



THE SUPREME COURT *of* OHIO

COURT SERVICES DIVISION CASE MANAGEMENT SECTION

Criminal Caseflow Promising Practices Case Management Report

I. Introduction

Following the national movement toward identifying strategies to reduce court backlogs,¹ the Case Management Section of the Supreme Court of Ohio conducted a study of best practices found in high performing criminal courtrooms. The purpose of this research was to identify commonalities among top performing Ohio judges and share these findings with other judicial officers seeking to improve their caseflow management practices. The study included conducting focus group conversations, collecting, and reviewing notes compiled by the review team, surveying national publications on the topic of criminal backlog reduction, and the publication of this report and accompanying education.

Lessons learned and recommendations made by the judges who participated in focus group conversations are detailed in this report. Insights into what causes delay, how to avoid or handle a large backlog, as well as innovative solutions to remediate recurring delay are contained here.

This document serves as the final report and recommendations on this project. These recommendations should not be interpreted as reflecting the official position of the Supreme Court of Ohio or any individual member of the Supreme Court. The views expressed herein reflect the opinions of the Case Management Section staff in their professional capacities.

Time Standards, Overage Rates, and Performance Data

Ohio's time standards allow six months for a criminal case to be terminated in our Courts of Common Pleas. Performance data, specifically clearance rates and the age of pending cases, is monitored through monthly statistical reporting forms filed by each of Ohio's 244 Common Pleas Court Judges.² These reports provide statewide information on the number of new filings,

¹ See White House Daily Briefing May 13, 2022 designating court backlogs as a priority for ARPA funds, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/13/fact-sheet-president-biden-issues-call-for-state-and-local-leaders-to-dedicate-more-american-rescue-plan-funding-to-make-our-communities-safer-and-deploy-these-dollars-quickly/> (accessed October 21, 2022). See also, Promising Practices from the Court System's COVID-19 Response: Ensuring Access To Justice While Protecting Public Health, Office of Justice Programs' National Criminal Justice Reference Service, <https://www.ojp.gov/pdffiles1/nij/grants/300846.pdf> (accessed October 21, 2022). See also, As The Nation's Courthouses Reopen, They Face Massive Backlogs In Criminal Cases, NPR July 14, 2021, <https://www.npr.org/2021/07/13/1015526430/the-nations-courthouses-confront-massive-backlogs-in-criminal-cases> (accessed October 21, 2022).

² Supreme Court of Ohio, Statistical Reporting, <https://www.supremecourt.ohio.gov/courts/services-to-courts/case-management-section/statistical-reporting-information-and-forms/> (accessed October 21, 2022).

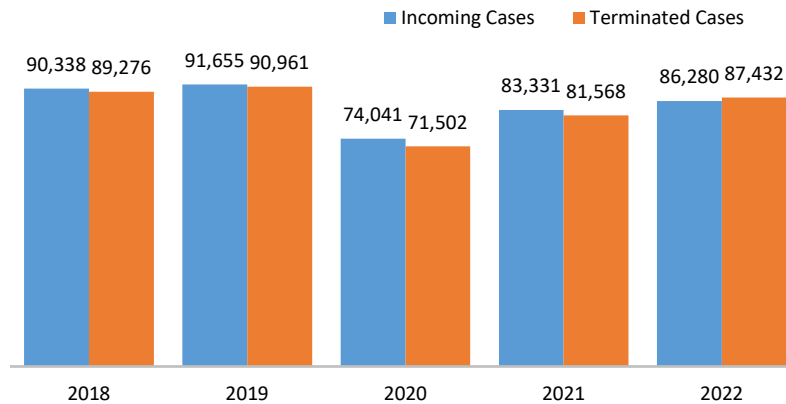
the number of cases terminated, and number of cases pending beyond the time standard for each case type.³

Common pleas courts reported a statewide 19.2% decrease in criminal case filings in 2020 over 2019. In 2021, the courts reported a statewide 12.5% increase in case filings over 2020, but those filings were still 9.1% fewer than in 2019. See Table 1 and Figure 1, below.

Table 1. Caseloads and Clearance Rates, Criminal Cases, 2018 to 2022

	2018	2019	2020	2021	2022
Incoming Cases	90,338	91,655	74,041	83,331	86,280
Terminated Cases	89,276	90,961	71,502	81,568	87,432
Clearance Rate	98.8%	99.2%	96.6%	97.9%	101.3%
Pending End of Year	26,105	26,798	29,337	31,100	29,998

Figure 1. Incoming and Terminated Criminal Cases, 2018 to 2022

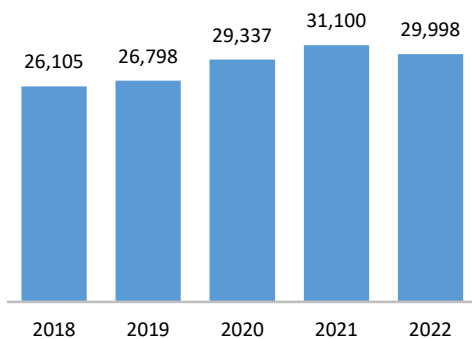


As shown above in Table 1, the courts of common pleas demonstrated a statewide clearance rate of 96.6% in 2020. A clearance rate is the ratio of terminated cases to incoming cases, measuring how well courts are keeping up with (i.e., clearing) incoming cases. Despite the steep decline in filings in 2020 over 2019, the courts’ statewide clearance rate of 96.6% in 2020 followed by 97.9% in 2021 resulted in a relatively sizable increase on the courts’ overall pending caseload. As a general rule, periods of sustained clearance rates below 100% will result in the growth of a backlog. In 2022, the courts reported a statewide clearance rate of 101.3%, which indicates a slight backlog reduction.

³ Supreme Court of Ohio Data Dashboards, <https://www.supremecourt.ohio.gov/courts/services-to-courts/court-services/dashboards/> (accessed October 21, 2022).

Shown in Figure 2, below, are the number of criminal cases pending at the end of each year between 2018 and 2022. Because the courts statewide were not terminating as many criminal cases as they were taking in, a growth in pending cases was the result, with the 31,100 cases pending at the end of 2021 representing a 16.1% increase over 2019, despite there being fewer incoming cases over that same period.

Figure 2. Criminal Cases Pending of Year, 2018 to 2022



In addition to measuring caseload volume trends over this time period, the courts also report to the Supreme Court each month the number of criminal cases pending at the end the month that have been pending for longer than the six-month case processing time standard established by the Supreme Court under Sup.R. 39. The number of such overage cases each month can be divided by the total number of cases pending at the end of month in order to calculate the overage rate, representing the percentage of pending cases that have been pending for longer than six months.

Table 2, below, shows the number and percentage of Ohio’s 88 counties whose courts of common pleas reported average monthly criminal case overage rates between 2018 and 2022 across values ranging from below 10% to above 25%. For example, in 2018, 43 counties (48.9%) reported average monthly overage rates below 10%. In 2020 and again in 2021 and 2022, 23 counties (26.1%) reported average monthly overage rates below 10%. At the other end of the range, the number of counties reporting overage rates exceeding 25% have grown substantially, from 8 counties in 2019 to 26 counties in 2021 and 2022 (nearly 30% of counties).

Table 2. County-Level Average Monthly Overage Rates, Criminal Cases, 2018 to 2022

Overage Rate	2018		2019		2020		2021		2022	
	Counties	% of Total	Counties	% of Total	Counties	% of Total	Counties	% of Total	Counties	% of Total
Below 10%	43	48.9%	40	45.5%	23	26.1%	23	26.1%	23	26.1%
10% to 15%	23	26.1%	21	23.9%	18	20.5%	18	20.5%	15	17.0%
16% to 20%	10	11.4%	13	14.8%	14	15.9%	9	10.2%	14	15.9%
21% to 25%	6	6.8%	6	6.8%	10	11.4%	12	13.6%	10	11.4%
Above 25%	6	6.8%	8	9.1%	23	26.1%	26	29.5%	26	29.5%
Total	88	100.0%	88	100.0%	88	100.0%	88	100.0%	88	100.0%

Examining average monthly overage rates for individual judges over 2018 to 2022 further reveals declines in overall case processing timeliness but also a greater degree of the shift from the percentage of judges whose average monthly overage rates have trended toward the high end of the range. See Table 3, below. For example, in 2018, 14.1% of judges reported average monthly overage rates above 25%. In 2021, nearly half of all judges (45.9%) reported rates above 25%. In 2022, that percentage declined to 40.5%.

However, as shown in Table 2 and Table 3, not all courts have experienced declines in case processing timeliness performance over the last two years. These findings suggest that many judges would likely benefit from learning about the processes and procedures employed in other courts that have supported effective caseflow management.

Table 3. Individual Judge-Level Average Monthly Overage Rates, Criminal Cases, 2018 to 2022

Overage Rate	2018		2019		2020		2021		2022	
	Judges	% of Total	Judges	% of Total	Judges	% of Total	Judges	% of Total	Judges	% of Total
Below 10%	105	42.3%	97	38.6%	50	20.1%	48	18.7%	53	20.6%
10% to 15%	56	22.6%	52	20.7%	36	14.5%	32	12.5%	39	15.2%
16% to 20%	30	12.1%	39	15.5%	41	16.5%	30	11.7%	32	12.5%
21% to 25%	22	8.9%	19	7.6%	32	12.9%	29	11.3%	25	9.7%
Above 25%	35	14.1%	44	17.5%	90	36.1%	118	45.9%	104	40.5%
Total	248	100.0%	251	100.0%	249	100.0%	257	100.0%	253	98.4%

Note: The statewide total number of judges each year exceeds the statutory count of 244 judgeships because more than one judge may occupy a given judgeship during the course of the year.

Cause for Concern

Current overage rates are not sustainable for justice-seeking courts. The statewide criminal overage rate in 2019 was 17 percent, with 60 percent of judges reporting an average monthly criminal case overage rate above 10 percent. In 2019, 17.5 percent of judges reported an average monthly overage rate above 25 percent.

Every courtroom can strive for compliance with best practices in caseflow management and a commitment to timely justice. The National Center for State Courts recommends time standards be placed on cases in tiers, with the expectation that the bulk of a felony docket (75 percent) be resolved within 90 days, with 90-percent of the docket resolved in 180 days. There is a third tier of 365 days, where 98-percent of felony cases should be resolved. The Model Standard recognize the complicated reality of resolving cases by setting the expectation of 10 percent of cases resolved beyond six months.⁴

Ohio courts not only have Supreme Court of Ohio time standards to consider, but also caselaw which underscores the importance of caseflow management from the angle of compliance with the Judicial Code of Conduct. According to the Supreme Court of Ohio's decision in *Disciplinary Counsel vs. Sargeant*, “[w]e focused on one specific factor in this review, the percentage of cases on respondent’s docket that were pending beyond the time guidelines prescribed by this court. For this factor, a rate of 0 percent indicates that the judge is resolving all cases in his or her court within the suggested time; a rate of 10 percent or higher indicates a case-management problem.”⁵ This caselaw serves as a reminder that caseflow management is not simply judicial aspiration, but a meaningful and serious obligation to holding office.

Additionally, The National Center for State Courts studied criminal dockets in 2018 and 2019, with their report published in 2020, [Success in Criminal Caseflow Management: Lessons from the Field](#). These findings noted each court functioned differently, however the elements for understanding timeliness in the court were all there. These elements, similar to those used in this report, include: Leadership & Governance; Early Court Intervention & Control; Predictable & Productive Court Events; Goals & Information Management; and Communication & Collaboration. This report was referenced as foundational material in building the research process and in writing this report.

⁴ NCSC, Model Time Standards for State Trial Courts, pg. 3, https://www.ncsc.org/_data/assets/pdf_file/0032/18977/model-time-standards-for-state-trial-courts.pdf (accessed October 21, 2022).

⁵ *Disciplinary Counsel vs. Sargeant*, 118 Ohio St.3d 322, 2008-Ohio-2330, ¶25.

Focus Group Selection

The findings, recommendations, and promising practices identified in this report are based on video conference interviews with judges, and, their staff. The case management section conducted focus groups with 17 Ohio common pleas, general division judges who maintained low overage averages as proven by their data. The case management section also spoke to three judges who have improved their overage numbers over the past five years.

Using data from Ohio's Data Dashboard,⁶ judges with low overage rates⁷ were identified as possible focus group participants. The selection of judges to participate in this project was made by the Office of Court Services Division, with oversight by the Administrative Offices of the Ohio Supreme Court. Focus group participants represent Ohio's urban, mid-sized and rural counties. Study participants self-selected a focus group meeting date and time, creating randomly assembled groups. The focus group conversations were facilitated by staff of the Case Management Section. Each focus group conversation was structured using the same prompts and questions throughout the research process. See, Appendix A.

⁶ Ohio Data Dashboards are available at: <https://www.supremecourt.ohio.gov/JCS/courtSvcs/dashboards/default.asp>

⁷ Overage rates are the number of cases pending beyond the time standard prescribed by the

Acknowledgements

A great deal of appreciation goes to the judges and the staff of the common pleas courts. Their opinions during focus group conversations were candid, sincere, and, at many times, inspirational. Thank you to this group of judges and staff who offered insightful reflection on criminal caseflow processing and offered many suggestions for improving the quality of court services. The knowledge shared by these dedicated judicial officers and their staff were essential to the formulation of this report.

Special thanks go to the following judges and their staff who participated in the focus groups in December 2021 and January 2022:

- Judge Anthony W. Brock (Clermont)
- Judge Christopher Collier (Medina)
- Judge Patrick J. Condon (Lake)
- Judge D. Chris Cook (Lorain)
- Judge Vincent A. Culotta (Lake)
- Judge Ian B. English (Lucas)
- Judge Frank G. Forchione (Stark)
- Judge Victor M. Haddad (Clermont)
- Judge Chryssa N. Hartnett (Stark)
- Judge Jonathan P. Hein (Darke)
- Judge Mary Katherine Huffman (Montgomery)
- Judge Jeffrey R. Ingraham (Mercer)
- Judge Joyce V. Kimbler (Medina)
- Judge Timothy P. McCormick (Cuyahoga)
- Judge John Patrick O'Donnell (Lake)
- Judge Michael A. Oster, Jr. (Butler)
- Judge Jeannine N. Pratt (Miami)
- Judge Matthew L. Reger (Wood)
- Judge Jeffrey L. Robinson (Fulton)
- Judge Nancy Margaret Russo (Cuyahoga)

II. Findings

In many ways, what was found during this research project mirrored national guidance on best practices for criminal caseflow management.⁸ Ohio judges highlighted the importance of early case intervention, focusing on controlling continuances, and improving court supervision of case progress.⁹ The findings in this report are structured within the following themes which encompass the principles of effective caseflow management: (1) Leadership and Collaboration; (2) Proactive and Flexible Triage; (3) Effective Resource Allocation; (4) User-Centered Process; and (5) Data-Driven Performance Management.¹⁰

1. Leadership and Collaboration

“The judge must set the tone for how things will proceed in his courtroom. If the judge doesn’t take it seriously, have a well-managed docket, it’s not going to happen. It starts at the TOP. The judge sets the mindset of how it’s going to be.”

Surprisingly, a judge who has one of the best overage rates in the state also has one of the highest caseloads in the state. In 2021, this judge was assigned 627 criminal cases and 385 civil cases. This judge’s average monthly overage rate for criminal cases in 2021 was 0.9 percent and 0.8 percent for civil cases. With a caseload that size, commitment to efficiently resolving cases becomes even more imperative. The judge felt that regardless of the backlog or docket size, there are ways judges can improve timeliness, but timeliness must be a judicial priority.

Setting expectations for the pace of litigation was mentioned by a number of judges as being imperative to their success in managing a docket. One judge said, “[s]ome judges allow a continuance last minute, but I don’t. You should not inconvenience the other lawyer, the court, and the jurors. The court needs to set the tone for expectations. We need to communicate in a timely manner. If there are issues that come up, I will work with the attorneys. I want everyone to think they had a fair trial.”

⁸ National Center for State Courts, *What is Caseflow Management?* <https://www.ncsc.org/consulting-and-research/areas-of-expertise/court-management-and-performance/caseflow-management>.

⁹ Caseflow Fundamentals 3, 5, 6.

¹⁰ National Center for State Courts, *How NCSC Employs Effective Caseflow Management Principles*. <https://www.ncsc.org/consulting-and-research/areas-of-expertise/court-management-and-performance/caseflow-management/how-ncsc-employs-effective-caseflow-management-principles>.

Additionally, a common theme for judicial leadership was to set the example to the bar and the litigants of being prepared. Judges cannot expect attorneys to be prepared unless the judge is also prepared. Judges gave examples such as pulling and using reports, completing a regular inventory, ruling quickly on motions, getting to the office early, and making sure everything is prepared for the next week.

2. Proactive & Flexible Triage

"You cannot be a perfectionist on every case. You can't put the same time on each case. You have to identify those cases that are going to take extra time and see what is going in front and what is going in the back."

Whether case tracks are established formally or informally, the need for early court interventions in cases is paramount to timely disposition. Barriers to timely sentencing often include from the laborious process to collect a pre-sentence investigation (PSI) writers or slow return on psychological reports that often take many days to complete. Judges offered insight to handling delay by identifying which defendants may benefit from an expedited PSI. Others have removed delay entirely by developing “relationships with providers who provide drug assessments in 24-48 hours.” In cases where a PSI waiver is acceptable, many judges cited the benefits of both time and cost savings to all.

There are varying philosophies about the extent of judicial involvement in resolving cases before a trial. Judges suggested pre-trials, phone conferences, and discovery rules to move attorneys to resolve cases expeditiously. However, whichever approach to monitoring pre-trial activity is utilized, effective case management flows from intentionality, planning, and communicating with parties regarding the court’s expectations. If a court struggles with efficient case management, or has too many overage cases, its current approach towards plea negotiations, and the time given for attorneys to negotiate, may need to be reevaluated.

3. Effective Resource Allocation

"Find good people, get them as educated as possible and let them do their jobs!"

The administrative policies of the trial court were also noted as determinants of caseflow management success. Judges in every focus group highlighted the importance of hiring the best

and letting them do their job. Although the concept of hiring the right people for the right job is included in caseload best practices as a component of effective resource allocation, Ohio judges identified the importance of keeping a well-trained staff to performing tasks they are most suited. This can only be done with clear communication, realistic goals, and continued monitoring of the court's caseload data.

4. User-Centered Process

"If someone comes in with a felony, that person is thinking about that felony every waking hour. The victim is having every thought consumed. Cases should be resolved in the time period [prescribed by the time standards]. It doesn't mean a rushed manner; it means a timely manner."

In discussing their personal and judicial leadership philosophy, interviewees observed the importance of aligning one's judicial philosophy with a realistic understanding of the court's position in the justice system. Judges implored empathy. This need was described by a judge who noted, the point of focusing on a case's age was due to the impact on defendants, victims, and families. The judge reminds, "[w]e (the court) need to let these people get on with their lives and we need to keep cases moving."

5. Data-Driven Performance Management

"Judges should be taught how to pull and use reports. I want access to everything. I can print any report myself. Have I missed a case? What does the foreclosure docket look like? How many motions are open? What needs my attention? It is really important do be able to find the data you need to personally manage your docket."

The origination of this research was in data, and the recommendations include a continued awareness of caseload information, both individual case level information as well as system wide information. Judges recommended that staff and attorneys be taught to understand and monitor time guidelines. Successful courts were aware of their data including overage rate, incoming case trends, and number of days needed to complete evaluations and assessments. One tool identified to assist courts with backlogs is the [Court Backlog Reduction Simulator](#). This resource was built by the National Center for State Courts to help courts assess their active pending caseloads,

identify backlogs, and brainstorm possible solutions and make policy and practice changes to improve case processing.

III. Conclusion

“At the center of successful caseflow management is the recognition that judges, with the assistance of court administration, must make a commitment to manage and control the flow of cases throughout the court.”¹¹

The judges and court staff who participated in the case management interviews demonstrated a commitment to continuous improvement, openness to innovation, and interest in learning about promising practices from other courts. Not only were these attributes recognized during the interview process, but also through modifications made by high performing judges to their own case management practices. The common pleas courts are applauded for their efforts to make caseflow as accessible, expeditious, and seamless as possible to expedite access to the court for litigants throughout the state.

¹¹ Brian Ostrom, Ph.D., Roger Hanson, Ph.D., National Center for State Courts, Achieving High Performance: A Framework for Courts, April 2010, p.15, available at <https://cdm16501.contentdm.oclc.org/digital/collection/ctadmin/id/1874> (accessed July 31, 2020).

Appendix A, Focus Group Questions

1. Pre-Filing

- Does your court do anything at the pre-filing phase that impacts caseflow? (Such as diversion, plea negotiations resulting in Bill of Information)

2. Pre-Trial

- How soon after a case has been indicted is the court notified?
- How do you communicate with the clerk's office about caseflow? What is that working relationship like with the clerk's office?
- Tell us about your policy for continuances.
- What do you think your court does well at the pretrial stage?
- Do bail issues ever delay the process?
- Are there any suggestions you have for other courts about how they might shorten their pretrial stage?
- Is there a "rock star" at court who really moves things along at the pretrial stage?
- Assignment of counsel – is it efficient? Any meetings or relationship with the defense bar that assists in moving cases along?
- What's your relationship like with the prosecutor's office? How do you handle continuances? What issues and how have you dealt with it?
- How often does it happen that Defendants enter into an agreement to testify or meet with detectives about a case that is pending in another state or federal court? Does the sensitivity of those cases necessitate a delayed resolution to the case pending so that the health and safety of the defendant who is cooperating can be maintained? How do you deal with that?
- Is there anything in the process that delays the pretrial stage that you think would surprise people?

3. Trial

- Can you walk me through the process of setting a typical case for trial?
- What do you think really works well in your process?
- What is a common issue that delays your trials?
- Are there any types of cases that take longer to resolve than others? Anything that could be done to speed up those cases?
- Do you ever use mediation in criminal cases?

- If you had a magic wand, what would you change about the caseload in your court?

4. Sentencing

- Anything you or your staff do at this stage to keep cases moving along?
- Any delays at this stage?
- Are you experiencing any delay in receiving PSI's or psychiatric evaluations if they are ordered on a specific case? If so – if these were provided more timely, would this have an impact on your ability to keep cases go through sentencing more timely?
- Do you do anything extra to speed cases along where the defendant is waiting in jail?

5. Technology

- As a judge, how do you keep track of the time elapsed on each case?
- Do you employ any technology that makes cases move faster through the system?
- Did you add any tech during the pandemic that you are keeping? Did you “pivot” in any way during the pandemic to keep cases moving?
- Is there anything else you want to add today about caseload or best practices?

6. General Questions

- Who do you have on your staff? (Assignment commissioner/bailiff/etc)
- To what do you attribute your good caseload?
- Any advice to judges who are new?