

**MANAGEMENT STUDY OF
FELONY CASE PROCESSING
IN PIERCE COUNTY, WASHINGTON**

EXECUTIVE SUMMARY

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Fair, effective, and efficient criminal justice processes are at the heart of any community's capacity to provide a safe environment for its citizens, a climate that supports economic growth, assurance that resources devoted to the justice system are being used well and wisely, and a sense that justice will be done when an individual is charged with breaking the law. Achieving this requires a coordination of effort and dedication to these common goals by a large number of institutions and agencies. No single organization can be held responsible for the operation of the entire process, nor can a single institution or agency guarantee success. It is in this context that the Washington State Office of the Administrator for the Courts retained the Justice Management Institute to conduct a management study of felony case processing in Pierce County. The study was to focus primarily on the organization and operations of the Superior Court, but was also to assess the overall felony case processing system from arrest to resolution. The objective of the study was to develop recommendations for improving operations so as to achieve greater efficiency without sacrificing the quality of justice and to make the most effective use of available resources. The study was initially requested by the Pierce County Council as part of its on-going performance audit program, not because of any massive failure or serious incident revealing gross deficiencies in the system.

Pierce County already enjoys a solid foundation for an effective criminal justice system. Many of the essential elements of an effective system are in place. Dedicated, committed, and cooperative staff are present in the court and in each agency of the criminal justice system. Judges, prosecutors, defense counsel, and law enforcement officials are working hard. There are good working relationships between the Superior Court, the prosecutors' office, the defender's office and the law enforcement agencies. Case management is supported by a sound automated case tracking system. The pace of litigation is not protracted and there is no large backlog of undecided cases. There are several other aspects of the system that are also noteworthy. The prosecutor files felony charges directly in Superior Court. The organization of the prosecutor's office encourages accountability for resolving cases. All felony cases are heard in one courthouse, which allows optimal use of judges and criminal justice agency staff. The jail is adjacent to the courthouse, minimizing prisoner transportation costs. These conditions and business practices would be the envy of many jurisdictions across our nation.

The performance of the felony caseload process can be summarized as follows. The nature of the caseload is not particularly onerous. Almost 47% of the new filings in 2000 were drug related cases, a higher percentage than any other large county in Washington State. The ten-year growth of the caseload is significant at 22%, but the growth has been slower than the rest of the state. Most cases are resolved by a plea of guilty: 82% overall, and 84% in drug related cases. The jury verdict rate is 1.8% of resolutions, a low rate. The court is not meeting applicable state time standards regarding the pace of resolving cases. The state standard is that 90% of the cases should be resolved in 120 days; only about 76% of the felony cases are resolved in that time period in Pierce County. Drug cases are taking particularly long, given the higher plea rate and lesser

complexity of these cases. Resolutions have been fewer than new filings in eight of the last eleven years, suggesting a slow increase in the backlog of unresolved cases. Although the total number of felony cases pending at the end of 2000 is not too large, a disproportionate number of them are drug related cases. Almost 39% of the pending drug related cases are over 90 days old. Notably, while the number of new filings has risen 17% in the last six years, the number of scheduled proceedings has risen 47% during the same time period. The number of continuances of proceedings has increased dramatically, up 117% since 1995. In general this data suggests that the system is not operating as effectively as it might, and appears to be losing ground.

Notwithstanding the solid foundation noted above, there are concerns about the efficiency and effectiveness of some stages of the process. Based on observations, interviews and analysis of the management information, the following points can be made. The arrest and booking process proceeds smoothly, aided by the fact that most arrests are made by only two law enforcement agencies. The system lacks a capacity for pretrial screening of felony defendants and for supervision of those who could safely be released from jail on non-financial conditions. An effective pretrial release program would help insure that defendants who can be released without endangering public safety are not held in jail solely because they cannot afford to post bail, and could help alleviate jail overcrowding. There are also inadequate resources to fully implement, at this early stage in the process, the Breaking the Cycle program designed to serve defendants with substance abuse problems. The charging process works effectively, considering the uncertainties associated with the local criminal history database, the use of ink fingerprints to determine defendant identity, and manually prepared police incident reports.

The first appearance in Superior Court after the filing of the charges occurs promptly and counsel is appointed for indigent defendants in a timely manner. Although the prosecutor attempts to provide discovery to the defense promptly, there are sometimes delays in obtaining supplemental police reports. Waiting for results from lab tests, particularly in drug related cases, is a significant source of delay. Insufficient information and lack of adequate preparation by counsel results in relatively few case resolutions on the pretrial conference date. Court proceedings at these pretrial stages are also severely hampered by inadequate and relatively unsafe facilities, particularly on the fifth floor of the courthouse. Motions regarding evidence or other legal issues are difficult to obtain, again postponing resolution of cases. The net result is that too many cases are still unresolved when they reach their first trial date. Cases scheduled for trial must then be continued to another date. This means that everyone associated with a case set for trial must handle and prepare each case several times rather than once. It also means that police officers, victims and witnesses must come to court repeatedly. During 2000 over 70% of the cases appearing for trial were continued on the day trial was set to begin. This creates a sense of churning, and a frustration that there are too many cases and not enough resources.

Being so focused on daily survival rather than on overall system performance, it is difficult for those involved in the system to see that workloads could actually become more manageable. If more effective and efficient case management procedures were implemented and accurate information needed to make decisions was made available in a

more timely manner, the system would operate more smoothly, and with less effort. If counsel and other participants in felony cases understood and accepted their responsibility to promptly prepare for court events and promptly pursue an appropriate resolution in each case, less time would be wasted, particularly in-court time. The primary problem is that no one has accepted overall responsibility for the effective operation of the felony caseflow process, that is, to manage the process so that it achieves its intended goals. The court is the appropriate institution to exert this control, both because of its pivotal place in the process and because of the neutral and balancing role it is intended to play in the process. The court cannot do this alone. Other participants must also discharge their duties in a timely and responsible manner.

Based on the study findings a number of recommendations have been made. The intent of the recommendations is to create greater accountability for the movement of cases by developing structures, policies, and practices that allows the Superior Court and Pierce County criminal justice agencies to resolve felony cases in a more timely, less stressful, and more effective manner. Ultimately this will result in both a higher quality of justice to litigants and the public and more effective use of public resources. The recommendations are organized into five groups based on where the authority to make the changes lies. The first set of recommendations involves changes in the Superior Court's governance and organization. The second set recommends changes to the case management practices within the control of the Superior Court. Next are recommended changes other agencies in the criminal justice system have the authority to make. Fourth are recommended changes in the relationships between the participants and stakeholders in the felony criminal justice system. Lastly, there are recommendations about possible changes that can only be made at the state level. The recommendations from the final report, edited slightly, are repeated below.

Recommendations Concerning the Superior Court's Organization and Goals with Respect to Criminal Caseflow Management

1. Organize the Superior Court so that it effectively exercises its responsibility to manage felony cases pending before the court and exercises a leadership role in the felony criminal justice system operations.
2. Establish goals for the Court's operations and performance with respect to its felony criminal caseload to guide overall caseflow management and case scheduling in individual felony cases. The goals should cover a) standards for major case types and time standards for completion of each major stage of the cases; b) what is expected to occur at each scheduled hearing and what preparation is expected of counsel; c) standards that call for a high degree of certainty that scheduled court events will take place when scheduled and will be meaningful in resolving the case or moving it toward resolution; d) elimination of existing backlog; and e) timely, accurate, and complete information entered into court records and into the automated systems that support case scheduling and caseflow management.

3. Adopt a case assignment system that increases both the individual and collective responsibility of each judge to resolve cases at the earliest opportunity. This will involve both changes in the length of assignments to criminal related calendars and in the structure of the calendars.
4. Develop a system for assignment of the Court's criminal caseload that a) fairly allocates the felony criminal case workload among the judges of the court; b) includes the capacity for monitoring the performance of the Court in relation to the goals that are established; c) designates a single judge as responsible for overall management of the criminal caseload; and d) provides for adequate staff support for the judge designated as responsible for overall criminal caseflow management.
5. Develop a plan to implement major changes in case scheduling philosophy and practice, incorporating principles and techniques of differentiated case management and effective caseflow and trial management as recommended here.
6. Consider assigning a commissioner to hear some aspects of first appearances, or cross designating a District Court judge to sit as a commissioner for this purpose.
7. Review the hiring policy and reporting relationship of Judicial Assistants to establish a structure that has appropriate accountability, chain of command, and performance criteria.
8. Educate the County Council, and the public, about the Superior Court's goals, responsibilities, organization, processes, and performance.

Recommendations for Changes in the Superior Court's Caseflow Management Practices and Procedures

9. Establish expectations about what should occur at each scheduled hearing, educate the lawyers, and manage court calendars so that attorneys are properly prepared and ready to act at the hearings as expected.
10. Establish case scheduling and continuance policies that will ensure that the Court is prepared to hear all cases scheduled for a given date. This will encourage attorney preparation and readiness for all scheduled events, and will justify sanctions for repeated late requests for continuances. When continuances are granted, they should ordinarily be for short periods and with clear understanding of what is to be done before and at the next court date.
11. Establish and adhere to a practice of commencing court proceedings at the time they are scheduled.
12. Revise case scheduling practices to provide for the scheduling and case management system to focus on early resolution of cases and avoid over-setting of trials, including:
 - a) providing for early resolution of motions, including motions that may require

evidentiary hearings; b) consider establishing a plea cut-off system; c) schedule trials only when needed in order to establish a meaningful trial date, subject to requirements of the speedy trial rules; d) provide for a trial management conference in cases likely to involve more than one day of trial; and e) establish trial readiness procedures and improve procedures for managing witness appearances.

13. Develop management information reports and caseload management staff support for revised procedures to track performance in relation to goals.
14. When a defendant is rearrested or surrenders on a bench warrant, pick up the proceedings where they left off, where practical, rather than treating the case like a new filing.

Recommendations for Changes in the Caseload Management Practices and Procedures in Other Stages and Agencies

15. Accelerate the implementation of Live Scan fingerprint system to permit more rapid identification of all persons arrested on felony charges, allowing quicker retrieval of comprehensive criminal history information.
16. Continue implementation of the corrections of the criminal history databases maintained by LESA so that the local criminal histories are perceived to be reliable by all Pierce County criminal justice agencies and the Superior Court. Consideration should also be given to expanding the LESA Board to include representatives of the court and agencies who require the information generated by LESA in their work.
17. Improve the response time for accessing criminal history information through LESA communications systems by giving priority to the changes already planned or underway.
18. Educate police officers and LESA staff about the importance of prompt preparation of police reports, both initial and supplemental, and prompt delivery of these reports to the prosecutor. The portion of the LEADS 2000 project involving use of computers for the preparation of police reports, which can then be electronically transmitted to the prosecutor, will support this objective.
19. Develop and implement policies and procedures permitting pretrial release in felony cases that: a) ensures that persons who could be safely released during the pretrial period are not held in jail solely because of inability to post financial bail; b) ensures that persons who pose significant risks to public safety are not released unless adequate supervisory conditions are established; and c) provides appropriate supervisory options and systems for notifying released defendants of their next court date. The authority and responsibility of the PreTrial Services agency should be expanded to screen all persons booked into the jail on a felony charge for possible release.

20. Use the first appearance as an opportunity to make initial scheduling and case tracking decisions aimed at bringing the case to resolution as expeditiously as possible, consistent with the complexity of the case. At the first appearance, the judicial officer should: a) inquire about the status of providing discovery, the possible need for lab reports or other special reports; b) set the case for a pretrial conference/scheduling conference to be held within 15 days after the first appearance; and c) make and enter any orders needed to ensure that, prior to the pretrial conference/scheduling conference, the parties will have obtained and discussed the information needed to (1) reach an agreed upon resolution; or (2) set a short schedule for obtaining any needed information and establishing a schedule for motion hearings, final pretrial conference, and trial.
21. Develop a plan for defense counsel to have opportunity for meaningful consultation with the defendant prior to the Pretrial Conference by: a) assuring counsel is furnished with any updated charging documents, police reports, lab reports, and available information about the defendant's prior record; and b) the prosecuting attorney establishing a policy and the necessary procedures so that a plea offer can be communicated to the defendant and his or her counsel prior to the Pretrial Conference.
22. Provide for rapid turnaround of lab tests, especially in cases involving persons arrested on drug charges. The County should consider establishing a local lab to reduce time and jail bed days lost waiting for lab report results.
23. The Superior Court, Sheriff, Prosecuting Attorney and a representatives of the DAC, at least, should develop a policy as to the early release of inmates because of the jail cap that not only protects public safety and maximizes the likelihood that released defendants appear at court for scheduled proceedings, but also promotes programs designed to rehabilitate defendants and reduce recidivism.
24. Establish the necessary links and protocols to allow electronic uploading of information from LINX to SCOMIS.

Recommendations Concerning Relationships Between the Superior Court and Other "Stakeholders" in the Pierce County Criminal Justice System

25. Continue the work of the Criminal Procedures Committee as a vehicle for identification of systemic problems and development of collaborative approaches to addressing them. The committee should be expanded to regularly include representatives of all institutions, agencies and services affecting the felony criminal case process.
26. Develop a monthly management report that indicates new workload, completed work and the status of pending work for the entire felony criminal process. Provide regular written and oral reports to the criminal justice community and County Council concerning: a) actual performance in relation to operational and performance goals, and b) commentary with respect to aspects of system operation that may need attention.

27. Explore ways in which modern information technology can be used to improve the efficiency and effectiveness of criminal justice system operations. Consider, in particular: a) using computers for preparation of police reports; and b) using video conferencing to facilitate consultation between prosecutors and police officers and between defense counsel and in-custody defendants.
28. Develop a facility master plan that addresses: a) upgrading the courts and adjoining public waiting and prisoner holding facilities for high volume courtrooms, particularly CD1 and CD2. Serious consideration should be given to relocating CD1 and CD2 to the first or second floor of the County-City Building; b) including a courtroom in the new jail currently under construction for some types of court hearings to reduce prisoner transportation costs and time; and c) providing permanent courtrooms for all Superior Court judicial officers.

Recommended Changes In State Laws, Practices, and Procedures

29. Simplify the plea and judgment and sentencing forms to reduce the paperwork associated with them and the in-court time consumed in filling them out and distributing copies to all parties.
30. Consider revision of the court rules that require trial dates to be set within 15 days of arraignment and trial to begin within 60 days of arraignment so as to allow courts to set meaningful trial dates in those cases that are not resolved sooner.
31. Propose an amendment to the State Constitution allowing cross-assignment of all judges to all levels of court to balance workload and maximize use of all judicial resources.

For Pierce County to take advantage of the many excellent criminal justice resources that it has, judges must recognize that the court is responsible for supervising case progress. The Superior Court must establish early control of its cases, continually monitor and control all cases from filing through resolution, and create an expectation and a reality that trials and other events will occur on the date scheduled. The attorneys also need to accept responsibility for the prompt resolution of cases and change their practices so as to meet expectations regarding scheduled court events.

While, as noted, there are many things that are “right” in Pierce County, there are also a number of specific problems that need to be addressed. The problems exist at several stages in the process, and some are system-wide. No one group, including the judges, or one agency is responsible for, or solely to blame for, the problems in Pierce County. If the system is to improve, it will have to be an effort by all parties working together to solve the problem. All parties in this system contribute in some way to the inefficiencies seen, and all must work toward a common vision.