Technical Assistance Report on
Criminal Differentiated Case
Management Planning in the Seventeenth
Judicial Circuit of Florida
(Broward County)
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Criminal Differentiated Case
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August 1, 1997

Consultants
Honorable Legrome D. Davis
Joseph A. Cairone
SJI-American University  
Courts Technical Assistance Project  

Assignment Data Sheet  

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<tr>
<th>Technical Assistance No.:</th>
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<td>Requesting Jurisdiction:</td>
<td>Broward County, Florida</td>
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| Requesting Official:     | Carol Lee Ortman, Trial Court Administrator  
                          on behalf of  
                          Honorable Dale Ross, Chief Judge |
| Local Coordinator:       | Dixie Knoebel |
| Date of On-Site Study:   | July 7-8, 1997 |
| Consultants Assigned:    | Honorable Legrome D. Davis  
                          Supervising Judge, Criminal Division  
                          Philadelphia Court of Common Pleas  
                          and  
                          Joseph A. Cairone  
                          Deputy Court Administrator  
                          Philadelphia Court of Common Pleas |
| CTAP Staff Coordinator:  | Joseph A. Trotter, Jr. |
| Central Focus of Study:  | Differentiated Case Management Planning |

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August 1, 1997

Honorable Dale Ross
Chief Judge
Seventeenth Judicial Circuit
Broward County Courthouse
Fort Lauderdale, FL 33301

Re: Technical Assistance to 17th Judicial Circuit (Ft. Lauderdale) of Florida to Assist With Criminal DCM Planning: CTAP No. 3-091.

Dear Judge Ross:

Thank you for the opportunity to provide technical assistance to the 17th Judicial Circuit Court in Ft. Lauderdale, Florida on July 7 and 8, 1997. We have confined our brief examination to three basic questions: (1) the efficacy of a criminal DCM program in Broward County; (2) our reactions to the preliminary DCM program design, and; (3) observations on how to best proceed with planning a viable program with the appropriate group of judicial system actors.

Background

While the visit was brief, the days were fully scheduled. The itinerary for the site visit is included as "Attachment A." During the first day, we observed courtroom proceedings in approximately five courtrooms and spoke extensively with Chief Judge Dale Ross, Criminal Division Administrative Judge Paul Bachman and Trial Court Administrator Carol Lee Ortman. The majority of the second day of the site visit was occupied in meetings with members of the Criminal Justice Task Force.
A brief review of the inventory and case flow is in order. Fifteen felony judges and one senior judge are assigned to the Criminal Division of the 17th Judicial Circuit Court. One court is devoted exclusively to handling domestic violence matters and two divisions are dedicated to handling the cases of career criminals. In 1996, 18,650 criminal filings were issued and 16,865 dispositions occurred. As of 6/30/97 the existing inventory totalled 6,140 cases, of which 2,106 cases exceeded 180 days in age. It also appeared that defendants in approximately 29.3% of the cases awaiting trial were in custody. Of the 1996 dispositions, 705 occurred by way of jury trial, an increase over the 495 jury trial dispositions in 1995. Finally, bench trials are almost nonexistent.

Cases appear to follow a relatively straightforward route to disposition: within twenty-four hours of arrest, a bond hearing is conducted before the magistrate. The State's Attorney then has 21 days to file formal charges, a period which is rarely exceeded. The matter is then assigned to a specific trial judge who presides over all future proceedings, including arraignment. No formal guidelines exist for trial scheduling; judges schedule matters for trial based upon individually developed practices. We are advised that initial trial dates following arraignment range from four to twelve weeks depending upon to whom the case is assigned. A trial readiness conference one week prior to the trial date appears to be the only additional status listing. Inventories among the fifteen Criminal Division judges range from 188 to 678 cases, with the mean inventory at 409 cases.

As of June 30, 1997, the inventory of 6,140 cases was comprised of 435 capital cases (capital homicide, capital sex and capital life), 700 first degree felony matters, 1974 second degree felony filings and 3,963 third degree felony cases. Stated differently, third degree felony cases make up 64.5% of the inventory. Obviously, if the court can develop an effective strategy for resolving the large portion of its inventory represented by third degree felony cases in a timely manner, it will, more likely than not, be able to remain current with its inventory within available judicial resources.

Discussion

It was apparent upon our arrival in Ft. Lauderdale that a fair amount of discussion had previously occurred among system participants regarding the need for a criminal DCM program. The Task Force, which, in addition to the judicial and court administration leadership, is comprised of senior officials and administrators in the State's Attorney's Office, the Public Defender's Office, the Sheriff's Office, the Clerk's Office, the Probation Department and the private defense bar, has met regularly and is cognizant of the need for basic changes in case calendaring methodology. Ample support exists within this group for structural revisions in calendaring and case flow methods. The importance of this fact should not be underestimated as all of the stakeholders necessary to successfully effectuate case calendaring changes currently participate in this established and effectively functioning working group.

Support for the development of a criminal DCM program clearly exists within the Task Force. The next step is for the "core group" of the Task Force (the judicial and court
administration leadership) to explicitly define the nature and scope of the DCM program and commit the concept to writing. The descriptive documents should then be shared with the other members of the Task Force and the give-and-take process of developing a consensus within the working group will begin. After discussion, the program structure will most likely be modified slightly to better consider the needs of counsel and the participants, but the core structure of the program should remain basically intact. It is our perception that the judicial leadership has significant credibility with the members of the Task Force. If approached properly, the Task Force will support a well-developed DCM program.

"Attachment B" is a previously prepared draft design for a Broward County DCM program. Rather than attempting to implement DCM across the entire court system concurrently, we strongly recommend that the leadership focus DCM efforts in no more than one or two discrete areas. The court leadership should identify the areas of greatest need, or the stages of case processing causing the greatest concern, and develop approaches to address those areas of need and concern. If success can be generated in a narrow area, future expansion will not be an issue as system participants usually support the expansion of successful programs. A program with a discrete scope will also permit the judicial leadership to draw upon the administrative skills of the particular judge or judges who have demonstrated the ability to effectively manage their courtrooms, to handle high-volume dockets and to implement innovative approaches. Finally, case flow management skills did not appear to be the strength of the judiciary in many of the courtrooms we observed; it appeared that the trial judges we observed were overwhelmed by the crush of cases on their calendars. We do not recommend initiating any DCM programs within these courtrooms until the inventory is reduced to a manageable level and the judiciary receives training in case management principles.

A consensus appears to exist among the judicial and administrative leadership for developing an arraignment-based DCM program. We support this direction completely. Such a program would be relatively straightforward in design and implementation. A single division should be selected as the courtroom to handle all arraignments in all third degree felony matters. This courtroom should be staffed by a judge who has demonstrated the ability to dispose of a large volume of cases at arraignment and whose courtroom operates in accordance with a clearly understood protocol. All third degree felony matters awaiting arraignment should be scheduled into the DCM courtroom for discovery review, establishment of deposition schedules and the communication and acceptance of non-trial dispositions.

Cases already assigned to other divisions but still awaiting arraignment should also be transferred to the DCM courtroom. As some portion of the inventory of fourteen other judges is awaiting arraignment, court administration should transfer existing inventories in a phased approach. Court administration should initially review the inventories of the judges who dispose of less than twenty-five percent of their cases by non-trial disposition at arraignment, and move their third degree felony cases to the DCM program with the understanding they will be reviewed under newly established third degree felony arraignment procedures and returned to the originally assigned judge if not disposed. The next group of cases to be reviewed should be those of judges disposing less than thirty-five percent of their cases by plea at arraignment. This escalating
process should continue until all existing third degree felony inventories have been transferred to the DCM courtroom for review.

Currently, each judge handles his/her own arraignments. Judicial non-trial disposition rates at arraignment in calendar year 1996 ranged from 5% to 49% with a mean rate of 29.4%. Two judges dispose of in excess of 45% of their inventory by way of pleas at arraignment, seven dispose of in excess of 34% of their trial inventory, four judges dispose of between 22 and 26% of their inventory by pleas at arraignment, and three judges dispose of less than 19% of their caseload by way of pleas at arraignment. It is clear that arraignment presents a significant opportunity to dispose of cases and it is also evident that judges vary in their abilities to fully utilize this dispositional stage. As we observed the various divisions, it was apparent that significant court time was utilized in the process of calling cases on the arraignment list. Equally important, four to eight prosecutors and the public defenders were present in each courtroom awaiting the call of their individual cases on the arraignment lists. Through their presence in the courtroom for significant portions of the working day, these lawyers were not able to prepare other matters already scheduled for trial, were unable to meet with witnesses and defendants, were unable to conduct legal research and were equally unavailable to conduct depositions.

Secondly, most of the cases disposed within Broward County are disposed by way of non-trial disposition. The jury trial rate in 1996 was 3.7%. In 1995, the rate was 2.9%. In March 1997, a randomly selected but representative period, the jury trial rate was 3.2%. These trial rates are excellent as is the nontrial disposition rate. From a court management perspective the historical fact is that most cases will be resolved by way of non-trial dispositions. The administrative challenge becomes to create a structural mechanism connected with basic caseflow management which will facilitate the consistent entry of pleas at an earlier point in the process. Less than four percent of all cases will require trials. The remainder will be non-trial dispositions at arraignment, at the trial readiness conference, or on the trial date.

Consolidating arraignments for third degree felony cases into a single courtroom will benefit system participants. Initially, fewer attorneys will be required to conduct the arraignments. Rather than assigning two to four attorneys per office in fifteen courtrooms (theoretically, as many as 60 attorneys per day per office with arraignment responsibilities), a smaller number could be assigned. The prosecutors assigned to the arraignment function on a particular day who do not have courtroom responsibilities could review the files and communicate reasonable nontrial disposition offers to the defense in advance of the arraignment listing. The public defenders without courtroom responsibilities on a particular day could interview custody and bail defendants and communicate the non-trial disposition offers. The remaining trial courtrooms would be relieved of a significant time-consuming administrative

1 It is not certain what time period is utilized to measure "pleas at arraignment."

2 It is not clear from available statistical information the stage of proceeding following arraignment at which the remaining nontrial dispositions are entered.
responsibility, thereby creating additional trial time. If arraignments are consolidated in a particular courtroom, it will be much easier for the Sheriff to staff the courtroom and transport prisoners in a timely manner.

It is clear from discussion with all parties that one of the major impediments to the early disposition of cases is the perceived need to conduct depositions. Yet, defense counsel acknowledge that depositions are useful in only a small percentage of cases. The prosecutor does not attend depositions in most matters due, in most part, to arraignment assignments. We strongly recommend that the court issue administrative guidelines defining, with specificity, the time period in which depositions must be conducted. We also recommend that the court require strict compliance with these guidelines. If a party is unable to complete depositions within the applicable period, he/she should be required to present a petition to the Chief Judge or the Administrative Judge setting forth the extraordinary circumstances requiring an extension of time to perform the basic function of taking depositions.

DCM could easily be expanded to permit the immediate trial of all third degree felony cases within dedicated courtrooms. Segregating the inventory based upon the complexity and nature of the charges may free additional resources to address first and second degree felony matters. Depending upon the statistical information regarding non-trial disposition rates for first and second degree felony cases at arraignment, the administration may consider creating a single room to handle the arraignments in those matters.

The components for an effective DCM program are in place: the stakeholders have already created an effective mechanism for communicating criminal justice system improvement efforts, the judicial and administrative leadership have the vision and will to implement case processing improvements, and the criminal inventory is ripe for a DCM program. What is required from this point onward is for the judicial and administrative leadership to flesh out their best ideas of the third degree felony, arraignment program, and commit the concept to a brief narrative descriptive form. Once the core group has agreed upon their direction, the process of sharing the work product with the remainder of the Task Force and the process of modifying and building support for the project can commence. In our view, all of this is readily attainable, and we are excited about the prospects for criminal dcm in Broward County. We thank you for the opportunity to participate in this technical assistance project.

Sincerely,

Legrome D. Davis
Joseph A. Cairone