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A STUDY OF CASEFLOW MANAGEMENT IN THE WORCESTER DISTRICT COURT

An Interactive Qualifying Project Report
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by

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1 Abstract

The goal of this project was to research caseflow management systems and identify features of these systems that may be helpful to improve the efficiency of the Worcester District Court. This was done using the first justice of this court as a resource, as well as the Massachusetts District Court Judicial Education Conference and others within the Massachusetts court system. We placed an emphasis on solutions that ensure improvement of the public's trust and confidence in the courts.

2 Executive Summary

The goal of this project was to research caseflow management systems and identify features of these systems that may be helpful to improve the efficiency of the Worcester District Court. This objective is currently seen as a priority for courts because of the budget crunch the state is facing. The current budget has already forced the courts to lay-off some employees. If courthouse efficiency is not addressed, the courts may be diminished to an unacceptable level. This is why the courts are attempting to find the most cost-effective way of increasing the efficiency of the system.

We have attempted to aid the courts by speaking with the first justice of the Worcester District Court and others in the system. We attended the Massachusetts District Court Judicial Education Conference, and recorded the results to learn from the insights of the judges, district attorneys, defense attorneys, probation officers and clerk magistrates who attended the conference. Using these sources we attempted to learn the current caseflow management techniques, and determine which ones are most efficient. We were also very interested in the role information technology could play in providing a low-cost method to automate operations of the court.

Since the court's purpose is ultimately to serve the community, maintaining the public's trust and confidence should be their primary goal. As a result of the importance of this objective, we have researched the factors that affect public trust, and how it can be improved.

After conducting this research, we analyzed the current caseflow of the Worcester District Court to find the traits that help its efficiency as well as hinder it. We then looked at the current information technology infrastructure as well as what the state has planned for the future, and the impact this could have on caseflow. We looked at the current state of public trust in the Worcester District Court, and considered what effect caseflow and IT changes could have. We also considered what changes could improve public trust, including the role information technology could play in measuring public trust, as well as creating a standard to rate the performance of courts.

3 Introduction

The Massachusetts court system is approaching a breaking point where something in the system will have to drastically change. As courts struggle to keep pace with number of cases, politicians look for ways to shave money off their budgets. The state Senate recently proposed a budget for the courts that is $30 million less than what the courts view as under-funded. Accepting this budget will force more layoffs of the courts' clerical and clerk staff.

Handling the same number of cases with fewer resources forces the courts to find more efficient ways to handle cases. Because of this problem, case management systems are becoming more important every day. This dilemma can be felt as near as the Central Worcester District Court. However, the courts' taxed resources prevent court officials from devoting the time necessary to research possible solutions.

As WPI students, we look to improve our society using technology or other appropriate measures. This is why we feel our help could benefit the Worcester court system. The primary goal of this project is to make recommendations on how to streamline the flow of cases in the Worcester court.

In order to do this, we must understand exactly what the needs of the court are. This includes understanding Massachusetts criminal procedure, as well as the procedures specific to the Worcester District Court. This understanding will then allow us to identify parts of the court procedure that could be improved. We used the Massachusetts District Court Judicial Education conference as one tool in this effort. Using our experience at the conference we extended what we learned about certain best practices to the court as a whole. The judges provided a valuable resource for practical information that is not available anywhere else. As part of the analysis, we investigated how modern technology can help streamline the Worcester courts. In particular, we explored electronic case management systems, their implementation in other courts, and how they can help Worcester.

Another important aspect of the effort to improve caseflow in the Worcester District Court is how public trust and confidence can at least be assessed, if not improved. Courts ultimately serve the people and therefore the success of any effort to

improve the court is measured by the public.

Using what we learned about the various topics above we formulated a coherent strategy of court reform. Based on these conclusions, we recommend changes to the current system that will hopefully improve caseflow, while at the same time improving the public's trust in the system.

4 Methodology

The purpose of this project is to study pretrial caseflow in the Worcester District Court and make recommendations for improvement. In particular we investigated electronic case management systems and their role in improving caseflow. In addition we studied the issue of public trust and confidence in the courts and how technology can help. We used a variety of techniques to gather information toward this end.

The first major research task was to understand Massachusetts criminal procedure. We read several general survey books to gain familiarity with the terminology and the overall legal concepts of due process. We then read the Massachusetts Rules of Court to gain an understanding of the rules governing the Massachusetts District Court system. The rules are included as **Appendix 1** at the end of this document. However, the rules of court by themselves are not enough to truly understand how cases move through any particular district criminal court in Massachusetts. The rules leave considerable room for judicial discretion and as a result almost every district court in the state operates in a slightly different manner. In order to learn about the intricacies of criminal caseflow in the Worcester District Court we interviewed the Hon. Elliott Zide, who is the court's first justice. In the Massachusetts district court system the first justice of each court plays a large administrative role, which made Judge Zide an excellent resource.

After establishing a good working knowledge of Massachusetts criminal caseflow we needed to investigate what was wrong with it. As evidenced by the current state of the system, understanding the procedure does not imply knowing what is wrong. At Judge Zide's request we acted as reporters for the District Court Judicial Education Conference, held on June 18, 2002 at the Worcester Centrum Center in Worcester, Massachusetts. This conference is held annually and is used as a tool for judicial education. The topic this year was improving criminal caseflow management. In particular, discussions were held to establish best practices for making pretrial events more meaningful. The discussions were broken down into five groups, each containing roughly thirty judges selected randomly from the different districts in the state. Each group also had a faculty consisting of one judge-moderator, one judge faculty member, a probation officer, a

clerk-magistrate, a defense attorney and a prosecutor. The moderator would present a topic for discussion and ask the faculty members to comment. The judges making up the audience would then add their opinions to the discussion. Through this meeting we were exposed to a whole range of different caseflow management approaches in use throughout the state. We also heard a variety of opinions as to which practices were the best.

Electronic caseflow management systems and technology in the court system is another major topic area of this report. Most of the research we did in this area was done on the Internet. In particular, the National Center for State Courts (NCSC) was a valuable resource. The Center has worked to publish a set of working standards for electronic caseflow management systems that were quite useful in learning about the functions an effective system must incorporate. In addition, the NCSC had links to many software vendors and individual states that had implemented, or were in the process of implementing electronic case management systems.

After investigating electronic caseflow management systems in general we needed to find out what was being done in Massachusetts. After an exhaustive Internet search yielded nothing we decided a personal interview would be the only way of getting any useful information. We contacted the Hon. Timothy S. Hillman, an IT project executive in the Massachusetts court system. Over the course of the interview we asked him a series of questions about the current state of IT in Massachusetts courts and what plans there are for the future. The interview questions are included in **Appendix 3**.

In order to identify and understand issues in the field of public trust and confidence we conducted a literature review. Among the many sources we found, The National Conference on Public Trust and Confidence in the Justice System's publication, "National Action Plan: A Guide for State and National Organizations," was the most interesting and helpful. The document systematically explains the major problems in the area of public trust and confidence in the courts and outlines an action plan to solve them. The document is included as **Appendix 2**.

5 Background

5.1 Massachusetts District Court Rules of Criminal Procedure

This section presents the Massachusetts district court rules of criminal procedure As presented in the 1998 edition of the Massachusetts Rules of Court, published by Westlaw. Particular attention is paid to pretrial procedure because that was the emphasis of the criminal portion of the District Court Judicial Education Conference. The rules are broken down according to individual parts of the criminal procedure: issuance of complaint, arraignment, pretrial hearing, discovery compliance hearing, and pretrial motions.

Criminal cases are initiated by either warrentless arrest or issuance of a criminal complaint. In both cases the clerk magistrate will be given the police report containing an account of the crime. Before the arraignment both the prosecution and defense are to be given a copy of the defendant's criminal record and the police report. If the defendant is on probation he or she will be served with a notice of probation revocation hearing at this time. Next the judge will issue an order for the parties to engage in a pretrial conference and for the parties to provide discovery. The defense counsel is also required to file an appearance at the arraignment. If the defense counsel does not appear or if the defendant intends to engage private counsel the matter will be continued until the defendant obtains counsel.

At the pretrial hearing the defendant may tender a plea, admission, or other disposition. Also, if either party has failed to provide discovery the court can issue sanction or an order for discovery. If the defendant's plea or request for disposition contains probationary terms the probation department must be consulted prior to the courts consideration of it. The defendant has the right to withdraw a plea or admission if the court rejects it. In the event that the court does reject a plea or request for disposition it may indicate what terms it would impose. A defendant can then request a pretrial disposition on those terms. After all the pretrial matters have been settled the court will ask whether the defendant waives the right to jury trial. In small courts where jury trials

are not normally held and where only one judge sits, the defendant will also be asked if he or she waives the right to be tried by a different judge. If the right to be tried by a jury or the right to be tried by a different judge are not waived, then a trial will be scheduled on a certain date.

5.2 Worcester District Court Criminal Caseflow

Criminal caseflow in the Worcester District Court follows the Massachusetts rules of criminal procedure. However, within those rules there is room for individual courts and judges to tailor procedure to meet the needs of the court. Without knowledge of how any particular court conducts its business it is impossible to analyze its performance. The Hon. Elliott Zide, first justice of the Worcester District Court, provided us with a detailed document describing the court's criminal procedure, from which the following description is adapted.

Caseflow in the Worcester District court is controlled primarily through three pretrial sessions held at the start of business each day. The first pretrial session handles all arraignments, bail matters, and warrant management matters. Bar advocates are assigned to defendants while they are in jail awaiting arraignment unless private counsel will appear for them at arraignment. Bar advocates receive notice of their assignments via the Notice of Assignment of Counsel (NAC) form and the arraignment packet, which are available in the first session on the date of assignment. Arraignment packets include: the NAC form, a copy of the defendant's record, a copy of the police report, a copy of the Mittimus, and a copy of the probation intake form. In the event that a bar advocate is assigned in an irregular manner the arraignment packet will always be found in the first session. In any event, bar advocates are responsible for picking up their packets. Packets not picked up in the first session will be held in the Clerk / Magistrate's Office.

Defendants are assigned to either the first or second session depending upon the nature of their case. In all cases where a warrant for arrest was served the defendant shall be arraigned in the first session, regardless of whether the defendant was in custody, out on bail, or is a "walk in." If the defendant failed to appear for a scheduled arraignment the judge may issues a warrant for the defendant's arrest. When the warrant is served, if the defendant is in custody or has been bailed and "walks in," the arraignment shall take place in the first session. If the defendant "walks in" because he or she was notified of the warrant but not arrested, he or she shall be arraigned in the second pretrial session.

After a defendant in any of the situations above has been arraigned and had notice of a scheduled future court date, he or she may again be the subject of a warrant for failure to appear at that event. Defendants who are in custody as a result of such a warrant are handled in the first session. Defendants who "walk in" are handled in the second session.

Whenever a defendant "walks in" after the issuance of a straight warrant or a default warrant, he or she must check in at both the probation and clerk's offices. The defendant will then be told to report to either the first or second sessions according to the rules above.

The second pretrial session handles those events that do not require trial, long hearings, and cases in which the defendant was previously arraigned. The second session will also handle warrant cases as explained above, and probation matters in which a defendant has any open cases and has either received a notice of surrender or was the subject of a detention hearing. This means that if a defendant has an open case that has been assigned to the second session, the violation of probation hearing may also be scheduled there.

The sessions clerk assigned to the second session is at his or her desk in the court room thirty minutes before the start of the session. The clerk receives court documents such as pre trial conference reports, plea agreements, and assents to motions for dismissal. At this time counsel may notify the clerk they have a report to make at the first call of cases at the beginning of the session. Cases reported as ready for action are given priority. Whenever possible, the assistant district attorney and the defense counsel should agree upon and set a trial date in the second session. Cases requiring a probable cause hearing, an evidentiary hearing, or hearing other than a brief one shall be scheduled to be heard in the third session at 9:15 AM. Scheduled jury waived trails shall be called in the third session at 8:30 AM.

The second session formally convenes at 9:00 AM, at which time cases that have been reported as ready are called. At 9:15 the session recesses to allow court tasks to be accomplished and to allow lawyers to answer the call of the third session's list at 9:15 AM. The second session reconvenes at 9:40 AM.

The first call for all previously scheduled jury trials and non-jury trial matters is in the third session at 8:30 AM. Defense counsel and assistant districts attorneys shall appear at the first call and report on the status of their case as "ready," "to be disposed of by plea or dismissal," or "not ready." After the first call of the list all matters scheduled for trial assignment are called. This portion of the session concludes at 8:50 AM. At 9:15 the third session reconvenes. Those cases scheduled for hearings on motions or probable cause are called first, followed by jury and jury waived trial matters, and then cases that have been reported for disposition.

5.3 Caseflow Management

Caseflow management is the coordination of court processes and resources so that court cases progress in a timely fashion. Excessive delay is detrimental to the quality of justice. Delay can also increase the cost of litigation. Over the past twenty years research into reduction of court delay has led to the field of caseflow management. This research has identified practices that are critical to efficient caseflow. Among these are: case disposition time standards, early court intervention and continuous control of case progress, use of differentiated case management, meaningful pretrial events and schedules, dispositions before setting specific trial dates, limiting of continuances, effective calendaring and docketing practices, firm trial dates, use of information systems, and control of postdisposition case events.

Sections 2.50 – 2.55 of the ABA/JAD Standards Relating to Trial Courts are often referenced in caseflow management literature. According to the standards, the general principle of caseflow management is that during the life of a case any time elapsed other than that reasonably required is unacceptable and should eliminated. The standards also provide a list of essential elements which the trial court should use to manage its cases. These are: court supervision and management of all cases, establishment of times for conclusion of the critical steps in the litigation process, early identification of cases that are abnormal and assignment of special administrative attention, efficient trial scheduling such that judge time is used efficiently and over scheduling is avoided, commencement of trial on the original date scheduled, and a firm policy for minimizing continuances.

Section 2.52 of the ABA/JAD standards sets out explicit time standards for resolution of criminal cases. For felonies, 90% of all cases should be decided or otherwise concluded within 120 days of arrests, 98% within 180 days, and 100% within one year. For misdemeanors and all other nonfelony cases, 90% should be concluded within 30 days, and 100% within 90 days of arrest or citation.

Early court intervention and continuous court control of caseflow are two of the most basic ideas in caseflow management. The court needs to accept responsibility for cases and exercise control over their movement from the time they are filed until final

disposition. The objectives of early intervention are to resolve cases as early in the process as possible and to reduce the costs to all involved. Continuous control of caseflow means that as a case advances through the system it triggers events that keep it on track. Properly exercised, continuous control prevents cases from slipping into limbo.

Differentiated case management is one technique for exercising continuous control over caseflow. This method differentiates between cases in terms of how much administrative attention they require. In the simplest form of differentiated case management, cases may be separated into three categories: those that proceed quickly with little need for court oversight, those that require conferences with a judge to resolve some issues but do not present any great challenge, and those that require ongoing judicial involvement because of the size or complexity of the case. An early screening process should be utilized to analyze each case soon after it is filed. This process assigns a case to one of the three tracks described above, based on its characteristics and needs. Each track should have its own subset of time standards, specific intermediate event, and management procedures so fine control can be exerted in all circumstances.

Meaningful pretrial court events are another critical factor in successful caseflow management. In order for a court event to be of value in moving the case toward disposition the parties involved must be prepared. If events are continued without good cause then there is little incentive to be prepared for any given event. The court must create the expectation that events will be meaningful by not granting continuances freely and by properly scheduling pretrial events. Case events should be scheduled to occur in as short time intervals as possible. In stages of a case that are expected to take a long time intermediate meetings should be scheduled to insure that the case continues to progress.

In Edward J. Schoenbaum's 1999 article, "Managing Your Docket Effectively," he stresses the importance of attitude and local legal culture in reducing litigation delay. In order to improve disposition times, solid expectations regarding how long a case will take must be established. Setting goals and objectives for how long each stage of a case will take is essential in implementing change. The process of setting goals forces understanding of the problem, provides a basis for identifying the resources needed to implement change, and provides a means of evaluating the success of a program or procedure. Judges should maintain a mentality of moving cases expeditiously and always

look for ways to improve the present situation. In addition, judges should simplify procedures, develop good habits, routines and checklists to ensure nothing required by due process is left out, and other procedures tailored to the specific needs of individuals.

Scheonbaum also emphasizes the importance of time standards. Judges should establish and enforce time goals for all significant case events. These time goals should be differentiated to account for the needs of different types of cases. Procedures should be developed for early identification of cases so that cases can be given special attention when appropriate. Once time expectations have been established they should be distributed to all parties to the court. Reasonable time intervals should be established for each stage of a case and at the end of a case compare the expected time and the actual time elapsed. This review process allows for continual refinement of the process. Personal time goals are also important. Judges should develop and hold themselves to individual time standards for processing each stage of a case.

The Honorable Peter W. Agnes, Jr. analyzes the Massachusetts trial court and makes recommendations in his 1997 article, "Some Observations and Suggestions Regarding the Settlement Activities of Massachusetts Trial Judges." He finds that judges and court personnel significantly impact the timing and quality of settlements in the trial court. Ninety percent is the common estimate of the percentage of cases resolved before trial. This fact brings to light the importance of pretrial case management for improving efficiency. It is up to the court administrators to control when court events will take place, whether they will be meaningful, whether the time between events is long or short, whether settlement options are fully explored, and whether the discovery process is conducted efficiently.

Judge Agnes states that "The Massachusetts judiciary has yet to make a full commitment to effective caseflow management." (Agnes, 274). Among the leading causes are the absence of an information technology infrastructure and the lack of mechanisms for collecting and analyzing case management data. Another factor hampering the implementation of effective caseflow management procedures in Massachusetts trial courts is the absence of a policy allowing courts to control the pretrial process. Courts are not required to direct attorneys to appear for a pretrial conference to

consider the possibility of settlement or other matters that may aide the disposition of a case.

The functions of non-judicial personnel are also critical in increasing pretrial efficiency. Judge Agnes suggests that the court reassess its current method of processing guilty pleas. Ninety percent of all criminal cases are resolved by an admission or change of plea and the vast majority of these are misdemeanors requiring a plea colloquy. The result is that judges spend significant amounts of time conducting colloquies in minor criminal cases. In Massachusetts, clerks and registrars are magistrates, meaning that they have some limited authority to perform court operations including the granting of continuances, to hear and rule on non-evidentiary and uncontested motions, to conduct pretrial conferences, to make probable cause determinations in preliminary probation violation hearings, and to set bail when justices are not available. Given the range of powers already assigned to magistrates, one possibility for increasing efficiency is allowing them to conduct guilty plea colloquies in some cases. Once the magistrate has concluded that the defendant has voluntarily waived his or her rights the case could be passed to a judge for sentencing. This arrangement would allow most routine pretrial court business to be conducted in front of a magistrate, freeing judges to focus on trials and disposing of cases.

Enhanced intake processing is another non-judicial method showing promise as a method for increasing the efficiency of the court. Currently, 5% - 20% of criminal cases are expected to be disposed of at arraignment. As a result minor criminal cases compete with more serious cases. In order to avoid this competition and save time, cases can be differentiated before the arraignment phase. An experienced employee can act as a screener, determining what cases should be sent before a magistrate, what cases should be sent to a judge, and what cases should be resolved on that date.

In their 2002 study of caseflow management in state appellate courts, Richard B. Hoffman and Barry Mahoney identify key elements of caseflow management that are widely applicable. The first element is leadership. When members of successful trial courts were surveyed as to why the court was effective one of the most frequent responses was a reference to the leadership ability of the chief judge. Meaningful goals are also critically important to effective caseflow management. Without goals, court

practitioners have no way of knowing how much time is appropriate to spend on a case and cannot measure their own performance. As mentioned previously, the ABA time standards are the most common performance goals.

Information plays a major role in court efficiency. Case-level information is valuable at all stages of case. Early information allows cases to be scheduled appropriately and the presence of all the required information expedites the flow of cases through court events. Aggregate data about caseloads is also important. Information about pending caseloads provides a clear picture of the current workload. In particular, information about how long cases have been in the system allows cases to be flagged when they have violated time standards. Information about the age of disposed cases allows the court to assess its own performance. With proper organization, information on disposed cases can illuminate hidden caseflow problems and allows a high level of optimization to be developed as patterns are identified in the data. One area of particular importance is information on continuance practices. The percentage of events that take place on the date they were scheduled is a crucial metric of caseflow management performance. Information is also used to identify trends in court caseloads. These trends can be used to adapt to changes in the amount and type of work facing the court. By paying attention to this information a court can keep up to date with the requirements of its workload.

Good communication and broad consultation are essential to the success of any effort to improve caseflow management. Active involvement of all parties to a case allows for early identification and resolution of problems. Clear communication also establishes clear expectations regarding preparedness for events. Communication between local judges and state judicial leaders is also important in addressing issues such as budgeting, which can have a profound impact on court efficiency.

5.4 Public Trust and Confidence

No matter how just or efficient any court reform is, it cannot be called successful unless the public views it as such. This has been realized since the beginning of our country's legal system, as the first Chief Justice John Jay noted "Next to doing right, the great object in the administration of justice should be to give public satisfaction."(NAP 7)

It can be easy for courts to forget the importance of public opinion, especially with today's tightening resources. But, there is strong evidence showing the court's need to work at improving public opinion. In a survey conducted by the NCSC, 23% of respondents had a "great deal" of trust in the courts in their communities. Only 10% of the respondents felt their community courts handled their cases in an "excellent" manner. However, only recently have court administrators recognized that there are some very realistic public concerns.

The National Conference on Public Trust and Confidence in the Justice System is one group that realized this. This was a conference attended by State chief justices, court managers, and representatives of the federal judiciary, the bar, the media and the public. The 500 attendees of the conference met to "identify the issues affecting public trust in the justice system and to enhance and support state court strategies addressing these issues"(NAP 4). The principle written product of this conference is the National Action Plan: A Guide for State and National Organizations.

The conference started by identifying and ranking the most important issues plaguing our justice system. There were three issues that received sharply higher ratings than the others, unequal treatment in the justice system, high cost of access to the justice system, and lack of public understanding. The importance of these issues is furthered by the consistency of the voting pattern of the conference's demographic. These issues are the focus of the NAP.

The conference then used the same process to determine the most effective strategies in dealing with these issues. Six of these strategies stood out as significantly more effective than the others: improve education and training, make the courts more inclusive and outreaching, improve external communication, resolve cases with

reasonable promptness/cost, share programs and activities among the states that have been used to improve public trust and confidence, and implement recommendations of gender, race and ethnic bias task forces and replicate the successes in other jurisdictions.

However, implementing these strategies proves difficult in the real world. There are many barriers to putting these strategies into practice. Many of these are internal to the judicial and legal professions, or arise from the procedures governing the system. Participants felt isolation of judges would make it difficult. Some felt the practice of law being increasingly driven by money to be an obstacle. Others recognized inefficiencies within the processes of the system as barriers to improvement.

The next step the conference took was to develop national actions to overcome these barriers and support state strategic planning. The four national roles deemed most important were to develop and/or disseminate models or best practices, examine the role of lawyers and their impact on public trust, engage in public education at the national level, and improve public access through information technology. The other roles determined to be less important, but still worthy, were to foster and maintain a network to sustain public trust, provide national education programs for persons within the system, develop standards and procedural reforms, promote ongoing national dialogue on public trust, provide specialized expertise, and act as a liaison or take proactive stance with the federal government. Conference participants then created lists of specific steps to carry out these roles.

The first national role was to develop models and best practices for courts, and then to spread them to other courts. The models deemed necessary included public trust and confidence curriculum, pro se programs, alternative dispute resolution (ADR) programs and best practices in connection with *Trial Court Performance Standards*. These models and practices are to be spread using actions such as creating a central web site for Public Trust and Confidence, making more materials, such as ABA publications, available and notifying the media of successes more often.

The second national role examines the role of lawyers and their impact on public trust, including their behavior, the nature of law practice and economics of the profession and law school education. Actions to improve behavior include better enforcement of sanctions against unethical behavior, and placing more emphasis in law school on the

importance of the conduct of attorneys. Suggestions to improve the nature of law practice include working with legal educator to place more emphasis on ADR, and updating procedures to end outgrown practices. Suggestions on improving legal education included teaching more about the administration of court systems and developing programs to increase diversity within law schools, possibly making this a part of accreditation.

National role number three is to engage in public education at the national level. This was broken into general education, development of educational materials, building educational networks and imaginative use of electronic media. General actions include an annual state of the state courts report, publicizing the outcomes of pro se litigants, and forming speaker bureaus to comment on distorted or sensationalist coverage. Suggestions for developing educational materials include creating brochures, videos, and curriculum for use within courts, on television, and education in K-12 schools. These materials could be spread through educational networks. Creating these networks includes involving educators in public education and establishing a more accurate portrayal of the legal system within the entertainment industry.

The next suggested role is improving public access through information technology. The first step to this role is obtaining federal funding. Once this is achieved, public access could be improved by expanding cameras in court, instituting electronic filing, expanding electronic access to court records and legal materials, and making basic court information available on the internet.

The fifth role is to foster and maintain networks to sustain public trust. This includes creating permanent staff positions to maintain public trust and confidence, involving non-legal groups and citizen organizations. The conference also suggested having legislators and members of law enforcement spend time with judges during the workday.

The next national role is providing national education programs for persons within the system. The most important action of this role is to make continuing legal education (CLE) mandatory for judges.

The seventh national role is to develop standards and procedural reforms. This is to be accomplished by rewriting the behavioral standards of judges to allow more public

outreach by judges, introducing differentiated court management, studying the effects of mandatory sentencing, and increasing the use of mediation in appropriate cases.

The next national role is to promote national dialogues on public trust. This goal realizes that the real dialogue is at the state and local level, and the national role is to encourage, support and report such dialogue through efforts such as a national newsletter on progress being made, or national town hall meetings to learn what specific locations are doing to improve public trust.

The ninth national role was to provide specialized expertise in public trust and confidence by keeping lists of speakers on specialized topics, experts in establishing and evaluating specialized courts, and experts in putting together IT networks.

The tenth and final national role suggested was for national organizations to act as a liaison between the federal government and the state courts. Suggested actions include serving as a watchdog to deter federal intrusion into state courts, taking a proactive stance with Congress to support the strategies chosen at the Conference, and emphasizing federal funding for technology and legal services.

After discussing the national actions that might be taken to build public trust and confidence, Conference participants were asked if there was a better than 50% probability that the national action plan resulting from the Conference would actually improve public trust and confidence. Seventy-four percent of the participants agreed that there was a high probability that the NAP would be successful.

The cumulative result of the electronic voting at the Conference was the creation of a "national agenda" reflecting national priorities among the key issues, effective strategies, and national roles for building public trust and confidence. The "national agenda" is set forth in **Figure 1** in **Appendix 2**.

In recent years, courts across the country have come to the same realizations about the priorities for our justice system. Appellate courts have recently started taking their dockets to colleges or other public places in an attempt to increase public interest. This is often helped by discussions of the issues surrounding the case. Courts are beginning become more open to television coverage. The 2000 election decision in the Florida Supreme Court was put on live television. Court offices are beginning to send brochures with hearing notices explaining the procedures, and the preparation that is

required. Some states have produced videos explaining hearings that can be shown in the lobby of a courthouse. Many state court websites now have answers to frequently asked questions about their procedures. Minnesota has started randomly sampling parties and attorneys that appear before the administrative law judges. The state of California has done an excellent job of making information available to educate the judiciary. In 1999, California's Special Task Force on Court/Community Outreach published the results of their research. The most useful part of their findings is a complete "how to" book for courts who want to increase court and community collaboration. This book, Dialogue, is available in full to the general public through the California court's website.

Most of these efforts are centered on educating the public. This is not without reason. The 1999 survey "How the Public Views the State Courts" showed it is hard to change people's opinions through court experiences alone. The opinions of those who have good experiences, tends to stay the same, rather than improve. The opinions of people who have bad experiences either stayed the same or worsened. However, this study showed a strong correlation between knowledge of the court system, and confidence and satisfaction with the courts.

The generality of these resources is very supportive. No matter what the size or structure of the court, there is relevant information available. What is perhaps most promising, is that all of the information required to set up a public trust & confidence program is free. Without the burden of extra cost, these programs should appear practical to nearly every courtroom.

5.5 Court Technology

Computer technology has shown great potential for increasing court efficiency. Although the initial cost of implementation may be high, the long term benefits are clear. Repetitive bookkeeping tasks, characteristic of a paper system, can take up a lot of court resources. By allowing these tasks to be performed by computer, court administrators are free to concentrate on tasks that require human attention. In addition, information technology allows caseflow statistics to be gathered on a level not previously possible. The availability of caseflow statistics allows court administrators to actively monitor caseload and court performance. With access to up to the minute caseload statistics, court administrators can move from reactive case management to proactive case management.

A complete court management information system should include a personnel management subsystem, a budget and accounting subsystem, and a supplies, logistics, and facilities management subsystem. The subsystem of greatest importance is, of course, the case information system. The case information subsystem should provide case processing, operational controls, management controls, and strategic planning. It must support indexing, docketing, notice preparation, court scheduling, calendar preparation, statistical report generation, and integration with the court financial system.

The key to court data organization is relationships (Steelman, 140). These relationships are the reason electronic case management has been such a challenge historically. There are four basic types of data maintained by the courts: person-related data, time-related data, case data, and financial data. The relationship between these data types is not straightforward and is sometimes referred to as a many to many relationship. That is, every data type can be linked to any of the other data types, resulting in a remarkable number of possible combinations.

Person related data is the most complex data type in any court management system. A person is defined in case management terms as any individual or legal entity, that interacts with the court, including judges, attorneys, clerks, litigants, witnesses, and social service case workers (Steelman, 142). Each person should have a master identification number. Person related data is then organized into tables based on that

number. The system should track multiple addresses for all entries to aide in postjudgment matters, collection, and warrant processing.

The case module of any court management system holds the greatest potential for increasing efficiency. This module is basically a case history and a means of tracking events (Steelman, 144). These events include the date that documents were filed, the date the court issued orders, and the date that the court held hearings or a trial. There are several data elements common to the case module of most current case management systems. The first is the event date. Second is an event code, used for statistical tracking and rapid movement through a record. Third is a text entry containing a description of the event or a link to related electronic files. This text field provides the flexibility necessary in a court record system. Another important feature is the ability to enter free form notes into the record. While most entries can be predicted and standardized there are often situations that require a special note. A more recent feature of the case module is the capacity to link directly to electronic court documents. This feature has a large potential to optimize caseflow by eliminating the need to have clerks constantly pulling records.

The time management module of the case management system controls the court's calendar. It should keep track of formal events such as hearings and informal events like staff meetings and computer maintenance. Ideally, the system should create several different calendars for use by judges, clerks, probation officers, and other court officials. The calendar is important both because it alerts court officials when they need to take action and because it creates the need for definite dates to be entered into the system.

The financial module can account for as much as half of the actual computer code in a case management system. The financial module should keep track of payments made as a sentence is served. It should accept reports coming in from jail, probation, work service, alimony, court fees, etc. In addition, the financial module should accept non-monetary payments such as days in jail, community service, and other probation terms (Steelman, 148). Security is of particular importance in the financial module. Administrative access needs to be restricted in some way to prevent abuse. One method is to require the passwords of two officials, for example the chief judge and the head clerk, in order to make any changes. An alternate method is to give administrative authority to

the chief judge and someone outside the court, such as county administrator or city manager. The financial management system should also provide for periodic audits.

6 Massachusetts District Court Judicial Education Conference

The arraignment is the first opportunity the court has to dispose of a case. Since a significant number of cases that are seen in the criminal court are minor enough to be disposed of at arraignment, increased efficiency in the arraignment process can dramatically decrease overall caseloads. The District Court Judicial Education Conference considered many approaches to achieving this result. The roles of the judge, clerk, and counsel were analyzed as well as the general approach that should be taken toward minor criminal offenses.

The role of the judge was widely seen as the most important in terms of creating an efficient court. One of the main areas of focus was early disposition of minor cases that, in the opinion of many participants, require little judicial attention. It was recommended that judges take initiative at arraignments by actively engaging the defendant. For minor cases, especially cases that do not reasonably expose a defendant to jail, such as motor vehicle violations, disorderly conduct, and possession of class D substances, judges can easily identify cases that can be disposed of rapidly. Judges can actually suggest to the defendant and the district attorney the resolution he or she thinks is appropriate. In cases where the judge suggests a finding of fines or court costs only, this method of disposition seems particularly useful.

Prosecutors also have an important role to play in making arraignments more efficient. It was observed that in many cases, prosecutors have not reviewed a case before the arraignment. Prosecutors may be able to increase the efficiency of the arraignment procedure. In minor cases they could review the case and contact the defendant to make a deal, prior to arraignment. When the case then comes before the court it can be disposed of immediately. However, this approach may not be practical in courts with very high caseloads. The district attorneys in these courts tend to have a full schedule even without having to make deals with defendants prior to arraignment. Also, district attorneys are wary of approaching defendants who are not yet represented by an attorney. This

approach seems to be most difficult to implement in the courts that would find it most beneficial.

The use of clerks as magistrates is another method of increasing the efficiency of the arraignment process. In this role, clerks screen cases prior to arraignment. Simple cases are then heard in front of the magistrate and more complex cases are sent to be heard before a judge. The idea is that instead of having a judge act as a mediator, as mentioned previously, a clerk – magistrate can perform that function and free the judge to deal with more important and time consuming matters. Some of the participants observed that counsel tends to object to this arrangement because of the potential for error. As a resolution of this objection it was proposed that the magistrate system be formalized. In fact, this has been done in at least one of the Massachusetts district courts. There is a clear set of guidelines that determine what a magistrate is authorized to do, thereby easing many of the concerns that had been voiced.

There were also several statutory methods proposed for increasing the efficiency of arraignments. These methods can be thought of as a means by which judges can encourage early disposition. First was MGL Ch 211 D sec 2a. Under this statute a judge may make an affirmative finding and order that the maximum penalty will not expose the defendant to incarceration. It was observed that in order to determine if this approach is appropriate in a particular case, judges need to have adequate information from the police about the nature of the crime and the extent of the defendant's criminal record. The perception is that this statute has the capacity to increase the number of cases that can be disposed of at arraignment. However, the question is immediately raised as to where the line should be drawn in the use of this rule. At some point justice is no longer served by not sentencing a defendant to jail time just because it is easier on the court system. In addition, this rule may not be fair to defendants who cannot afford a lawyer. This rule has the potential to be applied in an unjust manner. It is the responsibility of the judge to make sure that it is applied fairly.

Chapter 277 sec 70c grants judges authority to decriminalize certain charges upon motion of the government. This statute was suggested as another method to encourage disposition at arraignment in minor cases. Some judges utilize this rule by offering decriminalization to defendants as part of some settlement with the prosecution. It was

suggested that this method gets around the stigma defendants tend to have toward a guilty verdict, even when the only penalty is the payment of court costs. The difficulty of this rule may be that the judge has no standard by which to determine whether to allow such a motion or not. The judge must be sure to have all the facts of the case before applying the rule. For example, a motor vehicle case may have victims, and this may not be entirely clear at the arraignment stage.

Throughout the nation, over ninety percent of cases are disposed of before the trial. However, since not all are disposed at the arraignment stage, the next opportunity for early disposition is the pre-trial event. This is why judges must make an effort to invite pleas at every pre-trial stage. How this can be done was a major subject of discussion at the conference.

The participants agreed that pre-trial hearing events work best when everyone is prepared ahead of time. It was noted that the district attorney and the defense rarely discussed cases before this stage, as both may have motivation to keep information from one another.

Despite this, the consensus was that many cases could be resolved pre-call. Judges look favorably upon lawyers that show up for a meaningful event either with a plea agreement or completed pre-trial conference report, often calling those cases first. Prosecutors agree that this pre-call of the list and time on the bench allows them to resolve up to half of their minor cases before the judge arrives. This, of course, requires that defense counsel arrive at court early. On the other hand, the defense feels the first pre-trial hearing is frequently not productive. Many times because there has been no contact with the victim by the assigned ADA. However, defense lawyers feel more motivation to show up to courts that they know move quickly. Clerks stress the need to resolve the case at this stage, as many more case-handling tasks are added after it.

The issue of prosecution's contact with the victim received a lot of attention. Prosecutors defend their practice of not contacting victims before the pretrial hearing. This is because they are trying to limit the number of times the victim will have to appear in court. At the same time judges are reluctant to dispose of a case without communicating with the victim. In cases involving domestic violence victims quite often change their minds about pressing charges. In cases such as this, communication with the

victim prior to the pretrial hearing would allow the case to be disposed of instead of proceeding. The issue boils down to a question of how much involvement is too much for the victims of crimes. It seems that caseflow efficiency can be improved by increased contact with the victim, at least in some cases. This contact need not be intrusive. In many cases a simple phone call could make a big difference.

The ability to resolve issues at this stage depends of course on the case. In cases involving sex crimes, the defendant's lawyer will appear to file multiple motions primarily to avoid ineffective assistance claims. In cases involving the defendant's mental health, there may be multiple delays for evaluations. In these circumstances, these cases will not move cases quickly. These latter cases require much more of the court's time. That is why so much effort should be placed on resolving the cases as early as possible, to leave time for the cases that require the court's attention.

In courts with heavy caseloads, prosecutors are already working more than full time. It may be unreasonable to expect them to spend extra time in conferences except for the cases that require it. A best practice seems to be making the judge hold the attorneys responsible for making sure pre-trial communication among lawyers happens, and setting an expectation that it will. In one jurisdiction the DAs office keeps a schedule of pre-trial dates and sets a four-hour period on a date two weeks before the pre-trial for attorney conferences allowing for flexibility in scheduling.

Judges can encourage pre-trial communication by setting that as an expectation. Judges should discourage multiple pre-trial events. Some judges set an expectation of a pre-trial conference report at the pre-trial hearing. If judges set a rule of "no second pre-trial," then attorneys make the first one count, even if it means working the case the hour before the pre-trial hearing. These conferences can often be informal and even be done over the phone with faxed documents. In some courts, pre-trial conferences are scheduled as the first event of the day, and during this time the judge takes on other matters.

It may not always be in the defendant's best interest to resolve a case before the pre-trial hearing. Defendants may want to wait to determine if the victim will arrive to prosecute the complaint. In more serious crimes, it may be a violation of the victims' rights to proceed to hastily to resolve a case without their input. Most of the time prosecutors have not spoken to victims at this point in the process, and therefore are not

in a position to accept a plea agreement. The defendant's lawyer may also be waiting on a drug certification. In some courts this can be handled with a plea contingent upon certification.

The next topic discussed in the conference was lobby conferences. There was widespread agreement about their usefulness, but only for a small percentage of cases. Such lobby conferences can be helpful because they present an opportunity for attorneys to informally state their perspective of the case. Some judges like to use lobby conferences as a teaching tool to aid inexperienced lawyers, helping them learn techniques to better evaluate their case. They can also be useful in situations where some details are better left off the record. Despite their usefulness, many judges are fearful of lobby conferences. Because they are off the record, they have a potential for abuse. It is very easy, for example, for the defense to misrepresent a deal that may have been made in a lobby conference. Without a record of what was said, a judge could be placed in a very difficult situation. The practice seems to rely on the working relationship between judges and the bar in a particular court. Judges feel much more confident using lobby conferences when they know and trust the prosecution and defense attorneys. Another solution that was suggested was for the judge to report on the record the results of a lobby conference in open court so that any decisions or agreements that were made become part of the record. This consumes very little time and gives judges confidence that agreements made in lobby conferences will not be misrepresented later on. As an alternative to the lobby conference judges may also consider using a recorded sidebar.

Another topic that came up in some of the sessions was handling cases involving privileged records. The staged requirements of the Bishop / Fuller case outlines the mandated five-step process through which defendants may attempt to gain access to privileged treatment records. Judges expressed concerns that these types of cases can appear to go on indefinitely and represent a serious challenge to speedy disposition. It was generally agreed that the best practice in these types of cases is for the judge to exercise control at every step of the process. Judges should always set fixed dates for hearings and create the expectation that attorneys do what they need to do in order for those hearings to be meaningful.

7 Analysis

7.1 Caseflow Management

The current caseflow model used in the Worcester District Court is not as efficient as it could be. Inefficiencies exist in many areas of the pretrial criminal process; including the arraignment, pre-trial conference, and pre-trial hearing stages. For a number of reasons, these events are not always meaningful. In order to address the problem it is necessary to find ways to increase the ratio of meaningful court events.

The root cause of many of the system's problems is its reliance on individuals. The system depends on everyone knowing their job and doing it well. Although it is impossible to change this fact, the nature of that reliance can be altered. Traditionally parties to the court, the prosecution and defense counsel in particular, are simply expected to perform according to the rules of criminal procedure. The problem with this type of system is that there is no way to force the parties to perform. For example, there is no immediate incentive for counsel to arrive at events promptly and prepared. The result is an increased proportion of meaningless court events.

Providing incentives for performance is one of the most powerful ways to promote meaningful pre-trial events. Giving priority to cases that are ready for action at the start of a pre-trial session is one way of providing such an incentive. Because they are prepared, counsel can expect to have their business expedited.

Other problems with the current criminal caseflow model are structural rather than personal. Seemingly simple things such as having files in the right place, at the right time can have a significant impact on court performance. It is also important to make efficient use of resources through effective scheduling practices.

As of July 1, 2002, the Worcester District Court has implemented a new caseflow management structure. This structure, described in section 3.2, is intended to improve caseflow efficiency by establishing a plan and a set of clear objectives. The objectives of the plan are to reward preparation and promptness, to obtain better caseflow control, to maintain a more sensible pattern of movement of court personnel and litigants through the court, to reduce the number of meaningless court events, to increase availability of judicial forums for adjudication of matters requiring judge and jury time, to maximize the

ability of the court to set firm trial and hearing dates, and to reduce the movement of paper and case files.

A major feature of the new system is that it rewards preparedness on the part of the litigants. At the call of the list in each session, cases that have been reported as ready for action are pulled out of order and handled immediately. This means that attorneys who come prepared do not have to wait in court for an indeterminate amount of time for their case to come up. By encouraging preparedness, this system also decreases the probability of there being a meaningless event.

The new caseflow model does several things to optimize movement of cases and personnel through the system. In doing so, meaningless events are also minimized. First, the three pre-trial sessions are scheduled to allow attorneys to appear for call of the list in each session while still allowing the sessions to occur concurrently. This is accomplished by staggering the starting times and scheduling a short recess in the two earlier sessions, corresponding to time at which the list is called in the two later sessions. Second, for open cases assigned to the second session, probation violation hearings will be held at the same time when such a hearing is necessary. This arrangement prevents all of the parties from having to appear at two separate events. In addition, the court will schedule these second session events to coincide with the in-court days of the appropriate probation officer. Useless hearings are thus avoided by ensuring that the defendant's probation officer is in court on the day of the hearing. Furthermore, the objective of the third session is to predict the forum for resolution of cases by trial or hearing by 9:30 AM each day. When counsel is prepared it is expected that courtrooms will be assigned even earlier. This practice will allow parties to know, very early in the day, where they have to be.

Analysis of the new caseflow model yields some interesting conclusions that may not be immediately obvious. The new caseflow model, and indeed any caseflow model, operates on two distinct levels. These are the behavioral level and the structural level. On the behavioral level, caseflow management strives to solve what Judge Zide identified as the primary problem in caseflow management. Specifically, that the system depends on everyone knowing their job and doing it well. On the structural level, caseflow management tries to make the best use of the court's resources. This includes the process

of scheduling, handling paperwork, assigning cases to physical locations, and assigning personnel, just to name a few.

The behavioral level of caseflow management seems to be well understood. This much can be seen in the literature and in the themes discussed at the District Court Judicial Education Conference. There is a strong emphasis on finding ways to reward personal virtues, particularly promptness and preparedness. In other words, caseflow management tries to find ways of encouraging people to do their jobs well. There does not appear to be any simpler way to approach the issue. Indeed, the new caseflow model includes many features that are intended to reward certain behaviors and punish others. The critical underlying feature influencing caseflow efficiency, on the personal level, is behavior. Furthermore, it is clear that the new caseflow model was designed with this fact in mind.

On the structural level, one underlying feature lies at the heart of the entire system and many of the efforts to improve it: parallelism. The most efficient way to get multiple tasks accomplished is to do them at the same time. In the caseflow model outlined above there are three concurrent pre-trial sessions; each handling a particular type of court business. Here we can see another important feature: specialization. Restricting each session to a smaller subset of court events prevents those sessions from constantly having to switch gears. This feature allows each session to be better at a smaller set of tasks than any one session could ever be at all possible tasks. So, on the structural level parallelism and specialization are the two fundamental features that influence efficiency.

Given these two critical factors, it should immediately be clear that if the objective is to improve caseflow efficiency then the plan should be to increase the levels of parallelism and specialization present in the system's structure. Compared to the previous system, the Worcester District Court's new caseflow model makes improvements in both of these areas. However, the objectives of the new model do not necessarily exhibit awareness of the two underlying structural features governing efficiency. It appears that the objectives were created in response to practical problems. This is not necessarily a bad approach. In fact there are undoubtedly many efficiencies that can only be achieved in this way.

A pragmatic approach to increasing efficiency is clearly effective. But what kind of caseflow model would result if we directly address the fundamental structural features influencing efficiency? Parallelism and specialization can be combined in four possible ways: a non-parallel system without specialization, a non-parallel system with specialization, a parallel system without specialization, and a parallel system with specialization. The Worcester District Court's caseflow model, and that of most other courts, corresponds to a parallel system with specialization. Why is this so? It appears that this configuration is necessitated by limited resources.

In reality all resources are limited and this assertion is particularly true in the District Court system. Some resources that seem to be particularly critical are staff and physical infrastructure. The court staff consists of judges, clerk magistrates, probation officers, security personnel, bar advocates, districts attorneys and others. Physical infrastructure consists primarily of courthouse facilities, at least in terms of factors limiting efficiency. Another critical resource is time. While the amount of business before the court can vary, it must always be handled in the same amount of time. As a result, time plays a more fundamental role in shaping caseflow structure than any other resource. The question of why caseflow tends to correspond to parallel systems with specialization can now be answered more completely. Non-parallel models for caseflow structure are ruled out because they are inherently less time efficient. Non-specialized models are not used because they fail to meet staff and infrastructure limitations.

Now we can approach the problem of maximizing efficiency in a specialized parallel caseflow model. The challenge is to find the best way of distributing workload and resources between multiple sessions running in parallel. There are many different events that need to be dealt with, such as arraignment and pre-trial hearings. For every session there must be a judge, a clerk, and a room in which to hold the proceedings. For certain events there may be additional requirements, such as a probation officer

As a starting point, it seems reasonable to use the number of available judges to set the number of parallel sessions. Because of scarcity it is unlikely that all of the sessions can be provided with the resources necessary to conduct all possible events. It is necessary to devise a strategy for resource allocation. We must also decide what business should be handled in each session, since we know that no session can handle all events.

The first step is to establish the exact requirements of all possible events. Events can then be grouped according to their common resource requirements. The number of groups should correspond to the number of parallel sessions desired. In this case we have used the number of available judges as the determining factor but this may not be appropriate in all situations. The result of this exercise is a distribution of events across parallel sessions that optimizes resource allocation. Grouping events based on common requirements prevents, or at least minimizes, the need to move resources between sessions.

A court must have a strategy for dealing with a wide variety of different cases. As we have already seen, specialization is one way of doing this. Cases are not treated the same, they are sent to different sessions according to their needs. This kind of specialization can even be taken a step further. Complexity can vary widely between cases scheduled for the same event. The result is that, for the same event, some cases require much more attention than others. In order to effectively deal with complexity courts need to differentiate between cases on that basis. For example, suppose that there are several cases waiting to be heard in a particular session. Associated with each case there is the defendant, defense counsel, and the prosecutor. It is very unlikely that all of the cases will take the same amount of time to deal with. If one case takes an abnormally long time then the other cases will be forced to wait. In this situation efficiency is seen from the perspective of the court's customers as opposed to that of the court itself. The court will see the same amount of business regardless of the order in which it is conducted. However, it is clearly in the best interests of the defense and prosecution to spend as little time waiting as possible. In order to make the courts as user friendly as possible, cases should be handled in a definite order according to their complexity, resolving as many simple cases as possible before congesting the court with the complex cases.

7.2 Information Technology

The current record keeping system in the Worcester District Court is an almost completely paper-based system. While some elements are electronic, there is not enough functionality to rely entirely upon the electronic system.

What the court does have is a central database of criminal history in Massachusetts and a warrant management system. Convenient access from within the courtroom is not possible with the current setup. This system allows searching for criminal records, court history and results of that history. It can be used to produce complaints, and some court documents, and has allowed the court to produce the lists of defendants more efficiently. All data entry is done manually, as opposed to scanning a form or other automated methods. It also does not allow you to perform any statistical calculations.

The court's most urgent need is a true electronic docketing system. Being able to produce the docket automatically would greatly increase efficiency in many court processes, especially if this could be done in the courtroom. The BasCOT (Basic Court Operations Tools) will address these needs. BasCOT is an interim system developed by the Massachusetts Trial Court's IT Project. This system has already been installed in many courts in the state, and the IT Project is working with the Worcester court to convert its legacy system to BasCOT.

The BasCOT system however, is just a temporary solution until the MassCourts system is complete. MassCourts is an integrated, comprehensive case management system, backed by $75 million in funding. The backbone of this system, including the central servers, the network to access them, and over 4,000 personal computers, is already in place. The IT Project is finished documenting the requirements of the system, and is in the process of choosing a vendor to develop it. The contract will be awarded in September and the IT Project expects MassCourts to be in place within two years. The goal of the project is a unification and centralization of all information in the court system. This will allow administrators to track resources, enhance accuracy, eliminate redundant data entry, and standardize forms throughout the state. Scheduling will also be greatly simplified with this system. A judge will have access to the electronic docket in

the court, and will be able to view a calendar with scheduling conflicts for the attorneys and judges involved in a case.

The most important thing to remember when developing an IT system as complex as this, is that the technology itself will not help unless it allows the court to do its job more efficiency. The courts must make sure all aspects of its operation are included, so that redundant tasks do not have to be performed outside of the system. If MassCourts is able to satisfy these requirements, its benefits should far outweigh the cost of its development.

An important question to ask is how an electronic case management system will increase efficiency. In our analysis of caseflow management we advanced the idea that caseflow is shaped by the reality of limited resources. The use of electronic systems in courts can be thought of as another way of coping with limited resources. In one role, IT can do many jobs that previously required a human being. For example, organizing, storing, and retrieving records is a task which a computer can do in seconds, but may take up hours of a clerk's day. In other roles, IT will allow courts to do things they have never been able to do before. For example, if the MassCourts system were connected to a national criminal database it would be possible to view a defendant's criminal record in other states. Perhaps the holy grail of electronic case management systems is a completely electronic docket. All necessary paperwork would be filed electronically and data could be entered by the court in real time. The system could also either generate forms and orders automatically or send them to the appropriate place electronically.

On one level, the purpose of having IT in the courtroom is to make up for limited resources. Some may disagree with this assertion, saying that the purpose of IT is to increase efficiency. In reality, the two are the same. Court efficiency is determined in large part by the availability of resources. In essence, any effort to increase efficiency must address the problem of resources. One useful way of thinking about IT is to think of it as adding court personnel. More people can get more work done. It is hoped that instead of adding more people, IT can be added. Both views are essentially increasing the amount of a resource. Why add IT instead of more people? One reason must be cost. For any system to be justified it must cost less than the corresponding resources necessary to do the equivalent amount of work

However, thinking about IT in this way ignores some of its most valuable features. The analogy fails because IT can do some things that the court has never been able to do before. IT can only be truly appreciated when it is viewed as a resource unto itself. The idea of putting IT in the courtroom may have started out as an attempt to make up for limited resources. However, if IT lives up to its full potential it will amount to the addition of a fundamentally new type of resource.

7.3 Public Trust & Confidence

The courts exist to serve the public. As such, the ultimate goal of any effort to improve the courts must ultimately be an effort to improve the public's confidence in them. In fact, before we even try to improve court efficiency we should ask ourselves if that improvement will actually serve the public better. The biggest problem the Worcester District Court has is that, as an organization, it does not have an awareness and understanding of the product it is supposed to deliver. The court needs to provide fair and equal access to justice.

The current level of the public's trust and confidence in the Worcester court is very hard to measure accurately with the existing system. The current IT infrastructure provides no statistical capabilities, and although PT&C surveys have been conducted nationally, it is difficult for individual courts to allocate the resources necessary to conduct one locally.

With Judge Zide's focus on efficient caseflow, he feels confidant PT&C levels in Worcester are high. This is not to say there is no room for improvement. The increased efficiency from Judge Zide's plan should boost confidence, as it will reward those who are prepared and should lead to less wasted time in the court. Perhaps the most urgently needed upgrade is a better IT infrastructure and an electronic docketing system. This foundation would allow for many other improvements.

The ability of electronic case management systems to gather statistical data on court performance presents a tremendous opportunity for improving public confidence. The new systems being put into place in Massachusetts courts will provide data that has never been available before. However, there is no plan for utilizing this data. Without a plan it seems unlikely that the new data will be put to use. If the court does not make use of these new performance measurement capabilities it will be left in position where it is not taking advantage of the one tool that will allow it to determine if implementing the system was worth while in the first place.

In the traditional system it is very difficult to gather data about public trust and confidence in the courts. Simply conducting a public confidence study once would not be

enough. The only way to measure the effectiveness of changes meant to improve confidence is to conduct multiple studies to evaluate the effect of changes made to the caseflow model. This is where the capacity of electronic systems to gather statistical data will make its mark. It should be possible, with one or two carefully crafted research studies, to understand the relationship between certain statistical values and actual public trust and confidence. That is, we need to find out which court performance statistics have the greatest positive correlation with high public trust and confidence. Once this is accomplished it seems that it should not have to be done again, since it is unlikely that the public would change the basis of their trust in the court system. Armed with the knowledge of which computer generated statistics can be used as an estimate of public confidence it will be possible to evaluate the effectiveness of caseflow changes immediately. It will no longer be necessary to conduct large surveys to evaluate the effect of changes on public trust and confidence.

If caseflow management plans, such as Judge Zide's, were available state or nation-wide, other court administrators that have not yet optimized their sessions could benefit from the insight in these plans. As understanding the court is one of the most effective ways of building confidence in it, public access to these methods of operation would also be very helpful. This infrastructure could also allow for electronic filing of and access to cases for attorneys. With the ease of access, outside agencies could retrieve information without adding to the court's workload. Once this IT system exists, it would allow the creation of a statewide quantitative standard by which to judge the efficiency of the courts.

While there is no current information on public trust and confidence in the Worcester court, there is a plan to conduct a focus group this fall to gauge the effectiveness of Judge Zide's new caseflow management system. It seems reasonable to expect his plan would create a noticeable boost in confidence. Combined with the plan to upgrade to a fully electronic system in the next several years, public trust and confidence in the Worcester court seems to be heading in a positive direction.

8 Conclusions

It is our hope that this project can serve as the basis for future WPI projects in the Worcester District Court. With the implementation of new electronic case management systems immanent, it is a very exciting time to be conducting research in the Massachusetts court system. Never before has there been so much potential for improvement. Having been conducted in only seven weeks, this project never envisioned being able to make serious recommendations for improving the court. Rather, it has served to gather information about the current state of the system and where it will be headed in the future. In particular we have analyzed the relationship between IT in the courts, caseflow management, and public trust and confidence. What follows is an account of our conclusions and recommendations for further study.

Our analysis of caseflow management serves as the foundation of our framework. The identification of low level structural features present in all caseflow models allows the problem of increasing caseflow efficiency to viewed in a new way. Instead of attempting to identify practical problems in the system it should be now be possible to approach the problem from the ground up. We identified three broad categories of resources: staff, infrastructure, and time. Any attempt to increase efficiency is in essence an attempt to better utilize these resources. There are two ways of approaching this problem: behaviorally and structurally. The behavioral approach promotes those behaviors that have a positive effect on caseflow efficiency, such as promptness and preparedness. The structural approach addresses the underlying structural features of the caseflow model. It is clear that a lot has already been done to address behavioral problems within the court. We believe that the greatest opportunity for increasing efficiency lies in the structure of the court's caseflow model. Finding new ways to exploit parallelism and specialization will allow the court to do more with the same amount of physical resources.

The implementation of electronic caseflow management systems will be a driving force behind the effort to optimize the structure of caseflow in the Worcester District Court. There is only so much that can be done with the resources currently available in the court. We could think of IT as possessing the ability to free up some existing

resources. However, we think this approach would be selling IT short. Electronic caseflow management systems can do things that none of the current court resources are capable of. To fully take advantage of what IT has to offer in the courtroom it must be viewed as a fundamentally new resource all together. When we add IT to the traditional resource mix of time, personnel, and physical infrastructure we must resist the temptation to see it as a tool used by personnel or a part of the physical infrastructure. If viewed as a new type of resource, IT will redefine the roles of the traditional resources we currently acknowledge. For instance, filing forms and organizing records will no longer be part of a clerk's job. It is imperative that we take advantage of changes like this by finding new roles for resources within the system.

This is one area where we believe more work is warranted. We have come to the conclusion that IT will change the roles that traditional resources play in the system. The traditional understanding of how resources should be allocated will therefore change. Research should be done into how IT redefines the functions of each type of resource. By understanding all of the resources in terms of their new roles, redefined by the presence of IT, the problem of finding the most efficient structure can finally be approached in a comprehensive manner.

The ultimate goal of all these efforts is to increase public trust and confidence in the courts. Although the present system is doing a good job, IT represents a powerful new tool for assessing the success of efforts to increase public confidence. At present there is no concrete data on the public's trust in the Worcester District Court. There is also no plan for utilizing the capacity of the new management systems to gather statistical date. This is another fantastic research opportunity. Useful statistical quantities must be identified in order to properly take advantage of statistical analysis as a tool for assessing the efficiency of the court system. The link between these statistics and public trust and confidence must then be studied. The goal of a project like this would be to teach the court system how to use the newly available statistical information in order to increase efficiency and better serve the public.

9 Appendix 1

9.1 Massachusetts Rules of Court

Rule 1 – Applicability

Rule 1 states that the subsequent rules of procedure apply to all cases commenced in district court and that commencement of a criminal action occurs on the date of arrest or issuance of complaint.

Rule 2 – Issuance of Complaint; Police Statement

In cases commenced by a warrantless arrest the clerk magistrate will receive a written statement of the facts from the police in the form of a police report or an application for complaint. In cases initiated by the issuance of a criminal complaint or an Application for Criminal Complaint by the police or a civilian, the clerk magistrate will obtain the police report relating to the alleged crime. All police or civilian complaintents are required to provide information in support of the complaint on the Application for Criminal Complaint.

Rule 3 – Arraignment

At or before the arraignment the court must provide copies of both the defendant's criminal record and the police report to the defense and prosecution. If the defendant is on probation the defendant may be served with a notice of probation revocation hearing. The judge will then issue a written order to both the defense and prosecution instructing them to engage in a pretrial conference and a pretrial hearing on a date certain. If the parties agree to a date for the pretrial conference that date will be recorded on the order. The order shall also require the parties to provide, permit, and obtain discovery prior to the pretrial hearing and to be prepared to submit a tender of plea or a pretrial conference report signed by both parties. If discovery is not provided in accordance with the arraignment order it shall be subject to a court order, a motion for relief, or sanctions at the pretrial hearing.

In cases involving charges outside the jurisdiction of the district court the order issued at arraignment shall allow for a tender of plea, admission, or other disposition on charges reduced so as to be within the courts jurisdiction. The preliminary discovery requirement applies only to cases within the jurisdiction of the court.

Defense council must file an appearance at the arraignment. If the defense counsel does not appear, if counsel is appointed for bail only, or if the defendant intends to engage private counsel, the matter shall be continued until the defendant obtains counsel. Counsel appointed for bail only may also be appointed for arraignment only in order to complete the arraignment. If the arraignment is completed and the defendant desires private counsel, the court may continue the matter until the next event, set the date of that event, and order the defendant to give to the defense counsel the arraignment order and other required documents. This approach should be used only when the court determines that the defendant will, in fact, acquire counsel in time to be prepared for the next event.

Rule 4 – Pretrial Hearing

The parties must appear as scheduled for a hearing on the results of the pretrial conference as per the arraignment order. When the parties have not conducted the required conference the order shall be held so that the conference can be completed, and the pretrial hearing conducted, prior to the end of the day if possible.

If either party fails to provide or permit discovery in accordance with the arraignment order that party may be subject to the sanctions in Mass. R.Crim.P. 14(c). In lieu of sanctions the court may order discovery with no further delay. The court may also order a brief continuance to allow the party responsible to secure the item and bring it before the court the same day. When discovery is not provided in accordance with the arraignment order and is not ordered at the pretrial hearing it may be requested by a motion filed at the pretrial hearing.

At the pretrial hearing the defendant may tender a plea, admission or other requested disposition conditioned on specific terms, with or without the agreement of the prosecutor. The plea, admission or other disposition shall be set forth in the form specified by the Chief Justice of the District Court. If the court rejects the dispositional terms it shall inform the defendant and the defendant shall be permitted to withdraw the

plea or admission. If the plea, admission or other request for disposition contains probationary terms the parties shall consult with the probation department prior to submission so that the court may hear from the probation department before considering the tendered plea or admission. If the court rejects the tendered plea, admission or other disposition, the judge may indicate what disposition he or she would impose and a pretrial disposition can be requested by the defendant on those terms.

If a pretrial disposition is not requested, or is requested and is rejected by the court the parties shall submit a signed pretrial conference report. The conference report shall be set forth in the form specified by the Chief Justice of the District Court.

After the pretrial conference report has been submitted and all pretrial matters settled, the court shall enquire if the defendant waives the right to jury trial. The court may not compel the defendant's decision until all discovery issues have been resolved. Compliance with discovery orders may require a compliance/election hearing. At the defendant's option he or she may proceed to enter a decision on jury waiver, and a trial date may be set, prior to compliance with discovery orders. The waiver of right to jury trial shall be submitted on the form specified by the Supreme Judicial Court and may only be accepted after the required hearing certificate of counsel.

If a waiver of trial by jury is accepted in a District Court in which jury trials are not available and in which only one judge normally sits, and that judge has rejected the defendant's tendered plea or admission, the defendant shall be asked if he or she waives the right to be tried by a different judge. If the right is waived the case shall be scheduled for a jury-waived trial in that court. If the right to be tried by a different judge is not waived the case shall be scheduled for a jury-waived trial in another court in which a session has been designated.

If the right to a jury trial is not waived the case shall be scheduled for jury trial on date certain, provided that in the District Court such cases may be scheduled for a trial assignment date if that procedure is authorized by the Chief Justice of the District Court.

Rule 5 – Hearing Date for Discovery Compliance and Jury Waiver Election

In cases where discovery is not provided or not deemed waived at the pretrial hearing and the court issues and order, a hearing shall be scheduled at the request of the

party requesting discovery to ensure compliance with the order. If required, the hearing shall be scheduled on or after the compliance date and shall be limited to the following actions: determining discovery compliance and ordering sanctions for non-compliance as necessary, receiving and acting on a tender of plea or admission, or obtaining a defendant's decision on waiver of the right to jury trial and scheduling a trial date or trial assignment date.

Rule 6 – Pretrial Motions

Discovery motions shall be heard and decided prior to the defendant's initial decision on waiver of jury trial, provided that motions for discovery may be filed within twenty-one days after the defendant's initial decision or later with good cause. Discovery motions filed within the twenty-one day period must show that the items or information sought could not reasonably have been sought and obtained prior to the initial decision, or that there are other grounds that the court determines reasonably justifies the delay.

All non-discovery pretrial motions may be filed before or after the defendant's initial decision on waiver of right to jury trial. Motions filed before the defendant's initial decision on waiver of jury trial shall be sent to the appropriate trial session and scheduled to be heard on the trial date. The judge before whom such any such motion is filed may hear and decide the motion prior to the trial date or prior to sending the case to another court for trial at his or her discretion Motions filed before the defendant's initial decision on waiver of right to jury trial shall be filed in the court where the trial is scheduled to be heard no later than twenty-one days after the decision or later with good cause. The presiding judge of the court in which the pretrial hearing is conducted, if different from the court in which the trial is to be conducted, may require that such motions be filed and heard in the former court.

10 Appendix 2

10.1 National Roles to Improve Public Trust & Confidence

National Role #1: Develop and/or disseminate models or best practices.

The suggested actions were divided between means of disseminating models and the nature of the needed models.

Suggested Actions

Dissemination

- Have national organizations coordinate their dissemination of models
- Create central web site and clearinghouse for Public Trust and Confidence,
- Internet access
- Post policies and standards, not just programs
- Organize postings in categories to make them more useful and accessible
- Disseminate successes to public through media
- Distribute existing ABA materials more widely
- Disseminate the existing curricula for elementary and secondary schools more widely
- Sort out the local-state-regional-national roles in clearinghouse

Needed models

- Model public trust and confidence curriculum
- Model community outreach programs
- Model pro se programs
- Model ADR programs
- Model public information programs
- Disseminate "best practices" in connection with *Trial Court Performance Standards* and place them on Internet
- Model speeches for judges speaking in public forums
- Model customer service standards

- Model traffic court (cited as key to public trust because of frequent contact with public)

National Role #2: Examine the role of lawyers and their impact on public trust.
The actions pertaining to lawyers fell into four categories: behavior, the nature of law practice, economics of the profession, and law school education. Several commentators indicated that some of the problems of public trust stemmed from legal education.

Suggested Actions

Behavior

- Enforce sanctions against dishonesty, gross negligence, contumacious behavior, and incivility by lawyers; encourage ABA to back up judges
- More emphasis in law school and CLE on role of attorneys as officers of the court and their duty to avoid denigration of the judiciary
- Inculcate more professionalism
- Modify the rules of ethics to reflect above changes

The nature of law practice

- Work with legal educators to place more emphasis on ADR and dispute resolution
- Study the future of the profession and end outgrown practices
- Change rules of procedure
- Educate judges and attorneys on the defects in the justice system that they can cure, particularly sensitivity to public concerns about legal competence
- Analyze the legal system in relation to public trust

Economics

- Bring about more realistic economic aspirations and end exorbitant fees in class action cases
- Unbundle legal services (ABA leadership suggested)

- ABA should commission a special study group to study adequate legal services to all segments of society at a reasonable cost
- Place limits on the number of attorneys
- Hold national conference on economics of legal profession

Legal education

- Law schools should teach more about how court systems work and are administered
- Lawyers should be taught more about the justice system and its place in the social structure
- CLE courses should include training on the reduction of race, ethnic and gender bias
- Have race and gender bias programs for attorneys and encourage law schools to have more diversity in their admissions, perhaps tying this to accreditation

National Role #3: Engage in public education at the national level.

The suggested actions fell into four categories: those of a general nature, development of education materials and their dissemination, building educational networks, and imaginative use of electronic media.

Suggested Actions

General

- Issue an annual state of the state courts report for national dissemination
- Do publicized summit on pro se litigants in court
- Form national speakers bureau
- Form quick response teams of lawyers and judges who can make media appearances to comment on sensationalist or distorted coverage
- Development and dissemination of educational materials for distribution to media and educational institutions.
- Develop videos on judicial system in a democracy
- Disseminate ABA's "The American Judicial System"

- Develop "best practices" descriptions for distribution to public about what courts are doing
- Develop "key issues and themes" material for local use
- Develop a model school curriculum (K-12) at national level (stressed that school curricula are often driven by standardized tests, so these tests have to be considered)
- Develop adult education programs that are directed at impact of the justice system on parties, that emphasize that litigation is a last resort and that cite other methods
- Develop media packets on courts for use by court PIOs and bar association
- PIOs or for direct distribution
- Develop documentaries for media presentation, PBS, even commercial media
- Develop brochures and templates for local conferences on public trust and confidence (suggested ABA, NBA, and state bar involvement)

Develop educational networks

- Involve educators, PTAs and school administrators at all levels in public education on courts – obtain commitments and form committees
- Coordinate various state efforts in public education to facilitate exchanges and short cuts
- Conduct dialogues with entertainment industry with respect to portrayal of judges and legal system; provide pro bono technical advisers to directors of films on courts and judges
- Create a center that brings together national justice organizations and public radio/TV on a regular basis; make better use of PBS

Make imaginative use of radio/TV

- Show judges listening, more interactive formats
- Use lawyers and judges to counter sensationalism
- Use round tables and get national TV to popularize and package some of the discussions on courts and the justice system

- Develop short 30-second spots to counter popular misconception about courts; develop marketing and ad campaigns
- Strive for continuous media programming on public expectations of courts--have a long-term view

National Role #4: Improve public access through information technology.

The suggested actions in this area were applicable to many national roles. So there was some overlap with actions listed elsewhere.

Suggested Actions

- Obtain federal funding for IT to facilitate public access (frequently mentioned as a necessity)
- Create clearinghouse to gather and make available tested IT innovations in public access
- Establish some standardized terminology and nomenclature to facilitate the usefulness of information to users
- Expand cameras in court and televised hearings, particularly appellate arguments
- Institute electronic filing, permit faxed and e-mail filings and service by same means on other parties
- Make available basic user information on the courthouse electronically in court facility and on PCs, perhaps in connection with a customer information center; provide information on hours of operation, where to go for specific matters, standards of public service that are in effect, and calendars for the next few days
- Permit court users to indicate their satisfaction with court services by responding to e-mail survey
- Have user-friendly menus for litigants wanting to know their options in various types of proceedings
- Expand electronic access to court records: dockets, calendars, case records
- Expand electronic access to legal materials: statutes, rules, opinions (should be public domain)

- Place kiosks in public places to facilitate public inquiry
- Use electronic (or at least phone) methods of fine payment
- Involve law librarians in all planning and implementation of public access to information about the law and courts
- Use Internet for disseminating protective orders

National Role #5: Foster and maintain network to sustain public trust.

Many of the suggested actions dealt with continuation of the networks put in place by the Conference. The others dealt largely with the types of groups that should be in the network.

Suggested Actions

Follow-up on Conference momentum, specifically:

- Conference sponsors should maintain liaison with state teams or some P T and C committee in each state
- Keep state teams alive; have them meet
- Give state teams something to do – something to report back on public trust and confidence
- Define "national action plan" and distinguish it from the role of national organizations in connection with this plan
- Create permanent staff to maintain the national effort to build public trust and confidence; have staff at state level who will be able to keep national organizations abreast of developments
- Judges, bar leaders, and court administrators have to continue conveying the "message"
- Use association public information officers as the hub of follow-up effort as they have central role in public communication
- ABA should serve as a catalyst through state and local bar associations
- Involve more non-legal groups, citizen committees and organizations like the
- League of Women Voters, AARP, NOW, churches, PTAs, teacher groups; (concerns expressed over representatives of special interest organizations overshadowing citizen representatives)

- It was suggested that non-lawyer groups in the juvenile and family area be included in any network (among them MPCL, the Ford Foundation, and the
- Children's Rights Council)
- Involve business groups and professional groups such as doctors and health care providers
- Involve legislators and executive branch officials; have legislators spend time with judges during judicial workday
- Network with law enforcement agencies; they have to be included because many of the complaints about bias in courts arise from arrest patterns
- Develop model networking procedures for dissemination to states
- Use coordinated task force approach like the one that has been used for racial and ethnic bias
- Create regional networks on public trust and confidence

National Role #6: Provide national education programs for persons within the system.

It was observed that the National Judicial College has a mission to educate judges and that there are well-established state programs for judges, as well as CLE programs for lawyers. It was perceived that national organizations might be of help in areas of education that are not standard inclusions in existing curricula and that the existing curricula might be influenced by these. The comments stressed sensitivity and judicial demeanor.

Suggested Actions

- National organizations can develop teaching materials and videos on court-community collaboration, sensitivity to racial, ethnic and gender bias, and treatment of witnesses, jurors and parties
- Selected states can test nationally developed models as a means of testing and disseminating education tools
- Judicial nominating commissions can be trained on the criterion of public outreach skills

- It was felt that some help could be provided on defining role of judges in therapeutic justice, especially in the juvenile area
- Judges can be trained in scientific method and technology relevant to their role
- Mandatory CLE for judges was recommended
- National organizations could develop standards of public service and teaching curricula built around them

National Role #7: Develop standards and procedural reforms.

The most frequently mentioned change was modification of the rules governing judicial behavior in order to permit public outreach by judges. Many of the suggested actions were reforms of civil procedure.

Suggested Actions

- Rewrite the behavioral standards to permit more public outreach by judges
- Promulgate rules of courtroom decorum, including treatment of jurors, witnesses and parties, and hold judges accountable for enforcing them
- Develop non-adversarial procedures and ADR and disseminate information about them
- Develop and disseminate self-representation tools and procedures and disseminate them
- Conduct study of effect of current procedures on access and cost and modify rules accordingly
- Handle many simple proceedings ministerially
- Have mandatory mediation for certain types of cases, starting with family cases
- Limit depositions in relation to the nature of the case
- Develop simple procedures in areas of the law affecting the most people: traffic court, landlord-tenant, divorce and family court
- Provide IT and self-help packages and produce models
- Promote jury reforms that increase juror participation

- Limit or end peremptory challenges (seen as aspect of discrimination against minorities)
- Encourage dialogue between tort reformers and trial lawyers
- Make communication skill (hearing and speaking) and community outreach skill factors in judicial selection
- Make court procedures and operations more amenable to the use of volunteers
- Apply the *Trial Court Performance Standards* and report successes and evaluation techniques
- Introduce differential case management
- Study effects of statutes on mandatory sentencing

National Role #8: Promote ongoing national dialogue on public trust.

There were relatively few action recommendations in this area. There was some overlap with the networking role.

Suggested Actions

- Continue conversation among courts and national organizations to keep issues alive; issue a periodic newsletter that captures progress on public trust issues and the nature of the ongoing dialogue
- The real dialogue is at the state and local level; the national role is to encourage, support and report such dialogue
- Use national town hall meetings that tap into specific localities and what they are doing in court-community dialogue to build public trust
- Dialogue is multi-faceted; courts have to identify their different constituencies (business, minority groups, etc.) and speak to them separately--one group could be recent court users
- Important at all levels that judges themselves be involved in the dialogue or there will be no sustained effort

National Role #9: Provide specialized expertise.

This national role was ranked relatively low by the Conference but nonetheless evoked many suggested actions.

Suggested Actions

- Keep lists of experts and speakers on specialized topics
- Provide training TA in sensitivity, bias control, collaborative methods of handling cases, community outreach, public service, problem-solving process, and strategic planning
- Technical expertise in putting together interstate information networks
- Expert help in establishing and evaluating specialized courts, like drug courts
- Help in establishing standards for court interpreters
- Help in implementing Trial Court Performance Standards, improving efficiency, and resource development
- Help in effective public communication

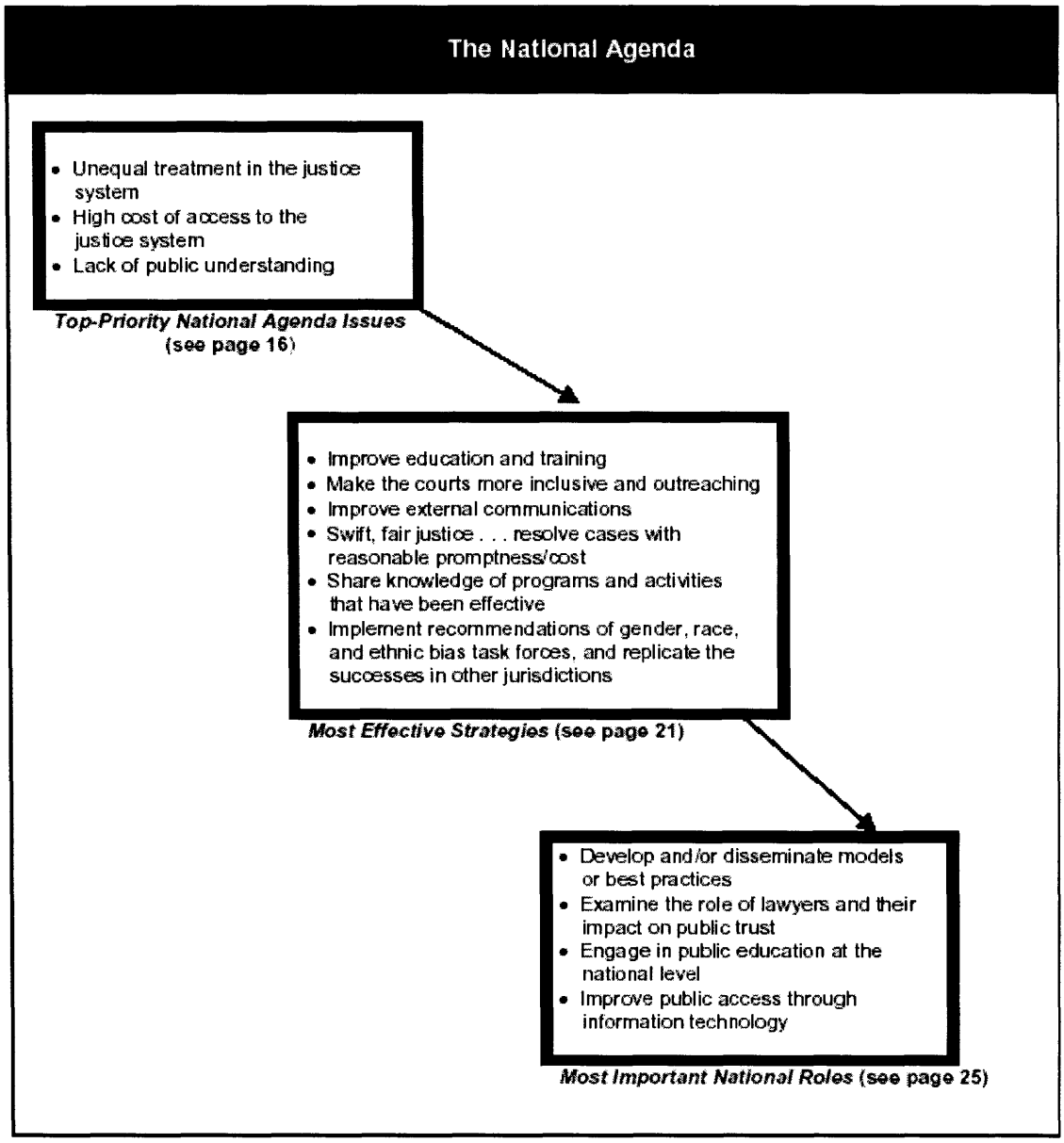
National Role #10: Act as liaison or take proactive stance with the federal government.

The suggestions in this area were oriented to limiting federal incursions into the state domain, and funding.

Suggested Actions

- National organizations serve as watchdogs to slow down and deter federal intrusion into state courts (frequent mention of federalism issues)
- Take proactive stance with Congress and federal agencies on programs, such as support for strategies chosen at the Conference
- Work more with state legislators in dealing with Congress
- State judges, speaking for judicial organizations, have to be the lead persons in any dialogue with Congress or federal agencies
- Attempt to get federal agencies that fund courts to coordinate their efforts
- Have one central source to report actions of these agencies with respect to courts
- Emphasize federal funding for technology and Legal Services

Figure 1 – The National Agenda



11 Appendix 3

11.1 Questions for Judge Hillman

Personal

What is your job decription?
What projects are you currently working on?
The current state of the system
What kind of computer resources does the Worcester district court currently have?
When were these systems implemented?
How up to date is the equipment?
Is the current budget adequate?
If not what would be?
How many IT personnel does a court typically have?

Future Plans

BasCOT

What services will BasCOT provide to the court?
Will the system be capable of collecting statistical data on court performance?
If so, will the data actually be gathered and analyzed?
How is it used in the court?
Who has access to it?
What resources will be needed to implement BasCOT?
How are the courts going to handle training?
How will the system be linked to current systems throughout the state and individual towns?
What is the timetable for these improvements?
Who developed the BasCOT system?

MassCourts

What services will MassCourts provide to the court?
Will the system be capable of collecting statistical data on court performance?
If so, will the data actually be gathered and analyzed?
Will there be a full time position for this purpose?
How will statistical data be used to improve court performance?
How will it be used in the court?
Who will have access to it?
What resources will be needed to implement MassCourts?
How will the system be linked to current systems throughout the state and individual towns?
Who will develop the MassCourt system?
Can we get a copy of the bid requirements for the system?
How are the courts going to handle training?

11.2 Questions for Judge Zide

Please explain, in detail, criminal caseflow in the Worcester district court.

Could you explain the Bishop / Fuller protocol?

How would you currently rate the efficiency of the Worcester district criminal court?

How do you currently measure the efficiency of the court's caseflow?

What do you see as problems with the current caseflow model?

How do you think efficiency can be improved?

How would you rate public trust and confidence in the Worcester district criminal court?

If there is a problem, what do you see as the cause?

How can this problem be changed?

What types of technology are available in the courthouse and how is it used?

Has the current technology improved the efficiency of the court?

If yes, how do you know, and in what ways?

What are the most urgent needs of the court in terms of IT infrastructure?

Are you aware of any coherent strategy on the part of the state to address these needs?

During your tenure what kind of caseload trends have you noticed?

How are the current political conditions affecting your court?

Given these trends and current political conditions, do you think that the court will be able to continue functioning at an acceptable level?

What do see as the role of IT in improving public trust and confidence?

What are the green sheets and yellow sheets?

12 Works Cited

Casey, Pamela. "Defining Optimal Court Performance: The Trial Court Performance Standards" *Court Review* Winter 1998: 24-33.

Court Compass. "Questions & Answers". *Court Compass* (2002): Vol. 4 No. 2. 6-8. <http://www.state.ma.us/courts/courtsandjudges/courts/supremejudicialcourt/compasssum02.pdf>.

Hillman, Hon. Timothy. Telephone Interview. 7/17/02.

Hoffman, Richard B. and Barry Mahoney. "Managing Caseflow in State Intermediate Appellate Courts: What Mechanisms, Practices, and Procedures Can Work to Reduce Delay?." Indian Law Review 35 (2002) 470-526.

National Center for State Courts. *How the Public Views Courts.* 1999 <http://www.ncsc.dni.us/ptc/results/index.html>

National Conference on Public Trust and Confidence in the Justice System. *National Action Plan: A Guide for State and National Organizations.* 1 Dec. 1999 <http://www.ncsc.dni.us/ptc/NAP/nap.pdf>

Rottman, David & Tomkins, Alan. "Public Trust and Confidence in the Courts: What Public Opinion Surveys Mean to Judges" *Court Review* Fall 1999: 24-31.

Schoenbaum, Edward. "Improving Public Trust & Confidence In Administrative Adjudication: What An Administrative Law Judge Can Do" *Journal of The National Association of Administrative Law Judges* 21 (2001).

Schoenbaum, Edward. "Managing Your Docket Effectively and Efficiently." Journal of The National Association of Administrative Law Judges 19 (1999) 37-75.

Steelman, D., Goerdt, J. & McMillan, J. "Caseflow Management: The Heart of Court Management in the New Millennium". *National Center for State Courts* 2002.

West Group. "Massachusetts Rules of Court" Saint Paul: West Group. 1998.

Zide, Hon. Elliot. Personal Interview. 7/16/02.