks of effective justice and do not undermine judicial autonomy and decision-making.
- Accountability for performance
  - Regularity and predictability
  - Consistent case management
  - Reduction of backlog
- C. **Elements of effective caseflow management.** A court that seeks effective caseflow management cannot succeed without leadership and judicial commitment. The other elements are important building blocks and tools for implementing change and to foster support and hard work across the court. The quality and sustainability of each of the elements is critical to court performance. The functioning of each of the elements are the structure of the local legal culture.
- Leadership
  - Judicial commitment
  - Goals or standards
  - Information
  - Communication
  - Caseflow management procedures
  - Education
  - Mechanisms for accountability
  - Backlog reduction/inventory control

### 3.4 Principles and Axioms

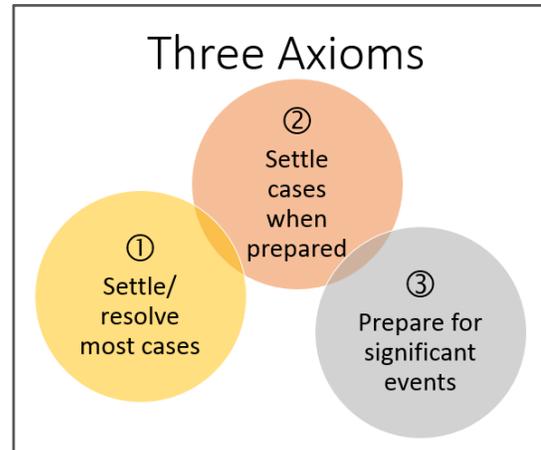
- A. **Five Principles.** Most U.S. courts have accepted the principle of court control over case management, but they do not always put it into practice. A short schedule means at the earliest available date. A case should never go off-calendar (no court dates scheduled).

Reasonably arbitrary means that no preference is given to either party regarding postponement requests or other scheduling issues.

- Early control
- Continuous control
- On a short schedule
- Demonstrate procedural fairness
- Create the expectation and reality that meaningful events happen when scheduled

B. **Three Axioms.** These axioms are backed by data. The vast majority of civil and criminal cases are resolved by settlement or plea. Disputes and conflicts settled without adversarial litigation are often less stressful and result in faster resolution and satisfaction of the underlying complaint. Litigants and attorneys:

- Settle/resolve most cases.
- Settle cases when prepared.
- Prepare for significant events.



### 3.5 Leadership and Teamwork

A. Why a team approach is more effective

- More motivation
- More commitment
- Team can withstand more stress
- Team generates and sustains energy
- More excitement and enthusiasm
- Different perspectives in problem solving

B. The administrative judge and leadership team should:

- Set the tone
- Be committed and show commitment
- Involve other judges, other agencies, staff, and court administrators
- Establish court-wide policy
- Establish partnerships with other justice stakeholders

C. Characteristics of successfully managed courts

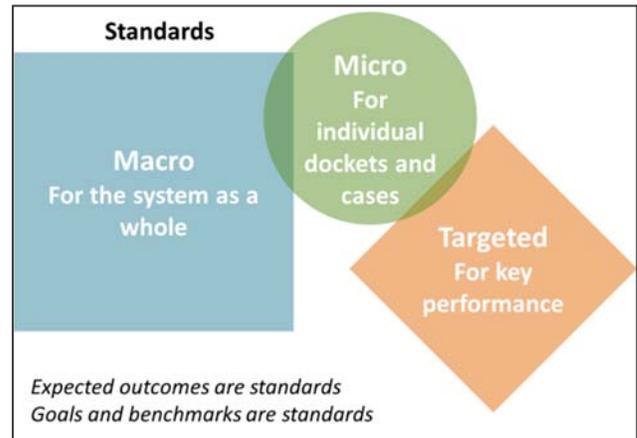
- Accountability
- Persistence
- Willingness to initiate change

- Continuity

*Activity Four -- Caseflow Mapping*, is designed to introduce Section 3.6 below.

### 3.6 Techniques and Results

- A. In addition to leadership, courts should have the following elements in order to manage cases effectively:
- **Standards** are a form of goal setting. They are often used by courts and other organizations as a benchmark to measure performance. Standards also promote regularity and predictability. The fundamental components of goal setting are embodied in the SMART acronym: specific, measurable, attainable, relevant, and time-bound. Well-designed standards are tuned to the size and type of court and applicable case types.
  - **Information** related to standards is often a challenge in courts that have older case management systems or systems that do not provide good management information. Information should be:
    1. Timely
    2. Accurate<sup>19</sup>
    3. Clearly presented
    4. Used for continuous improvement
- B. Standards are used three ways. Specific types of standards and how they are used are presented in **Section 6, Accountability**.
- **Macro** for the system as a whole. Macro standards promote expedition and timeliness; motivate leadership, judges, and staff; organize case management systems; stimulate new programs and procedures; and provide internal and external accountability.
  - **Micro** for individual cases. Micro standards help judges and staff properly manage each case, including to help set expectations and deadlines for litigants and attorneys; differentiate cases for appropriate attention; identify and manage exceptional or anomalous cases; and increase regularity in adjudication among judges and judicial officers. Micro and macro standards are aligned and generally utilize the same performance measures. A key difference is the application of performance measures to disposed cases across the whole docket (macro standards) and to active, individual cases (micro standards).



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<sup>19</sup> Judges and staff that do not understand or trust the management information that is generated by automation systems will not use it.

- **Targeted** for key performance. Targeted performance standards complement macro and micro standards and examine performance in discreet areas of caseflow, often based on local priorities.

## Section 4 – The Justice Universe

### Learning Objectives

As a result of this section, participants will be able to:

5. Evaluate the culture of public access with a focus on self-represented litigants; and
6. Complete a detailed, systemwide evaluation of caseflow management strengths and weaknesses.

### 4.1 Economics of Caseflow Management

The following economic issues related to caseflow management are court or justice system-oriented.

- A. **Performance Standards.** Funding agencies are increasingly imposing performance standards on courts as part of fiscal year funding. It is the obligation of court leadership to set the agenda for the development of performance standards. If the court does not define the way it should be measured, the funding agency or the legislature may set them for you and what they design may be inappropriate and/or counter-productive to court operations.
- B. **Jail Overcrowding Issues**
  - You do not design a caseflow plan with a singular goal of reducing the jail population. You should avoid pitting one type of case against another.
  - A good system that disposes of all cases within time standards will inevitably reduce the number of pending cases and consequently, relieve overburdened systems, including jail overcrowding.
  - Do an audit of the jail population and ascertain how many people would be there if his or her case was disposed of within time standards.
  - Utilize effective monthly jail reports in the court. Work with the jail to ensure that, at a minimum, average daily population reflect inmate status in the criminal justice process. Status elements include: case type (felony or misdemeanor); pretrial (unsentenced); post-adjudication (sentenced); probation or parole violations (state or county); other statuses (e.g. state-sentenced holds, federal prisoners, bench warrant arrests, civil statute violations).
  - Empty beds allow the funding agency for the jail to rent the beds to the federal government or other jurisdiction. Court funding should be enhanced by this income.
- C. **Allocation of Staff and Judicial Resources**
  - One of the most significant decisions made by a presiding judge is the allocation of judges and staff to particular divisions or dockets. This task varies from jurisdiction to jurisdiction. In some situations, the presiding judge is responsible for allocations to division or dockets to accommodate strengths of judges and staff and to allocate

resources properly. In others, judges are appointed or elected to a specific judicial seat and, thus, the presiding judge has more challenges to allocate resources.

- Creating and implementing a good caseflow plan helps decision making based on caseloads.

D. Demands on other Resources

- **Jury trial expenses.** Managing jury trials, jury panels, and trial schedules is a critical factor in caseflow management. The impaneling of jurors, jury trials, and *voir dire* is extremely costly to the court and the jurors. Please see CourTools, Measure 8, Effective Use of Jurors.<sup>20</sup>
- **Law enforcement expenses.** This demand is due in many cases to the coordination and use of police witnesses, which is usually managed as a court expense and sometimes results in the accrual of overtime expenses. Coordination of evidentiary hearings with police schedules is time-consuming and technically-challenging, but it is critical to address these costs.
- **Prisoner movement.** Use of video-conferencing and other technological solutions are tremendous cost-saving measures for non-dispositive and other types of pretrial hearings.

The following economic issues related to caseflow management are oriented to the public, attorneys, and other participants in the litigation process.

E. Exacerbation of Litigation Costs

- Poor case management results in continuances. Litigants incur attorney fees and costs for every trip to the courthouse regardless of whether the event moved the case toward resolution. Even if the case is resolved within time standards, meaningless court events add expense for both litigants and their attorneys.
- Self-represented litigants face additional costs related to discovery and trial preparation, for which they are often ill-equipped or prepared.

F. External Financial Impacts on Litigants and Witnesses

- Every court event potentially represents loss of income, or use of personal days, for litigants and witnesses. Postponements are frustrating and time-consuming.
- Litigants and witnesses who are parents must arrange for child care, which can be costly.
- Travel for each visit to a courthouse or attorney's office for a deposition incurs cost.

## 4.2 Consultation with the Bar

Bench bar committees and relationships between courts and the bar are at the core of the U.S. system of justice. Most general and many limited jurisdiction trial court judges were first attorneys and members of the bar. Attorneys, by membership in the bar, are by definition officers of the

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<sup>20</sup> CourTools, National Center for State Courts, *Performance Measure 8 Effective Use of Jurors*, [http://www.courttools.org/~media/Microsites/Files/CourTools/courttools\\_Trial\\_measure8\\_Effective\\_Use\\_Of\\_Jurors.as\\_hx](http://www.courttools.org/~media/Microsites/Files/CourTools/courttools_Trial_measure8_Effective_Use_Of_Jurors.as_hx).

court. This longstanding professional relationship is also the source, by comparison, of frustration among judges when dealing with self-represented litigants.<sup>21</sup>

The performance of a court and its local legal culture are bound up with attorneys and the bar. Few policy, procedural, or other operational changes related to caseflow will succeed without the cooperation and/or buy-in of the bar. Policies that should be developed and promulgated in consultation with the bar are numerous, but, at minimum, should include:

- Caseflow performance measures
- Case management plans
- Scheduling orders
- Postponement policies
- Alternative dispute resolution programs and procedures
- Master calendaring changes in jurisdictions where this is an option

### 4.3 Justice System Stakeholders

- A. Important steps to take to ensure that all relevant stakeholders are involved in documenting the current court process or proposing changes to the process are:
  - Identify the areas of your court's process are you going to examine or improve.
  - Ensure that the persons or stakeholders who have the knowledge of the processes are included in the change process.
  - Include the participants and stakeholders who have the responsibility and authority to make changes.
  - Engage and include participants who have the skill and expertise at leadership and management, and the technical expertise to make it happen.
  - Partner with stakeholders who have the resources (sometimes the most important challenge)
- B. Essential members of the team include:
  - Chief judge and presiding judges and/or executive committee;
  - Core group of judges;
  - Central staff including the court administrator and those in charge of clerks, court reporter, and information technology;
  - Selected attorneys individually and/or through a bar association; and
  - Consultants (when required)

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<sup>21</sup> Longstanding professional relationships with the Bar foster broad knowledge and experience with local rules and expectations of behavior and performance. These relationships are often personal. Judges typically do not have that type of professional relationship with self-represented litigants and often find themselves in an unwanted tutorial role.

- C. Note the special role of the court administrator according to the principles for judicial administration.<sup>22</sup>

Principle 3: Judicial leaders should focus attention on policy level issues while clearly delegating administrative duties to court administrators

- D. Existing leadership and inter-agency leadership organizations must be the source of policy and authority. Going around ineffective policy-making and operational bodies is only rarely useful to cope with political intransigence. They include:
- *Criminal* – Criminal justice coordinating councils (CJCCs) or advisory boards and crime commissions
  - *Civil* – Bench/bar committees
  - *Family* – Family justice centers, self-help center
  - *Juvenile* – Policy issues addressed through CJCCs or equivalents for juvenile justice

**Activity Five** – *The Culture of Public Access in My Court*, is designed to introduce Sections 4.4 and 4.5 below.

#### 4.4 Self-Represented Litigants

The rapid increase in the number of self-represented litigants (SRLs) has impacted all courts, and is especially prevalent in family, juvenile, and small claims case types. Traffic cases and summary offenses have always had a high representation of SRLs. Across courts in three states, 60-70% of cases will have at least one SRL party.<sup>23</sup> Case management challenges that are impacted by and impact SRLs include the following:

- A. Access
  - Case initiation and cost
  - Procedural rules: includes notification, use of witnesses,
  - Enforcement: differences from state to state, procedures, rights and limitations
- B. Legal
  - Standing and causes of action
  - Discovery, pretrial events, scheduling orders, postponements
  - Trials: rules of evidence, trial procedure, hearsay, postponements
- C. Perception of Bias
  - Treatment of represented as compared to SRLs
  - Professional relationships with bar
  - Class, race, and ethnicity

#### 4.5 Self-Help Centers and the Role of the Court

Courts improve caseflow management and performance by forming and operating self-help centers. SRLs are more knowledgeable, understand the process, and manage discovery and trial preparation more effectively when self-help centers are available. Courts are legitimately concerned about neutrality and are cautious about pressure by SRLs to provide legal advice.

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<sup>22</sup> *Principles for Judicial Administration*, 2012, National Center for State Courts available at: [http://www.ncsc.org/Information-and-Resources/Budget-Resource-Center/Analysis\\_Strategy/Principles-of-Judicial-Administration.aspx](http://www.ncsc.org/Information-and-Resources/Budget-Resource-Center/Analysis_Strategy/Principles-of-Judicial-Administration.aspx).

<sup>23</sup> Adapted from Richard Zorza's blog article, *Collection of SRL Data* (2012), <http://accesstojustice.net/2012/02/29/collection-of-srl-data>.

A. Many simple and cost-effective improvements can make courts more accessible to SRLs. These include the following, often presented in kiosks, courthouse lobbies, or at advocacy centers:

- Forms and legal documents
- Simplification of language in any printed materials provided to SRLs and the public
- Reduction of the use of references to statutes and procedural rules in informational brochures
- Case information
- Calendar information
- Examples of state courts with good reference tools online include the states referenced below. Many lead to resources at the trial court or local level.

*California:* <http://www.courts.ca.gov/selfhelp.htm>

*New Jersey:* <http://www.judiciary.state.nj.us/prose/>

*Arizona:* <http://www.azcourts.gov/selfservicecenter/>

*Indiana:* <http://www.in.gov/judiciary/selfservice/>

B. Structural changes include the formation of self-help centers. Courts have tried a number of staffing approaches including the use of volunteers, seniors, college students, and paid staff. Court self-help centers, and juvenile and family justice centers may also include mediation and other ADR facilities. Components of self-help centers include the following:

- Case information
- Calendar – event and trial – information
- Forms
- Legal advice referrals
- Advocacy referrals
- Alternative dispute resolution

**Activity Six** -- *My Court's Caseflow Management Culture*, is designed to introduce **Section 4.6** below.

## 4.6 High Performance Courts<sup>24</sup> and Justice Systems

High performance courts and justice systems link all of the elements together and constantly evaluate and improve. As important, in high performance courts, the elements are sustainable; they are part of the legal and organizational culture. See **Faculty Resource** – *Principles of Judicial Administration* to review the fundamental elements needed for high performance courts related to caseflow management. The expectations of the court, the bar, and justice system stakeholders become more pervasive than the personalities of individual leaders; their

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<sup>24</sup> High Performance Courts is a concept created by the National Center for State Courts. For more information visit NCSC's webpage at: <http://www.ncsc.org/Information-and-Resources/High-Performance-Courts.aspx>.

expectations set the political and organizational agenda and tone for the justice system as a whole.<sup>25</sup>

- A. High performance courts are courts that have an effective administration of justice. High performance courts adhere to four administrative principles.<sup>26</sup>
  1. Every case receives individual attention;
  2. Every case is treated proportionally;
  3. Court procedures demonstrate procedural justice and are fair and understandable; and
  4. Judicial control oversees the whole process.
- B. High-performing justice systems are an emerging concept only recently being researched and defined. While considerable work has been done over the last two to three decades in criminal, family, and juvenile justice systems and their integration with justice stakeholders and the community, the elements of justice system performance are broader and more diverse than the legal and organizational culture of the court and the bar.
  - The role of human services, mental health and substance abuse treatment, educational systems, protective services, child and family welfare, and many other programs impact all areas of the justice system.
  - Performance measures are often tied into long-term, extremely intractable challenges, including public safety issues such as reductions in crime and recidivism; and community issues, such as job and economic indices, education, and even abstract concepts of well-being and livability.
- C. In civil justice systems, measures of performance in U.S. courts often focus on access to justice, self-representation, and increasing use of alternative dispute resolution.
  - Access to justice and structural barriers in the courts to self-representation are a driver for recent calls for court reform, including broad structural simplification, use of non-legal language in laws, rules, and forms, managed or limited discovery, and unbundled legal services.<sup>27</sup>
  - ADR has historically been viewed as competition to courts in the U.S. and illustrative of the problems with caseflow management, timeliness and cost of litigation. Recently, alternatives have been embraced by courts as part of the continuum of dispute resolution, and many approaches, such as mediation and arbitration are court-sponsored or supervised in many states. See **Faculty Resource 4 -- Sample ADR Order** to promote discussion about the use of court-ordered as compared to court-sponsored ADR and the issues around imposition of fees and the utility and purpose of mandatory ADR. A key issue is the measurement of outcomes.

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<sup>25</sup> A repeated theme in a 2014-15 MacArthur Foundation study of high-performing criminal justice systems conducted by the Justice Management Institute is that a culture of performance and collaboration is sustainable and more than survives elections and changes in leadership – it drives the agenda and the politics.

<sup>26</sup> Ostrom, B., Hanson, R (2010). *Achieving High Performance: A Framework for Courts*. Retrieved from [http://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/CTF/Achieving\\_HPC\\_April\\_2010.ashx](http://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/CTF/Achieving_HPC_April_2010.ashx).

<sup>27</sup> Zorza, Richard, *Some First Thoughts on Court Simplification: the Key to Civil Access and Justice Transformation*, Drake Law Review, Vol. 61. Retrieved from <http://www.zorza.net/Simple.pdf>.

## Section 5 – Differentiated Case Management

### Learning Objective

As a result of this section, participants will be able to

7. Use a structured analysis to create the elements of a differentiated case management plan.

**Activity Seven** -- *Seeing the Justice Universe*, is designed to introduce Differentiated Case Management as a topic.

### 5.1 Purposes and Universality

Differentiated case management (DCM) includes:<sup>28</sup>

1. Establishment of case-processing tracks with early screening and case assignment;
2. Development of appropriate time frames and events within each track;
3. Early judicial control incorporating time limits for major events, regular monitoring, and reporting on excess;
4. Continuous judicial control: a case is never without a review date and is monitored by the court along with consequences for failure to meet time limits;
5. Short scheduling of continuances: when granting continuances, the court should schedule the minimum time needed by attorneys to complete the requested task;
6. Reasonable accommodation of the parties: cases are scheduled with input from all parties involved; and
7. A clear expectation within the court that events will occur when scheduled.

### 5.2 Classification

DCM classifications are often referred to as tracks. Reference **Faculty Resource** -- *DCM Tracks* to illustrate the structure and application of case management tracks and the measurement of time and predictability of court events. It is important to use data to establish a DCM plan. The data will help to set thresholds and guidelines for each track and root the DCM system in local legal culture and case types. Ways to collect data include targeted analysis of case management systems and statistical databases, and sampling of case face sheets and complaints.

- A. DCM classifications can be diverse, but a common structure that has been utilized is the following tracks:
  - Basic/Simple/Expedited 20% of the caseload
  - Standard 75% of the caseload
  - Complex 5% of the caseload

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<sup>28</sup> *Differentiated Case Management: Implementation Manual*. (1993), Washington, DC: Bureau of Justice Assistance. Retrieved from <https://www.ncjrs.gov/pdffiles/difb.pdf>.

- B. Consistent with the Model Time Standards<sup>29</sup> and the structure of *Activity Eight*, a newer approach to DCM classifications is listed below. Courts may also choose to sub-divide each classification further (e.g. adding an expedited track). For the purposes of case management and scheduling orders, expedited tracks are useful for emergency petitions, temporary orders, and other types of short actions.
- Basic (non-contested, minimal discovery, usually settled) 75% of caseload
  - Medium (contested, with some discovery, may go to trial, but most settled) 20% of caseload
  - Complex (contested, discovery, often go to trial) 5% of caseload
- C. DCM tracks in some courts are also organized by a particular case type or matter, and not by broader elements of case management (e.g. need for pretrial events and discovery, number of events, and length of trial). These types of tracks include specialty courts/problem solving courts (e.g. drug, domestic violence, mental health, among others) and special dockets (e.g. business, technology, foreclosures, among others). These differentiators or tracks often are at the taxonomy of case types or sub-case types. A separate DCM structure should be created for these case types if the case management steps and events substantially differ from basic criminal and civil case types. A good illustration of this type of track is **Faculty Resource** -- *DCM Special Track Form*.
- D. Case evaluation and triage are emerging concepts that link case differentiation to problem-solving and dispute resolution, recognizing that remedies must address a wide range of possible solutions that should not automatically be adversarial.<sup>30</sup>

### 5.3 Differentiators

Traditional differentiators for track assignments were case types and length of trial as declared by the litigants, or usually their attorneys. Many courts now use additional criteria for track designation:

#### Differentiators

- Case type or Case Subtype
- Length of trial
- Number and type of parties
- Causes of action
- Legal issues
- Length of discovery
- Media exposure and visibility

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<sup>29</sup> Van Duziend, R., Steelman, D., Suskin, L. (2011). Model Time Standards for State Trial Courts. Retrieved from <http://www.ncsc.org/~media/Files/PDF/CourtMD/Model-Time-Standards-for-State-Trial-Courts.ashx>.

<sup>30</sup> See Flango, V. and Clarke, T. (2014). *Reimagining Courts, A Design for the Twenty-First Century* (Temple University Press).

## 5.4 System Thinking

In a system-wide approach to thinking about DCM, the following are often factors that impact the length of time a case will take. These factors often drive case management complexity and are often factors in delay.<sup>31</sup>

### Civil System Differentiators

- Self-representation
- Power balance
- Mediation or arbitration likelihood
- Novel or specialized legal issues

### Criminal System Differentiators

- In-custody defendant
- Self-representation
- Violation of probation/parole
- Prior diversion
- Probability of plea
- Indigency
- Evidence testing

### Family System Differentiators

- Self-representation
- Family history
- Parenting
- Abuse or violence
- Substance abuse
- Education history
- Complex business holdings

### Juvenile System Differentiators

- Family history
- Parenting
- Education
- Representation
- Abuse or violence
- Substance abuse
- Violations of juvenile probation/parole

## Section 6 – Accountability

### Learning Objective

As a result of this section, participants will be able to:

8. Evaluate caseflow time standards as a key performance measure.

### 6.1 Performance Measures Review

**Performance measures** are standards, a form of goal setting. They are often used by courts and other organizations as a benchmark to measure performance. Standards also promote regularity and predictability. The fundamental components of goal setting are embodied in the SMART acronym: specific, measurable, attainable, relevant, and time-bound. Well-designed standards are tuned to the size and type of court and applicable case types.

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<sup>31</sup> Note that these should emerge from **Activity Five – The Culture of Public Access in My Court** and should be presented as part of the group discussion around the activity.

Standards are used three ways. We introduced standards in *Section 3.6, Techniques and Results*. The three ways are macro, micro, and targeted.

## 6.2 Macro Standards – For the System as a Whole

Most performance measures in U.S. courts today are derived from two sources: Trial Court Performance Measures (TCPS) and CourTools.<sup>32</sup> The International Framework for Court Excellence mirrors the CourTools, with one key exception,<sup>33</sup> the addition of a performance measure of pretrial detention time. While not yet used in the United States, many courts struggle with pretrial detention delay, both as a result of case processing delay, and because of system impediments such as pre-sentence mental health evaluations.

The goals of performance measures are: simplicity and ease of use; universality; and relevance. A key challenge of the TCPS is complexity. Too much data or information make it difficult to effectively use and apply performance measures as management tools. Caseflow management performance measures (adapted from CourTools) include the following:

- A. **Clearance Rate** is a measure of keeping up with new filings. If a court is not keeping up, a backlog will grow making it more difficult to adjudicate cases within reasonable time periods. Over a year or long periods of time, a balanced clearance rate goal is 100%, although fluctuations 5% above or below the goal are common over short intervals.

**Clearance Rate** = Dispositions/Filings, usually expressed as a percentage

Why is clearance rate important?

- May forecast potential backlog
- Helps leadership balance judge and staff resources and assignments
- Identifies what case types/courts may require additional resources

The following is an illustration of how filings and dispositions impact pending caseload. The measurement of the ratio of filings and dispositions is the clearance rate.

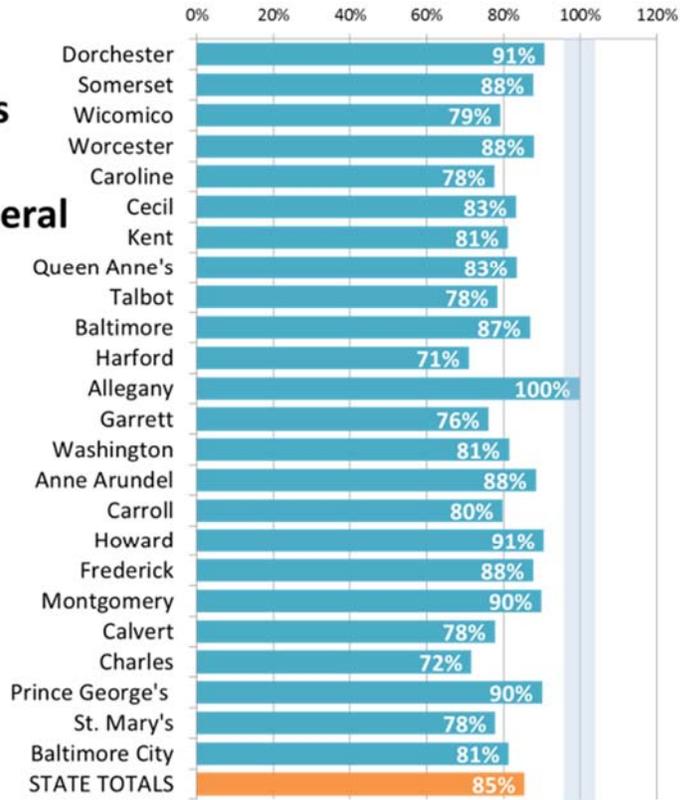
### Clearance Rate Illustration

July 1, 2013 Civil General Pending	96,544 cases
+ FY 2013 Civil General Filings	+ 74,407 cases
- FY 2013 Civil General Dispositions	- 63,601 cases
= June 30, 2013 Civil General Pending	= 107,350 cases
<b>FY 2013 Civil Clearance Rate</b>	<b>63,601/74,407 = 85%</b>

<sup>32</sup> Trial Court Performance Measures, National Center for State Courts available at: <http://www.courttools.org/Trial-Court-Performance-Measures.aspx>.

<sup>33</sup> The International Framework for Court Excellence, National Center for State Courts available at: <http://www.courtexcellence.com/resources/the-framework.aspx>.

**MD Circuit Courts  
Clearance Rate  
FY 2013 Civil General**



The following table illustrates how a court executive team might use clearance rates across all the court's dockets to understand where the court is struggling, and where additional resources might be useful to improve performance. For this court, civil general case types are struggling, while criminal and family cases are doing better. The pending goals also help illustrate the challenge.

<b>Balance Resources and Assignments</b>					
<b>FY2013 Circuit Court</b>					
<b>Casetype</b>	<b>Pending Start</b>	<b>Filings</b>	<b>Dispos- itions</b>	<b>Pending End</b>	<b>Clearance Rate</b>
Civil General	769	1,355	1,128	996	83%
Criminal	1,267	3,335	3,506	1,096	105%
Civil Family	1,149	2,623	2,626	1,146	100%
Juvenile	64	425	411	78	97%

B. **Time to Disposition** is the percentage of cases disposed or resolved within established time frames.

**American Bar Association Standard 2.5<sup>34</sup>  
Case Flow Management and Delay Reduction**

From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events, is unacceptable and should be eliminated.

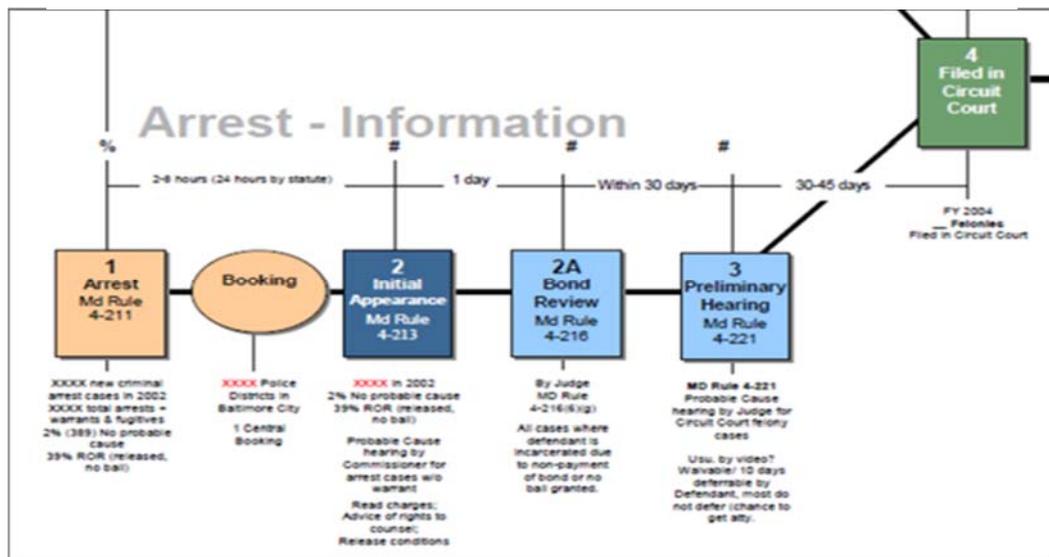
**Time to Disposition** = Number of cases disposed within a time standard/total number of cases disposed (usually expressed as a percentage)

The Model Time Standards (MTS) provide time standards for the 90<sup>th</sup>, 95<sup>th</sup>, and 98<sup>th</sup> percentile cases for most case types. The MTS were adopted by numerous courts and national organizations in 2011 and represent a unification of time standards across the U.S. Salient points and anomalies include the following:

- For criminal, the new time standard, 365 days, for 98% of cases represents a significant shift from the American Bar Association. For more than two decades, this standard had been 180 days for 98% of disposed cases. The source of the shift may have been the difficulty that trial courts had achieving the more restrictive measure.
- For many court organizations, adopting stepped or differentiated time standards represented a significant shift from only one or two standards for each case type. The implications of this shift are far-reaching, including the aim to reduce the tendency for courts to set one goal for the longest time frame, the most complex case.

The following diagram illustrates time between significant events, a useful tool for scheduling orders.

**Macro Standard – Time between Events**



C. **Age of Active Pending Caseload** is the age of the active cases that are pending before the court, measured as the number of days from filing until the time of

<sup>34</sup> National Conference of State Trial Judges. (1985). Standards Relating to Court Delay Reduction. Chicago, Illinois: American Bar Association.

measurement. This measure is often supplemented by measures of time between events (hearing types). No absolute standard exists for this performance measure, but, when paired with time between events and hearing rates (see Measure E below) can help identify cases that are becoming anomalous (significantly outside the norms) or need to be custom managed. Age of active pending caseload is important to the court in the following ways:

- See where each case is in the process
- Often used in conjunction with the docket sheet of events
- Manage cases to trial
- Manage backlog cases

**Age of Active Pending Caseload** = Percentage or number of active pending cases for which the age of each case is within an established frame of time (e.g. 0-30 days, 31-60 days, etc.)

- D. **Trial Date Certainty** is the number of times cases disposed by trial are scheduled for trial. This measure is usually computed by taking the number of trial dates scheduled over a period of time, and dividing by the number of dispositions by trial over the same period of time. The result should always be greater than 1.

No absolute standard exists for this measure. Recommended guidelines are that trial dockets, one week prior to trial, should not exceed a 3 to 1 ratio<sup>35</sup> of cases to expected trials that can be accommodated in the courtroom. The ratio anticipates that up to two cases will settle, and one case will proceed to trial. The granting of postponements, except for serious cause, in the week prior to trial should be discouraged.

**Trial Date Certainty** = Total no. of trial settings/no. of trials

The following are important terms to define a trial:

- **Bench Trial Disposition:** A case disposition is counted as a bench trial disposition when the first evidence is introduced or when the first witness is sworn, regardless of whether a judgment is reached, also known as a court trial or non-jury trial.
- **Jury Trial Disposition:** A case disposition is counted as a jury trial disposition when the jury has been sworn, regardless of whether a verdict is reached.

- E. **Hearing and Postponement Rate** per case is a corollary of trial date certainty. It broadens the measure to include all hearings and scheduled events on a case, not just trials. Trials (dispositive hearings) are counted in the hearing and postponement rate. As with trial certainty, no absolute standard for the rate of hearings and postponements by case type exists. Norms of typical rates can be determined by analysis. These norms should not be viewed as absolutes, but as key information to establish meaningful

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<sup>35</sup> Some courts and experts recommend a 2 to 1 ratio of cases scheduled to trials. The concern with this approach is that, if both cases settle, the courtroom is not utilized. This can be remedied by a team (shared) approach to other dockets in the courthouse. For very small courts, a balance should be found. Open communication with lawyers and litigants in the weeks prior to a trial date and at pretrial and settlement conferences is very important.

scheduling orders and to quickly identify cases which are becoming anomalous or need to be custom managed.

<p><b>Hearing Rate</b> = Total no. of hearings/no. of dispositions (for disposed cases ONLY) <b>Postponement Rate</b> = Total no. of postponements/no. of dispositions (for disposed cases ONLY)</p>
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- F. **Pretrial Detention.** This is an IFCE<sup>36</sup> measure of the length of pretrial detention for criminal and juvenile delinquency cases. No absolute standard exists, but the measure is closely tied into speedy trial rules and time to disposition standards. In U.S. courts, pretrial detention is rapidly becoming a caseflow management issue related to the excessive use of incarceration for defendants who cannot afford bail and for detention costs due to pretrial delays. Pretrial detainees can also *slip through the cracks* of the justice system, because their cases have been legitimately suspended from time measurements usually due to necessary reviews of mental capacity to stand trial.<sup>37</sup>

It is important for courts to review and quantify the extent and causes of pretrial detention and to set reasonable limits on pretrial detention with clearly articulated exceptions to the standard. Pretrial bail reform is a policy issue that is being address in many states.<sup>38</sup> Local courts, judges, and administrators should get involved in statewide policy discussions and formulation.

- G. **Collection of monetary penalties.** This micro standard promotes measurement of compliance with court orders on individual cases and promotes judicial oversight of payment of fines and restitution, as well as any needed restraint on third-party debt collection and the unreasonable escalation of punitive measures, including penalties and interest on debt.

### 6.3 Micro Standards – For Individual Cases

Micro standards are typically derivative of macro standards. Clearance rate, by definition, cannot be a micro standard. While standards for individual cases parallel court-wide standards, they are designed to address individual cases and active dockets. The focus of micro standards includes case progress and timeliness, tracking of the number of meaningful hearings and trial settings on a case, causes for delay, and the factors the lead to the need for judicial attention. They include:

- A. **Age of Case.** This measure enables judges and decision-makers to quickly see and calibrate the relative progress of an individual case against the entire docket and normative standards. This measure is designed not to simply keep a case from exceeding a time to disposition standard, but to calibrate its progress through pretrial events and hearings. Corollaries of this measure should include:
- Time (age) between events

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<sup>36</sup> International Framework for Court Excellence

<sup>37</sup> Pretrial detainees can also *slip through the cracks* of the justice system, because their cases have been legitimately suspended from time measurements usually due to necessary reviews of mental capacity to stand trial.

<sup>38</sup> New Jersey voters passed in Nov 2014 a constitutional amendment, reforming pretrial risk assessment, bail and potential diversion practices.

- Backlog = cases over time standard (flags)
- B. **Trial Date Certainty.** No micro standard for this measure is recommended. Postponements of a trial date within 1-2 weeks of trial should be the exception and highly anomalous.
- C. **Number of hearings and postponements.** As with age of case, this measure is paired with macro performance measure E above, including the time between events (hearings). This measure helps promote due diligence regarding the granting of postponements and the re-scheduling of postponed cases on a short schedule.<sup>39</sup>
- D. **Collection of monetary penalties.** This standard measures payments collected and distributed within established timelines, expressed as a percentage of total monetary penalties ordered in specific cases. It can be considered as a macro, micro, or targeted standard. As a caseflow standard, it is most useful as a measurement of compliance on individual cases (micro), although it is useful to measure compliance across an entire docket to ensure that fine payments and restitution to victims are consistently met. Two related principles are important to consider and are important considerations as policy:
  - Non-payment of fines and restitution due to Indigency sometimes escalates the cycle of added punishment to the original crime, including the accumulation of interest and other sanctions.
  - Privatization of debt collection is not necessarily more efficient, and can result in unreasonable escalation of sanctions (interest and penalties for non-payment), especially without regulation and oversight by the court.

## 6.4 Targeted Performance Standards

Targeted performance standards complement macro and micro standards and examine performance in discreet areas of caseflow, often based on local priorities.

- A. Complementary standards include the below list. They are used to determine the outcomes of court case management performance as perceived by the public, employees, and the legislature (cost).
  - Access and Fairness Litigant and Public Surveys
  - Recidivism Rates
  - Reliability and Integrity of Case Files
  - Effective Use of Jurors
  - Court Employee Satisfaction
  - Cost Per Case

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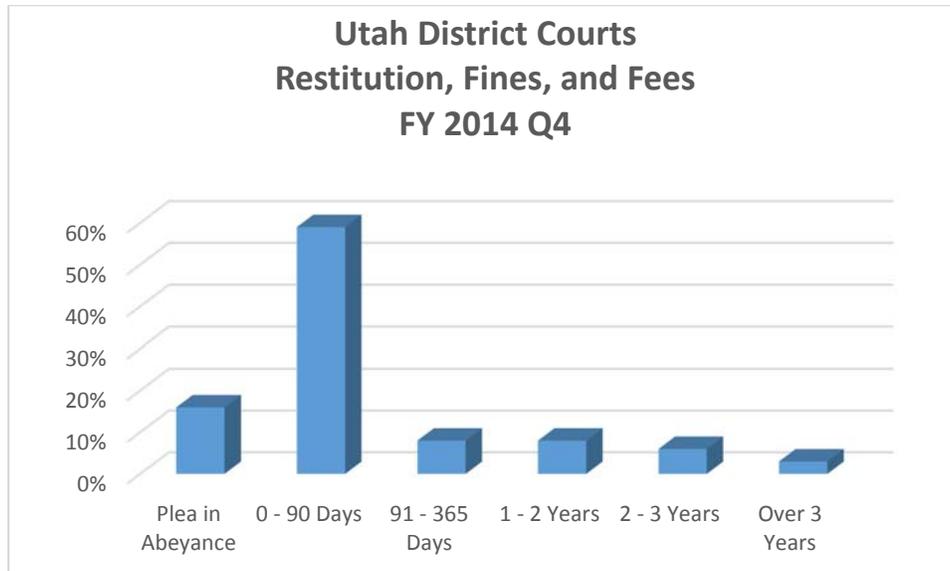
<sup>39</sup> A definition for short schedules should be included in local rules and on scheduling orders. In some jurisdictions, a short schedule is defined as two weeks. This approach presents significant scheduling challenges to find available dockets with open slots; and also needs to accommodate how to approach the management of longer postponements including formalizing a justification.

The following table illustrates the effective use of targeted standards for recidivism rates, a systemwide outcome, often measured by specialty or treatment courts, but not often utilized systemwide.

### Michigan Courts Targeted Standards

<b>Sobriety and Drug Court Recidivism Rates</b>				
<b>Why it Matters</b>	<b>Prior</b>	<b>Current</b>	<b>Target</b>	
Sobriety court 2-year, drug/alcohol conviction	10%	3%	0%	↑
Sobriety court 2-year, any new conviction	16%	4%	0%	↑
Sobriety court 4-year, drug/alcohol conviction	15%	8%	0%	↑
Sobriety court 4-year, any new conviction	18%	10%	0%	↑
District drug court 2-year, drug/alcohol conviction	10%	5%	0%	↑

The following table is another technique for measuring outcomes related to the payment of restitution, fines, and fees.



- B. Standards for local priorities potentially include a wide range of possibilities. A rich source for targeted performance standards are local procedural rules that are often translated into scheduling orders issued by the court. Any micro-rule that includes a time-driven criterion can be elevated to a performance measure, even if only used as an occasional spot check of performance. Examples include the following.

- Elapsed time for notification of defendants about a case (perfection of service) and subsequent actions (notice and dismissal)
- Elapsed time for no case action and subsequent court actions (notice and dismissal)
- Discovery deadlines
- Minimum times prior to trial to notify the court of a postponement request

Guidelines for the use of targeted performance standards include the following:

- Avoid information overload
- For incremental or highly detailed measures, it is often useful to rely on automation systems to flag anomalous cases for attention and not always useful to generate lists of cases unless the issue has become system-wide.

## Section 7 – Information and Diagnosis

### Learning Objective

As a result of this section, participants will be able to:

9. Apply high level diagnosis to determine caseflow management performance.

### 7.1 Information Related to Standards

Useful management information about cases and performance is not assumed, either by manual or automated data systems. As noted in **Section 3.6, Techniques and Results** above, information related to standards is often a challenge in courts that have older case management systems or systems that do not provide good management information. Judges and staff that do not understand or trust the management information that is generated by automation systems will not use it.

The challenge of good information includes simplification and usefulness to leaders and decision-makers. Information must be organized and tailored to the intended audience. Information overload is wasted. The benefits of good data and information include:

- Knowledge of court resource use, or need
- Program measurement for outcomes
- Decisions on data not anecdote or emotion
- Accountability, transparency
- Ability to ‘tell the court’s story’
- Use for continuous improvement
- Overall management
- Leadership responsibility & best practice
- Systemwide view

### 7.2 Level 1 – Basic Information

Basic information is designed to measure workload, resources, and basic workload trends. They are the building blocks for performance measurement.

- A. Across the Court
- **Filings.** How many cases are filed/registered each period (year/quarter/month)?
  - **Dispositions.** How many cases are disposed each period?
  - **Active Pending Caseloads** (inventory). How many cases are pending at the beginning and end of each period?
  - **Active Pending Dockets.** How many cases are pending on each judge team and each judge's docket?

The following table illustrates an effective method of comparing basic court information across multiple courts and jurisdictions. Performance measures are highlighted.

**Circuit Court Civil FY 2013**

Circuit	Court	Pending Start	Filings	Dispositions	Clearance Rate	Pending End	Pending Goal Civil
1	Dorchester	260	584	530	91%	314	438
1	Somerset	167	432	379	88%	220	324
1	Wicomico	461	1,085	860	79%	686	813
1	Worcester	424	1,272	1,118	88%	578	953
2	Caroline	261	411	319	78%	353	308
2	Cecil	769	1,355	1,128	83%	996	1,015
2	Kent	176	286	232	81%	230	214
2	Queen Anne's	271	693	578	83%	386	519
2	Talbot	230	469	368	78%	331	351
3	Baltimore	11,165	8,944	7,770	87%	12,339	6,714

- B. For Each Case
- **Status.** What is the status of each case? A basic state model is active/inactive (suspended). More sophisticated state models indicate which stage the case has reached, usually aligned with scheduling orders (e.g. service, discovery, pretrial, post-judgment).
  - **Last Event.** What was the last hearing and when did it occur?
  - **Next Event.** When is the next hearing?
  - **Case Age.** How old is each case?
  - **Representation.** Does plaintiff or defendant have an attorney?

### 7.3 Pending Caseload Goal

The pending caseload goal is a useful measure to evaluate the number of pending cases in the current inventory. It is not an absolute standard, but it provides an upper target for the court to reach in order to improve caseflow. It is based on past annual filings and a court's time standard. When courts first address case management and tackle perceived delay, initial evaluations result in the tabulation of high, or extremely high, pending caseloads (inventory). This is often due to inattention to cases that are closed or have had long periods of inactivity and should have been closed. See **Section 10, Problem-Solving** below for tools to address issues of backlog and reductions of pending inventories.

$$\text{Pending Caseload Goal} = \frac{\text{Annual Filings} \times \text{Time Standard}^*}{2}$$

**Example**

Civil time standard = 98% in 18 months (548 days)

$$\text{Pending Caseload Goal} = \frac{8,944 \text{ cases}^{**} \times 548/365}{2}$$

$$\text{Pending Caseload Goal} = 6,708 \text{ cases}$$

\*Expressed as a fraction of a year for the 98<sup>th</sup> percentile case

\*\*Annual filings in a hypothetical court

**Activity Nine -- Backlog Analysis.** This activity is intended to follow discussion of **Section 7, information and Diagnosis.**

### 7.4 Level 2 – Performance

Performance data are designed to address efficiency and system-wide delay:

- **Age of pending cases.** How old are pending cases?
- **Disposition types.** How are cases disposed: judgment; dismiss; adjourn; transfer?
- **Disposition events.** When do dispositions occur?
- **Hearing and postponement rate.** How many hearings are scheduled?
- **Hearing outcomes.** Are hearings meaningful?
- **Postponement reasons.** Do litigants/lawyers show up for hearings?

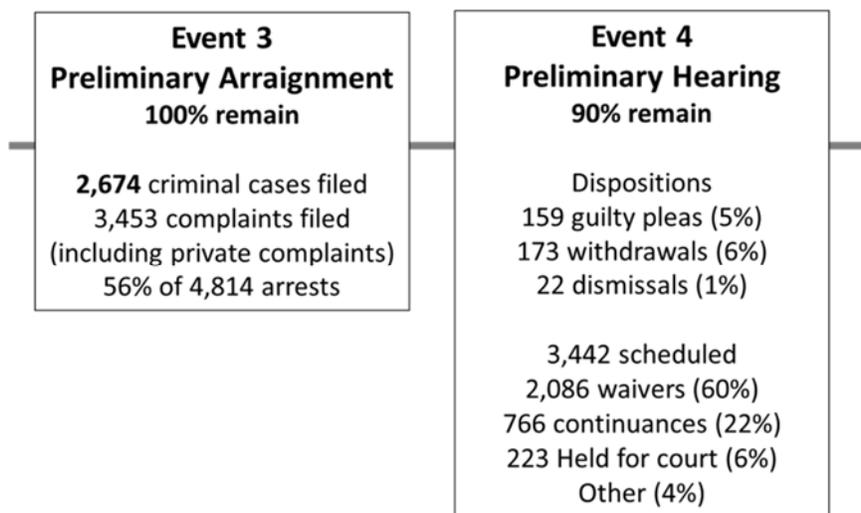
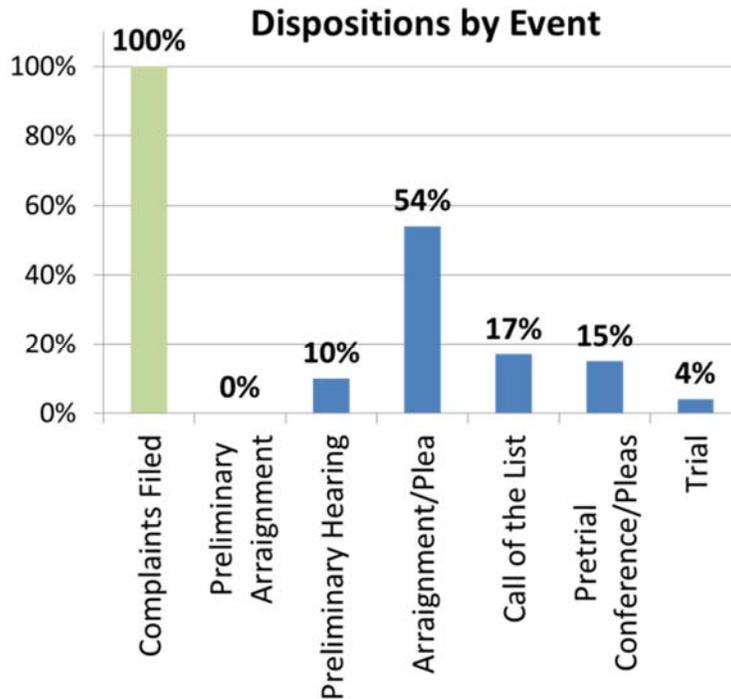
### 7.5 Level 3 – Diagnosis and Improvement

The role of information and diagnosis is vital to case management. Diagnosis often works in multiple steps beginning with performance measurement and 1) identification of delay or other problems with a court's docket; 2) drilling down into the information to determine and analyze causes of the delay or other problems; and 3) recommendations for remedies to the problems.

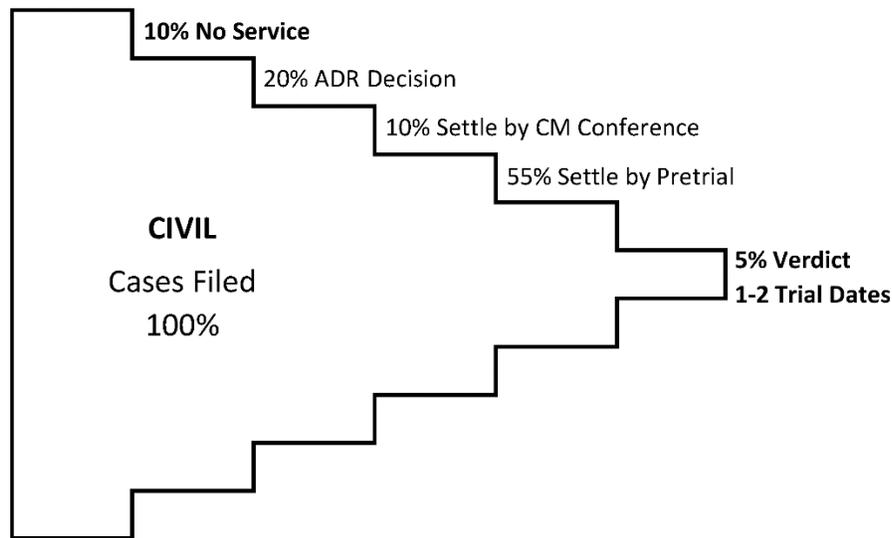
- **Dispositions at court events.** How do the flow chart and the reverse telescope compare with court perceptions of the system? Which hearing events promote case progress and dispositions and why?
- **Hearing postponements.** What are the causes of postponements at each hearing event and how can they be reduced?
- **Judicial decision-making.** Is judge time being efficiently utilized?

- **Trends.** What are the short- and long-term trends? Which case types are getting old? Why?
- **Anticipatory management.** Based on the data, what problems can be anticipated? What steps can be taken now to avoid future problems? What is the source of docket problems?
- **Strengths and weaknesses.** What are system strengths and weaknesses?

The following diagrams illustrate detailed analysis and diagnosis of outcomes by hearing events in case processing. The outcomes distinguish between types of dispositions (the case) and hearing outcomes (the event). The types of outcomes are not synonymous.



The reverse telescope diagram has been used in various iterations in caseflow curriculum for three decades. The first known use of it was by Maureen Solomon and Ernie Friesen.



At this juncture, the court will have taken bold steps to identify problems and their causes, and to articulate improvement strategies. Given that performance is closely related to the legal culture and shared expectations, now the court must involve stakeholders and begin a process of gaining buy-in, training, and fostering positive change. This process is discussed and illustrated in *Section 10, Problem-Solving* below.

## Section 8 – Calendars and Scheduling

### Learning Objective

As a result of this section, participants will be able to:

10. Identify calendaring systems and how judges use case management plans and orders to manage cases.

### 8.1 Calendaring Systems

Types of Case Assignment Systems:

- Individual
- Master
- Team/Hybrid

A. **Individual Calendaring System.** Cases are assigned to a judge at filing or service through adjudication. Individual assignments are often extended to include post-adjudication matters and one family/one judge systems (may include family, juvenile delinquency and dependency cases). Characteristics include:

- Autonomy and responsibility
- Individual accountability

- Competition
  - Motions practice is judge/case-based
  - Continuity and familiarity
  - Mitigates judge shopping
- B. **Master calendaring system.** Cases are assigned centrally through the trial to hearing dockets. One judge may, for instance, be assigned a motions calendar for cases across the whole court. The judge assigned to trial is ultimately accountable for the outcome of the case. Characteristics include:
- Collective responsibility - court control
  - Central assignment management and coordination
  - Continuing consultation among the bench
  - Standard/common case procedures
  - Standard postponement policies
  - Joint accountability for performance
  - Useful for judges with different strengths and styles of interaction
- C. **Team/Hybrid Calendaring Systems.** This assignment system may have the characteristics of individual assignment, except to a team of 2-4 judges. The team may have one judge handle specialty hearings and dockets (e.g. motions hearings). Other variations exist. Characteristics include:
- Most applicable in larger courts
  - Team accountability
  - Less frustration with single docket (calendar types)
  - Enables positive elements of both primary calendar types

**Activity Ten** – *Case Calendaring in General and Limited Jurisdiction Courts* provides a forum for discussion of different document management approaches.

## 8.2 Case Management Plans and Scheduling Orders

Case management plans and scheduling orders on cases are designed to establish attorney and litigant expectations and to set guidelines for case management on each case. Courts grant varying amounts of latitude to parties to modify or customize case management plans. The heart of caseflow management plans is:

- Establish deadlines for the completion of events;
  - Monitor to be sure that deadlines are met; and
  - Strategically plan for corrections when cases don't meet the deadlines.
- A. See **Faculty Resource -- Sample Scheduling Orders** for examples of the following types of scheduling orders.
- Civil general jurisdiction

- Family general jurisdiction
  - Criminal general jurisdiction
  - Limited jurisdiction
- B. Scheduling orders should be issued at a hearing event called scheduling or case management conference. For limited jurisdiction cases, scheduling orders may be pro forma and issued to the parties or attorneys at the first scheduled event if a settlement or plea is not reached. It is recommended that postponement policies be attached to scheduling orders. Criteria and information that should be included in all scheduling orders include the following:
- Case number
  - Other pending or related cases (may be linked or joined)
  - Presiding judge
  - Proof of service or notice of dismissal rules
  - Parties and attorneys
  - Dates for all significant hearing events
  - Motions cutoff dates
  - Discovery cutoff date
  - Number of witnesses
  - Jury or bench trial requested
  - Trial date (may be added later in the process or treated as an expected date without calendaring)
  - Estimated length of trial

### 8.3 Meaningful Hearings

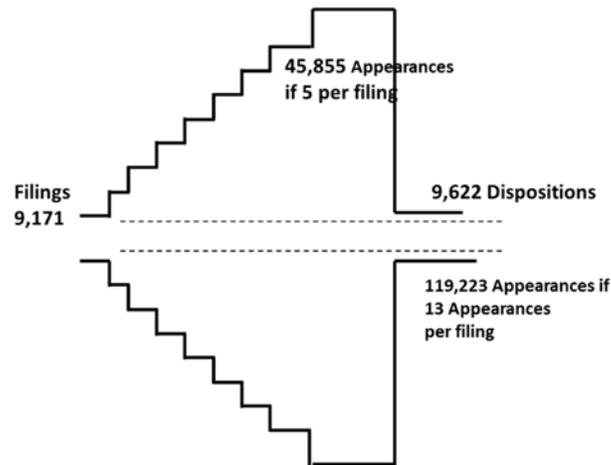
Meaningful hearings are both similar to and different from effective trials. Meaningful hearings promote early dispositions and result in fewer cases reaching settlement close to or on the day of trial. While the pressure of a trial often is what promotes preparation, an effective legal culture encourages early preparation with meaningful hearings as the strongest catalyst.

- A. Reasons meaningful hearings DO occur on scheduled dates
- Cut-off dates for motions, evidentiary hearings
  - Commitment to estimated trial length
  - Scheduling backup dockets or hearing venues
  - Management information and tracking
- B. Reasons meaningful hearings DO NOT occur on scheduled dates
- Poorly trained lawyers and lawyer schedule conflicts
  - Too few early and too many late dispositions
  - Judge and lawyer calendars too many cases and set too early

- Poor use of DCM and ADR
- Parties not prepared

The first known use of the workload expansion diagram was in caseflow curricula developed by Geoff Gallas.

### Workload Expansion

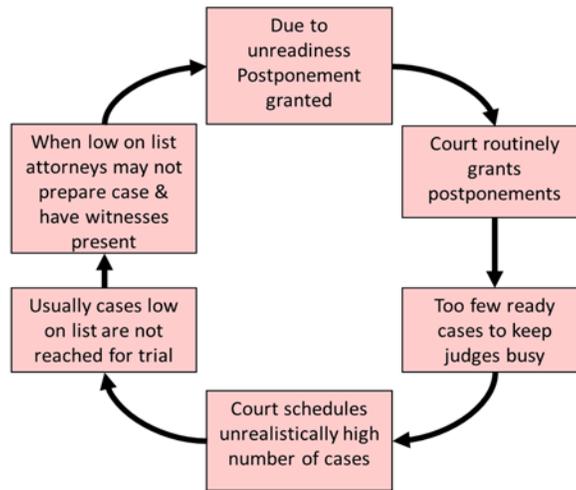


## 8.4 Postponement Policy

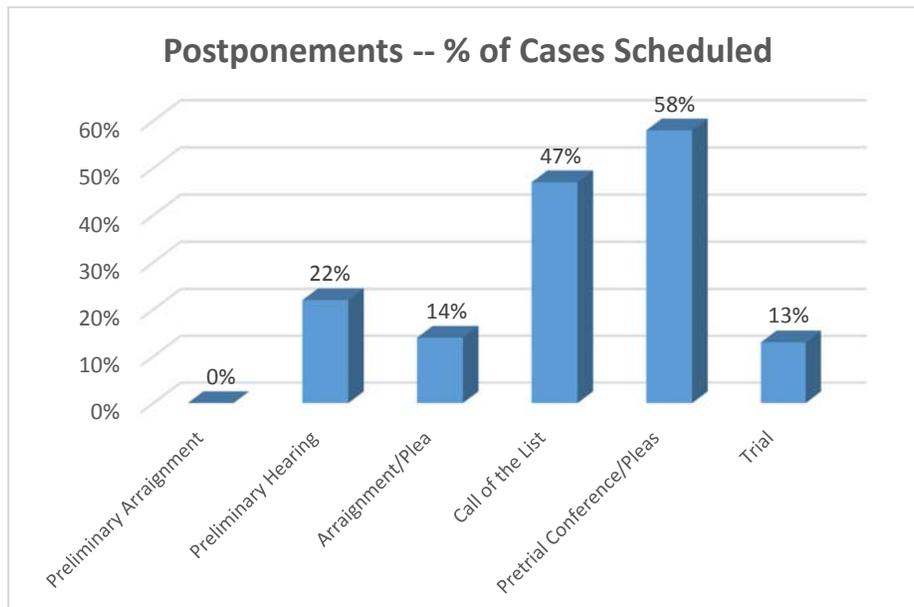
Note that postponement policies will often differ for each case type and for general and limited jurisdiction courts. This is, in part, to address the statutory and procedural differences between case types, and to reflect prevalence of self-represented litigants among different case types. See *Faculty Resource -- Sample Rules for Civil Postponement Requests* to illustrate most of the key elements needed in an effective postponement policy.

- Establish meaningful trial and hearing dates.** The first step to addressing the overuse of postponements is to establish meaningful trial and hearing dates. If parties, lawyers, witnesses, and experts believe case will proceed as scheduled, they will prepare. Preparation minimizes the need for postponements.
- Postponement policies.** The second step to addressing the overuse of postponements is to establish a postponement policy and ensure that attorneys and litigants are clearly aware of the policy. One method includes attaching postponement policies to or embedding policies in scheduling orders. In many states, procedural rules define a baseline for postponement policies but allow latitude for local courts to expand on policies with more detail or other types of restrictions.

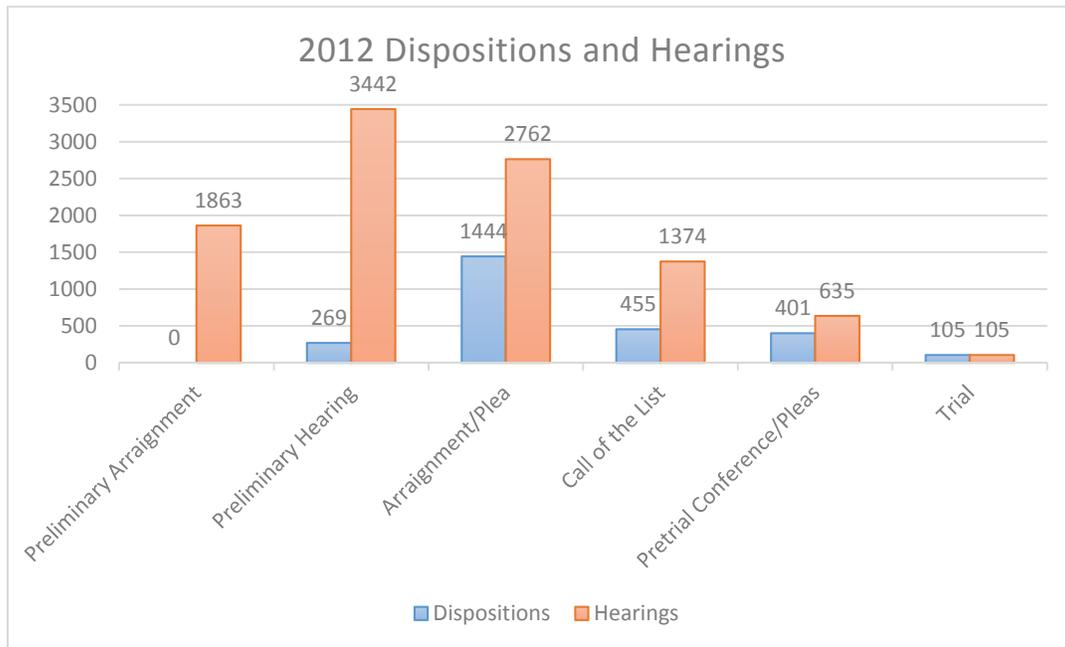
### The Postponement Conundrum<sup>40</sup>



- C. **Monitoring.** It is critical that the court track postponement reasons and rates to see if attorneys, litigants, judges, staff are complying with and enforcing policies. Elements include:
- **Who requested.** This may be on a case-by-case basis, or maybe across the whole court. Data will sometimes show that sources of postponements may often be from a handful of attorneys or attorney offices.
  - **Reasons for postponements.** The reasons for a postponement are crucial to the policy. Good cause reasons need to be clearly defined and made stricter as a trial date is approaching. The following diagram clearly illustrates a growing problem with postponements as the trial date approaches.



<sup>40</sup> Solomon, M., (1973) Case flow Management in the Trial Court (ABA).



## 8.5 Discovery

Discovery is the process of uncovering relevant facts through identifying witnesses, documents, and other items that can lead to establishing those facts as admissible evidence.

- A. **Civil and family discovery.** Rule 26(b) of the Federal Rules of Civil Procedure establishes a bi-level framework for discovery:
  - Attorney-managed discovery of information
  - Court-managed discovery relevant to the subject matter of the action to determine if discovery is *relevant to the claims or defenses*.
- B. **Criminal discovery.** The best reference guide is the Department of Justice Protocol.<sup>41</sup> The Protocol has several goals:
  - Efficient management of post-indictment discovery between the government and criminal defendants,
  - Reducing costs for the government and defendants,
  - Fostering communication between prosecutors and defense counsel about electronically stored information (ESI) discovery issues,
  - Avoiding unnecessary pretrial litigation over ESI discovery, promoting uniform practices for recurring issues, and
  - Protecting the security of sensitive information produced as discovery.

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<sup>41</sup> Department of Justice and Administrative Office of the U.S. Courts Joint Working Group on Electronic Technology in the Criminal Justice System, *Recommendations for Electronically Stored Information (ESI) Discovery Production in Federal Criminal Cases (2012)*, available at <http://www.fd.org/docs/litigation-support/final-esi-protocol.pdf>.

- C. **Self-Represented Litigants and Discovery.**<sup>42</sup> Litigation and especially discovery are difficult for self-represented litigants. Judges and staff must be prepared to address these challenges and potentially serious inequities between SRLs and attorney-represented litigants. Examples include the following:
- **Obligations to move cases.** Differences from jurisdiction to case types in litigant obligations to request hearings to move cases forward;
  - **Communication with judge.** Time constraints and evidentiary issues can prevent litigants from communicating sufficiently, clearly, and comprehensively with the judge.
  - **Relevancy of issues.** Litigants often do not understand what information the judge needs to make a decision on a given issue and therefore often take court time asking judges and court staff to explain legal terms and procedures to them. Frustration for both litigant and judge occurs when a self-represented party insists, often in good faith, on giving lengthy explanations about matters that he or she does not realize are irrelevant as a matter of law to the issue at hand.<sup>43</sup>
  - **Written orders.** Each time there is a hearing in a case where the judge makes an order, the order should be memorialized in writing. It is often the attorney's responsibility to prepare the written order after hearing. Self-represented litigants often do not know that this is required, or how to prepare such orders in a manner acceptable to the court. As a result, they leave without written orders to which they can refer, and the court's action is, therefore, effectively unenforceable. The lack of enforcement of the court's action undercuts the legitimacy of and confidence in the legal system.

## Section 9 – Trial Management

### Learning Objective

As a result of this section, participants will be able to:

11. Assess postponement policies and procedures.

### 9.1 Trial Date Certainty

No system will work if postponements are not effectively managed. Trials constitute 1%-7% of dispositions on average across the U.S.<sup>44</sup> Courts schedule trial dates using two basic methodologies with a number of hybrids. The methodologies are often culturally driven – they are how the court has always done it, and what the attorneys and litigants expect to happen. Courts that assess trial date certainty and change trial scheduling procedures must address cultural change among judges, staff, attorneys, and the bar.

- A. **Early Trial Date Settings.** Some courts schedule all cases for trial at proof of service<sup>45</sup> or very early in the life of a case in order to focus litigants and attorneys on an end date and

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<sup>42</sup> Judicial Council of California and State Justice Institute, *Handling Cases Involving Self-Represented Litigants, A Benchguide for Judicial Officers*, January 2007.

<sup>43</sup> *Id.*

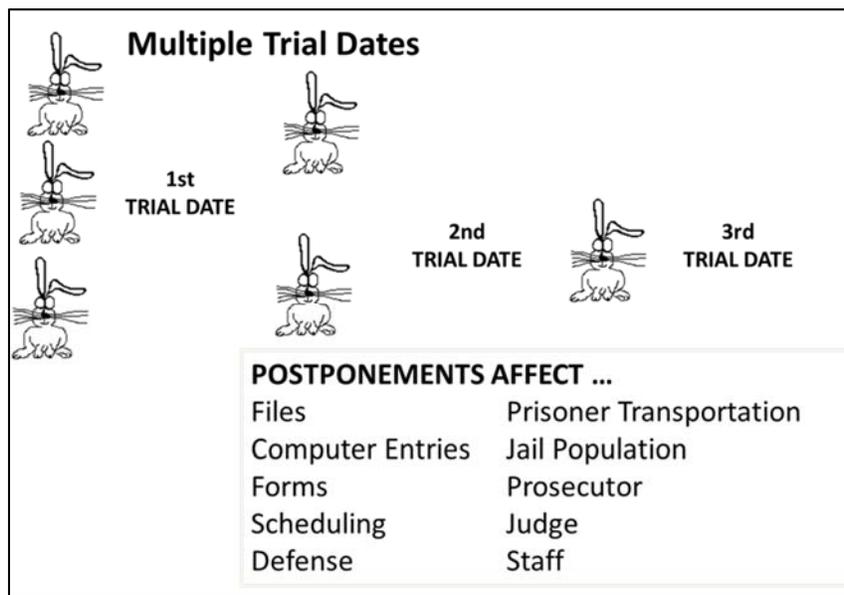
<sup>44</sup> Limited jurisdiction courts may have much higher trial rates, due to the limited nature of an evidentiary and dispositive trial.

<sup>45</sup> Proof of notification of the defendant.

to begin to prepare for litigation at a trial. This approach introduces scheduling complexity as cases are disposed leading up to a trial date. It also may increase the statistical counting of trial dates set as a ratio of cases that are disposed by trial.<sup>46</sup> Courts that use this method are often rigorous in ensuring that the remaining cases on the trial calendar, close to the trial date, are limited to a maximum 1 to 3 ratio of scheduled cases to expected trials.

- B. **Ready Trial Date Settings.** Some courts schedule cases for trial only at a pretrial conference, or after an event at which attorneys declare readiness for trial. This method or a variant has been promoted as best practice by many courts and caseflow management experts. The number of cases scheduled for trial is limited to a maximum 1 to 3 ratio of scheduled cases to expected trials.
- C. **Overscheduling Cases on Trial Dates.** Courts that overschedule cases (more than a 1 to 3 ratio) often must resort to backup methods to hold trials or fall back on postponements and re-scheduling of cases for trial. These courts usually view the trial date as a key motivation for preparation and settlement.

The first known use of the following illustration was in curricula developed by Geoff Gallas.



## 9.2 Guidelines for Early Dispositions

The following guidelines for early dispositions are a reinforcement of the principles of caseflow management throughout the course.

- Promote lawyer preparation
- Promote trial preparation
- Provide information necessary for lawyer preparation

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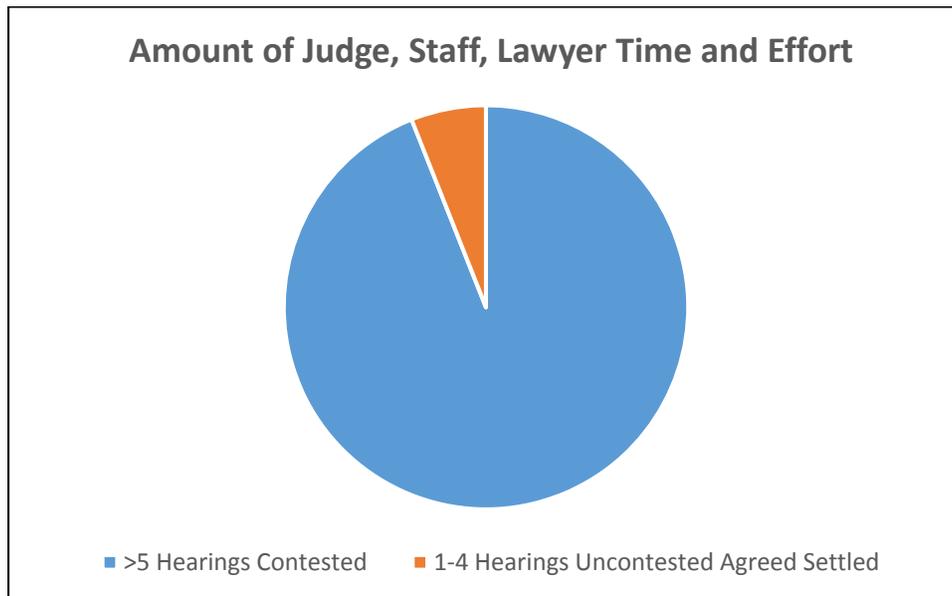
<sup>46</sup> It is recommended to only count trial settings within a restricted time limit prior to trial or at a pretrial conference or other type of settlement hearing prior to trial.

- Provide information for judges to make decisions as early as possible
- Create an early disposition climate
- Create special early disposition tracks and programs for certain types of cases (DCM)

### 9.3 Managing Trial Time – Proven Techniques

Establish mean length of total time for trials by case types. Trials begin when a jury is sworn in or the first witness is sworn in. Judges and lawyers overwhelmingly believe that total trial length can and should be controlled. Trial management is a reflection of case management. Effective planning and judicial oversight promote a legal culture of shared expectations for performance and just outcomes.

- A. **Impact on the court's docket.** At a practical level, predictable and managed trials have a positive impact on the whole docket. Unpredictably long trials end up consuming time for other scheduled cases and calendars. Unpredictably short trials result in dark courtrooms, if a backup plan is not in place.
- B. **Trial length.** Long trials result when judges allow:
- More witnesses, exhibits, breaks, and interruptions;
  - Loss of trial momentum;
  - Trials and trial segments that go over breaks in morning, afternoon, days, and weekends



- C. **Techniques and elements** for controlling trial length include:
- Structured pretrial atmosphere
  - Prevent repetitive questioning
  - Define areas of dispute before trial

- Set time limits during trial
  - Trial continuity and length of trial day
  - Early and defined witness list
  - Rules of evidence and effective, early management of exhibits
  - Length of testimony
  - Breaks and interruptions, including holding trials over consecutive days or the weekends. While sometimes necessary, especially for multi-day trials, the impacts on jurors, witnesses, and case participants need to be factored into the process.
- D. **Self-represented litigants and trials.**<sup>47</sup> Trials are especially difficult for self-represented litigants. Judges and staff must be prepared to address these challenges and potentially serious inequities between SRLs and attorney-represented litigants. Examples include the following:
- **Evidence.** In most states, inadmissible evidence cannot serve as the basis for awarding relief to a self-represented litigant, and a self-represented litigant must follow the requirements of the rules of procedure, with the following four exceptional principles: 1) judiciary's preference to resolve matters on their merits rather than by procedural default; 2) trial judge's duty to avoid a miscarriage of justice; 3) treatment equal to that of a represented party requires the court to make sure that verbal instructions given in court and written notices are clear and understandable by a layperson; and 4) the same treatment principle does not prevent trial judges from providing assistance to self-represented litigants to enable them to comply with the rules of evidence and procedure.
  - **Preparation of judgments (civil).** Because self-represented litigants do not realize that they are generally required to prepare a proposed judgment for the court's review and signature, there may be no order at all, or inaccurate or incomplete judgment paperwork will often be processed and returned repeatedly before final judgment is eventually, if ever, entered. Often, the lack of an order does not come to the court's attention until there is a crisis and the order must be enforced. Case with self-represented litigants should be flagged and information provided to the litigant both at the beginning and during a case to help them understand the process and prepare needed documents.
  - **Enforcement of judgments.** Litigants often do not understand the terms of the court's orders and judgments. Without an attorney, they have no one to help them interpret those terms or their implications. Moreover, litigants often lack an understanding of the legal mechanisms for enforcing the terms of a court's judgment. Many expect the court to enforce its orders on its own. If the other party does not comply voluntarily, they are at a loss as to how to proceed.<sup>48</sup>

**Activity Ten -- Postponements.** This activity is designed to precede, **Section 9.4** Trial Postponements.

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<sup>47</sup> Adapted from, Judicial Council of California and State Justice Institute, *Handling Cases Involving Self-Represented Litigants, A Benchguide for Judicial Officers*, January 2007.

<sup>48</sup> *Id.*

## 9.4 Trial Postponements

Trial postponements are differentiated from postponements of hearing events during discovery and pretrial.

- A. Postponements of trial dates are a special challenge to the court and litigants for the following reasons:
  - Trials are the most important use of judge time and the most intensive use of staff time;<sup>49</sup>
  - Trials usually involve juries and witnesses. Many more people are impacted, people who have been taken away from personal and work lives;
  - Trials require significant advance preparation. Discovery, witness preparation, staff work, negotiations, and complex scheduling lead up to a trial; and
  - Trials take up large blocks of court time.
- B. Strategies for limiting trial postponements go beyond postponement policies.
  - Early judge intervention and the use of pretrial conferences should aim to identify contested cases that have little chance of settling prior to trial.
  - Conversely, cases that have a chance to settle should have had sufficient opportunity at meaningful events to identify the key issues and ways to reach a fair resolution.
  - Courts must collect data to determine what events have high rates of postponements and understand the dynamic of why they are occurring.
- C. Impacts of fewer postponements per cases include:
  - Better use of judicial resources and time
  - Less work for court personnel
  - Reduced attorney load
  - Reduced litigant inconvenience
  - Reduced costs

## Section 10 – Problem Solving

### Learning Objective

As a result of this section, participants will be able to:

- 12. Create a focused action plan for specific caseflow management changes.

### 10.1 Backlog

Backlog is the number of cases in the inventory that are older than the time standard set by the court. Measuring backlog is predicated on two assumptions: a) the court has a time standard from filing to disposition for the case type being measured; and b) the court measures the time from filing on active pending cases (the inventory).

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<sup>49</sup> It is important to discuss why this is. Adjudication is the highest calling of a judge.

When a court decides to address perceived delay, and to measure time to disposition; a large backlog is often revealed. This backlog may be reflective of a large number of cases that have been settled or closed, but not closed in a case management or other tracking system. Steps to take to address backlog are the following:

- A. Determine the active pending caseload in backlog
  - Administratively review all cases
  - Formally close “dead” cases
  - Announce the results
- B. Determine status of remaining cases
  - Send notices and determine if still active
  - Case review by highly efficient judge
- C. Formulate plan for remaining cases
  - Settlement conference and early disposition
  - Deadlines and short schedules for intense judicial attention
  - Mediation and arbitration
  - Extra resources for conducting trials in old cases
  - Other staff requirements
  - System for monitoring progress

*Activity Eleven – Action Plan for my Court*, is designed to lead into a presentation of action plans by participants and a final discussion of resources and external factors.

## 10.2 Resources

The court and criminal justice system have a large number of resources to address caseflow and improve outcomes. A large number of these resources are activated by the direct order of a judge, even if the use or implementation of a resource is outside the direct control of the court.<sup>50</sup> Some of these resources are listed as follows:

- Citations or summons used by law enforcement in lieu of arrest and booking
- Arrest decision making by law enforcement with options for alternate places to take arrestees in crisis (behavior triage models)
- Use of pretrial risk assessment tools
- Use of criminogenic risk & needs assessment tools
- Pretrial diversion and deferred prosecution
- Pretrial supervision and services
- Effective and efficient case management

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<sup>50</sup> Law enforcement, prosecutors, public defenders, treatment services, and even some pretrial and probation departments are not under the jurisdiction of the judiciary. All have a critical stake in criminal caseflow and outcomes.

- Probation officers who use swift and certain sanctions and incentives and behavioral approaches to supervision and treatment
- Effective probation violation system
- Effective early release and reentry system for sentenced defendants
- Non-court-supervised alternative dispute resolution
- Use of plain language forms and brochures
- Public access to tools and resources, including electronic, to help initiate a case
- Close monitoring by the court of service of process
- Court-supervised alternative dispute resolution
- Public access to forms and procedural assistance throughout the case process
- Close management of meaningful hearings and postponements
- Use of electronic and alternative hearing notification tools

### **10.3 External Factors**

External factors impact outcomes and caseflow, but demand that the court adapt, change, and respond to them. They are not generally in the court's control. They include the following:

- Demographics
- Population
- Economic factors (recessions, revenue fluctuations)
- Political forces (e.g. political campaigns, wars on "stuff")
- Legislation (e.g. procedural rules, judicial appointments, crimes, statutes)
- The media and other sources of public perception
- Case law
- Technology
- Social media

## Faculty Resources

Faculty Resources are intended to be used as references and illustrations of content, methodology, and purpose for each topic. Faculty Resources are a combination of resources referenced within the Educational Content and recreations of those images embedded in the Educational Content. A significant number of resources are examples taken from courts around the U.S., and many reference most recent data sources. These examples are marked as time-sensitive; faculty may want to update over time these examples with more recent data sets. Applied caseflow management training may also demand the use of data sets from local courts or statewide jurisdictions.

### Section One

- Roscoe Pound, The Causes of Popular Dissatisfaction with the Administration of Justice
- History of National Time Standards
- Case Time Processing Standards

### Section Two

- Maryland Correlation of Performance
- Time Standards for Utah District Courts (General Jurisdiction) 2014
- Reasons Californians chose not to take cases to court

### Section Three

- Sample Caseflow Maps
- Dispute Resolution Decision Tree
- Three Axioms
- Types of Standards

### Section Four

- Decision-Making and Case Administration Principles
- Sample ADR Order

### Section Five

- Differentiated Case Management Tracks
- Differentiated Case Management Special Track Form

### Section Six

- Clearance Rate Illustration
- Maryland Circuit Courts Clearance Rates – FY 2013
- Balance Resources and Assignments
- Macro Standard – Time between Events
- Michigan Courts Targeted Standards
- Utah District Courts – Restitution, Fines, and Fees

### Section Seven

- Maryland Circuit Court – Civil FY 2013
- Examples of Outcomes of Case Processing by Hearing Events
- The Reverse Telescope

### Section Eight

- Sample Scheduling Order
- Workload Expansion
- Sample Rules for Civil Postponement Requests
- The Postponement Conundrum
- Postponements – Percentage of Cases Scheduled

Postponement Monitoring – Dispositions and Hearings  
Section Nine  
Trial Date Certainty  
Amount of Judge, Staff, Lawyer Time and Effort

## Section One

### **Roscoe Pound, The Causes of Popular Dissatisfaction with the Administration of Justice**

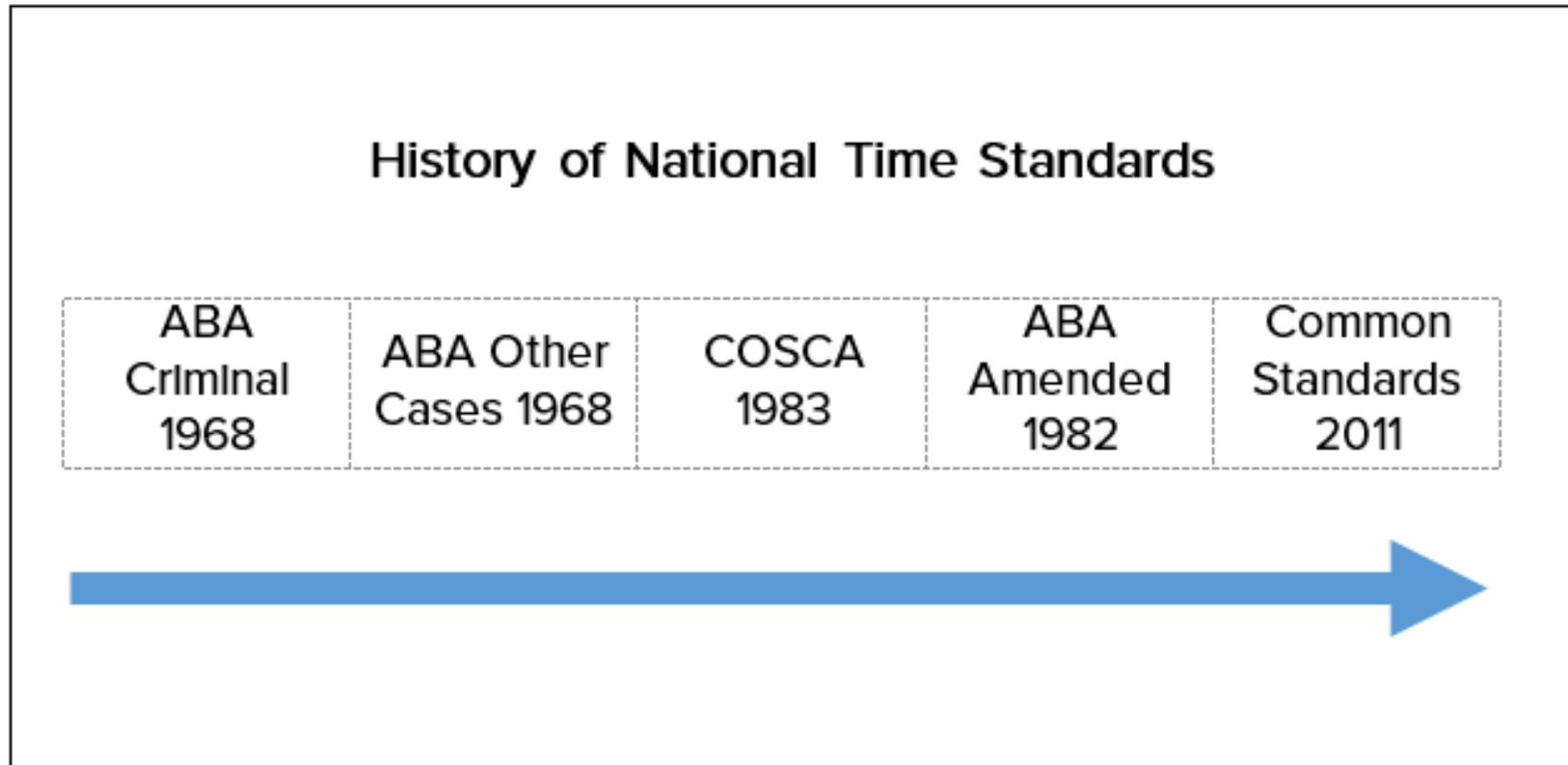
Presented at the annual convention of the American Bar Association in 1906.

Dissatisfaction with the administration of justice is as old as law. Not to go outside of our own legal system, discontent has an ancient and unbroken pedigree. The Anglo-Saxon laws continually direct that justice is to be done equally to rich and to poor and the king exhorts that the peace be kept better than has been wont, and that "men of every order readily submit ... each to that law which is appropriate to him." The author of the apocryphal *Mirror of Justices* gives a list of one hundred and fifty-five abuses in legal administration, and names it as one of the chief abuses of the degenerate times in which he lived that executions of judges for corrupt or illegal decisions had ceased. Wyclif complains that "lawyers make process by subtlety and cavilations of law civil, that is much heathen men's law, and do not accept the form of the gospel, as if the gospel were not so good as pagan's law." Starkey, in the reign of Henry VIII, says: "Everyone that can color reason maketh a stop to the best law that is beforetime devised." James I reminded his judges that "the law was founded upon reason, and that he and others had reason as well as the judges." In the eighteenth century, it was complained that the bench was occupied by "legal monks, utterly ignorant of human nature and of the affairs of men." In the nineteenth century the vehement criticism of the period of the reform movement needs only to be mentioned. In other words, as long as there have been laws and lawyers, conscientious and well-meaning men have believed that laws were mere arbitrary technicalities, and that the attempt to regulate the relations of mankind in accordance with them resulted largely in injustice. But we must not be deceived by this innocuous and inevitable discontent with all law into overlooking or underrating the real and serious dissatisfaction with courts and lack of respect for law which exists in the United States today. (p. 1)

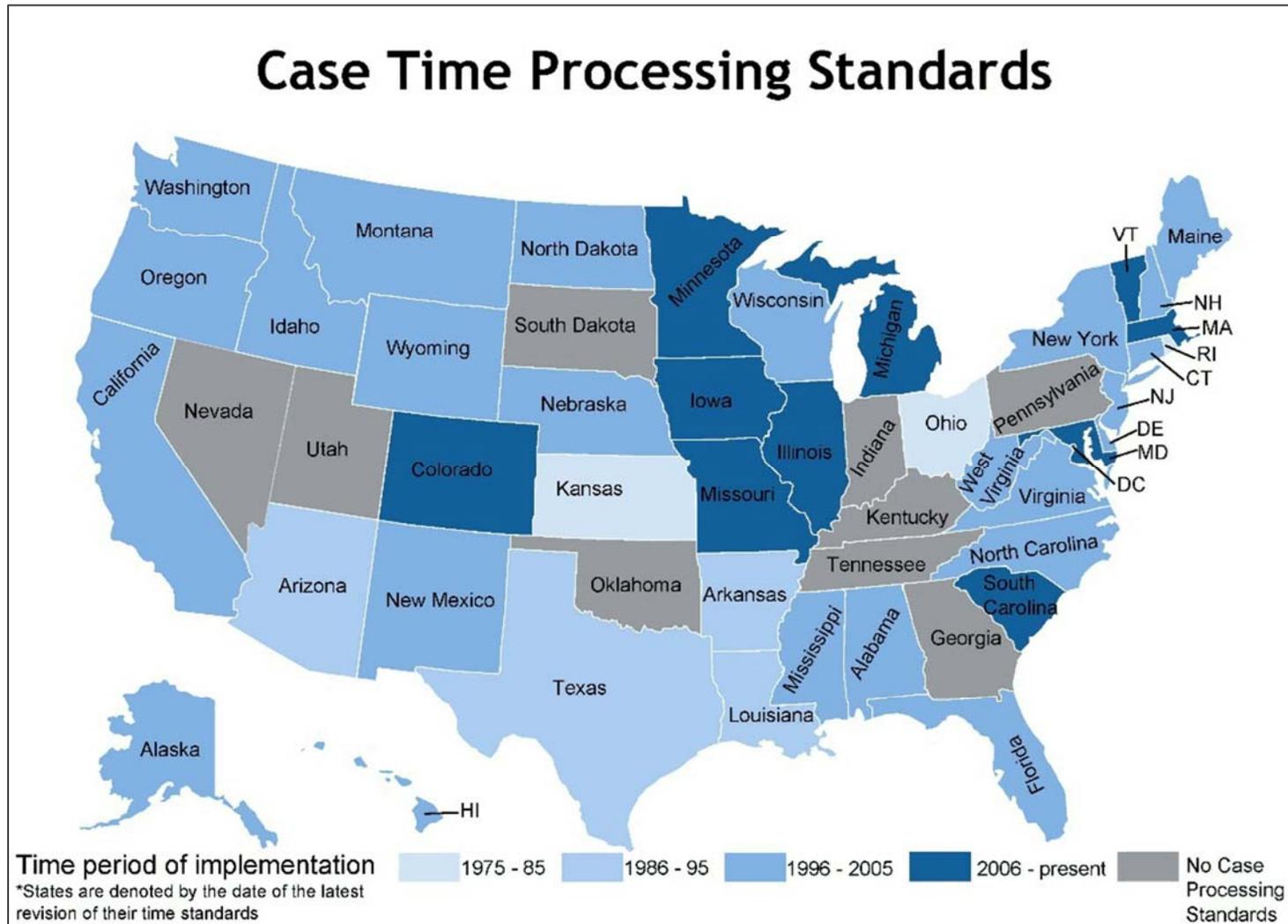
Passing to the third head, causes lying in our judicial organization and procedure, we come upon the most efficient causes of dissatisfaction with the present administration of justice in America. For I venture to say that our system of courts is archaic and our procedure behind the times. Uncertainty, delay and expense, and above all the injustice of deciding cases upon points of practice, which are the mere etiquette of justice, direct results of the organization of our courts and the backwardness of our procedure, have created a deep-seated desire to keep out of court, right or wrong, on the part of every sensible business man in the community. Our system of courts is archaic in three respects: (1) In its multiplicity of courts, (2) in preserving concurrent jurisdictions, (3) in the waste of judicial power which it involves. The judicial organizations of the several states exhibit many differences of detail. But they agree in these three respects. (p. 10)

No copyright, public commons.

## History of National Time Standards

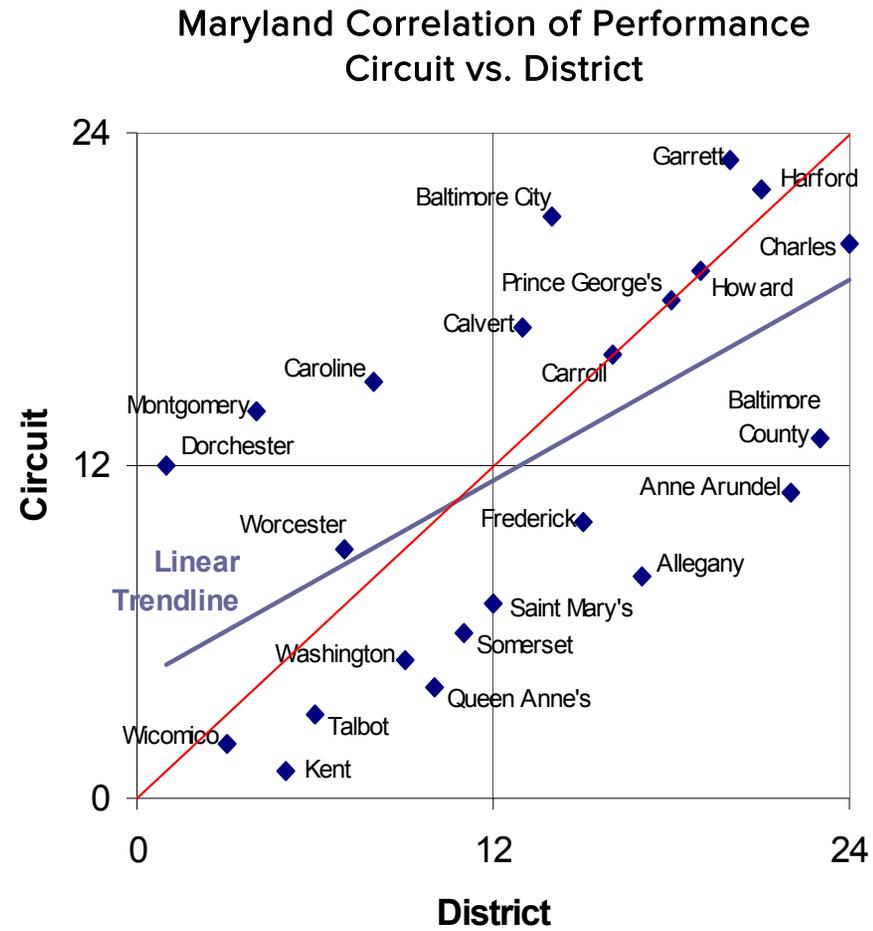


### Case Time Processing Standards

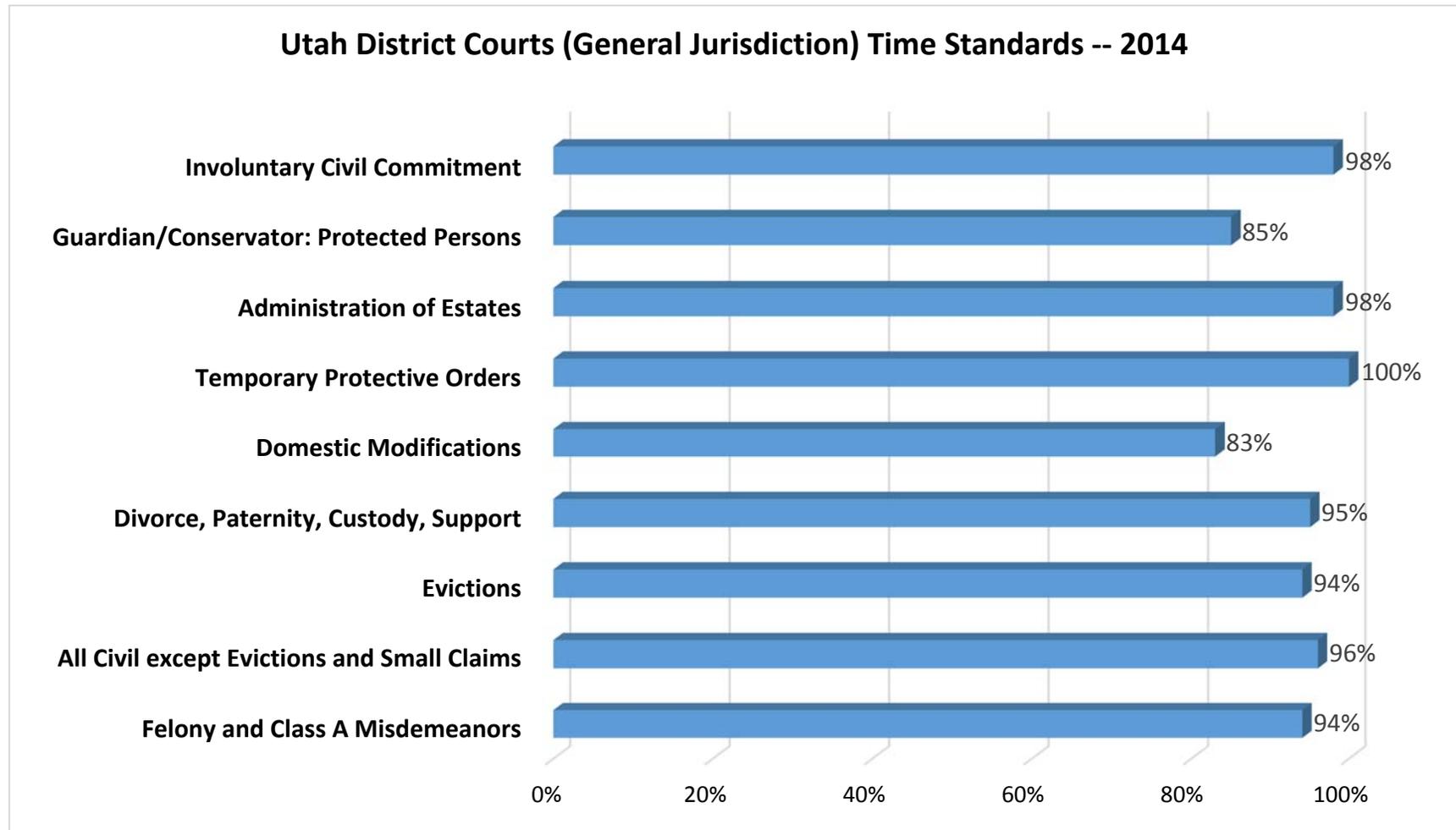


## Section Two

### Maryland Correlation of Performance



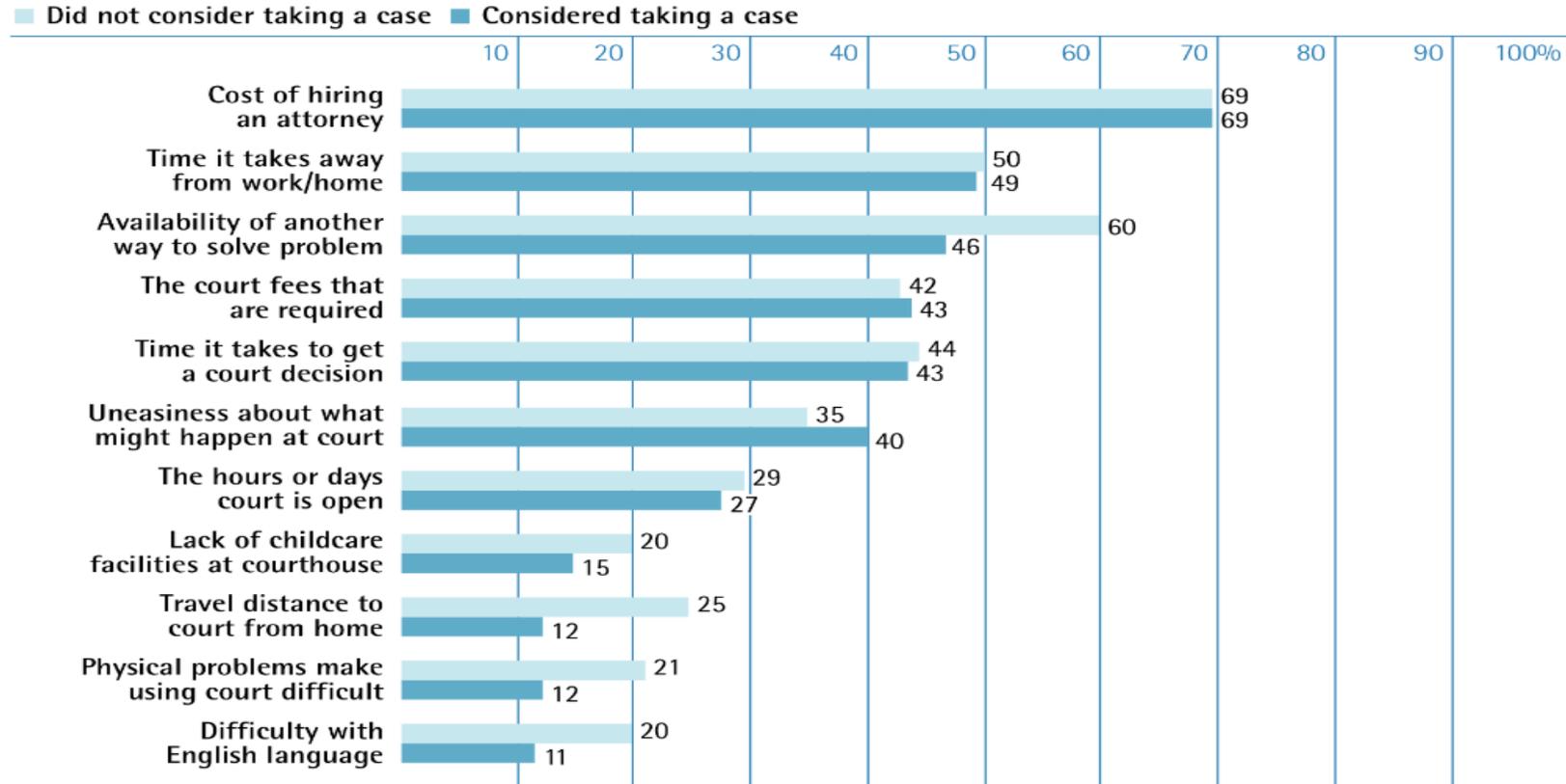
### Time Standards for Utah District Courts (General Jurisdiction) 2014<sup>51</sup>



<sup>51</sup> Utah State Courts Court Performance Measure. Retrieved from <http://www.utcourts.gov/courttools/reports.asp?measure=disposition&court=dist&detail=all>.

Reasons Californians chose not to take cases to court<sup>52</sup>

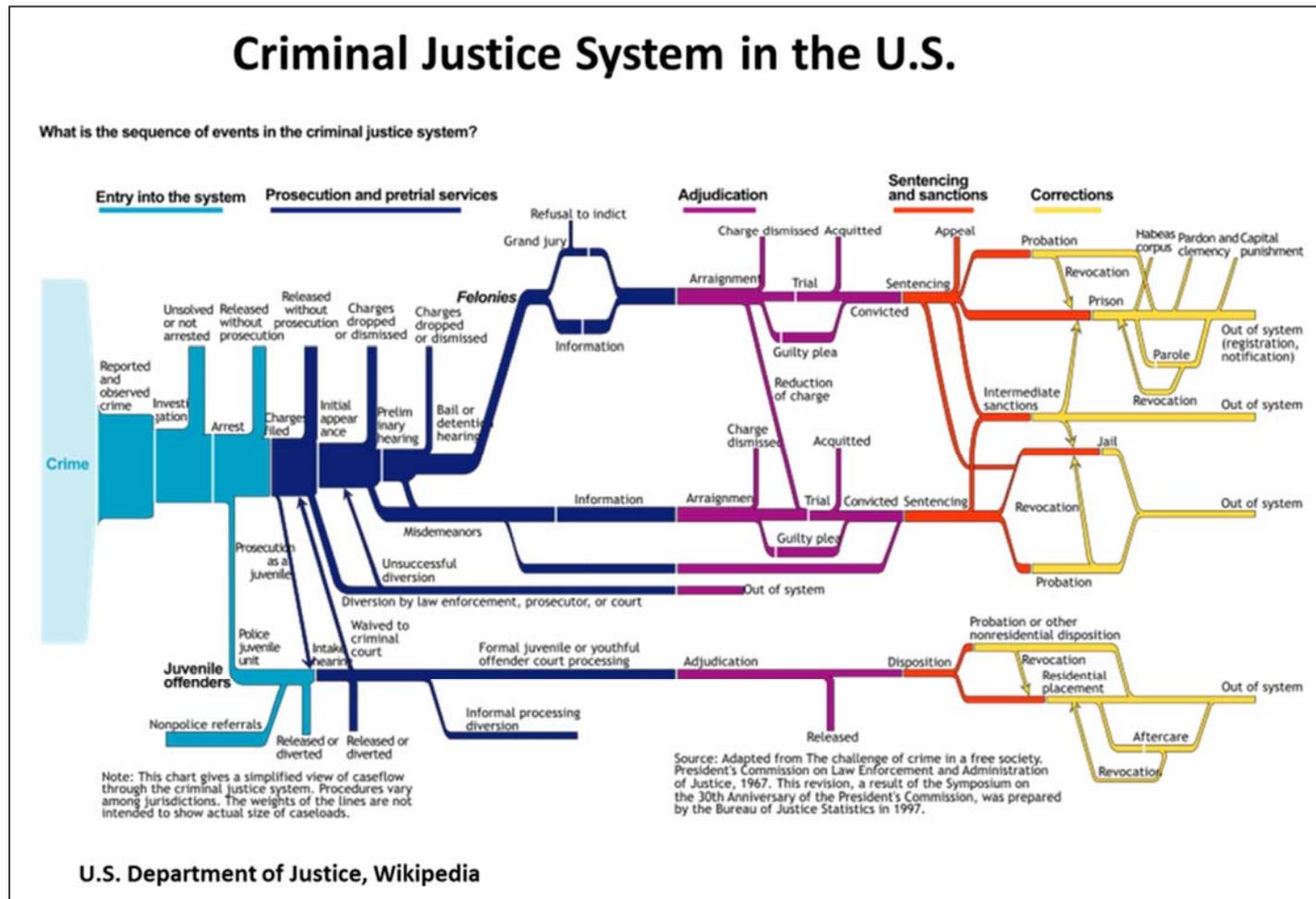
Reasons Californians chose not to take cases to court



<sup>52</sup> Rottman, David B. (2005). Trust and Confidence in the California Courts: A Survey of the Public and Attorneys. Retrieved from [http://www.courts.ca.gov/documents/4\\_37pubtrust1.pdf](http://www.courts.ca.gov/documents/4_37pubtrust1.pdf).

## Section Three

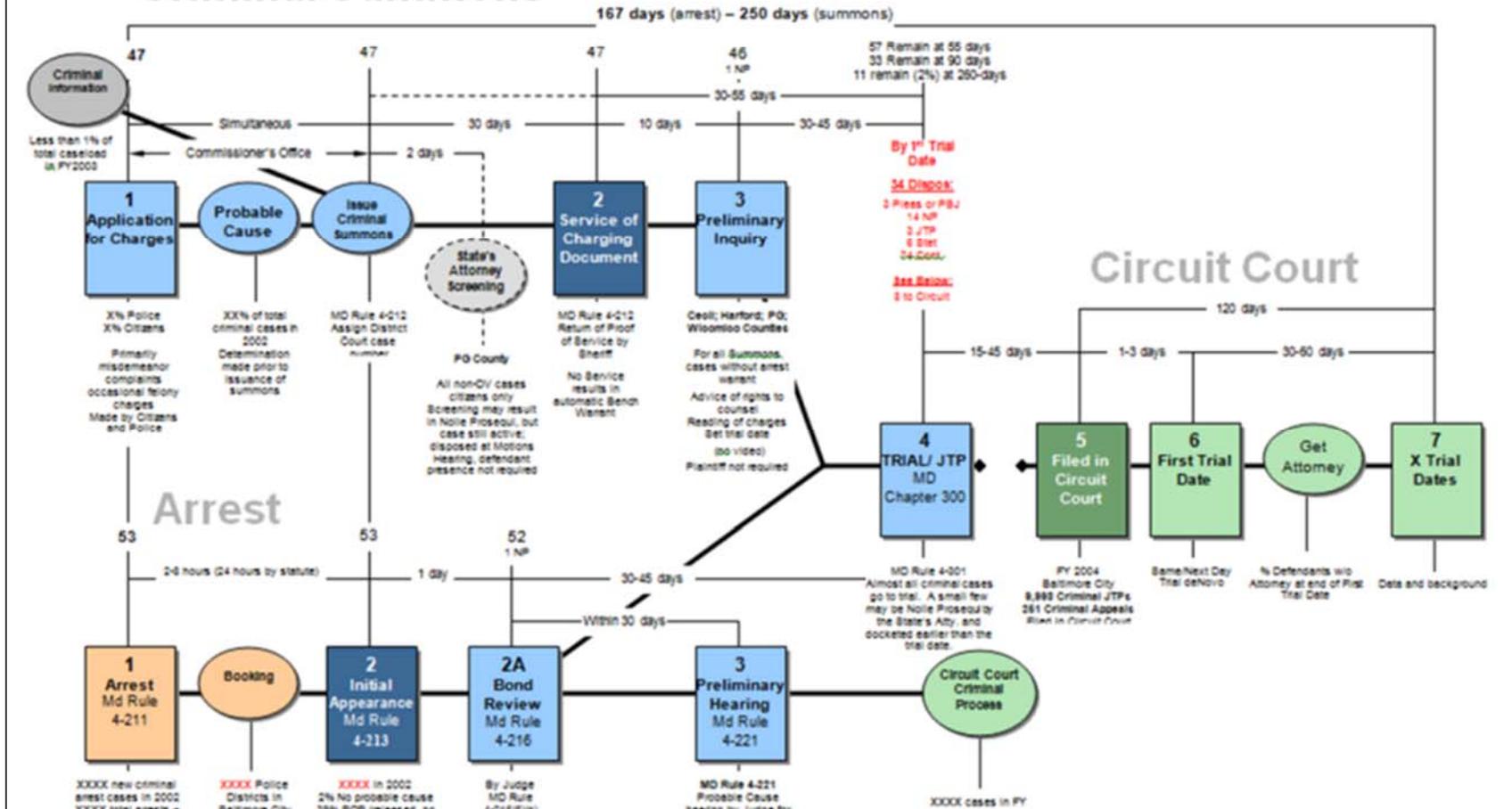
### Sample Caseflow Maps<sup>53</sup>



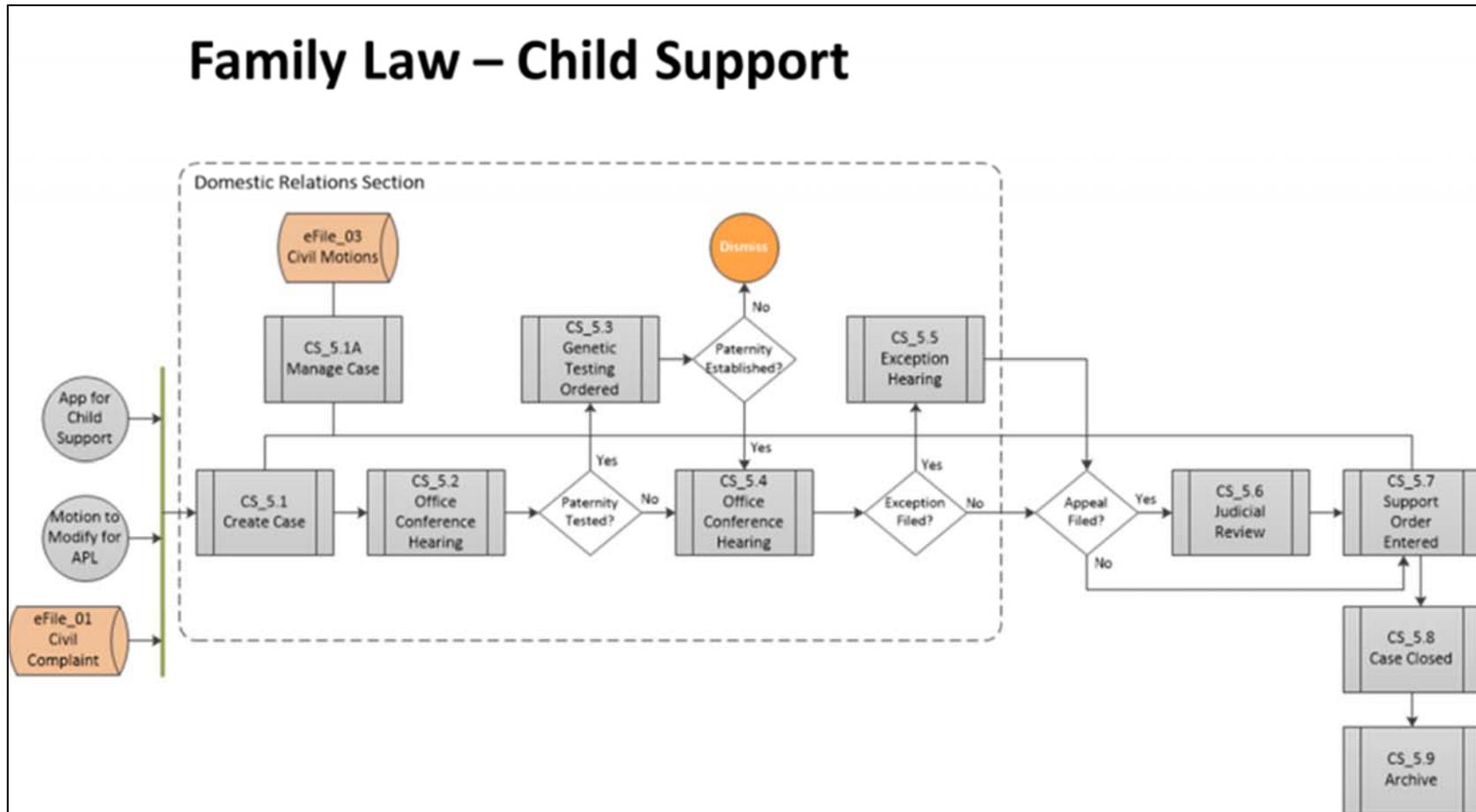
<sup>53</sup> The flowchart is available at <http://www.bjs.gov/content/largechart.cfm>.

# Criminal Justice System in Maryland

## Criminal Summons

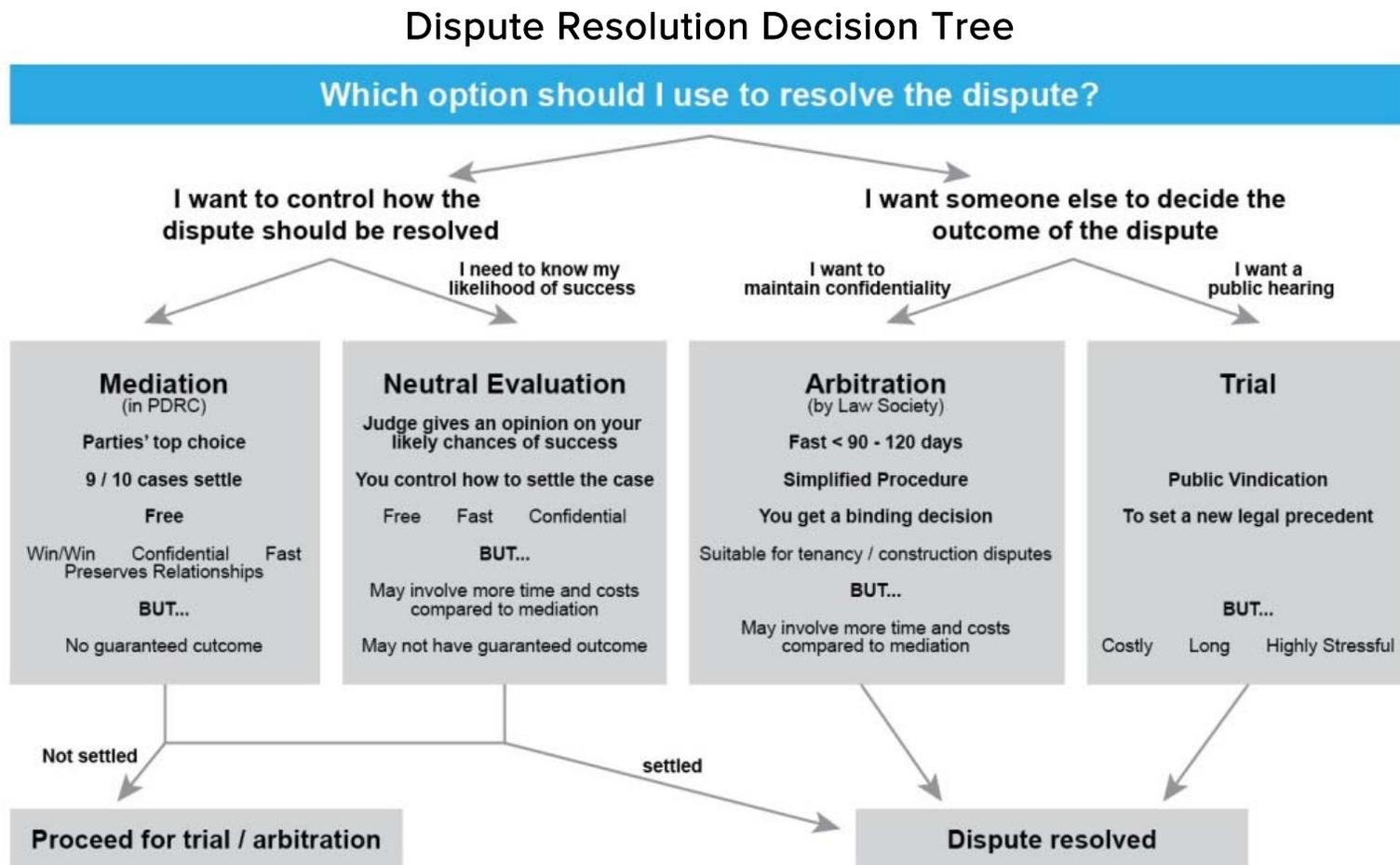


## Family Law – Child Support



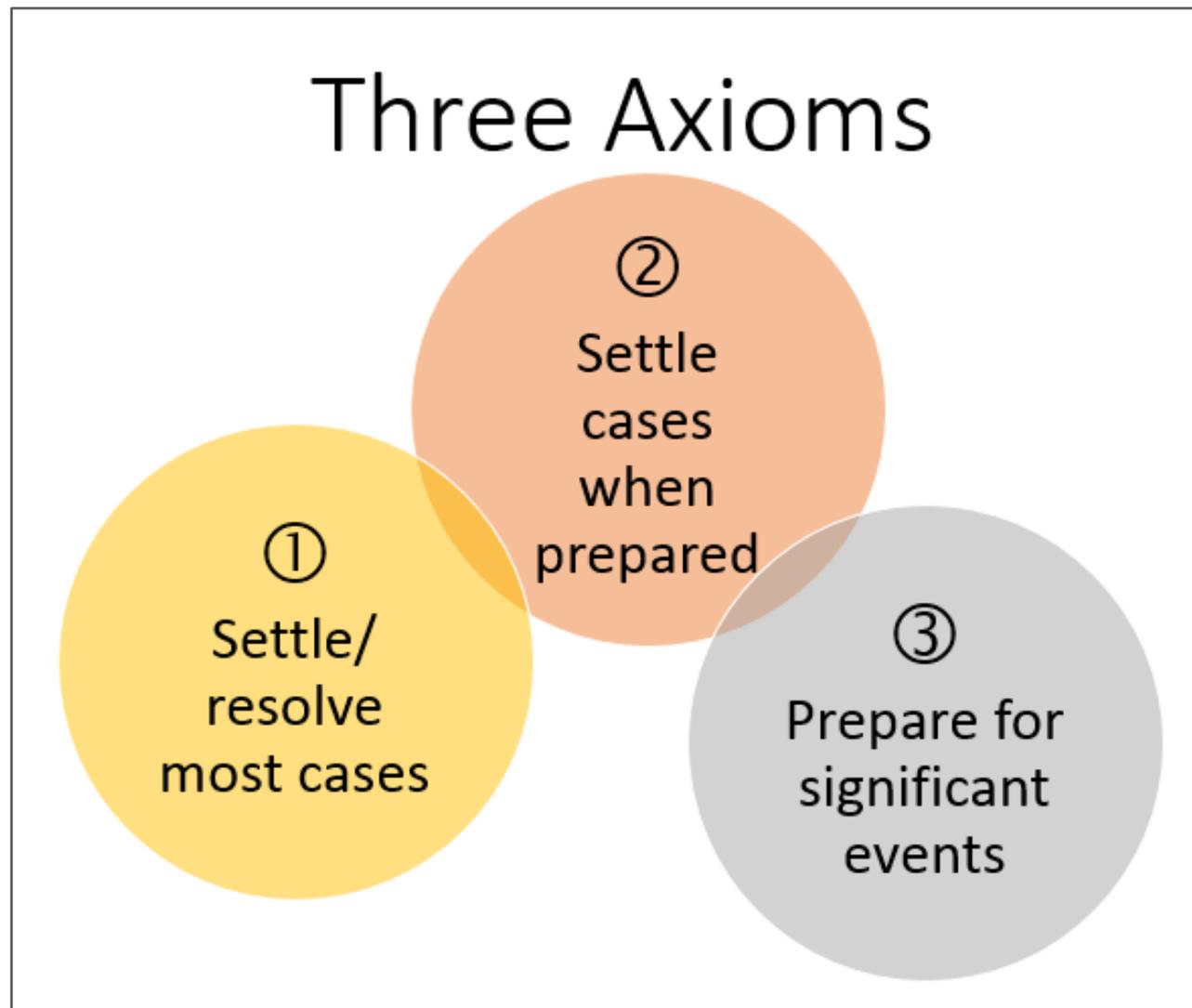


Dispute Resolution Decision Tree<sup>54</sup>

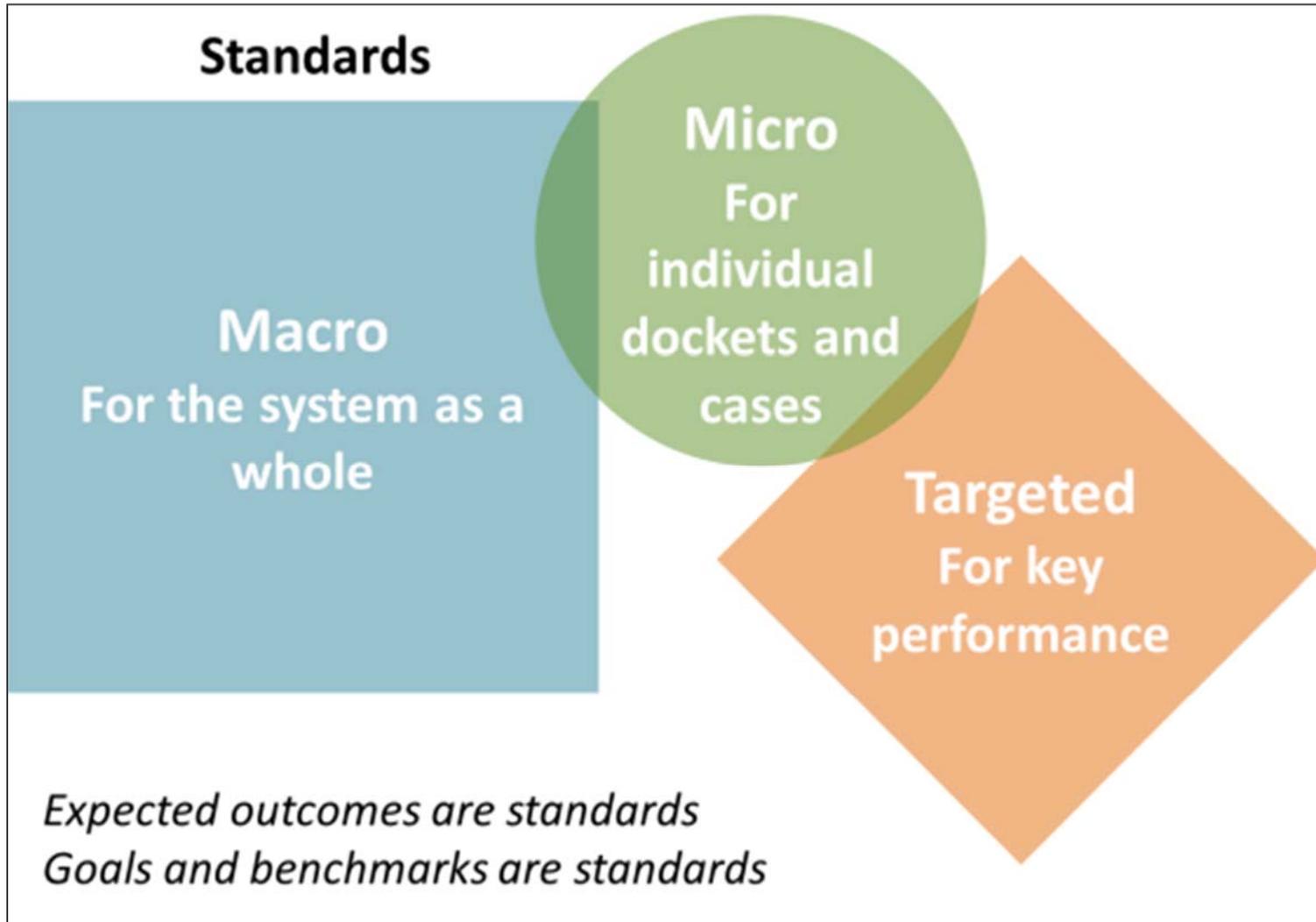


<sup>54</sup> Mediation Advocacy for Civil Disputes in the Subordinate Courts: Perspectives from the Bench (2012, September). *Law Gazette*. Retrieved from <http://www.lawgazette.com.sg/2012-09/525.htm>.

## Three Axioms



## Types of Standards



## Section Four

### Decision-Making and Case Administration Principles

Principle 8: Courts should accept and resolve disputes in all cases that are constitutionally or statutorily mandated.

Principle 9: Court leadership should make available, within the court system or by referral, alternative dispositional approaches. These approaches include:

The adversarial process.

A problem-solving, treatment approach.

Mediation, arbitration or similar resolution alternative that allows the disputants to maintain greater control over the process.

Referral to an appropriate administrative body for determination.

Principle 10: Court leadership should exercise control over the legal process.

Principle 11: Court procedures should be simple, clear, streamlined and uniform to facilitate expeditious processing of cases with the lowest possible costs.

Principle 12: Judicial officers should give individual attention to each case that comes before them.

Principle 13: The attention judicial officers give to each case should be appropriate to the needs of that case.

Principle 14: Decisions of the court should demonstrate procedural fairness.

Principle 15: The court system should be transparent and accountable through the use of performance measures and evaluation at all levels of the organization.

## Sample ADR Order

### IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Plaintiff :  
 :  
 :  
v. : Civil No.  
 :  
 :  
Defendants :

#### **ORDER FOR ALTERNATIVE DISPUTE RESOLUTION (ADR)**

This matter is presently set for \_\_\_\_\_ on \_\_\_\_\_. It is this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the Circuit Court for Montgomery County, Maryland,

ORDERED, that the parties in this matter and their counsel participate in at least one ADR Conference with the following Court-appointed mediator:

\_\_\_\_\_

Counsel are required to contact the Mediator within **FIVE** days of this Order to arrange the ADR schedule.

ADR is to be conducted \_\_\_\_\_ and CONCLUDED by \_\_\_\_\_. The parties and insurance adjusters must appear with counsel and have full settlement authority. **The Mediator may not excuse any party or cancel the ADR Conference without further Order of Court.**

The parties shall compensate the Mediator, on a pro rata basis, the fee of \$200.00 per hour.

Please read the attached instructions carefully. They are part of this Order.

\_\_\_\_\_  
JOHN W. DEBELIUS III  
County Administrative Judge

cc: Counsel of Record, Mediator and File

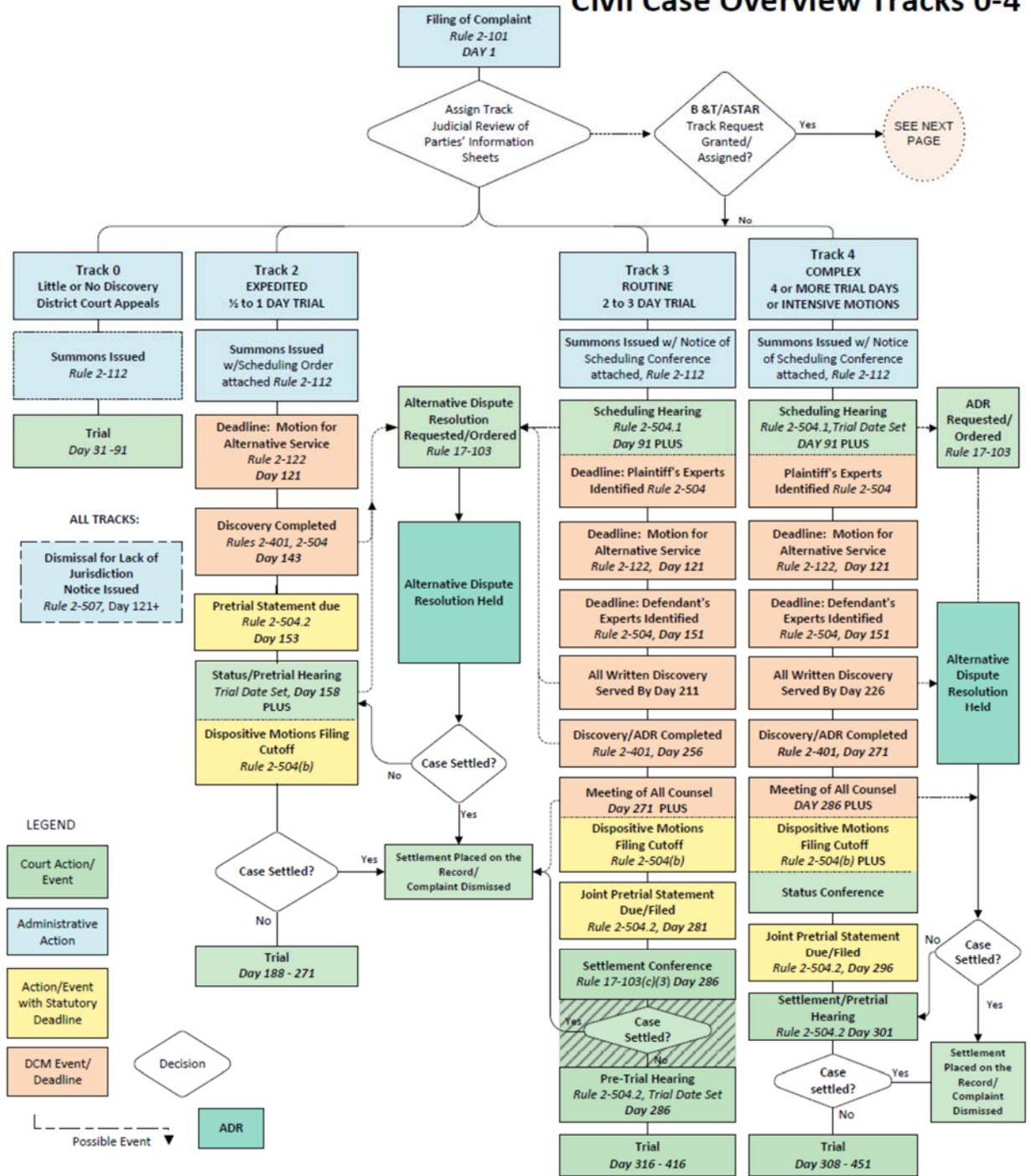
## Section Five

### Differentiated Case Management Tracks

#### CIVIL CASE TRACKING GUIDELINES TRACKS 0 - 4

EVENT	TRACK 0 (Limited or no discovery, e.g. DCA, L & T)	TRACK 2 ½ -1 day (Expedited)	TRACK 3 2 or 3 days (Standard)	TRACK 4 4 days or more or Intensive motions (Complex)
	<i>DAY</i>	<i>DAY</i>	<i>DAY</i>	<i>DAY</i>
Filing of Complaint	1	1	1	1
Scheduling Hearing			91	91
Plaintiff's Experts Identified			91	91
Deadline for Motion for Alternative Service		121	121	121
Defendant's Experts Identified			151	151
[Expert ID dates do not apply to rebuttal witnesses. Countercomplaint: Designate counter-P/D experts w/in 30 days.]				
All Written Discovery Served			211	226
Discovery (& Tracks 3 & 4: ADR) Completed		143	256	271
Pretrial Statement Filed		153		
Status Conference				286
Dispositive Motions Filing Cut-Off Date		158	271	286
Meeting of All Counsel			271	286
Joint Pretrial Stmt. Filed			281	296
Status/Pretrial Hearing		158		
Settlement Conference/ Pretrial Hearing			286 w/[ret.] Judge plus PT	301
Trial	31 - 91	188 - 271	316 - 416	308 - 451
Please see Track descriptions for further explanations of events/deadlines.				

### Civil Case Overview Tracks 0-4



## Differentiated Case Management Special Track Form

<b>BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM</b>	
<p><i>For all jurisdictions, if Business and Technology track designation under Md. Rule 16-205 is requested, attach a duplicate copy of complaint and check one of the tracks below.</i></p>	
<input type="checkbox"/> <b>Expedited</b> Trial within 7 months of Filing	<input type="checkbox"/> <b>Standard</b> Trial within 18 months of Filing
<input type="checkbox"/> EMERGENCY RELIEF REQUESTED _____	
Signature	Date
<b>COMPLEX SCIENCE AND/OR MEDICAL CASE MANAGEMENT PROGRAM (ASTAR)</b>	
<p><i>FOR PURPOSES OF POSSIBLE SPECIAL ASSIGNMENT TO AN ASTAR RESOURCE JUDGE under Md. Rule 16-202. Please check the applicable box below and attach a duplicate copy of your complaint.</i></p>	
<input type="checkbox"/> Expedited - Trial within 7 months of Filing	<input type="checkbox"/> Standard - Trial within 18 months of Filing
<p><b>IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE CITY, PRINCE GEORGE'S COUNTY, OR BALTIMORE COUNTY PLEASE FILL OUT THE APPROPRIATE BOX BELOW.</b></p>	
<b>CIRCUIT COURT FOR BALTIMORE CITY (CHECK ONLY ONE)</b>	
<input type="checkbox"/> Expedited	Trial 60 to 120 days from notice. Non-jury matters.
<input type="checkbox"/> Standard-Short	Trial 210 days.
<input type="checkbox"/> Standard	Trial 360 days.
<input type="checkbox"/> Lead Paint	Fill in: Birth Date of youngest plaintiff _____.
<input type="checkbox"/> Asbestos	Events and deadlines set by individual judge.
<input type="checkbox"/> Protracted Cases	Complex cases designated by the Administrative Judge.
<b>CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY</b>	
<p>To assist the Court in determining the appropriate Track for this case, check one of the boxes below. This information is <u>not</u> an admission and may not be used for any purpose other than Track Assignment.</p>	
<input type="checkbox"/> Liability is conceded.	
<input type="checkbox"/> Liability is not conceded, but is not seriously in dispute.	
<input type="checkbox"/> Liability is seriously in dispute.	

## Section Six

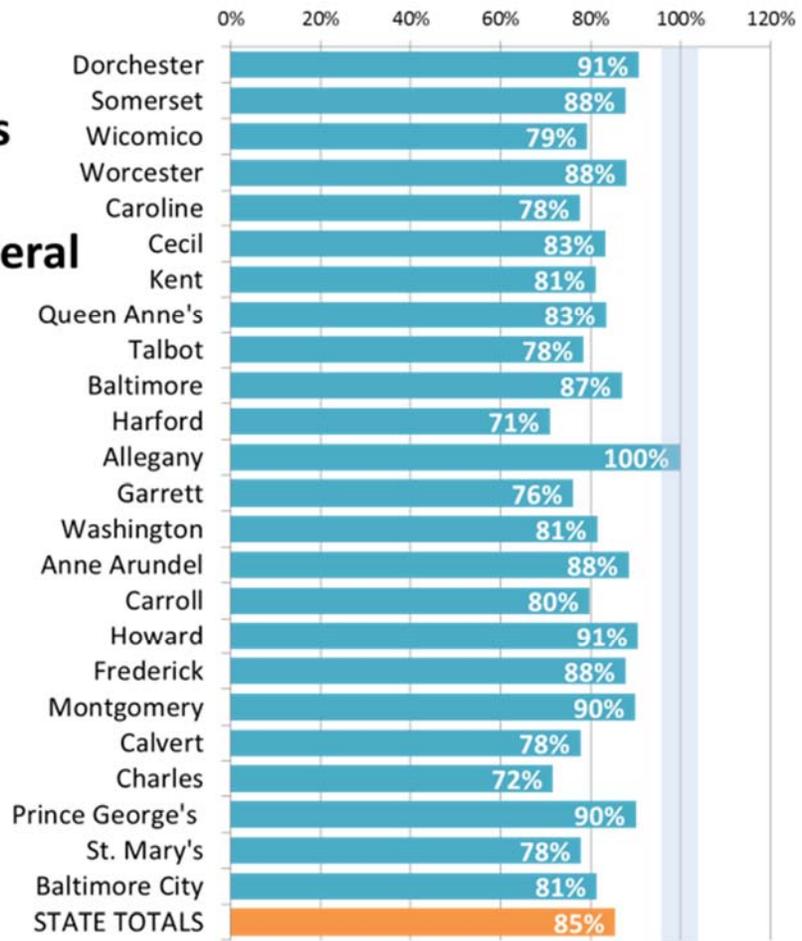
### Clearance Rate Illustration

#### Clearance Rate Illustration

July 1, 2013 Civil General Pending	96,544 cases
+ FY 2013 Civil General Filings	+ 74,407 cases
- FY 2013 Civil General Dispositions	- 63,601 cases
= June 30, 2013 Civil General Pending	= 107,350 cases
<b>FY 2013 Civil Clearance Rate</b>	<b><math>63,601/74,407 = 85\%</math></b>

## Maryland Circuit Courts Clearance Rates – FY 2013

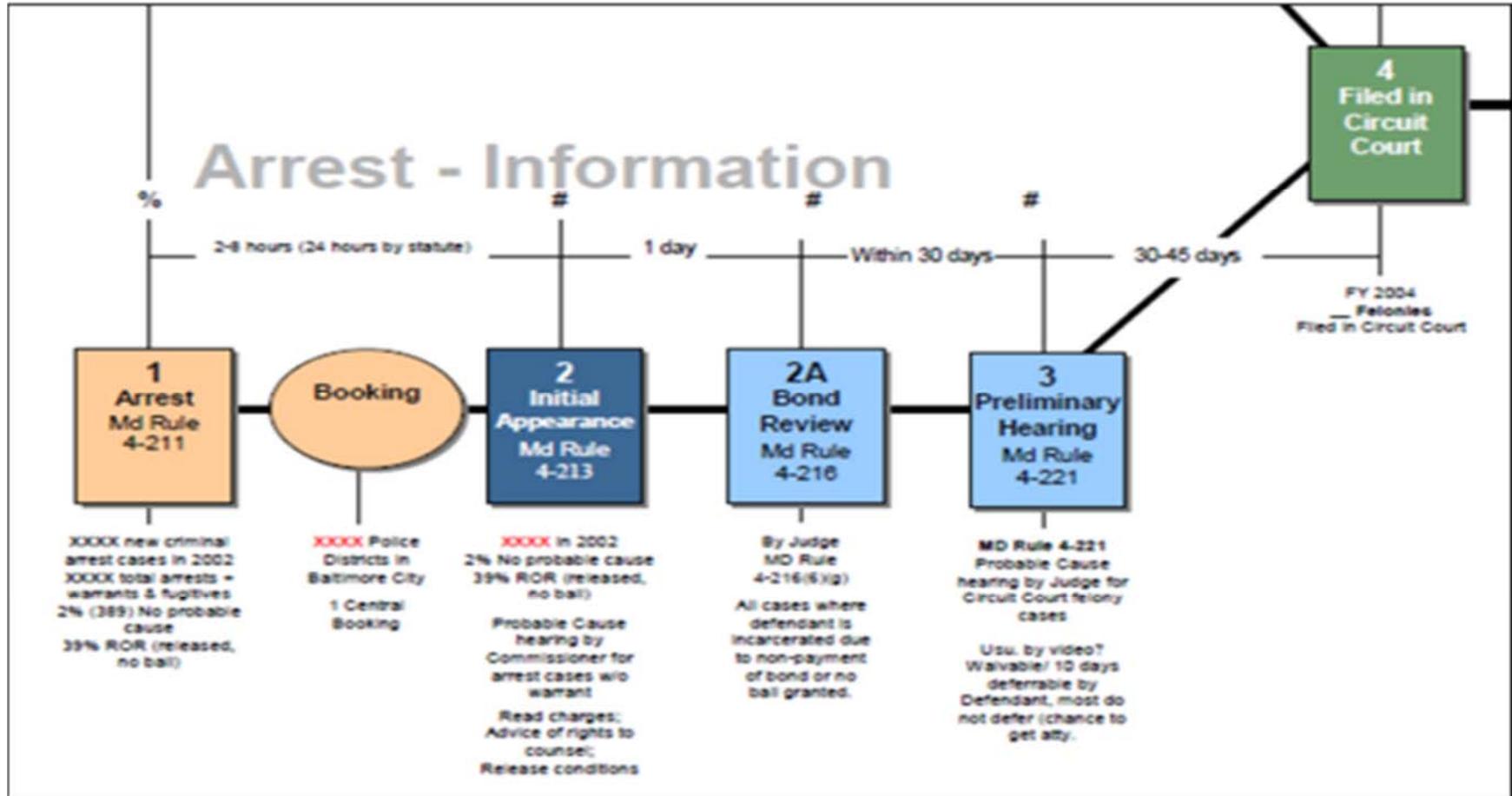
### MD Circuit Courts Clearance Rate FY 2013 Civil General



### Balance Resources and Assignments

<b>Balance Resources and Assignments</b>					
<b>FY2013 Circuit Court</b>					
<b>Casetype</b>	<b>Pending Start</b>	<b>Filings</b>	<b>Dispositions</b>	<b>Pending End</b>	<b>Clearance Rate</b>
Civil General	769	1,355	1,128	996	83%
Criminal	1,267	3,335	3,506	1,096	105%
Civil Family	1,149	2,623	2,626	1,146	100%
Juvenile	64	425	411	78	97%

Macro Standard – Time between Events

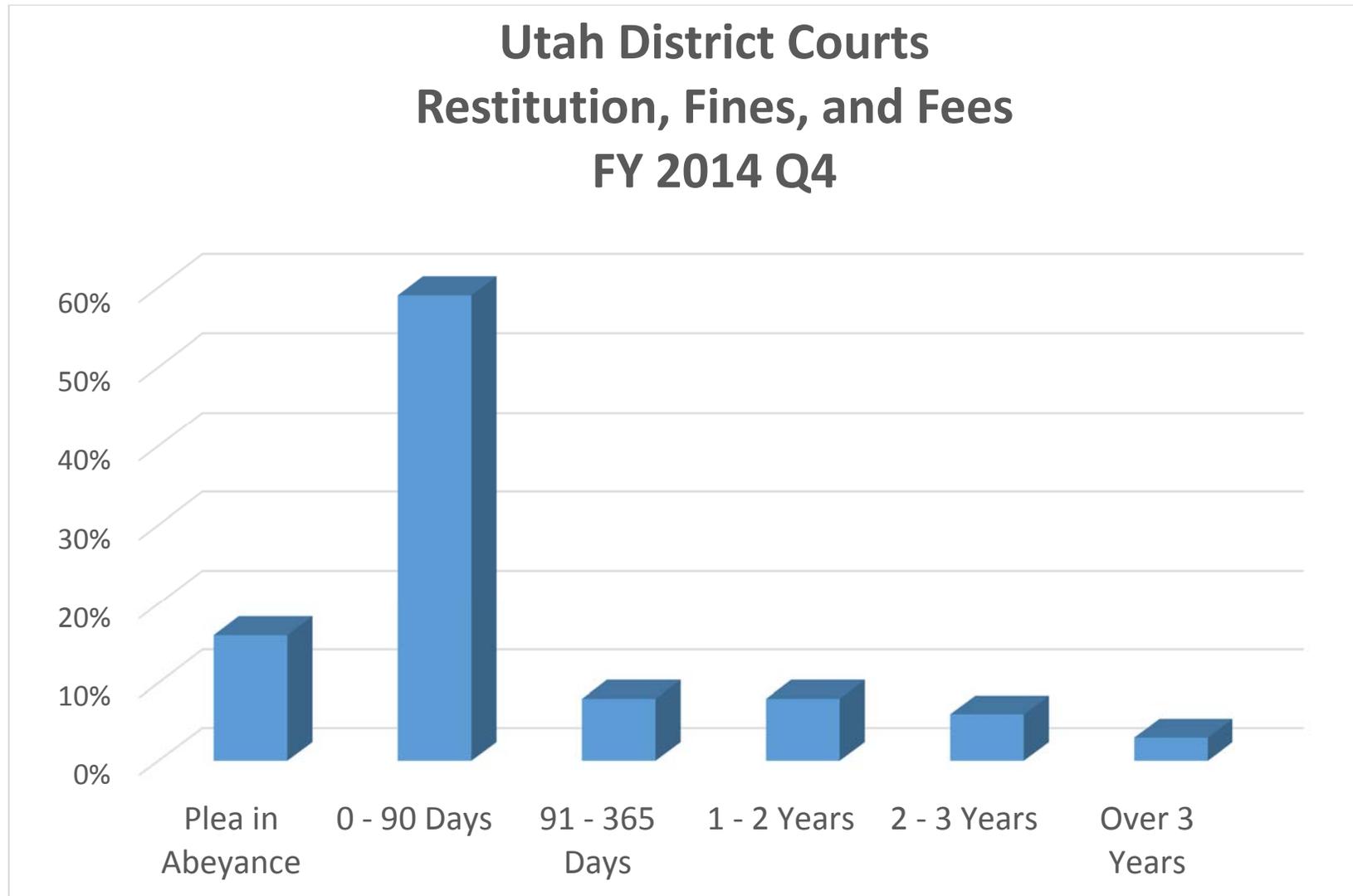


## Michigan Courts Targeted Standards

### Michigan Courts Targeted Standards

<b>Sobriety and Drug Court Recidivism Rates</b>				
<b>Why it Matters</b>	<b>Prior</b>	<b>Current</b>	<b>Target</b>	
Sobriety court 2-year, drug/alcohol conviction	10%	3%	0%	↑
Sobriety court 2-year, any new conviction	16%	4%	0%	↑
Sobriety court 4-year, drug/alcohol conviction	15%	8%	0%	↑
Sobriety court 4-year, any new conviction	18%	10%	0%	↑
District drug court 2-year, drug/alcohol conviction	10%	5%	0%	↑

Utah District Courts – Restitution, Fines, and Fees



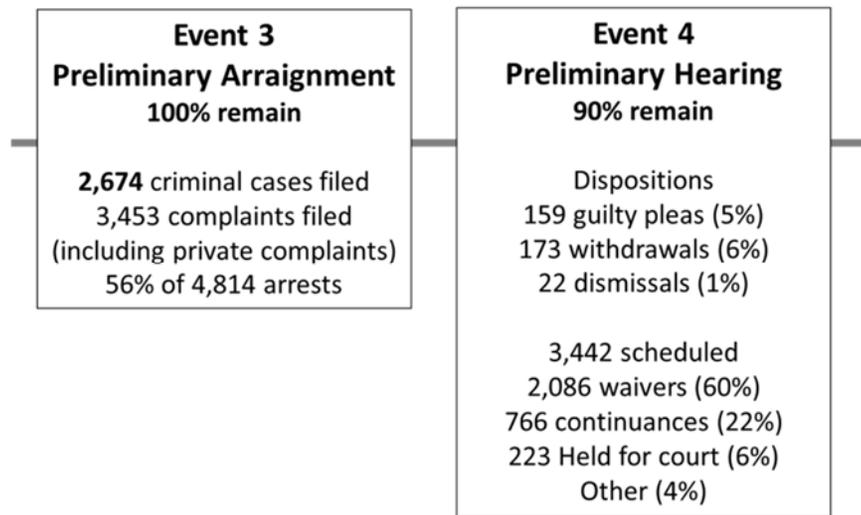
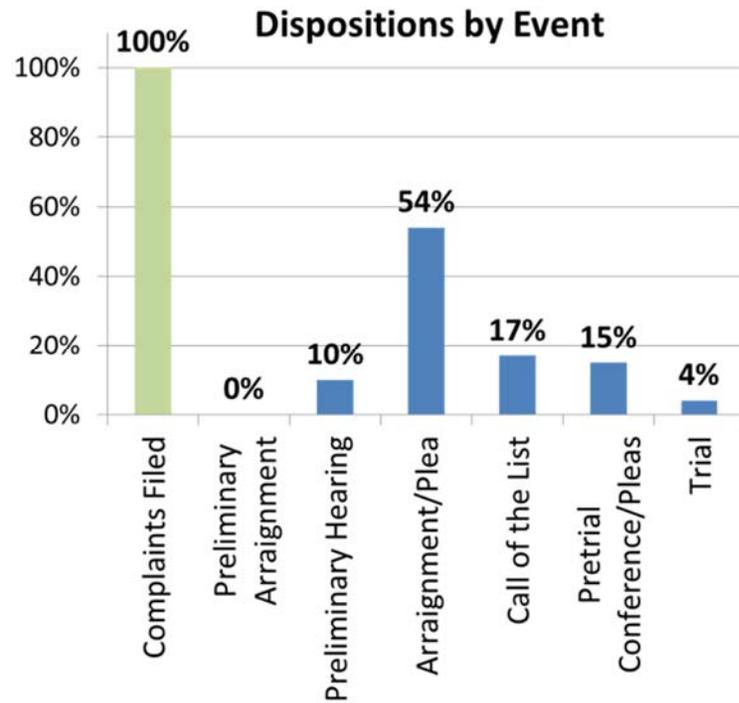
## Section Seven

Maryland Circuit Court – Civil FY 2013

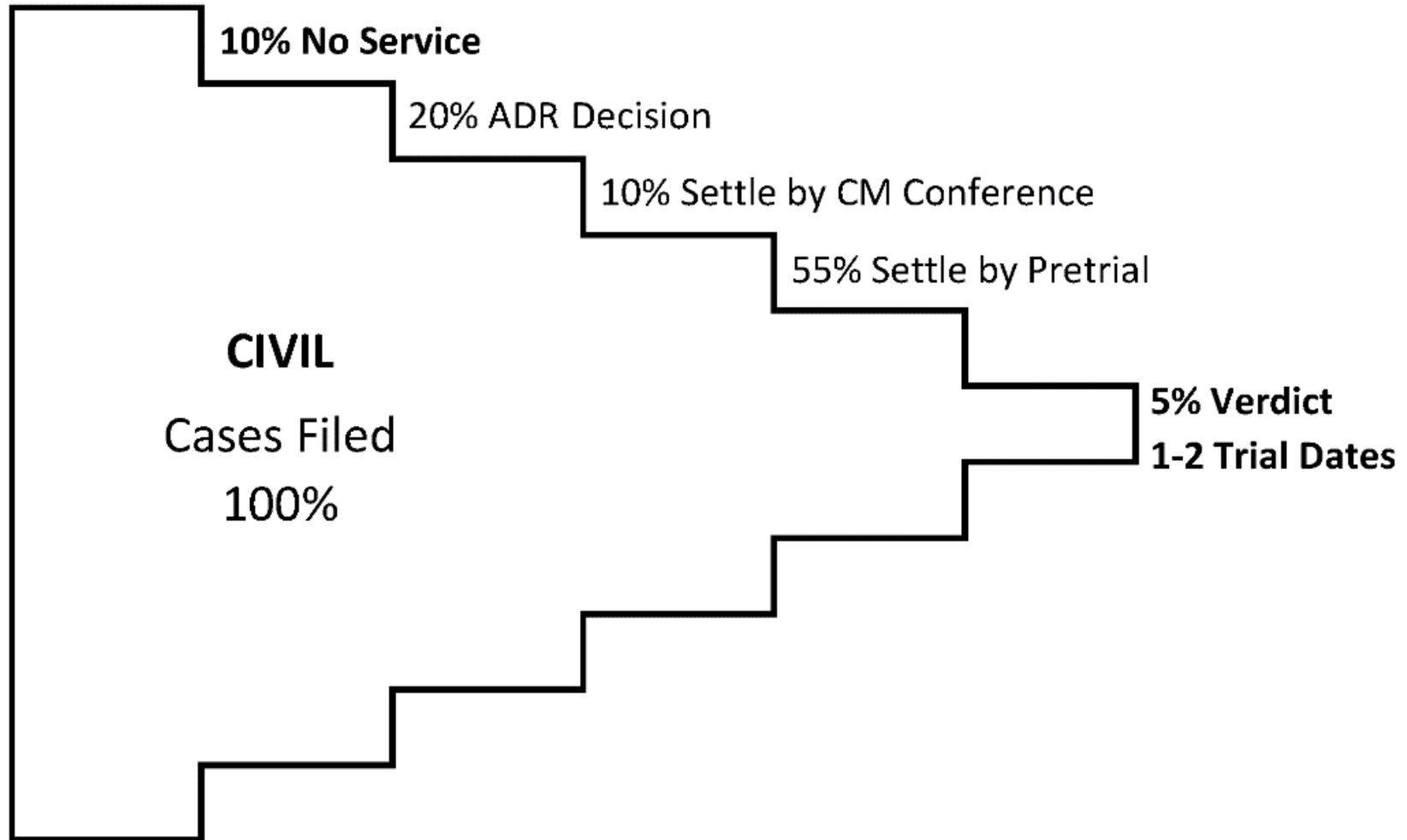
### Circuit Court Civil FY 2013

Circuit	Court	Pending Start	Filings	Dispositions	Clearance Rate	Pending End	Pending Goal Civil
1	Dorchester	260	584	530	91%	314	438
1	Somerset	167	432	379	88%	220	324
1	Wicomico	461	1,085	860	79%	686	813
1	Worcester	424	1,272	1,118	88%	578	953
2	Caroline	261	411	319	78%	353	308
2	Cecil	769	1,355	1,128	83%	996	1,015
2	Kent	176	286	232	81%	230	214
2	Queen Anne's	271	693	578	83%	386	519
2	Talbot	230	469	368	78%	331	351
3	Baltimore	11,165	8,944	7,770	87%	12,339	6,714

### Examples of Outcomes of Case Processing by Hearing Events



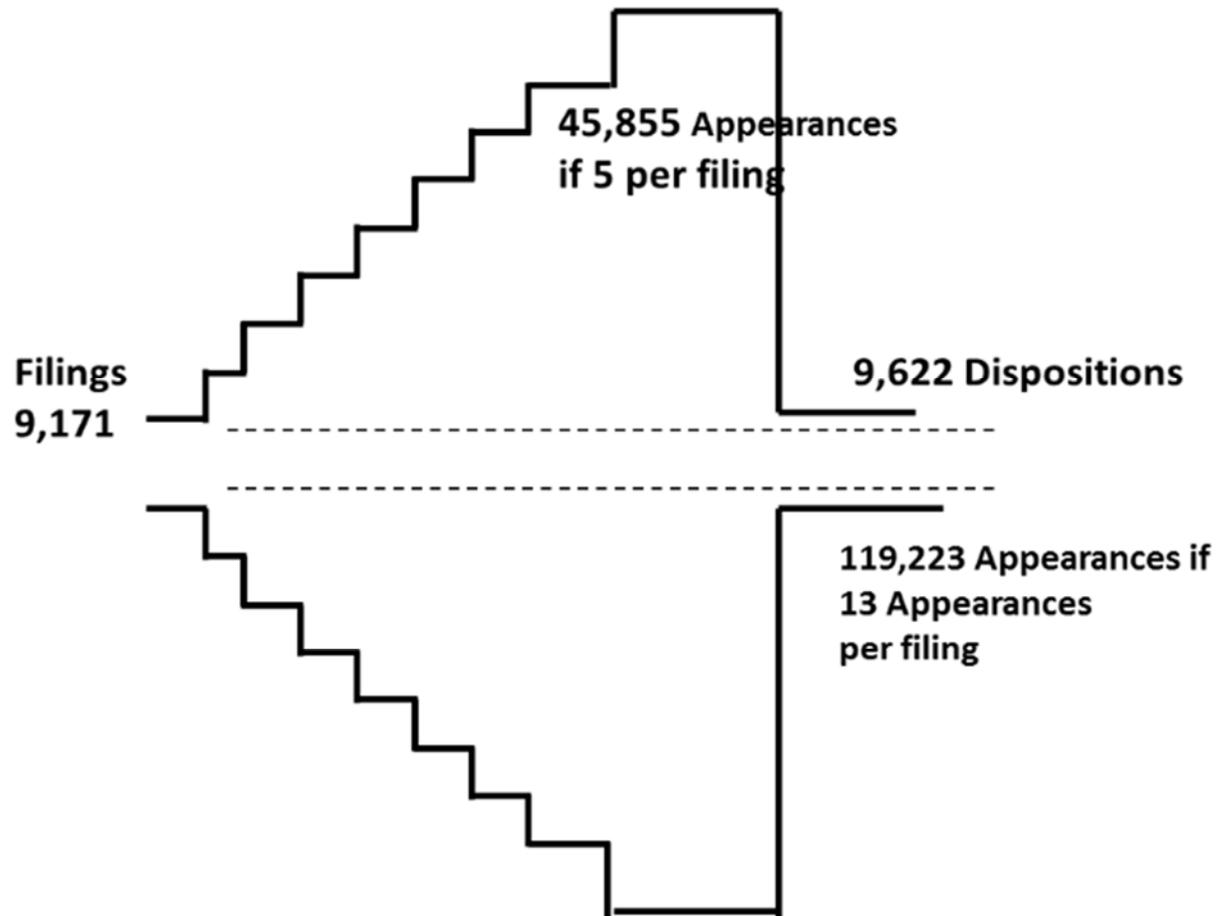
### The Reverse Telescope





## Workload Expansion

# Workload Expansion



## Sample Rules for Civil Postponement Requests

### POSTPONEMENT REQUESTS CIVIL (Sample)

All requests for postponement, regardless of the type of hearing, must be made in the form of a written Motion for Postponement **prior** to the hearing sought to be postponed. The Motion should include specific reasons for the postponement, the other party's position on the postponement (if possible), and a proposed Order. The use of attachments, i.e., previously received court notices, doctor's notes, etc., is encouraged. All civil case motions must be filed with the Clerk's Civil Department. [Note: Consent or joint motions are **NOT** automatically granted.] **Please that Maryland Rule 2508 provides that a trial date "shall not be continued on the ground that discovery has not yet been completed, except for good cause shown."**

All civil Motions for Postponement are processed by the Administrative Aides for ruling by the Administrative Judge or Acting Administrative Judge. **PLEASE DO NOT** send or deliver original Motions for Postponement directly to the Administrative Aides or to the Administrative Judge, as this will delay, rather than expedite, the process. Please follow the instructions given below for filing:

**If the Motion for Postponement is for a trial or hearing scheduled within three (3) weeks**, it is advisable to walk the motion through the filing and docketing process in the Clerk's Office and delivery to the Administrative Aides. One does not need to be an attorney to "walk the motion through" processing. **PLEASE follow the procedure below.** (Please note that if the motion seeks to postpone a hearing that is scheduled on the next day the court is in session, the motions walk through procedure below must be completed by no later than 2:00 PM.):

1.

**Obtain the court file** by requesting the file at the counter in the Central Files office located on the lobby level of the Judicial Center. If the file is not physically located in Central Files, staff will direct the requester to its location.

**Take the court file and the motion** to the Civil Department for docketing of the motion. The motion will now be latched into the file, tabbed, and a docket entry will indicate its filing date.

**Take the file to the Assignment Office** to get a proposed new date and/or confirmation of a previously agreed upon date, which must be cleared by the Assignment Office.

Please deliver the file to the Administrative Aides who are located in Room 307, on the 3<sup>rd</sup> Floor of the Judicial Center.

**The Administrative Aides will contact the parties for any additional information that may be needed and inform them of the Court's ruling on the motion.**

Motions to postpone filed in the ordinary course of business or sent by mail cannot be walked through by court staff. Please be aware that the Clerk's Office receives numerous filings daily and may require several days to process a motion to postpone. Please call the Administrative Aides at (240) 7779107 or (240) 7779106 with any questions concerning motions to postpone hearings.

**EXCEPTIONS TO FILING A MOTION FOR POSTPONEMENT**

**THESE EXCEPTIONS TO THE REQUIREMENT THAT A MOTION BE FILED FOR POSTPONEMENTS OF HEARING MAY NOT BE CONSTRUED OR APPLIED TO ALLOW A POSTPONEMENT OF A SETTLEMENT CONFERENCE/PRETRIAL HEARING OR TRIAL.**

**Track 0/DCA** cases may be rescheduled **once** by a letter of agreement. The new date must be rescheduled on the calendar within thirty (30) days of the original date.

**Civil motions** may be rescheduled **once** by a letter of agreement. The new date must be rescheduled on the calendar within thirty (30) days of the original date.

**Track 3 Scheduling Hearings** may be rescheduled **once** by consent of all parties and upon filing a joint line. They must be rescheduled on a date within two (2) weeks of the original date.

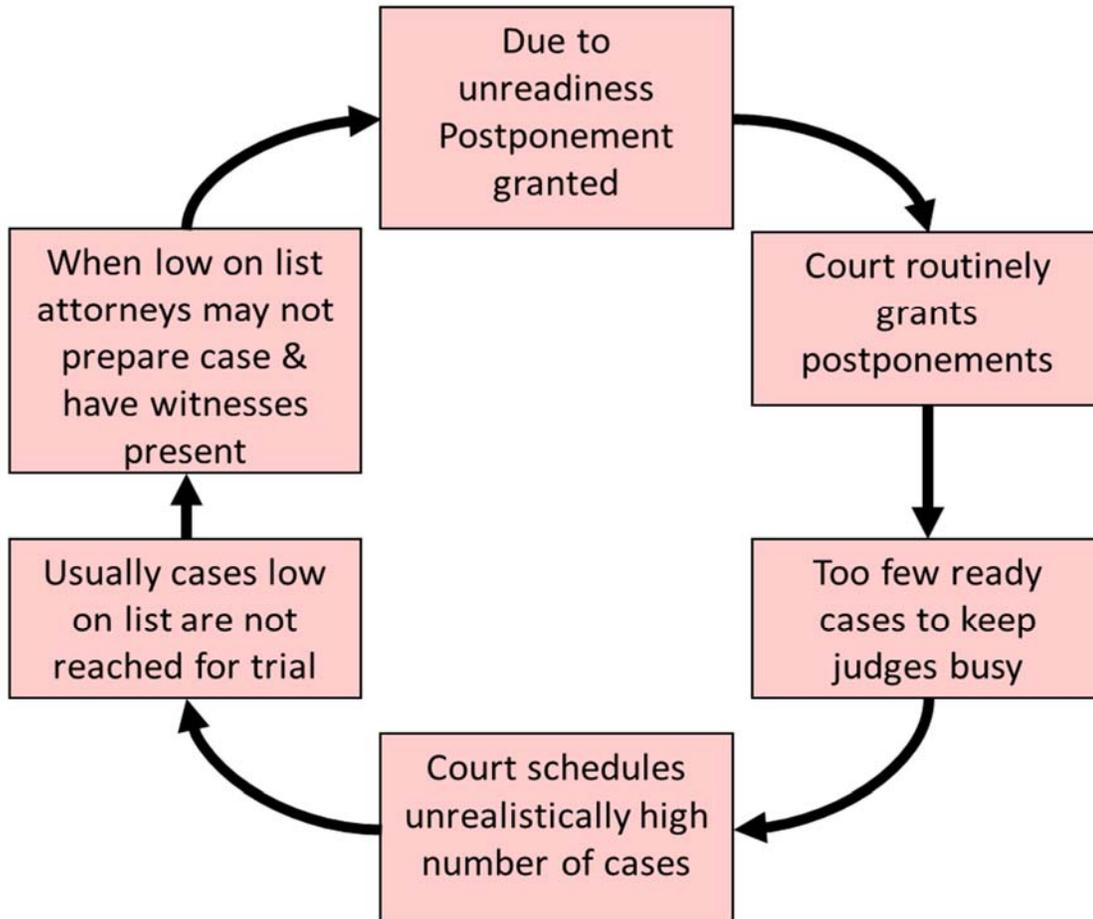
If you have any questions regarding the abovelisted exceptions, please contact the Assignment Office at (240) 7779000.

If a case is specially assigned to a judge (entire case is specially assigned), the specially assigned judge will rule on the motion. **Track 4 cases** will be ruled on by a Track 4 judge, consistent with the Court's policies regarding the postponement of events in Track 4 cases.

**PLEASE SEE EACH TRACK SECTION FOR MORE SPECIFIC INFORMATION.**

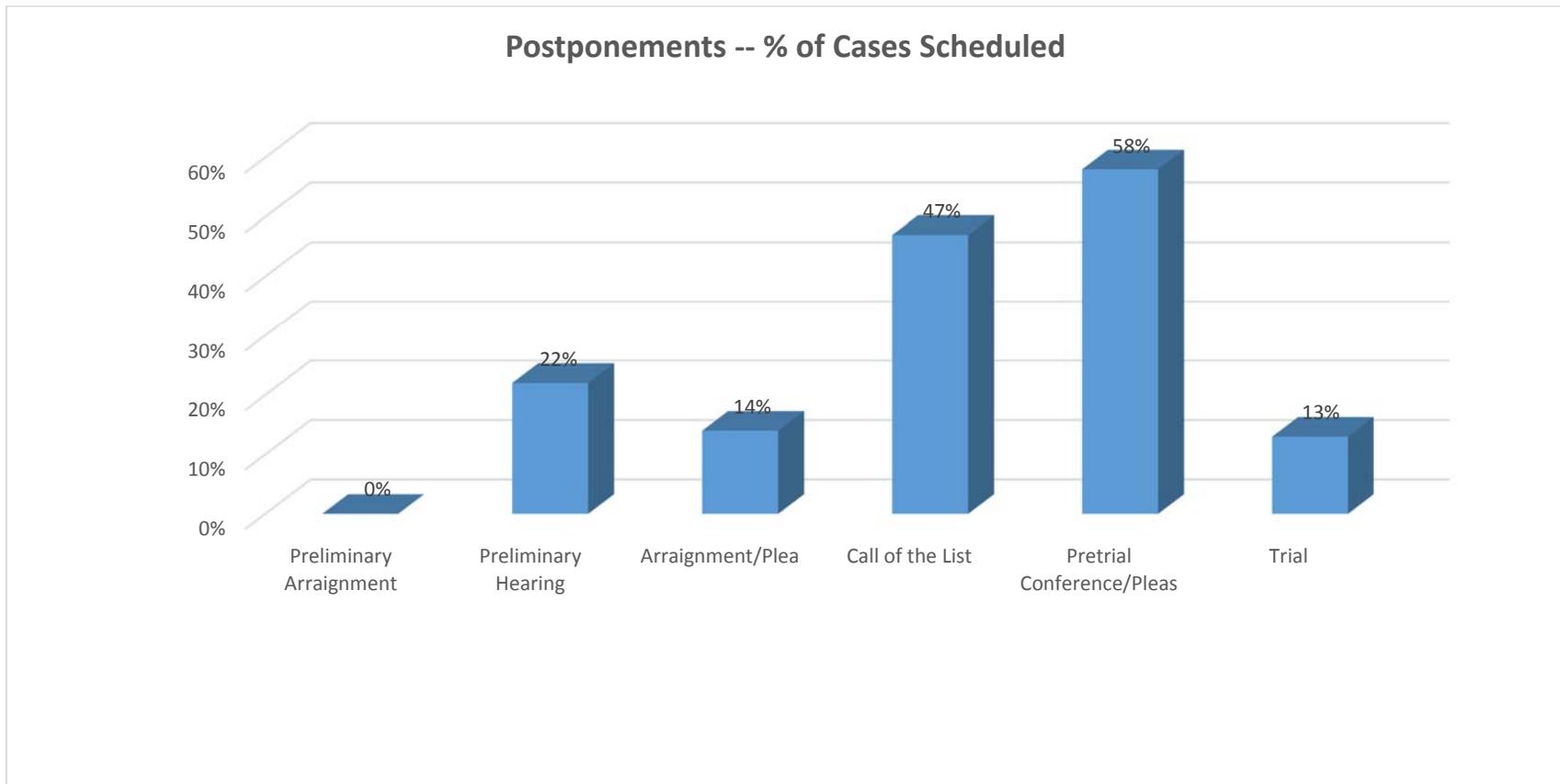
**CASE TRACKING INFORMATION SHEET: STATE'S ATTORNEY'S OFFICE  
DEFENSE COUNSEL SIMILAR**

## The Postponement Conundrum<sup>55</sup>

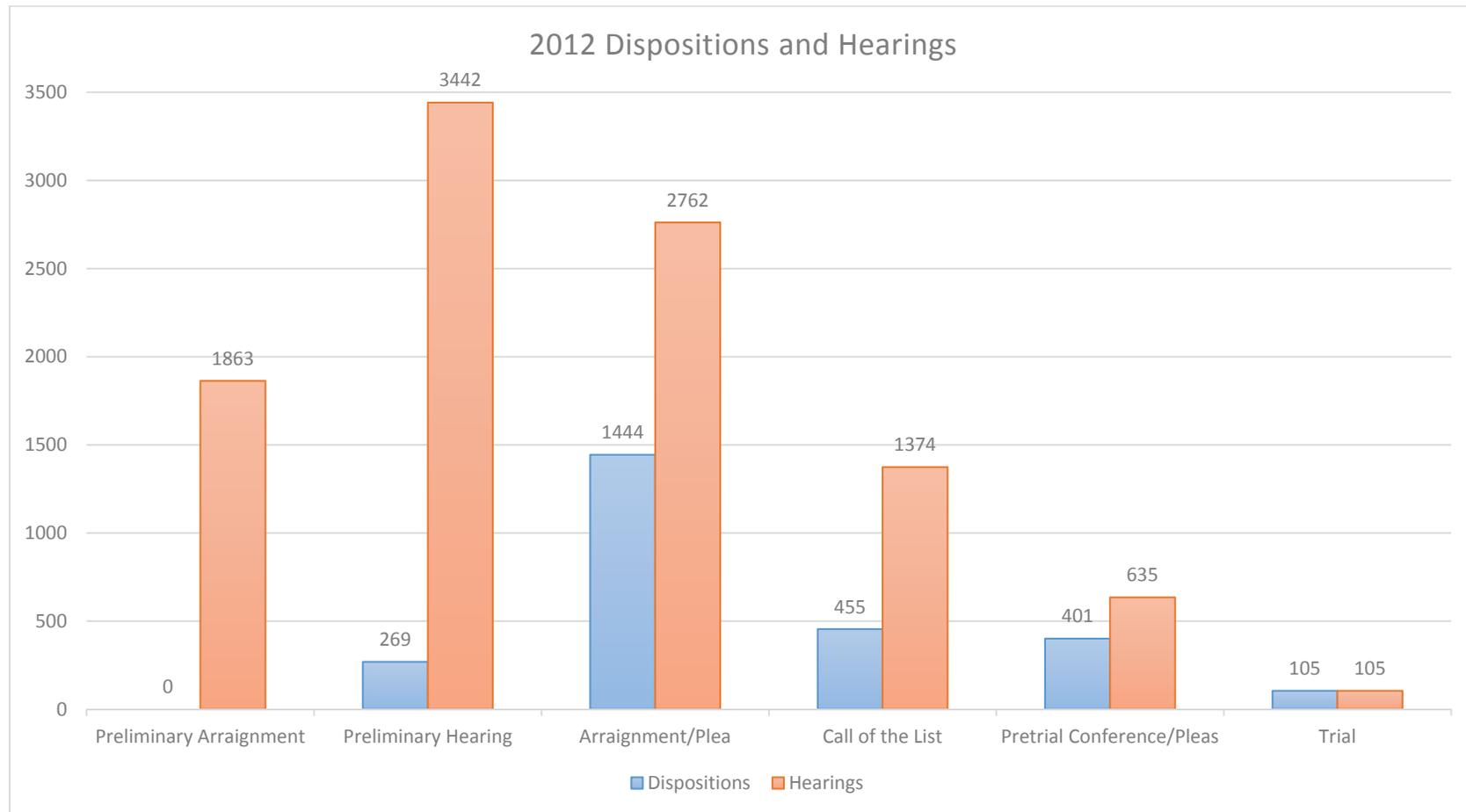


<sup>55</sup> Solomon, M., (1973) Case flow Management in the Trial Court (ABA).

### Postponements – Percentage of Cases Scheduled



### Postponement Monitoring – Dispositions and Hearings



## Section Nine

### Trial Date Certainty

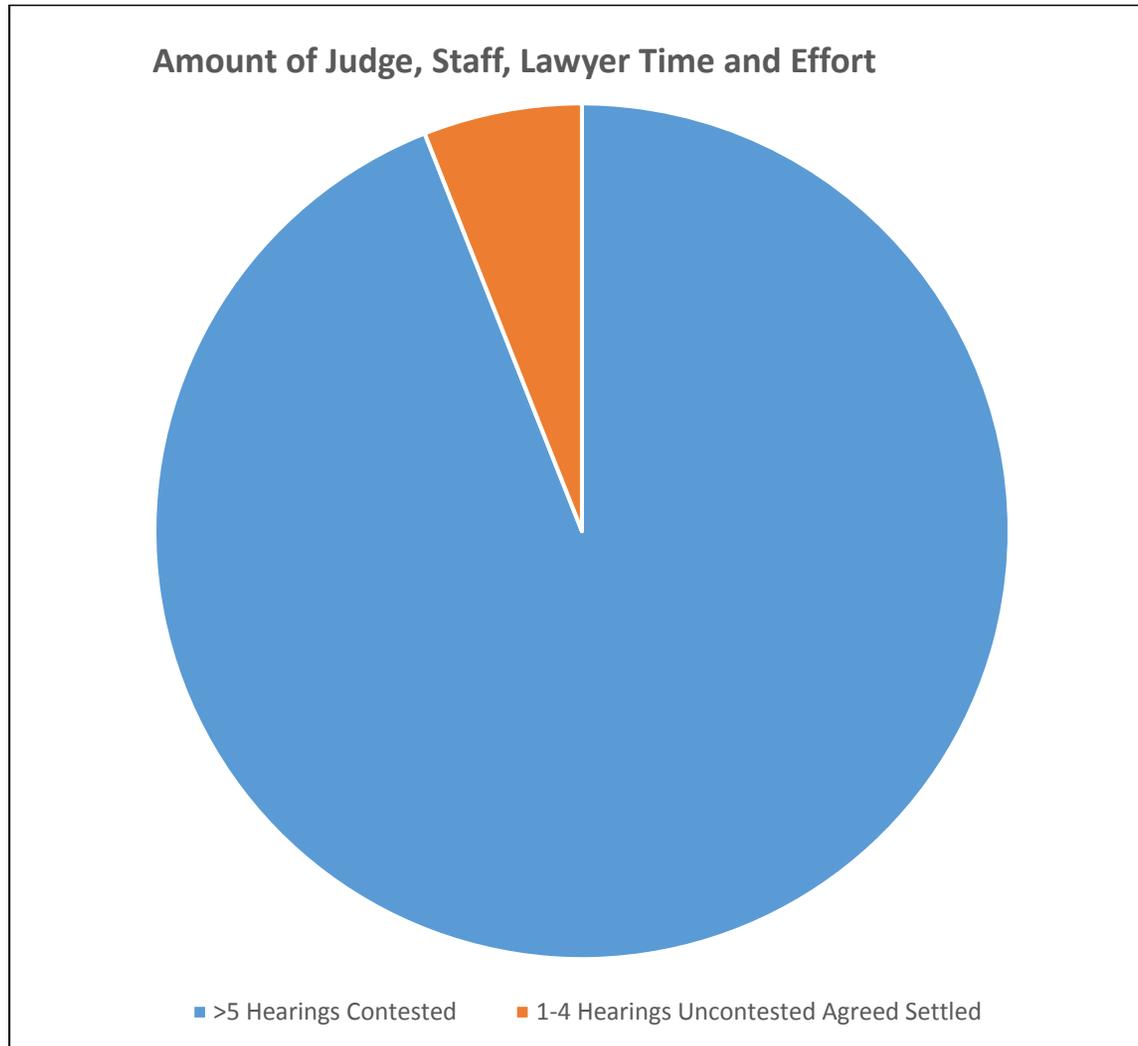
### Multiple Trial Dates

The diagram illustrates three trial dates. On the left, three rabbit icons are stacked vertically. In the center, a single rabbit icon is positioned above the text '1st TRIAL DATE'. To the right of this, another single rabbit icon is positioned above the text '2nd TRIAL DATE'. Further to the right, a single rabbit icon is positioned above the text '3rd TRIAL DATE'.

**POSTPONEMENTS AFFECT ...**

Files	Prisoner Transportation
Computer Entries	Jail Population
Forms	Prosecutor
Scheduling	Judge
Defense	Staff

### Amount of Judge, Staff, Lawyer Time and Effort



## Participant Activities

The participant activities are one of the most important parts of the curriculum design as they are the tools faculty members are able to use to determine if participants have achieved the outcomes defined in the learning objectives. Also, participant activities provide tools to faculty to ensure that the training, course, or session is not only informative, but also interactive.

### **Activity One – Caseflow Management Fundamentals Self-Assessment**

Learning objective: *Identify individual learning needs and objectives related to caseflow management*

### **Activity Two – How Are Our Courts Doing?**

Learning objective: *Define the purpose of courts*

### **Activity Three – Local Legal Culture**

Learning objective: *Identify the universal and distinguishing characteristics of local legal cultures*

### **Activity Four – Caseflow Mapping**

Learning Objective: *Map caseflow from a systemic perspective*

### **Activity Five – The Culture of Public Access in My Court**

Learning objective: *Evaluate the culture of public access with a focus on self-represented litigants*

### **Activity Six – My Court’s Caseflow Management Culture**

Learning objective: *Complete a detailed, systemwide evaluation of caseflow management strengths and weaknesses*

### **Activity Seven – Seeing the Justice Universe**

Learning objective: *Use a structured analysis to create the elements of a differentiated case management plan*

### **Activity Eight – Maryland Time Standards Evaluation**

Learning objective: *Evaluate caseflow time standards as a key performance measure*

### **Activity Nine – Backlog Analysis**

Learning objective: *Apply high level diagnosis to determine caseflow management performance*

### **Activity Ten – Case Calendaring in General and Limited Jurisdiction Courts**

Learning objective: *Identify calendaring systems and how judges use case management plans and orders to manage cases*

### **Activity Eleven – Postponements**

Learning objective: *Assess postponement policies and practices*

### **Activity Twelve – Action Plan for My Court**

Learning objective: *Create a focused action plan for specific caseflow management changes*

## **Activity One: Caseflow Management Fundamentals Self-Assessment**

### **Purpose**

The purpose of the self-assessment is for each participant to determine his or her individual learning needs and for the instructor to tailor the session to the types of learning needs identified by the participants.

### **Notes about Using the Activity**

This activity may be used as a pre-exercise and sent to participants prior to a session to complete and return in advance of the course. It can also be administered at the beginning of the session. The faculty member may or may not wish to put forth the collective results of the class. If the faculty member could show the results in a graph showing the top categories where the class ranked as highly expert versus those categories where the class ranked topics as no knowledge, skills, or abilities.

### **Relevant Learning Objective**

1. Identify individual learning needs and objectives related to caseflow management.

## Caseflow Management Fundamentals Self-Assessment

Please take 15 minutes to read the Knowledge, Skills, Abilities, and Attitudes (KSAs) below and rank yourself in each category. 0 = no knowledge skill or ability in this category to 5 = highly expert, need no new training. The instructor will ask each person to identify their strongest KSA and the KSA which best reflects their highest learning need in caseflow and workflow.

Knowledge, Skills, Abilities, and Attitudes		Rank 0 = none 5 = expert
<b>A</b>	Ability to link the broad purposes of courts to the goals of accessible, equal, fair, prompt, and economical resolution of disputes and effective caseflow and trial management;	
<b>B</b>	Knowledge of how the organization, jurisdiction, and funding of courts impact day-to-day caseflow management;	
<b>C</b>	Knowledge and ability to apply core management functions to caseflow management including human resources, budget and finance, information technology, records, and facilities;	
<b>D</b>	Knowledge and use of case processing time standards and other caseflow management performance indicators;	
<b>E</b>	Skill in tying time standards to the number and types of cases that must be processed to meet time to disposition goals for all case types -- by year, month, week, day, and judicial division, team and judge;	
<b>F</b>	Knowledge of and skill at applying basic caseflow axioms and principles such as early and continuous judicial control and how they produce timely and fair dispositions through staff and lawyer preparation and meaningful events;	
<b>G</b>	Knowledge and use of all case processing steps, sequences, and dynamics for all case types, including how lawyers, their clients, and <i>pro se</i> litigants make decisions concerning filing, case processing, and settlement; and the economics of the practice of law for criminal, civil, domestic relations, juvenile, traffic, administrative, and appellate cases;	
<b>H</b>	Knowledge and application of alternative case assignment and scheduling systems and how to set up and manage daily court calendars by judge, type of case and hearing, day of the week, and time of the day;	
<b>I</b>	Knowledge and the application of differentiated case management (DCM) and its application to all case types;	
<b>J</b>	Knowledge of and ability to use alternative dispute resolution (ADR) and how to integrate ADR into the court's case management system(s);	
<b>K</b>	Knowledge of psychological factors that impact case processing and scheduling, and active judicial management of pre-trial conferences, trials, and post-dispositional activity;	
<b>L</b>	Ability to learn from others CFM successes and failures, to keep current with research findings about effective CFM and the causes and cures for delay, and to leverage available external resources to improve caseflow management.	

## Activity Two: How Are Our Courts Doing?

### Purpose

The purpose of the activity is to link court purposes with public perceptions about court performance, especially related to public surveys and current events.

### Notes about Using the Activity

Asks participants to rank their court relative to each purpose of court. After they rank their court based on the eight court purposes, have them add information and examples upon which their rankings are based. Examples include the very positive litigant views of judges and jurisprudence as contrasted with the perceptions of bias and unfairness regarding the justice system as a whole; large prison populations; and a focus on sanctions as punishment rather than rehabilitation. Debrief the group and ask for volunteers to offer their highest ranked area and their lowest ranked area.

### Relevant Learning Objective

2. Define the purpose of courts.

## How Are Our Courts Doing?

Below is a list of the eight purposes of courts. Read each purpose, rank it on a scale of 1 (lowest) to 5 (highest) on how well you believe your court is doing with that purpose, and add relevant information. Think about recent surveys that your jurisdiction may have done, incidents which may have brought the court into the news or has been involved in current events, and how other stakeholders may currently view the court. Write your responses and be prepared to share with the class.

	1 Poorly	2 Needs Improvement	3 Doing Well	4 Exceeds Expectations	5 Excellent
Do individual justice in individual cases.					
Comments:					
Appear to do justice in individual cases.					
Comments:					
Provide a forum for the resolution of legal disputes.					
Comments:					
Protect litigants against disproportionate power.					
Comments:					
Create a formal record of legal status.					
Comments:					
Deter criminal behavior.					
Comments:					
Rehabilitate persons convicted of a crime.					
Comments:					
Separate some convicted people from society.					
Comments:					

## Activity Three: Local Legal Culture

### Purpose

The purpose of this activity is to explore what the distinguishing characteristics are within a local legal culture.

### Notes about Using the Activity

Divide the class into small groups and have each small group discuss the different characteristics which can define the local legal culture. Alternatively, you may wish to have each group only explore 2 to 3 of the characteristics. Debrief the large group by asking them to share their responses. You may also wish to brainstorm the last questions as a large group.

### Relevant Learning Objective

3. Identify the universal and distinguishing characteristics of local legal culture.

## Local Legal Culture

In your small group discuss each of these characteristics and indicate what their distinguishing characteristics are. Be prepared to share your answers with the large group.

1. Case profiles by complexity and type:
2. Stressors – how do we define this:
3. Expectations of readiness – is familiarity a factor:
4. Pace of litigation – are some court types faster:
5. Types of poverty – urban and rural:
6. Types of recidivism – how to classify:
7. Are these characteristics perception or reality:

## Activity Four: Caseflow Mapping

### Purpose

The purpose of the caseflow mapping is to begin the process of analyzing and evaluating existing caseflow management systems and organizations. By creating diagrams that show key events/activities and the deadlines and usual processing times associated with them, participants will have a basis for proposing enhancements.

### Notes about Using the Activity

Break the group up into groups of four (or slightly larger if needed). You may wish to break the groups into case types to help the ease of the activity. Have each group designate a recorder and a reporter. Provide easel chart paper or butcher paper and markers to create the caseflow maps. Encourage the groups to pick a case type for which at least one member of the group is familiar. Provide sufficient time for the groups to complete the map (approximately 30 – 45 minutes). After the group exercise is complete, take 10 – 15 minutes to debrief the group and seek groups who wish to share their maps with the larger group.

### Relevant Learning Objective

4. Map caseflow from a systemic perspective.

## Caseflow Mapping

### Introduction

Prepare a detailed flow diagram for the case process for the type of cases you have selected from the time of first contact with the justice system through conclusion of the case by whatever means. Include all activities and steps, whether they are court events or activities conducted by other involved agencies. Be sure to show as much detail as possible.

### Mapping

Use the following steps as your guide to create

1. Map a case from beginning to end from the perspective of the plaintiff. Choose a civil, criminal, domestic relations, traffic or probate case type. Map only major events leading up to the court case, as well as all major events happening at court, including complaint filing (case initiation), notice, and most subsequent hearings and the trial. Label each event using a box and arrows between events.
2. Identify above each significant event what is expected to happen and the range and predictability of outcomes from the event.
3. Illustrate the typical times between events.

### Process

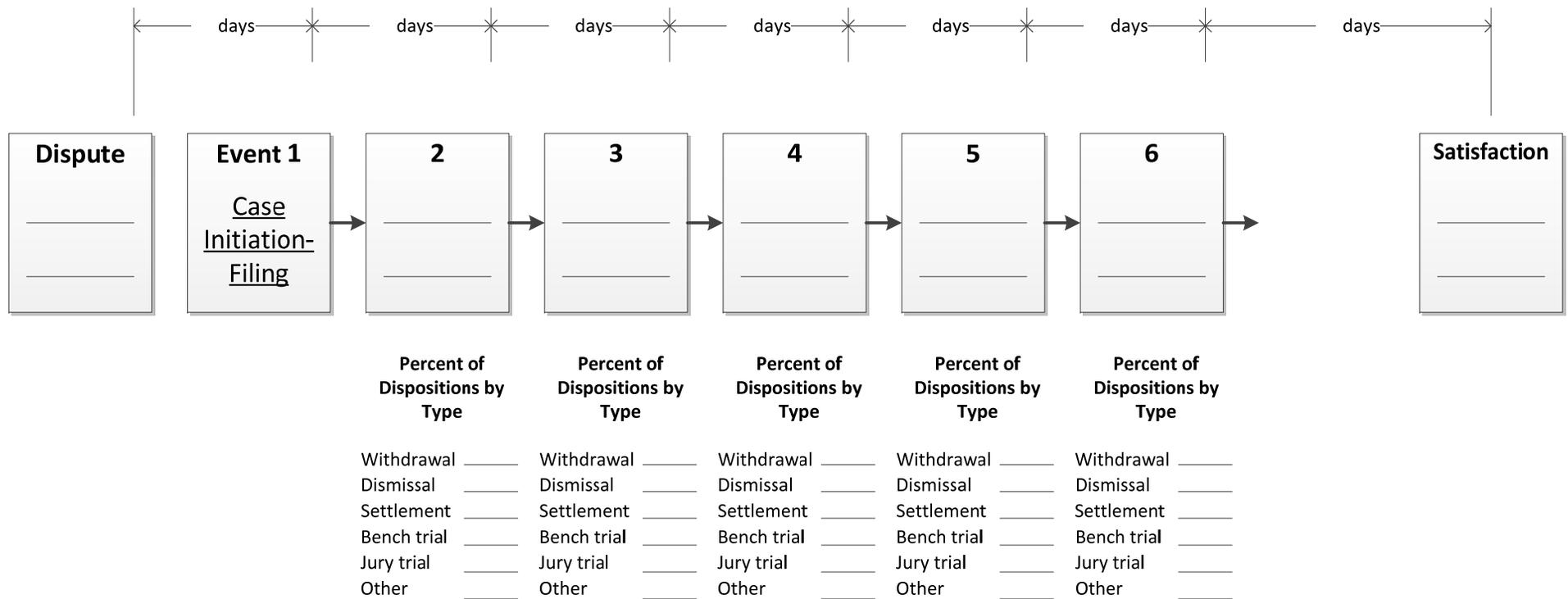
Please address the following in preparing the flow diagrams:

- Key activities and events for both the court and other agencies (in addition to court events, hearings and activities which are the responsibility of other agencies, also show preparation of dockets, notices, etc. by court/clerk's office).
- Indicate who is the responsible party to assure this event or activity occurs as scheduled.
- Indicate who must be present for the event or activity.
- Note what occurs at that event to move the case forward.
- Indicate decision points in the flow (e.g., where disposition may occur or a case-progress decision is made, or cases are referred or diverted to another agency).
- Enter the estimated usual elapsed time between events.
- Estimate the number of cases (if any) usually disposed of at each step in the process.
- After completing the chart, go back and estimate how long it should take between each event.
- Does the chart suggest other organizations or individuals who should be included on the team?
- Do you know what organizations or individuals will favor your proposal? Oppose your proposal?

**Caseflow map**

Please chart the caseflow events on the below diagram, writing in the terms used in your court for each event. Fill in the typical times between each event and the expected percent of dispositions by type that would normally be reached under each event. You do not need to use all six events, simply cross out the unused boxes. If you need to map additional events simply draw them in, or put them below the diagram.

Casetype: \_\_\_\_\_



## Activity Five: The Culture of Public Access in My Court<sup>56</sup>

### Purpose

The purpose of the next two activities is to discuss the level of bias inherent in judicial accommodation of self-represented litigants and the level of case management needed to accommodate self-represented litigants. The activity includes two alternative activities. The choice of activity depends on the faculty and the audience.

### Notes about Using the Activity

First Activity: Each participant shall complete the questions by selecting the closest response to each of the below beliefs or perceptions about self-represented litigants. Once completed, the participant should calculate the total. Provide approximately 5-10 minutes for the completion of the questionnaire. Once the participants have completed the exercise, debrief the class by asking participants to share their results. The debrief should be approximately 15 minutes in length.

Second Activity: Each participant shall circle the closest response to each of the below criteria for their court. At the end sum the total responses. Once the participants have completed the questions, facilitate a discussion about their responses. The activity should last 15-20 minutes.

### Relevant Learning Objective

5. Evaluate the culture of public access with a focus on self-represented litigants.

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<sup>56</sup> The beliefs listed are adapted from *Handling Cases Involving Self-Represented Litigants, A Benchguide for Judicial Officers*, a publication of the State Justice Institute and the Judicial Council of California/Administrative Office of the Courts, copyright 2007, p. 10-8.

## Public Access in My Court and My Viewpoint

The “kernel of truth” notion asserts that stereotypes and assumptions about people must be based on *something*, so there must be a kernel of truth in each of them. Although some stereotypes (not all) reflect a real difference in averages between groups, it is obvious that stereotypes are unreliable as a basis for making judgments about individuals. We also need to remember that litigants come to court with various expectations and biases and that those assumptions and biases may also affect how they act in the courtroom. In addition to these usual biases, the issue of self-representation can itself bring up various attitudes and assumptions on the part of judges. Some of these include the following beliefs:

Please indicate the level with which you agree with these beliefs or not.

- A. High-volume/high self-represented litigant calendars are “punishment” assignments;

1	2	3	4	5
disagree	somewhat disagree, with reservations	neither agree or disagree	somewhat agree, with reservations	agree

- B. Self-represented litigant calendars are not real “judge work;”

1	2	3	4	5
disagree	somewhat disagree, with reservations	neither agree or disagree	somewhat agree, with reservations	agree

- C. Self-represented litigants are unable to effectively represent themselves and are usually unprepared, and their pleadings and papers are unintelligible, do not raise relevant issues, or both;

1	2	3	4	5
disagree	somewhat disagree, with reservations	neither agree or disagree	somewhat agree, with reservations	agree

- D. Self-represented litigants are less educated if not illiterate;

1	2	3	4	5
disagree	somewhat disagree, with reservations	neither agree or disagree	somewhat agree, with reservations	agree

- E. Self-represented litigants lie;

1	2	3	4	5
disagree	somewhat disagree, with reservations	neither agree or disagree	somewhat agree, with reservations	agree

- F. Cases and calendars where one or both parties are self-represented are longer, slower, more stressful, more frustrating, often volatile, and sometimes unsafe;

1	2	3	4	5
disagree	somewhat disagree, with reservations	neither agree or disagree	somewhat agree, with reservations	agree

- G. Hearings in which one side is represented and the other is not are prone to numerous evidentiary challenges and accusations of judicial impropriety when efforts are made to “level the playing field”; and

1	2	3	4	5
disagree	somewhat disagree, with reservations	neither agree or disagree	somewhat agree, with reservations	agree

- H. If they really wanted to, self-represented litigants could get a lawyer.

1	2	3	4	5
disagree	somewhat disagree, with reservations	neither agree or disagree	somewhat agree, with reservations	agree

**Total Score** (add all results 8-40) = \_\_\_\_\_

**Scoring assessment of your perceptions of self-represented litigants**

- 8 - 15      Broad and pervasive bias against self-represented litigants
- 16 - 23    Resistance to self-represented litigants and the need to accommodate them by the court
- 24-31      General acceptance of self-represented litigants with some reservations
- 32-40      Broad and pervasive acceptance of self-represented litigants and their accommodation by the court

## Public Access in My Court

The purpose of the exercise is to present and discuss the level of case management intervention that is needed and appropriate for courts in order to effectively accommodate self-represented litigants. Each participant shall circle the closest response to each of the below criteria for their court. At the end sum the total responses and be prepared to discuss with the whole class.

- A. Organization of the staff and volunteers to ensure that adequate personnel are present, that they have clear expectations concerning their roles, sufficient training to perform them competently, and are appropriately supervised by qualified attorneys;

1	2	3
My court does this	I'm not sure	My court does not do this

- B. Development of procedures for self-represented litigant assistance in cases without a lawyer on either side, including triaging processes for determining what assistance is needed and appropriate and when to refer litigants into the courtroom because further staff effort is not warranted;

1	2	3
My court does this	I'm not sure	My court does not do this

- C. Developing procedures for handling litigants who need interpreter services or additional assistance;

1	2	3
My court does this	I'm not sure	My court does not do this

- D. Refinement of those processes for cases involving one represented and one unrepresented litigant;

1	2	3
My court does this	I'm not sure	My court does not do this

- E. Development of checklists and fillable forms for the use of litigants and resource people in the assistance process;

1	2	3
My court does this	I'm not sure	My court does not do this

- F. Development of a process for litigants to check in, to be assigned to a staff person or volunteer, and to be taken to a physical location where they can work on their case with relative privacy and access to needed computers;

1	2	3
My court does this	I'm not sure	My court does not do this

- G. Development of a process for referring cases to the courtroom when they are ready for bench officer review or when staff are unable to help the self-represented party or parties to advance their cases; and

1	2	3
My court does this	I'm not sure	My court does not do this

- H. Development of a process for referring cases from the courtroom back to the resource staff for post-hearing consultation and document preparation.

1	2	3
My court does this	I'm not sure	My court does not do this

Total Score (add all results (8-24)) = \_\_\_\_\_

## Activity Six: My Court's Caseflow Management Culture<sup>57</sup>

### Purpose

The purpose of this activity is to conduct a thorough assessment of a court's case management performance.

### Notes about Using the Activity

This activity is meant to be used as a self-assessment. However, if there are participants attending from the same court, they may be grouped together in teams to complete the assessment. In either case, participants should only complete the portion of the assessment of the divisions of the court with which they are familiar. Provide participants approximately 30 – 40 minutes to complete the worksheet and tabulate the scores. Allow 10 – 15 minutes to debrief the activity with the class and seek volunteers to share their results and their courts' caseflow management performance.

Some of the questions may be difficult for the participants to answer when they are already in class. You may want to consider asking participants to bring caseflow management and time standard information with them to help them be prepared to complete this activity.

### Relevant Learning Objective

6. Complete a detailed, systemwide evaluation of caseflow management strengths and weaknesses.

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<sup>57</sup> This activity is adapted from: Mahoney, Barry and Holly C. Bakke. *How to Conduct a Caseflow Management Review: A Guide for Practitioners*. (1994). Williamsburg, VA: National Center for State Courts.).

## My Court's Caseflow Management Culture

If you are unfamiliar with all divisions of your court, you may choose to answer the questions for only one division or case type.

Score your court on each of 65 questions. Where you do not know or are not sure, estimate a response or choose the average response ("3"). After completing this form, transfer your scores to the scoring sheet at the end of the survey. After doing the computations, plot the results on the assessment graph at the end of the exercise.

Case type: \_\_\_\_\_

1. The court has adopted time standards that establish expected outside limits on case-processing time from filing to disposition, for major categories of cases.

1	2	3	4	5
No standards or guidelines		Informal guidelines exist		Yes--written standards have been adopted and published

2. Judges who have responsibility for all or part of the caseload regularly receive management information reports that enable them to know the number of pending cases for which they are responsible, the distribution of these cases by age since filing, and status of each case.

1	2	3	4	5
No		Some information provided regularly		Yes--all of this information is regularly provided (at least monthly)

3. When new caseflow management programs or procedures are being considered, the court's leaders consult with leaders of other organizations that may be affected (e.g., bar, sheriff, prosecutor, public defender).

1	2	3	4	5
No		Sometimes		Yes, as a standard policy

4. The court counts every case as pending from the date that it is initially filed (or, in criminal cases in which the defendant has been arrested, from the date of the arrest).

1	2	3	4	5
No		Some categories of cases		Yes

5. The chief judge (or the presiding or administrative judge of the division) has endorsed the court's (or the ABA's) case-processing time standards.

1	2	3	4	5
No		Quiet support, within the court		Yes, publicly and emphatically

6. There is a commonly shared commitment, on the part of the judges, to the principle that the court has responsibility for ensuring expeditious case processing.

1	2	3	4	5
No shared commitment		Some judges are committed		Virtually all judges are committed

7. Members of the judges' support staffs (courtroom clerk, judges' secretaries, bailiffs, etc.) are knowledgeable about caseload management principles and techniques, and use them in helping to manage caseloads and individual cases.

1	2	3	4	5
No		Some		Yes, virtually all are knowledgeable and use the principles and techniques

8. The court regularly conducts education on caseload management principles and techniques for judges and staff.

1	2	3	4	5
No training		Some training, conducted irregularly		Yes

9. The court has established, and uses, a system evaluating the effectiveness of judges in handling the portions of the court's total caseload for which they have responsibility.

1	2	3	4	5
No		Some criteria exist		Yes

10. The court has few or no cases pending for more than the maximum length of time established by its own case-processing time standards or, alternatively, the ABA case-processing time standards.

1	2	3	4	5
Don't know	Many cases are older than the court's (or ABA's) time standards	About 30% are older	10-15% are over the standard	No cases or only a few are over the standards

11. There are published policies and procedures governing the caseload process, readily available to judges, the court's staff, and bar members.

1	2	3	4	5
No		Exist for some areas		Yes, cover all major caseload issues/areas

12. The chief judge plays a leading role in initiating caseflow management improvements in the court.

1	2	3	4	5
No		Sometimes		Yes

13. The judges are aware of the court's case-processing time standards.

1	2	3	4	5
No standards exist		Some are award		Yes, all judges

14. Trial judges have, or can readily obtain, all information necessary to enable them to know about the status of a case, its prior history in the court, and related cases involving the same parties.

1	2	3	4	5
No		Some information usually available		Yes

15. Potentially protracted or complicated cases are identified early for special attention.

1	2	3	4	5
No		Sometimes		Yes, systematically

16. Consultation between judges and administrative staff about caseflow management policies and procedures occurs.

1	2	3	4	5
Rarely, or never		Occasionally, mainly when there are problems		Regularly

17. The chief judge (or the presiding or administrative judge of the division) regularly disseminates information on caseload status, trends, and problems.

1	2	3	4	5
No		Sometimes		Yes

18. Assess the difficulty of an attorney obtaining a continuance of a trial date or date for an evidentiary hearing.

1	2	3	4	5
Easily obtained upon request or stipulation		Attorney must show cause, but request is usually granted		Can be obtained only by written request/motion and showing of substantial cause

19. Judicial support staff notify the judges of cases that have been pending for long periods of time and cases in which there have been repeated continuances.

1	2	3	4	5
No		Some		Yes

20. Judges attend national or in-state seminars on caseflow management and related topics.

1	2	3	4	5
No		Some judges attend, no standard court policy sessions		Yes, all judges are expected to attend such

21. Judges who do an effective job of managing the caseloads for which they are responsible are publicly recognized for their good performance.

1	2	3	4	5
No		Sometimes		Yes

22. The court disposes of at least as many cases as are filed each year, in each general category of cases.

1	2	3	4	5
No, filings consistently exceed dispositions		Some years, in some categories of cases		Yes, consistently

23. The court's staff at all levels are aware of the court's case-processing time standards and other caseflow management goals.

1	2	3	4	5
There are no standards or goals		Some are aware	Top staff are aware	Yes

24. The court's recordkeeping system (including management information reports, whether automated or

1	2	3	4	5
Impedes effective caseflow management	Is not helpful	Has some helpful features	Is helpful	Greatly facilitates effective caseflow management

25. Assess the structure and frequency of communications between the court's leaders and the bar concerning caseflow management policies and practices.

1	2	3	4	5
No mechanisms, infrequent consultation	No mechanisms, occasional informal consultation	Consultation as requested by court or bar leaders	Formal mechanisms, occasional consultation	Formal mechanisms; frequent consultation

26. Judges' commitment to effective caseflow management is demonstrated by their actions in holding lawyers to schedules, limiting continuances to situations in which good cause is shown, and allowing continuances only for short intervals.

1	2	3	4	5
Generally, no		Inconsistent		Generally, yes

27. The system of scheduling cases for trials and evidentiary hearings provides attorneys and the court with certainty that a case will be reached on the scheduled date.

1	2	3	4	5
Rarely	Less than half the time	50-75% of the time	70-90% of the time	90-100% of the time

28. The court has a central staff unit that regularly monitors the caseload, identifies problems (e.g., pending caseload increasing; certain cases taking unduly long), and provides recommendations for action to the chief judge or other judge with administrative responsibility.

1	2	3	4	5
No		Some central staff monitoring; occasional recommendations		Yes

29. The court has time standards/guidelines governing the time interval between each major stage in the litigation process.

1	2	3	4	5
No		Guidelines cover some but not all intervals		Yes

30. The court has a standard orientation program for new judges and new staff members, in which the court's policies and expectations regarding caseflow management are covered thoroughly.

1	2	3	4	5
No		Some orientation		Yes, thorough orientation

31. The court has established, and uses, a system for evaluating the effectiveness of staff members in performing their duties with respect to caseflow management.

1	2	3	4	5
No		Some criteria exist		Yes

32. Judges who have responsibility for portions of the court's caseload periodically review the age and status of cases for which they are responsible.

1	2	3	4	5
Never		Occasionally		Yes, at least once a month

33. The chief judge (or the presiding or administrative judge of the division) is widely regarded--by judges, staff, and others--as actively committed to reducing delays and implementing effective caseflow management procedures.

1	2	3	4	5
No		Mixed perceptions		Yes

34. The court's caseflow management goals, and its performance in relation to the goals, are subjects of regular communication with the bar and media.

1	2	3	4	5
No		Sporadic communication		Yes

35. The court regularly produces reports that show trends in filings, dispositions, pending caseloads, and case- processing times.

1	2	3	4	5
No		Some trend analysis		Yes, regular analysis of trends in all of these areas

36. The judges discuss the status of the caseload and other caseflow management issues at regularly held judges' meetings.

1	2	3	4	5
No		Sometimes		Yes

37. Consultation with attorneys, by a judge or court staff member, occurs early in a case, to set deadlines for completion of stages of the case.

1	2	3	4	5
No	Only if requested by attorney	Sometimes	Mainly in complex cases	Yes, in all cases

38. The judges recognize the need to monitor the pace of litigation and are actively committed to seeing the court meet standards for expeditious case processing.

1	2	3	4	5
No		Some judges recognize the need		Yes

39. Judges' support staffs provide help in achieving the court's goals (e.g., in contacts with attorneys, including scheduling cases for court dates).

1	2	3	4	5
No		Some		Yes

40. The court regularly conducts training sessions for practicing lawyers (especially young lawyers) to familiarize them with the court's caseflow management policies, procedures, and expectations.

1	2	3	4	5
No		Some training, conducted irregularly		Yes

41. Judges who have administrative responsibility (e.g., chief judge; presiding judge of civil or criminal division) meet with the judges in their divisions to review the status of pending caseloads and discuss ways of dealing with common problems.

1	2	3	4	5
No		Occasionally		Yes, at least once a month

42. The court regularly produces management information reports that enable judges and staff to assess the court's progress in relation to its caseflow management goals.

1	2	3	4	5
No		Information available on some goals		Yes

43. Mechanisms for obtaining the suggestions of court staff about caseflow management problems and potential improvements exist and are used by the court's leaders.

1	2	3	4	5
No		Occasionally		Yes, regularly

44. Attorneys are ready to proceed on the scheduled trial date or evidentiary hearing date.

1	2	3	4	5
Rarely	Less than half the time	50-75% of the time	70-90% of the time	90-100% of the time

45. Judges whose performance in managing the caseloads for which they are responsible is below acceptable standards are provided with assistance and receive negative sanctions if their performance does not improve.

1	2	3	4	5
No		Sometimes		Yes

46. The court follows established procedures to identify inactive cases and bring them to disposition.

1	2	3	4	5
No		Occasional reviews and purges of inactive cases		Yes, regular reviews are done and purge procedures are followed

47. The trial court administrator (or, within a division, the senior staff person for the division) is widely regarded--by judges, staff, and others--as knowledgeable about caseflow management principles and practices, familiar with the court's caseload situation, and effective in recommending and implementing policy changes.

1	2	3	4	5
No		Mixed perceptions		Yes

48. The time required to complete case processing is generally within the time standards adopted by the court (or, if no standards have been adopted by the court, does not exceed the ABA case-processing time standards).

1	2	3	4	5
Don't know	Many cases over standard	Fair performance in relation to standards	Good performance; some improvement desirable	Yes, the court is consistently within the time standards

49. Techniques for avoiding or minimizing attorney schedule conflicts are part of the scheduling system, and attorneys' schedules are accommodated to the extent reasonably possible.

1	2	3	4	5
Attorney schedule conflicts are a major problem		Some techniques used; system could be improved on some goals		Techniques are used and work well; no improvement needed

50. The court has adopted formal policies and procedures with respect to most or all areas of caseflow management, and these policies are followed/enforced.

1	2	3	4	5
Few or no areas are covered by formal policies	Some formal policies; rarely enforced	Some formal policies; inconsistent enforcement	Most areas have formal policies; enforcement needs some improvement is consistent	Most areas covered by formal policies; enforcement

51. Senior staff members regularly meet with judges in leadership positions to discuss caseload status and develop plans for addressing specific problems.

1	2	3	4	5
No		Occasionally		Yes

52. Judges who have administrative responsibility review information on the performance of judges in their divisions with respect to caseflow management, give public recognition to those who are doing an outstanding job, and meet with those whose performance is subpar to discuss needed improvements.

1	2	3	4	5
No		Sometimes		Yes

53. The court has adopted goals for the frequency with which trials start on the scheduled date.

1	2	3	4	5
No		Informal expectations exist		Yes

54. Key management information reports are widely distributed to judges and staff, and include short written analyses that highlight problems and issues.

1	2	3	4	5
No		Limited distribution, little analysis		Yes

55. The court provides information about its caseflow management goals and about its performance in relation to these goals to the media on a regular basis.

1	2	3	4	5
No		Occasionally		Yes

56. Simple cases that may be amenable to swift disposition are identified at an early stage for special processing.

1	2	3	4	5
Never	Rarely	Sometimes; mainly if counsel requests	Some categories	Yes, routinely of cases

57. Court staff members attend national or in-state seminars on caseflow management and related topics.

1	2	3	4	5
No		Some staff members have such training		Yes, virtually all staff members periodically receive such training

58. The court has established goals for the maximum size of its pending caseload(s), and has developed plans for reducing its caseload to that number (or, if the current caseload is at an acceptable size, for ensuring that the caseload does not exceed the goal that has been set).

1	2	3	4	5
No		Some goals exist; status of plan unclear		Yes

59. The chief judge and trial court administrator regularly meet to review caseload status, discuss policy and operational problems affecting caseflow management, and develop specific policies and plans.

1	2	3	4	5
Rarely or never		Irregularly		Yes, at least once a week

60. How frequently are cases that have been scheduled for trial or evidentiary hearing continued because there are more ready cases than can be reached on the scheduled date?

1	2	3	4	5
Very frequently	Frequently	Occasionally	Rarely	Never

61. Staff members who do an effective job of managing caseloads for which they are responsible are publicly recognized by the court's leaders for their good performance.

1	2	3	4	5
No		Sometimes		Yes

62. Discussions between judges with administrative responsibility and senior staff members in the court, concerning caseflow management policies and procedures, occur:

1	2	3	4	5
Rarely		Occasionally		Regularly, and whenever needed

63. Every pending case on the court's docket has a "next action" date scheduled.

1	2	3	4	5
Most cases do not have next action dates scheduled	Approximately 10-20% of cases have no next action date scheduled	Approximately, 20-40% of cases have no next action date scheduled	Almost all cases have a next action date scheduled	Yes

64. Trial judges conduct a trial management conference with trial counsel, 5 to 21 days before the scheduled trial date, to resolve pending motions, determine what issues of law and fact are in dispute, and establish "ground rules" with respect to voir dire, witness scheduling, use of exhibits, and other issues likely to arise at trial.

1	2	3	4	5
No	Rarely	Some judges, in some cases	Most judges, in most cases	Yes, all judges, in all except very simple cases

65. The following caseflow management information is readily available and regularly used:  
(Y = Yes; N = No)

Available	Used	Information
		Number of pending cases, by case type
		Annual filings and dispositions, by case type
		Age of pending cases (frequency distribution, within age categories)
		Change in number and age of pending cases since last report or since previous year
		Age of pending caseload compared to time standards
		Age of cases at disposition, by case type
		Percentage of trials starting on first scheduled trial date
		Number of postponements of scheduled events in each case and on average by case type
		Reasons for each postponement
		Number and proportion of dispositions by type of disposition

To score this question, add the number of Y's in the "Available" and "Used" columns, and divide the total ( ) by 4. RESULT = \_\_\_\_\_

## Questionnaire Scoring Sheet

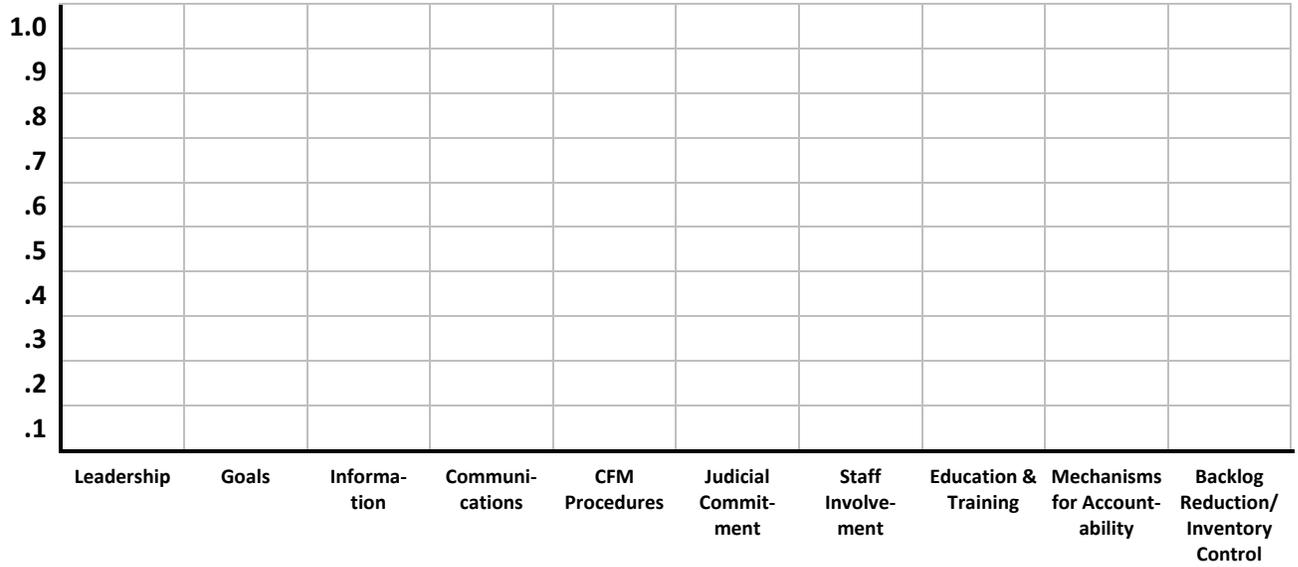
Instructions: Record the score for each question in the appropriate space below. Add to get the totals for each category of caseflow management performance. Use your smartphones to calculate the score to ONE decimal point.

Leadership	Goals	Information	Communications	Caseflow Management Procedures
5.	1.	2.	3.	4.
12.	13.	14.	11.	15.
17.	23.	24.	16.	27.
33.	29.	35.	25.	37.
41.	34.	42.	36.	44.
47.	48.	54.	43.	49.
52.	53.	65.	55.	56.
59.			62.	60.
				63.
				64.
<b>Total = _____</b> Out of 40 possible, divide by 40:  _____	<b>Total = _____</b> Out of 35 possible, divide by 35:  _____	<b>Total = _____</b> Out of 35 possible, divide by 35:  _____	<b>Total = _____</b> Out of 40 possible, divide by 40:  _____	<b>Total = _____</b> Out of 50 possible, divide by 50:  _____
<b>Score</b>	<b>Score</b>	<b>Score</b>	<b>Score</b>	<b>Score</b>

Judicial Commitment	Staff Involvement	Educational Training	Mechanisms for Accountability	Backlog Reduction/ Inventory Control
6.	7.	8.	9.	10.
18.	19.	20.	21.	22.
26.	28.	30.	31.	32.
38.	39.	40.	45.	46.
50.	51.	57.	61.	58.
<b>Total = _____</b> Out of 25 possible, divide by 25:  _____	<b>Total = _____</b> Out of 25 possible, divide by 25:  _____	<b>Total = _____</b> Out of 25 possible, divide by 25:  _____	<b>Total = _____</b> Out of 25 possible, divide by 25:  _____	<b>Total = _____</b> Out of 25 possible, divide by 25:  _____
<b>Score</b>	<b>Score</b>	<b>Score</b>	<b>Score</b>	<b>Score</b>

## Graph of Self-Assessment Questionnaire Results

Using the scores recorded on the Questionnaire Scoring Sheet above, plot the final scores for each dimension on the graph below for your court.



## Activity Seven: Seeing the Justice Universe

### Purpose

The purpose of this activity is for the participants to develop a differentiated case management plan by documenting how different types of cases flow through the court system and why.

### Notes about Using the Activity

This activity is best completed in small groups. If there is a mixture of court types, consider creating the small groups by court type. The small groups should select a recorder and a reporter. Next, the small group should select a case type based on the list provided. After selecting their case types, the small groups should complete the questions and fill in the table. The small group work should take approximately 15-20 minutes. Allow 5-10 minutes to debrief the class about the activity and share their responses to the questions.

### Relevant Learning Objective

7. Develop a differentiated case management plan using a structured analysis.

## Seeing the Justice Universe

Case type:

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Select from the list of case types below. You may alter the terminology to suit your court.

### General Jurisdiction Courts

- Criminal Justice System
- Civil Justice System
- Family Justice System
- Juvenile Justice System

### Limited Jurisdiction Courts

- Criminal Justice System
- Civil Justice System
- Traffic/Moving Violation Justice System

### Administrative Courts

- Compensation and Benefits
- Workplace Discrimination and Promotion

1. **Parties.** What is the likely makeup of parties, including related cases combined with the initial complaint?

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2. **Internal Stakeholders.** Who are the key internal (to the court) stakeholders? Please list them.

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3. **External Stakeholders.** Who are the key external (to the court) stakeholders? Please list them.

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4. **Factors.** What are the key factors that drive outcome attainment? Factors are elements of the case that may lead to changes in classification of the case (simple, medium, or complex), or affect outcomes. (e.g. self-represented litigants, use of alternative dispute resolution, among many others that are often case type-specific).

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5. **Outcomes.** What are the expected outcomes of the type of justice system your table was assigned? Please list them. Outcomes must include at minimum the following: Typical length of case in days; average number of hearings, including trials; and most common disposition type.

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Curriculum Design  
Caseflow and Workflow

	Simple (75%)	Medium (20%)	Complex (3-5%)
Parties			
Internal Stakeholders			
External Stakeholders			
Factors			
Outcomes			

## Activity Eight: Maryland Time Standards Evaluation

### Purpose

The purpose of this activity is for the participants to evaluate Maryland's time standards to determine what is working well and what, perhaps, should be revised or further reviewed. This activity will assist participants in understanding how to evaluate their own time standards.

### Notes about Using the Activity

This activity is best completed in small groups. The small groups should select a recorder and a reporter. The small groups should complete the questions by evaluating the Maryland Time Standards on the subsequent pages. Allow 20-25 minutes for the small groups to complete the evaluation. Allow 5-10 minutes to debrief the class about the activity and share their responses to the questions.

### Relevant Learning Objective

8. Evaluate caseflow time standards as a key performance measure.

## Maryland Time Standards Evaluation

1. What is the cumulative time standard(s) for felony cases from first appearance in the District Court to adjudication in the Circuit Court? Note that the time standard for District Court criminal cases does not address Circuit Court felony cases. To estimate the aggregate time, use the estimated time that a criminal case would take in your court to reach a first appearance in the Circuit Court.

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2. What is the cumulative time standard(s) for felony cases from arrest to disposition – sentencing? If not known, how much extra time do you estimate it would take to expand the definition? Be specific (e.g. arrest to first appearance; adjudication to disposition).

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3. What are legitimate reasons for suspending (not counting) elapsed case time on a criminal case? How is this accounted for in the Maryland time standards?

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4. How many court hearings do you estimate a typical (average) felony case requires? Use your court to reflect on the number of court hearings you would expect. What about a court case that is dismissed or withdrawn? Disposed by plea agreement, verdict and sentence by a judge? By jury trial?

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Avg no. of hearings for a typical felony case:

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Avg no. of hearings for a dismissed or withdrawn felony case:

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Avg no. of hearings to reach a plea agreement on a felony case:

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Avg no. of hearings to get to a jury trial on a felony case:

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5. Using your court's data or the data from the Maryland courts, what do you estimate the trial (bench or jury) rate for felony criminal cases is overall? The trial (bench or jury) rate is the percentage of cases that are disposed by a jury or bench trial.

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6. Using your court's data or the data from the Maryland courts, how many court hearings does a typical (average) limited/general civil case require? What about a court case that is dismissed or withdrawn? Disposed by settlement? By trial? Your responses should align with your group's type of court jurisdiction (please circle the type).

Avg no. of hearings per limited/general jurisdiction civil case:

Avg no. of hearings per dismissed limited/general jurisdiction civil case:

Avg no. of hearings to reach a settlement on a limited/general jurisdiction civil case:

Avg no. of hearings to get to a trial on a limited/general jurisdiction civil case:

7. Using your court's data or the data from the Maryland courts, what is the trial (bench or jury) rate for limited/general jurisdiction cases?

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8. Using your court's data or your experience in your court, how many court hearings does a typical (average) traffic must appear case require? What about a traffic must appear case that is disposed by plea? By trial?

Avg no. of hearings per traffic must appear (2<sup>nd</sup> offense DUI) case:

Avg no. of hearings to reach a plea on a traffic must appear (2<sup>nd</sup> offense DUI) case:

Avg no. of hearings to get to a trial on a traffic must appear (2<sup>nd</sup> offense DUI) case:

FY 2014 MARYLAND CIRCUIT COURTS TIME STANDARDS

Table I. Definition of Time Standard Terms by Case Type

Case Type Time Standard (Performance Goal)	Case Time Start	Case Time Suspension		Case Time Stop	Additional Measures
		Suspend Begin <sup>†</sup>	Suspend End <sup>††,†††</sup>		
<b>Criminal</b> 6 Months (98%)	First of either of the two dates: <ul style="list-style-type: none"> <li>o First Court Appearance of Defendant, or</li> <li>o Entry of Appearance by Counsel (Rule 4-271)</li> </ul> <u>Note:</u> Date should reflect the Hicks starting date.	Bench Warrant Issue Date	Warrant Outcome Date	Disposition <ul style="list-style-type: none"> <li>o Plea or Verdict</li> <li>o Stet</li> <li>o Nolle Prosequi</li> <li>o Reverse Waiver Granted</li> <li>o Found 'Not Criminally Responsible'</li> </ul>	1. Arrest/Service of Summons or Citation Date to Filing 2. Filing to First Appearance 3. Plea/Verdict Date to Sentence Date
		Mistrial Date	Retrial Date		
		NCR Evaluation Order Date	NCR Finding Date		
		Petition for Reverse Waiver Date	Reverse Waiver Decision Date (Granted, Denied, Withdrawn)		
		Competency Evaluation Order Date	Date Found Competent		
		Interlocutory Appeal Filing Date	Interlocutory Appeal Decision (Mandate) Filed Date		
		Military Leave Date	Military Return Date		
		Postponement Date Due to DNA/Forensic Evidence Unavailable	Receipt Date of DNA/Forensic Evidence		
		Date of Court Order for Psychological Evaluation	Receipt Date of the Court-Ordered Psychological Evaluation		
Problem-Solving Court Diversion Ordered	Exit/Completion of Problem-Solving Court Diversion				
<b>Civil General</b> 18 Months (98%)	Filing Date	Bankruptcy Filing Date (Suggestion or Notice)	Order Lifting Bankruptcy Stay Date	Disposition <ul style="list-style-type: none"> <li>o Dismissal</li> <li>o Judgment</li> <li>o Order of Binding Arbitration</li> <li>o Final Order of Ratification of Auditor's Report (foreclosure cases)</li> </ul>	1. Filing to Service or Answer, whichever comes first
		Demand for (Non-Binding) Arbitration Date	(Non-Binding) Arbitration Reinstatement Date		
		Interlocutory Appeal Filing Date	Interlocutory Appeal Decision (Mandate) Date		
		Military Leave Date	Military Return Date		
		Body Attachment Issue Date	Body Attachment Outcome Date		
		Mistrial Date	Retrial Date		
		Stay for Receivership	Discharge/Removal of Receivership Stay		
		Request for Foreclosure Mediation Filing Date	Foreclosure Mediation Outcome Date		

Notes:  
<sup>†</sup> If a suspension event begins prior to case start and ends sometime between case start and case stop, the suspension time will begin at the case start date and end at the suspension end date. (Manual Process)  
<sup>††</sup> If a suspension begins sometime between the case start and stop date, and the case ends via dismissal or Nol Pros (prior to obtaining the suspension end date), the suspension time is calculated from suspension begin to the dismissal or Nol Pros date (i.e., case stop date). (Manual Process)  
<sup>†††</sup> For Circuit Criminal cases, the date of a guilty plea (accepted by the court) can also serve as a valid case time suspension stop in the absence of other qualifying suspension stop events in a case. (Manual Process).

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Caseflow and Workflow

Table I. Definition of Time Standard Terms by Case Type, Continued

Case Type Time Standard (Performance Goal)	Case Time Start	Case Time Suspension		Case Time Stop	Additional Measures
		Suspend Begin <sup>†</sup>	Suspend End <sup>††</sup>		
<b>Family Law Limited Divorce Cases Only</b>  24 Months (98%)  <u>All Other Family Law Cases</u>  12 Months (98%)	Filing Date <sup>†††</sup>	Bankruptcy Filing Date (Suggestion or Notice)	Order Lifting Bankruptcy Stay Date	Disposition o Dismissal o Initial Judgment Date o Judgment in Limited Divorce Cases if limited divorce is the only issue	1. Circuit Court Filing to Service or Answer, whichever comes first
		Interlocutory Appeal Filing Date	Interlocutory Appeal Decision (Mandate) Date		
		Military Leave Date	Military Return Date		
		Body Attachment Issue Date	Body Attachment Outcome Date		
<b>Juvenile Delinquency</b> 90 Days (98%)	o First Appearance of Respondent, or o Entry of Appearance by Counsel	Body Attachment Issue Date	Body Attachment Outcome Date	Disposition o Finding Delinquent/Non-Delinquent o Jurisdiction Waived o Dismissal o Stet o Probation o Nolle Prosequi o Waiver Granted o Change of Venue	1. Original Offense date to Filing 2. Petition Filing date to first appearance 3. Adjudication Time (Start Date to Adjudication Date)
		Military Leave Date	Military Return Date		
		Competency Evaluation Order Date	Date Found Competent		
		Mistrial Date	Retrial after Mistrial Date		
		Waiver to Adult Court Petition Filing Date	Waiver Decision Filing Date (Granted, Denied or Withdrawn)		
		Interlocutory Appeal Filing Date	Interlocutory Appeal Decision (Mandate) Filing Date		
		Pre-Disposition Treatment Program Date	Conclusion of Pre-Disposition Treatment Program Date		
		PDI Ordered Date	Receipt of PDI Report Date		
Date of Court Order for Psychological Evaluation	Receipt Date of Court-Ordered Psychological Evaluation				
Postponement Date Due to DNA/Forensic Evidence Unavailable	Receipt Date of DNA/Forensic Evidence				

Notes:

<sup>†</sup> If a suspension event begins prior to case start and ends sometime between case start and case stop, the suspension time will begin at the case start date and end at the suspension end date. (Manual Process)

<sup>††</sup> If a suspension begins sometime between the case start and stop date, and the case ends via dismissal or Nol Pros (prior to obtaining the suspension end date), the suspension time is calculated from suspension begin to dismissal or Nol Pros date (i.e., case stop date). (Manual Process)

<sup>†††</sup> For URESA cases, use the filing date as both service and answer date, which are optional caseflow data fields. Also, use the consent date as the answer date when consents are filed with no answer. For Name Change cases, use the affidavit of publication service date or the show cause date as the answer date (optional caseflow data field) when no objection was filed.

Curriculum Design  
Caseflow and Workflow

Table I. Definition of Time Standard Terms by Case Type, Continued

Case Type Time Standard (Performance Goal)	Case Time Start	Case Time Suspension		Case Time Stop	Additional Measures
		Suspend Begin <sup>†</sup>	Suspend End <sup>††</sup>		
<b>CINA Shelter</b> <sup>***</sup> 30 Days (100%)	Shelter Care Hearing Date <ul style="list-style-type: none"> <li>o Date of Shelter Care Hearing where Petition for Continued Shelter Care was granted</li> <li>o For UCS users, motion/document Shelter Granted filing date.</li> </ul>	Military Leave Date	Military Return Date	<ul style="list-style-type: none"> <li>o Adjudication Hearing Held Date</li> <li>o Case Dismissal Date</li> </ul>	<ol style="list-style-type: none"> <li>1. Adjudication to Disposition</li> <li>2. Removal for Permanency Planning Hearing</li> <li>3. Good Cause extension to Adjudication</li> <li>4. Removal to Shelter Care Hearing</li> </ol>
<b>CINA Non-Shelter</b> <sup>***</sup> 60 Days (100%)	<ul style="list-style-type: none"> <li>o Service of Parent(s), Guardian(s), and/or Custodian(s) (First Service Entry Date), or</li> <li>o Date of Shelter Care Hearing where Petition for Continued Shelter Care was Denied. (When a case started as Shelter Care, and Shelter Care Hearing was held but petition ultimately denied)</li> </ul>	Military Leave Date	Military Return Date	<ul style="list-style-type: none"> <li>o Adjudication Hearing Held Date</li> <li>o Case Dismissal Date</li> </ul>	<ol style="list-style-type: none"> <li>1. Removal for Permanency Hearing</li> <li>2. Extraordinary Cause to Adjudication</li> </ol>
<b>TPR</b> 180 Days (100%)	TPR Petition Filing Date	Interlocutory Appeal Filing Date	Interlocutory Appeal Decision Date	<ul style="list-style-type: none"> <li>o TPR Final Order of Guardianship (Date of Filing)</li> <li>o Disposition of TPR case (if order not granted).</li> </ul>	<ol style="list-style-type: none"> <li>1. TPR Petition filed to service of Show Cause Order</li> <li>2. Service of Show Cause Order to Objection</li> <li>3. TPR Granted to Guardianship Review Hearing</li> </ol>
		Military Leave Date	Military Return Date		

Notes:

<sup>†</sup> If a suspension event begins prior to case start and ends sometime between case start and case stop, the suspension time will begin at the case start date and end at the suspension end date. (Manual Process)

<sup>††</sup> If a suspension begins sometime between the case start and stop date, and the case ends via dismissal or NoI Pros (prior to obtaining the suspension end date), the suspension time is calculated from suspension begin to dismissal or NoI Pros date (i.e., case stop date). (Manual Process)

<sup>\*\*\*</sup> The distinction between CINA Shelter and Non-Shelter cases is made based on the child's status (sheltered vs. non-sheltered) at the time of Adjudicatory Hearing or Case Dismissal, and the case time will be measured from Case Start Time according to the appropriate Case Start Time defined above, not necessarily the actual case start date or the federally defined case start date (date of child removed from home).

FY 2014 MARYLAND DISTRICT COURT TIME STANDARDS

Table II. Definition of Time Standard Terms by Case Type

Case Type Time Standard (Performance Goal)	Case Time Start	Case Time Suspension		Case Time Stop	Additional Measures
		Suspend Begin*	Suspend End**		
<b>Criminal Cases</b> 180 Days (98%)	<u>Criminal</u>	FTA/Bench Warrant Issue Date	FTA Warrant Service Date/ FTA Struck	o Nolle Prosequi o Dismissal	Filing to service of charging document
<b>All Traffic-Must Appear</b> 180 Days (98%)	<u>First</u> of either of the 2 dates:	Competency Evaluation	Finding of Competency	o Stet	Not Guilty/Acquittal Sentencing Abate by Death Jury Trial Prayed Found 'Not Criminally Responsible'
	o Initial Appearance of Defendant, <u>or</u>	PSI Ordered	Receipt of PSI	o Not Guilty/Acquittal	
<b>Section 21-902</b> 180 Days (98%)	o Service of Charging Document	Problem-Solving Court Diversion Ordered	Exit/Completion of Problem-Solving Court Diversion	o Sentencing o Abate by Death o Jury Trial Prayed	Found 'Not Criminally Responsible' Nolo Contendere Merge Probation Before Judgment
	o <u>Criminal Citations</u> : Date Filing Entered into the System	Military Leave	Military Return	o Found 'Not Criminally Responsible'	
	<u>Traffic Must Appear/21-902</u>	NCR Evaluation	NCR Finding Date	o Nolo Contendere	
<b>Traffic Payable<sup>†</sup></b> 120 Days (98%)	o Date Filing Entered into the System	Date of Court Order for Psychological Evaluation	Date the Psychological Evaluation was received by the Court	o Merge o Probation Before Judgment	Filing to service of charging document
	o Date of request for trial or waiver of trial	FTA/Bench Warrant Issue Date	Case Reset for Trial or Ticket Paid	o Nolle Prosequi o Dismissal o Stet o Not Guilty/Acquittal o Sentencing o Abate by death o Jury Trial Prayed o Nolo Contendere o Merge o Probation Before Judgment	
<b>Civil Large Claims</b> 250 Days (98%)	o Service	Stay for Bankruptcy	Bankruptcy Discharged	o Entry of Judgment o Dismissal	Jury Trial Prayed Denied Affidavit of Judgment
<b>Civil Small Claims</b> 120 Days (98%)	<u>Note</u> : If the service date is unavailable, the date of the 'notice of intention to defend' is used as the case time start.	Passed for Settlement	Reset if Passed for Settlement	o Denied Affidavit of Judgment	
		Military Leave	Military Return		
		Order for Stay**	Removal from Stay**		

Notes:

\* Exclude tickets "paid out" before given trial dates.

\* If a suspension event begins prior to case start and ends sometime between case start and case stop, the suspension time will begin at the case start date and end at the suspension end date. (Manual Process)

† If a suspension begins sometime between the case start and stop date, and the case ends via dismissal or Nol Pros (prior to obtaining the suspension end date), the suspension time is calculated from suspension begin to dismissal or Nol Pros date (i.e., case stop date). (Manual Process)

\*\*This suspension event is applicable to Contract and Tort cases only.

†† For District Court Criminal cases, the date of a guilty plea (accepted by the court) can also serve as a valid case time suspension stop in the absence of other qualifying suspension stop events in a case. (Manual Process).

## Activity Nine: Backlog Analysis

### Purpose

The purpose of this activity is for the participants to analyze the data provided to determine the performance of the court in each scenario.

### Notes about Using the Activity

In small groups, ask the participants to complete the court scenarios. The small groups should select a recorder and a reporter. Ask the small groups to determine the clearance rate or pending goal for each court. Next, each group should make a qualitative assessment about the court and list their assessment next to performance. Possible answers may be high, medium, poor, fast, struggling, etc. Allow 20-25 minutes for the small groups to complete the court scenarios. Allow 5-10 minutes to debrief the class about the activity and share their responses to the questions.

### Relevant Learning Objective

9. Apply high level diagnosis to determine caseflow management performance.

## Backlog Analysis

For each court determine the clearance rate or pending goal as indicated in the box below the court's data. For each question, provide a qualitative assessment of its performance (e.g. high, medium, poor, fast, struggling, etc.) and note that performance in the box for each court.

### Court A – ALL CASE TYPES, ALL COURTS

Annual Filings: 98,675  
Terminations Last Year: 108,533  
Current Pending: 97,876

Clearance Rate =  
Performance =

### Court B1 – GENERAL JURISDICTION CIVIL

Annual Filings: 8,254  
Dispositions Last Year: 7,921  
Current Pending: 5,537

Clearance Rate =  
Performance =

### Court B2 – LIMITED JURISDICTION CIVIL

Annual Filings: 8,254  
Dispositions Last Year: 8,735  
Current Pending: 5,537

Clearance Rate =  
Performance =

### Court C1 – CRIMINAL

Annual Filings: 9,171  
Dispositions Last Year: 10,380  
Current Pending: 4,780  
Time Standard: 6 months  
Cases over 1 year old: 2,480

Pending Goal =  
Performance =

### Court C2 – TRAFFIC MUST APPEAR

Annual Filings: 23,734  
Dispositions Last Year: 22,590  
Current Pending: 3,866  
Time Standard 100%: 3 months  
Backlog: 465

Pending Goal =  
Performance =

### Court D – CIVIL TRACKS III and IV

Annual Filings: 563  
Terminations Last Year: 575  
Current Pending: 559  
Time Standard 100%: 24 months  
Backlog: 12

Pending Goal =  
Performance =

## Activity Ten: Case Calendaring in General and Limited Jurisdiction Courts

### Purpose

The purpose of this activity is to help participants explore the different document management approaches that a court can take.

### Notes about Using the Activity

There are four discussion areas for this activity. Have the participants work in small groups to discuss the advantages and disadvantages to each approach from the perspective of the case and from the perspective of the calendar. Have the small groups select a recorder and a reporter for the group. Give the small groups 15-25 minutes to complete all of the approaches. Take approximately 10 minutes to debrief the exercise by asking the reporters to provide feedback about they believe the best approach is from the perspective of the case and the calendar and vice versa.

### Relevant Learning Objective

10. Identify calendaring systems and how judges use case management plans and orders to manage cases.

## Case Calendaring in General and Limited Jurisdiction Courts

Discuss each docket management approach from the perspective of the case and from the perspective of calendar management. Discuss the pros or techniques that can be used as well as the cons or challenges to each.

	Case Perspective		Calendar Perspective	
	Pros	Cons	Pros	Cons
Case Type Divisions				
Rotation and Timing of Rotation				
Assignment Approaches				
Calendar Management – Who and When				

## Activity Eleven: Postponements

### Purpose

The purpose of this activity is to explore the various characteristics of postponement practice; and to help provide a structure to set up policies and procedures that shift the cultural dynamic to a strong procedural foundation.

### Notes about Using the Activity

For this activity, participants should each complete the form individually. Provide 5-10 minutes for the participants to complete their forms. Debrief the group by seeking volunteers to share their responses. Allot 10-15 minutes for the debrief.

### Relevant Learning Objective

11. Assess postponement policies and practices.

## Postponements

Postponements are cultural. They are the outcome of deference, respect, decency, and human relationships. Postponements also are embodied in practice and expectations fostered by the court and the legal community. The exercise is intended to explore the various characteristics of postponement practice; and to help provide a structure to set up policies and procedures that shift the cultural dynamic to a strong procedural foundation.

Judges, administrators and clerks have identified postponement/continuances as the primary cause of persistent and latent delay, even in states with strong caseflow management practices and detailed time to disposition standards. In statewide surveys in Maryland, among judges, court administrators, managers, and clerks, the primary sources of caseflow management issues and challenges primarily caused by postponements are judges and attorneys.<sup>58</sup> As important, the challenges are identified among cases that are most likely to be classified as the mid-range to top 25% of complexity; whereas time to disposition standards are generally met for 75% of average cases across most case types. In other words, delay continues to persist for cases that are likely to have the following characteristics:

- Multiple litigants
- Multiple causes of action
- Less likely to settle or plea
- Disputed facts, with some discovery, even if relatively minor
- Pretrial engagement between judges and attorneys or litigants

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<sup>58</sup> It is also critical to note the persistence of delay often occurs even on cases with self-represented litigants, usually for the same reasons, although with different psychological underpinnings.

### Attorneys and Litigants Postponements

*Scoring*

1	2	3	4	5	6	7	8	9	10
As requested	All requests with consent by other party	1 per side, additional requests justified by cause, verbal	1 per side with consent by other party, additional requests justified by cause, verbal	1 per side, additional requested justified by cause, verbal, at least 1 week prior to event	No automatic postponements, all requests justified by cause, verbal	No automatic postponements, all requests justified by cause, written	All requests justified by cause in writing at least 1 week prior to the event	1 request per case permitted and justified by cause in writing at least 1 week prior to the event	No postponements granted except for serious cause in writing at least 1 week prior to the event

Pretrial Hearing Reasons	Score	Comments
Attorney request		
Prosecutor request		
Public defender request		
Self-represented litigant request		
Trial Reasons	Score	Comments
Attorney request		
Prosecutor request		
Public defender request		
Self-represented litigant request		
<b>Subtotal Score</b>		Possible score: 8-80

### Court and Justice System Postponements

*Scoring*

1	2	3	4	5	6
As needed, with next event scheduled on next available date	Same day, with next event scheduled within 2 weeks on peremptory calendar	Prior day to 1 week notice, with next event scheduled on next available date	Prior day to 1 week notice, with next event scheduled within 2 weeks on peremptory calendar	3 week notice, with next event scheduled on next available date	Unacceptable

Pretrial Hearing Reasons	Score	Comments
Overbooking of court calendar		
Judge scheduling conflict		
Availability of witness in criminal case (evidentiary hearing)		
External factor from justice system agency (e.g. lab report)		
Discovery needed by Prosecutor/ Public Defender		
Trial Reasons	Score	Comments
Overbooking of court calendar		
Judge scheduling conflict		
Availability of witness in civil case		
Availability of witness in criminal case		
External factor from justice system agency (e.g. lab report)		
Discovery needed by Prosecutor/ Public Defender		
<b>Subtotal Score</b>		Possible score: 11-66

**Attorneys and Litigants Justifiable Causes**

*Scoring*

*Yes (Y)=1; or No (N)=0*

Causes	Score	Comments
Serious illness/death of attorney		
Serious illness/death of attorney		
Scheduling conflict of attorney at pretrial event		
Scheduling conflict of attorney at trial		
Scheduling conflict of self-represented litigant at pretrial event		
Scheduling conflict of self-represented litigant at trial		
Attorney vacation		
Litigant vacation		
<b>Subtotal Score</b>		Possible score: 8-80

**Total Score:** (add all three categories) = \_\_\_\_\_ / 3 = \_\_\_\_\_

- 3 - 10 = Extremely passive and non-structured postponement policies and practices
- 11 - 17 = Lenient, but not overly permissive postponement policies and practices
- 18 - 23 = Highly structured, non-permissive postponement policies and practices

## Activity Twelve: Action Plan for My Court

### Purpose

The purpose of this activity is to encourage the participants to create an action plan on how to improve caseflow management in their own court.

### Notes about Using the Activity

Depending on the makeup of the class, this activity is best done individually unless members from the same court are in the class. Then, they may serve in a group together to create the court plan. Allow at least 30 minutes for the participants to complete their plan. For a debrief, you may ask for volunteers to share what their goal is.

### Relevant Learning Objective

12. Create and implement a focused action plan for specific caseflow management changes.

## Action Plan for My Court

Please complete the below action plan for your court.

**My court:** \_\_\_\_\_

**Goal:** [My court] will reduce backlog in the following case type(s):

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**Objective(s):** [My court] will reduce backlog in [case type 1] by [percent], which in my court represents [number of active pending cases].

**Hypotheses:** Backlog in [case type(s)] is primarily caused by postponements due to the following:

1.

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2.

3.

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### Action Plan:

Step 1	Who	When
Step 2	Who	When
Step 3	Who	When
Step 4	Who	When

**How:** is the court and leadership going to enable the work?

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**Expected Result:** What is the expected result, and when should we achieve it?

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<http://www.fd.org/docs/litigation-support/final-esi-protocol.pdf>.

**Differentiated Case Management Plans, available at the following links:**

Circuit Court for Howard County Civil Non-Domestic Case Management Plan  
<http://www.mdcourts.gov/circuit/howard/pdfs/civilnnddcm2007.pdf>.

Circuit Court for Montgomery County Criminal DCM Manual  
<http://www.montgomerycountymd.gov/circuitcourt/Resources/Files/CRIMINALDCMMANUAL.PDF>.

Circuit Court for Calvert County Differentiated Case Management Plan (for all case types)  
<http://www.courts.state.md.us/clerks/calvert/pdfs/attachments/differntiatedcasemanagementplan.pdf>.

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