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Caseflow Management Practices as Seen Through Three Domains

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This article inventories best practices for caseflow management from select sources on caseflow management and considers them in three important domains: internally, with partners, and externally.¹ Court leaders will be provided with a new framework to view caseflow management practices. Strategies will be suggested related to these three realms in the hope that increased awareness will allow court leaders to have greater success with caseflow programs and processes.

Caseflow Management and the Current Operational Environment

Caseflow management is a crucial, if not the primary, function of courts. It involves leadership, dedication of resources, use of goals and discreet practices, and knowledge about and accountability for outcomes.

Caseflow management is what courts do with legal disputes (cases that are filed or initiated at a court), and caseflow has been described as the set of protocols and actions that a court uses to manage (or pay attention to) those cases that have been filed with the court.² Courts considered as "high performing" tend to be familiar with and use proven fundamentals of caseflow management. In high-performing courts, individual attention is sought for every case; services are

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proportionate to specific case needs; processes and protocols are apparent and understandable to court users; and judicial control is exerted over the process.³

However, there is renewed attention to courts' ability to demonstrate best practices in caseflow management. Recent focus on caseflow practices is evident in initiatives on:

- access to justice and self-represented litigants;
- integration of technology for operational access and performance data; and
- reforms in criminal and civil case handling.

Some individuals have asserted that courts are "slipping" in their attentiveness to processing cases.⁴ Recent examples include perceptions of disparate treatment of system participants; focus on civil justice practices for fairness, clarity, and understandability; assessment and consideration of practices for financial-sanction enforcement; and growing processing times and delays in handling criminal cases. Initiatives in these areas are coupled with renewed court focus on processes and practices to ensure they are providing access; providing clear expectations and understandability of the system; and being attentive and accountable for outcomes. These examples are related to caseflow management practices in the operation of courts.

Caseflow Management Challenges

We often attribute caseflow management challenges to a variety of influences: lack of focused leadership in support of best practices, insufficient agreement on practices and processes, substandard or missing technology to support protocols, and the roles and actions of our system partners.

Articles have outlined reasons for the lack of caseflow success.⁵ The following are some of the underlying reasons and influences that may impact effective caseflow management:

- persuading judges that the timely resolution of cases is the first priority;
- having insufficient training for judges on calendar oversight and procedures;
- encountering negative impacts from judicial and calendar rotations, or newly elected or appointed judges without exposure to caseflow principles;
- needing to remember and use best practices and time goals;
- working with judges "who don't know what they don't know" about best practices;
- sensing a lessening concern about caseflow management;

- lessening attention to caseflow practices due to systemic influences and failures;
- having a limited and lessening number of courts making a serious commitment to caseflow and earnestly engaging in caseflow performance evaluation;
- sensing that the heyday of court administration is "behind us";
- growing workloads and continuing limitations in resources and funding; and
- experiencing impacts on caseflow management from problem-solving or SRL services.

These influences may, indeed, sway the attention to caseflow management or affect the ability to attend to case-handling needs.

Caseflow Management Best Practices

Numerous sources have expounded on known caseflow practices over the years. A select group of them are noted here as the more prominent sources on success in processing and handling cases. Here are some of the more common caseflow best practices.

Caseflow Management — Selected “Best Practices”

(LISTED BY DATE OF PUBLICATION; PRACTICES ADAPTED AND PARAPHRASED)

YEAR(S)	SOURCE	PRACTICES
1973	<i>Caseflow Management in the Trial Court</i> (Solomon)	<ul style="list-style-type: none"> • Individual and collective judicial control and case management • Continuing consultation with system partners • Use of standard procedures on flow and processing • Adoption of a restrictive continuance policy • Centralized caseflow management responsibility • Use of time and system performance standards • Continued measurement of performance against standard and periodic review of procedures • Periodic modification of caseflow management systems to meet changing conditions • Monitoring case status from filing to termination • Use of techniques to minimize attorney schedule conflicts • Coordination of caseflow management by the court administrator
1988	<i>Changing Times in Trial Courts</i> (Mahoney et al.)	<ul style="list-style-type: none"> • Calendaring/Case assignment systems • Judicial intervention • Early control • Case scheduling/Continuance policies • Information systems/Monitoring practices • Practitioner attitudes/Expectations
1990	<i>Courts that Succeed</i> (Hewitt, Gallas, and Mahoney)	<ul style="list-style-type: none"> • Leadership and goals • Use of information • Judicial responsibility and commitment • Education and training • Backlog reduction and inventory control • Communications • Mechanisms for accountability • Administrative staff involvement • Caseflow management procedures
2000, 2002, 2004	<i>Caseflow Management: The Heart of Court Management in the New Millennium</i> (Steelman, Goerd, and McMillan)	<ul style="list-style-type: none"> • Early court intervention • Continuous court control • Differentiated case treatment • Meaningful pretrial court events • Realistic pretrial scheduling • Firm and credible trial dates • Trial management • Management of events after disposition

YEAR(S)	SOURCE	PRACTICES
2007	<i>The Art and Practice of Court Administration</i> (Aikman)	<ul style="list-style-type: none"> • Court control of pace of litigation • Constant attention and commitment by all judges • Differentiation in handling different types of cases • Sharing of goals and performance expectations • Overall case-processing-time standards and intermediate time goals • Separate time goals for problem-solving courts, pre-disposition matters • Several means of resolving disputes • Credibility of scheduled dates and trial time management • Macro and micro statistical reports • Discussion of caseload at judges' meetings • Use of bench-bar committee • Orientation and continuing education of new judges and staff • Training for attorneys
2012	"Fundamentals of Caseload Management" (National Center for State Courts, Institute for Court Management)	<ul style="list-style-type: none"> • Leadership and vision • Consultation with stakeholders • Court supervision of cases • Use of standards and goals • Control of continuances • Early disposition of cases • Information and information systems
2016	"Caseload and Workflow" (National Association for Court Management, Core Competency)	<ul style="list-style-type: none"> • Leadership • Judicial commitment • Goals or standards • Information • Communication • Caseload management procedures • Education • Mechanisms for accountability • Backlog reduction and inventory control

The Concept of Different Perspectives and Domains

In court facility planning, having three zones of circulation is considered a best practice.⁶ The three zones are public and common areas; restricted and private-circulation areas for judiciary and court staff; and secured in-custody holding areas or rooms. These three zones allow for clear separation of access and for orderly, efficient, and secure movement within the courthouse. Separation may be achieved by physical and architectural design or by operational practices. Clear consideration and planning are required for these access areas.

In caseflow management, considering operational practices through three zones or domains can also be beneficial. It will aid us in remembering our users and constituents. When we consider who cares about or who may be influenced by caseflow practices, three groups emerge:

- parties internal to the court;
- justice partners with whom the court interacts and collaborates; and
- parties external to and served by court processes.

The chart below expands upon and illustrates which players fall in each group or domain.

Topics of Most Importance to the Different Domains

When considering these caseflow best practices, we gain new insights from examining them in light of the different domains. The chart below notes the common caseflow best practices and relates them to the three domains. It attempts to illustrate which of the practices are most important or pertinent to which domain. Consider it a starting point in the evaluation of how the court needs to consider the different participants in caseflow management.

INTERNAL

- Judges
- Court Managers
- Court Staff

PARTNERS

- Funding Agency
- Local Providers
- System Stakeholders
- Justice Collaborators

EXTERNAL

- Litigants/Customers
- Attorneys
- Public
- Media

INTERNAL

- Leadership and goals
- Early and ongoing judicial responsibility, control, monitoring, intervention
- Court/court administration coordination
- Calendar and case assignment system
- Continuance policy
- Backlog management
- Information and data

MUTUAL

- Standard procedures/practices
- Use of time standards and goals
- Accountability for processes
- Measurement and statistical reports
- Performance information
- Education and training
- Communication
- Having meaningful events
- Post-disposition case management
- Sharing of goals and expectations

PARTNERS

- Consultation with stakeholders
- Bench/Bar committees
- Minimizing schedule conflicts
- Sharing expectations with practitioners
- Training for attorneys

EXTERNAL

- Using problem-solving-court practices
- Providing several means of resolving disputes

Implications for Court Leaders

Court leaders may want to evaluate the importance and impact of caseload-related actions. Specifically, court leaders should consider the information and craft the message based upon the perspective. Leaders should ensure understanding is sought from each domain and create multiple methods to communicate about operations, expectations, and processes regarding successful caseload.

Therefore, court leaders should ask some questions:

- Does our court need to view caseload practices in a different light?
- How do we share practices and expectations with the different constituents or domains?
- How do we ensure that goals and expectations are clearly explained?
- How do we communicate effectively?
- How are court practices made clear and understandable to court users?
- Which practices are most important to those in different realms?

FOR INTERNAL REPRESENTATIVES AND STAFF:

As our court works to modify or enhance caseload management practices, how will it look to our own staff? What is needed for all to understand the direction we seek?

FOR PARTNERS AND STAKEHOLDERS:

What is important to share and discuss with our justice partners and stakeholders?

How do I accomplish a "WIIFM" ("what's in it for me?") benefit for them?

FOR THE PUBLIC AND EXTERNAL REPRESENTATIVES:

Which policies and practices need to be fully shared with the public and court users?

Concluding Thoughts

This article represents one tabulation of the various published best practices, and the related grouping by type of domain. In considering these domains, court leaders may want to pose these questions to themselves and senior leadership:

- How should we/our court form our leadership actions to the benefit of all three domains?
- What do we need to tailor in our communications about practices?
- In what way do we explain our expectations?
- Where can we and should we define the practices and protocols to be used?
- How can we ensure we are delivering accountability for our caseload management?

How does this fit with your views? What is applicable from this in your court? Can you consider applying initiatives on caseload practices through the lens of these domains?

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NOTES

1. Among the sources on caseload management: National Center for State Courts, "Fundamentals of Caseload Management," educational course, Institute for Court Management, Williamsburg, Va., 2012; National Association for Court Management, Core, "Caseload and Workflow," available at <http://nacmcore.org>; David Steelman, John A. Goerdt, and James E. McMillan, *Caseload Management: The Heart of Court Management in the New Millennium* (Williamsburg, VA: National Center for State

Courts, 2000, 2002, 2004); Alexander B. Aikman, *The Art and Practice of Court Administration* (Boca Raton, FL: CRC Press, 2007); Barry Mahoney et al., *Changing Times in Trial Courts: Caseload Management and Delay Reduction in Urban Trial Courts* (Williamsburg, VA: National Center for State Courts, 1988); William E. Hewitt, Geoff Gallas, and Barry Mahoney, *Courts that Succeed: Six Profiles of Successful Courts* (Williamsburg, VA: National Center for State Courts, 1990); Maureen Solomon, *Caseload Management in the Trial Court* (Chicago: American Bar Association, Commission on Standards for Judicial Administration, 1973).

2. One description of caseload management may be found in the NACM CORE Competency on "Caseload and Workflow," at <http://tinyurl.com/15o7jh2>.

3. Brian Ostrom and Roger Hanson, "High Performance Court Framework: A Road Map for Improving Court Management," National Center for State Courts Working Paper Series, Research Division, Williamsburg, Va., 2010, available at <http://tinyurl.com/kfd3d9m>.

4. See Ernest Friesen, "Caseload Management: A Prescription for Renewal," *Court Communiqué* 9, no. 2, (2008); Conference of Chief Justices and Conference of State Court Administrators, Resolution #5, "Reaffirming Meaningful Access to Justice for All," Access, Fairness, and Public Trust Committee, 2015 annual meeting, at <http://tinyurl.com/mtekd6dn>; Conference of Chief Justices Civil Justice Improvements Committee, *Call to Action: Achieving Civil Justice for All* (Williamsburg, VA: National Center for State Courts, 2016), at <http://tinyurl.com/1779wb8>; National Center for State Courts' National Task Force on Fines, Fees and Bail Practices, at <http://tinyurl.com/jnrx9o5>; and National Center for State Courts, "Rethinking Felony Caseload Management to Create a Culture of High Performance," report written for Criminal Courts Training and Technical Assistance Initiative, Bureau of Justice Assistance, Williamsburg, Va., 2013, at <http://tinyurl.com/k2gerwg>.

5. See Ernest Friesen, "Caseload Management," supra n. 4; Alex B. Aikman, "An Essay on Restoring Caseload Management to 'The Heart of Court Management,'" *Court Manager* 30, no. 2 (2016); Brian Ostrom and Richard Schaffler, "Strengthening Caseload Management," *Court Express* 10, no. 3 (2009); and David Steelman, "Caseload Management," in Carol R. Flango, Amy M. McDowell, Charles F. Campbell, and Neal B. Kauder (eds.), *Future Trends in State Courts 2008* (Williamsburg, VA: National Center for State Courts, 2008), pp. 8–10.

6. See "Court Security," in *The Virtual Courthouse: A Guide to Planning and Design*, website, National Center for State Courts, at <http://tinyurl.com/jw8f9hr>; Nathan Hall, "The Courthouse of the Future: A Planning and Design Primer for Court Managers and Judges," in Peter M. Koelling (ed.), *The Improvement of the Administration of Justice, Eighth Edition* (Chicago: American Bar Association, 2016).