

SUPREME COURT OF COLORADO
OFFICE OF THE CHIEF JUSTICE

**DIRECTIVE CONCERNING COLORADO STANDARDS FOR
CASE MANAGEMENT IN THE TRIAL COURTS**

PURPOSE

The purpose of this Chief Justice Directive (CJD) is to establish standards for timeliness of case processing in the Judicial Branch. The following standards replace those contained in Chief Justice Directive 89-01 and any subsequent modifications to those standards.

BACKGROUND

Standards for case management and delay reduction in the trial courts were first established in 1989 with the issuance of Chief Justice Directive 89-01: *Concerning Colorado Standards for Case Management in the Trial Courts* (CJD 89-01). CJD 89-01 was based on a comprehensive study by the Supreme Court Delay Reduction Committee and included the recommendations contained in their final report, “Colorado Standards for Case Management – Trial Courts.”

Since that time, societal, public policy and technological changes have significantly altered the business of the courts. The Branch has made informal adjustments to the standards over the years and introduced additional measures of timeliness in 2000 and 2006.

In 2000, the Branch submitted a request for twenty-four additional district court judges. As part of this request, the Branch committed to meeting updated timeliness goals when all the new judgeships and supporting positions were filled (these were known as the ZBB goals). In 2006, in response to a rule change requiring that specific individual caseload data be made available to judicial performance commissions, the Caseflow Leadership Task Force issued “Resource Realistic” goals. The timeliness goals issued for this purpose are somewhat less stringent than those already in existence for two reasons: first, because the courts had recently undergone severe budget reductions and staff layoffs, they needed to be reflective of the overall understaffing of the courts, and,

secondly, because these goals were to be used by the commissions when reviewing caseload data on individual judges rather than entire districts.

While these adjustments addressed short-term and specific needs, larger issues such as the appropriateness of measuring timeliness, how the various goals fit together, and how timeliness measures should be applied fell second to more immediate demands. Yet, the Branch recognizes that the courts and the public are better served by a comprehensive set of standards that take into account how the work of the courts is accomplished and that operate in concert with each other to measure the success of the organization as well as individual members of the bench. To that end, the Caseflow Leadership Task Force has examined case processing practices, timeliness goals and caseload data to create the following comprehensive measures of case processing timeliness for the Branch.

MEASURING TIMELINESS AND THE WORK OF THE COURTS

The work of the courts revolves around resolving issues of freedom and fairness. Whether it is a criminal case which may result in loss of liberty or a dissolution of marriage case in which parenting time will be determined, each case before the court is of extraordinary importance to the people involved in it. But the courts are not only responsible for achieving a just resolution for the individuals involved in the cases before them, each court must also operate within the expectations, resources and standards of the community in which it is located. As a result, courts must strive to balance fairness and justice with access and timeliness. Given these competing ideals, setting strict timelines for the resolution of all cases, regardless of location or resources, seems a particularly arbitrary and inadequate means for assessing whether a judge, the bench or the organization as a whole, is appropriately addressing the needs of each case. At the same time, it cannot be overlooked that the Branch is accountable to the public for hearing and resolving their disputes in as timely a manner as possible.

Measures of timeliness generally focus on individual judges. However, judges are just one part of a much larger whole. The Colorado trial courts see well over 700,000 new cases a year. These cases are not processed solely by judges but with the assistance of case processing, probation and administrative staff and numerous of other professionals who work in and around the court system. Obviously, the nature of the work before the courts differs between a large urban court and a small

rural one based simply on the volume of cases, availability of staff and the resources available in the community. However, there are also significant differences among urban courts and, similarly, among rural courts. No two locations face the same issues in carrying out the administration of justice. Whether it is a difference in the demographics of a community, the geography covered by a jurisdiction, or the presence of a state hospital, prison or major water basin, each court has a unique set of issues, obstacles and resources that affect how the court can and must operate. Therefore, evaluations of the timeliness with which cases are processed by individual judges are incomplete without taking a broader view of the system in which those individual judges operate.

While the organizational issues which form the foundation of the courts affect how the business of the courts is approached, it is only by combining this information with the manner in which the courts handle the individual cases before them that the effectiveness of the Judicial Branch can be assessed. Each case filed in the court has different requirements for time, services and other resources in achieving a just resolution. The management of individual cases reflects strongly on an individual judge's case processing timeliness; seeing the organization as a whole can provide a clearer picture of what is really happening with these cases. If a judge is assigned a complex civil case or a particularly egregious criminal case, it can delay the remainder of his or her entire caseload. As part of a larger organization, it is possible for other judges, either sitting in that district or from the senior judge program, to assist with the remainder of the docket. Where those resources are not available, the remaining caseload on the judge's docket must linger. A judge, and those who support the judge, must constantly strive to balance the needs of the cases on his or her docket and the needs and resources available to each judge, courtroom and the organization as a whole.

In reviewing the various standards operating in the Branch at the time this effort was undertaken, it became clear that each had their place. Creating one set of standards that can be used at all levels and for all purposes simply does not provide valid or useful evaluative information. One set of standards does not fit all levels of court business. While a district is made up of individual courtrooms and a separate clerk's office, it operates as a whole unit. How an individual judge manages his or her docket is one important measure of access and justice, but how the district as a whole functions is equally as important. Therefore, this CJD establishes two approaches to measuring the work of the courts: organizational goals and individual benchmarks. These goals and benchmarks are being issued as a means of measuring the goals to which the courts aspire, but with

the recognition that the time it takes to process a case is only one measure of whether justice was served in that case.

The organizational goals are rather stringent, aspirational timelines to be applied at the district-wide or higher level. These measures are intended to be used for management at the organizational level and for reporting to external bodies, such as the legislature, on the overall timeliness of case processing in the Branch. These goals are aspirational in that it is believed that, given full staffing and good management practices at all levels, they can be achieved by the organization. The organizational goals do not accommodate variation in case assignment practices or small caseloads and, as such, are not intended to be applied to individual judges. An individual judge is not expected to meet the organizational goals; individual benchmarks have been established for this purpose.

The individual benchmarks are established to provide a more realistic means of measuring the timeliness of case processing at the individual level. These benchmarks are intended to provide feedback to individual judges on their performance, to be used by the Chief Judge of a district in overseeing workload distribution in that particular district and to provide the information required by the Rules of the Commissions on Judicial Performance.

The benchmarks recognize that there are many practical issues outside the control of a judge that can affect the length of time a case remains open. These include, but are not limited to, when and how cases are assigned to judicial officers, the time cases spend with a magistrate, docket rotation, third-party assessments, pre-sentence investigations, transferring of cases to accommodate prolonged trials, and the time required for the filing and processing of paperwork. Further, they recognize the dramatic fluctuations in percentages that can occur when a pool of cases being analyzed is small.

The individual benchmarks go a long way in addressing the unique nature of individual case assignment; however, it is simply not possible for a number-based standard to provide a complete picture of the quality with which an individual judge manages his or her caseload. Therefore, while these individual benchmarks are established as a starting point for evaluating a judge's ability to

manage caseload, it is always recommended that qualitative information about the court and the caseload be obtained whenever the timeliness of an individual judge is being evaluated.

THE GOALS AND BENCHMARKS

The following standards are not being promulgated as mandatory rules but, rather, as goals and benchmarks that strive to balance the need for uniformity in expectations concerning timeliness with an acknowledgement that the diversity of case assignment, docket rotation and local judicial discretion in managing individual cases has a significant impact on timeliness statistics. All judges are encouraged to study these standards and to attempt their implementation in a manner consistent with the overriding goals of eliminating unnecessary delay in the judicial process, making more effective use of judicial resources in the resolution of disputes, and making the judicial process more accessible to litigants and the public.

ORGANIZATIONAL GOALS

District Court:

<i>Case Type</i>	<i>District Court Organizational Goals</i>
Criminal	No more than 5% of cases open more than 1 year
Civil	No more than 10% of cases open more than 1 year
Domestic Relations	No more than 5% of cases open more than 1 year
General Juvenile	No more than 5% of cases open more than 1 year
Juvenile Delinquency	No more than 5% of cases open more than 1 year
Dependency and Neglect	No more than 5% of cases open more than 18 months
Expedited Permanency Plan	No more than 10% of cases open more than 1 year

County Court:

<i>Case Type</i>	<i>County Court Organizational Goals</i>
Civil	No more than 5% of cases open more than six months
Misdemeanor	No more than 10% of cases open more than six months
Traffic	No more than 5% of cases open more than six months
DUI/DWAI	No more than 20% of cases open more than seven months
Small Claims	No more than 1% of cases open more than six months
Infractions	No more than 1% of cases open more than six months

BENCHMARKS FOR INDIVIDUAL JUDGES

District Court:

<i>Case Type</i>	<i>District Court Benchmarks for Individual Judges</i>
Criminal	No more than 10% of cases open more than 1 year
Civil	No more than 20% of cases open more than 18 months
Domestic Relations	No more than 10% of cases open more than 18 months
General Juvenile	No more than 10% of cases open more than 1 year
Juvenile Delinquency	No more than 5% of cases open more than 1 year
Dependency and Neglect	No more than 5% of cases open more than 18 months
Expedited Permanency Plan	No more than 10% of cases open more than 1 year

County Court:

<i>Case Type</i>	<i>County Court Benchmarks for Individual Judges</i>
Civil	No more than 20% of cases open more than six months
Misdemeanor	No more than 20% of cases open more than six months
Traffic	No more than 20% of cases open more than six months
DUI/DWAI	No more than 20% of cases open more than seven months
Small Claims	No more than 20% of cases open more than six months
Infractions	No more than 5% of cases open more than six months

LIMITATIONS

The data used to determine whether the organizational goals and/or the individual benchmarks are being met are taken from the Branch's ICON/Eclipse database. This is a working database that is used for all court business, such as docketing, electronic filing of paperwork, recording events in a case, entering orders, etc. While the information entered into ICON/Eclipse is used for day-to-day business operations, the Branch is also able to access the database to conduct research and analysis. The data in ICON/Eclipse is a valuable asset to the Branch. However, because it is an active database with thousands of users and hundreds of uses, there are some limitations to the data and its applications.

The data used for these measures are equivalent to a point-in-time snapshot of a judge's open caseload. For purposes of these measures, a judge's open cases are those that are actively managed by that judge at the time the data is extracted from the database. Cases with active bench warrants or mental health stays, cases in which a notice of appeal has been filed, and cases that have been reopened for post-judgment activity are excluded from the pool.

It is always recommended that input from the local Chief Judge regarding additional factors specific to districts or individual judges that may impact case management be obtained any time the organizational goals or individual benchmarks are being used. In addition to the local issues that may be explained during these discussions, the following general information should be taken into consideration when reviewing this type of data:

Case Timeliness May be Affected by Factors Outside of the Courtroom

Many factors outside of the direct control of the judge can affect case timeliness. For example, criminal cases are often dependent on production of various reports and evaluations, such as pre-sentence investigation reports, sex offender evaluations, and/or mental health evaluations. Juvenile case processing is directly affected by the availability of required treatment services. Domestic Relations cases may be delayed by parenting assessments or other necessary evaluations. Statutory deadlines may also influence case timeliness. For example, by law, divorce cases cannot be ruled on until at least 90 days have passed from the date the case is filed with the court.

Higher Numbers of "Complex" Cases have Increased Case Processing Time

Certain case types, such as business litigation, medical malpractice, homicide, and divorce cases with extensive assets, generally take longer to process due to their complexity. Additionally, district judges have indicated that civil litigation has become more complicated in recent years as the issues being brought before the court have increased in complexity, there are more issues to be ruled upon in each case, more motions are being filed, and more attorneys are participating in each case. A few high profile or highly-complex cases may result in longer average disposition times for the judges' dockets as a whole.

Local Case Assignment Practices May Affect Performance Data

Local case assignment practices affect the case load and case types assigned to judges. In some jurisdictions, cases are processed by a magistrate or by a county court judge before being assigned to another judge or being bound over to district court. In certain county courts, cases are assigned to a magistrate or First Appearance Center before they are sent to a county judge. In many of the larger courts, judges rotate docket assignments on annual or biannual basis thereby inheriting the open caseload of the judge hearing that docket previous to the rotation. Since the Branch's data management system does not track historical information on case assignments, the data provided shows only the number of days a case is open, but not the number of days a case is assigned to a specific judge. This may pose a challenge for evaluating a particular judge's data because the amount of time the case spent under any one judicial officer cannot be isolated.

Case processing goals are measured in terms of the percent of cases meeting the goal (e.g., no more than 5 percent of criminal cases open more than one year.) Therefore, in addition to potentially providing a skewed picture of the time a judge has spent on a case, the aforementioned case assignment practices may also weaken the statistical reliability of the caseload data. In jurisdictions where judges manage a docket of mixed case types, the caseload data for judges with small case loads of a particular case type might not be a statistically valid or reliable indicator of performance because only slight changes in the data can move a judge in or out of compliance. For example, a judge with only twenty criminal cases on his or her docket would be considered in compliance with performance goals if he or she had only one case (5%) open longer than 12 months, but out of compliance if two cases (10%) were open longer than 12 months at the time the data was extracted.

Finally, the point-in-time data can present a narrow, and potentially misleading, picture of a judge's caseload. For example, a judge may manage his or her docket by resolving the simpler cases as quickly as possible so as to allow more time for the other, complex cases. An open caseload of primarily complex cases will most likely consist of cases that, due to their complexity, have been open longer. Without the simpler, shorter-lived cases to mitigate the overall length of open cases in the judge's caseload statistics, it would appear that a judge that handles his or her docket efficiently and conscientiously is instead allowing cases to remain open for an above-average amount of time.

Resource Constraints Force Courts to Prioritize

Budget constraints in recent years forced many courts to cut staff and reduce services. At the same time, court case load continued to grow, requiring many courts to focus limited resources on cases with a direct impact on public safety and child welfare. Civil cases, since they do not meet this criteria, are often given the lowest priority for case processing, which can, in turn, increase average case processing time and create a backlog of the civil caseload.

FUTURE REVIEW

These goals and benchmarks are based on the business of the courts as it exists today and the technology currently available to measure it. While these measures are seen as a reasonable means of assessing the timeliness of case processing in the Colorado courts, they do have their limitations. The Branch continually strives to improve on both business practices and the technology to support them. Therefore, the measures established here shall be reviewed and updated as technology allows for improved statistical information or as the business of the courts changes significantly.

Chief Justice Directive 89-01 is hereby repealed.

Done at Denver, Colorado this 15th day of July, 2008.

/s/
Mary J. Mullarkey, Chief Justice