



Toward Excellence
in Caseflow Management

The Experience of the Circuit Court
in Wayne County, Michigan

A Guide by and for Practitioners

National Center for State Courts
A Project Sponsored by the State Justice Institute

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It Couldn't Be Done

Somebody said that it couldn't be done,
But he with a chuckle replied
That "maybe it couldn't," but he would be one
Who wouldn't say so till he tried.

So he buckled right in with the trace of a grin
On his face. If he worried he hid it.
He started to sing as he tackled the thing
That couldn't be done, and he did it.

Somebody scoffed: "Oh, you'll never do that;
At least no one ever has done it";
But he took off his coat and his hat,
And the first thing we knew he'd begun it.

With a lift of his chin and a bit of a grin,
Without any doubting or quiddit,
He started to sing as he tackled the thing
That couldn't be done, and he did it.

There are thousands to tell you it cannot be done,
There are thousands to prophesy failure;
There are thousands to point out to you one by one,
The dangers that wait to assail you.

But just buckle in with a bit of a grin,
Just take off your coat and go to it;
Just start in to sing as you tackle the thing
That "cannot be done," and you'll do it.

*Edgar Albert Guest**

* From *The Collected Verse of Edgar A. Guest*. (Chicago: The Reilly & Lee Company, 1934).

FOREWORD

This monograph may be the first of its kind. It is written by judges and staff of the Wayne County Circuit Court who have participated in a five-year effort to implement a delay reduction program for civil cases and is intended to assist other courts in addressing delay problems. Hence its subtitle, *A Guide by and for Practitioners*.

Delay reduction programs are often studied by outsiders who then write articles and monographs describing the program, the problems that had to be addressed, the achievements, and so forth. The perspective of the so-called outsiders, even if accurate, necessarily is different from those who lived through the planning, implementation, modification, and day-to-day operation of the new caseload system. This monograph portrays the experience of the Wayne County Circuit (truly one of the great success stories of the 1980s in American courts) from a perspective to which judges and staff in other courts, who may be contemplating similar efforts, can relate.

Until 1986, the Wayne County Circuit Court had a long history of delay and backlog problems. The court received national attention beginning in 1976 when the National Center for State Courts published *Justice Delayed*, a study of civil case processing time in eighteen urban courts across the country. Continuing through a 1984 follow-up study, the Circuit Court ranked at or near the bottom of the list of eighteen courts on nearly every measure of delay.

During the 1970s and early 1980s, many innovations in civil case management had been introduced in the Wayne County Circuit Court, but none succeeded in reducing ever growing backlogs and delays. In 1985, the chief judge determined that radical changes in civil case management would be necessary for long term improvement. He proposed conversion to a pure individual calendar system from a case assignment system that was a hybrid of master and individual systems. The hybrid system had conferred on no single judge responsibility for ensuring timely case disposition.

The success of the new system over the past five years is reflected in a dramatic reduction in caseload size (especially in the number of "old" pending cases) and in the markedly shorter time required to conclude most cases. It is reflected, too, in the pride and sense of accomplishment of the judges and staff of the Circuit Court.

While they have accomplished a great deal, the court's leaders are well aware that there is room for still further improvement and that new problems are bound to arise. Maintaining a high standard of operation can be as great a challenge as implementing a new system, and the court does not take its success for granted.

We believe that this book is "must" reading for court and legal system leaders who are concerned with problems of clogged dockets and lengthy delays. In addition to providing a description of the phased conversion to the individual

calendar system, the book also provides practical guidance for making an individual calendar system work effectively. One of the keys of the court's success has been its ability to strike an effective balance between the responsibilities and duties of the court's central leadership and those of the thirty-five judges who, with their courtroom staffs, must deal with the Circuit Court's caseload.

The development of this balance, the difficulties attendant on the planning and implementation, and the reality of managing a system in which thirty-five judges and their staffs are responsible for a *pro rata* share of the caseload, are addressed squarely and honestly in the pages that follow. The book deals with both the broad system issues and the details of managing an individual calendar in the courtroom of the individual judge.

The monograph is able to provide both broad scope and fine detail because it combines an array of first-hand perspectives on the court's conversion to an individual calendar. In the first two chapters a systemwide perspective is provided by the system's leaders. Chapter one, co-authored by Chief Judge Richard C. Kaufman and Court Administrator K. Kent Batty, presents Wayne County's "before" picture and sketches the possible solutions. In chapter two, "The Transition Process," Kent Batty has extended the systemwide perspective with a description of the decision making, consensus building, and planning undertaken in the implementation process. To provide a detailed view of the conversion process and on-going docket management from the individual trial court judge's perspective, Circuit Judges Robert J. Colombo and Helene White have collaborated on chapter three, "Judicial Management in Court of an Individual Calendar." The final two chapters show the transition process from an administrator's perspective. In chapter four, "Organization of Administrative Support for an Individual Calendar" co-authors Sally A. Mamo, the Circuit Court's Director of Docket Management, and Deputy Court Administrator Terry R. Kuykendall, describe the specific changes in responsibilities that accompanied the transition. In chapter five, "Caseflow Management Reports," Terry Kuykendall details the management information requirements of the new system and shows how they are being met in Wayne County.

While operational systems are seldom entirely replicable in different environments, the approaches and techniques used in the Wayne County Court have great relevance for courts elsewhere. There are many lessons and useful ideas here. The success of this court should help inspire others in the court community to accept--and act upon--one of the key findings from the national research of the past fifteen years: court delay is not inevitable.

Maureen Solomon
Barry Mahoney

Denver, Colorado
January 1991

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Introduction

A. THE PROBLEM

The Third Judicial Circuit of Michigan is the Circuit Court for Wayne County, which includes the city of Detroit and twenty-four surrounding municipalities. It is a thirty-five judge court of general jurisdiction in a county of over two million people. On the civil side, Wayne Circuit's jurisdiction includes claims for money damages exceeding \$10,000, equity, domestic relations, and appeals from district courts and administrative agencies. The court has approximately 500 employees.¹ Approximately 300 of these employees work in a division known as the Friend of the Court, which primarily enforces the child support orders of the court.

From 1986 (the beginning of delay reduction efforts) through 1989 Wayne Circuit Court averaged about 49,450 new filings annually. Historically, all the filings in the court break down as: fifty-one percent domestic relations, thirty-eight percent general civil, seven percent criminal felony, and four percent appeals.

On January 1, 1986, the court's civil docket was a mess. Four or five years to trial was not uncommon. Misplaced and lost files were the rule not the exception. Trial date certainty was a myth. Most cases had no judicial involvement until years after filing. Statistically, it ranked at or near the bottom of urban trial courts in time from filing to disposition.

Contrasted with that bleak picture, as of 1991, Wayne Circuit Court is well on the way to becoming a model for management of civil cases. Disposition times and the number of cases over two years old have been drastically reduced. Trial date certainty is the rule, not the exception. The court's long range goal to meet the American Bar Association time standards for case disposition is in sight. Table 1 shows the improvements in civil case disposition and the accompanying reduction in pending civil caseloads that have been made over the last four years. Table 2, which includes data on the

¹ This does not include approximately 130 employees in the County Clerk's Office who provide the court clerk services for the court.

court's domestic relations cases, shows the impact of the changes on the total caseload of the Circuit Court.

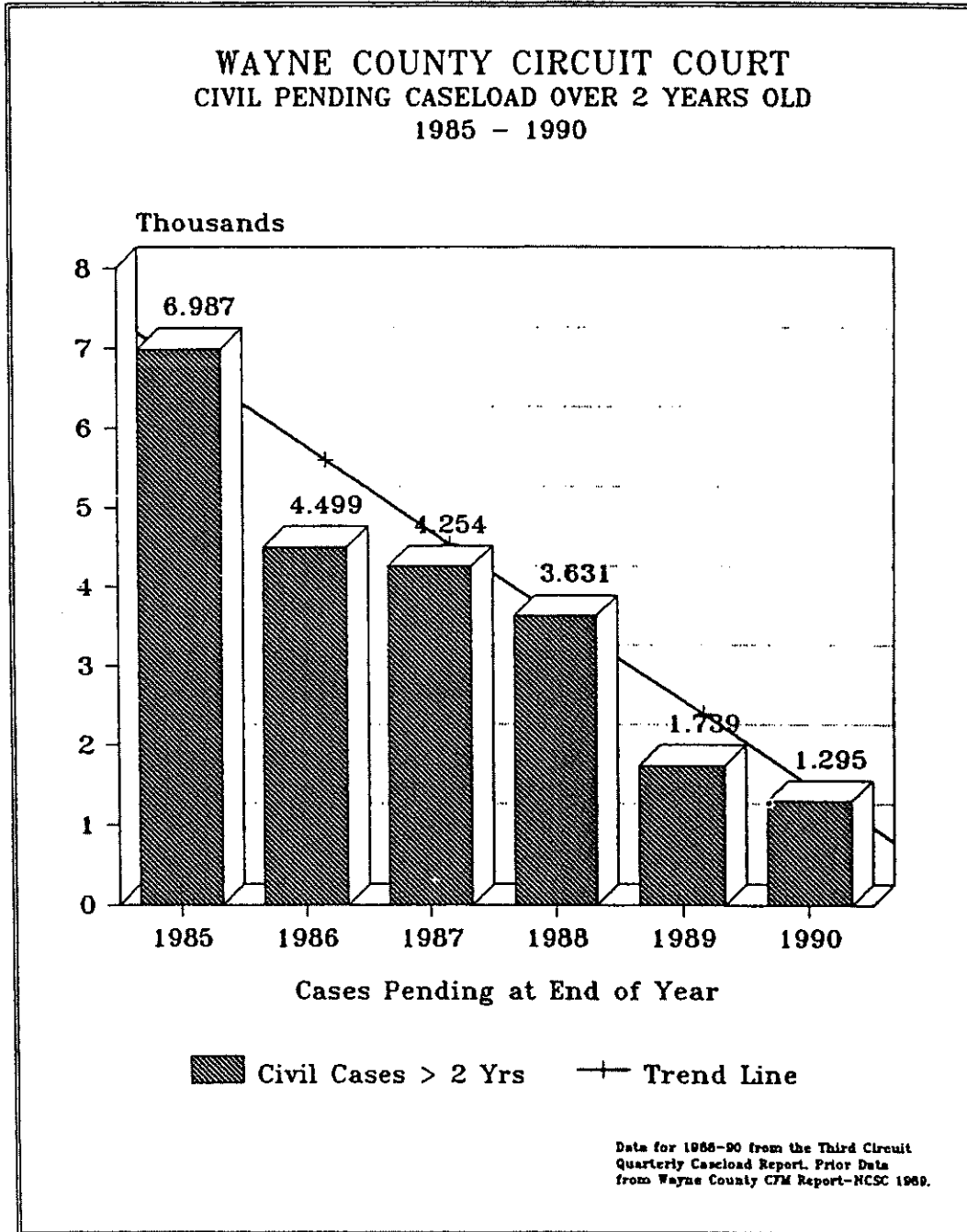
TABLE 1
Improvements in Civil Case Disposition
Wayne County Circuit Court

	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
Pending start of year	31,349	29,851	31,807	25,546	20,970	17,392
Filed/Reopened	20,506	27,900	29,748	29,291	30,728	40,902
Disposed	22,004	25,944	36,059	33,867	34,306	42,638
Pending end of year	29,851	31,807	25,496	20,970	17,392	15,656
Pending over two years	6,987	4,499	4,254	3,631	1,739	1,295

TABLE 2
Changes in Pending Caseloads and Times to Disposition
Civil and Domestic Relations Cases
Wayne County Circuit Court

	As of 1/1/86	As of 1/1/91	Percent Change
Total pending cases	54,248	32,273	-41
Pending cases over two years old	17,141	1,383	-92
Median time to jury trial of <i>non-domestic</i> civil cases	43.8 mos.	28.0 mos.	-36
Median time to disposition of <i>non-domestic</i> civil cases	20.8 mos.	10.8 mos.	-48
Median time to trial of domestic relations cases	12.5 mos.	7.6 mos.	-39

FIGURE 1
Wayne County Circuit Court
Civil Pending Caseload Over Two Years Old
1985 - 1990



A number of factors contributed to this improvement. By far the most significant was the court's conversion from a hybrid calendar system to an individual calendar. The hybrid calendar, used for decades prior to 1986, was marked by the absence of meaningful judge accountability for the progress of specific cases, slow processing times, and frequent trial adjournments. The court's individual calendar system, on the other hand, is marked by early judge involvement, judge accountability, certainty of trial, and timely dispositions.

The road to improvement was littered with obstacles. By and large the practicing bar was opposed to a docketing change. Many, if not most, judges were comfortable with the existing system and were not enthusiastic about a drastic change in the way the docket was operated. The enormity of the task of changing employee roles in a union environment boggled the minds of many upper level staff. The task of adapting the court's automated information system to accommodate the new individual calendar system seemed insurmountable. These were just a few of the problems that presented themselves early and required continuing attention throughout the implementation period. The formal implementation spanned nearly a four-year period of concerted effort. Even at this writing, the court finds itself largely in the implementation and conversion mode. Within the next couple of years the court's total transformation to the individual calendar system should be complete, and a maintenance management style will replace today's transitional approach.

This monograph outlines the step-by-step process for dramatically improving the civil caseload system undertaken by the judges and staff of Wayne County Circuit Court and describes how the new system operates. It is intended not only for the chief judges or court administrators designing and implementing courtwide individual calendar programs, but also for the individual judges and their courtroom staffs, and for members of a court's central staff. Although all members of a court may benefit from reading the entire monograph, certain sections may be more valuable to certain persons than others. For example, chapter two, "Transition to an Individual Calendar," is mainly directed to the chief judge, court administrator, and docket manager, while chapter three, "Judicial Management," is written primarily for the benefit of the individual judges and their courtroom staffs. It is hoped that the details provided here will aid other trial courts, especially those with large caseloads, that find themselves in a situation similar to that faced by Wayne Circuit on January 1, 1986.

B. THE OPTIONS

From the beginning the need for major modifications to the case assignment system was acknowledged by the court's leaders. Basically, there were three options:

- Retain the hybrid assignment system, but modify it to impose active judicial control over case progress early and continuously up to the point of mediation
- Adopt a pure master calendar system
- Adopt a pure individual calendar system

As discussed below, conversion to a pure individual assignment system quickly became the preferred option.

Option 1: Retain the Hybrid Calendar

In the Wayne County Circuit Court a hybrid of master and individual calendar systems had been the presumptive assignment system for decades. Cases were assigned to individual judges at filing so that they could handle pretrial motions, but were scheduled centrally for mediation and settlement conference/trial after attorneys filed a readiness document known as an at-issue *praecipe*. Judges were assigned in rotating terms to the criminal docket, the civil trial docket, and the settlement docket. This was seen as the best way to handle the burgeoning caseload.

There was only a brief interruption of this system's long tenure. In 1964-1966 the court tried using an individual calendar in response to bench concerns about disparate work habits among the judges. The conversion was short-lived, however, because it was undertaken with no planning, no training, no consultation and, consequently, no success. It resulted in extreme judicial downtime from trial continuances due to unanticipated conflicts in attorneys' schedules and lack of lawyer preparation. Worse, it produced wide differences in docket size among judges. The remedy was to reassign cases. Not surprisingly, the judges who had managed to maintain a low caseload were not pleased when they found themselves saddled with cases that some of their colleagues were unable to handle. The hybrid calendar was returned to its reign by 1966, where it ruled unchallenged until the mid-1980s.

There were major shortcomings in the hybrid calendar system. First, though cases were assigned to judges at filing, there were no policies or procedures for judicial intervention unless requested by counsel. Second,

there was no individual judge accountability for the number or age of cases on the dockets. This resulted in a failure to focus judges' attention on the disposition of the caseload. Third, the necessary reliance on centralized control after attorneys filed the at-issue *praecipe* placed an inordinate amount of responsibility for the pending caseload on relatively few people—the chief judge and administrative staff. As a consequence, trial judges sometimes were not as diligent as they should have been in taking trials from the master calendar. Finally, the system was not conducive to individual satisfaction, sense of accomplishment, or motivation among the judges. The nature of the judges' involvement in cases made them more apt to view cases as though they were photographs rather than motion pictures, which gave them little sense of having crafted a product: justice.

These shortcomings, particularly the system's inability to fix responsibility, made it clear to the leadership in the court that drastic surgery on the system was necessary. Although it (and the supporting data processing systems) might be "tweaked" to produce better performance—less delay and lower backlogs—past experience suggested that tinkering was unlikely to alter the judges' fundamental attitude that they were not responsible for the court's caseload as a whole. Tinkering, moreover, had been attempted on many previous occasions, but any resulting improvements were not sustained, possibly because falling back on old habits was inevitable absent a major departure from past practices.

Option 2: Adopt a Pure Master Assignment System

The master calendar is a case assignment system under which all the judges of a court maintain collective responsibility for the caseload. Under it cases are assigned to specific judges only when necessary for handling specific events, like motions, pretrial conferences, or trials. For example, a judge may handle a particular case when a motion is filed; the motion would be scheduled on a motion docket into which judges rotate on a weekly, monthly, or other periodic basis. Thus, a number of judges might hear motions in a single case during its life. Similarly, in a master calendar system cases ready for trial are pooled to be assigned to any available judge on the trial date.

In theory, pooling cases and judges helps maximize the effective use of judge time by assuring a ready supply of trials for available trial judges. It also, in theory, tends to produce less disparity in disposition times among cases, since all cases follow a similar track. Although the national data available in late 1984 and 1985 showed there were some very successful

master calendar courts,² it seemed likely that success depended in large part on a collective sense of responsibility among the judges for the caseload as a whole. There was no evidence that converting to the master assignment system would change long-standing attitudes developed under the hybrid system, which had failed to impart such a collective sense of responsibility. Further, the size of the backlog in Wayne County and the growing discontent of some judges with the work habits of others argued against adoption of a pure master calendar.

Option 3: Adopt a Pure Individual Assignment System

The individual calendar assigns a single judge to a case from filing to disposition. In its purest form the judge assigned at filing, barring extended absence from the bench, retains responsibility for that case until it is disposed of, handling all pretrial activity and the trial. It thus fixes clear responsibility and accountability for disposition of each case. Moreover, when responsibility for each case is fixed, it is much more likely that each case will get early and continuous supervision, which we now know is essential for effective caseload management and low pending inventories. Finally, the individual calendar offers a system that can be tailored to the varying work habits of individual judges.

C. THE SOLUTION

Upon reflection, there was little question that the situation in Wayne County needed a drastic remedy. Thus, the major undertaking of converting to a pure individual calendar system became the preferred option in the minds of the court's leaders. Despite the clear difficulty of accomplishing such a complete changeover, the decision was made to go with an individual calendar, because it appeared that the individual calendar system had not had a fair test in the 1960s and that it in fact offered the best potential for allowing the court to take charge of caseload. Its strongest feature, individual judge accountability for disposition of a proportionate share of the caseload, offered an antidote to the long-standing apathy toward pending case backlogs.

Although described in much more detail in the body of this monograph, the basic procedure used in processing civil cases under the individual calendar system in Wayne County is as follows: All general civil cases are

² Church, Thomas W., et al., *Justice Delayed: The Pace of Litigation in Urban Trial Courts* (Williamsburg: National Center for State Courts, 1978); Mahoney, Barry, et al., *Implementing Delay Reduction and Delay Prevention Programs in Urban Trial Courts* (Williamsburg: National Center for State Courts, 1985).

set for a status conference ninety-one days after the filing of the complaint. The purpose of the status conference is to enter a scheduling order governing completion of future events. This early conference is the critical step, which places a case under court control. (See system flow diagram on page 10.)

Among the shortcomings of the hybrid calendar system in the Third Circuit Court had been the lack of early control of cases; the earliest event scheduled by the court was mediation in the eighteenth or twenty-seventh month from filing. In developing the concept of the individual calendar, therefore, it was agreed in the initial stages that a means of securing early court control had to be provided. The planners determined that the best means was to establish a status conference for each case in close proximity to the date of its filing (in fact, in some cases, before the filing of the answer). At the status conference the attorneys and the assigned judge would map out a schedule of events for each case, entering it into a scheduling order.

The status conference and resulting scheduling order provide more than early intervention. The order controls the timing of the litigation. It establishes a deadline for filing witness lists, a discovery cut-off date, a month in which the case will be mediated, and a date for a settlement conference. In this process the judge and attorneys are able to tailor a schedule to the nature of each case. The deadlines serve as a means for the judge's staff and central administration to monitor case progress, and they provide certainty and a sense of immediacy for the lawyers.

Only at the conclusion of the settlement conference is a trial date set; the goals are to keep the trial date within approximately six weeks of the settlement conference and to schedule so that lawyers are certain of going to trial on the scheduled date. Date and event certainty are essential for successful case management. For all events, certainty is a goal, but at the point of trial it becomes most crucial. The former calendar system in Wayne County never provided trial date certainty. Although lawyers may say that they received "certain" trial dates, the norm was to go to trial only after at least one adjournment on the court's own motion. The minimum adjournment length tended to be six months, and many cases were adjourned more than once.

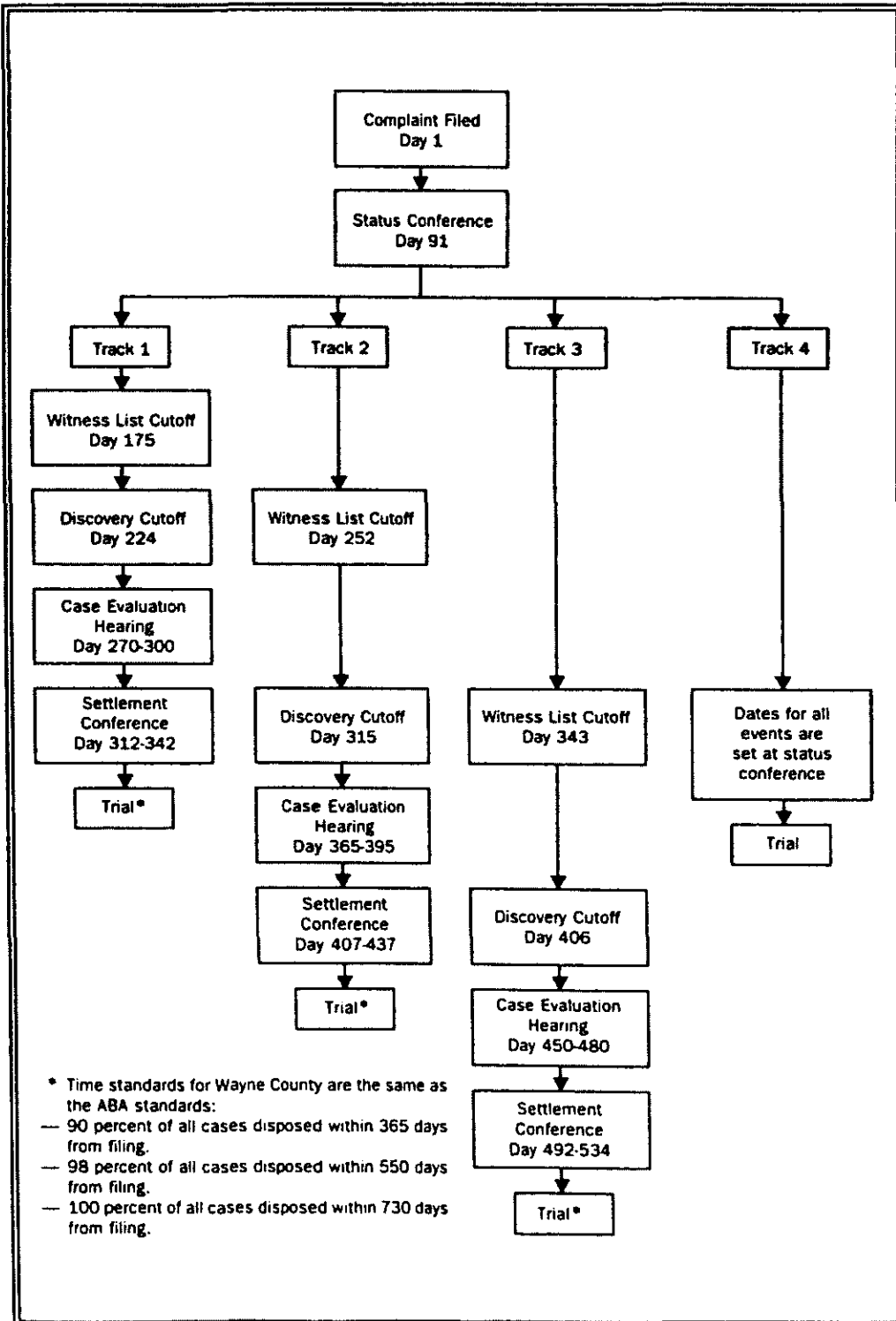
In the Third Circuit today, trial date certainty assumes almost as much importance as time guidelines for case disposition. Very early in the process of converting to individual calendars, Chief Judge Richard C. Kaufman set the goal that no trial should be adjourned more than once because the judge was not available to try it. Now, more than three years from the date the first judges went on the individual calendar, it is a goal still emphasized at each meeting of the individual calendar judges. In addition, judges are

encouraged to keep the length of adjournments, when they are necessary, as short as possible. The court's emphasis on achieving dispositions within two years reinforces short adjournments.

Domestic relations cases proceed along a somewhat simpler track. The first event in a domestic relations case is the settlement conference/trial date. For cases involving divorces with children, that date is set for 182 days after the filing of the complaint; where no children are involved, the date is set eighty-four days after the filing of the complaint.

Appeals to Circuit Court are monitored by the assigned judge's staff to insure timely perfection of the record. Oral argument or trial, as appropriate, is scheduled before the assigned judge. Failure on the part of litigants to complete the steps required to move an appeal case to disposition in a timely manner may result in court-initiated *show cause* proceedings.

FIGURE 2
Caseflow in Wayne County's Civil Delay Reduction Program



2

The Transition Process

After the decision was made in 1985 to convert to an individual assignment system in the Third Circuit, Chief Judge Richard D. Dunn was prepared to make the transition instantaneously by a simple decree. Provided with an advance copy of the National Center's report on civil case processing times in seventeen urban courts,¹ Chief Judge Dunn was disturbed by the Third Circuit's civil case delays presented in the report. To help find a solution, he and court administrator K. Kent Batty attended a delay reduction seminar in early summer 1985. Shortly thereafter, Judge Dunn went to work one Monday determined to begin using the individual calendar within a month.

The staff was stunned by the prospect of an abrupt conversion to an individual calendar system after decades of a weakly administered hybrid calendar system.² The magnitude of the change compelled the staff to recommend, in strongest terms, a period of study, development, and deliberate transition. Fortunately, Judge Dunn listened and postponed immediate implementation pending development by staff of a plan for delay reduction and possible transition to an individual calendar. Thus, the transition became, for public and bench consumption, only "possible" and not definite.

A. GUIDING PRINCIPLES

The decision to proceed at a more deliberate pace acknowledged the importance of a number of key principles for successful change evident in delay reduction efforts in other jurisdictions. The staff felt observance of these principles would be essential to the success of a major effort in the Third Circuit.

¹ Mahoney, Barry, et al., *Implementing Delay Reduction and Delay Prevention Programs in Urban Trial Courts* (Williamsburg: National Center for State Courts, 1985).

² Judge Dunn's initial determination also provoked a response from the judges, suggesting the bench was far from unanimous in its support of the individual calendar.

1. A Formal Planning Process

It seemed clear that a court of this size—thirty-five judges, 50,000 annual filings and 17,000 pending cases more than two years old—required a well-organized planning effort. As location is key to success in real estate investment, so planning would be key to success in delay reduction.

Having succeeded in convincing Judge Dunn to postpone immediate implementation, the staff began to plan a broad-based delay reduction effort. For the short run, the focus was on developing specific programs to whittle the backlog of trial ready cases down to a manageable number and on phased implementation of proposed changes to the case management system. For the intermediate range, the focus was on developing a caseflow management system capable of accommodating the varying skills and talents of thirty-five judges, while achieving a reasonably standardized approach to case processing courtwide. For the long range, the focus was necessarily more conceptual: whatever changes were adopted had to be sustainable for the foreseeable future; but, just as important, they had to withstand the intense scrutiny and criticism that would naturally arise during a lengthy transition/implementation period.

2. Involvement of Bench and Bar

Although in some jurisdictions it seemed clear that involvement of both the bench and the bar was absolutely essential to delay reduction success, initially in Wayne County there was no consensus that the bar needed to play a role. Neither was there early agreement as to the level of involvement of the bench as a whole. There were, among the few judges who talked actively about the need for change, a number who felt that necessary changes could be agreed upon by the "caring few" and implemented successfully with or without broader involvement from either bench or bar. There also were those who shared the staff's view that success required a broader level of consensus at the beginning—the bench and bar had to be involved through planning committees.

After private discussions among judges and a contentious bench meeting, agreement was reached that bar involvement would be solicited concerning ideas and concepts but not necessarily operational details. In keeping with the local culture, the level and duration of bar participation would be limited; in only one previous court program had the bar taken any significant role. It was agreed, however, that bar participation was necessary as a means of overcoming resistance and achieving "buy-in" to the concept of delay reduction and the changes necessary to achieve it. It was also thought that a select committee of moderate size (fourteen lawyers and judges, as it later turned out) would allow for representation of the several local bar

associations, thus broadening the potential base of support. (This Bench/Bar Delay Reduction Committee is discussed more thoroughly under "The Planning Process.")

As to bench involvement, despite some initial hesitancy, the judges, now formed into a committee structure, quickly agreed that they needed the same kind of early involvement used by other courts in the process of reducing delay. The central staff and chief judge agreed that the committee structure would be useful for fixing broad concepts in a consensual fashion, but that undoubtedly some final decisions would fall to the chief judge. When it came to negotiating the details of the programs or systems with the judges "in the trenches," it was clear that direct involvement would be essential, giving judges a sense of identification with and commitment to the program. On those questions or issues where committee consensus on details ran counter to the court's agreed general management concepts or to the need for uniformity, the chief judge (supported by staff) was expected to insist on the preeminence of the latter to the extent possible.

Thus, bench involvement during the transition took three forms:

1. initial discussion among all judges, which resulted in formation of the Bench/Bar Docket Review Committee;
2. participation by member judges in the work of that committee; and
3. developmental input by the judges who were to be the first group to switch to the individual calendar. (This first seven-judge effort was termed the Pilot Project.)

3. Program Goals

The overwhelming nature of the task facing the court's leadership initially made it difficult to think in terms of goals—most of the proper ones seemed so distant as to be almost unattainable. However, discussions among the court's leadership, with National Center consultants Barry Mahoney and Maureen Solomon, and with Douglas Somerlot of the American Bar Association Lawyers' Conference Task Force, quickly resulted in agreement that some goal structure was needed to direct the changes, even for the long range.

The time standards for case processing approved by the American Bar Association were a ready-made set of goals. Although there was doubt that the court ever could achieve them, there was consensus that they were what

the court should aim for.³ The Michigan Supreme Court, moreover, had convened a committee to study the American Bar Association standards and make recommendations for change to improve caseflow in Michigan's courts.

The setting and content of intermediate goals to serve as milestones during the implementation process also was the subject of much discussion. Without knowing then what would be the individual calendar's rate of case disposition, some thought it pointless in the early stages to set time- or volume-related goals. Initial caseloads were in the range of 1,400 to 1,900 per judge, and staff was uncertain which of those cases were still live disputes. Thus, setting disposition or case-age goals seemed like predicting baseball's world champion before the start of spring training.

The initial focus, therefore, was vague: reduce pending cases over two years old significantly. With the consistent nudging of consultants Mahoney and Solomon, the court's leaders soon began to talk more about goals, first in terms of reduction in the number of cases pending per judge as of a certain date. Such interim goals, established for the caseload as a whole by a Docket Review Committee (described in more detail elsewhere), later were set for individual case types (e.g., divorces) as well. As progress was shown, the court's administration began to speak of a specific target for a steady-state pending caseload—that is, the caseload they expected most judges to carry after full implementation of the new caseflow management system. In fact, these early goals have been surpassed, and the new target range is 450-550 cases per judge. Nevertheless, it was important to have set goals, simply to have a sense of where the court wanted to go.

4. Striking a Balance Between Uniform Procedures and the Individual Management Styles of Judges

It was clear early in the planning stages that the success of an individual calendar system would depend, ironically, on substantial uniformity of procedure from case-to-case and judge-to-judge. The court's earlier experiment with the individual calendar had included no standard methodology, leaving total discretion to the individual judge as to how to manage a caseload. For this and other reasons the experiment failed miserably and was abandoned in less than three years. Furthermore, attorneys made it known that they strongly preferred a high degree of uniformity and predictability. In other courts in the state they felt

³ To this day, neither the Michigan Supreme Court nor the Third Circuit bench has officially adopted the American Bar Association goals, but the court's leadership has; statistical reports highlight the extent of compliance with the goals.

beleaguered by disparate procedural practices of individual judges, and they feared the potential for arbitrariness of some of Wayne Circuit's judges.

It was also clear, however, that no system giving a judge ultimate responsibility and accountability for the cases assigned would succeed without permitting that judge to manage cases, within certain parameters, in a manner that suited the individual judge's temperament, capabilities, and work style. Judges would demand that freedom in exchange for the responsibility. It can be argued, moreover, that only by directly managing their caseloads can judges cultivate their individual talents, gain a full sense of accomplishment, and thus maintain a high level of motivation. The planning process, therefore, included a constant struggle to strike the proper balance between these competing needs.

Traces of this struggle are found throughout the system that evolved. In the planning stage, pilot project judges could not agree on when to hold status conferences in relation to the initial filing date. Because consensus had been achieved on standard events to occur in every case and, generally, on the time between events, it seemed prudent to allow for different judicial preferences in this area. Thus, two plans were permitted on an experimental basis: one which brought cases in for status conferences only after the filing of the answer and another which brought cases in at an earlier time, whether or not the answer was filed. (Based on experience, the period now has been standardized at ninety-one days from filing.) Some pilot judges used the first approach and some the latter. During the pilot project, some judges decided to use telephone conferences to conduct status conferences while others preferred attorneys to appear.

Recently, the bench has faced and resolved the problem of differing judicial practices with regard to setting trials. Some judges were treating settlement conference dates as trial dates, expecting attorneys to come prepared for immediate trial if they were unable to settle the case. Others were mailing out notices of trial dates without advance consultation with attorneys. Both practices were inconsistent with the initial intent to set a trial date at the settlement conference. Both led to unnecessary trial date conflicts and limited attorney availability to those judges following the prescribed procedure. As a result, the chief judge proposed and the bench adopted a local administrative order specifying that trials are to be set only at a conference with all attorneys present.

5. Altering Staff and Judge Roles in Managing Cases

The scope of the case backlog problem and the fundamental procedural and philosophical differences between the hybrid and individual systems required a near reversal of historical roles. Under the hybrid calendar,

central staff had primary responsibility for managing cases; in fact, that management amounted to little more than seeing that cases were scheduled for mediation and settlement conference/trial and struggling to improve the grossly inaccurate caseload data base. Judges and their staffs had no involvement in (and basically no concept of) case or caseload management.

The world was about to turn upside down. Central staff's role, while no less important, would be substantially altered as primary case management responsibility shifted to the judges. Judges and their staffs, on the other hand, were to experience an entirely new level of responsibility—they would have to set event dates, monitor case progress, see that lawyers appeared for conferences, hearings, and trials, and deal one-on-one with attorney conflicts, complaints, and delays. Preparations for this change had to be thorough.

6. Training for Judges and Staff

The enormity of the task of reducing delay, the failure of the earlier individual calendar experiment, and the lack of judicial experience in managing caseloads made it evident that effective training, for both judges and staff, would be the keystone of system implementation. The leadership of the court, from the outset, agreed that training should occur early and often.

Judges and attorneys alike had to be educated as to what constituted delay, why reducing delay was a concern, where Wayne County ranked nationally among urban courts, and what were essential principles of effective caseload management. The Third Circuit's judges and their courtroom staffs, moreover, had no experience managing a caseload. For decades their function had been solely to settle or try cases sent to them from the central hybrid trial calendar. All they had to do to receive a case for trial was call the central assignment office. A training philosophy was developed quickly:

- Training would start with fundamental principles, proceed through general case management issues, and end with considerable emphasis on specific details of managing individual calendars.
- Training would be done mainly in relatively short segments, to permit delivery during the workday without significant disruption of normal work schedules. (It was also clear that shorter sessions would encourage better attendance.)
- Training methodology would emphasize and facilitate feedback and participation.

- Consultants/experts would play an important role in the early training for each implementation group to provide a national perspective and basic information on which to build.
- Third Circuit Court staff and judges would be used as trainers to the extent possible, especially as they gained experience with the system and the potential for more interactive training increased.

7. Assuring Effective System Documentation

The scope of anticipated change, the evolutionary nature of the developmental process, and the early decision to use a phased approach to implementation dictated that documentation of the system be thorough. It was necessary not only to document discussions and decisions properly but also to develop and implement standard forms (notices, orders, schedules, and reports) and a procedures manual. No system could maintain the necessary degree of uniformity, under the pressure of thirty-five individual views on how to do it best, through a multi-year phase-in, without the foundation of good documentation. Such documentation is essential to institutionalizing any new system.

B. THE PROCESS

As indicated above, despite the early intentions of Chief Judge Dunn, an individual calendar system did not spring into bloom overnight. When staff successfully urged deliberate speed and some other judges showed reluctance to accept the concept, it was subsumed in the broader focus of a major delay reduction effort.

1. Practitioners Involved

a. Bench/Bar Committee

In the fall of 1985, Chief Judge Dunn created the Bench/Bar Delay Reduction Committee. Its charter was to study means of reducing delays in the Third Circuit and to recommend improvements to the chief judge. Specifically, the committee was to study the individual calendar concept to determine what advantages it offered over the existing system. Composed of equal numbers of attorneys and judges and chaired by the chief judge, the committee was the first body outside of the court's central administration to undertake this study and planning function.

Prior to the committee's establishment, the court administrator and upper-level staff were developing proposals and plans for dealing with the hardcore backlog of trial-ready cases and for (what they viewed as) the inevitable transition to individual calendars. They also prepared a resource manual for

the committee, which served to acquaint members with the National Center's study showing the relatively poor standing of Wayne County among urban trial courts, issues concerning delay reduction, and the current status of caseflow in the court. Armed with the manual and with the concepts and ideas developed by staff, the chief judge was able to provide the committee concrete proposals to which it could respond and from which it could develop its own course (within carefully watched, but unarticulated parameters).

The work of the Bench/Bar Committee concluded by the end of 1985. Its subcommittees had met frequently and covered a wide range of issues relating to delay reduction. However, as a committee, it never directly addressed the issue of whether the Third Circuit should convert to the individual calendar system. This was due in part to the fact that it was not at all clear that the committee would have voted in favor of the individual calendar; the lawyers appeared to be against it and at least one or two judges seemed opposed to it. Judge Dunn, however, was single-minded on this issue and, despite the fact that he retired from the chief judgeship in December, 1985, took it upon himself to develop the committee's final report in early 1986. Not surprisingly, it recommended a trial period for the individual calendar. By early spring, under a new chief judge, Richard Kaufman, a pilot project for testing a few judges on individual calendars was on the drawing boards.

b. Pilot Project Judges

Judge Kaufman brought to the chief judgeship an even greater enthusiasm for the individual calendar. He embraced the concept of a pilot project and quickly identified the first group of judges. They were carefully, not randomly, chosen. The chief judge was convinced that the individual calendar had to be given every chance to succeed and that a cross-section from among so diverse a bench would not offer the same opportunity for success as a select group. In addition, it was apparent that the pilot project judges would be an integral part of any subsequent developmental effort. Therefore, enthusiasm and dedication were essential. The other judges and the legal community would be looking at the pilot project to determine whether or not the conversion to the individual calendar should be expanded. The chief judge and court administrator needed to make decisions that would assure success. Consequently, the seven judges chosen for the pilot were not only those enthusiastic about the individual calendar, but also those whose work habits would make success likely.

The decision to start with only seven judges arose from concern that the court should not commit to more administrative work than its staff could handle. The staff realized that the central administrative support needed by

individual calendar courtrooms would be significantly more than that provided to courtrooms under the hybrid calendar system. Consequently, the court wanted a chance, with a limited number of judges, to understand the nature and extent of the additional or different responsibilities so that problems could be remedied on a smaller than courtwide scale.

The role played by the seven pilot project judges (Marianne Battani, Robert Colombo, Jr., Michael Connor, John Hausner, Michael Stacey, Marvin Stempfen, Lucile Watts) undoubtedly turned out to be even more important than anticipated. Working with the chief judge and management staff, armed with the concepts framed by the Delay Reduction Committee, and provided with a proposed operational structure, they shaped the critical details of the system, supplying the "fine print" concerning how individual calendars would operate on a day-to-day basis.

The pilot group met regularly from April through December 1986 to learn, discuss, argue, struggle, and otherwise thrash out the multitude of issues that required attention. Among those issues were such things as whether to hold early scheduling conferences before the expiration of the summons; what day and time of week is best for settlement conferences; and at what point in the process trials should be scheduled. The chief judge served as mediator, facilitator, and ultimate decision maker. The staff added its knowledge of caseflow management techniques and principles. But the pilot project judges (now known as the Phase I judges) honed the details with the sharp eye of an architect overseeing the design of his or her own home.

At the initial meeting of Phase I judges, the chief judge presented a broad outline of a case processing plan. Although the basic plan remained intact, much was added and subtracted over a three-month period. Looking back, this process was invaluable. It allowed the Phase I judges to be instrumental in designing the plan they would implement. It also gave the plan credibility in the eyes of other judges because their colleagues designed it. As a result, Phase I judges felt they had as big a stake in the success of Phase I as the chief judge, court administrator, or anyone else. To date this sense of ownership continues to be manifested by Phase I judges and their staffs.

c. A Focus on Achieving Consensus

The changeover to individual calendars was controversial even among the judges. Many difficult crossroads were negotiated along the road to implementation. At each crossroad, there was a choice of methodology. The pilot project group, charged with the responsibility for putting flesh on the bare bones of a proposed individual calendar, did not consist of timid and withdrawn individuals. Consequently, it was anticipated that discussions over the direction to take at each crossroad would be, at a minimum, lively.

In the role of the chief judge, however, there was clearly a mechanism for passing through each decision point: he had the power to decree the direction to be taken. Wisely, Chief Judge Kaufman perceived from the beginning that charting the course by fiat would not guarantee success. In fact, such an approach might mean failure. Therefore, he determined that, whenever possible, decisions among alternatives would be made by group consensus, with a chief judge's ruling the last resort. As the process unfolded, this meant that a show of hands was occasionally necessary, but no one felt cheated of opportunity for input. The result was collegial support for the system that evolved.

The dynamics of meetings with the Phase I judges that preceded implementation of the individual calendar were interesting. Many major issues that had to be resolved stemmed from the conflict between the central staff's interest in (and the bar's anticipated desire for) uniform courtwide procedures and the judges' desire for flexibility in their courtrooms. Generally, the judges' initial attitude was that they should maintain total flexibility to adopt any procedure, but they also wanted to be provided with total administrative backup from central staff for whatever procedure they chose to institute. The conflict between these two desires quickly became apparent. Consequently, much discussion concerned how to compromise them effectively.

It was apparent that the success of the individual calendar program required a great deal of administrative backup from the central Docket Management Unit, particularly in assigning dates and providing timely notices of events to attorneys. Docket Management's ability to perform these tasks well for each of the courtrooms was directly related to the degree of uniformity of the procedures among the courtrooms. A central principle that guided the chief judge and court administrator in these initial meetings was that they would not agree to perform administrative tasks for the individual calendar courts unless they could do them well. Their firmness on this point helped the Phase I judges to understand why they needed to give up flexibility in some cases so that all courts could operate more smoothly. If these decisions had been dictated by the chief judge, it is unlikely that the loss of flexibility would have been accepted as well as it was.

d. *Administrative Staff*

As other sections of this monograph convey, the role of staff in the entire process was a significant one. Throughout the process, the staff bore first responsibility for identifying key issues to be decided and for outlining the salient issues on either side of a decision. Staff also evaluated and advised the committee of burdens which various processing alternatives might place

on the central staff or on the computer system. The purpose, of course, was to prevent judges making decisions about the process solely in their own self-interest. This could place unrealistic requirements on central staff. On another level, the higher-ranking staff members were expected to provide the chief judge with the knowledge about issues that would enable him to lead the other judges toward better decisions or to make the best decision when consensus was not achievable.

2. Educating the Bar

As mentioned above, historically, the bar in Wayne County has not been involved in court policies or management decisions that affected them. The only exception in recent memory was the bar's role in the late 1970s in implementing mediation, a case evaluation conference involving three attorneys. Consequently, there was not much initial enthusiasm, even among the chief judge and other judges interested in delay reduction, for giving the bar a significant role in developing and implementing a delay reduction/individual calendar program.

The administrative staff felt strongly otherwise and, counselled by the consultants, they were able to convince then Chief Judge Dunn of the desirability of bar involvement from the earliest stages. It seemed clear that in other jurisdictions bar participation had contributed to success. The success of the individual calendar system in Wayne County was going to depend heavily on changing the way lawyers operated. Thus, the Bench/Bar Delay Reduction Committee (BBDRC) was formed.

The importance of education became evident at once. Attorney members immediately made clear their opposition to conversion to a pure individual calendar. Early on, one of the lawyers, in a discussion that had grown gradually more heated, shouted that if the bench was going to switch to an individual calendar, the bar would not permit it and would bring the system to a screeching halt. The committee thus became more than a study or decision-making body. From the court's perspective, it was an early opportunity to educate the bar about delay reduction. As attorneys participated in planning they would learn. Attorneys practicing exclusively in Wayne County (and there is a substantial number) had no more experience with the individual calendar than did the Third Circuit's judges. Those who practiced in neighboring counties as well as Wayne did have individual calendar experience, but most often that experience left them highly skeptical of the court's initial plans. The court's educational task was, therefore, two-fold: it would have to train a considerable number of attorneys in what would become the Wayne County version of the individual calendar system

and to "untrain" and re-educate another group of attorneys who felt abused by the individual calendar practices of other jurisdictions.

As the individual calendar pilot project came to fruition, the court's leaders recognized that efforts to reach a much broader segment of the bar had to be undertaken by the court; relying on bar leaders on the Bench/Bar Delay Reduction Committee to "spread the word" would not prepare the legal community sufficiently. Two mechanisms were agreed on. First, once the operational framework of the individual calendar was established, the staff would develop and mail to the bar an explanatory pamphlet. Second, judges and staff, especially the chief judge and court administrator, would make personal appearances to explain and discuss the individual calendar with any lawyers' groups who would have them.

Both steps proved successful. The pamphlet gave every lawyer access to the rudiments of the system and conveyed the fact that there essentially would be a single individual calendar system for the entire Third Circuit bench. Thus attorneys would not have to learn thirty-five different systems. The speaking engagements succeeded on multiple levels. Beginning with a large session with the Detroit Bar Association involving the chief judge, court administrator and nearly all of the pilot project judges, a series of meetings was held over about three months. Obviously, these meetings served to help educate the bar concerning the operation of the system. But more importantly, they demonstrated that the court was willing to come to the attorneys with its plans, to expose those plans to questioning and to deal head-on with the sometimes controversial questions attorneys raised.

3. Defining and Meeting Information Needs

Early in the planning process, it became clear that there would be different information needs under the individual calendar. The hybrid calendar system that had been in place for twenty years did not demand the case-by-case scrutiny that characterizes the individual calendar. Wayne Circuit's focus under the hybrid had been largely on the flow of cases through the system and, at times, on specific groups of cases that needed attention. In contrast, the individual calendar required judges, their office staffs and central staff to focus on cases one-by-one, if only for a brief time. Thus individual judges had to have the information necessary to manage individual cases effectively. Equally important, aggregate data on judges' caseloads had to be provided to the judges as a spur to constructive competition.

Caseload reports under the hybrid calendar, moreover, had been developed only for the use of central staff, who were more knowledgeable about caseload management issues than any judge. Reports on the individual

calendars would be going directly to judges for the first time. Judges and staff would be expected to use them as tools to help manage the progress of the cases assigned to them.

Even so, court leaders determined that a wholesale revision of its caseload reporting system to serve the individual calendar was not merited. Of no small consideration was the fact that the data processing staff was struggling to keep its head above water responding to the overall automation requirements of the program and to demands for user enhancements, while still keeping the existing hardware up and running. More importantly, court leaders recognized that simple and straightforward new reports and minimal changes to existing reports, at least in the early stages, would avoid overwhelming the judges with information and inundating the data processing shop with demands. It was agreed that only essential, rudimentary reports would be developed initially and that additional reports would be added gradually, as judges and staff were able to make effective use of more information.

Fortunately, the administration of the court is experienced in the use of data processing. In fact, the Third Circuit may be one of the most thoroughly automated urban courts in the country. There is no facet of its operation which is not touched by automation, and most depend on it. In most areas, the court has become so reliant on computers that the option of returning to manual operations, even for some interim period, is not viable. Automation has supported caseload for some time. The court began automation of case data in the late 1970s with its own modification of an old PROMIS-based, criminal case tracking system. It expanded rapidly into the civil arena and, since the early 1980s, has been providing basic case identification data, an abstract of case activities, limited financial data, and information necessary to track the flow of cases (dates and events). The caseload reports, which depicted caseload from a number of perspectives, had seemed sufficient for case management under the hybrid calendar.

The court also was fortunate in the developmental stages to own and operate three of its four mainframe computers. The fourth, though officially the property of the prosecuting attorney, also was operated by the court. All were housed in court space. The court had (and still has) its own data processing staff, which included the typical range of positions. In short, the court was in as complete control of its automation functions as it could be.

Although most of the issues arising from changed requirements of the individual calendar involved only the reformatting of reports and data, there was one significant problem that required a purely technological solution. The court, as indicated, was in control of its data processing operations but it did not have the fiscal means to avail itself of a single mainframe system

capable of handling all its caseload management needs. As a result, caseload data, upon the filing of a case, was entered into one computer's data base and, after the filing of an answer, the data was transferred to a second computer. Unfortunately, it was the second computer which contained the basic caseload management software; and access to the first computer's data was at best awkward and suitable only for case review, not for generating notices or schedules. Thus, for some period of weeks or months (usually the latter), automated information on individual cases could not be used for many of the required purposes.

To meet the goal of early and continuous control of case progress—including scheduling future events and holding status conferences—would require access to case-specific data early in the case processing cycle. Lacking funds for a major computer upgrade, the only alternative was to purchase a minicomputer. Its purpose was to initiate a case into the data base upon filing. It was designed to provide, at a minimum, daily updating of case filings on the mainframe. Placed with the county clerk, but owned by the court, this machine enabled the court to take immediate control of newly filed cases.

4. Using Consultants

The court's upper-level administrators, although fully knowledgeable about caseload management principles and techniques, had not experienced a change of this magnitude. They felt, moreover, that judges would be less receptive to the ideas and concepts if they were perceived as purely homegrown or "just another crazy staff idea." Staff also acknowledged that its knowledge was not a substitute, but rather a complement, for experience. These factors, plus consultant Barry Mahoney's familiarity with the Third Circuit's caseload picture and the efforts of other jurisdictions, made obvious the benefits of using the talents of outside consultants.

The consultants—Mahoney, Maureen Solomon and Douglas Somerlot—were considered essential in the beginning stages of the process. The court's leaders felt that they would be able most easily to convey to the pilot judges and staff a sense of what was happening nationally, why delay reduction is important, and what key principles of caseload management would be incorporated in the Wayne County system. They could do so, moreover, with greater acceptance from the bench, whose members would be less likely to question their views than if the same views were advanced by staff.

C. MISCELLANEOUS TRANSITION ISSUES

1. *Day Forward and Day Backward*

Much of the effort between April and July of 1986 related to outlining the plan to be used by the Phase I judges for processing cases under the individual calendar system and to developing administrative tools to support the plan. It became apparent early that two plans would be required: one plan to process cases filed after the new minicomputer was installed with new case initiation software; and a second plan to process cases filed prior to installation of the computer system. The second group of cases consisted largely of the cases in each judge's existing inventory under the hybrid calendar.

Phase I began on July 1, 1986, but the new computer system was not operational until January 1, 1987. With specially designed software to aid implementation of the individual calendar, acquisition, development, installation, and testing of the new automated system took longer than anticipated. Consequently, the full individual calendar processing plan only applied to cases filed after January 1, 1987. These cases were referred to as "day forward" cases. All cases filed prior to January 1, 1987, were referred to as "day backward" cases. A different management protocol was developed to handle those cases. (See chapter three for discussion of day backward and day forward procedures.) Each subsequent phase had its own specific date that divided day forward from day backward cases. Since by the second phase the minicomputer-based case initiation system was installed, the day forward versus day backward distinction was between disposing of older pending cases and applying the full individual calendar plan to new cases.

2. Assignment of Cases

The assignment of cases to judges is based on a Michigan court rule that requires random assignments by case type. The purposes of this rule are to prevent judge shopping and to evenly distribute court workload among the judges. As with almost all rules in law, exceptions are required to meet varied circumstances. A few areas that required deviation from the random assignment rule had to be closely analyzed to assess impact on the individual calendar. These areas included reassignment of cases which arise out of the same transaction as an earlier-filed case, reassignment of cases as the result of a judge's disqualification, and judge assignment to the criminal docket or a special docket.

Prior to institution of the individual calendar, Wayne Circuit judges were generally oblivious to the reason certain cases were on their docket. After the changeover to individual calendar, however, each judge became an expert

in the rules of court relating to assignment or reassignment of cases. Consequently, it was important for the chief judge to make sure that all exceptions to the random selection rule occurred under the authority of a specific rule or procedure. This was important in maintaining the judges' belief that the system was credible and fair and that their shares of the workload were equitable. An explanation of how Wayne Circuit dealt with these areas that were exceptions to the random selection rule follows.

a. Reassignment of Cases

Two common situations cause a case initially assigned to one judge to be reassigned to another: a case arising out of the same transaction as a previous case filed in Wayne Circuit and disqualification of a judge from presiding over a case.

i. Cases Arising Out of Same Transaction

Michigan court rules require that whenever a case arises out of the same transaction as another case already pending in that court, the subsequent case must be assigned to the same judge as the first case. Although this should be determined at filing, often it does not arise until later. Prior to Wayne Circuit's individual calendar system few, if any, judges were concerned about the application or non-application of this rule. Once a judge was assigned to the individual calendar, however, he or she made sure that if there was a reason for getting a case off his or her docket, it got off the docket.

Formerly the determination of whether a case arose out of the same transaction as another case could be made by the judge assigned either the first case or the second case. The need for a neutral decision maker became apparent early because of the vested interest of an individual calendar judge in getting a case off his or her docket. Consequently, the chief judge, with concurrence of the bench, adopted a policy that only the chief judge could enter orders reassigning cases. In practice, when application of the rule is obvious, the mere transfer of paperwork between courtrooms accomplishes the required reassignment. If there is a dispute about whether cases arise out of the same transaction, however, the chief judge decides.

A related issue was whether the judge receiving the subsequent case could reciprocate by having a comparable case reassigned to the other judge. After much discussion the chief judge, with concurrence of the bench, adopted a policy that no compensation was available in this circumstance. The theory was that such reassignments would be equitable in the long run. This policy has eliminated the administrative burden of compensatory reassignment of cases and relieved the chief judge of determining whether cases are

comparable. These policies for cases out of the same transaction have worked quite well.

ii. Disqualification

When a judge is disqualified from hearing a case, it must be reassigned. It was decided that the judge receiving a case from a disqualified judge does have the right to return a comparable case. The purposes of this rule were to avoid any incentive for judges to disqualify themselves and to make sure no benefit accrued to a judge disqualifying him or herself. This rule has also worked well.

b. *Criminal Docket*

Special circumstances dictated that the criminal docket not be part of each individual calendar judge's caseload. Wayne Circuit's criminal jurisdiction covers all felony cases that arise in Wayne County outside of Detroit. The Recorder's Court for the city of Detroit handles all the felony criminal cases that arise in Detroit. In order to take best advantage of the expertise, systems, and facilities of that court, on January 1, 1987, the criminal dockets of Wayne Circuit and Recorder's Court were consolidated. Consequently, Wayne Circuit's criminal docket is handled pursuant to a docket consolidation plan, which is separate from the individual calendar plan. Under the plan a group of five circuit judges rotates to the criminal docket at Recorder's Court every three months. This rotation to the criminal docket and the hybrid assignment system there obviated the need to assign criminal cases at filing to individual circuit judges. Thus, although circuit judges must accommodate periodic three month terms on the criminal docket, they deal with criminal cases on a daily basis only during their three-month rotation to Recorder's Court.

c. *Special Dockets*

Under an administrative order from the Michigan Supreme Court, chief judges can create special dockets of cases related in law or fact and assign such dockets to a particular judge or judges. Judges on special dockets hear all matters in the cases on those dockets. Under the authority of this administrative order the chief judge of Wayne Circuit has created a number of special dockets: asbestos docket, DES docket, and a chief judge's docket for certain types of cases (e.g., superintending control, writs of habeas corpus against the Department of Corrections, tax foreclosure cases). Although the purpose of the individual calendar is to assign to each judge a fair distribution of all the court's judicial work, Wayne Circuit still recognizes that exceptions are sometimes warranted. Therefore, the rate of assignment of new cases

may be reduced for special docket judges, and their cases pending at the time of assignment to the docket may be redistributed among the other judges.

3. The Need for Accurate Information on the Existing Caseload

Any court's system for keeping track of its cases, whether manual or automated, has its weaknesses. No system does everything the way it ought to, when it should. This places an increased burden on courts when they seek to begin a major delay reduction effort. The inaccuracies of the pre-existing caseload reporting system make it more difficult to assess the magnitude of the problem, to identify specific case types that may be problems, and to gauge progress made once the effort is under way. It is essential, therefore, that any delay reduction program include an effort in the initial stages to clean up the caseload data maintained in the court's management information system.

The Third Circuit was no exception to this need. As indicated elsewhere in this monograph, the court owns and operates its own substantial data processing system. The system consists of a number of moderate size, mainframe computers linked through a pair of minicomputers which, *in toto*, provide access for at least eighty percent of the court's employees. The caseload segment of the system was developed during the late seventies and early eighties, a time when the fiscal condition of Wayne County and the state was weak. In order to develop a workable and effective system, it was necessary to compromise on certain characteristics of the system. For purposes of caseload information and reporting, this required that portions of the database be maintained on different computers. Because data then had to be transferred between computers, maintaining the integrity of the data base (the accuracy and consistency of the information) was difficult.

In late 1984 and 1985, the court's computer system showed that there were nearly 80,000 pending cases. Administrative staff felt certain this was an overstatement. They believed the true pending caseload was below 65,000 and perhaps under 60,000. It was important that judges and staff alike felt that the task in front of them was "doable," and 65,000 sounded much more "doable" than 80,000.

Staff, therefore, began to clean up the data base. The effort included matching specific elements of the caseload data on one computer with those on the other computer to insure that cases were not being counted twice and that cases disposed of on one system were being shown as closed on the other. It also included a process of identifying certain case types for which the computer indicated a status (pending or closed) inconsistent with logic about the processing of such cases (for instance, certain types of appeals shown as pending well beyond their normal processing life).

The result of this effort, which continued into the early portion of Phase I, was a substantial reduction in the supposed pending caseload. Duplicate cases were removed. Cases which had been disposed of but never removed from the information system were deleted. About 15,000 were removed from the pending caseload in this manner.

4. Coping with a Huge Backlog of Cases Ready for Trial

Years of lax trial adjournment practices had produced an almost overwhelming backlog of cases alleged to be trial-ready. These were cases that already had been through at least one settlement conference, the court's last event before "immediate" trial. In late 1985, the court showed 1,600 cases as post-settlement conference, ready for trial.

The staff and then Chief Judge Dunn agreed that this number would be difficult to deal with psychologically, since a *pro rata* portion was to be distributed to judges on the pilot project team. The staff, as a consequence, developed proposals for disposing of some of these cases prior to final assignment to individual dockets.

Borrowing from a California program, the chief judge implemented *trial acceleration weeks* for cases projected as five-day trials or less, exclusive of voir dire. During these weeks, the entire bench, exclusive of those on the criminal docket, made itself available for civil trials. Motions, normally heard on Fridays, were postponed in order to allocate five full days of trial to those cases. Juries were drawn the preceding week.

Trial acceleration weeks initially were scheduled every six to eight weeks. The first was very successful, with thirty-seven cases tried or settled, as compared to twelve to fifteen in a normal week. The next was less successful than the first. Thereafter, trial acceleration weeks were scheduled quarterly. By the third acceleration week, however, it was clear that judges and attorneys alike had learned how to manipulate this system, too. Some judges seemed never to be able to finish the prior week's case in time to take one during the acceleration week; attorneys found ways to avoid going to trial. There seemed to be a proliferation of sick clients and absent witnesses. Flaws in the system also became apparent. Chiefly, trial time was lost when judges finished cases before Thursday of the prior week, because they then were not assigned new cases due to the impending acceleration week. Taking a week-long break in the middle of a much longer trial also seemed counter-productive and subjected the acceleration weeks to much criticism. Because these problems diminished the success of the program, the remaining weeks scheduled were dropped in early 1985.

The second effort to tackle the trial backlog dealt with a much larger number of cases and had a much higher success rate. This program made

use of a district court judge (James Garber from Plymouth, Michigan) assigned as a circuit judge to conduct one more settlement conference for certain cases. Almost 1,200 non-complex cases with relatively short estimated trial times (generally five days or less) were identified. Other district judges from Wayne County were encouraged by the State Court Administrative Office to volunteer time away from their dockets to try cases that could not be settled by Judge Garber. A special settlement conference was scheduled for each of these cases before Judge Garber who, if unable to settle a case, would schedule a trial at the times offered by the other, volunteer district judges. The program spanned thirteen months and included 800 settlement conferences.⁴ A substantial portion of them settled without trial. In just thirteen months, 1,200 cases that had been considered hard-core, ready-for-trial "dogs" were wiped off the docket. The removal of these cases from the normal docket had enormous psychological value. Also, it conveyed to the bench that the chief judge and staff were willing to undertake an extraordinary effort to make delay reduction work.

CONCLUSION

As this portion of the monograph illustrates, transforming a hybrid calendar system to a nearly pure individual calendar system was a complex task with seemingly insurmountable issues and problems. But the knowledge that the previously existing system was hopelessly bogged down and the resultant feeling among the court's leaders that only the individual calendar offered real opportunity for success, gave them the determination to make the system work. It required a decision to make the transition in phases and to involve the pilot phase judges in the detailed design of the system. The decision proved to be a wise one, as the judges brought varied perspectives and their dedicated concern to the process.

⁴ The other 400 cases were disposed of without the settlement conference.

3

Judicial Management in Court of an Individual Calendar

This section deals with the individual calendar from the viewpoint of the individual judge in his or her courtroom. While the section is primarily intended for judges, other court personnel may find it helpful. It includes a discussion of the basic principles underlying individual calendar management, an explanation of the process of converting a judge's docket to the individual calendar, and a description of the actual operation of an individual calendar.

A. KEY PRINCIPLES FOR EFFECTIVE CASE MANAGEMENT¹

1. Individual Responsibility

Caseflow management is the responsibility of judges, not lawyers. While attorney input is important in selecting deadlines for completion of case events, the final determination must rest with the assigned judge. Only the judges and staff have an overview of the entire caseflow system as well as knowledge of each individual case. Thus, control of caseflow by the court assures that the system will operate most efficiently, delay in individual cases will be avoided, and justice will more likely be achieved.

Judicial management enables the court to make rational distinctions among cases to assure that all cases are resolved in a timely fashion. Complex cases can be identified early and a suitable plan developed for disposing of them. Simple cases, such as a suit on a debt, can be resolved early, without waiting in line behind more complex cases. Based on their experience with large numbers of cases of all types and their familiarity with the individual cases on the docket, judges are able to set schedules which reflect the requirements of each case.

¹ See Friesen, Ernest C., "Cures for Court Congestion," *The Judges Journal* 23 (Winter 1984):4; Solomon, Maureen and Somerlot, Douglas K., *Caseflow Management in the Trial Court: Now and for the Future* (Chicago: American Bar Association, 1987).

2. Early Court Intervention

An early status conference with the judge and attorneys for all parties is essential to court-controlled caseflow. By applying principles of differential management to cases, a judge can set a schedule for the exchange of witness lists, discovery cut-off, mediation, and settlement conference that fits the needs of the case. Judges can also use the early conference to deal with failure to serve defendants, amendment of pleadings, addition of parties, and problems with discovery. Early management by a judge leads to earlier disposition of most cases and frees judicial time for those cases that need further attention or a trial. Having the judge become involved early in the proceedings helps ensure that the attorneys will be on a schedule which requires them to learn about their case and be in a position to resolve it.

3. Continuous Judicial Control

Judicial control must be exercised throughout the life of the case. This means that for every case, there should always be a future event scheduled, and the time between events should be as short as reasonably possible. This principle of "short scheduling" recognizes that people will naturally delay until a case requires their attention. Thus, whenever an event is imminent, a significant percentage of cases gets resolved.

Under short scheduling, if a defendant has not yet been served, the judge will set a deadline no more than one or two weeks in the future for the filing of proof of service or a motion for substituted service. The short time limit will give the attorney a sense of urgency and keep the case on the front burner. If short scheduling is not appropriate in a particular case, intermediate deadlines should be set. If, for instance, the attorneys can justify a year to prepare the case for trial, an early witness list exchange date will assure the attorneys' early attention to the file and prod them to initiate discovery.

Reasonable accommodation should be provided to diligent attorneys. This will encourage them to accept the individual calendar and make it operate properly. In the event of a valid scheduling conflict, the judge should be willing to grant a short adjournment to a date certain. If an attorney asks for extended time because a case turned out to be more complicated than anticipated, the judge should grant an extension as long as the attorneys have not been dilatory.

4. Trial Date Certainty

Judges must create expectations that trials and other events will occur when scheduled. To facilitate trial date certainty, judges should adhere to a strict no continuance or adjournment policy and schedule a limited number of

cases for trial. To this end, every effort should be made to screen the cases that may settle before trial. This court has concluded that trials should not be scheduled until after an unsuccessful settlement conference and only when the attorneys are present with their calendars and agree on a trial date. Another effective screening method is to require attorneys to complete a comprehensive final pretrial order after the last settlement conference. This can filter out cases that will not go to trial, because the joint effort of preparing a pretrial order often precipitates settlement discussions, and many cases settle at this stage rather than when the jury is summoned.

5. Information to Support Case Management

An adequate information system is necessary to properly monitor and manage a caseload. Judges should be provided regularly with a caseload inventory report. Additionally, it must be possible to identify cases that have no scheduled future event so immediate corrective action may be taken.

B. JUDGE AND STAFF PREPARATION FOR INDIVIDUAL CALENDARS

When initial meetings were held to plan implementation and operation of Phase I of the individual calendar, judges were advised of the support they could expect from the staff of the court's central Docket Management Office. This included providing each judge with an initial inventory of his or her caseload. It was agreed that each courtroom team (judge and staff) would audit the inventory to determine what cases were still at issue.

The judge then was responsible for developing and implementing a plan to manage all "day backward" cases that survived the audit. "Day backward" cases were defined as cases pending on the dockets at the beginning of Phase I and all cases filed thereafter until changes in the computer system were implemented to allow automatic scheduling of early status conferences as cases were filed. The special processing plan for day backward cases was to continue for these cases even after the system changes were in effect. Automated scheduling of status conference would apply only to cases filed after January 1, 1987. These cases were called "day forward" cases. Each subsequent phase of the individual calendar has had its own date marking the transition from day backward to day forward cases, i.e., the date after which newly filed cases would be assigned a status conference date by the computer.

Although ultimate responsibility for developing plans to audit the inventory and dispose of day backward cases rested with the judge, there was recognition that staff input was very important. Judges scheduled meetings with their staffs to discuss what they all were learning at joint and separate meetings with the chief judge, court administrator, and central staff and to

participate in development of audit and day backward plans. Roles and responsibilities were established for each member of the courtroom team. Duties were based upon past responsibilities, demonstrated capabilities, and interest. There was a tendency, in most courtrooms, for one staff member, usually the court clerk or secretary/paralegal, to assume primary administrative responsibility for the individual calendar. However, in a few courtrooms, the sheriff or court reporter took the lead.

C. AUDIT PLANS

From the standpoint of the individual courtroom, conversion to the individual calendar began with an audit. A variety of plans emerged. Some judges divided the inventory by case type, such as appeals and drivers license restorations or divorces. Others did an across-the-board audit of all cases on the inventory list beginning with the oldest cases. The monthly inventory report was the primary tool for winnowing inactive cases and providing each judge a realistic assessment of his or her active caseload. This inventory report listed all cases thought to be active after the computer purge and the special backlog reduction programs described above.

The number of cases to be audited was substantial. For each Phase I judge, the initial inventory included between 1,400 and 1,900 cases. Under the court's former hybrid calendar system, cases were randomly and equally assigned by case type to individual judges when they were first filed. Consequently, no reassignment of cases was necessary to start the individual calendar. Each judge already had a proportionate share of the total caseload.

The audit process consisted of a thorough comparison among overlapping record systems. During the audit, the status of the case as shown on the computer-generated inventory list was checked against the case status shown in any case control cards that might still be maintained by the courtroom clerk and against computer docket entries and court files (to determine whether orders had been signed but not entered into the computer). In some cases attorneys were telephoned to determine case status. In some cases only one of these steps was used; however, in many other cases, multiple steps were necessary.

In most courtrooms, the audit procedure was performed by the clerk, the secretary/paralegal, or the law clerk. However, in some, the sheriff and the court reporter were extensively involved. Some judges became very involved in the audit procedure, monitoring its progress and giving direction as to appropriate measures in particular cases. Other judges had minimal involvement and left the audit to the staff.

An unexpected problem arose in ordering court files. In Michigan, the County Clerk is the custodian of the case files. Early in the process,

limitations as to the number of files that could be requested per week per judge were established by the County Clerk. This required the judges and staffs to develop alternate audit procedures.

After the case status was determined, appropriate orders were entered, dismissing the case, scheduling events, or lifting stays, for example. In active cases notices were sent to the attorneys scheduling a status conference if necessary or allowing them to sign an order dismissing the case if it was already resolved. Although the exact percentage of cases removed from dockets by the audit is not known, at least twenty percent were removed as a result of this process.

Completion of the audit took some Phase I judges as long as eighteen months. In subsequent phases of the conversion to the individual calendar, the amount of time necessary to audit the cases has been reduced substantially, because there are fewer cases to audit and each new group has the benefit of the experience of the prior groups. Judges in the latter phases of the conversion typically are starting their individual calendars with a docket of around 1,000 cases. This is possible because, from the inception of the individual calendar, central staff have been conducting their own audits, removing closed cases not recorded on the court's computers and dismissing cases for lack of progress. With each new phase, the inventory lists are more likely to be correct.

D. DIFFERENTIAL MANAGEMENT OF GENERAL CIVIL NON-DOMESTIC RELATIONS CASES

Differential case management in Wayne County Circuit is the process of setting time limits according to the needs of each individual case. Timetables vary according to the number of parties, type of case, extent of injuries or damages, difficulties in identifying or serving all proper parties, unavailability of parties, extensive discovery of documents, number of experts, and time standards. For example, a case with ten plaintiffs will probably take more time for discovery than a case with one plaintiff. Medical malpractice and products liability cases usually require more discovery than automobile accident or slip-and-fall cases. A case involving a plaintiff with a lower back injury may take longer, due to the need to determine whether there is a ruptured disc, than a case in which the plaintiff has suffered a broken finger. The American Bar Association time standards for civil cases, which this court uses as a guideline, require that from the filing of the complaint, ninety percent of cases be disposed in twelve months, ninety-eight percent be disposed in eighteen months, and one hundred percent be disposed in twenty-four months.

1. Management of Day Backward Cases

As explained above, day backward cases were handled under a plan developed by each judge after input and consultation with staff. Among the judges, three different plans were used separately or in combination. The first plan called for sending out scheduling orders to shorten or reconfirm the existing time limits already established by local court rule for all existing cases. The status order typically set dates for witness list exchange, discovery cut-off, mediation month, and a settlement conference. Some orders also provided for summary disposition cut-off dates. This approach required the additional work for the judge's staff of preparing an order for every case and of entering information in the computer. It involved less judge time because dates were established without formal conferences with the attorneys. The order generally did not set a trial date because it was not known whether the case would require a trial.

The second plan involved scheduling a conference with the attorneys for the purpose of entering a status order setting time limits for the events mentioned above. For the same reason as above, no trial date was set. The purpose of this plan was to obtain attorney input concerning the time needed to complete the activities set forth in the order. This created additional work for the staff, who had to prepare and maintain a calendar for the conferences and for the judges, who conducted them. Some judges scheduled as many as forty conferences a week, some as few as eight. The status conference normally took five to ten minutes and was limited to scheduling the required events and discussing any complications such as amending pleadings, adding parties, or handling discovery difficulties. Some judges routinely discussed settlement, others only on rare occasions when both sides indicated an interest in settlement.

The third plan was to unilaterally expedite scheduling of mediation and settlement conference for some or all cases. This was done by providing a list of cases to the mediation clerk, who notified the attorneys of the date. This plan assumed that attorneys would file motions for adjournment of mediation and a settlement conference if they believed the case did not have sufficient discovery. Likewise, the judges that selected this plan remained flexible to permit further discovery or re-mediation if they believed that it was necessary due to the complexity of the case. This plan had the advantage of requiring less work by the staff because it did not involve conference orders or notices. Shortening the time limits on cases and expediting mediation seemed to facilitate settlement more readily than the other two methods, because in many cases discovery had been completed and the parties were simply waiting for mediation. However, arguably, changing time limits without attorney input may be somewhat unfair to the parties.

2. Management of Day Forward Cases

It was the consensus of the judges that an effective case management system required an early status conference for every case, to insure that the case was under the control of the court and that attorneys would move the case to disposition. The mechanism for achieving these objectives was a scheduling order, prepared at the status conference, setting deadlines for witness list exchange, discovery cut-off, a mediation month, and a settlement conference date.

Initially, the judges did not agree on when the status conference should be held. As a result, two plans differing only as to the timing of this status conference were tested in Phases I and II. One line of thought was that all cases should be scheduled for an early status conference, even if a defendant had not been served, to encourage the plaintiff to complete service. Under this plan, status conferences were scheduled 119 days after the filing of the complaint. For those cases in which service had not occurred, the plaintiff was given a deadline at the conference after which the case would be dismissed. A date for another status conference was scheduled at this time, and the plaintiff was made responsible for giving notice to the defendant(s).

Under the alternate plan the status conference was scheduled forty days after the defendant answered, and no later than 245 days after the filing of the complaint if a defendant had not answered. The rationale for the alternate plan was that time would be wasted on a status conference if not all parties had been served.

After experimenting for more than two years, the judges voted to use one system in which the initial status conference in all cases, except domestic relations, is scheduled ninety-one days after the filing of a complaint. This conference permits the judge to exercise control early and set deadlines for events to comply with the American Bar Association time standards. In addition, judges can set deadlines for service of process when it has not occurred. Notwithstanding the fact that Michigan court rules allow 180 days for service, experience has shown that complaints have been served in ninety-two percent of the cases that survive to this ninety-first day. If plaintiff has obtained service over a defendant and the defendant has not timely answered, time limits are set for taking the default and/or default judgment. If the time limits are not met the case will be dismissed.

All judges conduct status conferences on Fridays, usually beginning at 11:30 a.m. However, each judge can set his or her own time. Conferences are held on Fridays as a convenience to the attorneys and to avoid scheduling conflicts. There are from five to twenty conferences set each Friday, which typically take from three to fifteen minutes depending upon the person conducting the conference and the complexity of the case. Attorneys for the

parties attend the status conference unless a party is not represented by counsel.

Conferences generally are conducted by the judge. However, some judges have conferences conducted by their secretary/paralegal, court clerk, or law clerk. Some judges conduct the conference by teleconferencing or even by mail. They send out conference order forms which the attorneys fill out (after consulting with each other) and return to the court before the status conference date. The forms require the attorneys to provide information about the case and suggest a mediation month. If the dates are acceptable to the judge, the attorneys are so notified, a scheduling order is prepared, and copies are mailed to the attorneys.

Differential case management is observed by providing four different "tracks" on the scheduling order form. Dates in the first three tracks are preprinted on the form by computer according to the formula shown here:

TABLE 3
Differential Case Management Tracks

	TRACK 1	TRACK 2	TRACK 3
	Date of filing(F)		
WITNESS LIST EXCHANGE	F + 175 days	F + 252 days	F + 343 days
DISCOVERY	F + 224 days	F + 315 days	F + 406 days
MEDIATION MONTH	F + 9 mos.	F + 12 mos.	F + 15 mos.
SETTLEMENT CONFERENCE	Med. Date + 42 days	Med. Date + 42 days	Med. Date + 42 days

The spaces for dates on the fourth track are left blank. This permits the judge and/or attorneys to select time limits if tracks one, two, or three do not meet the needs of that case.

In selecting the appropriate track, the judge generally solicits the advice of the attorneys but makes the final determination. Attorneys are required to sign the scheduling order and are given a copy. This insures attorneys cannot claim they did not receive notice of the time limits. Judges who use the mail-in procedure have a signature line on the mail-in form.

In addition to setting event deadlines at the status conference, the judge reviews other aspects of the case. If it is determined that the lawsuit arises out of a prior action involving the same parties or same transaction or occurrence, the case is reassigned to the judge to whom the earlier action was

assigned. Amendment of pleadings, addition of parties, and discovery problems also may be addressed at the status conferences or on the mail-in forms. Finally, settlement may be discussed at the status conference. It is unusual for parties to want to discuss settlement at such an early stage, and time constraints often preclude extensive settlement discussion. However, occasionally, a case may be settled at the status conference. Even without settlement discussions with the judge, approximately twenty-five percent of the cases set for status conference are resolved before or at the conference, through settlement reached by the parties themselves, entry of default judgment, or dismissal for failure to appear at the conference.

After the status conference, the judge provides the original and one copy of the status order to the court clerk. The clerk records the order in the court's computer system and sends the original to the clerk's office for filing in the court file. A copy is sent to the Central Docket Management Office for the scheduling of specific mediation and settlement conference dates and for noticing.

3. Mediation

The mediation procedure is established by court rule. Mediation is a short summary hearing before three attorneys who will set a settlement value on the case. Every civil case (not including domestic relations or appeals) must be mediated unless it is an equitable action. The attorneys for each party prepare a summary of their case, which is submitted to a panel made up of a plaintiff's attorney, a defense attorney, and a neutral who does both plaintiff and defense work or who may be a retired judge. Attorneys present their positions and evaluations of the case to the panel, and then the panel places a settlement value on the case. Each party has twenty-eight days to accept or reject the mediation. If all sides accept, the case is resolved at that figure, but if either the plaintiff or defendant rejects, then whichever party ultimately does better than the mediation evaluation figure by ten percent, taking into account costs and interest from the date of mediation, is entitled to an award of costs and attorney fees from the mediation to the conclusion of the trial. Under this rule, a party who accepts mediation is not subject to mediation sanctions.

4. Settlement Conference

Settlement conferences are held on Monday through Thursday at 8:15 a.m. or 9:00 a.m., depending on the judge's preference. They are held forty-two days after mediation to allow twenty-eight days for parties to accept or reject the mediation award and an additional fourteen days for the mediation tribunal to prepare and deliver to the judge appropriate documents:

a dispositional order dismissing the case if all parties accepted mediation or an order removing the case to a lower court if the case was mediated for less than the jurisdictional limit. The fourteen day period also gives the attorneys time to discuss settlement with their clients after the mediation responses are known. However, the settlement conference is sufficiently close to the mediation that the case is fresh in the attorney's mind, and settlement can be discussed thoroughly.

In general, a settlement conference takes five to thirty minutes, although some last longer and some cases require multiple conferences. Trial attorneys, parties, lienholders, insurance representatives, or other persons with authority to make a final decision as to settlement are required to appear at the settlement conference. It is expected that those who attend the conference will have complete authority to settle the case without making phone calls.

At the settlement conference many judges require parties to fill out a form listing the attorneys' names, the case name and the case number, the mediation figure, the plaintiff's demand and defendant's offer. A conference is then held with all attorneys to discuss the parties' claims regarding the case. Generally, the judge meets with the attorneys separately to ascertain the least amount the plaintiff will take and the greatest amount the defendant will pay. The judge may talk to the parties, lienholders, insurance representatives or other persons with authority and attempt to get them to modify their positions to bring the parties closer to settlement. He or she often uses a mediation figure as a basis for recommending a settlement. However, in a significant number of cases, the ultimate settlement is a fraction or multiple of the mediation evaluation. When a party has rejected the mediation figure, the judge also may discuss the possibility of mediation sanctions. If the case is settled, the settlement may be placed upon the record. If the case does not result in settlement, most judges require the parties to prepare a final pretrial order and set a due date for that order.

In cases that are to be bench-tried, the court may not see the mediation evaluation, plaintiff's demand, or defendant's offer until there is a stipulation that the judge can engage in settlement conference. If there is no stipulation, the case is reassigned to another judge for settlement conference.

5. Final Pretrial Order

The method of scheduling trials is a decision for the judge. Under the court's present practice, no trials are scheduled until at least one settlement conference is conducted to insure the case cannot be settled and that trial is necessary. Most judges also require the preparation of a final pretrial order to encourage settlement, to further define the issues for trial, and to reduce

the length of trial. Some judges only require orders in complicated cases, and others do not require them at all.

The final pretrial order generally includes, but is not limited to, the plaintiff's claim, defendant's defenses, stipulated facts, issues of fact to be litigated, issues of law, evidence problems, witness list, exhibit list, itemized statement of damages, length of proofs and procedures for marking exhibits, use of depositions, filing proposed voir dire, filing proposed jury instructions and/or findings of fact, a statement as to whether the parties will agree to alternate dispute resolution, and blank spaces for a trial date.

Generally, attorneys are given two to four weeks to prepare a final pretrial order. On Monday through Thursday at 8:15 a.m., attorneys appear and present the proposed final pretrial order to the judge; it is reviewed by the judge, and the final pretrial order is signed by the attorneys and the judge and copies are provided to the attorneys. At this time a trial date is selected.

6. Scheduling Trials

Scheduling trials may be the most difficult task facing an individual calendar judge because of uncertainty whether the case will settle at some point or proceed to a verdict. Moreover, it can be difficult to estimate the length of a trial. This determination must be made by the judge and attorneys based upon the type of case, past experience in trying similar cases, the number of witnesses and exhibits, the attorneys involved, and whether it is a bench or jury trial.

Trial dates are not set until after an unsuccessful settlement conference. Thus, only those cases most likely to require a trial are actually set. This limits the number of cases scheduled for trial and provides a judge with a more accurate schedule. This also diminishes the possibility of attorney trial conflicts.

Trial dates should not be scheduled more than three months beyond the date of setting, because the pressure of an imminent trial encourages settlement. In Wayne County it is not always possible to comply with this rule. For example, periodically judges serve three months on the criminal docket and must take this into account when scheduling trials. Likewise, it was anticipated that approximately nine to twelve months after the commencement of day forward scheduling the individual calendar courtrooms would experience a surge in the number of cases ready for trial. Day backward and day forward cases would be ready for trial at the same time, as the time between case filing and settlement conference steadily decreased from thirty to thirty-six months (in the old cases left from the hybrid calendar) to nine to fourteen months for day forward scheduling. Day forward cases would be set for settlement conference at the same time the

judge was working to dispose of day backward cases. It was felt that an increase in the trial docket was an unavoidable consequence of the conversion, because it was important to begin the application of differential case management principles to day forward cases as soon as possible and to place these cases under scheduling orders that reflected the actual time periods needed to prepare the case for trial. As it turned out, many of the judges did not experience an increase in their trial dockets, because they had so effectively managed their day backward cases during the first year. These judges generally put in a lot of hours and were very effective at settling.

Some judges did experience an increase in their trial dockets. When this occurred, most of the judges were able to shorten the time to trial on their docket by scheduling the minimum amount of time for a trial and by overscheduling when it appeared likely that one or more cases might settle. As the number of cases on the docket was reduced, the number of cases that had to be set for trial also was reduced.

In one instance, a judge was setting trials without holding settlement conferences, which resulted in large numbers of trials set beyond the desired three month limit. The judge was advised to set trials only after a settlement conference. The judge complied, and the length of time to trial was reduced.

The judges have developed different plans for scheduling trials. Some judges schedule for a date certain, blocking out no more than two weeks at a time for a particular trial. Some schedule several trials for the same date. Another plan that has been developed is to give the attorneys a week certain. The attorneys are expected to be ready any time during that week. If trial cannot be commenced during that time, the court will grant an adjournment.

A variation has been to schedule some cases for a certain date and carry a limited number of cases on a trailing docket. A case usually is added to the trailing docket when it cannot be tried on the assigned trial date. The trailing docket cases are used to fill the court's schedule when the date certain cases settle or are tried more quickly than anticipated and there is open trial time on the schedule. The obvious benefit is that it fills the open dates on the judge's trial schedule. The problem with using a trailing docket, however, is that a case cannot be kept on the trailing docket indefinitely. It is unfair to the lawyers and parties who must be ready to go on relatively short notice, and it contributes to scheduling conflicts for attorneys.

A major problem this court faces in scheduling trials is that the trial bar is relatively small, which makes it necessary to insure that when a trial is scheduled it takes place. When a trial is scheduled and it does not occur, the attorney could have been elsewhere trying another case. To insure certainty of trial, and to eliminate possible conflicts for attorneys, the court adopted an administrative order which requires that judges set a trial date

only when the trial attorneys are present and only after an unsuccessful settlement conference.

This rule was not put into effect, however, until Phase III of the project. Prior to that time, judges were free to set a settlement conference/trial date requiring that the parties be ready to try the case that day if settlement efforts proved unsuccessful. Most judges instructed the attorneys not to have witnesses present but to have them on call. The advantage of this approach is that it pressures the parties to settle, because the alternative is an immediate trial. As many as five cases were set for trial per day because a high percentage of cases would settle.

In some courtrooms, few cases were adjourned because the judge was unable to try the case. In others, trial dates frequently were adjourned to a future date. In the latter case, the judge lost the advantage of the settlement conference/trial system because attorneys soon learned they were not facing immediate trial. Once the court reached Phase III of the individual calendar plan, the chief judge concluded that in order to assure maximum certainty of trial, combined settlement conference/trial dates should be eliminated and trials should be set only after the settlement conference. A small court might conclude that the advantages of the settlement conference/trial date system outweigh the disadvantages. The important factor is the relative certainty of trial.

7. Motion Practice

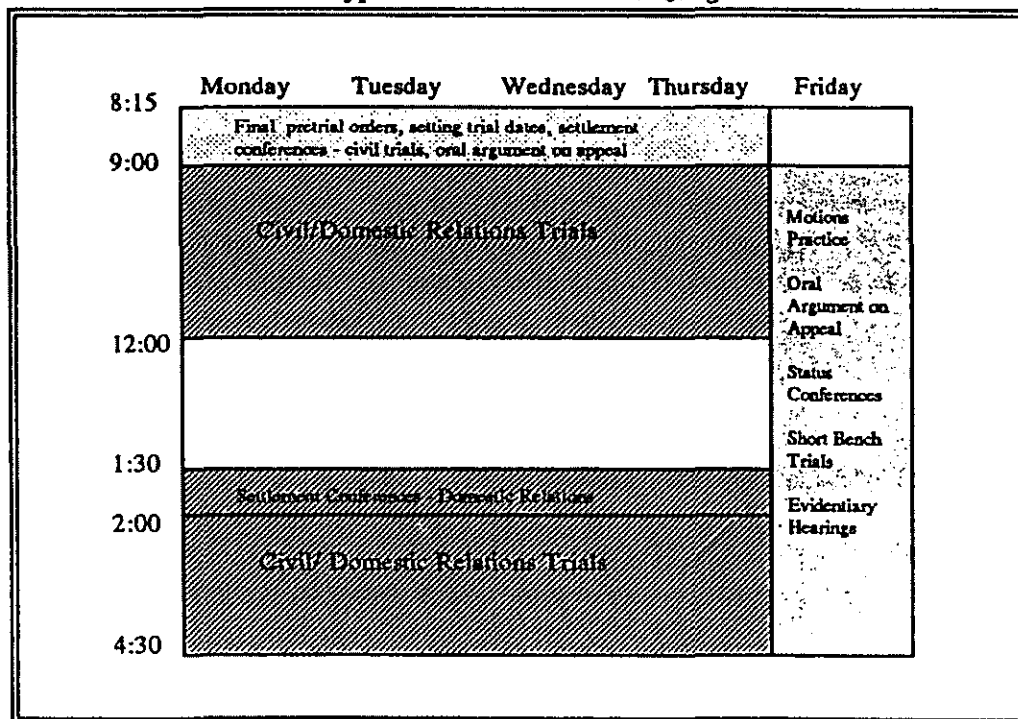
Motion practice is handled every Friday morning at 9:00 a.m. All motions, from discovery to summary disposition, are heard at this time. Since judges on the individual calendar have reduced their docket by as much as two-thirds, there has been a corresponding reduction in the number of motions. Before the individual calendar, it was typical for a judge to have anywhere from twenty to fifty motions scheduled for a Friday and to hear anywhere from fifteen to thirty motions. The individual calendar has reduced the number of motions scheduled to between ten to twenty per week and the number heard to between five and fifteen.

8. Domestic Relations Cases

Domestic relations cases are set for settlement conference and trial Monday through Thursday at 8:15 a.m., 2:00 p.m., or some other time designated by the judge. The time is the same each day for any given judge. Divorces without children are scheduled eighty-four days after the filing of the complaint. Divorces with children are scheduled 182 days after the filing of the complaint. The attorneys and the parties are required to attend the settlement conference, and if the case does not result in a settlement, it is

tried if the judge is available. If the judge has another matter in progress, the trial is rescheduled to a date certain. Typically, settlement conferences in domestic relations cases take three to thirty minutes. In more complicated cases involving substantial property or child custody, the conference may take longer. Since all divorce cases are bench trials in Michigan, a waiver is obtained from the attorneys to permit the judge to participate in the settlement conference. If no waiver is obtained, the case is reassigned to another judge only for a settlement conference.

FIGURE 3
A Typical Week's Schedule for Judges



9. Appeals

Every month a member of the judge's staff reviews the list of pending cases to determine if the judge has been assigned any new appeals. If there is a new appeal, the staff member examines the court file to determine (1) if it is an appeal from district court or probate court, and whether the transcript or reporter's or recorder's certificate has been timely filed; or (2) if it is an appeal from an administrative agency, whether there is proof that a copy of the claim of appeal has been served upon the board of review and the interested parties in the administrative proceeding. If a required step in the appeal process has not been complied with, the judge issues an order

requiring the appellant to show cause why the appeal should not be dismissed. If the time for filing the transcript has not elapsed, a schedule is prepared showing when the transcript is due. If the transcript is not timely filed, the judge issues an order to show cause why the court reporter and/or administrative agency should not be held in contempt for failing to timely file a transcript.

When the transcript and lower court record are filed, a member of the judge's staff sends a letter to each counsel scheduling dates for the filing of briefs. These dates are recorded. When a brief is due, a staff member checks to see whether it has been filed. If appellant does not timely comply with the briefing schedule, the judge issues an order to show cause why the appeal should not be dismissed. If the appellee does not comply with the briefing schedule, the appeal is submitted to the judge for decision.

After both sides have filed their briefs, or after the appellant has filed a brief and the appellee's time for filing a brief has expired, the parties are notified by mail, or telephone and mail, of the date scheduled for oral argument if oral argument has been requested. If neither party has requested oral argument, the appeal is submitted to the judge for a decision. Oral argument is generally scheduled Monday through Thursday at 8:15 a.m., or on Friday during the motion call at 9:00 a.m., or after the motion call at 2:00 p.m.

E. MANAGEMENT INFORMATION

As part of the transition to individual calendars, the staff of the Docket Management Unit developed reports to assist judges in managing their dockets. These extremely useful reports are described in chapter five.

F. DOCKET REVIEW COMMITTEE

The Docket Review Committee was appointed by the chief judge and granted authority approved by the bench. It establishes goals for each phase of the individual calendar. The goals set a date for reducing each judge's docket to no more than a certain number of civil (non-domestic relations) cases older than two years, divorces older than one year, appeals older than five months and extraordinary writs older than three months. The Docket Review Committee reviews the statistical reports of the various dockets to identify dockets failing to meet the goals. If there are dockets which significantly depart from the goals, the committee attempts to assist the judge and staff in developing plans and procedures for meeting the goals.

CONCLUSION

Each judge under the individual calendar system exercises early and continuous control over the progress of the assigned cases. The judge's expertise can be applied throughout the duration of the case rather than simply at the trial. It is a demanding job but one from which a judge can achieve an intense sense of accomplishment.

4

Organization of Administrative Support for the Individual Calendar

A. OVERVIEW

When a court undertakes a project of this magnitude, it is unrealistic to expect that the new systems will fit into the old organizational structure. One can almost assume that the structure will need to be refitted to the new set of goals or purposes; some functions will be trimmed, others expanded, and new responsibilities created. In Wayne County, the old system, which had perpetuated the division between court management functions and courtroom operations, had to yield to a new purpose—heightened judicial responsibility and control over cases and caseload. This chapter will give an overview of Wayne County's reorientation and describe the new organizational roles and relationships that support the individual calendar system.

The Wayne County Circuit Court's organizational structure under the hybrid calendar system was highly centralized. The central assignment office performed all of the scheduling and noticing functions for general civil and divorce cases with the exception of the judges' motions calendars, which were maintained by the courtroom clerks. The staff in the central office understood the hybrid calendar system but lacked a detailed knowledge of courtroom operations. Conversely, with the exception of courtroom clerks, the courtroom staffs had virtually no knowledge of calendaring systems or caseload management in general. In short, the court's personnel were highly specialized and compartmentalized.

Under the individual calendar system the locus of case management responsibility was shifted to the individual judge and the courtroom staff. Roles and responsibilities of the Central Docket Management Unit (of which the assignment office was a part) changed as did the specific nature of its services. Its primary responsibility dispersed, one might expect that no major role would remain for the central docket management staff in an individual calendar system, but in fact central staff support has actually proven to be a key to the success of the new system. Even in an individual calendar system, some tasks are better handled centrally. For instance, when a high degree of uniformity among courtrooms is necessary (statistical reporting and scheduling status conferences), or when high volume data processing is involved (date assignment and noticing), the central staff can work more efficiently than

courtroom teams. The duties of the central staff had only to be reoriented to meet the new support needs of judges and their staffs. To facilitate this change, the court created "individual calendar clerks," who were recruited and trained to provide such support.

With the conversion to individual calendar, the docket management unit has become less a self-enclosed and specialized operation and more a "hub," a bursar of management information, training, and other management support services. The court's information system is now tailored to the needs of the individual courtrooms, supplying accurate case information, monthly and quarterly reports on system performance, and progress reports on individual courtroom performance. This vital information helps to link individual courtroom activities with systemwide goals and standards. Furnished with both the micro and macro views of cases and caseflow, individual courtrooms can better monitor their own progress and comprehend that their activities are directed toward achieving system goals.

The individual calendar system by nature has a strong accountability component. Thus, while overall the system stresses teamwork, judges and staff are accountable for the progress of assigned cases and central staff are accountable for timely data entry and noticing.

B. SPECIFIC RESPONSIBILITIES

The following gives a more detailed view of the new division of responsibilities. It lists the major responsibilities of each player and describes the paths of communication among the parts of the system.

1. The Executive Component

The chief judge and court administrator of Wayne County Circuit Court work as leaders of the court in a dynamic partnership. Judicial and administrative work is not divided (as it once was) into two distinct provinces, wherein judges lead the court and administrators relieve the judges of their administrative "chores." As the courts have become more complex and the goals of justice have become more bound up with the work of administration, the roles of the two court leaders have begun to overlap. Thus team leadership by the chief judge and court administrator—also known as the *executive component*—is now the preferred leadership model. The Wayne County Circuit Court has clearly reaped the fruits of this team-oriented approach to court leadership.

2. Chief Judge

Michigan court rules confer considerable authority for supervision on the chief judge. This enables the chief to manage the day-to-day operations of the court without referring every decision to the bench. Throughout the planning and implementation of the individual calendar, the leadership and commitment of the chief judge has been critical.

Additionally, the chief judge is assigned a limited calendar consisting mainly of no-progress dismissals, legal aid divorce cases, all superintending control cases, and various writs. The chief judge also presides over reassignment of cases from one judge to another when cases arise out of the same transaction or when judges disqualify themselves.

3. Court Administrator

The role of the court administrator is to oversee all administrative activities of the court, to insure that it operates efficiently and that resources are allocated effectively. With regard to the individual calendar, the court administrator provides general direction and defines basic objectives to other administrative and management staffs. Like the chief judge, the court administrator provides leadership and communicates the court's goals and objectives.

4. Deputy Administrator for Trial Services

The Trial Services Division of the court provides the majority of services necessary for courtrooms to manage caseflow, i.e., mediation services, jurors, court reporters and transcripts, individual calendar planning, training, and support for day-to-day operation of the caseflow management system.

The deputy court administrator, under the direction of the chief judge and court administrator, assists in policy and system development and ensures that the judges and court staff are provided with the resources (including staff and training) necessary to process cases. In this role, the deputy court administrator, working closely with the director of docket management, the County Clerk's Office, and other managers within Trial Services, develops the operational systems that make it possible for a court the size of Wayne Circuit to operate. It is here that automated scheduling and case processing routines are developed and management and statistical reporting systems are designed.

While the chief judge and court administrator receive recommendations about possible new policies and systems, the deputy court administrator and the department managers within Trial Services are responsible for the courtwide implementation of established policies, procedures, and systems.

A high degree of technical expertise as well as an ability to work effectively with other departments is required at this level.

5. Director of Docket Management

The case management systems in the Wayne Circuit Court require substantial coordination, since they comprise many varied operations within several departments: caseflow management, automated data processing, technical assistance, and statistical reporting. The Docket Management Unit is the "hub of the wheel," providing technical support to judges and their staffs in the areas of training, data entry, scheduling and noticing of hearings, monitoring dockets, processing problem cases, and updating attorney and party records.

The director of docket management (Sally Mamo) oversees the caseflow systems on an organization-wide basis. She is responsible for insuring that all hearings are scheduled and noticed according to the selected track on the Case Scheduling Order, that computer records for all cases contain correct information, and that accurate statistical reports are prepared on time.

Annually, the office prepares a booklet entitled *Docket Assignments*. This publication provides information concerning all of the judges' docket assignments, special motion days, holidays, alternate and emergency judge assignments, weekend and holiday arraignments, judgment debtor examinations, and various other information useful to judges and staff. The publication is distributed to other staffs and court-related agencies, such as the county clerk and prosecutor, so that they can coordinate their schedules and arrange their staffs accordingly.

The docket management office also updates and distributes the individual calendar procedures manual, which describes each type of conference held by the judges, lists the required paperwork with sample forms, outlines work routines, and provides instructions for record keeping and automated data entry procedures. This procedures manual is a key training and reference tool.

6. Individual Calendar (IC) Clerks

There are five individual calendar clerks in the docket management unit. Each clerk performs scheduling and noticing for seven courtrooms and participates in training and other technical support. Other clerks in the office provide overall support functions for the bench as a whole, i.e., batch processing of no-progress and administrative dismissals, described below, and updating of party and attorney records on the computer to assist in notice preparation.

The IC clerks are the linking pin between the central staff and the courtroom, and are usually in constant communication with their judges' staffs. They monitor the caseload in each individual calendar courtroom, identify problems, and arrange technical assistance as necessary. By reviewing case updates and case histories, the IC clerks can detect data entry errors that can affect scheduling, noticing, and permanent court records. In sum, the IC clerks offer a great deal of support and assistance to the courtrooms in the day-to-day management of their caseloads.

Approximately one week in advance of scheduled status conferences, the IC clerk prints a Status Conference Scheduling Order (see Appendix C) for each case scheduled for status conference during the next week. The information printed on this form includes:

- the case number and case type designation.
- each party's name, "connection" code (PL or DF) and status.
- the date of service (S) or answer (A) for each party. If there has been no service, "NO SERV" will appear next to the party who has not been served.
- the name of each party and his attorney's name, bar number and telephone number.
- proposed dates for key events (i.e., witness list exchange date, discovery cut-off date, mediation month, and settlement conference date) for Tracks 1, 2, and 3.

At the conclusion of the status conference, the courtroom staff makes a computer entry indicating that the conference was held and the scheduling order completed. Copies of the scheduling order are given to each attorney (or party if in *pro per*), and copies are sent to the docket management unit and to the records room for placement in the court file. Docket management staff schedules mediation hearings and settlement conferences (as the order directs) and enters all dates into the computer record, thus creating schedules and docket histories. If a judge schedules additional conferences, the IC clerk will also enter these into the computer.

To schedule events for general civil cases the individual calendar clerk reviews status conference scheduling orders, selects event dates in accordance with the track selected for the case (taking into account planned judicial absences), monitors the number of cases set to avoid over- or under-scheduling, and enters dates into the computer records.

As the mediation and settlement conference dates approach, the IC clerk prints a calendar and audits it for accuracy. Case status, attorney, and party information is checked. Any missing data is added and incorrect data is

modified. Notices are then prepared and sent to each attorney of record. Copies of the notices are retained in the office, and a copy is sent to the courtrooms for their use. Eventually they are sent to the records room to be placed in the court file.

If a case is settled at mediation, or mediated at under \$10,000 and the recommendation rejected (in which case the court does not have jurisdiction), the Mediation Tribunal staff prepares the appropriate orders and submits them directly to the judge for entry. If the case is not settled at mediation, the case proceeds to settlement conference before the assigned judge approximately forty-two days after the mediation hearing.

On the date of the settlement conference, the courtroom staff is responsible for entering the results of the hearing into the computerized case history and updating case status, (i.e., if a case is disposed at the settlement conference and a disposition entered, the case will be placed in closed or final status in the computer).

7. Trial Judges

Individual calendar judges are responsible for the overall management of assigned cases from the time of case initiation through trial or other disposition. Another judge hears the matter only if the assigned judge is absent or when lawyers request that a different judge preside at the settlement conference. In these instances, the judge's assigned alternate hears the case. Alternate pairings are established by the chief judge on the basis of courtroom proximity, generally with the approval of the affected judges.

The judge is also a leader and pacesetter to the staff, apportioning among them the work of running the individual calendar courtroom. While some judges are more actively involved in case scheduling and caseload management than others, the judge always makes the final decisions as to numbers and types of matters to be set for hearing or trial.

8. Individual Calendar Judge's Courtroom Staff

Not surprisingly, the conversion to an individual calendar placed a greater administrative burden on the judge's courtroom staff. While before the conversion, they handled only pretrial motions, final settlement negotiations, voir dire and post-judgment paperwork, now, under the individual calendar, they are accountable for the management of each case from assignment to trial.

In addition to their former responsibilities, they must now process all adjournments of status or settlement conferences and renote those conferences as necessary, maintain the inventory of cases, and audit the monthly inventory report to ensure that all cases and motions are on schedule

(contacting litigants when necessary). They also schedule motion hearings and enter data on the results of all motions and orders other than scheduling orders. Because trial dates are scheduled by the judge only after the last settlement conference, the scheduling of trials has become a courtroom staff responsibility. The courtroom staff prepares the judge's trial calendar, produces trial notices, and enters all trial results in the computer.

Not only has the courtroom staff (which consists of the courtroom clerk—employed by the County Clerk's Office; the sheriff's deputy—employed by the County Sheriff; the court reporter; a secretary; and one or two part-time law clerks) deftly assumed this added administrative burden, but during the first two transitional years, when the court was trying to reduce its backlog, they also handled a much heavier volume of cases—all without adding personnel.

What allowed the courtroom staffs to handle the higher volume of paperwork, contacts with lawyers, telephone inquiries, and computer entries was, quite simply, a team effort. As the administrative workload of the individual courtroom expanded, all members of the judge's staff were encouraged to take broad case management responsibilities. While under the hybrid calendar system the staff roles were narrow and segmented, under the individual calendar, roles have melded and, in some cases, even reversed. Before, the court clerk alone was responsible for date entry, scheduling of motions, etc. Now, secretaries, law clerks, and even sheriff's deputies and court reporters are actually managing dockets. Effectively, the team approach pulled in and utilized the untapped capacities of the *entire* courtroom staff.

The theory that "involvement promotes productivity" is in practice in Wayne County. With their expanded involvement, employees have received more special training, and people who previously played very limited roles are now becoming active case managers. Many are proving to be invaluable resources to the court.

9. Office of the County Clerk

The county clerk, an elected official of the executive branch of county government, is the keeper of records for the Wayne Circuit Court. Employees of the clerk staff the courtrooms (courtroom clerks), initiate the automated case record for new cases, enter data from all pleadings, and maintain the paper file of each case. These activities involve approximately 120 people organized as "county clerk services." Although the County Clerk's Office is a separate entity, a strong, positive working relationship between court and County Clerk personnel has facilitated individual calendar implementation and operation.

10. Docket Review Committee

Early in the planning stage, members of the bar expressed concern that courtrooms might not be equally productive under the individual calendar system and that cases could be delayed depending on their courtroom assignment. Further, some judges less skilled at settling cases might have trouble maintaining a current trial calendar. Also, staff problems, e.g., absence or incomplete training, might affect the condition of a courtroom's docket. Accordingly, a method of objectively assessing the problems and recommending remedial action was built into the system.

As a check on idiosyncratic styles and standards, the attorneys on the Bench/Bar Delay Reduction Committee proposed a Docket Review Committee, a group of sitting circuit court judges (the current committee now consists of five) who would periodically review the status of the dockets of all individual calendar judges and recommend remedial action for judges whose dockets were delayed. The bench endorsed and implemented the concept in 1987.

The express purpose of the committee is to uphold uniform, objective case processing standards among all the judges on the court. Hence, it sets goals for such things as the acceptable number and age of pending cases. If a judge appears to be falling short of the established goals, the committee investigates, meets with the judge, and provides assistance according to the following protocols:

- 1) The central staff in the Docket Management Unit prepares and distributes monthly statistics and time standards reports to each individual judge and sends a complete set for all judges to the Docket Review Committee members.
- 2) Both judges and the central staff review monthly statistics and isolate possible problem areas, primarily by comparing the judges' inventory of pending cases to the prescribed goals for case processing. For example, a judge might have fifteen divorce cases pending which are older than the one-year disposition goal.
- 3) Informal discussions may take place among the chief judge, the chairperson of the Docket Review Committee, the court administrator, and central staff members.
- 4) If it appears necessary, the Docket Review Committee chairperson requests a *docket analysis report* from central staff. A docket analysis

report is an in-depth review of a judge's docket to identify individual case delays and offer straightforward suggestions.

- 5) The chairperson of the Docket Review Committee then phones or visits the trial judge and advises him or her to contact a specific member of the Docket Review Committee to discuss the status of the docket in detail.
- 6) A meeting is held, solutions discussed, and a plan of action developed.

Though the committee was founded to ensure uniform case processing, a kind of quality control, it has had the added benefit of providing a mechanism for peer review/feedback and a collegial support system for judges. The committee has become less a disciplinary body than a good faith effort on the part of judges to aid their peers, helping judges to recognize problems and develop remedial strategies.

While sanctions have never been needed, they have been developed, to be used when and if the above protocols prove ineffective. Progressive sanctions include:

- 1) requiring the judge to attend an educational program on caseflow management;
- 2) requiring the judge to sit with other judges whose dockets are current and observe management techniques;
- 3) requiring the judge to start work earlier in the morning; curtailing time away from court;
- 4) refusing requests for funds not directly related to the judge's ability to dispose of cases;
- 5) retaining a time study expert to assist the judge in managing time;
- 6) requiring the judge to file a daily report of activity with the chief judge and requesting that the judge be reassigned to another circuit and that a replacement judge be provided to take over the caseload.

C. CENTRALLY ADMINISTERED DISMISSAL PROGRAMS

In addition to providing support to individual judges and their staffs, the central staff operates four case management related programs which have courtwide impact. These are: the "non-service dismissal" calendar, the "no-progress" calendar, the "intention to dismiss" calendar, and, the "removal and dismissal" calendar.

1. Non-Service Dismissal Calendar

A non-service dismissal schedule is reviewed daily to determine if the time for serving the summons has expired without the defendant being served or submitting to the jurisdiction of the court. If the time has expired and no extension of service has been granted, Docket Management will prepare an order dismissing the case for non-service. A copy is mailed to each attorney of record and a copy placed in the court file.

2. No Progress Calendar

Monthly, in accordance with Michigan Court Rule 2.502, the Docket Management Unit processes cases selected for no-progress dismissal. Cases are scheduled for no-progress dismissal if 1) no answer was filed but no default judgement was taken, 2) the case should have been dismissed earlier for non-service but was overlooked, and 3) if a judge determines the case not to be at-issue.

No-progress dismissals occur on the second Monday of each month. The Docket Management Unit generates notices giving attorneys/parties twenty-eight days notice of the intended dismissal. If no action is taken, a final dispositive order is entered, and the case dismissed is without prejudice. A copy of the orders is sent to the assigned judge and to the record room of the County Clerk.

3. Notice of Intention to Dismiss Calendar

Cases which are settled or otherwise disposed but are awaiting the entry of a final judgment or order are placed on an "await" (awaiting final order) schedule by the computer. Monthly, Docket Management generates and mails a Notice of Intention to Dismiss to all attorneys or parties in *pro per* notifying them of dismissal (at least twenty-eight days in the future) unless a final dispositive judgment/order is filed with the assigned judge and entered by the judge's clerk onto the computer. The Docket Management Unit processes administrative orders of dismissal. The orders of dismissal are sent to each assigned judge's courtroom for signature and are then forwarded to the record room of the County Clerk to be placed in the case file.

4. Removal and Dismissal Calendar

If cases are settled through mediation but the parties do not present the settlement agreement order to be entered prior to the scheduled settlement conference, the case is set for a dismissal hearing. If, on the other hand, a case is mediated and evaluated at an amount lower than \$10,000, the jurisdictional floor for Circuit Court, and one or more parties rejects the mediation award, the case will be scheduled for a removal hearing. The paperwork for such dismissals or removals is prepared by the Mediation Tribunal and sent to the courtrooms for final processing.

CONCLUSION

Throughout the process of planning for organizational change, problems should be anticipated at every turn so that the new program will be able to respond when necessary. Documenting new rules, policies, and procedures will save effort by eliminating the need to derive a solution for every new situation. It will also provide structure for judges and staffs and enable the administrative and support staffs to better monitor and manage the program.

As those rules and procedures are implemented, fine-tuning will of course be necessary, but planning in advance will greatly improve the chances for success and allow the program to adapt to new situations in a smoother, less reactive mode. This effort requires that all affected parties be included in the planning effort: judges, administrators, supervisors, clerks, clerical employees, courtroom staffs, and, yes, even those computer types.

5

Caseflow Management Reports

A. MANAGEMENT INFORMATION SYSTEM OBJECTIVES

An effective management information system is an essential component of any caseflow management system. The information system should be straightforward in its design and efficient to administer and maintain on an ongoing basis. The management reports should be useful and easy to understand and it should be possible to produce them with a high degree of accuracy and consistency. In addition, the management reports should address three basic objectives:

- 1) The reports should help judges and staff process individual cases.
- 2) The reports should enable individual judges and staffs to see whether they are making progress toward meeting specific goals, such as the number and the age of cases pending.
- 3) The reports should enable the chief judge and administrative staff to routinely evaluate caseflow management systemwide and identify problem areas that may need remedial action.

In the Third Circuit, a number of specialized management reports meet these objectives. Some of these reports are primarily statistical in nature and are used to assess system activity and performance. Others, such as the caseload inventory report, contain information that individual trial judges and their staffs need to manage their caseloads on a daily basis. This reporting structure is supported by a comprehensive automated caseflow management and scheduling system. Through a computer network that reaches into every courtroom and administrative office, the automated database is continually updated.

The reports outlined in this chapter are intended to address the basic information needs related to the management of general civil, domestic relations and appeals cases under an individual calendar system. These include:

- 1) case classification and initial assignment of cases to judges;
- 2) tracking of cases by status and stage;
- 3) active caseload inventory;

- 4) statistical analysis of the active caseload inventory;
- 5) case processing time;
- 6) courtwide caseload inventory reporting; and
- 7) specialized reports.

Management reports that contain the above information are usually adequate. Local variances in statutes, rules, policies, procedures, and even politics, however, may require that additional reports be prepared. The Third Circuit, for example, has adopted specific procedures to enable agencies such as the Michigan Attorney General, the Wayne County Neighborhood Legal Services, and the Law Department of the City of Detroit to handle large volumes of litigation efficiently. These unique systems require specially adjusted and footnoted management reports. Each court should identify its unique needs and structure the management reports to best accommodate local circumstances.

B. CIVIL CASE CLASSIFICATION AND ASSIGNMENT TO JUDGES

Essential to the management information system is a method of classifying cases by type of action at the time of filing. The Third Circuit Court relies on Michigan Court Rule (MCR) 8.117 to determine appropriate case type codes. This rule provides that the plaintiff assign the case type code according to the principal subject matter of the action and include this code in the caption of the complaint. (The case type codes used by the Third Circuit Court are included in Appendix D.1.) Cases are then assigned to judges randomly at filing using a system which weights cases by type. This system distributes cases of differing types equally among all available judges, which helps equalize their workloads and facilitates the differential management of cases. (The case type groupings used by the Third Circuit Court for the purpose of equalizing workload at the point of initial case assignment are included in Appendix D.2.)

In the Third Circuit, a Report of New Cases Assigned is prepared on a quarterly basis. The Deputy Administrator for Trial Services and the Director of Docket Management review this report to make sure that cases are randomly assigned and that the case types are apportioned equally among all judges. The Report of New Cases Assigned can also provide information to answer occasional outside inquiries about the number of filings within a particular case type. The sample "Report of Cases Assigned" contained in Appendix D.3 shows the numbers and types of cases assigned to each judge during the last quarter of 1990. This report reflects the case type groupings used by the Third Circuit Court to equalize workload distribution among judges.

C. TRACKING CIVIL CASE STATUSES AND STAGES

So that judges and court staff can readily determine the *status* of their cases, status designations must be developed and made an integral part of the information system. The system for designating case *status* should conform to the legal requirements for case processing and relate to the principal phases of the litigation. For example, a civil case which has just been filed but in which no service has been made and no answer filed is in *pending* status. Once an answer is filed, it is *at-issue*. The status designations should be used to distinguish the *active* from the *inactive* inventory of the court. The Third Circuit Court's case status designations for general civil and domestic cases are depicted below:

FIGURE 4
Status Designations

PENDING	Complaint filed . . . no answer on file
ISSUE	Answer filed. . . cause joined
STAYED	Proceedings stayed. . .review periodically for removal of stay
CLOSED	Settlement or disposition reached but order not yet finalized and signed by judge
FINAL	Final order or judgment signed and placed on file

The above system for designating case status based on key events enables one to readily assess the relative position of the case in the context of the court's caseload inventory management system. When case status information is combined with information concerning the age of the case, one can quickly ascertain just what should be done to move the case towards disposition and out of the active case inventory.

Case status may identify:

- a *pending* case which is older than the combined time frame allowed by Michigan court rule for service and answer, and hence may be eligible for default;
- an *at-issue* case which is older than the time frame provided by Michigan court rule for the completion of discovery (one year from filing unless otherwise ordered) and should be scheduled for mediation, settlement conference, or other similar proceeding;

- all *closed* cases in which final orders are still outstanding.

The concept of designating cases by stage of litigation gives an alternative view of a judge's caseload. Case *stage* shows where the case stands in the caseflow management pipeline, while *status* refers to the relationship of a case to the court's caseload inventory. The specific stages of litigation for civil cases in the Third Circuit Court, for example, are highlighted below.

FIGURE 5
Stage Designations

STATUS CONFERENCE	All cases awaiting the completion of the status conference and the entry of a Status Conference Scheduling Order.
MEDIATION	All cases in which a Status Conference Scheduling Order has been entered and which are scheduled for a future mediation hearing.
SETTLEMENT CONFERENCE	All cases which have been mediated and which are scheduled for a future settlement conference.
TRIAL	All cases which have had an unsuccessful settlement conference and have been placed on the trial schedule.

The above system for designating case stages based on calendaring activity enables one to assess a judge's caseload or docket and to determine how case volumes are moving through the caseflow management pipeline. This is an effective diagnostic tool for determining where problems may exist or may be developing. An inordinate number of cases in the *trial* stage, for example, may signal a backlogged trial docket or indicate a need for a more effective settlement conference. Or it may indicate a reactive management style, a sign of problems that generally should be anticipated and remedied at earlier stages.

D. ORGANIZING THE ACTIVE CASELOAD INVENTORY

Only when judges and staffs are provided with detailed information on the universe of active cases assigned to them can they effectively analyze their caseload and organize their workload.

The Third Circuit produces inventory reports for all civil trial judges on a monthly basis. These reports list all cases which are in *pending*, *at-issue* or *stay* status as defined above. Only cases which are *closed* or *final* are exempt from monthly inventory reporting. (Closed cases are tracked by the central staff to insure timely entry of final orders.)

The inventory reports include the following items of information on each case:

1. Case number and case type.
2. All plaintiffs and defendants along with their current status (same as case status designations except specific to individual parties).
3. Current case status.
4. Filing date of case.
5. Short title of case (first-named plaintiff versus first-named defendant).
6. If the case was mediated, the date of the mediation hearing.
7. If an answer has been filed, the date it was filed.
8. All attorneys of record along with their names, addresses, and phone numbers for easy contact.
9. All scheduled actions for the case with appropriate dates, times, and locations.
10. If the case has been consolidated with another action, reference is made to the consolidation and the case number and case type of the other actions.

Cases are listed on the inventory report in case number order with oldest cases appearing first. Judges may also request that their inventory be sorted by case type designations so that they and their staff may target particular types of cases for review and scheduling.

Ultimately, it is the responsibility of the judge to maintain a current caseload inventory. Generally, this means that he or she must complete a comprehensive review of the inventory report on a monthly basis to correct erroneous data and make appropriate scheduling decisions. Cases with no future actions scheduled are targeted and scheduled; if future schedules are in conflict, they are adjusted; old cases are flagged for immediate attention; and cases are referred for mediation as appropriate. (A one-page excerpt from one judge's caseload inventory report is shown on page 63.)

E. STATISTICAL ANALYSIS OF THE ACTIVE CASELOAD INVENTORY

Caseload analysis reports not only enable judges and staffs to manage caseflow operations, they allow the court to perform statistical analysis of each judge's caseload and, in turn, of the caseload for the court as a whole.

The Third Circuit produces and distributes a Report of Pending Cases on a monthly basis. (See page 64.) These monthly snapshots of each judge's pending caseload enable the court to set goals for caseload reduction and monitor progress toward these goals. At the same time, the distribution of this data promotes accountability among judges and their staffs.

PROGRAM: Civil Inv
 REPORT: Inventory Report

STATE OF MICHIGAN
 JUSTICE SYSTEM

DATE: 12/01/89
 PAGE: 1358

LISTING OF CASES FOR: JDG R. HATHAWAY 1501 CCB

<u>CASE NUMBER</u> <u>PARTY</u>	<u>STATUS</u>	<u>FILE DATE</u> <u>STATUS</u>	<u>CASE TITLE</u> <u>ATTORNEY</u>	<u>#PTYS</u>	<u>ATTORNEY FOR PL 1</u>	<u>CASE SCHEDULES</u>
89-907890-CK	Issue	3/30/89	Sabo Farouk v. Mich Basic Property I	3	PL1 Atty: Caron Robert E	646/2760
----- Answer to Complaint (ANCOM) 5/03/89 -----						
1 PL Sabo Farouk	Issue	25020	Caron Robert E (313)646/2760		111 S.Wood, Ste 206, Detroit	48011 1/02/90 Media PN2
2 PL Sabo Nidal	Issue	25020	Caron Robert E (313)646/2760		111 S.Wood, Ste 206, Detroit	48011 2/14/90 SETCF HATHR
3 DF Mich Basic Property	Issue	24483	Klemanski James C (313)524/0000		2240 Livernois, Troy	48083
89-907978-NO	Issue	3/30/89	Abdallah Mohammad v. Lebanon Rest	4	PL1 Atty: Wallach Larry H	355/0707
----- Answer to Complaint (ANCOM) 6/01/89 -----						
1 PL Abdallah Mohammad	Issue	40121	Wallach Larry H (313)355/0707		3000 Town Center Ste, Troy	48075 1/02/90 Media PN2
2 PL Abdallah Salwa	Issue	40121	Wallach Larry H (313)355/0707		3000 Town Center Ste, Troy	48075 2/21/90 SETCF HATHR
3 DF Lebanon Restaurant	Issue	30947	Feldheim Stuart M (313)352/9080		4000 Town, Ste 1240 Southfie	48075
4 DF Hammoud Ibrahim	Issue	30947	Feldheim Stuart M (313)352/9080		4000 Town, Ste 1240 Southfie	48075
89-907996-NI	Issue	3/30/89	Forster Sylvester v. Beverly Lorene	4	PL1 Atty: Muller Michael M	355/4141
----- Answer to Complaint (ANCOM) 5/25/89 -----						
1 PL Forster Sylvester	Issue	38070	Muller Michael M (313)355/4141		4000 Town, Ste 909, Southfie	48075 1/02/90 Media PN2
2 PL Forster Lorean	Issue	38070	Muller Michael M (313)355/4141		4000 Town, Ste 909, Southfie	48075 2/21/90 SETCF HATHR
3 DF Beverly Lorene	Issue	26747	Roberts Mark A (313)962/1700		1700 Penobscot Bldg, Detroit	48226
4 DF Beverly Leandrew	Issue	26747	Roberts Mark A (313)962/1700		1700 Penobscot Bldg, Detroit	48226
89-903039-CZ	Issue	3/31/89	Allstate Insurance Co v. Mercury Mar	4	PL1 Atty: Brennan Joseph V	753/4890
----- Answer to Complaint (ANCOM) 5/04/89 -----						
1 PL Allstate Insurance	Issue	32782	Brennan Joseph V (313)753/4890		30100 Van, Suite 329, Detroit	48093 1/02/90 Media PN2
2 DF Mercury Marine	Issue	27618	Bowen Thomas R (313)964-3100		1471 S Woo, Suite 275, Bloomfie	48013 2/27/90 SETCF HATHR
3 DF K and M Boat Co	Issue	11926	Clark George F (313)465/7180		94 Macomb Plac, Mt Cleme	48043
4 DF Sea Ray Boats Inc	Issue	27618	Bowen Thomas R (313)964/3100		1471 S Woo, Suite 275, Bloomfie	48013
89-903119-NH	Pend	3/31/89	Nichols Willa v. West Alex	2	PL1 Atty: Joyner Helen K	355/0300
1 PL Nichols Willa	Pend	35461	Joyner Helen K (313)355/0300		2000 Town, Suite 900, Bloomfie	48075 5/08/89 ANSRV HATHR
2 DF West Alex DPM	Pend	21667	Ulanoff Stuart A (313)355/4494		24460 Tele, PO Box 44, Southfie	48037 12/18/89 Media PN1 2/20/90 SETCF HATHR

Judge's Caseload Inventory Report
 MANAGEMENT REPORT 1

TOWARD EXCELLENCE IN CASEFLOW MANAGEMENT

CASEFLOW MANAGEMENT REPORTS

MANAGEMENT REPORT 2
Monthly Report of Pending Cases

WAYNE COUNTY CIRCUIT COURT MONTHLY REPORT OF PENDING CASES DATE: JANUARY 4, 1990											
Phase	JUDGE	APPEALS		DOMESTIC RELATIONS		GENERAL CIVIL			GRAND TOTAL		CASES OVER TIME STDS
		Total	Over 5 mos.	Total	Over 1 yr.	Total	Over 2 yrs.	change +/-	Total	change +/-	
2	GILLIS	8	0	137	0	351	0	0	496	(27)	0
1	STACEY	9	0	141	0	283	1	(2)	433	(26)	1
2	BORMAN	5	0	125	1	273	1	1	403	(19)	2
1	HAUSNER	17	0	146	0	362	4	(1)	525	0	4
1	CONNOR	14	1	147	0	366	3	(2)	527	0	4
3	GIOVAN	10	0	152	1	440	3	0	602	(6)	4
2	MIES***	12	2	90	0	231	4	(1)	333	0	6
2	WHITE	13	1	153	1	319	4	1	485	8	6
1	STEMPIEN	10	0	146	0	415	6	1	571	(55)	6
1	WATTS	15	0	143	0	383	7	(2)	541	(20)	7
1	BATTANI	17	1	162	0	405	7	2	584	4	8
1	COLOMBO	15	1	141	1	429	6	(2)	585	(22)	8
3	FINCH	9	0	157	1	402	8	0	568	(35)	9
3	OLZARK	23	8	155	4	490	2	(1)	668	(19)	14
4	HATHAWAY,R	16	9	152		0	439	10	0	607	19
4	TERANES	13	4	164	0	484	16	0	661	1	20
3	MURPHY	19	5	139	1	433	16	(2)	591	13	22
2	STEPHENS	24	7	156	2	439	15	0	619	(18)	24
4	HARWOOD***	7	0	83	4	204	22	(7)	294	(26)	26
4	MACDONALD	16	2	163	4	483	21	1	662	(26)	27
3	RASHID	21	10	198	3	443	14	0	662	26	27
4	TURNER	18	8	166	2	459	30	(3)	643	(19)	40
5	KAUFMAN,C	15	3	185	1	592	36	(1)	792	(4)	40
3	JOURDAN	29	5	140	0	511	36	(6)	680	(21)	41
5	THOMAS	20	5	203	3	566	33	(1)	789	(33)	41
2	SIMMONS	8	0	160	4	485	38	(2)	653	(18)	42
2	MORCOM	23	8	201	8	536	26	1	760	17	42
3	TERTZAG	15	7	232	7	501	29	5	748	27	43
5	CHYLINSKI	23	6	192	6	622	32	0	837	(7)	43
5	HATHAWAY,J	22	5	190	2	626	36	(5)	838	(44)	43
4	KIRWAN	23	14	197	7	494	26	3	714	(12)	47
4	CAHALAN	24	12	207	3	477	37	(1)	708	(37)	52
**	KAUFMAN,R	23	9	5,775	30	64	19	0	5,862	(152)	58
TOXIC TORT		0	0	0	0	13	9	1	13	1	9
ASBESTOS		0	0	0	0	737	471	(27)	737	(25)	471
*	DINGEMAN	2	1	57	9	344	27	1	403	(28)	37
*	FOLEY	4	4	48	5	316	32	(1)	368	(44)	41
TOTAL		542	138	11003	109	15417	1087	(5)	26,962	705	1334

* TRIAL JUDGE
 - CHIEF JUDGE: DOMESTIC RELATIONS INCLUDE PATERNITY CASES ONLY.
 Phase 1=(7/1/86), Phase 2=(10/1/87), Phase 3=(10/1/88), Phase 4=(10/1/89), Phase 5=(10/1/90)
 *** Half docket of general civil cases as a result of asbestos docket assignment

PROGRAM: CIVILINV
REPORT: TIME STANDARDS SUMMARY FOR BATT

STATE OF MICHIGAN
JUSTICE SYSTEM

DATE: 12/01/89
PAGE: 74

CATEGORIES	RECOMMENDATION	CASE-TYPE	STD 1		STD 2		STD 3		OUTSIDE	
			#	%	#	%	#	%	#	%
APPEALS FROM LOWER COURTS	STD1:	AR	.....	.....	.....	.....	1=	100%	0=	0%
	STD2:	AV	.....	.....	.....	.....	2=	100%	0=	0%
	STD3: 100% in 3 mo.	AGGREGATE:	.....	.....	.....	.....	3=	100%	0=	0%
APPEALS FROM ADMIN AGENCY	STD1:	AA	.....	.....	.....	.....	0=	0%	0=	0%
	STD2:	AE	.....	.....	.....	.....	1=	100%	0=	0%
	STD3: 100% in 3 mo.	AL	.....	.....	.....	.....	4=	100%	0=	0%
		AGGREGATE:	.....	.....	.....	.....	5=	100%	0=	0%
EXTRAORDINARY WRITS	STD1:	AH	.....	0=	0%	.....	1=	100%	0=	0%
	STD2: 98% in 1 mo.	AS	.....	0=	0%	.....	0=	0%	0=	0%
	STD3: 100% in 3 mo.	AW	.....	0=	0%	.....	0=	0%	0=	0%
		AX	.....	0=	0%	.....	0=	0%	0=	0%
		AZ	.....	0=	0%	.....	0=	0%	0=	0%
		AGGREGATE:	.....	0=	0%	.....	1=	100%	0=	0%
DIVORCE W/ CHILDREN	STD1: 90% in 7 mo.	DM	81=	96%	82=	98%	84=	100%	0=	0%
	STD2: 98% in 10 mo.	AGGREGATE:	81=	96%	82=	98%	84=	100%	0=	0%
	STD3: 100% in 12 mo.	DO	39=	91%	43=	100%	43=	100%	0=	0%
DIVORCE W/O CHILDREN	STD1: 90% in 3 mo.	AGGREGATE:	39=	91%	43=	100%	43=	100%	0=	0%
	STD2: 98% in 9 mo.	D	.....	.....	.....	.....	4=	100%	0=	0%
	STD3: 100% in 12 mo.	T	.....	.....	.....	.....	0=	0%	0=	0%
OTHER DOMESTIC RELATIONS	STD1:	AGGREGATE:	.....	.....	.....	.....	4=	100%	0=	0%
CIVIL PROCEEDINGS		CB	0=	0%	0=	0%	0=	0%	0=	0%
		CC	0=	0%	0=	0%	0=	0%	0=	0%
		CE	1=	100%	1=	100%	1=	100%	0=	0%
	STD1: 90% in 12 mo.	CH	17=	100%	17=	100%	17=	100%	0=	0%
		CK	74=	90%	79=	96%	81=	99%	1=	1%
	STD2: 98% in 18 mo.	CL	0=	0%	0=	0%	0=	0%	0=	0%
		CP	0=	0%	0=	0%	0=	0%	0=	0%
	STD3: 100% in 24 mo.	CR	0=	0%	0=	0%	0=	0%	0=	0%
		CS	0=	0%	0=	0%	0=	0%	0=	0%
		CX	0=	0%	0=	0%	0=	0%	0=	0%
		CZ	29=	91%	31=	97%	32=	100%	0=	0%
		ND	0=	0%	0=	0%	0=	0%	0=	0%
		NH	16=	53%	24=	80%	30=	100%	0=	0%
		NI	98=	95%	101=	98%	103=	100%	0=	0%
		NM	6=	67%	6=	67%	6=	67%	3=	33%
		NO	79=	81%	92=	94%	94=	96%	4=	4%
		NP	9=	90%	10=	100%	10=	100%	0=	0%
		NS	0=	0%	0=	0%	0=	0%	0=	0%
		NX	0=	0%	0=	0%	0=	0%	0=	0%
	NZ	3=	100%	3=	100%	3=	100%	0=	0%	
	P	3=	100%	3=	100%	3=	100%	0=	0%	
	AGGREGATE:	339=	86%	371=	93%	384=	96%	8=	1%	

OVERALL ADHERENCE TO
RECOMMENDED TIME-STANDARDS:

STANDARD I: 88% 439 / 519
STANDARD II: 95% 496 / 520
STANDARD III: 98% 524 / 532

APPEALS

TOTAL CASES 9
OUTSIDE STANDARDS

DOMESTIC RELATIONS

TOTAL CASES 131
OUTSIDE STANDARDS

GENERAL CIVIL

TOTAL CASES 392
OUTSIDE STANDARDS 8

TOTAL CASELOAD 532
OUTSIDE STANDARDS 8

MANAGEMENT REPORT 3
Time Standards Report

TOWARD EXCELLENCE IN CASEFLOW MANAGEMENT

CASEFLOW MANAGEMENT REPORTS

MANAGEMENT REPORT 4
Courtwide Caseload Inventory Report

	APPEALS				DOMESTIC RELATIONS						CIVIL				TOTAL
	CRIMINAL	CIVIL	AGENCY	OTHER	DIVORCE NO CHILD	DIVORCE W/CHILD	PATERNITY	INITIATING URESA	SUPPORT	OTHER	GENERAL CIVIL	AUTO NEG	OTHER	OTHER CIVIL	
BEGINNING PENDING	308	380	524	99	2233	4215	4244	88	3368	552	6895	4520	7190	235	34059
NEW CASES FILED	18	102	294	53	1277	1501	2937	249	1147	206	2301	1010	1212	116	12511
RE-OPENED CASES		83	270	10	170	363	222			207	958	509	2944	32	5856
TOTAL CASELOAD	326	565	1000	162	3688	6079	7403	337	4515	965	10234	6127	11354	383	53226
DISPOSITIONS RESULTING FROM															
JURY VERDICTS							1				34	36	104	1	176
NON-JURY VERDICTS					24	24	1				24		5		78
GUILTY PLEAS, DEFAULTS, UNCONTESTED, SETTLED		1			1086	1112	1402				982	359	438	73	5453
REMOVAL/ TRANSFERS					1	2			2		232	167	253	5	662
NO-PROGRESS DISMISSALS		5	22	3	14	28	3			15	121	21	18	8	258
NON-SERVICE DISMISSALS					40	110	650		411	8	104	57	82	8	1486
DISMISSALS		192	579	49	355	457	497		170	450	1264	806	1417	53	6289
OTHER DISPOSITIONS	15	45	34	6	15			249	890	20	149	43	752	6	2224
TOTAL DISPOSITIONS	15	243	635	58	1535	1741	2562	249	1471	495	2910	1489	3069	154	16626
ENDING PENDING	311	322	453	104	2153	4338	4841	88	3044	470	7324	4638	8285	229	36600
CASES PENDING OVER TWO YEARS	250	35	84	32	27	43	54	4	712	118	600	290	1937	19	4205

F. REPORTING CASE PROCESSING DELAYS

While the monthly Individual Calendar Caseload Report outlined above helps the court reach its targets for numbers of pending cases, another type of data is required for reporting on court delay. Delay reporting assumes that there are established standards of acceptable case processing times for each major case type category. In this regard, the Third Circuit's leadership has adopted its own version of the American Bar Association recommendations as a guide. (The standards for civil, domestic, and appellate matters are set forth below.)

FIGURE 6
Case Processing Standards

Case Type Category	Standard
<i>Appeals from lower courts or administrative agencies; extraordinary writs</i>	100% disposed in 5 mos. from filing of the Claim of Appeal.
<i>Divorce with minor children</i>	90% disposed in 7 mos. from filing of the complaint; 98% in 10 mos.; 100% in 12 mos.
<i>Divorce without minor children</i>	100% disposed in 3 mos. from filing of the complaint; 98% in 10 mos.; 100% in 12 mos.
<i>Other domestic relations action.</i>	100% disposed in 12 mos. from filing of the action.
<i>General civil proceedings</i>	90% disposed in 12 mos. from filing of the complaint; 98% in 18 mos.; 100% in 24 mos.

Once time standards for case processing are established, it is possible to analyze each judge's pending inventory in relation to the time standards on a monthly basis. The sample Time Standards Report on page 65 represents an analysis of cases pending based upon age from filing of the original complaint or claim of appeal. Cases are classified in relation to the standards for timely disposition.

This routine reporting cycle enables judges and staffs to set realistic goals for delay reduction and monitor their progress on a regular basis. Using the information contained in the Time Standards Report judges can identify delayed cases and develop appropriate scheduling strategies, which makes them much more likely to bring their caseloads into compliance with the time standards and keep them there.

Note that this methodology assesses delay in the pending caseload as opposed to the disposed cases. The court's leaders believe that this method

is more efficient, since it utilizes the same records as those required for inventory reporting, and more effective, since it focuses attention on the delay actually occurring in cases pending before the court. It is therefore, more likely to result in actions which will benefit active cases.

G. COURTWIDE CASELOAD INVENTORY REPORTING

Courtwide Inventory Reporting generates a simplified view of the court's current caseload inventory and the activity which has occurred during the reporting period. These reports provide baseline data which may be used to identify pending case backlogs, to ascertain trends in case filings or terminations, or to respond to inquiries concerning caseload activity for the court as a whole.

Basically, the report details caseload inputs and outputs—in other words, how cases came before the court and how the court disposed of those cases. Inputs include cases pending at the beginning of the reporting period, new filings, and reopened cases. Outputs include dispositions separated by type: jury verdict; non-jury verdict; guilty plea or settled; no progress dismissals; non-service dismissals; other dismissals; removals or transfers; and other miscellaneous dispositions. A sample Courtwide Caseload Inventory Report is shown on page 66.

H. SPECIALIZED REPORTS

The management information system should also be capable of generating specialized reports. Generally, these reporting requirements will fall into two categories: *transactional* and *study dependent*.

1. Transactional Reporting

Transactional reports measure the volume of particular transactions, such as the rates of trial adjournments, the numbers of settlement conferences conducted and the results of those conferences, and the numbers of motions for summary judgment heard and the resulting rulings. These case-related transactions may be examined to assess system performance.

In the Third Circuit, these transactions are referred to as *events* and *results*. *Events*, and their corresponding *results*, are reported on a quarterly basis in a format similar to that outlined below:

The Third Circuit's transaction reporting system is computerized. Therefore, it is possible to report *events* which are specified in a particular code table and their corresponding results, which are also coded. The inverse is also true, i.e., one may view *results* and their corresponding *events*. For example:

TABLE 3
Summary of Events January Through March 1989

	Result = Adjourned		
	Jan	Feb	Mar
Events =			
Arrestment	4	6	3
Examination	3	2	4
Pretrial	6	8	9
Settlement Conference	<u>7</u>	<u>6</u>	<u>8</u>
TOTAL ADJOURNED	20	22	24

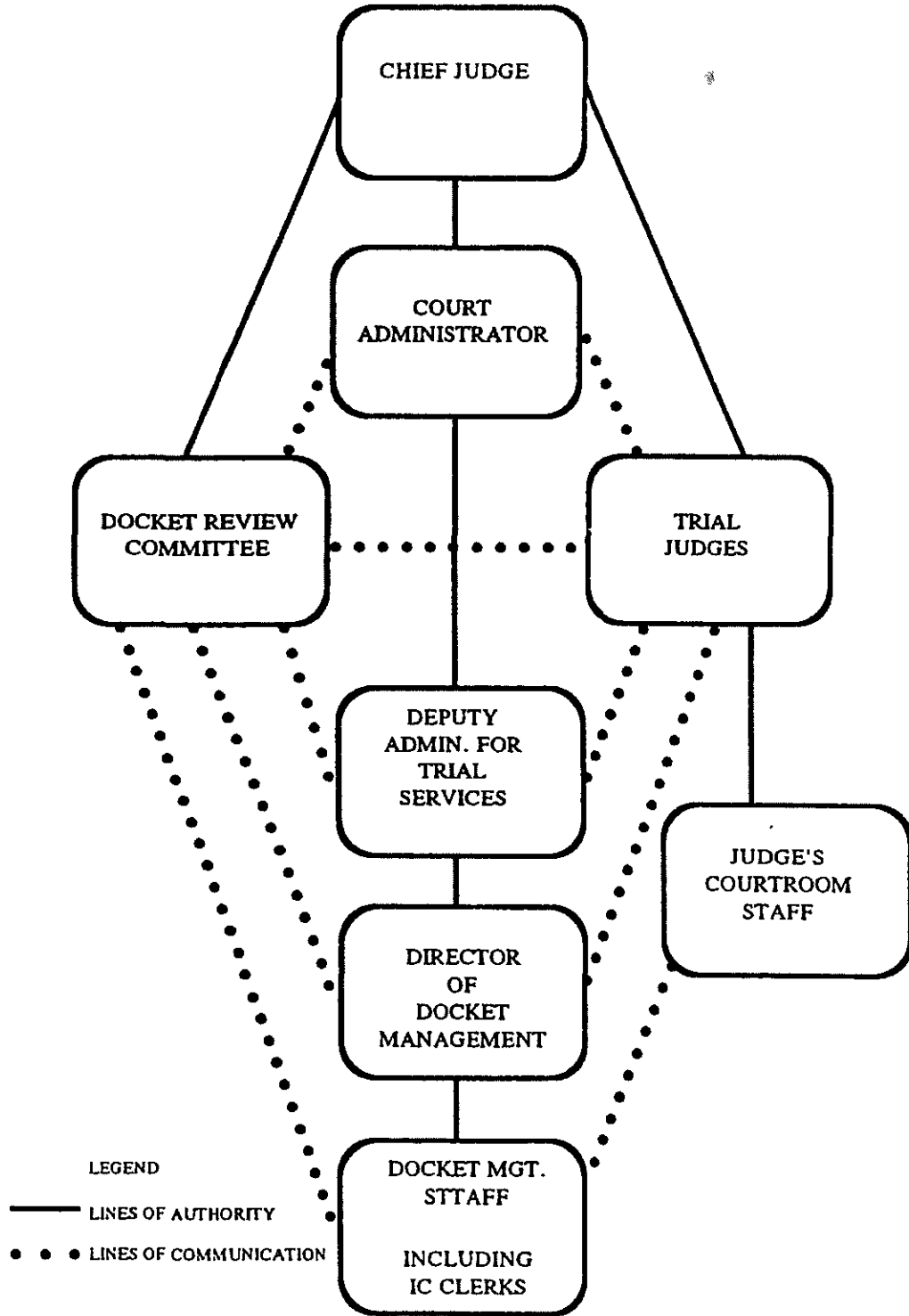
2. Study Dependent Reporting

Study dependent reporting, as the name implies, refers to informational reports that are prepared for the purpose of responding to specific inquiries or studies. Often, special data collection instruments must be developed for a one-time-only data collection effort. In today's automated environment, however, this process can be simplified through the use of query software applications and relational, or other specialized, database designs. In the absence of these technologies, the problem is best resolved through the development of a statistical reporting database.

This database should include case-related data elements, which are commonly used for caseflow management research, i.e., case number, case type, number of parties, assigned judge, attorneys of record, responsive pleadings, major case events, trial-types, disposition-types, and judgment or verdict amounts, as well as all relevant dates. The statistical database should be updated regularly so that current data may be obtained readily.

In the Third Circuit, this type of database is created annually, or more often on demand, for the purpose of providing data to the National Center for State Courts' Delay Study. The database contains the relevant variables on all cases disposed of in the period of time specified. Once the database is created, it is stored on file for access by different, more specialized batch programs. This process has facilitated a substantial amount of research by court staff as well as outside researchers, such as individuals from colleges and universities, the state legislature, the governor's office, and the National Center for State Courts.

APPENDIX A Organization Chart



NOTE: THIS CHART DEPICTS THE CASEFLOW MANAGEMENT DIVISIONS OF THE WAYNE CIRCUIT COURT

APPENDIX B Docket Analysis Report

ANALYSIS OF JUDGE _____ DOCKET PREPARED DECEMBER 14, 1989

I. DOCKET SUMMARY

Judge _____ docket has a total of 53 cases outside the time standards. These are broken down as 10 non tort civil cases, 28 tort civil cases, 0 non tort civil stays, 2 tort civil stays, 3 domestic relations cases, and 10 appeals cases. Of these 53 cases, 11 cases are set for settlement conference, 11 are set for trial, 4 are set for status conference, 4 are set for motion hearings and 20 cases have no future action, 2 cases are stayed, 1 case is set for DIVPT.

II. CASES OUTSIDE TIME STANDARDS

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	TOTALS
NON-TORT CIVIL	1					1	3	5			10
TORT					2	1	7	18			28
NON-TORT CIVIL STAY											0
TORT STAY					1		1				2
DOMESTIC									3		3
APPEALS									2	8	10

III. REVIEW OF CASES OUTSIDE THE TIME STANDARD*

Listed below is a summary and recommended action for a number of the oldest non-tort, tort, domestic, and appeal cases as follows:

A). NON-TORT CIVIL CASES

Case #	Status	# of Parties	File Date	Last Action	Next Action
80-044488 CC	ISSUE	5	1/1/80	PROOF OF SERV 12/5/89	SETCF 6/4/90

Settlement conference hearing scheduled.
No future action recommended at this time.

Case #	Status	# of Parties	File Date	Last Action	Next Action
85-519293 CP	ISSUE	3	7/25/85	PROOF OF SERV 12/4/89	STATC 5/11/90

Case was recently reinstated.
Future status conference hearing scheduled.

B). TORT CASES

Case #	Status	# of Parties	File Date	Last Action	Next Action
84-426704 NI	ISSUE	4	9/13/84	CASE EVAL REVIEW	MEDIA 12/12/8

Mediation date scheduled. Recommend setting settlement conference.

Case #	Status	# of Parties	File Date	Last Action	Next Action
86-625775 NP	ISSUE	8	9/23/86	PROOF OF SERV 11/17/89	STATC 1/3/90

Recent statc scheduled on 12/2/89 was adjourned to 1/3/90.

* Note: This is an abridged version, showing no more than two cases per category. Additional categories that appear in this report include *non-tort civil stay*, *tort stay*, and *domestic cases*.

C). APPEALS CASES

Case #	Status	# of Parties	File Date	Last Action	Next Action
88-824204 aw	ISSUE	4	9/30/88	STATC 11/15/89	SETCF 12/5/89

Case set for settlement conference so no further action recommended at this time.

Case #	Status	# of Parties	File Date	Last Action	Next Action
88-830704 AV	PENDING	2	12/19/88	MISC MOTION 12/8/89 & 12/15/89	NO FUTURE HEARING

Order extending time 8/18/89. Recent motion activity and oral arguments. Schedule date for further oral argument.

D). OTHER MATTERS

20 cases with no future hearing dates are as follows:

85-533039 NO	87-726696 CK
86-628332 NM	87-726917 NH
86-628766 NM	87-727376 NG
86-631380 CK	88-826682 DM
87-724540 NH	88-826682 DM
87-725102 NH	88-830704 AV
87-725749 NO	89-904330 AE
87-725741 NM	89-905728 AV
	89-910999 AE
	89-911554 AL
	89-911575 AL
	89-913769 AR

APPENDIX C Status Conference Scheduling Order

State of Michigan Third Judicial Circuit	Status Conference Scheduling Order	Case No. 89-922952 N																														
<p>TITLE: DIAMOND MARIKA PAULA V DIAMOND KONSTANTINE FILING DATE: 9/14/89 ASSIGNED JUDGE: JOHN A MURPHY STATUS CONF. DATE: 12/15/89 NON SERVICE DISMISSAL DATE: 3/15/90</p> <p>1 PL ISSUE DIAMOND MARIKA PAULA 29282 SKUPIN CHARLES G 961/0410 2 DF ISSUE DIAMOND KONSTANTINE A 112989 33565 CHRISTEN MAUREEN 237/5699 3 DF ISSUE DIAMOND MARY E S 092089 33565 CHRISTEN MAUREEN 237/5699 4 DF ISSUE WIEGAND JEFFREY A 110789 36239 WEGNEYER TIMOTHY 773/4264</p>																																
<p>1. <input type="checkbox"/> Service is to be obtained by _____ (date) to be followed by a Status Conference on _____ (date). If service is not obtained by this date, the case will be dismissed for failure to serve.</p> <p>2. <input type="checkbox"/> Service has been obtained and time for filing of the answer has/has not lapsed and counsel for the parties not being present; IT IS ORDERED THAT:</p> <p style="margin-left: 20px;"><input type="checkbox"/> An adjourned Status Conference is to be held on: _____ (date). Counsel is further ordered to notify the parties of this conference.</p> <p style="margin-left: 20px;"><input type="checkbox"/> The Court has established the schedule of events noted below for this case and Counsel is further ordered to serve a copy of this Scheduling Order of the absent parties and file proof of service with the Court (Room 201 City-County Building).</p> <p>3. Service has been obtained and time for filing of an answer has lapsed but no answer has been filed. Default is to be presented by _____ (date).</p> <p>4. Service has been obtained on all parties and proper answer has been filed; therefore the following schedule of events is ordered.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="padding: 2px;">Please check track selection</td> <td style="padding: 2px;"><input type="checkbox"/> Track #1</td> <td style="padding: 2px;"><input type="checkbox"/> Track #2</td> <td style="padding: 2px;"><input type="checkbox"/> Track#3</td> <td style="padding: 2px;"><input type="checkbox"/> Other</td> </tr> <tr> <td style="padding: 2px;">Witness List Exchange</td> <td style="padding: 2px;">3/08/90</td> <td style="padding: 2px;">5/24/90</td> <td style="padding: 2px;">8/23/90</td> <td style="padding: 2px;"></td> </tr> <tr> <td style="padding: 2px;">Discovery Cutoff</td> <td style="padding: 2px;">4/26/90</td> <td style="padding: 2px;">7/26/90</td> <td style="padding: 2px;">10/25/90</td> <td style="padding: 2px;"></td> </tr> <tr> <td style="padding: 2px;">Mediation Month</td> <td style="padding: 2px;">6/90</td> <td style="padding: 2px;">9/90</td> <td style="padding: 2px;">12/90</td> <td style="padding: 2px;"></td> </tr> <tr> <td style="padding: 2px;">Settlement Conference (Mediation date + approximately)</td> <td style="padding: 2px;">42 days</td> <td style="padding: 2px;">42 days</td> <td style="padding: 2px;">42 days</td> <td style="padding: 2px;"></td> </tr> <tr> <td style="padding: 2px;">Other Conference</td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> </tr> </table> <p>Final pretrial order due: _____</p> <p>Comments _____</p>			Please check track selection	<input type="checkbox"/> Track #1	<input type="checkbox"/> Track #2	<input type="checkbox"/> Track#3	<input type="checkbox"/> Other	Witness List Exchange	3/08/90	5/24/90	8/23/90		Discovery Cutoff	4/26/90	7/26/90	10/25/90		Mediation Month	6/90	9/90	12/90		Settlement Conference (Mediation date + approximately)	42 days	42 days	42 days		Other Conference				
Please check track selection	<input type="checkbox"/> Track #1	<input type="checkbox"/> Track #2	<input type="checkbox"/> Track#3	<input type="checkbox"/> Other																												
Witness List Exchange	3/08/90	5/24/90	8/23/90																													
Discovery Cutoff	4/26/90	7/26/90	10/25/90																													
Mediation Month	6/90	9/90	12/90																													
Settlement Conference (Mediation date + approximately)	42 days	42 days	42 days																													
Other Conference																																
<p>NOTE: The specific trial attorneys, parties, lienholders, insurance representatives or other persons with authority to make a final decision as to settlement are required to appear at the Settlement Conference, unless excused by the assigned judge.</p> <p>Estimated trial length: _____ Jury <input type="checkbox"/> Non-jury <input type="checkbox"/></p> <p>This status Conference Scheduling Order is your official notice of the dates and required court appearances. This order constitutes a duly entered Order of this Court, and failure to comply strictly with all its terms, may result in Dismissal, Default Judgement, refusal to let witnesses testify, refusal to admit exhibits, or other actions, including the assessment of special costs and expenses, including attorney fees. If a date has been set above establishing a due date for a Final Pretrial Order, instructions for preparation of the Final Pretrial Order have been provided to all attorneys. Compliance with those instructions is HEREBY ORDERED.</p> <table style="width:100%; margin-top: 20px;"> <tr> <td style="width:50%; border-top: 1px solid black; padding-top: 5px;">Attorney for Plaintiff</td> <td style="width:10%; border-top: 1px solid black; padding-top: 5px;">Bar No.</td> <td style="width:50%; border-top: 1px solid black; padding-top: 5px;">Attorney for Defendant</td> <td style="width:10%; border-top: 1px solid black; padding-top: 5px;">Bar No.</td> </tr> <tr> <td style="border-top: 1px solid black; padding-top: 5px;">Attorney for Plaintiff</td> <td style="border-top: 1px solid black; padding-top: 5px;">Bar No.</td> <td style="border-top: 1px solid black; padding-top: 5px;">Attorney for Defendant</td> <td style="border-top: 1px solid black; padding-top: 5px;">Bar No.</td> </tr> </table>			Attorney for Plaintiff	Bar No.	Attorney for Defendant	Bar No.	Attorney for Plaintiff	Bar No.	Attorney for Defendant	Bar No.																						
Attorney for Plaintiff	Bar No.	Attorney for Defendant	Bar No.																													
Attorney for Plaintiff	Bar No.	Attorney for Defendant	Bar No.																													

APPENDIX D

D.1 Third Circuit Court Case Type Codes

The case type codes and descriptions used by the Third Circuit Court are as follows:

AA	Agency Appeals	ND	Auto-neg.--Property Damage
AE	Employment Appeals	NH	Malpractice--Health Care
AH	Habeas Corpus	NI	Auto-neg.--Personal Injury
AL	Drivers Lic. Appeals	NM	Other Malpractice
AR	Criminal Appeals	NO	Other Personal Injury
AS	Superintending Control	NP	Products Liability
AV	Civil Appeals	NS	Dramshop Act
AW	Other Writs	NZ	Other Damage Suits
AX	Extradition/Detainer		
AZ	Other Law Remedies		
CB	Business Claims	PA	Attachment
CC	Condemnation	PC	Restore or Correct Records
CE	Environment	PD	Claim and Delivery
CH	Housing and Real Estate	PG	Garnishment
CK	Contracts	PR	Receivers--Supplementary
CL	Labor Relations	PS	Supplementary Proceedings
CP	Consumer Protection	PZ	Other Miscellaneous Proceedings
CR	Corporate Receivership		
CZ	Other General Civil		
DC	Custody	TC	Transfer--Custody
DI	Initiating URESA	TI	Transfer--URES A Initiating
DM	Divorce, Minor Children	TM	Transfer--Divorce with Child
DO	Divorce, No Children	TO	Transfer--Divorce without Child
DR	Register--Foreign Orders	TP	Transfer--Paternity
DS	Family Support	TS	Transfer--Other Support
DU	Responding URESA	TO	Transfer--URES A Enforcement
DW	Interstate Income Withheld	TZ	Transfer--Other Family
DZ	Other Family Matters		

D.2 Case Type Groupings

Case type groupings used by the Third Circuit Court for the purpose of equalizing the workload are listed below. Each judge is randomly assigned an equal number of cases from each group. The cases within each group are roughly similar in terms of complexity and case processing demands.

- Group 1 = AL
- Group 2 = AA, AE, AH, AR, AV, AW, AX, AZ
- Group 3 = CB, CC, CE, CH, CK, CL, CP, CR, CZ
- Group 4 = DM, DO
- Group 5 = DC, DI, DR, DS, DU, DW, DZ, TC, TI, TM, TO, TP, TS, TU, TW, TZ
- Group 6 = NH, NM, NP
- Group 7 = ND, NI, NO, NS, NZ
- Group 8 = PA, PC, PD, PG, PR, PS, PZ

D.3 Sample Report of Cases Assigned

The sample "Report of Cases Assigned" depicted below shows the numbers and types of civil cases by group (see Appendix D.2) which were assigned to the judges of the Third Circuit Court during the last quarter of 1990.

STARTING CASE NUMBER: 90-024993

ENDING CASE NUMBER: 90-032674

NUMBER OF CASES ASSIGNED: 7,682

JUDGE	GROUP NUMBER								
	1	2	3	4	5	6	7	8	
Battani	9	5	61	85	7	12	65	3	247
Borman	1	5	82	82	7	16	62	4	259
Cahalan	5	7	63	85	6	13	65	3	247
Callahan*	1		5	8	2		3		19
Chylinski	19	7	57	83	11	11	61	2	251
Colombo	12	7	58	79	7	12	62	3	240
Connor	6	5	61	79	5	11	68	4	245
Finch	6	5	59	87	5	13	64	6	245
Foley*			4	2			2		8
Gillis	10	7	59	82	7	13	73	4	255
Giovan	2	9	74	80	7	11	64	4	251
Harwood**	5	2	30	41	4	8	28	2	120
Hathaway, J.	7	6	56	79	7	13	59	5	232
Hathaway, R.		6	74	80	6	12	64	3	245
Hausner	10	6	60	84	5	13	56	2	236
Jourdan	9	11	57	75	7	12	61	4	236
Kaufman, C.	6	4	54	78	7	10	59	2	220
Kaufman, R.***		25	22	1	1			8	67
Kirwan	3	7	59	80	5	10	70	3	237
MacDonald	13	5	63	82	8	12	61	1	245
Mies**	11	3	30	40	4	37	31	1	157
Morcom	8	6	57	87	4	11	59	3	235
Murphy	9	6	56	80	7	11	65	1	235
Olzark	8	5	130	83	9	14	60	2	311
Rashid	8	4	63	88	19	10	60	4	256
Simmons	6	6	57	83	10	13	66	1	242
Stacey	10	7	61	85	7	9	63	4	246
Stempien	7	5	56	80	9	12	62	4	235
Stephens	8	9	55	81	5	11	62	2	233
Teranes	2	7	65	83	6	11	59	2	235
Tertzag		6	57	80	7	14	68	2	234
Thomas	10	7	60	78	10	7	57	2	231
Turner	8	5	63	83	6	14	60	4	243
Watts	11	5	63	88	4	14	60	3	248
White	9	7	60	88	8	11	62	3	248
TOTALS	239	221	1991	2559	229	401	1941	101	7682

NOTES: *Limited Assignments; **Half-dockets; ***Chief Judge

