



Thirty-Sixth District Court of Michigan in and for the City of Detroit

Special Operational Review

**Final Report
May 20, 2013**

**Hon. Glenn A. Grant, Acting Administrative Director, New Jersey Courts
Gordon M. Griller, Principal Consultant, National Center for State Courts**

**Daniel J. Hall, Vice President
Court Consulting Services
707 Seventeenth Street, Suite 2900
Denver, CO 80202-3429
(303) 293-3063**

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This study was conducted by the National Center for State Courts (“National Center,” “the Center,” “NCSC”), a public benefit corporation targeting the improvement of courts nationwide and around the world, at the request of the Michigan Supreme Court and its Administrative Office of the Courts. **The study is directed at suggesting ways to improve the operations, staffing, and performance of the Thirty-Sixth District Court serving the City of Detroit in light of shrinking resources, a reduction in court staff, and the desire to promote best practices in adjudicating limited jurisdiction cases.** The points of view and opinions expressed in this report are those of the authors as agents of the National Center, and do not necessarily represent the official position or policies of the Thirty-Sixth District Court, the Michigan Judicial Branch, or the City Government of Detroit.

Online legal research provided by LexisNexis.



Acknowledgements

The consultants for this report wish to thank the Judges, Court Administrator, Deputy Court Administrator, and staff of Thirty-Sixth District Court of Michigan for their cooperation and assistance throughout the site visit, analysis, and development of this report. The authors especially are indebted to those who willingly gave of their time to be interviewed, including judges and employees of the Court, Michigan State Court Administrator Chad Schmucker and his staff, especially Deborah Green and Don Harper, the Wayne County Prosecutor's Office, House Defense Counsel for the Court, and the Office of the Chief Financial Officer for the City of Detroit. Last but not least, the consultants wish to extend a special thank you to Chief District Court Judge Kenneth King for his insights and accommodations regarding this special review.

Special Operational Review Thirty-Sixth District Court of Michigan

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1.0 Michigan's 36th District Court Faces Serious Revenue Shortfalls

This study is directed at suggesting ways to improve the operations, staffing, and performance of the Thirty-Sixth District Court ("the Court," "District 36," "D36") serving the City of Detroit in light of grave financial problems facing it. The City is the Court's principal funding source. An austere budget for the City and Court will be essential in the next few years and beyond. Staff reductions will be unavoidable, and more cost-efficient practices in adjudicating limited jurisdiction cases will be necessary. To those ends, the National Center for State Courts ("NCSC," "National Center," "the Center") was requested by Michigan's State Court Administrative Office ("SCAO") to identify strategies and recommendations for reengineering Court operations.

The 36th District Court is Michigan's largest limited jurisdiction court, serving the City of Detroit. The Court is confronted with a serious economic crisis that requires both immediate and long-term corrective actions. In addition, the current case management processes are very cumbersome and rely upon significant manual and redundant operations. The Court has not fully utilized its information technology infrastructure and needs to expand its reliance on technology to conduct its business in a more streamlined fashion. Such antiquated structures and operating designs seriously limit the ability of the Court to reduce its operating costs.

District 36 is part of a criminal justice system that has been severely compromised as a result of the negative economic conditions confronting the former automobile capital of America. Like many former "rust belt" states of the Midwest and East, Michigan has seen an erosion of its industrial base resulting in the loss of industries, employment opportunities, tax revenue needed to support government, and more specifically, the financial resources to maintain the operation of the Court.

Detroit and Wayne County have witnessed the brunt of this economic crisis. City officials are trying to stabilize the hemorrhaging in order to avoid bankruptcy. The recent recession has added to the institutional weaknesses confronting the City and necessitated a continuing reduction in financial support to government. Resultantly, there is insufficient revenue to support the current costs to operate the City.

Our preliminary conversations with representatives of the Detroit and Wayne County leadership suggest that all segments of government – legislative, executive, and judicial branches – have been forced to reduce their costs of operation. Unfortunately, such reduction efforts were not sufficient to ameliorate the problems and the State has now appointed an Emergency Financial Manager to oversee the operation of the City and attempt to avert bankruptcy.

The inability of the City's tax base to support the previous and current funding models for the criminal justice system is long standing in its evolution and the impact is felt across the system. Several recent news articles highlight the plight of the City... a loss of a quarter million people over the last decade; a current budget deficit of \$327 million; and, more than \$14 billion in long-term debt. All are

driving forces necessitating a change in City operations, and, correspondingly, the Court (See, e.g. March 25 Internet article from MLIVE).

These financial challenges have created several crises within the City and County. A partial list of the challenges impacting the court system are: (a) police officers are alleged to be engaged in work stoppages or slow downs, resulting in less complaints/tickets being filed with the courts; (b) the County Prosecutor is suing the County over inadequate funding for her office (the County Prosecutor provides limited jurisdiction prosecution services to D36); and, (c) the County is under a federal consent decree dealing with jail overcrowding and may remain so even with the imminent opening of a new jail facility.

It is our contention that the current economic crisis confronting the City is the new “norm” and not merely an aberration in the history of the City to ride-out until times are better. The erosion of the City’s tax base, loss of its population, and increase in blight and dwelling abandonment has been occurring over several decades. Without extraordinary interventions, it likely will continue into the future. Furthermore, the expectation that either the City or the State will have additional revenue to support the Court’s functioning in its current operational mode is neither practical nor reasonable.

2.0 New, Bold Strategies are Necessary to Restructure the Court

In April 2013, Michigan's State Court Administrator requested the National Center for State Courts, a nonprofit public benefit corporation, to independently review and analyze the range of problems confronting Detroit's 36th District Court and suggest short- and long-term remedies based on best practices in urban limited jurisdiction courts. Founded in 1971 by the Conference of State Court Chief Justices at the urging of the late Warren E. Burger, then Chief Justice of the United States, the National Center for State Courts is dedicated to improving the administration of justice nationally and around the world. Since its inception, the Center has managed a substantial number of justice studies for city, county, and state governments as well as numerous foreign countries.

The NCSC project team selected to review D36 operations was led by one of the Center's senior consultants, Gordon Griller, who has extensive experience in justice system operations, caseflow processing improvements, and limited jurisdiction courts. The Honorable Glenn A. Grant, Acting Administrative Director of the New Jersey Judicial System, agreed to work with Mr. Griller as a subject matter expert in court operations and judicial leadership. Judge Grant oversees the administration and functioning of all courts in New Jersey. He previously served as both a trial and supervising judge on the Superior Court bench in Essex Vicinage (Newark), during which time he was specially assigned as the Chief Judge of the Newark Municipal Court in 2003, to revamp and reorganize that Court, which had serious efficiency, budget, and revenue problems. (Resumes for Mr. Griller and Judge Grant appear in the Appendix.)

No City of Detroit or Wayne County funds were used to support this study. Judge Grant donated his time to the project without compensation. The Center used its own internal technical assistance funds to conduct the study and pay travel, per diem, and lodging expenses for the consultants. The consultants were assisted by staff from the Michigan State Court Administrator's Office.

2.1 On-site Visits, Interviews, and Information Gathering

A two-day site visit to D36 by the consultants took place May 6-7, 2013. Numerous interviews with top officials and operational staff at the City of Detroit, the Administrative Office of the Michigan Courts, the judges and staff of the District Court, senior prosecutors at the Wayne County Prosecutor's Office, and a lead indigent defense attorney with the Office of Outside Counsel. The NCSC project team was also able to observe activities and procedures at the courthouse as well as study statistics relative to the Court's performance.

In addition to the consultant's site visit, D36 Chief Judge Kenneth King and Deborah Green, Regional Administrator for the Michigan Courts, attended a two-day seminar in Phoenix, Arizona on May 2-3, 2013, prior to the consultants' visit to Detroit. The seminar was presented and coordinated by the National Center on the topic of *Improving Limited Jurisdiction Justice*. The occasion of the workshop and attendance by Judge King and Ms. Green was fortuitous. The workshop had been planned months in

advance as one of a series of educational seminars hosted by the Superior Court of Arizona in Maricopa County targeting court security (April 18-19), limited jurisdiction courts (May 9-10), and reengineering court business processes (May 23-24). During the workshop, Judge King and Ms. Green were able to visit the Phoenix Municipal Court, a jurisdiction considered by the National Center to be a model, exemplary limited jurisdiction urban court. The discussions, materials, and information presented at the workshop, as well as the visit to the Phoenix Court, according to Judge King's and Ms. Green's representations, proved instructive and helpful for them

2.2 Thirty-Sixth District vis-à-vis the Newark Municipal Court

The operation of the Court appears to be overstaffed and not as efficient as other comparable court systems. While comparisons between cities, or in this case judicial districts, are difficult and not exact, there are parallels that can be drawn. Taking into consideration the differences in population, types of cases handled, statutory responsibilities, and other factors, parallels can be made between District 36 and the largest limited jurisdiction court in the State of New Jersey, the Newark Municipal Court. The population of the City of Detroit is approximately twice the size of the City of Newark. Interestingly, relevant demographics with respect to the volume of cases are consistent with this population difference.

District 36 annually disposes of approximately 1.1 million filings and the Newark Municipal Court handles half that amount; 541,000 dispositions per year. In addition, the Newark Municipal Court adjudicates approximately 60,000 misdemeanors and District 36 processes 120,000 of these types of cases. District 36 dispositions clearly demonstrate staff is working hard to meet the Court's obligation to handle cases. Judges and staff should be commended for this effort. The challenges of operating a large Court can sometimes seem daunting and the consultants recognize the perseverance and sacrifices made by staff in addressing the needs of the public are commendable. The comparison with the Newark Municipal Court, however, suggests that the Court can reduce its cost of operation without reducing its effectiveness.

The biggest differences between the two Courts are related to their staffing and use of technology. District 36 relies upon very limited information technology applications and systems while Newark is part of a statewide information technology network that processes both traffic and criminal filings electronically. The Newark Court, for example, accepts and files red light tickets electronically without any human intervention. In New Jersey citizens are able to pay most traffic tickets online. The statewide internet-based payment system annually collects more than \$140 million for its 544 municipalities with approximately \$6 million being annually disbursed to the City of Newark. Both state and local police can file criminal complaints, parking and moving offenses, and local ordinances electronically. All the judges and court reporters have PCs in the courtroom and can dispose of matters without reliance on paper. District 36 has very limited capacity to perform any of these court operations.

In looking more intently at staffing, District 36 is comprised of 384 employees, including 31 judges and 6 magistrates. Staffing at the Newark Municipal Court is currently 104 with 10 full-time

judges and 2 part-time judges. The staffing of District 36 is more than three times the number of employees at the Newark Municipal Court.

Again, while the comparisons are not exact, it is the opinion of the consultants that with widespread improvements in its operations, greater reliance on technology, and revisions to its case management practices, a substantial reduction in District 36 staff is feasible. The query is whether the Court has the leadership, dedication, and the will to undertake this difficult but doable task.

2.3 A Culture of Financial Overruns

Continual financial problems at the District Court are commonplace and generally played down by Court leaders. They mirror the difficulties of the City. The Court operated this year with a projected budget overrun of \$6 million dollars. Court leaders recently were happy to report that the more probable over expenditure on June 30, 2013, the end of the current fiscal year, will likely be closer to \$4.5 million. This better outcome, however, cannot be attributed to a healthy, strategic working relationship with the City. Rather, the Court reports a long-standing inability to discuss and negotiate its annual budget with the City's leadership. The reluctance to embrace the crisis situation in which the Court finds itself is disturbing. It evidences a complacent attitude among Court leaders; an unwillingness to act boldly to address and share their portion of the financial predicament of the funding unit. Such a stance confirms a disinclination to effectively collaborate with City officials and local justice partners to develop a cooperative plan and avoid deeper trouble.

Admittedly, District 36 has sought to maintain its prior year's funding in the upcoming fiscal year's budget through some modest tactical means such as holding positions vacant and avoiding capital expenditures. Tactical expense reductions such as these and others, including such other approaches as payless furlough days, reducing public service hours, and combining jobs, are not sustainable in the long-run. They enable organizations to "buy time" and "catch their breath" in order to plan and implement more permanent, strategic solutions. When organization leaders continue to resort to tactical, cosmetic changes, it generally indicates either a refusal on their part to acknowledge the reality of the current situation, or a complete misunderstanding of the circumstances confronting the Court. Either way it results in inaction, further exacerbating the state of affairs and limiting later options to more draconian, severe methods to turn things around.

Failure to reach an agreement with the Emergency Financial Manager's Office on the Court's budget for the upcoming fiscal year are examples of both inertia and a broken relationship between the Court and City at a time when solidarity of direction and purpose is necessary. Though data regarding the fiscal crisis in the City of Detroit is widespread and substantiated, the Court continues to add to the deficit by taking the position that money, the City claims is nonexistent or urgently needed for other priorities, should be diverted to the Court.

The Judiciary's relationship with the City has been characterized by stress and imbued with conflict. The City's ability to support the Court's operations has of late, not been reached through a collaborative process. It is the consultants' understanding that the City introduced and authorized a

2012/13 budget of \$31 million for the Court. The Court requested a budget of \$36 million and continued to operate at that level despite the divergence between the appropriated budget and the requested budget. It is hard to fathom how a local government operation can over-expend its budget by \$4.5 million. In many states, including New Jersey, over expenditures is violative of the law and subjects offenders to prosecution.

The State Court Administrative Office appears, until recently, to have had only marginal oversight and coordination regarding District 36. For example, the disagreement between the two budgets should have been discovered sooner by the SCAO and more affirmative steps taken to resolve the discrepancy. On a more positive note, the State Judiciary should be commended for actively pressing the District Court to address the upcoming budget, tackle the structural weaknesses within its system, and develop a realistic plan to improve its operations and financial situation.

3.0 Bold, New Action is Necessary to Restructure the Court

Michigan's 36th District Court needs courageous leadership. Such leadership is dangerous since it's about changing the status quo where most people are comfortable. Although effective leadership has many dimensions, a key ability is certainly the willingness and capacity to decisively respond to the dire situational context the Court and City find themselves in at this time.

National Center consultants believe the Court and City, working together, can create a more efficient and streamlined justice system with the Court at the center point. Ideally, due to the neutrality of courts, judicial leaders have an advantage as justice system change agents. All others in the system – law enforcement, prosecutors, and defense lawyers - have a vested interest in case and adjudicatory outcomes. The Court is the only entity exclusively focused on justice as the paramount objective.

Consequently, the burden on court leaders to ensure a streamlined, efficient, cost-effective system – all directed at fair, timely, accessible justice - is more pronounced and obligatory. Often, such situations require bold action in the face of daunting and seemingly insolvable problems that may be ill defined or require remedies or actions through experimentation. The current financial crisis faced by the City of Detroit is definitely daunting. But, it is not devoid of solutions. Leadership has to adapt to new ways of doing things.

The times call for courageous leadership – not reckless management, but rather rigorous initiatives and guidance from the top. To do so requires *moral courage* to act on principle, *selfless courage* to put the justice system and the community ahead of personal or parochial interests, *intellectual courage* to embrace new knowledge about how to operate the Court more efficiently and implement strategic changes, and *execution courage* to implement the necessary remedies and restructuring that will revamp the Court for a new, more austere normal.

4.0 Findings/Recommendations: Governance and Administration

The most critical issue facing the Michigan Supreme Court and SCAO is the leadership of the Court. The needed changes and new direction for the Court can only be accomplished through commitment and forthright action by the Court's top leaders – the Chief Judge and Court Administrator. It is uncertain as to whether the present management team is capable of leading District 36 out of the current crisis and positioning it for a better future.

4.1 Decide Whether Present Court Leaders are Right for the Times

An immediate decision needs to be made on the capability of Chief Judge King and Court Administrator Lyght to lead the Court through these challenging times. In discussing directions and ideas for solutions with them, NCSC consultants feel their inventiveness and resourcefulness is lacking. They are wonderful people and hopeful that Court budget problems can be solved, but without substantial plans and strategies different from the tactical remedies of the past, little dramatic change will occur.

Equally important, an assessment must be made as to whether they have fully comprehended the nature of the challenges confronting the City and Court and possess the leadership acumen to move the Court in a new direction. The State Court Administrator needs to identify a strong change agent to lead District 36 through these extraordinary challenges should he and the Supreme Court, who appoints the Chief Judge, determine a change is necessary. A traditional manager or caretaker will not be able to confront, analyze, and resolve the budgetary, organizational, and operational challenges facing this Court. While not impossible, it is extremely difficult to envision from the consultants' perspectives a member of the current Court being able to assume such a leadership position.

This conclusion is based upon the failure of the current leadership to adequately respond to the financial crisis facing the Court. More importantly, it is based upon the lack of a vision or understanding as to how a high functioning Court should operate. The current leadership appears to be focused on maintaining the status quo rather than recognizing the need for immediate change.

If the current leadership is maintained, the SCAO must be prepared to assist and direct this management team. Without a high level of assistance, direction, and support from the SCAO, the mistakes of the past are likely to continue. The following leadership strategies are suggested:

- a. The Chief Justice and the State Court Administrator should immediately meet with Chief Judge King and give him a mandate to present a plan to address the short-term budgetary crisis facing the Courts.
- b. If the State Judiciary concludes that the current leadership team is unable to provide the leadership to transform the operation of the Court, a new management team should be appointed.

- c. Regardless of whether a new leadership team is identified, the SCAO needs to provide greater monitoring, oversight, and assistance to the District Court. The SCAO should be prepared to dedicate operational support to the District Court on a full-time basis to help implement the needed changes and office that support on site at the Court.
- d. The Supreme Court and SCAO must be prepared to implement mandates or directives to the Court leadership (current or new leadership) to implement the budget reductions and management changes for the Court.

4.2 Promote Involvement of Judges Executive Committee, Bench, and Staff

The Court's leadership must seek to engage the participation and involvement of the judges and staff in reforming or modifying the Court system. Transparency becomes critical in downsizing the organization. Leadership is likely to be confronted with both internal and external tests related to the transformation of the Court. The cultivation of an atmosphere of trust and collaboration will need to be developed. Several important efforts that should be undertaken to maintain the staff's confidence in the management team including but not limited to:

- a. The SCAO should be prepared to respond to the negative criticism that is likely to come from objectors both within and outside of the Court. In the opinion of the consultants, it is anticipated that this action will be viewed negatively by a substantial percentage of the Detroit community. Strategies should be focused on both public relations to the larger public and internal communication to the staff and judges. The plan should seek to garner the support from local and state agencies that are likely to benefit from an improved Court. A coordinated approach to the likely criticisms -- either portraying this action as a SCAO takeover or racially motivated plan to disenfranchise the judges of the Court as policymakers -- will need to be established. Without such plan, the action will only foster negative perceptions of the Supreme Court and SCAO and interfere with programs designed to improve the operation of the Court.
- b. The establishment of a formal nepotism policy to be thoroughly enforced by management. Everyone needs to believe and understand that hiring and layoff decisions are not being made based upon an employee's relationship with local officials.
- c. Efforts must be undertaken to improve the communications between the administration and the Court's bench. Everyone should be invested in the plan to save the Court. Our discussions with the judges revealed a lack of understanding of the financial crisis confronting the City in general, and the Court more specifically. Securing the cooperation and support of the judges and staff is critical to any long-term reform.
- d. In critical and strategic times, it is important for the Court's leadership to communicate directly with the staff by periodically presenting and discussing major changes. Research has shown that top organization leaders have a much more profound

influence on how employees grasp critical information and thereby support new directions.¹

4.3 Balance and Operate Within an Austere, Realistic 2013/14 Budget

The proposed budget submitted by the Court for fiscal year 2013/14 has the same funding request as the prior year. This is unacceptable and ignores the reality of the City's financial plight. The Court must be directed to submit a budget more in line with the City's recommended budget of last year. The City and the SCAO (and Court leadership as determined by the State Court Administrator) must begin an immediate dialogue with the Emergency Financial Manager's Office and reach a consensus as to funding for the new fiscal year.

It is recognized that the vast majority of costs related to the Court's budget are personnel expenses. The Court must confront the reality that significant cost savings can only be accomplished through reductions in positions and/or salaries. Savings through layoffs, furloughs, and reduced hours of operations must all be considered and analyzed. Admittedly, many of these solutions are tactical, that will continue to buy time to develop more strategic and sustainable changes for the long run.

The District Court, working with the SCAO, is in the best position to determine the different tactics to accomplish this task. It is always difficult to discuss layoffs, but cost reductions through attrition alone are not feasible to address the economic challenge facing the City and the Court. Some of the cost saving devices that should be considered are:

- a. The immediate suspension of all civil jury trials until January 1, 2014, and limit jury trial days to once per month.
- b. The development of a layoff plan to identify staff reductions based upon the priority of Court functions (e.g. what is a mandated function and what is not). Ancillary staff should be reduced prior to any modification of staff associated with the operation of various court work units.
- c. Negotiations with the Unions should be commenced immediately in order to ascertain whether substantial reductions in costs can be identified to lessen the impact of the anticipated staff reductions. In addition, the timing and planning of layoffs should be established to commence at the start of the new fiscal year (July 1, 2013).

¹ What often happens in sharing information is top leaders meet with subordinate bosses and those subordinates share relevant data and messages with staff, essentially a cascade effect. Often the message doesn't carry the same weight or significance. Why? Only top leaders can give strategic communications the proper weight; strategic messages involve trade-offs for employees (e.g. I will be moved to a new area, duties will be added to my job, etc.), which are more readily accepted from the top; and messages passed from one person to another seldom arrive intact.

4.4 Revamp Union-Court Interactions Consistent with Court Restructuring

Meetings should be initiated with all union representatives to solicit their ideas on improving the court and reducing expenditures. The Court's leadership and representatives of the SCAO should prompt the effort within the next month.

4.5 Reorganize the Management Structure of the Court

The organization structure of the Court should be streamlined. Many courts today are moving to flatter organization configurations where front-line supervisors and employees are given more decision rights in overseeing their work; in other words, greater decision-making autonomy within boundaries to decide how work should be done. Along with that responsibility goes greater accountability as well.

The result has been a thinning number of higher level managers and greater spans of control. However, flatter organizations only work where front-line managers are very skilled and capable of independent problem-solving. There probably are some front-line managers in D36 who fit that definition, but the consultants perceived that there were only a handful of such managers and they had minimal direction and support from the Court Administrator. Consequently, it is recommended early on in any restructuring, that the organization be pulled together under 5-6 lieutenants who report directly to the top administrator. Subsequently, the chief administrator can take steps over the next year to empower more employees with control over their work responsibilities and move methodically to a flatter, more nimble organization.

In developing, promoting, and sustaining key upper and middle managers, it's vitally important to designate the "right" people. By this, we mean dedicated managers who are internally motivated to do meaningful work as supervisors not because of power, prestige, or compensation, but because they are self-disciplined problem-solvers compulsively driven to do their best.

4.6 Create a Criminal Justice Coordinating Committee

Courts are at the center of a web of interdependencies. No court leaders today can operate effectively without reaching beyond the boundaries of the court to collaborate with local and state justice system partners. Therefore, it is mandatory that the District Court engage the Emergency Financial Manager's Office; the SCAO; the Wayne County Circuit Court, City officials, including the police department; Wayne County leaders, including the County Prosecutor's Office and County Sheriff; and the public and private bar, notably the defense lawyers in the community.

Other Michigan courts have done so with success, Genesee County is an example. The ability to create coalitions for effective change is a distinguishing feature of high performing courts nationwide as determined by the National Center in its numerous studies of trial courts.

Biweekly meetings with representatives of the Emergency Financial Manager's Office would be a wise occurrence, too, in order to track both expenditures and revenues. Ideas to increase revenues through special projects can also be explored, discussed, and acted upon.

5.0 Findings/Recommendations: Caseflow and Calendaring

Responsible caseflow and calendar management is essential for any degree of efficiency and effectiveness of a trial court. Essentially, numerous studies and research have concluded that trial court delay is not only the single greatest cause of public dissatisfaction with the administration of justice, as Harvard Law School Dean Roscoe Pound pointed out in his famous 1906 address to the American Bar Association in St. Paul, but contemporary research has indicated it diminishes the adjudication process and, therefore, weakens the ability to more easily and routinely reach just and fair case outcomes.

5.1 Develop a Formal Caseflow Management Plan

The Court should develop a formal, written, publishable caseflow management plan; essentially a concise blueprint of how a more streamlined caseflow and calendar system will operate. Select judges and key court staff, along with staff from the SCAO and others as determined by the Court's leadership, should be assembled as a special task force to develop it. The plan must clearly establish the Court and its leadership as responsible for managing the flow of cases and the pace of litigation in the adjudication process. The development of the plan should be expedited with a finalized draft produced within a 30-day period from the inception of the task force.

The process of preparing and reviewing the drafts of the plan can serve as a means to identify problems and think through main tasks, pinpoint key individuals and their responsibilities, and target dates for implementing major parts of the plan. Ultimately, the plan can serve as a reference point in evaluating successes and addressing continued problem areas. The plan should be formally adopted as a rule of Court, an administrative order issued by the Chief Judge, or a resolution of the Bench signed by a majority if not all judges. A sample case management plan can be found in the Appendix.

An example of an issue that should be addressed is morning arraignment practices. Morning arraignment paperwork is cut off at 9:30 a.m., which causes difficulty for the prosecutor to comply with the deadline when numerous people are in custody. Additionally, most neighboring district courts do not engage in a similar practice; typically in these courts paperwork is accepted throughout the day until some agreed-upon point in the afternoon. It is also suggested that arraignments be conducted twice each day, once in the morning and once in the afternoon. Whatever paperwork was received and prepared by the morning session should be sent to the magistrate with the remaining files heard in the afternoon.

Another calendaring dilemma is the carryover of felony preliminary exams by judges to their personal dockets when they rotate off that assignment. In doing so, it causes major staffing problems for the County Prosecutor who only has four attorneys to cover the four exam courtrooms. This creates delays, confusion, and safety/transport problems due to the limited number of courtrooms with holding cells for in-custody detainees. It is understood that published performance data on felony cases aging by a judge may be a reason judges are holding onto cases initially assigned to them. Surely the Court and SCAO can develop a solution that avoids statistically penalizing a judge who inherits a delayed preliminary exam case while continuing to track and speed cases to finality.

5.2 Reassign Four Civil Judges to Criminal Assignments

A preliminary assessment (e.g. weighted caseload analysis) of the work of the Court suggests that a disproportionate allocation of judges and staff is devoted to civil. The Michigan Judicial Workload Assessment currently notes a need of 5.5 civil judges and 27 criminal judges. There currently are 12 judges assigned to civil dockets.

In light of the anticipated reduction in staff, the Court needs to prioritize and focus on the disposition of criminal matters and accept and recognize a likely reduction in civil resolutions. Here, the Court's leadership should explore innovative ways to handle civil disputes such as additional ADR, attorney/law school volunteers, retired judges, assignment to out-of-jurisdiction judges, and other means to avoid backlogs.

5.3 Reduce Case Backlogs

The Court appears to be experiencing unacceptable delays in cases that are currently pending. According to recent informal reports (source: SCAO), only 21.1 percent of the "unassigned" FY cases were disposed within 14 days, with 5,078 pending; 69.8 percent of "unassigned" misdemeanor cases were disposed within 126 days, with 39,341 pending; and 19.7 percent of "unassigned" civil infractions were disposed within 35 days, with 431,268 still pending. Many of the Court's backlogged cases are under the radar because they are not appropriately assigned to a judge. Others fail to age appropriately because the event that triggers aging (e.g. arraignment, waiver) is never entered into the electronic case management system (the SCAO maintained Justice Information System – JIS). As a result, there is a potential trend for a "hidden," but very large backlog that must be addressed.

It is important that the Court identify and reduce the size and age of its pending inventory. The size, nature, and composition of the pending inventory must be analyzed.

The Court should have specific strategies to administratively review all older pending cases (those that have exceeded the State's time standards for disposition), formally close "dead cases," and differentiate the remaining number by current status, relative complexity, or action that is needed to close them.

It is likely that it will not be easy to dispose of the pending backlog without additional temporary judicial resources. The Court will need the assistance of the SCAO for the use of out of District judges. Attorney volunteers are sometimes used by courts as settlement masters for "settlement weeks." Concurrent with out-of-jurisdiction judicial help, one or more D36 judges could be assigned to handle only backlogged cases.

5.4 Document the Number of Nonappearances

Nonappearances by police officers and failures to appear (FTAs) by defendants in criminal cases and plaintiffs and respondents in civil matters is rampant. Police officer nonappearances should be analyzed and using that information, Court leaders should discuss remedies with the Detroit Police Department.

The Court issues bench warrants for a large percentage of cases that have been scheduled. Either the Caseflow Management Plan Task Force or a court staff person should be assigned the task of analyzing the cause for frequent no-shows. The Court should then improve its scheduling practices based on the results of the analysis.

5.5 Speed Infraction Cases through the System

Civil infraction cases are the most voluminous matters handled by any limited jurisdiction court, including D36. In developing the Caseflow Management Plan, expediting these matters should be a high priority.

Electronic citation advances underway in the Detroit Police Department (DPD) should help immensely. DPD should do a few other things to expedite processing, including partnering with the Court in requesting City officials to formally adopt the Michigan Motor Vehicle Code and thereby potentially increase fine revenue to the City; file civil and misdemeanor offenses stemming from the same incident as one consolidated matter as required by Court rule.

5.6 Expand Available Adjudication Time

Many courts nationwide have lightly scheduled times and days during the workweek that have developed over time. It was noted that D36 schedules lightly on “game days” due to parking problems for litigants and lawyers and generally, like many courts, sets fewer matters on Fridays as the Court winds down for the weekend.

In exigent situations like the one before the Court, circumstances dictate that judges and staff should examine the wisdom of setting lighter calendars during workdays. We are not suggesting a “work until you drop” mentality, but we are proposing that the Court may help itself out of its present situation sooner by scheduling more cases over the short-run.

6.0 Findings/Recommendations: Business Process Improvements

Most problems in courts, as well as other organizations in general, are found in processes not people. By methodically analyzing work flows and procedures to raise efficiency and quality while reducing costs, as reengineering requires, even those with basic training in work redesign can improve operations. Once new approaches are created, testing and modifying them through pilot projects is a good way to debug them and prove their value before expanding them throughout the organization.

6.1 Reduce Redundant Clerical Work Patterns

It is suggested in this regard, that the Court invest heavily in work simplification and business process reengineering (BPR) approaches. BPR gained notoriety in the 1990s as businesses began revisiting the need for speed, service, and quality over control and efficiency and ran into unanticipated problems as they attempted to use technology to mechanize old, antiquated ways of doing business (i.e. dysfunction in poorly designed IT became the subject of dark humor: “garbage in; garbage out”). The common mistake by various governments, and some courts, was to focus on quick fixes that more often than not exacerbated problems rather than eliminating old rules and practices.

Eventually, both businesses and government entities started to redesign and organize work around outcomes, not tasks. Ideally, when followed to the extreme, the principle encourages one person to perform all the steps in a process by designing the person’s job around an objective or end result instead of a single duty or step in a work process. Other major principles in work simplification and process reengineering include:

- a. Working backwards by having those who use the output of a work process engage in the reengineering analysis itself. Ad hoc, interdivision committees or task forces often work well provided they are effectively led.
- b. Concentrating only on a few prioritized projects, otherwise urgent work redesign efforts at a time will become overwhelming.
- c. Placing decision points where the work is performed and building control into the process. There is an assumption in many organizations today, courts included, that the people doing the work have neither the time nor the inclination to monitor and control it and therefore lack the knowledge and skill to make decisions about it. Proven modern day reengineering principles, however, argue that those who perform the work should make the decisions and that the process itself can have built in controls. The ultimate objective is for the doers to be self-managing and self-controlling. This direction is certainly in line with empowering.
- d. Capturing information once and at its source is a widespread standard in BPR. As the Court continues to move toward more computerization and electronic databases, leaders need to promote the elimination of as much redundant data entry as possible. The propensity for most trial courts to operate in disjointed, isolated work units promotes an excessive amount of duplicate work process. Resultantly, system-wide

approaches toward reengineering solutions and integrating work are very important goals to embrace in moving forward.

Given the repetitive, clerically intense work patterns of the Court's staff, the development of one or two experimental BPR teams to analyze selected current work processes, as designated by the Court Administrator, with the objective of using the basic principles mentioned above to reduce waste and simplify procedures could prove quite beneficial. Trusted, proven managers who can assume the role of a leader-coach should be chosen to coordinate and facilitate the teams. Team members should be composed of those who actually do the work and, if possible, at least one or two people who use the output of the work process. The teams should initially concentrate on clumsy, duplicative, problematic work processes that are generally considered delay-ridden, overly cumbersome, or unnecessarily complex. The Court Administrator should initially select the scope and roles of the teams. The BPR teams must be openly endorsed and supported by the Chief Judge and Court Administrator. Either initially, or during the process, the Court's information systems coordinator (information systems expert), or designee, should be involved. BPR projects must have a clear timetable, ideally 2-4 months or less, so that they are not self-perpetuating or cause the organization to be in limbo for an excessive period. Lastly, there should be some training given to leader-coaches and team members on work process analysis and work redesign during the initial formative stages of the teams.²

6.2 Simplify and Improve Jail2Court Paperwork Processes

In our quick on-site visit to the Court, National Center consultants noted a series of paperwork problems between the jail and Court. It is understood that a new jail will open soon in downtown Detroit closer to the courthouse, but troublesome paper and information flows are expected to remain largely unchanged. We suggest the Court take this relocation opportunity to streamline processes, including but not limited to the detainee information sheet and writs of release.

The Court should not rely on the detainee information sheet or concern itself so heavily with the accuracy of the County Prosecutor's filings. The Police and Sheriff use *Livescan*, a state-of-the-art electronic method to capture fingerprints and palm prints, and the Prosecutor makes every effort to ensure its charging documents are accurate.

Writs are incorrectly worded to order the defendant into the care of their respective attorneys. These writs are being signed, though improper on their face, thus a hearing is required by law. These writs should not be signed.

6.3 Analyze Juror Usage and Jury Trial Statistics

Analysis should be conducted on the number of jurors summoned and their usage (voir dire panels) as well as the number of jury trials held. According to data submitted by the Court to the SCAO, much smaller courts in the region experienced more jury trials than D36. For example, D35 reported 17

² At a minimum, training should focus on how, in simple terms, to document/diagram existing work processes, what to look for in the way of processing bottlenecks, and a clear understanding of how the final work output will be used.

verdicts compared to D36's 12 verdicts in CY 2012. D35's caseload totaled 41,227 cases compared to D36's 1.1 million cases.

6.4 Explore Creating a Management Analysis Unit at the Court

Court leadership should consider creating a management analyst group attached directly to the Court Administrator's Office to conduct operational analyses that will lead to improvements. The Court needs this assistance in order to critically evaluate its efficiency. The group is envisioned to work in partnership with the SCAO on a project basis. It could also coordinate BPR efforts.

7.0 Findings/Recommendations: Technology

Of all potential workflow improvements suggested by National Center consultants, automation, essentially digitizing records, business processes, and information flows, will have the greatest and most permanent impact toward improved efficiency. Courts are process-oriented organizations and ideally suited for automation. Particularly suited for digital solutions are clerically oriented, paper intensive jobs such as those found in courts where the economics of software versus hiring frequently favors software. In making this statement, we are not disparaging the Court's clerical staff, but merely commenting that with the advancement and use of digitized technologies (e.g. audio/video transcripts, remote interpreter systems, internet access to public records, DIY forms and instructions, e-filing, and the like) to their full potential, fewer employees will be required to handle the clerical duties in the Court as compared to the past.

7.1 Fast Track e-Citation as a Key Efficiency Improvement

A growing number of law enforcement agencies are utilizing handheld electronic ticket writers. Introduced years ago to issue parking tickets, the technology has been improved, becoming miniaturized and wireless and easily used by patrol units. Most state court administration offices encourage this direction for limited jurisdiction courts, especially where single statewide court case management systems exist, such as in Wisconsin, Minnesota, and Iowa, which have all advanced toward e-citation processing.

Both the Michigan State Police and recently the Detroit Police Department have instituted e-citation programs. The Court should encourage the rapid expansion of these technologies and restructure its clerical operations to streamline the processing of this digitized data consistent with JIS capability.

7.2 Maximize the Use and Capability of JIS Within the Court

It should be noted that the SCAO feels the Court could significantly reduce its manual paper processing by more fully applying JIS electronic applications. Further, it is the SCAO's position that with greater use of JIS, any resulting staff reductions would not greatly hamper the Court's efficiency. The NCSC consultants are inclined to agree given the observed redundancy in paper processing during the site visit.

In any regard, a strong push by Court leaders to utilize JIS electronic solutions over clerical processes should occur. Where electronic processes differ from paper processes in the Court, deference should be given to changing manual clerical procedures to coincide with JIS software requirements unless it can be irrefutably substantiated that required and useful existing business functionality will be unduly sacrificed.

7.3 Collaborate with JIS and Local Justice Partners to Integrate Systems

Most electronic court case management systems are moving to integrate with other justice system entities. Electronically sharing and exchanging data with other state legal and criminal justice systems is an essential strategy in promoting greater efficiency (read: reducing time, waste, and expense) and productivity (read: streamlining work) for all.

A significant advantage in doing so in Michigan is that information systems governance, planning, and operations are largely centralized at the state level. This is both an unusual and propitious occurrence for a state where limited jurisdiction courts are decentralized (managed at the district court level), chief prosecutors and sheriffs are elected, and counties and cities principally fund their day-to-day operations. The 36th District Court should actively support and encourage JIS to integrate its data flows with local justice system partners in Detroit and Wayne County as possible.

7.4 Advance High-Tech Use in the Courtroom for Judges and Staff

For a busy urban limited jurisdiction court, the 36th District Court uses very little technology in the courtroom and adjudication process. The judges do not have computer terminals or laptops on the bench, stenographic court reports are widely used, in-court case processing by courtroom clerks is minimal, and orders, notices, and forms are all in paper form.

Many courts similar to D36 have much more automation in the courtroom. To that end, it is suggested that the SCAO develop and submit a report to the Chief Judge and Court Administrator outlining available technology that could be implemented in courtrooms and hearing rooms in D36, the efficiency savings that could be generated, and ideas on how the court could methodically acquire and implement it in a cost-effective manner. A copy of the report should go to Detroit City officials and the Emergency Financial Manager.

8.0 Findings/Recommendations: Collections and Debtflow

The collection of fines and fees is shorthand for enforcing compliance with court monetary orders. How well a court takes responsibility for enforcing its orders is vital to supporting the Rule of Law and, ultimately, the public's trust and confidence in the justice system.

Compliance has a broader meaning than just collections. It is multidimensional. The objective of compliance is to facilitate cooperation or obedience. The court's ultimate goal is to encourage voluntary conformity reinforced by the certainty of pursuit and stiff consequences for those who do not comply. In regard to monetary orders, collections are only one part of a compliance program. In essence, it is the "back-end" of a compliance program after all other types of incentives and coercive devices are exhausted. You can develop a collections program as part of a compliance strategy, but you cannot easily grow a collections program into a compliance plan. Consequently, successful courts that consistently deliver high results in early and timely payments from those ordered to pay fines and fees are those that apply the same principles that work in reducing case delay to reducing payment delay - early and continuous control, short scheduling, incentives to do the right thing, and proven methods that encourage early resolution.

8.1 Get Serious about Enforcing Monetary Court Orders

There should be an expectation that obligations are due at the time of sentencing or pleading. Fines/fees managers should office adjacent to the courtrooms with those ordered to pay immediately ushered from the courtroom to a fines/fees manager who can facilitate payments by credit card, money order, or cash, and who can check credit ratings as necessary. Serious attempts should be made at this point to collect all the fines/fees that are owed by an obligor. Only as a secondary concern should the fines/fees manager set up a time payment plan that should have strict terms applied to them. Alternative enforcement options should be available for those who cannot pay. Close monitoring for compliance should follow including prompt action for noncompliance.

Credit card pay-by-phone and pay-by-web should be developed if they are not currently in place. Online payments for misdemeanor cases should be researched – What other courts allow such payments? How would such an approach work in Michigan? The SCAO should assist in exploring this option as a statewide solution.

The Court should consider creating a special compliance/collections initiative by reassigning two judges to handle backlogged collections cases. These judges should be strong on collection efforts and could pilot a revamped, stringent compliance program where fines/fee manager's office next to their courtrooms. No discussions about reduced fines payments should take place in the courtroom before the court audience. Any discussions with the obligor should take place in a one-on-one discussion with the fines/fee manager.

Consider converting the scheduling windows in the lobby into additional collections windows.

Consider fusing the fiscal department with the Court's cashiers (both in criminal/traffic and civil).

8.2 Review Phoenix Municipal Court Compliance System as a Best Practice

The Phoenix Municipal Court has an exemplary compliance system. Although it took time to establish all of its features, it works exceedingly well. Additionally, it dovetails nicely with many additional enforcement efforts available through Arizona's Administrative Office of the Courts and Arizona State Government. It is worth reviewing and adopting as many facets as possible. The Court and SCAO should develop a task force to identify components that could be instituted in both short- and long-term time frames and follow through on pilot projects to test its applicability to D36 and other Michigan trial courts. A detailed overview of the Phoenix program is in the Appendix

8.3 Partner with the SCAO and NCSC to Promote Widespread Improvements

The SCAO and the National Center have substantial information regarding compliance and collection programs. Using technical assistance or grant funds (e.g. State Justice Institute, Bureau of Justice Assistance), it is suggested that Court officials collaborate with the SCAO and NCSC to improve collections substantially. The current collection rates for the Court are quite low compared to national averages.

9.0 Findings/Recommendations: Customer Service

Improved customer service has long been a topic of interest to leadership judges and court managers. Lately, it has been repackaged in more sophisticated and researched ways for courts through the insightful work of Dr. Tom Tyler, a professor at New York University who has dubbed it “procedural fairness.” His conclusions and ideas have merit for the District Court and all courts in Michigan.

Procedural fairness includes not only litigant perceptions about whether judicial decisions are fair (“outcome fairness”), but more importantly, an assessment as to how court users perceive their case was handled and the quality of the treatment they received from judges and staff. Tyler’s studies, vetted by many others, identify four primary elements of procedural fairness. Much of it is conditioned by staff behavior as well as judicial officers.

- a. *Respect*: People react positively when they feel they are treated with politeness and dignity; when they feel valued and their rights are respected. Helping people understand how things work and what they must do to navigate through the court system is strongly associated with court user satisfaction.
- b. *Voice*: People want the opportunity to tell their story; to explain their unique situation and circumstances. Often, as patrons describe their viewpoints and reasons for seeking court intervention, court staff can help them grasp issues, terms, and processes more clearly.
- c. *Trustworthiness*: People look for actions to indicate they can trust the character and sincerity of those in authority, including nonjudicial staff, and that those in authority are aware of and genuinely concerned about their needs. People look for conduct or behavior that is competent, benevolent (e.g. putting the needs of the customer ahead of the needs of the employee), caring, and seeking to do the right thing.
- d. *Neutrality*: People are more likely to accept direction, decisions, and help when those in authority do things that both are, and perceived as, fair and neutral (e.g. they have been treated like everyone else), the importance of the facts are clearly understood, and the next steps or the reasons for a decision or course of action have been clearly explained.

In efforts to introduce more procedural fairness, some court leaders have created Citizen Task Forces on Court Feedback to help in promoting improvements in the courtroom and throughout the court as an institution. Such groups are generally apolitical and staffed by the court administrator’s office. Some courts have developed “court watcher” programs to provide candid, private feedback regarding perceptions about the court (i.e., work by the Council for Court Excellence in Washington DC is an example). Other courts have developed internal, confidential judicial, and court performance improvement programs involving staff, consultants, and/or citizens with special mentoring expertise (i.e., examples include Hennepin County Minnesota District Court and the Maricopa County Arizona Superior Court where management coaches have worked with judges to improve their effectiveness in the courtroom and their interactions with lawyers and the public).³ The American Judicature Society

³ Coaching is not advice, therapy or counseling; rather it targets assessments about working relationships, organization challenges, communication improvements, options building, and values clarification.

and Judicial Division of the American Bar Association both provide guidelines and endorsements toward justice performance review programs that are worthwhile to explore. Some of the specific initiatives for D36 are:

9.1 Eliminate Long Payment and Court Assignment Lines in Lobby

To most people, courts are mysterious and uncomfortable places. The lobby area of the Courthouse is very confused and unwelcoming. During the site visit, the consultants witnessed long lines of people waiting to get their assignment to a court and pay fines and fees. This atmosphere is the antithesis of customer service.

Court leaders should install electronic docket call screens in the lobby and make the court dockets available online through JIS or commercial software and the internet. Once these features are installed, the Court should make every effort to advertise and promote this information for greater use by the public. The SCAO has indicated that they would fund the electronic docket call screens and help Court officials ensure that they worked well. In addition, the Court should explore putting calendar information on the internet.

9.2 Permanently Dedicate Courtrooms to Specific Case Types

Currently, only a few courtrooms are dedicated to specific case types (e.g. preliminary hearing exam courtrooms, in-custody arraignment courtrooms, landlord/tenant case courtrooms). Permanently dedicated courtrooms for specific case types should be the norm, not the exception, in scheduling cases.

Most limited jurisdiction courts ensure that the same case types of cases are calendared in the same courtrooms day after day as a convenience to litigants, witnesses, lawyers and the public. In turn, the judges travel to the proper courtroom when on a specific assignment. The term used to describe this pattern by the National Center is shared courtrooms and collegial chambers – this model of space utilization assumes to the extent possible all judges will office together in a series of closely related judicial suites and share support staff. In doing so, judicial support staffing to judge ratios can be reduced since judicial assistants, court reporters, bailiffs, law clerks, and any other support staff for judicial officers can be pooled. Even in older buildings, such as the D36 Courthouse, space can often be rearranged without substantial cost to move groups of judges and support staff closer together to gain economies of scale.

9.3 Explore Partnering with Libraries for Self-Represented Services

Another far-reaching customer self-sufficiency program growing within the national court community targets both transaction and information services for litigants without lawyers in novel partnerships between public libraries and courts. Librarians are remaking their futures in a highly technical world permeated by the internet and e-books. Court futures are becoming increasingly internet-based. Libraries are quiet, user-friendly environments in strategically accessible locations. Thoughtful research and decision-making by self-represented litigants requires a tranquil, learning atmosphere. Librarians get up in the morning just to give out information. The courts have a lot of self-

help information to dispense. The result: an increasing number of courts are working with public libraries to supplement the delivery of self-help legal services. The Superior Court in Phoenix, as an example, has developed a “Librarians’ Academy” to teach the basics about self-help law, judicial process, and the difference between legal information and legal advice. Librarians are often willing to buy self-help legal materials from their book budgets and set up special reference sections. Librarians must collect book fines and can easily collect fees for self-help forms and instruction packets. Public libraries are progressively becoming multifaceted electronic government portals, ideal partners for trial courts. Scholarly articles and monographs encouraging court and library collaboration in delivering Do-It-Yourself (DIY) legal services have begun to appear; a sign that the concept is moving beyond a vision to a bona fide solution.⁴ The Court and SCAO should explore this direction for not only Detroit, but other trial courts in Michigan.

9.4 As Possible, Administer the Access/Fairness CourTool Measure

The National Center encourages courts to utilize CourTools, a collection of ten core performance measures pertaining to trial courts. D36 should explore using each of these assessment tools, and especially CourTool Measure 1: Access and Fairness. This measure rates court users on a court’s accessibility and its treatment of customers in terms of fairness, equality and respect. A more detailed review of this measure is found in the Appendix. Information about all CourTool measures is available at www.ncsc.org.

⁴ Griller, Gordon, *Chapter 34: Litigants without Lawyers: Going It Alone in the Nation’s Courts*, [The Improvement of the Administration of Justice](#), Seventh Edition, edited by Stott, Keith; Griller, Gordon; and Fallahay, John. Judicial Division, American Bar Association: Chicago, IL. (2002) and Zorza, Richard, *Public Libraries and Access to Justice, Future Trends in State Courts 2010*, edited by Flango, C; McDowell, A; Campbell, C; and Kauder, N. National Center for State Courts: Williamsburg, VA. (2010).

10.0 Epilogue

It seems clear that Court staff and judges are working hard, but their performance is hampered by the inability to reduce the Court's overriding reliance on paper files and to remove themselves from the day-to-day crises confronting the Court and City to objectively assess ways to modernize operations. Certainly, the wise and effective use of electronic technology can help solve many problems, but far more important is the Court's need to revamp and simplify business processes and to improve calendar management approaches. The suggestions in this report offer some initial remedies.

In essence, the staff and judges must reengineer old work procedures and embrace a culture of innovation and change. In doing so, the Court should look to the SCAO and the NCSC for guidance and direction as well as pilot and experiment with new approaches on their own.

Improvements to public safety - the Court being a major player in that effort - are essential to the City's rebirth. If the criminal justice system is unable to perform effectively, the public's distrust in government will be heightened. Such erosion in confidence will only exacerbate the problems confronting the City.

District 36, therefore, must balance budget challenges with its responsibilities to advance public trust and confidence in the criminal justice system. To do so will require more effective justice system partnerships, reductions in expenditures, and a serious move away from the status quo. National Center consultants are convinced that can be accomplished without substantially diminishing public safety.

The staff and the judges of District 36 are hardworking and committed. The question is not effort but a commitment to reexamine old ways and a willingness to embrace new, more efficient and effective approaches. The leaders of the Court must be prepared to accept the new norm of reduced budgetary support from the City and still improve the functioning of the Court. Where people are dedicated to those ends, true transformation can take place and the Court can indeed become a model limited jurisdiction court for the State.

Reengineering and restructuring of any major organization is never easy. It should be anticipated that efforts to improve D36 will require a long-term investment and support from all involved. However, Detroit has witnessed the revitalization of the American auto industry so identified with the City, and that success can certainly serve as a strong and guiding incentive for the Court and City Government. The challenges are great and demanding, but so, too, can be the determination and willingness of the judges and staff to create a better, leaner, more efficient District Court. The first step begins with this report.

Appendix

Sample Caseflow Management Plan (California Superior Court Version)

Caseflow Management is the oversight and supervision by the court of the continuum of processes necessary to move a case from filing to disposition, regardless of the type of case or disposition.

1. Goals of the Court

In accordance with the directives of the judicial branch and the court's leadership, the court adopts the following Caseflow Management Plan. This plan establishes that the court is responsible for managing the flow of cases and pace of litigation in the adjudication process. The goals and objectives of this plan will assist in achieving the court's caseflow management policies. The plan ensures that all matters before the court will be responded to in a timely and judicious manner. Goals of the plan include:

- Expedite the disposition of all cases consistent with fairness to all parties.
- Minimize the uncertainties associated with processing cases.
- Assure equal access to the adjudication process for all litigants.
- Ensure the resolution of matters is guided by what is permissible under law, by defined standards of service, and by balancing the needs of the individual and society.
- Enhance the quality of litigation.

The court operates with an individual (direct set) calendar in handling all felony and general civil matters. Judges handling felony calendars will be assigned cases upon the filing of a criminal complaint and manage those assigned cases through all pre-prelims, preliminary hearings, law and motion hearings, settlement events, readiness conferences, and trial phases to and including disposition. All violations of probation where no new charges are filed will be assigned to a separate probation violation calendar for disposition. Violations of probation where new charges are filed will be randomly assigned to a felony calendar and handled by that assigned judge regarding VOPs and any new charges.

The judge(s) handling civil cases will not be expected to manage or try felony cases except in exigent circumstances. The civil trial judge(s) will oversee and promote court-annexed alternative dispute resolution programs as part of the civil caseflow. The court executive officer will provide an alternative dispute resolution (ADR) coordinator to manage and monitor civil ADR activity to ensure timely case processing.

2. Case Processing Time Standards

- A. The court adopts time standards for case processing to include the following
[Insert agreed upon standards by the bench for various case types]

- B. The court adopts a Differentiated Case Management (DCM) system that provides for similar types of cases to be tracked with specific time constraints. The court adopts intermediate goals governing the time between monitorable events in *felony cases* as follows [examples are speculative and subject to change]:
- The preliminary examination and bind over shall be within ___ days of the initial appearance for a defendant in custody and within ___ days for a defendant out of custody.
 - A *pre-prelim discovery conference* shall be held within ___ days of the initial appearance for a defendant remaining in custody and within ___ days of the filing of a criminal complaint for a defendant not in custody.
 - A *pre-prelim settlement conference* shall be conducted within ___ days of the pre-prelim discovery conference.
 - Any reduction from the original plea offered by the District Attorney shall terminate ___ days after the pre-prelim settlement conference, after which the defendant shall be tried on the original charge(s) filed.
 - The motion filing deadline shall be within ___ days of the arraignment.
 - The trial date shall be within ___ days of the arraignment.
- C. The court adopts intermediate goals governing the time between monitorable events in *general (unlimited) civil cases* as follows [examples are speculative and subject to change]:
- Immediately upon filing, a general civil case shall be ordered into a mandatory ADR program, as outlined in the court's rules.
 - Should ADR be unsuccessful in resolving the case within ___ days of referral, the court shall schedule a *case management conference* before a civil trial judge no later than ___ days after the return of the case to the civil trial calendar.
 - At the *case management conference*, the court shall develop a formal trial management order delineating the steps and time periods pertaining to discovery, motions and other pretrial preparations, and shall set a firm trial date.
 - Unless unusual circumstances exist, civil trial dates shall be set no later than ___ days after referral to the civil calendar.
 - Complex civil cases may be set only upon petition to and approval by the court's presiding judge.

3. Adjourment or Postponement Policy

- A. Adjourment or postponement means the delaying of a scheduled hearing to a later date without accomplishing the original purpose of the hearing.
- B. Continuance means the resuming of a hearing or court event that has commenced or started, but not finished.
- C. It is the policy of the court that adjournments or postponements are limited to those parties demonstrating verifiable good cause. All requests for adjournments or postponements must be decided by the assigned judge or his/her designee consistent with related requirements outlined in the court's rules. Adjourments granted shall be

classified as such by court staff and tracked by lawyer or party name and reason(s) given.

- D. A maximum of two (2) adjournments or postponements may be given by any judge or judicial officer initially or subsequently assigned to a felony or general civil case. All further adjournment requests shall be calendared before a specially designated Postponement Judge for a decision on the record. A transcript of the proceedings and decision shall be created and transmitted to the affected parties and the supervisors, or managing partners of any lawyer(s), requesting the postponement.

4. Trial Scheduling

Trial dates shall be set at the Calendar Conference. To avoid future scheduling conflicts, attorneys must be able to confirm their trial date availability at the conference.

5. Backlog Reduction

A backlog reduction effort is part of this caseload management plan. Based on available case processing data, the court intends to reduce the age of cases already pending before the court as well as avoid delay in newly filed cases. An inventory of older cases by current status, relative complexity, and actions necessary to close them will be initiated.

As possible temporary additional judicial resources will be acquired, special settlement weeks set, dispositions expedited, ADR programs instituted, and short scheduling for intense judicial attention arranged.

6. Statistical Reports on the Pace of Litigation

The court's information system shall provide to the judges and court executive officer, on a monthly basis, a case tracking report that will identify for each judicial calendar the age of the pending/assigned cases, the number of cases pending over the time standards by a judicial officer, the age of cases at each major monitorable event, time intervals between major monitorable events, exception reports regarding languishing or older cases, and delay assessment reports identifying delay "hot spots" on individual calendars.

7. Implementation

Successful implementation of this plan and achievement of the goals herein require:

[inset specific implementation steps below; general topical areas are outlined below as references only]

- A policy level commitment from the bench and critical justice system stakeholders to the concepts and precepts contained in it.
- The establishment and oversight of a caseload management committee to guide and oversee the implementation.
- A scheduling policy which assures that trials and other hearings will occur as scheduled.
- Interim time standards of case processing in felony and general civil matters during the implementation stage.

- The revamping of the court's case management system and the ability of the court staff to effectively track and monitor the processing of cases, especially felony and general civil matters.

8. Judges Direct Set Calendar Committee

The presiding judge shall establish an Ad Hoc Direct-Set Calendar Committee of judges assigned to the felony and general civil calendars, the court executive officer, and any other judges on the bench who wish to participate on the committee. The purpose of the committee is to assist and support individual judges in managing their dockets as the court alters its basic calendaring methods. Assistance is not intended to be limited only to judicial officers assigned to felony and general civil cases.

Overview of Phoenix Municipal Court Collections Program

Since the early 1990s, the Phoenix Municipal Court has taken an assertive position in collecting financial sentences.

Payment-in-full is expected at sentencing. Arizona Revised Statute §13-808¹ requires that all financial sentences be paid immediately, unless permission is granted for installment payments. This expectation is communicated to the defendant through various notices to the defendant. Typical notices include: the bail envelope provided when a traffic violation is issued by a police officer; the court reminder notice mailed to the defendant when any violation is filed with the Court; Judicial instructions from the bench when the violation is adjudicated; and by court staff when answering questions from defendants. An additional \$20 Time Payment Fee² is added to a case when the defendant does not pay-in-full on the sentencing date.

A.R.S. §13-808 also allows a Judge to delegate responsibility for determining payment terms to court staff. The Phoenix Municipal Court Judges have delegated the responsibility to the Financial Enforcement (Screening) Unit. Each Judge has observed the Financial Screening Unit interact with defendants to set up deferred payment contracts for a period of 2-4 hours. This observation and interaction with staff has developed confidence in how staff is treating defendants as well as the equity of payment terms. If payment terms cannot be agreed upon between the staff and the defendant, the defendant always has the right to see a Judge immediately to resolve the impasse.

The Phoenix Municipal Court uses a variety of resources to collect financial sentences. The Court has 22 court employees dedicated to collections (including screening defendants for financial resources and negotiating deferred payment terms). Four Phoenix Police Officers are assigned to the Court to serve warrants for failure-to-pay. The WEB/IVR payment processing services, some of the collection notices, and vehicle registration holds are provided by Arizona Supreme Court's FARE (Fines/Fees And Restitution Enforcement) program. The FARE program is a joint partnership between the Administrative Office of the Courts, local courts, and a private vendor. The Court also contracts with four professional collection agencies. All of these resources are utilized for various, overlapping collection techniques.

Collection Techniques

- Bail Envelope – provided by the police officer to the defendant when a traffic violation is issued. It contains the standard fine amounts for common violations; criteria for attending defensive driving programs and other diversion programs; instructions for paying a fine by mail or telephone; and how to request a trial/hearing date by mail.
- Court Reminder Notice – mailed to the defendant when a violation is filed with the Court. The notice summarizes the amount that may be paid without appearing at Court; the scheduled court date; and, the payment options, including WEB/IVR instructions.
- Personal Interview with Defendant – conducted when a defendant requests a deferred payment plan. Defendant completes a comprehensive four page financial application to provide a detailed listing of assets (bank accounts, vehicles, or property), income, and expenses. The defendant must provide a social security number, which may be used for escalated collection efforts if the account becomes delinquent.

- Credit Bureau Report – requested from a national credit bureau at the time a defendant requests a deferred payment plan. Payment-in-full is required by 5 p.m. if the defendant has available credit on a major credit card.
- Contact and Employer Information – obtained in the personal interview with the defendant to be used to contact the defendant if the defendant cannot be contacted at the home address/telephone numbers.
- Payment Reminder Notice – mailed 14 days before a payment plan due date. The reminder notice lists all of the standard payment options: WEB/IVR, mail, by telephone call to the Court, in-person at the Court during normal business hours, 24/7 at the City of Phoenix Bonds and Fines Window located at the downtown jail facility, and payment drop-box located across from the Court building.
- Delinquency Letter – mailed when a scheduled payment is five days late. The letter demands payment-in-full; advises defendant of consequences of failure to make payment; and lists all the standard payment options.
- Telephone Calls – made to defendant by the Delinquent Accounts Unit when the account is between 10 and 30 days delinquent. Each delinquent account will get five to seven telephone calls at varying stages of delinquency.
- Credit Card Payments via Telephone – offered each time a delinquent account is contacted or when a defendant calls the Court. Credit card payments are processed by the Delinquent Accounts Unit (as well as the Customer Service Representatives when answering calls from the main Court telephone number).
- WEB/IVR Payment Sites – available to accept payments 24/7 for all financial obligations owed to the Court, excluding bail/bond orders necessary to satisfy a warrant.
- 24 Hour Payment Location – available to make payments on all financial obligations, including posting bail/bond for a warrant, at the downtown jail facility.
- Request to MVD to Suspend Driving Privileges – issued immediately for civil traffic violations upon failure-to-appear at arraignment and upon failure-to-pay when the account is 30-days delinquent. A default fee of \$25³ is added for each violation defaulted. The court sends a default notice to the defendant when the suspension is requested which provides all the standard payment options. MVD also sends a notice when the default is recorded.
- Order-to-Show-Cause Summons – issued for failure-to-pay (30-days delinquent) financial sentences on criminal violations. The summons provides all the standard payment options.
- Petition to Revoke Probation – requested through the Prosecutor’s Office for failure-to-pay financial sentences on criminal violations that are imposed as a condition of probation. A petition to revoke probation will also be requested if the financial sentence is not paid-in-full 90-days prior to the end of probation. The petition notice provides all the standard payment options.
- Failure-to-Pay Warrant – issued when a defendant fails to appear at order-to-show-cause hearing or petition-to-revoke hearing scheduled for nonpayment of financial sentence. The Court sends a warrant notice to the defendant when the warrant is issued. The warrant notice provides all the standard payment options.

- Warrant Officers – assigned by the Court to actively serve failure-to-pay warrants. The four officers working with collection staff, contact defendants to prompt resolution of the warrant. If the defendant does not voluntarily appear at court or pay the financial obligations, the officers will visit the defendant’s home and workplace. Brightly colored door hangers are left at the defendant’s known addresses. The officers will take located defendants into custody and escort the defendant to Court for an appearance before a Judge.
- Professional Collection Agency – used for severely delinquent accounts. Accounts are referred to a collection agency 60-days following default notice or issuance of a warrant. The cost of collections is added to the balance due pursuant to Arizona Law⁴ as well as the City Ordinance⁵. Collection fee costs range from 21 to 35 percent. Five percentage points of each fee are set aside in a designated incentive fund. The incentive fund is distributed quarterly to the top performing agencies according to five different categories. The collection agencies also list the Court accounts on the national credit bureau reports and provide all of the necessary updates to keep the listings current.
- Request to Refuse Renewal of Vehicle Registration⁶ – issued immediately when a defendant fails to appear at an arraignment in violation of a promise to appear on a criminal traffic violation and when a defendant is delinquent on any traffic violation financial sentence (excluding parking). MVD notifies all of the registered owners listed on the vehicle title when the registration hold is recorded.
- Debt Setoff Program – used when a defendant owes at least \$21 and the Court has the defendant’s social security number. This program allows a defendant’s State of Arizona Income Tax Refund and lottery winnings to be intercepted to pay court ordered financial sentences. Accounts are referred weekly to the Arizona Department of Revenue through the Arizona Supreme Court, Administrative Office of the Court. Changes in financial sentences are also updated weekly. A notice is sent to the defendant advising that the account has been forwarded to the Debt Setoff Program. The notice offers the defendant the option of having collection costs waived if the balance is paid-in-full within 14 days.
- Boot & Tow Program – used to enforce parking violation against scofflaws. Once a vehicle has three unpaid parking violations, the license plate number is placed on a listing, which is checked by the parking enforcement officers when issuing new parking violations. The parking enforcement officer has an immobilization boot placed on the vehicle. The driver cannot move the vehicle until the parking violations are paid, a hearing is requested, or a bond is posted. Vehicles not redeemed by the end of the day are towed.
- Financial Review Courtrooms – designated judges who review a defendant’s circumstances for all Financial Order-to-Show Cause hearings, as well as defendants seeking financial relief on defaulted violations. The defendant must complete a motion request in order to see a Judge on defaults more than 60-days old. As part of the motion request, the defendant must complete the four page financial application. Prior to seeing the Judge, court staff will also run a credit bureau search to identify if there is available credit on a major credit card. The Judges working these courtrooms are well versed in the Court’s collection practices and provide consistent, equitable resolution to each defendant’s financial circumstances.

Legal References

¹ A.R.S. §13-808. Time and method of payment of fines; conditions of probation; no limitation on restitution and other assessments

A. If a defendant is sentenced to pay a fine alone or in addition to any other sentence, the court, a probation officer, or a staff member designated by the court may grant permission for payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence, the fine shall be payable immediately.

² A.R.S. §12-116. Time payment fee

A. In addition to any other assessment authorized by law, a fee of twenty dollars shall be assessed on each person who pays a court ordered penalty, fine, or sanction on a time payment basis, including parking penalties, restitution, and juvenile monetary assessments. A time payment basis shall be any penalty, fine, or sanction not paid in full on the date the court imposed the fine, penalty, or sanction. Notwithstanding any other law, the time payment fee shall be collected first after restitution. A judge may not waive or suspend a time payment fee.

³ Phoenix City Code ARTICLE III, DIVISION 1, Sec. 2-97. Court fees

A. The City Court shall assess the defendant a default fee of twenty-five dollars for each default judgment entered in a civil traffic violation case upon a failure to appear or failure to pay a civil sanction, unless such default judgment is set aside under Rule 28 of the Rules of Procedure in Civil Traffic Violation Cases. A judge or hearing officer may waive all or any part of the fee if the payment of the fee would cause a hardship to the defendant.

⁴ A.R.S. §A.R.S. §12-116.03. Collection agencies

A court may contract with public agencies or private entities to assist in collecting fines, fees, penalties, costs, surcharges, restitution, and assessments that remain unpaid. The court may add to any underlying amount owed, reasonable costs charged by the contracting agency or entity.

⁵ Phoenix City Code ARTICLE III, DIVISION 1, Sec. 2-97. Court fees

D. A defendant who defaults in his or her obligation for the payment of monies owed or due to the City Court including, but not limited to, restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs, and fees, is liable for any fees and charges assessed by a collection agency that is licensed, pursuant to A.R.S. tit. 32, ch. 9, art. 2 (A.R.S. § 32-1021 et seq.), and that is engaged by the City Court to collect and enforce such payment. The collection fees and charges assessed by the collection agency shall be added to the sum or sums due from and chargeable against the defendant.

⁶ A.R.S. §28-1631. Traffic ticket enforcement assistance program; establishment

A. The department shall establish procedures to:

1. Assist the courts and political subdivisions of this state to collect delinquent monetary obligations imposed for violations of title 5, chapter 3, and for civil and criminal traffic violations.
2. Assist in the enforcement of criminal traffic failure to appear offenses.

B. The program established by this article shall not include collection of delinquent parking tickets.

A.R.S. §28-1632. Refusal to renew registration; fees

- A. On proper notification by a court or political subdivision, pursuant to section 28-1633, the department shall refuse to renew the registration of a vehicle if either:
1. A registered owner of a vehicle is delinquent in paying a monetary obligation for a violation of title 5, chapter 3, or for a civil or criminal traffic violation.
 2. A registered owner fails to appear in a criminal traffic case.

NCSC Consultants' Biographical Sketches

HON. GLENN A. GRANT

... is the Acting Administrative Director of the New Jersey Courts and a judge of the Appellate Division of Superior Court on special assignment to the State administrative office. He was appointed to this position by Chief Justice Stuart Rabner, and began as the administrative head of the courts on September 1, 2008. As such, he is the first minority (African-American) administrative director in the history of New Jersey's Judiciary. Under the New Jersey Constitution (Article VI, Section VII, Chap. 1), the Chief Justice is the "administrative head of all the courts in the State." Under the same constitutional provision, the Chief Justice has the power to appoint an Administrative Director of the Courts. The Chief Justice delegates general responsibility for overseeing the operation and management of the State's court system to the Administrative Director. The Judiciary has more than 9,000 employees and a budget of approximately \$700 million. Over 1 million cases are filed in the Superior Court each year. The Administrative Office of Courts also has oversight of the state's municipal courts, in which another 6+ million cases are filed annually. Previously, Judge Grant served as a Superior Court judge in Essex County from August 1998, to his appointment as Director. In addition to his work at the Superior Court, Judge Grant took a special assignment from 2002 to 2003 as chief judge of the Newark Municipal Court to improve and restructure that court which was experiencing a series of problems pertaining to case delay, revenue collections, information systems management, and staff productivity. In less than a year, he was able to revamp the court and return to the Superior Court to become the Family Court Presiding Judge. Judge Grant also served as the chair of the Conference of Presiding Judges—Family Division from 2007 to 2008, and as chair of the Conference's Children in Court Committee from 2005 to 2007. He began his legal career as corporate counsel for the City of Newark. Eventually, he was appointed business administrator for the city, where he was responsible for managing over 4,000 employees and a budget of more than \$500 million. He served in that position for six years, until his appointment to the bench. Judge Grant earned his bachelor's degree in political science from Lehigh University and a law degree from Catholic University. He has also studied executive management at Harvard University's John F. Kennedy School of Government. In 1978 he was admitted to practice law in New Jersey and in the United States District Court.

Richard J. Hughes Complex | 25 West Market Street, PO Box 037 | Trenton, NJ 08625
609-984-0275 o | 609-984-6968 f | glenn.grant@judiciary.state.nj.us

GORDON GRILLER

...is a Principal Court Management Consultant with the National Center for State Courts' Court Consulting Service. He also works with the Institute for Court Management, the Center's education group, as the Director of Trial Court Leadership Programs to develop and present seminars and workshops targeting presiding judges, chief administrative officers, middle managers, and program professionals in general, limited and specialized courts. He has been with the Center since 2006. Previously, Griller held numerous private and public positions dedicated to court improvement and reform for nearly 40 years, including Vice President for Justice Practices (2003-2006), State and Local Solutions Group, Affiliated Computer Systems (ACS, Inc.), a Xerox company; Administrator for all Trial Courts (2001-2003) in Maricopa County Arizona (Phoenix); Administrator for the Superior Court (1987-2001) in Maricopa County; Judicial District Administrator (1978-1987) for the Second Judicial District of

Minnesota in Ramsey County (St. Paul); and Court Administrator (1976-1978) for the Municipal Court of Hennepin County (Minneapolis), Minnesota. He served as President of the National Association of Trial Court Administrators in 1983 and 1984, and co-chaired the Special Commission that created the National Association for Court Management (NACM) in 1985. He has consulted, taught, and written widely on caseload management, leadership, self-represented litigants, jury reform, visioning, strategic planning, ADR, budgeting, reengineering, and systems and procedures to numerous audiences. In 1988, he received the National Center's Warren E. Burger Award for outstanding contributions to judicial and court administration, and in 2000, NACM presented him with its Award of Merit. He also is a recipient of ICM's Star Award. Griller has a BA in Political Science and MA in Public Administration from the University of Minnesota (Minneapolis) as well as having attended Law School at the University of Minnesota. He is a Graduate Fellow of the Institute for Court Management, a founding member of the Urban Court Managers' Network, and has been on the governing boards of the National Center for State Courts, the American Judicature Society, and the National Conference of Metropolitan Courts, where he currently serves as Executive Director.

8507 East San Jacinto Drive | Suite 100 | Scottsdale, AZ 85258-2576
757.259.1883 o | 757.564.2032 f | 480.209.9621 c | ggriller@ncsc.org

CourTool Measure 1: Access and Fairness

Trial Court Performance Measures



Assessments of access and fairness may vary by case type, reasons for being in the courthouse, frequency of courthouse use, and demographic characteristics that might be associated with differential treatment or ability to access court services. The graphs below indicate that court users' perceptions of staff vary by the type of case that brought them to the court and by reasons for being in the courthouse. Staff and management can seek the reasons behind these numbers as they strive to meet the goals they have set for themselves.



The court should establish a baseline, set its own performance goals for access and fairness, and seek to improve over time. Comparisons of survey results over time and across the court can be a useful basis for identifying trends or successful improvement strategies.

Different locations or divisions might be compared, for example, on the percent of users who felt that they were treated with courtesy and respect. Follow-up queries can then be made that probe the comparisons. Why do one or more locations/divisions seem to be more successful than others? What are they doing that the other locations/divisions are not? Why are some locations/divisions more successful at communicating what litigants need to do next? Posing these simple questions to staff in both the most successful and least successful locations can help to identify effective customer service and communications practices.

Terms You Need to Know

Index: A single number used to summarize a set of data, providing an overview.

Judicial Officer: A judge, commissioner, referee, magistrate, or hearing officer.

Mean: The average value of a set of numbers, equal to the sum of all values divided by the number of values.

Party: A person making or responding to a claim in a court proceeding, e.g., plaintiff, defendant, petitioner, respondent, cross-complainant, but not a witness, juror, or attorney.

Valid Responses: Responses that should be counted for purposes of analysis. For example, missing, "not applicable," or nonsensical responses are not included.



CourTools

Developed by the NCSC Court
 Performance Community of Practice.

Project Directors: Brian J. Ostrom and Daniel J. Hall
 Series Editor: Richard Y. Schauflyer
 Senior Contributors: William E. Hewitt and Ingo Kellitz
 Information Design: Neal B. Kauder
 Design and Layout: Graphics 3

