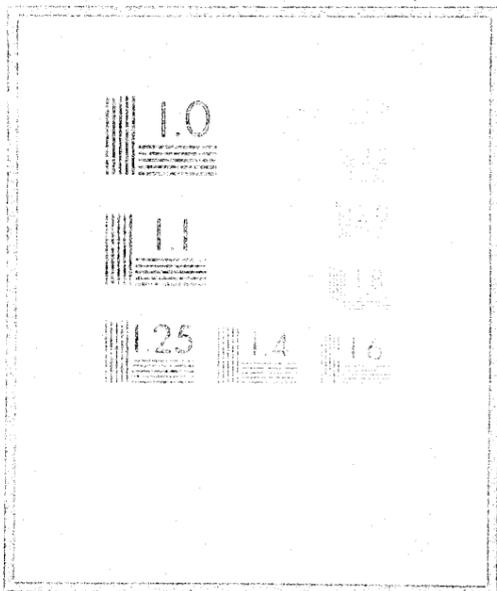


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EVALUATION OF THE CASE MANAGEMENT
SYSTEM OF THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY, MARYLAND



THE AMERICAN UNIVERSITY

Criminal Courts Technical Assistance Project
Institute for Advanced Studies in Justice
The American University Law School
Washington, D.C.

EVALUATION OF THE CASE MANAGEMENT
SYSTEM OF THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY, MARYLAND

October 1976

Consultant:

Ernest Friesen

NCJRS

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ACQUISITION

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT
The American University Law Institute
4900 Massachusetts Avenue, N.W.
Washington, D.C. 20016
(202) 686-3803

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NOTICE TO THE READER

Because of a September 30, 1976 contract deadline for completion of all technical assistance assignments conducted under the auspices of The American University Criminal Courts Technical Assistance Project, assignment reports received after September 1, 1976 have not undergone the comprehensive review which is our usual procedure. The present report is one of those for which our time constraints permitted only minimal editing. We apologize for any inconvenience this may cause the reader.

Joseph A. Trotter, Jr.
Director
Criminal Courts Technical Assistance Project

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I. Introduction

The Circuit Courts of Maryland are organized into circuits consisting of one or more counties. These courts come under the general superintendence powers of the Maryland Court of Appeals. The Circuit Courts generally schedule cases for hearings using Master Calendar Systems. Early in 1975, the Chief Justice of the Court of Appeals (Justice Murphy) decided to have a trial court use the individual calendar system to determine how that method would work in the Maryland judicial system. The Anne Arundel County Court was selected as the site to try the individual calendar system, and implementation began in March, 1975.

In the spring of 1976 the Court decided that an independent evaluative study would be helpful and requested technical assistance through the Maryland Criminal Justice Planning Agency for the purpose of conducting the study. The Maryland SPA in turn requested the assistance from LEAA, who responded through the technical assistance project at The American University.

The Criminal Courts Technical Assistance Project assigned Ernest Friesen to this effort. Mr. Friesen was assisted by Maurice Geiger, an experienced court analyst.

II. The Nature and Purpose of the Assignment

The purpose of the assignment is to determine the effectiveness of the calendar management system being used in Anne Arundel County, and to make recommendations as to how the court's calendaring the case management might be improved.

Ideally, the effectiveness of the current calendaring could be compared with the system which it replaced. It is obvious that if a valid comparison is to be made between how a particular system worked before and after some change, then it is necessary to know what was happening under the old system as well as the new. Unfortunately, the base data is not available in a scientifically valid form. There was apparently no expectation of a comparison and no structure was established for that purpose.

There are generally two gross measures of effectiveness of a judicial process. One is how well it works (what is the quality of the product?), and secondly, how fast it works. The first measure is difficult to answer even under the best conditions where complete and sophisticated data is available. In the absence of such data the evaluation of the change as it existed during the past year focuses on the question of how fast cases are moved. Even this focus is limited.

The exact level of resources is not available, and consequently the quantitative measures are at best rough indicators of change. In the limited number of man-days available for this project, the consultants did resort to some crude sampling techniques. The results of these samples are inconclusive, but are provided as Appendix B for such purpose as they may serve.

III. Study Approach

The approach selected for this study began with the review of a preliminary analysis prepared by the court administrator.

The document (Appendix A) provided necessary background. This review was followed by an on-site visit by the study team, to conduct interviews and to examine the available data, and then determine what further steps were needed.

On the first visit, Mr. Geiger and Mr. Friesen met with the court administrator, Mr. John Byers, Judge Matthew S. Evans, and Judge E. Mackall Childs. Judge Evans is the Circuit Administrative Judge, and Judge Childs is the County Administrative Judge. The consultant also interviewed the other judges available, several members of the bar, and most of the judges' secretaries. Mr. Geiger interviewed the remaining two judges' secretaries, several people in the clerk's office, and the court administrator to determine what data was available and how it could be obtained.

While Mr. Friesen's efforts centered mostly on the judicial personnel and their support system, Mr. Geiger's centered on data collection and management. At the conclusion of the first visit the project team met to discuss how best to proceed. It was concluded that some simple sampling to obtain gross data would be appropriate. It was hoped that there might be some way to determine (1) if progress had been made by changing the calendaring system and (2) regardless of the answer to that question, what changes would help the court operate more effectively.

IV. Case Flow Management - General

Whenever a multiple judge court becomes frustrated with the growing volume of work and its apparent incapacity to cope with it, they first want more judges and then seek to change the method of scheduling cases. Where workloads are in fact excessive, the first solution usually provides temporary relief. There is, however, no magic in changing scheduling systems. Neither the Master Calendar nor the Individual Assignment system of scheduling cases for hearing disposes of cases.

Good case management is based upon the application of the following general concepts:

1. The court or individual judges must take control of the case and be responsible for its progress through the various procedural stages as soon as it is filed in the court.
2. Scheduled events should be at short intervals with the date for each event fixed early in the proceedings, subject to change only upon showing of good cause.
3. Attorney schedules must be taken into account within tight constraints. (Facts asserted by lawyers as reasons for delay should be the subject of skeptical inquiry.)
4. A continuing process of inquiry about the status of proceedings is essential.
5. Lawyers must expect that there will be a judge available for trial whenever a case is set for trial.

Court schedules can be managed in many ways to accomplish these essentials. Delay is reduced by the management of the system-- the daily and hourly work of the monitoring and allocating resources -- not by the design of the system.

From a perspective other than scheduling, Individual and Master Calendaring systems have characteristics which might suggest the selection of one over another. Individual Assignment systems permit particular judges to master particular cases and more actively supervise their progress (whether slow or fast) through the courts. The judge who conducts a hearing on a motion or a pre-trial conference will generally be the judge who conducts the trial. If there is value in this continuity, it exists quite apart from the desire to move expeditiously.

Individual Assignment systems permit backlogs to build in the hands of a few judges, resulting in an uneven flow of cases through the courts. The chance assignment to a particular judge may mean extensive delays, while assignment to another might mean expedition. Some judges are, of course, more capable than others. With Individual case assignments there is no easy way to avoid the less adequate judges. This characteristic is also quite separate from the problem of general expedition.

V. FINDINGS

1. The major problem in Anne Arundel County is that the judges who are asked to design and administer the scheduling system haven't decided on the values which they think are most important. Preparation of a case for trial appears to be the more important value, but some decisions are made on the basis that reduction of delay is more important. Reduction of delay is an easy problem; cases properly prepared for trial is a difficult one.
2. Based on the value expressed by the judges rather than the symptoms of their frustration over management problems, the judges are nearly unanimous in their support of having a continuity of case processes rather than occasional inconclusive contact with cases.
3. The Circuit Court for Anne Arundel County acts more as a collection of judges than as a court. Each individual judge runs his affairs according to his own standards and each secretary administers the judge's assignment on differing criteria as to priorities. The result causes confusion among the lawyers and functionaries of the system and makes possible divisive activity which exacerbates the confusion as to court policies.

The problem is particularly acute in the scheduling of cases for hearing. The more willing judges accept transfers readily without standards as to their appropriate preparation. The result is an uneven distribution of work and unpredictable procedures which prevent the development of necessary expectations in the bar.

4. Some of the secretaries to whom the job of routine scheduling has been assigned do not have time to perform all of the necessary tasks to assure a smooth and expeditious schedule. Some judges write more opinions than others. Some expect more personal services. Some secretaries are dissatisfied with the amounts of work they must now perform.
5. Much of the variation in procedure among the judges is the result of inexperienced (or over-experienced) staff who do not know (or will not learn) how to move a caseload.
6. Most delay can be attributed to the over-accommodation of attorneys and their problems. In most instances, attorney excuses are not questioned or even recorded. No data is kept about frequency of delay by attorneys, and no body of courthouse knowledge is available for reference by the schedulers.

VI. RECOMMENDATIONS

A. The Individual Assignment System should be continued.

The growing backlog and delay is not a product of the system; but of a failure to operate the system under effective controls. The solution is to make the Individual Assignment System work, not switch to a new system.

No single factor can be singled out as the principal cause of the court delays now encountered in Anne Arundel Circuit Courts. Several factors are discernable, and are the subject of separate recommendations.

B. Either through consensus or authority the court should develop a standard operating procedure for processing each type of case.

The individual assignment of cases is usually an abrogation of management. The presence of an experienced court administrator in Anne Arundel Circuit Court has tended to mitigate this result, but acting alone he has not been able to coordinate the divergent processes which have emerged. To create an effective court out of the collection of judges, the judges must meet regularly with a planned agenda, discuss and decide the difficult questions presented, and record the decisions.

The regular meetings must include the court administrator, who should act as secretary to the Board of Judges. He

9.

should provide a service by preparing the agenda and publishing the minutes.

Two subjects should be dealt with immediately by the judges acting jointly or under the authority of the County Administrative Ju:

1. Establish a policy as to acceptable delay to a trial by type of case.
2. Establish a policy as to method by which the court can assure adequate preparation of counsel for trial.

C. The role and relationships of the secretaries must be more clearly defined. Standards of performance for the secretaries should be proposed by the court administrator. They should be discussed, modified, and adopted by the judges and should be monitored by the court administrator.

It is quite clear that some of the secretaries are having little or no difficulty with the task and that others are not able to perform them. In the absence of a decision to use secretarial time for scheduling, the court should do as most courts do and assign Courtroom Deputy Clerks to the task of scheduling. Secretaries would thus be free to perform secretarial duties.

D. Design and implement a simple information gathering and reporting system which will provide (1) central information as to case status, (2) reports on deviations from standards adopted, and (3) indicators of progress toward goals.

Information is the glue which can hold together the operation of a court. Without information and the monitoring which it makes possible, the court will learn of its problems only after it is too late to take action. Problems which are easy to solve when they first appear become impossible to deal with when allowed to grow with time.

Reports of case build-up in the files of a particular judge would be the subject of concern at the meeting of the Board of Judges. Redistribution would take place if necessary. Explanations would be available for scrutiny. Management by exceptions would be possible since, with the adoption of standards, only the deviation from standards would need attention.

F. Design and implement a training program for the scheduling personnel.

The wide diversity of approaches to scheduling by the secretaries needs to be re-examined and the better practices adopted. The training program need not be dogmatic. An exchange of ideas about methods will bring about substantial improvement. The announcement of standards and procedures by the judges will limit the alternatives. Left to their own devices, the inter-change will be anecdotal.

dotal and of limited effectiveness. Training goals should be identified and programs designed which methodically reach those goals.

The support of the judges for the training must be unqualified. The secretaries respond to judicial demands, but more important, because of their close constant contact, help create judicial attitudes which can reduce the effectiveness of the standards and procedures adopted. The task of defining standards of performance for secretaries is delicate, but without them a few secretaries will continue to lobby their judges for procedures that ease their labors which are dysfunctional to the running of the court.

* * * * *

VII. Summary

This report could be a great deal more prescriptive, but a detailed prescription would be misleading. Whether the judges decide to try jury cases every day or schedule them all for Tuesday noon is not going to determine the justice or the expedition of the cases. The collection of a particular item of information is not going to change the court. If the court assumes a unitary posture and decides to manage its caseload, the desired results will be attained without regard to the detail.

The Circuit Court for Anne Arundel County is fortunate in

having the necessary structure and, more important, competent people at all levels. It needs to have a will to manage, a desire to work as a unit with the relinquishment of individual idiosyncracies, which all organizational behavior demands.

The Circuit Court for Anne Arundel County is comprised of seven (7) judges, one (1) juvenile master, and one (1) equity master.

At the request of the Chief Judge of the Court of Appeals we agreed to embark on a pilot program using the Individual Calendar in our civil division. This included everything but criminal and juvenile. Most juvenile cases are heard by a Master.

We began the Individual Calendar on March 17, 1975. Only six (6) judges participate in it. The Chief Judge handles most of the criminal cases.

Each week we have four (4) judges sitting in civil trials. One judge is assigned as a Chambers Judge each week, and another as the back-up criminal judge. The first week of every month we assign a judge to another county.

Several years ago it was decided that having jury trials only on Tuesdays would be a good way to save on jury costs. Although it is not an ironclad rule, most judges do set them only on Tuesdays, but some also set them on other days if necessary.

I have asked each judge to set at least five (5) jury trials each Tuesday. Normally, we are lucky if each judge ends up with a jury trial on Tuesday. Occasionally we do have a judge that has two trials hold up for the same day. I have asked them not to postpone them when this happens, but to call me and I will find another judge to hear it.

The last point is the one that seems to be causing the problems. Some judges feel that if they settle, continue, or dismiss their cases for a given day they should be free to use the time as opinion time and not have to take cases from another judge.

I agree that using a narrow interpretation of the words "Individual Calendar" this would be true. However, I feel that the cases are the "joint responsibility" of all the judges and therefore when one judge has two cases another judge should help out.

We have also been plagued with illness recently. Our juvenile master has been out for almost three months. I have utilized any available judge to hear juvenile cases whenever the equity master was not available. This has cut into their opinion time too.

Much of the time we have several dark courtrooms, yet some judges' calendars are set full for the next several months and they have no time available for emergency matters which come up.

The judges have a maximum time period of sixty days in which to render an opinion in any case taken under advisement.

The Individual Calendar System is used in the Law and Equity Divisions of the Court. The Criminal Calendar is managed by the Circuit Administrative Judge (Evans), with the back-up Criminal Judge helping with trials when the calendar is heavily set.

The Chambers Judge assignment is rotated weekly among six (6) judges. The Circuit Administrative Judge does not participate in the normal chambers rotation, but is available for any emergency matters that arise in addition to criminal chambers matters.

LAW AND EQUITY PROCEEDINGS

1. All cases are filed in the same manner as presently established.
2. When issues are joined or a motion is filed which requires a hearing or decision without a hearing, the case will be assigned by the appropriate clerk to a judge in accordance with a prescribed selection procedure.

A. A deck of cards, each card containing the name of a judge is placed in each category. When a case is at issue or a hearing or decision is required, the appropriate clerk will determine which category the case is in and will then draw the next card and assign the case to the judge whose name is on the card.

B. The case then goes to the Assignment Commissioner for the preparation of a Header Card (H/C). The H/C contains the case number, date filed, date at issue, date assigned to a judge or master, judge's or master's name, type of trial, case title, name and telephone number of all attorneys in the case, and a space for the date, time and approximate length of the next court proceeding. The only information not completed by the Assignment Commissioner is the date and time of the next court proceeding.

C. After completing the H/C the Assignment Commissioner notifies the judge that a new case is being assigned to him. Because each judge prefers a different system we have several notification systems. They are:

Judges A, C, and D (Wray, Hopper, Turk) receives the H/C only, unless there is a request for a hearing or a show cause order, etc. If a hearing or show cause order is requested his secretary takes the appropriate action. If no hearing or show cause order is requested the secretary contacts counsel and arranges preliminary conference dates and sends the appropriate notices.

Judge B (Childs) receives just the H/C unless there is a motion or show cause order, etc. If no immediate action is required the Assignment Commissioner places duplicate H/C in 90-day hold file. If no hearing is requested within 90 days, the Assignment Commissioner takes the file up to the Judge's chambers. When the secretary receives the file she determines what action is required. If unable to make a determination she places the file on the judge's desk for instructions, i.e. set in for preliminary or pretrial or immediate hearing, etc.

Judge E (Beardmore) receives H/C and file. If there is a motion or show cause order, etc., it is set in for immediate hearing. If not, file goes back to Clerk's Office and secretary places H/C in 60-day hold file. If no hearing is requested within 60 days the judge examines the file and the secretary sets it for a preliminary conference. At the preliminary conference a firm trial date is set. A pretrial conference date is also set at the preliminary conference. This date is usually one week prior to trial.

Master (Anderson) Header Card and case file sent to master. He reviews it to see if it is a case he should hear. If not, he sends it back for re-assignment. If he determines he can hear it he sets up pretrial conferences and sets trial date. If a case is not at issue, but requires some judicial action, it is put in the I C System and sent to a judge or master for appropriate action.

Under the I C System all indigent divorces are assigned to the Master, as well as some contested cases.

3. On all jury or court trials the secretary calls counsel to see if a pretrial is necessary and if so, arranges a time and date and sends the appropriate notices.

4. If a judge is ill or in trial on the same case for eight consecutive work days his name is removed from the selection system until his illness is over or his trial is completed. When a judge is on vacation his name is removed from the assignment system.
5. Reassignment of cases can only be made if the Administrative Judge or the Court Administrator sign the appropriate form approving the transfer to the appropriate desk for reassignment.
6. Judges are encouraged not to postpone cases if it appears that they have two cases set for the same day which will both go to trial. The Court Administrator will take the extra case and find a judge to try it.
7. If a case is assigned to a judge and the lawyers request a very early trial date but are unable to obtain one because the judge's calendar will not permit it, the Court Administrator will, if requested by the judge or counsel, make an attempt to find a judge to hear the case within the time period requested by counsel. The case would be given to the first available judge, with counsel having absolutely no part in the selection of another judge.

THE STUDY OF QUANTITATIVE DATA

The court shifted calendaring methods in April, 1975. It was decided that the first three months of experience under the new approach would be least comparable. Therefore, the comparison should be made on what happened during the year of July, 1973 through June, 1974 (old system) and the year of July, 1975 through June, 1976 (new system).

Since all criminal cases in the County are handled by a single judge, the calendaring change should not have much effect on those cases. Therefore, this study considered only law and equity cases.

There is some evidence that terminations rose an unusual amount in the months directly following the change in calendaring systems:

		<u>Terminations</u>	
		<u>Law</u>	<u>Equity</u>
	February	65	186
	March	70	157
change occurred →	April	90	280
	May	158	253
	June	168	211

These months' termination figures indicate the new calendaring system caused a significant increase in termination. To avoid any false indications, to study the effect of the change over a longer period of time, and to avoid any "seasonal" differences, a full year was compared. Looking at terminations for FY 1974 and 1976:

<u>Terminations</u>				
	<u>Law 74</u>	<u>Law 76</u>	<u>Equity 74</u>	<u>Equity 76</u>
July	119	78	186	204
August	103	173	207	346
September	70	82	228	238
October	81	99	209	371
November	71	98	192	212
December	58	86	174	260
January	96	137	200	318
February	73	80	175	191
March	105	85	216	341
April	106	102	197	282
May	116	61	198	284
June	126	73	196	298
Total	1,124	1,154	2,378	3,345

A very important factor to consider in an analysis of case movement is the amount of judge time available. Furthermore, one objective of a calendar system is to make effective and optimum use of judge time. Therefore, the availability and use of judge time should be examined in this type of study. However, the Anne Arundel County Court was just beginning to collect data and no reliable information is presently available.

Finally, how cases are disposed of is important for the understanding of case management.

It was found that there is substantial difference between what the clerk's office has recorded in terms of when and how a case was closed and what the judge's secretary has recorded. Moreover, there is no comprehensive information on how cases were closed. Therefore, a sample was made of 80 law and 100 equity cases for each year and the following results were found.

	w/trial	<u>Law</u> settled	dismissed	other
July 73 - June 74	14	41	14	11
July 75 - June 76	18	38	16	8
		<u>Equity</u>		
July 73 - June 74	24	45	23	8
July 75 - June 76	27	46	19	8

As can be seen by this table, though, there seems to be no drastic change in termination rates before and after the March, 1975 calendaring change. Something happened to change the rate in equity. The increase in equity terminations follows a corresponding increase in cases filed.

Another important indicator of case management effectiveness is how fast cases move through the process.

Using the most accurate data available under the circumstances (a crude sample), the following statistics were developed.

The median time (shown in number of days) between filing and disposition:

	<u>Law</u>		<u>Equity</u>	
	<u>with trial</u>	<u>w/o trial</u>	<u>w/trial</u>	<u>w/o trial</u>
July'73 - June'74	354	384	188	135
July'75 - June'76	367	324	226	160

Again, these numbers do not indicate any significant change in the speed of case flow. The increase in time to disposition in the equity cases is more likely a result of increased case filings than an effect of the calendaring system.

The sampling methods used were not the most acceptable and the raw data was difficult to interpret. However, the general consistency of the results indicates that the numbers developed are reasonably accurate.

END