## PROMOTING INNOVATION IN PROSECUTION

## PROSECUTOR'S GUIDE

TO

## CASE MANAGEMENT



JEFFERSON INSTITUTE FOR JUSTICE STUDIES

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Joan E. Jacoby Peter S. Gilchrist, III Edward C. Ratledge January, 1998

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#### PROSECUTOR'S GUIDE TO CASE MANAGEMENT

#### INTRODUCTION

This guide is for prosecutors. It is designed to help them look at case management in their office and identify areas that might be changed or improved. It also is designed to help them think about different ways of doing things. Although the guide may not necessarily solve specific problems, it should, at least, help prosecutors ask the right questions.

In this guide, we assume that every prosecutor faces the common problem of disposing of cases at the earliest possible time, using the fewest resources, and with acceptable results. This is the task of case management.

How the prosecutor manages cases is usually decided by his policy towards prosecution, his resources and coordinating procedures with the courts and other agencies, especially the police.

#### ORGANIZATION OF THE GUIDE BOOK

This guide views case management as a set of strategies, that are used to produce acceptable dispositions at the earliest possible time with the least resources. The very nature of strategies is that they are dynamic -- constantly changing because of they include a wide variety of tactics that may achieve the same goal. Therefore, the mix that works in one jurisdiction may not work in another. The case management strategies presented in this guide should offer something of value to every prosecutor. It is up to the prosecutor to pick and choose those pieces that can improve his present case management, limited only by his need, creativity, and imagination.

The first section is a self-assessment. It asks the prosecutor to <u>assess the state of case management</u> in his office and jurisdiction and answer the question, "Do you really need to manage your caseload?"

The second section presents case management and disposition strategies that focus on processing cases with a goal to early dispositions. This section looks at four powerful aspects of case management, frontloading the system, plea offers, discovery and continuances.

The third section views case management strategies from a **resource allocation** perspective. It examines how resources in your office can be realigned to maximize productivity and even how changes in your management culture can have a substantial impact on productivity.

The fourth section discusses strategies for **monitoring the performance of attorneys** in managing their own caseloads.

#### READING THE GUIDE BOOK

There is no single answer, no best approach to achieving good case management and meeting the goals of early, efficient and acceptable dispositions. There are only a series of different ways of doing things which, alone, represent good approaches and, in combination, may even produce successful results for the entire office.

The technique used to present materials in the guide is to contrast typical ways of doing things with other alternatives that accomplish the same goals. The assumptions upon which the strategies are based are suggested in boxes labeled "If the truth be known".

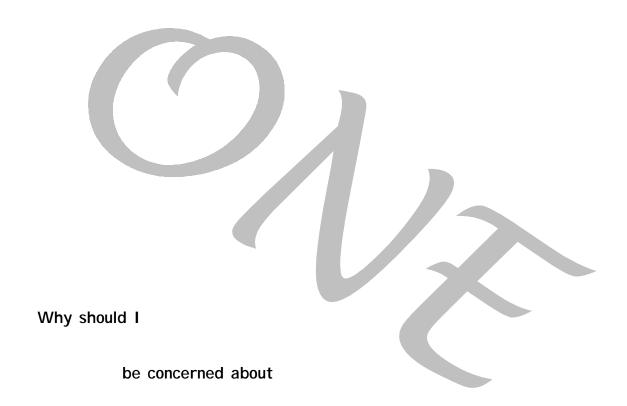
A typical setting presents a scenario that unfortunately all too often exists and which contains elements that need to be changed. Alternative approaches to problem areas are offered in the form of questions starting with the phrase "why not". The technique of offering alternatives as a series of "why not's" is used to let the prosecutor know that he can accept or reject any alternatives as he sees fit.

Each of the alternatives is followed by suggestions as to how they may be implemented. The descriptions are based upon reality. They have been observed in practice in at least one of the offices that participated in the innovation project. Where appropriate, site examples are presented to give a richer context for the suggested directions the prosecutor may want to pursue. A contact and reference sheet provides you with more detailed information for follow-up in these areas.

At the end of the guide, we have attached a form which we hope you will use to provide us with feedback, questions, corrections and additions. It is important that this guide be maintained and updated as new tactics and strategies prove successful. Your input and reactions become a valuable part in making this happen.

We hope that after using the guide, you will be able to identify areas of interest to you and start the task of making change. You may still need help from others in the form of advice, technical assistance or training. But you should be able to seek this assistance with a better understanding of the dimensions of the problem that you are addressing.

## **SELF-ASSESSMENT**



case management?

That's the



court's responsibility!

f the truth be known!

There are a number of symptoms for impaired case management that can be treated by prosecutors. If the truth be known!

There are a number of symptoms for impaired case management that can be treated by prosecutors.

#### TEST 1: HOW MANY SYMPTOMS OF INADEQUATE CASE MANAGEMENT DO YOU HAVE RIGHT NOW?





If you checked number 1, "Little control over screening", give this activity top priority before you even consider other changes.

Refer to the Prosecutor's Guide to Intake and Screening for help in this area.

#### Check all that apply

Little control over screening

Pretrial diversion or treatment programs not available or not used

Too many plea bargains to lesser charges

More than 15 percent of felony cases plead guilty on the day of trial

Few felony guilty pleas taken or set for plea at probable cause hearings or arraignments

Dismissal rates too high for your liking

Limited discovery to defense counsel, late in the process

Too many witness no-shows

Court backlogged, too many continuances

Can't keep track of cases in your own office

Total number of checks

If the truth be known!

The court can only process a limited number of cases in any given time period.

#### TEST 2: CAN YOU HANDLE THE CASELOAD THAT ALREADY IS IN YOUR OFFICE?

7

An exercise	
<ol> <li>How many cases do you have pending right now?</li> <li>How many cases did you dispose of last year?</li> <li>How many years will it take you to dispose of the pending cases even if you get no new ones? (divide 1 by 2)</li> <li>What is the chance that you will not get any new cases?</li> </ol>	
Is the work in your office backlogged?  Yes	_ No

If the truth be known!

There is a limit to the number of jury trials that a judge can conduct in a year.

The average number of felony jury trials that one judge will conduct is 25 —

or about two a month.

#### TEST 3: DO YOU HAVE ENOUGH COURT CAPACITY FOR JURY TRIALS?



Another exercise:	-
1. How many felony jury trials can you expect to conduct in your jurisdiction this year? (Hint: use last year's figures)	
2. Multiply the number of <u>full-time</u> felony trial judges by 25.	
Do you lack trial court capacity (Is line 1 greater than line 2)?  Yes	. No



#### **RESULTS**

#### DO YOU HAVE CASE MANAGEMENT PROBLEMS?

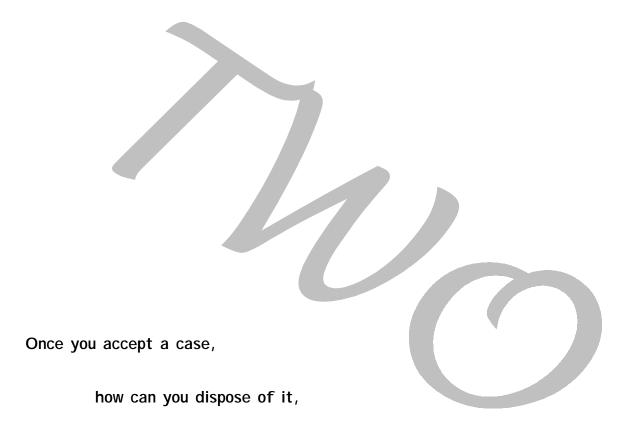
	Yes	<u>No</u>
Test 1: Did you check more than 3 items?		
Test 2: Is the work in your office backlogged?		
Test 3: Do you lack trial court capacity?		
<b>-</b>		
Total		

#### **DIAGNOSIS**



- **Test 1:** More than three symptoms indicate the need for substantial changes in case management.
- **Test 2**: A "yes" in this test suggests two diagnoses:
  - 1. Your case processing procedures could be made more efficient. Processing delays need to be reduced.
  - 2. The volume of work in your office is increasing or experiencing a change in its complexity. If you are receiving more serious violent felonies, for example, even without an increase in the number of cases, your workload has increased substantially.
- **Test 3:** It is possible to treat this problem even though you have little control over the number of judges available to you. Look at how your plea bargaining procedures, discovery, and disposition strategies could reduce the number of jury trials sought by defense.

# CASE MANAGEMENT AND DISPOSITION STRATEGIES



at the earliest possible time,

using the fewest resources



and still get acceptable sanctions?

## Scene 1. Frontloading dispositions

About 80-90 percent of felony cases are disposed after arraignment and before trial.

The remainder are disposed on the first day of trial or at the end of trial.

For misdemeanors, the typical case requires 3-4 court settings before disposition.

#### Why not align your attorneys work with the reality of case processing?

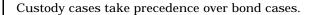
Why not match your resources to the workload — not the court's calendar?

Why not predict which cases will go to trial and treat them differently from plea cases?

#### Site Example: $_{\square}^{-}$ In Winnebago County, IL, the □ State's Attorney sends felony cases most likely to plead to a specially designated Pretrial unit $_{\square}^{\square}$ for negotiation and early disposition immediately after a charging decision is made. Cases most likely to go to trial are assigned to trial teams for $_{\square}^{\bullet}$ preparation. 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0

#### **Typical Setting**

Cases are docketed by the clerk's office and court dates are assigned by them or the judge.



Misdemeanor cases make up the largest volume of cases in the office, require the least amount of attorney work and are given little management attention.

Serious violent felonies are the most time-consuming and resource demanding.

The court's calendar schedules the trial prosecutor's work which is based on defendant's custody status, not necessarily the nature of the case and the likely disposition.

#### **Alternatives**

Identify those cases that will probably plea at the first opportunity and get them disposed early.



Any experienced trial attorney can identify, with reasonable accuracy, those cases that will plead at the first opportunity.

For example, simple possession of drugs, shoplifting, etc. It is better if these cases plead at arraignment or preliminary hearing rather than later in the process or worse yet, on the day of trial.

Assign attorneys to first appearance and bond hearings to negotiate early dispositions for special classes of cases, especially misdemeanors and summons.

Why not speed up the dispositions of pleas so they don't crowd the courts or the jail?

Identify cases for deferred prosecution or pretrial diversion  $\underline{\text{before}}$  the first court hearing. Have defendant acceptances ready for court if needed.

Take the first steps for negotiating cases with defense counsel as soon as police reports are available.

If the lower court judges cannot take a plea to a felony at preliminary hearing, work with the court to have some judges cross-designated so they can.

Work with court to establish formal pretrial conferences that require defense, defendant and prosecutor to negotiate pleas and schedule sentencing dates.

Work with probation to set up separate PSI schedules for those cases that can be disposed early on.

Look carefully at your misdemeanor dispositions. With the court's help, you can make substantial reductions in the number of court hearings, reduce police costs, and free up attorney time for other cases.

Site Example:
In Smithfield NC, two Monday's
a month are set aside as
"disposition days". Approximately
60 percent of the misdemeanor
cases plead out. The rest of the
cases are set for trial. Police
officers are not required to be
present.

Why not dismiss cases early on that have no prosecutive merit and only clog the court's docket? If cases are old, have deteriorated, or even should not have been allowed through the gate, dismiss them!

Help reduce the pending caseload and leave you with a better idea of your real workload.

Site Example: □ In Colorado Springs, the District □ Attorney mans a first □ appearance center. It provides video advisements, instant □ written plea offers and  $\ \square$  agreements, and the presence of  $\ \square$ □ the Clerk's Office personnel to  $_{\square}^{\square}$  collect fines. Court time is □ reserved for non-waivable cases and trial demands. 

Why not create additional avenues for disposing the large volume of less serious cases that clog your office and the courts?

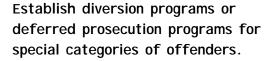
	)
Site Example:	נ
	)
In Nashville, TN, the District	1
Attorney General has just made	)
mediation available to citizens	)
seeking criminal warrants. About	ן
60% of his citizen complaints are	)
being better served by this	נ
outlet.	)
outlet.	]
	נ
	1
Site Example:	)
In Winnehago County II the	
, , , , , , , , , , , , , , , , , , ,	]
State's Attorney is discussing	
the feasibility of establishing a	
conflict resolution program and a	
community justice center in	
partnership with the local	
community college.	
, ,	
	]
Site Example:	
In Colorado Springs, the District	
Attorney has a juvenile diversion	]
program and a neighborhood	]
	1
	_
justice center for mediation.	

#### **Typical Setting**

Prosecutors use "stet" files or deferred prosecution to keep some minor cases out of the system.

All other cases are processed through the formal adjudication system where the only other sanctions available are probation and/or incarceration.

#### **Alternatives**





Charged with domestic violence – offenders can be referred to behavior modification therapy, substance abuse programs or other community programs.

Using drugs and charged with possession – offenders can have charges dropped if they complete treatment or rehabilitation programs.

Charged with vandalism, graffiti, destruction of property, shoplifting and other minor crimes - defendants apologize to victims, make restitution and perform community service. This is especially valuable for juvenile offenders.

Use mediation to handle minor cases and citizen complaints, many of which may result from neighborhood disputes or barroom fights.

You can either develop a mediation program in conjunction with the court, or look for mediation centers in the community that already exist but may not be linked in with the criminal justice system.

]	
]	Site Example:
_	In Lexington, SC, the Solicitor's office operates a juvenile arbitration program with a
]	volunteer program director, and a part-time secretary. Fifty volunteers arbitrated 420
]	cases last year operating at 11 sites convenient to juveniles, victims, parents, and police
]	officers. This program is the model for the state.
]	

#### Scene 2. Plea Offers

If the truth be known!

Roughly 95 percent of all cases are disposed by guilty pleas.

Only 5 percent go to trial!

## Why not facilitate the process?

Why not concentrate on negotiating pleas early on?

Why not save your valuable resources for those cases that will go to trial?

Someone has to get the ball rolling. You know your case. Why not send plea offers over with discovery or earlier?

As an old sage once said,



"There are two sides to every pancake".

You have only seen the state's case.

#### **Typical Setting**

It's like buying a house.

The prosecutor asks for more than he expects

to get, defense counter offers, prosecutor counters and so on . . . until an agreement is reached or the case goes to trial.

#### **Alternatives**

#### Make plea offers based on reality.

Don't look at the best you can possibly get.

Determine what you *probably* will get. Then give defense counsel an incentive to plea early on.

For example, even though you could charge a case as 2nd degree murder, you know that in all likelihood it will be disposed as manslaughter.

If the defense counsel are reluctant to communicate offers to defendants, use the court hearings (like docket settings) when the defendant is present to make your offer known.

#### Remember!

If you have sentencing guidelines, or structured sentencing, the range of your charging and sentencing negotiations is already restricted. Why waste time negotiating over known outcomes?





#### **Typical Setting**

Prosecution and defense play cards close to their chests.

Plea offers are not responded to quickly.

Attorneys on both sides are slow to make decisions.

Surprising the other side in trial is more fun than negotiating.

If the defense has strong evidence, like four nuns who can provide an alibi for the defendant, they wait until the day of trial to present it.

Courts find it easier to continue cases than to take pleas

Why not create an environment that facilitates the discussion of pleas?

Why not open up communication so you can discuss the state's case?

Why not give defense incentives to discuss their case?

Why not find out how strong the defense's case is during plea negotiation rather than being embarrassed in the middle of a jury trial?

#### **Alternatives**

Create an open communication climate so defense counsel will reveal their case without waiting for a trial.



Encourage your assistants to explain the strength of their case during plea negotiation.

If some of your attorneys are reluctant to discuss the state's case with defense counsel, have their supervisor sit in on plea discussions and train them.

Have your attorneys develop a schedule for meeting with defense counsel to discuss the merits of the defense's case.

Do not let your attorneys avoid communication with defense counsel.

Change your policy about plea offers and make it known to others.

Hold meetings with the court and public defender to discuss the value of more open case discussions.

Notify police and victims of your new plea offer policy.

#### Scene 3. Discovery

If the truth be known!

The prosecutor must provide information to defense counsel before the case can move forward.

#### Why not create an informal, open file discovery process?

Why not give discovery as early as possible so plea cases can be negotiated out and trial cases assigned for preparation?

Why not treat defense counsel as customers who should receive timely service and pay for it (when possible)?

Why not give complete discovery? Defense will ultimately get it, why delay? It only clogs up the courts and jail with cases that could be resolved early.

#### 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 Site Example: 🔲 In Kalamazoo MI, defense □ counsel are provided with police reports, witness statements, $\hfill\Box$ criminal histories and other $\hfill\Box$ information as soon as the $_{\mbox{\tiny \square}}^{\mbox{\tiny -}}$ decision to charge has been П □ made. An extra photocopy □ machine is in the prosecutor's □ office to expedite the copying process.

#### **Typical Setting**

Defense counsel files a motion for discovery. The court sets a date for the prosecutor to supply it.

Delays in providing discovery are typical. Obfuscation is tempting.

Taking depositions is costly and time-consuming.



#### Alternatives

Give defense counsel all the information they need to move the case toward resolution as soon as possible.



Give all discoverable materials that you have immediately after charges have been filed.

Explain to law enforcement officers that you want a file so complete that defense has little choice but to plead guilty.

Train file clerks to organize case folders so that discoverable materials are all together and can be copied quickly.

Establish procedures for clerks to forward additional materials to defense counsel as they are received by your attorneys. Do not tolerate attorney delay.

Aim to provide defense counsel with enough information in the file so that they will recommend that their client plead guilty after reading the file.

For hard to negotiate cases, establish procedures so defense counsel can discuss the strength of their cases with a senior, experienced trial attorney in your office.

#### Remember!

Procedures for discovery are set by state statute, but how they are implemented is set by prosecutor policy.



## Scene 4. Managing Continuances

If the truth be known!

Continuances are expensive, Prosecutor offices can lose the work of 1 to 6 attorneys a year because of continuances.

Why not reduce the number of times your attorneys waste their time preparing for court because the case is continued?

Why not identify the reasons why continuances occur and tackle the easiest ones first?

Why not test different strategies to mitigate the problem?

Why not free-up resources wasted on continuances so other work in the office can be performed?

As an old sage once said,



"Every time there is a court appearance, it ought to advance the case."

#### **Typical Setting**

Continuances are routinely granted by the court for a number of reasons:

poor calendar control, problems with notifications, defense counsel not appointed or prepared, delays in receiving forensic evidence, plea negotiations still underway, delays in receiving criminal histories or presentence reports.

Some continuances are almost automatically granted especially at first appearance and appointment of counsel.

Since most calendars are full, continuances are easy to accept.

Continuances have little value associated with them. Thus they are rarely monitored by prosecutors.

#### Alternatives

I dentify where continuances are occurring in the adjudication process and why so you can develop a plan of action for reducing some of them.

If you keep a count of the number of cases set for a court hearing each day, the number that were continued for any reason except for a plea, and the reason why, you will quickly learn where continuance problems are occurring.

Some continuances may be easily controlled, especially those that involve police and witnesses. Reducing other continuances may be outside of your control such as those granted for defense counsel conflicts. Unless you collect some basic information, it will be difficult to understand the magnitude of your continuance problem.

Why not test different strategies to mitigate the problem?

Site Example: П  $_{\mbox{\scriptsize $\square$}}$  In Kalamazoo, MI , the Victim-□ Witness staff telephone  $\hfill\Box$  witnesses and give them all the information on the subpoenas. The witnesses pick up the subpoenas from court when they  $\hfill\Box$  arrive to testify. Three people П handle about 100 subpoenas daily, and save \$8,000-10,000 monthly in subpoena fees and  $\hfill\Box$  court costs. п  $_{\mbox{\tiny \square}}^{\mbox{\tiny -}}$  Police subpoenas are served to the commanding officers or to  $\ ^\square$  the substations. Police are provided voice mail pagers. Last year, about \$18,000 in overtime was saved. 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0

Why not free up wasted attorney time by working with the court and defense counsel to reduce delay?

#### Explore using new strategies to solve problems.

Not all continuances are under your control, but delays due to police appearances and witness notifications, discovery, and responding to motions certainly can be reduced by your efforts. Creative thinking will often yield positive results.

#### For example:

Subpoena witnesses by mail or telephone.

Use pagers to notify police when they are needed in court.

Establish priorities for crime lab testing and give the lab expected due dates for results.

Provide case and defendant information to probation early on.



## Establish project teams with the court to find other ways to reduce continuances.

Some continuances are systemic and require long-term solutions. For those continuances that are essentially outside your control, the use of project teams is valuable. If the teams include court personnel and defense counsel, they should be able to produce more comprehensive solutions to long standing problems.

Working with the court and probation to speed up pre-sentence investigation reports or to delay scheduling sentencing until they are ready will also reduce unnecessary continuances.

Develop new procedures with the court to reduce delays in the misdemeanor case process by giving incentives to the early resolution of cases through mediation or diversion.

#### Remember!

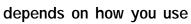
Don't forget misdemeanors!

Misdemeanor cases account for almost half of the total continuance costs in prosecution.



## RESOURCE ALLOCATION STRATEGIES







your own resources.

## Scene 1. Aligning Resources to Workload

If the truth be known!

Most small offices just "grew like Topsy" into larger offices.

## Why not examine how you use your resources?

Why not find out if your resources are matched to the workload?

Why not match staff assignments to the adjudication process to see if each function is adequately staffed?

Why not identify the area where most staffing problems and backlogs occur and reorganize?

Why not rethink staff positions and their work to increase their productivity?

#### **Typical Setting**

New programs and activities are added as separate units when they occur.

Each unit has a separate chief: too many chiefs for too few Indians.

Big separation between attorney and support staff.

One or 2 persons make all the administrative decisions.

Office is noisy, traffic flow is confused, space is poorly used.

#### **Alternatives**

View work in your office by activity, not by case type.



Find out how much time your staff devotes to the various parts of prosecution, e.g. intake and screening, misdemeanor/traffic, felony, juvenile, victim-witness, administration, etc.

Site Example:	
•	
In Kalamazoo, MI the	
Prosecuting Attorney contracted	
for a management audit. One	
finding indicated that although	Е
the total number of legal	
assistant positions should remain	
•	
the same, their allocation was	
skewed. Positions were reduced	
at the intake function and	
doubled for probate court.	
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	-	_Xumpre \	01 4 1 03	our cc ano	ca tion 5	ui voy						
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				/ Wer age	oci ccirt c	) WCC	iciy we	л к эрс	JIIC 011			
	Name	Position	Intake	Misd/Trf	PH/GJ	Fel.	Juv.	V-W	Admin	Othe		
_												_
	J. Doe	Attny		100								
		,										
Ш	J. Smith	V-W	25			25		50				
	D. Jones	Clerk			20	80						
	Totals		.25	1.0	.2	1.05		.5				
	Match to	tals to vo	lume of	work.								
	Does the	distributi	ion of pe	eople matcl	h the wo	rkload	l?					
			•	•			пп			пп	П	п

Why not identify the areas where most staffing problems and backlogs occur?

Why not rethink staff positions and work to increase productivity?

0 0 0 0 0 0 0 0 0 0 0 0 0 0 0

#### Site Example: $_{\square}$ In Pueblo, CO, the District ☐ Attorney has his attorneys do all ☐ □ support activities one day a year. □ $\hfill\Box$ They answer phones and do the exact same work as the clerks. ☐ Site Example: $_{\square}^{-}$ In Santa Fe, NM, the District □ Attorney receives faxes of lists □ □ of releases and escapes from the DOC and parole forwarded $^{\square}$ by the State Administrative Office of District Attorneys. ☐ The DA notifies victims in his iurisdiction.

## Identify the most troublesome staffing problems in your office.

The best source of information about staffing problems and issues is your staff. Your staff know best where work is backlogged. Tap into their knowledge both to identify the most troublesome areas and to provide suggestions for solutions. Use your staff to rank problems in order of importance.

## Change how you use your staff to increase case processing output.

Don't have some staff overworked and others with free time. Think about your office as a paper flow process and use your staff to make the flow more efficient.

Reduce some case preparation time for felony assistants by using victim-witness personnel to handle problems that would affect witness availability. For example, child care, transportation, fear, etc.

Let grand jury assistants train younger attorneys in this part of the process.

Shift a large volume of subpoena service work away from investigators by using telephone and mail subpoenas. Give responsibility for notifications to support staff and/or victim-witness staff.

Let investigators or victim advocates screen citizen complaints depending on type of complaint and reduce the number of complaints referred to attorneys. This reserves attorney time for the most difficult citizen complaints.

Let support staff establish alternative procedures for police notifications that reduce court appearances and police overtime pay.

Let support staff, victim-witness personnel and attorneys work as a team to process the work handled by courtrooms.

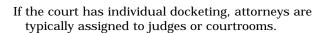
Why not establish special units or teams to handle complex and time-consuming cases?

#### □ The State's Attorneys in Winnebago County and Sangamon □ County, IL, are demonstrating the effectiveness of a violent □ offender prosecution program in producing more convictions with longer sentences. $\ \square$ In both offices, the extra □ dedicated support has produced $\hfill\Box$ very positive results. Evaluations $_{\square}^{\square}$ of the programs are being conducted. Site Example: $\square$ In Colorado Springs, the District $\square$ □ Attorney operates three □ specialized units for economic □ crimes, check fraud, and welfare □ □ fraud and also participates in a □ regional fraud unit.

Site Example:

#### **Typical Setting**

Cases are assigned to attorneys by a senior attorney.



If the court uses a master calendar assignment process, attorneys typically man the courtrooms.

In either case, trial attorneys prepare for whatever cases are on the docket.

#### **Alternatives**

Specially designate experienced attorneys for serious violent felony cases and provide them with investigative and support staff to help prepare for trial.



Develop special programs with a goal of incarceration.

Coordinate your program with law enforcement agencies to ensure that cases brought to court are legally sufficient.

Determine whether you have enough cases to warrant programs focusing on

Repeat offenders or career criminals

Domestic violence

Violent offenders

Rape and sexual assaults

Participate actively in task forces that address specific problems.

Seek grant funds to provide additional staff to the task force.

Create an economic crimes unit to process bad check cases and investigate citizen complaints of consumer fraud.

If possible, charge fees for these services and use the fees to support the unit.

#### Scene 2. Changing Management Cultures

If the truth be known!

Most offices are run by directives from on high, hurled down like thunderbolts,

## Why not change your management culture?

Why not take a "bottoms up" approach like participatory management?

Why not hold all persons accountable for their work and the reputation of the office?

Why not let all staff participate in planning and problem solving?

Why not create partnerships and team efforts?

Why not experiment with grant funds?

#### **Typical Setting**

The District Attorney makes policy.
Policy is transmitted through an organization that is hierarchical.

Authority for implementation is delegated down and operational aspects are dispersed among many. Accountability is difficult to determine when mistakes occur. Communication is too often based on gossip.

Mid-level staff are not aware of budgetary constraints that affect their work.

 $Innovation\ and\ experimentation\ are\ discouraged.$ 

Grant funds are not actively sought.

New ideas and questioning of old procedures are discouraged. All power and authority flow from the top down.

#### **Alternatives**

## Involve all staff in problem identification and problem solving.



Special project teams can be created to look at targeted priority areas such as intake and screening, notifications, police reporting, docketing, automation, etc.

When the project teams are staffed with all persons who will be affected — attorneys, support, victim-witness, investigators, clerical, legal assistants, etc. — their recommendations are more likely to be comprehensive and to succeed.

#### Rememberl

As chief prosecutor, your role is to receive staff reports and recommendations — not direct the fact-finding or solution process.





0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 Site Example: \_ In Kalamazoo, MI, the Prosecuting Attorney has □ organized his office into five functional teams. All authority is delegated to the teams п □ including personnel and budget □ matters. The office  $^{\square}_{\square}$  administrator has shifted her duties from personnel administration to automation  $\ ^{\square}$  and the movement of the office into new program areas. Her  $_{\mbox{\scriptsize $\square$}}$  traditional duties have been assumed by the teams. 

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#### Site Example:

The District Attorney in
Charlotte, NC, has divided his
entire office into teams
corresponding to police bureaus.
The teams screen and prosecute
misdemeanors, juvenile offenses,
homicides, violent crimes,
property crimes, and drugs.

#### Site Example:

 $_{\square}^{-}$  In Lexington, SC , since the □ unified courtroom handles misdemeanor and felony cases. □ Trial teams include attorneys  $_{\square}^{\square}$  who typically would be assigned  $_{\hfill\Box}$  to misdemeanor court. These п less experienced attorneys □ receive training on second chair  $^{\square}$  felony cases assigned to their  $_{\mbox{\tiny \square}}$  courtroom. П 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0

Project teams should be empowered to develop plans and budgets.

The primary benefits of a team approach include increasing accountability for problem solving and increasing efficiency in present procedures.

By allowing the team to experience and try new solutions, you have given them a vested interest in success. By letting them be responsible for setting and living within budgets, you have given them full, not partial, responsibility.

Look into Total Quality Management (TQM) as a tool for changing your management culture, monitor performance, set goals for the next year and designate priority areas for improvement.



Take advantage of the power of teams to stretch trial resources and increase training.

Prosecution teams can minimize the number of specially assigned attorneys, e.g. homicide, drug cases, sexual abuse, etc.

They also provide cross-training for attorneys in handling a wide variety of cases.

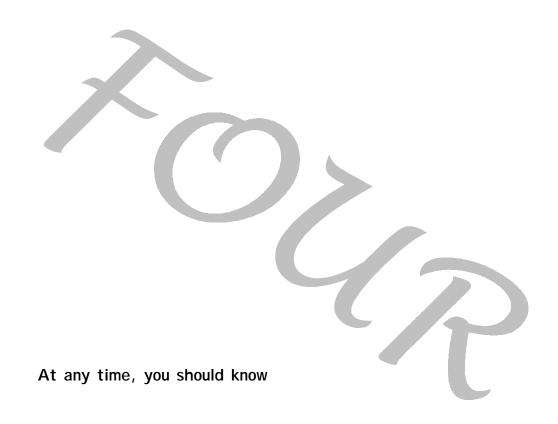
If the court uses a master calendar assignment procedure, trial teams assigned to each courtroom to process cases will reduce case scheduling conflicts.

#### Remember!

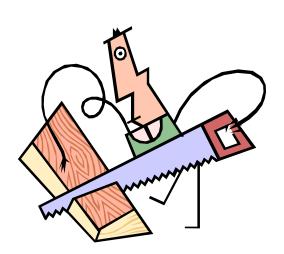
Be sure to estimate cost savings for any project and forward this information to the county council.



# MONITORING ATTORNEY CASE MANAGEMENT



how attorneys are handling their caseloads



and the reputation of your office.

## Scene 1. Monitoring Attorney Case Management

If the truth be known!

Most attorney performance is judged on win/loss rates and the number of trials conducted.

Why not develop a system for monitoring attorney performance that takes quality of work into consideration?

Why not judge attorneys by how well they manage their caseload?

Why not look at the quality of dispositions achieved by attorneys?

Why not survey juries to evaluate the quality of your evidence and trials?

#### **Typical Setting**

In small offices the prosecutor sees all the staff daily, unless housed elsewhere.

Communication is open, staff relationships are basically collegial.

Attorneys arrive each day to process the daily calendar, prepare for the next day's calendar and go home, only to repeat the process every day.

Evaluating attorney performance is based primarily on personal contact and complaints or praise received from judges, defense counsel and others.

Prosecutor does not know the status of each attorney's inventory.

Prosecutor does not know the quality of case dispositions. Prosecutor typically does not even know what indicators to look at.

#### **Alternatives**

Develop a system of case reporting that is attorney-based and lets you compare the case management abilities of the attorneys.



Whether manual or automated, design case files to record each court transaction identifying: courtroom, trial attorney, defense counsel, case status, next court date, type of hearing, results of hearing and finally disposition.

Design a system to give you monthly reports by attorney about the number of times a case did not advance to the next court hearing and the reasons why.

Set "speedy" case management rules. Give special counseling or assistance to attorneys who are most prone to promoting delay. You cannot afford delay.

#### Remember!

Some attorneys want to plead everything out. Some attorneys do not like to make good plea offers; others just can't.



#### ☐ Site Example: $_{\square}$ In Colorado Springs, CO, the District Attorney has a system that notifies victims, trial deputy and detectives of final □ dispositions. The system can match the screening attorney $^{\square}$ with a disposition and reasons. One can look at dispositions by □ attorney as well. 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0

0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 Site Example: □ In Sangamon County □ (Springfield, IL) the State's □ Attorney uses jury surveys to  $\Box$  discover the quality of the evidence, and the performance of the trial attorney in addition  $^{\square}$  to reasons for the verdict. 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0

As an old sage once said,



"Even the best case can be a roll of the dice when a jury is involved."

## Compare the quality of dispositions obtained by the attorneys and identify those needing training or assistance

Every case has an expected disposition. Experienced trial lawyers should be able to predict with a high degree of certainty what the likely outcome will be.

If you review case closing memos or reports that summarize cases and record the outcomes with the reasons why they occurred, you can evaluate your attorneys' performance. Your file clerks will also have a trigger for closing the file.

The review process that you establish should be able to identify those dispositions that are less than satisfactory and hold attorneys accountable. If the frequency of unsatisfactory reports is high, you may have to set up procedures that provide additional training or assistance to attorneys in need.

Listen to assessments by others — judges, defense counsel, police, victims and witnesses.

Use jury surveys to keep your policies and the trial skills of the attorneys relevant.

Part of a prosecutor's discretion is based on prosecuting cases that "are in the public interest".

If juries are opposed to the prosecutor's policy about some issue, they will not convict.

If the trial attorney is not presenting the state's evidence to prove its case, juries will not convict.

Jury surveys play an important role in communicating problems and issues. Use them regularly.

#### Remember!

Evaluation applies to all attorneys, even those handling misdemeanor and juvenile cases.



## Scene 2. Monitoring the Office's Reputation

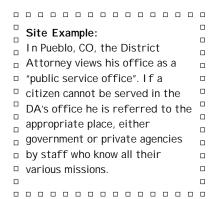
If the truth be known!

Only a few prosecutors monitor office performance, most address individual attorney performance.

#### Why not monitor the public's perception of your values?

Why not find out how your clients rate your service?

You can be running the most efficient, well-managed office in the state, but if the public does not know this, your future may be in jeopardy.





#### **Typical Setting**

The public's perception of the office may not match the prosecutor's assessment.

Prosecutor does not view public as clients.

Prosecutor depends on media for office reputation.



#### **Alternatives**

#### Take citizen surveys.

Placing citizen survey forms at the front desk is a good start. You can ask them about how well they were served and to identify any areas needing improvement.

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☐ Site Exam	ple:								
□ In Kalamaz	oo County, MI , the Pro	osecuting	g Att	orne	y a	sks	eacl	ו	
□ client to id	entify himself and rat	e whethe	er he	was	S:				
1.	Greeted promptly and	courteou	usly						
2.	Treated with respect								
3.	Received explanations	6							
4.	Given the opportunity	to ask q	uesti	ions					
	Felt concerns were ac	ddressed							

Why not use solid management information to monitor the work of your office.

Why not use this information as a basis for improving the quality of prosecution statewide?

Why not use this information for introducing legislative changes?

Why not use this information to justify budget requests?

Why not use this information to evaluate the success of grant funded experiments?

Why not use this information to establish a model prosecutor's office?



#### **Typical Setting**

Reports issued by the court are used for statistical counts of caseload and some disposition data.

Little information is available about large parts of the prosecutor's workload, like cases referred, screening decisions, misdemeanors, juveniles, and other areas.

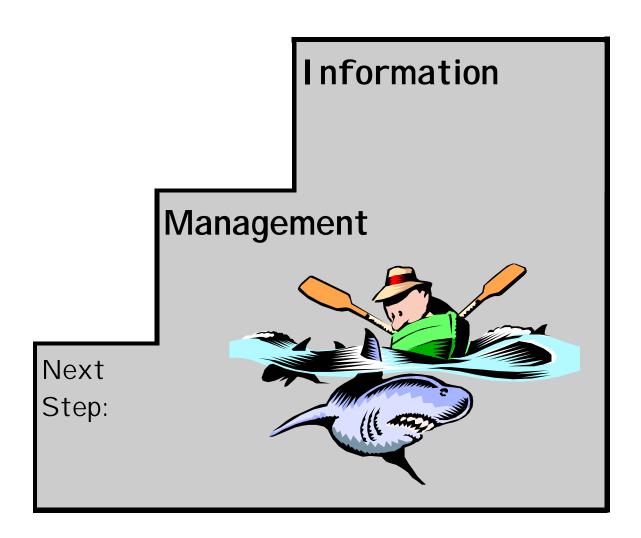
Even when information is available, the prosecutor does not necessarily know what to look for.

#### **Alternatives**

Refer to the *Prosecutor's Guide to Management Information* for a detailed discussion of this subject.

This guide is designed to show what information is important to you, how it can be interpreted and how it can be used by you for variety of purposes – from planning and budgeting to management audits, office assessments and program evaluations.

# The Beginning



#### Contacts and References

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#### REFERENCES AND ADDITIONAL READINGS

For studies about case backlog and court capacity

The Justice System Journal, Volume 17 No. 1, 1994, published by the Institute for Court Management of the National Center for State Courts is a Special Issue about "Swift and Effective Justice: New Approaches to Drug Cases in the States".

The articles in this volume directly address "Frontloading the System", the use of special programs for the expedited processing of cases, and how the prosecutor, defense counsel and the courts can handle their caseload in different, more effective ways.

For demographic information about prosecution

The Bureau of Justice Statistics conducts a survey of a representative sample of chief prosecutors who handle felony cases in state courts. The survey provides information on employees, staff size, case volume and closing. Sources of funding and other areas of prosecution interest. The latest survey has been published as a BJS Bulletin, *Prosecutors in State Courts, 1994* (NCJ 151656). Information about state court prosecutors handling of juveniles are available in *Juveniles Prosecuted in State Criminal Courts* (NCJ 164265).

For workload and cost information

In 1983, the National Institute of Justice funded a complex and comprehensive National Baseline Information (NBI) project designed to estimate the costs of processing adult offenders through the criminal justice system, from police response to calls through parole.

Prosecution and public defender workload and costs were derived from logs completed by attorneys in four jurisdictions. See *National Baseline Information on Offender Processing Costs*, Jefferson Institute, December 1987.

As part of the NBI project a separate study was undertaken to determine *Some Costs of Continu- ances: a Multi-Jurisdictional Study.* Also produced by the Jefferson Institute in 1986.

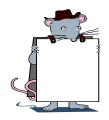
For prosecution policy and performance

In 1980, Joan Jacoby authored a book, *The American Prosecutor, A Search for I dentity* that described the effects of population and the criminal justice system on prosecution and ended with four chapters describing four types of charging and prosecution policies operating in 4 jurisdictions.

With a grant from the National Institute of Justice, Jacoby published a report, *Basic Issues in Prosecution and Public Defender Performance* in 1982.

Both of these documents address the implications of policy on measures of performance and discuss the dynamics of prosecution in terms of its functions and decisions.

Finally, in 1982, the National Institute of Justice published *Prosecutorial Decisionmaking: A National Study.* This report authored by Joan Jacoby. Leonard Mellon, Edward Ratledge and Stanley Turner presents the results of the first comprehensive examination of prosecutor decisionmaking using a standard set of cases based on a statistically designed range of cases and defendants to measure uniformity and consistency in decisionmaking. Tests were conducted in 9 offices. Later the standard case set was tested by 21 offices and formed the basis for an international study of prosecutor decisionmaking.



#### We would like to hear from you!

## Please send us your comments and corrections



Y	Name:
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Phone: ( ) Date: Subject: Prosecutor's Guide to Case Management



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