

Evaluation of the Fulton County Superior Court's
Criminal Non-Complex Case Management Division

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Abstract:

In the recent past the Superior Court of Fulton County has seen an increase in its criminal filings. With increased filings the pending criminal caseload, which is the number of open cases the court has on its records at the end of each month, has also grown. Related, the Fulton County Jail has seen an increase in population and has been ordered by the United States District Court for the Northern District of Georgia to reduce the inmate population. The District Attorney's Office and the Public Defender's Office attorney caseloads have increased and attorneys are having a difficult time giving the necessary time and attention to their cases.

In order to deal with the increase in the pending criminal cases the Superior Courts along with others, through a collaborative effort in the criminal justice system created a new case management division. The Non-Complex Criminal Division was created to deal with low level felony offenses. A 90-day timeline was implemented on May 1, 2006 to deal with these cases. However, since the implementation of the Non-Complex Division the Superior Court has seen a dramatic increase in the pending caseload of non-complex cases. This project was undertaken to document this situation and to design a response.

Following a review of the case management literature, caseload data -- criminal filings, dispositions, and pending cases both in past years and since the implementation of the new non-complex division in May, 2006. -- was collected and analyzed. A review of the courts complex criminal cases and civil caseload was also undertaken to determine the effect the newly formed division had on other case types.

So far the Non-Complex Division has not been able to keep up with the case filings. The non-complex data has been analyzed for the purpose of this study from May 2006 through

November 2006. The research acknowledges that this is a short period of time and the information is only a snapshot. The data continues to change each month.

From the data that has been researched it is clear that better technology and software is needed to track cases in the division, specifically the point of disposition along the 90-day case management timeline. Data was analyzed for the Non-Complex Division over six months. A period of growth followed by stabilization was expected; however the data is not showing signs of stabilization.

The data does show that as the Non-Complex Division was put into place there was an immediate impact on the civil case disposition rate. In June of 2006 civil filings and pending cases outpaced civil resolutions. This may be due to the Non-Complex judges being removed from the civil case assignment wheel. Fewer judges were available to deal with civil filings. On the positive side, the civil caseload has now stabilized and the complex criminal felony caseload has been reduced, along with the total pending criminal caseload. The growth rate of the non-complex cases however, will soon negate any gains that have been made in reducing the overall caseload.

Based on the research the report closes with six recommendations:

1. Creation of a Specialized Backlog Calendar

This calendar should begin as soon as possible. Resources need to be evaluated so that this calendar has what it needs, in the way of staff, judges, and attorneys to deal with the cases that are backlogged – cases that are older than the agreed upon time standards adopted by the American Bar Association (ABA) time standards.

2. Monitor the Court's Pending Caseloads

Special attention must be paid to the pending criminal caseload. In a small study that is not representative sample the data showed that at least 40% of case that were three years old or older and listed as active were actually closed. Closed cases had not been marked as closed due to clerical errors. Finding the actual pending caseload will make it possible to determine a goal for pending caseload.

3. Study Pending Cases to Determine the Actual Number of Pending Cases and Purge Cases That Are Not Actually In the Superior Court 's Pending Inventory

The research needs to begin with the oldest cases showing as still open and three years old or older. Once this study is completed and cases are purged, staff should begin to research other pending cases. This information should then be reported on a "Pending Target Determination" report. This report will aid in the backlog calendar described in Recommendation one.

4. Determine at What Point Non-Complex Cases are Falling Out (Being Disposed)

By determining the point at which the majority of cases resolve, the court will be better able to refine the non-complex case management process. The recommended criminal justice information systems (see recommendation six, below) supports this reporting issue.

5. Create and Distribute A Non-Complex Case Management Bench Book to Each Judge Working in the Non-Complex Division and All Other Superior Court Judges.

The chief judge must sign off on the process and procedures and enforce them among the criminal justice community.

6. An Enhanced Criminal Justice Information System Must Be Implemented

This system must be designed and used by all members of the criminal justice system. Reports must be created that will aid in the future evaluation of the case management process. Critical reports will include, the point at which case are disposed of in the case management process and the age of the case at disposition.

Introduction

The Non-Complex Criminal Division of the Fulton County Superior Court, which began operations in May 1, 2006, is evaluated. The assessment focuses primarily on trends in filings, dispositions, pending cases and clearance rates for cases handled in this new criminal division. Trends on criminal generally, complex criminal and civil are also studied. While the data collected necessarily focuses only on the early indicators and is somewhat crude it does permit an assessment of strengths and weaknesses as well as needed improvements of the new division.

The Non-Complex Division has caused much debate among the Bench and the court's staff as well as others in the criminal justice system. This evaluation can inform the on-going debate. There are strong arguments both to discontinue the Division as well as to stay the course with some minor fine tuning. Data collected in this project indicates that the current case management strategy and practices can and must be improved! Understanding of the context in which the new program is imbedded is important

The Fulton County Superior Court, located in Atlanta, Georgia is the largest general jurisdiction trial court in the state of Georgia. The court has been experiencing an increase in filings and pending felony case loads. The Superior Court experienced a 37% increase in its felony caseload from 2004 to 2005. This increased caseload created a large backlog of cases that was having an impact on the entire justice system. The jail began to see a growth in population. The District Attorney's Office did not have staff to deal with the increased caseload and as a result the attorneys had caseloads beyond what they could handle. The Public Defender's Office also saw the same results. Atlanta being a major metropolitan area has a substantial number of indigent individuals who qualify for public representation.

Growing inventories of pending cases many of which are backlogged indicate unacceptable delay and add to case processing bottlenecks. The Superior Court began to see its aging caseload creep beyond the acceptable standards adopted by the American Bar Association (ABA) and the Conference of State Court Administrators (COSCA)¹. The time that have been adopted for criminal cases indicate that 98% of all criminal cases are disposed with 90 days of filing. The table below outlines the standards as adopted

Table 1. Case processing time standards:

Case Type	Conference of State Court Administrators (COSCA)	Conference of Chief Judges (CCJ)	American Bar Association (ABA)
Criminal Felony	180 Days	180 Days	90% in 120 Days 98% in 180 Days 100% in 12 Months
Civil Jury Trials Non-Jury Trials General Civil	18 Months	18 Months 12 Months	90% in 12 Months 98% in 18 Months 100% in 24 Months
Domestic Relations Uncontested Contested All Cases	6 Months	6 Months 6 Months	90% in 3 Months 98% in 6 Months 100% in 12 Months

For criminal cases these time standards count time from arrest to trial or disposition.
Time standards adopted by COSCA and CCJ in 1983.
Time standards adopted by ABA in 1984.

If the pending criminal caseload continues to grow the court and the community will continue to see serious impacts on Fulton County justice system and the quality of life and economic standing.

The current Fulton County Jail has a housing capacity of approximately 1800 individuals that population has been far exceeded that for several years. The Fulton County Sheriffs office is

¹ The ABA time standards are incorporated in the Bureau of Justice Assistance, Trial Court Performance Standards and Measurement System Implementation Manual, Washington, DC: U.S. Department of Justice 1997: 77

under Federal Court Order to reduce and cap the population at 2250². The growing caseload has made it difficult to stay below the federally mandated level causing the Sherriff's Office to release individuals early, or release individuals with less serious offenses. The sheriff has had to outsource inmates to other counties with available bedspace. The outsourcing of inmates is an increased cost to the county. The county is required to pay for the bedspace and has to pay for their transportation to and from the county where the inmates are being outsourced. Inmates are often outsourced to county detention centers up to four hours away.

In 2004 when the growing caseload was recognized it was determined that the current case management strategies were not working. The chief judge, executive committee, and Court Administrator worked together to formulate a case management plan to deal with the growing caseload. A simple study was conducted to determine the types of cases that made up the current pending case backlog. It was determined that 70% of all the cases were simple cases that should be adjudicated within 90 days of arrest. Theses cases were termed Non-Complex cases and included cases with following charges:

Table 2: Case Types by Charge included in the Non-Complex Criminal

Non-Complex Criminal Charges	Drug Charges	Theft Charges	Weapons Charges	Miscellaneous Charges
	Possession and sale of marijuana	Burglary	Attempt to purchase firearm by a convicted felon	Entering auto
	Possession and sale of heroin	Theft of Services, Shoplifting	Carrying a concealed weapon	Obstruction of a law enforcement officer

² Harper v. Bennett 04-CV-1416-MHS

A complete list of designated non-complex charges can be found in Appendix A titled “Felony Charges to be Included in Non-Complex Trial Division”.

The Non-Complex Trial Division was formally begun in May of 2006. In this paper the newly created Non-Complex Division of the Fulton County Superior Court will be evaluated. The research of the division will be used to make recommendations for necessary changes that need to occur in order for the division and the justice system to succeed. In order to understand the growing caseload and the significance of the compounded problems on the justice system it is important to understand the organization of the Fulton County Superior Court.

Fulton County is the largest general jurisdiction trial court in the State of Georgia. The Bench is made up of 19 judges who are each elected separately. The court maintains a Family Division that is made up of three judges. The Family Division only hears family related cases and does not handle a criminal or civil caseload. The Family Division was begun in 2000 as a pilot project. The test was successful and the division currently runs on a very tight time standards. Cases are heard on 30 day intervals. Court appearances happen every 30 days. The litigants are given scheduling orders up front so that all parties are aware of when events will occur. The Family Division does everything to ensure that the court dates are meaningful. The success behind the family division and their case management time standards has been incorporated within the Non-Complex Trial Division.

Table 3. Assignment of Judges Prior to Creation of the Non-Complex Division

Chief Judge	Criminal Civil Division	Family Division	Magistrates
One	Fifteen	Three	Three Magistrates rotating through First Appearance Hearings Two Magistrates rotating through All Purpose Hearings

Table 4. Fulton County Judges and Magistrates after Creation of the Non-Complex Division

Chief Judge	Complex Criminal	Non-Complex Criminal	Family	Magistrates
Chief judge handles Drug Court, hears the Non-Complex Final Plea Calendar, and calls the Trial Calendar	Twelve	Three Plus chief judge handles the Final plea calendar, the Trial Calendar Call	Three	Three magistrate judges rotating through the First Appearance Hearings. One magistrate to hear Jail Plea and Arraignment Calendars Two magistrates rotating through the All Purpose/Preliminary Hearings

The Superior Court is presided over by one chief judge. The chief judge is elected by a majority of the bench to serve a two-year term. There is currently no term limit and the Chief can continue to be reelected at the end of each two-year cycle. The chief judge does not take on a full-caseload. The Chief is removed from the criminal and civil assignment wheel. Currently the chief judge is handles the Drug Court hearings and is assigned a caseload of asbestos related litigation and tax cases. These two case types primarily always work themselves out without formal hearings. They are required to be filed, and are assigned to the chief judge because they require little or no work.

The other 15 judges of the Superior Court Bench who are not designated as the chief judge, or assigned to the Family Division receive a mixed caseload of criminal and civil cases. For the purposes of this paper, judges who receive a mixed caseload of civil and criminal cases will be referred to as generalist judges. Each generalist judge handles an individual calendar. They are assigned the case at the time of filing and the case stays with that judge until disposition. Cases can be transferred if a judge recuses him or herself, or after the filing and judicial assignment it is found that there is a related case being heard by another generalist judge on the bench. Related cases involve defendants or parties with multiple cases. The system has been designed to keep defendants and parties with the same judge for civil and criminal cases. However, if a criminal defendant was being seen on charges and also had a divorce pending that individual would have two different judges.

Among the generalist judges there is no uniform case management system. Each judge handles their own caseload and develops their own case management plan. The system has fostered a wide range of pending caseloads. The generalist judges that are good case managers will initiate case management plans that will keep their caseload at a manageable level. Generalist judges who are not good case managers will find their caseload growing. Judges without a case management plan will often attempt to try their way out of a large backlog. In January of 2006 the pending caseload of criminal cases among generalist judges ranged from a high of 919 pending case to a low of 290 pending cases. The table below illustrates the wide range of pending criminal caseloads of generalist judges across the Superior Court Bench:

Table 5. Pending criminal caseload January 2006 – November 2006 for generalist judges by month sorted highest caseload to lowest caseload in January 2006.

2006	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Division 1	919	858	917	868	796	782	770	737	728	695	698
Division 2	653	636	756	762	689	645	626	551	447	401	365
Division 3	632	674	727	746	695	672	664	678	658	632	627
Division 4	630	639	655	676	646	651	624	597	552	512	528
Division 5	623	632	639	660	657	627	564	488	406	391	377
Division 6	585	618	622	641	646	620	607	604	594	575	585
Division 7	529	544	512	540	480	412	384	322	273	205	148
Division 8	522	511	517	546	542	502	510	433	424	422	415
Division 9	489	423	344	313	307	297	274	275	260	259	253
Division 10	494	519	539	561	531	463	423	378	347	297	291
Division 11	435	450	468	464	420	410	403	399	392	374	381
Division 12	397	367	416	393	360	329	290	258	254	249	234
Division 13	334	337	357	375	361	333	334	322	318	316	223
Division 14	290	279	290	273	212	157	124	88	68	78	76
Division 15	290	282	317	308	293	259	199	148	150	109	124
Total	7822	7769	8076	8126	7635	7159	6796	6278	5871	5515	5325

The difference of 629 cases between the generalist judge with the highest caseload and the generalist judge with the lowest caseload is dramatic.

The Non-Complex division with three judges was planned to deal with the wide variance in caseloads and handle the low-level offenses on a 90 day adjudication track. The goal of the division was to take the non-serious or non-complex cases that are outlined in Table 1. and quickly resolve them. These cases will be identified at filing and assigned to the Non-Complex Division. These cases will move from an individual calendar to a master calendar. Figures 1 and 2 below present the new case management flow chart as of May, 2006 (Figure 1) when the new non complex division began, and as amended on August 18, 2006 (Figure 2).

Figure 1. Non-Complex Case Flow Process as of May 1, 2006

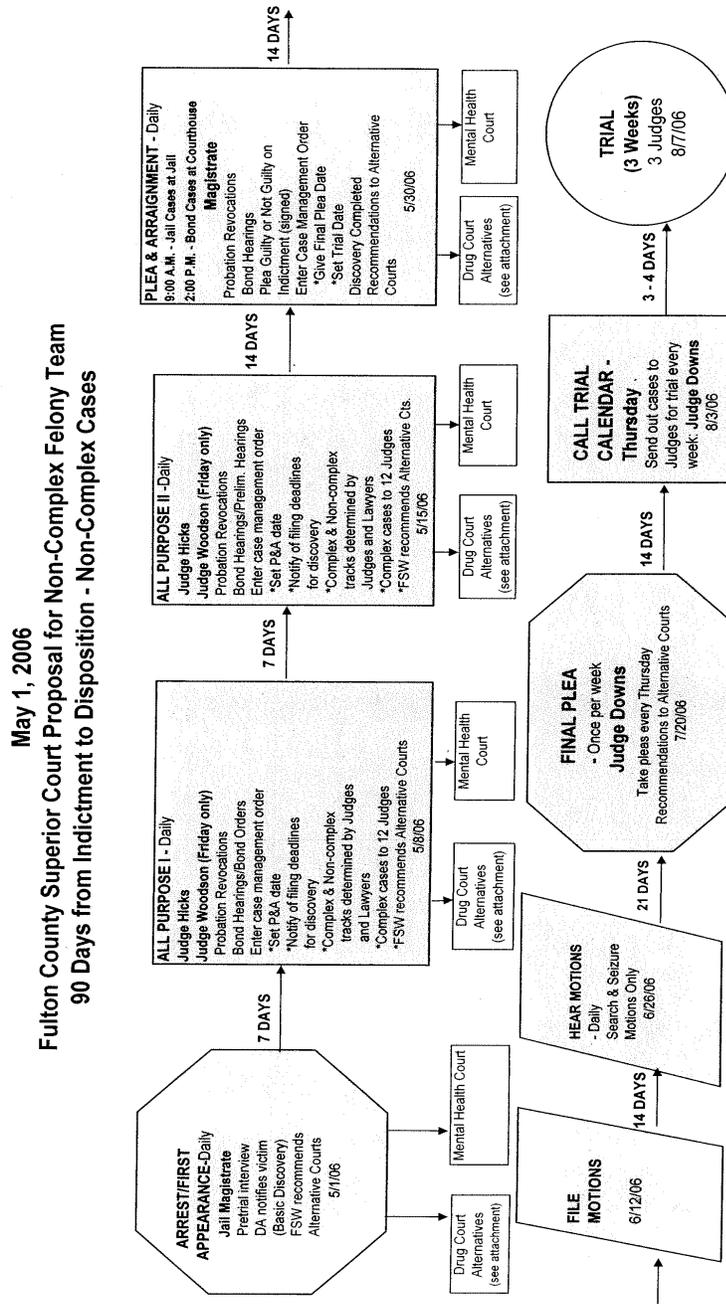
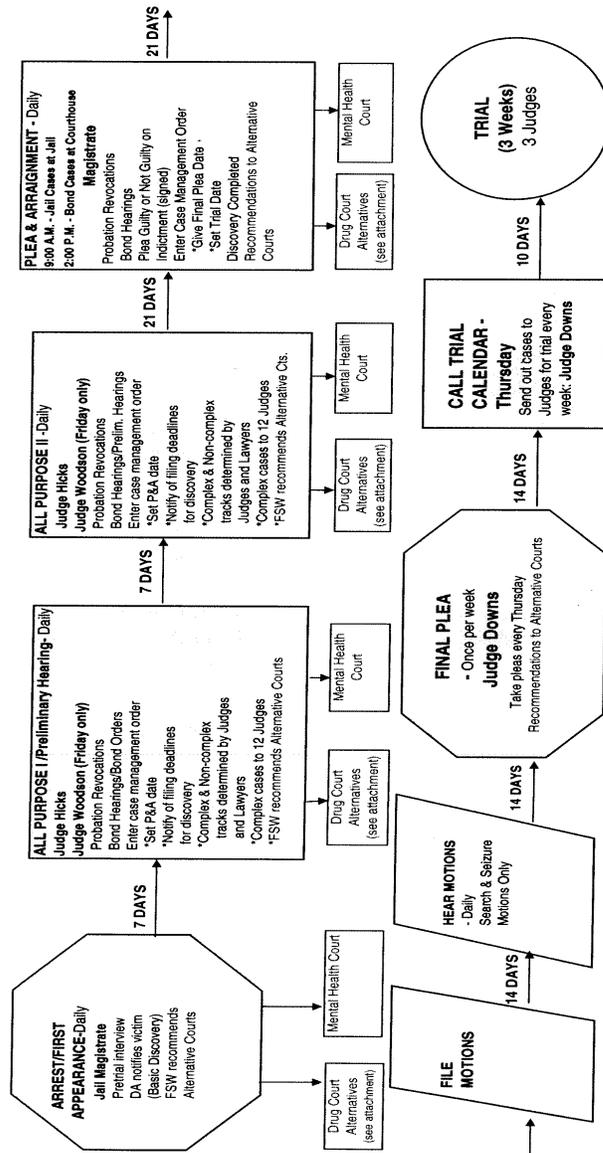


Figure 1. shows the initial flowchart the Division began with in May 2006, there has since been changes to the timeline and the number of days between events, and before trial. The changes are detailed below in Figure 2. that was effective August 18, 2006.

Figure 2. Non-Complex Case Flow Process as of August 18, 2006

**August 18, 2006
Fulton County Superior Court Proposal for Non-Complex Felony Team
90 Days from Indictment to Disposition - Non-Complex Cases**



The changes have been made to deal with reporting issues, for example we found that the state crime lab took longer to provide drug analysis reports to the District Attorney's Office so the time between the Call of the Trial Calendar and the actual Trial was increased from three-four days to ten days. This chart outlines each stop a case will make on its way to disposition. Before the creation of the Non-Complex Division all case were seen at a First Appearance

Calendar within 72 hours of arrest. The next step along the way was an All Purpose Calendar (AP) conducted by a magistrate judge. At the AP Calendar the magistrate would address bond, and any probation revocations. The District Attorneys office could formally charge at this point. Cases that were formally charge were set to Plea and Arraignment Calendar of the judge assigned to the case. Cases that were not charged were set to a second AP hearing or Preliminary Hearing. Once cases were assigned to individual judges it was up to the judge to manage the case in their individual calendar.

The Non-Complex Divisions shifts from an individual calendar to a master calendar with time certain dates. As indicated above, there are now three judges of the fifteen generalist judges assigned to the division to deal with the trials that will result from the non-complex cases. The three judges assigned to the Non-Complex Division were assigned after discussion amongst the bench and consent of each of the judges assigned. Magistrates will continue to handle the AP and Preliminary Hearings and magistrates will also conduct the Plea and Arraignment hearing for all cases deemed non-complex. Six magistrate judges are used in the implementation of the Non-Complex Division.

The initial planning for the Non-Complex division began in late 2004 when the court's grown backlog was realized. A collaborative effort was made by the chief judge of the Superior Court to include all agencies within the justice system in the planning phase of the Non-Complex Division. Not all agencies in the justice had a desire to participate in the initial planning phases. The District Attorney's Office did not include representatives until they could see that it was inevitable that the court was going to move to this Division. Since the implementing the Division the District Attorney's Office has played a major role in the continued planning. The

District Attorneys have attended all planning meetings and are eager to make recommendations for the improvement of the Division.

The Public Defender's Office has been a strong participant since the early planning meetings in 2004. Representatives from the Public Defender's Office have been very outspoken regarding the policies and procedures, and the time line for events within the system. There is a strong desire for the division to work among the representatives from the Public Defender's Office. The cases labeled as non-complex have typically been lost in the system when assigned to generalist judges. The quicker the court can move these simple felony cases the better the Public Defender is able to serve their clients.

When the Division was begun the three generalist judges that were working in the Division were removed from the case assignment wheel. These three judges did not receive civil or complex criminal cases as of May 1, 2006. The three judges assigned to the Division were to deal with their existing backlog and would be assigned non-complex cases when they were ready for trial. However, it was anticipated that there would only be a limited number of cases that actually went to trial. The initial projection was that two out of every 100 non-complex cases or 5% of the total non-complex caseload would actually result in a trial. The 2% total trials were determined by observation over time. The total number of trials was never fully researched.

As stated above the goal of this paper to review the current Non-Complex Division and make recommendations for the improvement of the division or to make the recommendation to discontinue the Division and go back to the old individual calendar. The research will evaluate the resources that are involved in the division to see if they can be better utilized and what resources are needed for the Non-Complex Division to operate smoothly.

In the next section of this report the case management literature is selectively reviewed to see how the Fulton County case management plan compares to the other courts. The Non-Complex Division has been operational for approximately six months. Changes can be made and should be expected to deal with the growing pains and a newly formed program.

The caseload data of the non-complex cases will be closely examined. This examination will show where we were when we started and where we are as of the end of November 2006. The research acknowledges that the data is not static and that the information that we will be capturing is only of snapshot of the current day or month. The number of pending cases is the tell-all behind the success of the Non-Complex Division. Along with criminal cases the civil caseload will be examined since the implementation of the Non-Complex Division to see what impact this program has had on our civil caseload. The Court desires to see its total pending caseload for all case types drop. If the civil cases are increasing we have simply just shifted our resources and are not effectively dealing with the total caseload. The Court does not want one category of case to drop while another increases.

Finally recommendations on the continuity of the division in Fulton County Superior Court will be assessed through the research and data collected. The strengths and weaknesses of the divisions will be determined and plans will be made to incorporate all the strengths into a plan that will move the overall caseload with the desired time standards that have been suggested and agreed upon by all stakeholders in the Fulton County Criminal Justice System.

Literature Review

Case management is one of the most important aspects of the effective administration of a court. The literature surrounding case management is plentiful and there are many theories on how to implement best practices in case management. For the purpose of this research leadership, time standards, and dispositions ratios will be measured and studied, along with a review of differentiated case management (DCM)

Fulton County Superior Court has long struggled with the issue of case management some questions that have been posed include; management. How do we organize the bench to best structure case management practices? Who takes the lead in implementing case management practices? What time standards do we use to monitor cases as they move through the system? How do we count cases?

A study was done by the Judicial Management Institute (JMI) in January of 2000. There report and recommendations focused on the questions asked above. The question of leadership was answered by:

Leadership support is strong for improved caseflow operations. The current chief judge and immediate past chief judge has both led the court's efforts to reduce delays and improve case flow management. Other in key positions - including other judges, the Court administrator, the District Attorney, the Public Defender, the Clerk and representative of the organized bar – have also expressed their support for such improvement. Leaders in every component of the justice system have been frustrated by the slowness of the existing system especially in the area of criminal case processing. The challenge will be for the persons in leadership position to work together cooperatively and collaborate, especially when changes in one area may have significant impact on operations in another area³.

In the book, Caseflow Management in the Trial Court, by Maureen Solomon and Douglas K. Somerlot they answer the question of leadership by stating:

³ Barry Mahoney , Improving Caseflow Management in the Fulton County Superior Court, Report and Recommendations, The Justice Management Institute, Denver CO, 2000

Both the chief judge and the court administrator have critical roles in the caseload management process, but neither can perform effectively without the other. A partnership is necessary to shape and guide the caseload management system.

Leadership by a key judge or judges needed to initiate changes or improvement; commitment to the concepts by a majority of the judges and staff is necessary to sustain them⁴.

A strong chief judge with an ability to move the court in the direction of case management is clearly needed. All of the literature suggests that collaborative effort of a strong chief judge, supportive bench and an effective Court Administrator. The commitment to leadership is addressed the article Caseflow Management Fundamental Elements, stating:

The judges of the court particularly the chief or presiding judge set the tone for the organization. If the judges are not committed to the philosophy of court responsibility for case progress, then little will be gained by devising systems for establishing deadlines and tracking cases⁵.

Leaders in the area of case management have determined as the research and literature above suggests that the chief judge is the critical factor to an effective case management system. The National Center for State Courts published a manual titled; Caseflow Management, the Heart of Court Management in the New Millennium, written by David Steelman, with John A. Goerdt and James E. McMillian. In the section “Leadership by chief or presiding judge” it sums up the leadership role by stating:

In their study of caseload management and delay reduction in urban trial courts, Barry Mahoney and his colleagues found that the leadership ability of the chief judge was often a critical factor in a court’s ability to reduce or minimize delay⁶.

Once a strong leadership has been established the other two questions can easily be answered. In regard to time standards it has been determined by the American Bar Association

⁴ Solomon, Maureen and Douglas K. Somerlot, Caseflow Management in the Trial Courts, Chicago, IL, American Bar Association, 1998.

⁵ ABA, Case flow Management, Fundamental Elements, Chicago, IL, 1999.

⁶ Steelman, David C, Goerdt, and McMillian, et al., Caseflow Management, The Heart of Court Management in the New Millennium, Williamsburg, VA, National Center for State Courts, 2000.

(ABA) that all felony cases should be disposed of within 365 days or one year from filing. The ABA goes on to state that 90% of all felony cases should be disposed of within 120 days and 98% should be disposed of with 180 days⁷. (ABA Standards Related to Trial Courts, 1992) Courts may choose to manage their cases more expeditiously. Tighter time standards may be adopted by a court or the use Differentiated Case Management which attempts to segregate cases in to types. The Fulton County Superior Court has chosen this method. We have taken non-complex felony cases, cases that are non-violent and victimless and processing them on a faster track. Courts should have a plan to track the time it takes:

Courts should have time standards for ht progress of each major type of case through each of its key intermediate stages, from filing through disposition and the completion of all post disposition court work. Elapsed time between key events in cases is what judges and court managers customarily see and count from day to day. How long ago was the last court event in the case? Has today's scheduled event been continued from a previous date? When is the next court date⁸?

The use of time standards is not new to the work of court administration. Time standards date back to the origins of the field. William O'Neal in his article that appeared in the Justice System Journal in the winter of 1979 titled "How to Force Faster Litigation" Talks about the first court to implement a delay reduction program using time standards states:

Ohio was the first state to undertake a comprehensive delay reduction program, as part of which it adopted overall time standards for civil and criminal cases. In 1971, its Rules of Superintendence for courts of common pleas prescribed mandatory time limits from arraignment to trial in felony cases, and from filing to completion in personal injury and other civil case. State legislation in 1973 established speedy trial rules fro criminal cases, and in 1975, the Supreme Court promulgated Rules of Superintendence with them standards for municipal and county courts⁹.

⁷ See note 1, supra.

⁸ William O'Neil, How to Force Faster Litigation, Justice System Journal, Winter 1979

⁹ Ibid

Courts that are successful in case management make use of strict case management orders that set dates certain, when the defendant is to return for pre-trial appearances and when the trial will be conducted. When a defendant and his/her attorney are given a case management order with all the return dates listed and the date of trial, the appearance rate increases and cases are disposed of faster.

Courts should work to eliminate any elapsed time that is not necessary. The case management system must be streamlined to provide the maximum amount of efficiency. The ABA standards are very clear related to time standards, stating:

From the commencement of litigation to its resolution, any elapsed time other than reasonably required for pleadings, discovery and court events, is unacceptable and should be eliminated.

To enable just and efficient resolution of cases, the court not the lawyers or litigants, should control the pace of litigation.

A strong judicial commitment essential to reducing delay and, once achieved, maintain a current docket¹⁰.

The literature suggests that a strong judicial commitment will influence strict time standards will be followed. The strict adherence to case management orders will result in more cases being disposed of earlier in the adjudication process.

Courts must know and understand their disposition rates. If a court administrator can interpreter, and report the court's disposition rate to the chief judge and the Bench we are on the road to a good case management system. In the article that appeared in the FCCA Journal during the summer of 1993 titled "Developing Useful Information to Support the Caseflow Management System", written by Maureen Solomon and Holly Bakke it explains:

A court must be able to track the progress of each case. In particular, it must be able to readily determine the status of each pending case. Monitor compliance

¹⁰ American Bar Association. Standards Relating to Trial Courts. Chicago, IL, American Bar Association, 1992

with event deadlines, detect cases in which delay is accumulating, and identify cases that do not have future dates set and case that are in danger of exceeding established dispositions deadlines¹¹.

Cases should be tracked and counted when filing has occurred. The disposition of a case should be counted when the defendant has been found guilty at trial or the defendant has taken a plea in a pre-trial proceeding. Courts should determine when all work is done. “A final element of management after initial disposition involved determination of the point at which all court work is done in a case”¹². There is work that may need to be conducted after the defendant has taken a plea. This may include sentencing information that must be reported to the state or other such matters.

Solomon and Somerlot’s book explains that “the process of disposing of the pending caseload the court will have an opportunity to affect attorneys’ expectations about the new caseflow management system”¹³.

A court must understand the clearance ratio. What is coming in and what is going out.

Steelman explains:

It is very important to know how well a court is “keeping up “with the incoming caseload. The best quick measure is the clearance ratio, which is the total number of cases (of a given type) disposed during the year (or quarter), divided by the total number of cases of the given type that were filed during a period. For example is a court had 1,000 civil cases filed in the past calendar year and disposed of 900 during the same period, the clearance ration equals .90. This means that the court “cleared” or disposed of 9 cases for every 10 that were filed during the year. Ideally, a court should generate a clearance ratio of 1.0 or higher each year. If a court’s clearances ration is continually less than 1.0 over and extended period, the court will develop a larger number of pending cases. As we have discussed this is way too simple¹⁴.

¹¹ Bakke, Holly and Solomon, Maureen, Developing Useful Information to Support the Caseflow Management System, FCCA Journal, Summer 1993.

¹² See note 6 supra, pg 19

¹³ See note 4 supra, pg 50

¹⁴ See note 6 supra, pg 79

From the literature that has been reviewed we can see that for an effective case management system a court must have a strong chief judge, be able to set and maintain time standards that set the pace at which cases will move through the court's case management system, and we must be able to determine the courts' disposition ratio and ensure that it does not drop below 1.0 for an extended period of time.

The area of differentiated case management (DCM) has been studied at great length. In the Bureau of Justice Assistance study, titled Differentiated Case Management, an Implementation Manual, the process of DCM is explained;

The DCM premise is simple: Because cases differ substantially in the time required to for a fair and timely disposition, not all cases make the same demands upon judicial resources. Thus, they need not be subject to the same processing requirements.¹⁵

When implementing a DCM program it is important that standards are set and cases are divided in to appropriate case management tracks. Steelman, along with Goerdts and McMillian explain that courts without a DCM plan “typically give attention to cases in the order they were filed”¹⁶.

Steelman goes on to state:

In its simplest terms, a DCM plan might put cases into three categories:

Cases that proceed quickly with only a modest need for court oversight

Cases that have contested issues calling for conferences with a judge or court hearings but otherwise do not present great difficulties

Cases that call for ongoing and extensive involvement of a judge, whether because of the size and complexity of the estate involved, the number of attorney and other participants involved, or the difficulty or novelty of the legal issues.¹⁷

¹⁵ Bureau of Justice Assistance, Differentiated Case Management, Implementation Manual, Washington, DC: U.S. Department of Justice, June 1993

¹⁶ See note 6 supra, page 4

¹⁷ Ibid, pg 4

Fulton County Superior Court has chosen to implement a form of DCM. Criminal Cases are being divided into two separate and distinct categories complex and non-complex. The Superior Court is trying to simplify its process further than that suggested by Steelman.

Fulton County Superior Court has considered all of this information in the implementation of the Non-Complex Division. A strong chief judge is in place that has developed a spirit of collaboration with other individuals in the criminal justice system and has a stake in the timely adjudication of cases. We have implemented a strict case management order that processes non-violent and victimless crimes through the adjudication process in 90 days. We are working to better determine our clearance and disposition ratios. We all agree that a case is disposed of when the defendant is found guilty or submits a plea at a pre-trial proceeding. Cases are being separated into case types or categories in a very simple form of differentiated case management.

Through a review of the methodology and the data that is collected we will be able to determine if the plan that has been put into place follows the research on the area of case management. The data will help determine if the very simple form of DCM is effective or if the court should use more than two case type categories.

Methodology:

Types of data collection:

To evaluate the effectiveness of the newly created Non-Complex Division caseload, filings and dispositions were studied. The information to determine the caseload filing and dispositions was gathered from the courts' monthly caseload reports that are distributed to the Bench once a month. The reports that are distributed are two months behind so we were constantly working with old(er) data, for example the final numbers for October were not published until December 2006. The monthly caseload reports provided a good basis to evaluate the division, however the information had to be entered into a separate excel database. It was necessary to enter the caseload information into a separate database so the information could be sorted by case type. Once the information was entered into a separate excel database the filings and dispositions were able to be tracked over time.

From the information that was entered into the statistical database evaluations could be conducted on pending caseload for various types of cases, filings trends could be identified by graphing filings for each month that was captured in the database, and dispositions could be watched for each month the data was collected. As mentioned above the data was primarily taken from the monthly case management reports that are distributed to the judges once a month. The information for case filings and dispositions was combined from the monthly case management reports to obtain the clearance rates.

Clearance rate measures whether the court is keeping up with its incoming caseload. If cases are not disposed of in a timely manner a backlog of cases awaiting disposition will grow... Courts should aspire to clear at least as many cases as have been filed, reopened, reactivated in a period by having a clearance rate of 100% or higher. The clearance ration is determined be the following formula: $\text{Case Disposed in a Defined Amount of Time} / \text{Cases Filed in a Defined Amount of Time}$.

The National Center for State Courts addresses this issue and explains in the CourTools Trial Court performance Measures, Measure 2 Clearance rates¹⁸.

Below I will explain how each set of data was collected and evaluated. The findings of each data set will be shown in the “Findings” section of this research.

Manual Data Collection:

Along with the data that was gathered from the monthly case management reports there was a great deal of data that needed to be manually counted. The process of manually counting cases was begun early on in the research and consisted of tracking where dispositions were taking place during the non-complex process. These first reports from this manual count of dispositions are included as Appendix B titled “Non-Complex Trial Division Disposition Rate and Time line”. The amount of time that was required to sort through the dispositions to determine where the cases fell out of the case management track proved to be very time consuming. For the purposes of this report the data was largely disregarded because of time constraints involved in the research. Future research and case management plans should include this important information.

Pending Target Dispositions:

The manual review of the courts oldest cases was needed to determine the pending target dispositions. This is the amount that the court needs to close out to remain current and not create a backlog. This disposition rate was determined by the taking the information from the court caseload. The data of the court’s oldest caseload was applied to the Superior Courts caseload and run through a formula that was set according to time standards in the court. The time standards for Fulton County were based on the standards adopted by the American Bar

¹⁸ National Center for State Courts, Courtools, Trial Court Performance Measures, Measure 2, Clearance Rates, National Center for State Courts, 2005

Association (ABA) as described earlier in this report. The formula was obtained through consultation and personal interviews with Geoff Gallas of the National Center for State Courts¹⁹.

Method of Each set of Data Collected:

Caseload trends 2001 – 2005:

To determine the caseload trends the research focused on the pending criminal caseload from the year 2001 to 2005. The data for each calendar year was easily obtained by gathering the pending caseload from the courts' December monthly report for each year. Once the data was obtained from the report the criminal pending caseload was for the end of each year was entered in to a excel database that would allow the researcher to provide a graphical representation of the growth of the pending criminal caseload over time.

Pending Caseload Trends January – June 2006:

The data that was entered in the excel database allowed the researcher to identify percentage increases or decreases in the pending criminal caseload. From the increases or decreases that would be discovered caseload trends could be analyzed. Caseload trends were further analyzed by examining the pending caseload for the months of January through June 2006. The data for this was again entered into a excel database from the Courts' monthly case management reports.

Clearance Rates:

The data on clearance ratios was needed to see where the rate at which the court was building or reducing its pending caseload. Clearance rates were determined for January through November 2006. The formula for determining the clearance ratio was taken from the CourTools

¹⁹Personal interview with Geoff Gallas, National Center for State Courts, Williamsburg, VA; March 7, 2007.

developed by the National Center for State Courts²⁰. The number of filings was divided by dispositions; the sum of that formula was then evaluated to see at what rate the court was disposing of cases.

Civil Filings and Dispositions January – November 2006:

In studying the effects of the Non-Complex Division it was important to evaluate the entire caseload. To study the entire caseload it was important to see the impact of the new criminal division on the civil caseload. The civil caseload was evaluated in two different terms. The first evaluation was January through November 2006. Second May through November 2006. The information to evaluate the civil caseload was obtained from the monthly case management reports. The Fulton County Superior Court manages the civil caseload in a separate case management system from the criminal caseload. The information that was taken from the caseload was. From the civil database that was created, filings and disposition trends, along with civil clearance ratios could be calculated.

Civil Pending Cases January – November 2006:

The civil pending caseload was evaluated just as the criminal pending caseload was evaluated to see the effects the newly created division had on the growth or reduction of these case types. The civil pending caseload was entered from the monthly case management reports and charted by month from January through November 2006. From the information that was obtained from the case management reports the increase or decrease in pending civil caseload could be easily identified in a graphical format.

²⁰ National Center for State Courts, Courtools, Trial Court Performance Measures, Measure 2, Clearance Rates, National Center for State Courts, 2005

Criminal Filings and Dispositions:

The evaluation of criminal filings and dispositions was done in two different snapshots for the January through November 2006. Pre Non-Complex Division and post Non-Complex Division. The number of filings and dispositions were tracked from data collected from the monthly case management reports and entered into a database that would allow the data to be graphically represented by month. This data would allow for the research to make forecasts regarding the future of these case types.

Criminal Pending Caseload:

The criminal pending caseload is also broken into two different snapshots. Pre Non-Complex Division and post Non-Complex Division. The pending criminal caseload for all case types was gathered from the monthly case management reports and entered into our excel data for the ease of graphical representation of the data. From the data that was entered regarding all pending criminal cases from January through April 2006 we could evaluate trends in the caseload. Acknowledgement is made that any trends extrapolated from the January through April time frame may lack validity because of the short four month time period it is still helpful in seeing where the caseload is headed.

Complex Criminal Filings and Dispositions May – November 2006:

Complex criminal filings and dispositions for the time period of May through November was taken from the Courts' monthly case management reports and reconciled against queries that were generated by the Courts' Information Technology Department. The Non-Complex and Complex cases were separated as of May 2006 so there needed to be a manual accounting of cases that fit into the complex case type category.

Complex Criminal Caseload May – November 2006:

To complete the research as to the effectiveness of the Non-Complex division it was important to see what the complex criminal pending caseload was doing immediately after the implementation of the new division. The information contained in the Courts' monthly case management reports was analyzed by month to determine the number of pending cases. The data had to be taken from the existing reports and entered into an excel database that would allow for the presentation of graphs that would outline the increase or decrease in the complex criminal caseload.

Non-Complex Filings and Dispositions May – November:

To see if the Non-Complex was having an effect on the overall caseload the data had to be gathered on the filing and disposition rates of cases entering the division. This process had to be done manually by counting the cases that were filed in and deemed non-complex by the attorneys working in the charging courts. The manual count of cases assigned to the non-complex division was entered into an excel data base so the number of filings could be manipulated and presented in a graphical format. The same is true with the number of dispositions. The number of dispositions was obtained by running a query of the Courts' case management system of cases that disposed of and were assigned to a non-complex judge. This process involved a lot of manual counting on the part of court staff. The dispositions were entered into an excel database so that the information could be compared to filings and placed on a graph. The graph would show quickly if there was a gap of greater filings than dispositions creating a backlog of non-complex cases.

Non-Complex Criminal Pending May – November 2006:

From the data that was collected in the filings and dispositions researchers were able to determine the increase or decrease in the pending non-complex caseload. This was determined by subtracting the filings from dispositions to determine the pending caseload for the month. The pending caseload for the month was carried forward to the next month and added to the number of filings, and then subtracting the dispositions. If dispositions are greater than filings the court would see a decrease in the pending caseload overtime. If filings are greater than dispositions the court would see a steady increase from month to month. The information that was obtained by applying the above formula was charted in an excel spreadsheet, so the data could be displayed in the research.

Total Criminal Pending Caseload January – November 2006:

To obtain the number of total pending criminal cases the total criminal caseload for January through April was entered in to our research database. January through April was prior to the implementation of the Non-Complex Division. For the months of May through November the pending non-complex cases were added to the pending complex cases. The sum of the two case types was entered in to our research database so that the increase or decrease of the total criminal pending caseload could be charted for the first 11 months of the 2006. Reference needed to be made to May which was the start of the Non-Complex Division.

Manual Records Review:

A manual review of the point at which cases fell out of the non-complex was begun. This entailed hand counting the dispositions and looking to see where the case fell out and plotting it in our research database. This process was time consuming and researches could not keep up with the number of cases that were coming into the system. It was determined that the number

of dispositions only would be charted and entered in to the research data base so the number of filings could be compared to dispositions.

Pending Target Determination:

In the evaluation of the data it was necessary to determine the pending target determination this is determined by a formula that measures actual pending cases to the time standards that the court is using. In an interview with Mr. Geoff Gallas of the National Center for State Courts he explains the formula for pending target determination as follows:

The formula for producing the target pending cases when the time standard involves the 98% case is $.25 \times \text{filings}$ for every six months of the time standard. So for criminal assuming that the time standard is 98% in six months is filing X $.25 =$ pending target determination.²¹

This formula was used with our pending criminal caseload to determine the number of case that would need to be disposed per year in order to reduce the criminal pending backlog.

Threat to Validity and Reliability:

The data that is evaluated is not static; the data is a moving target that is constantly changing month to month. The information that is collected using the above methods only captures a snapshot of what is taking place at a particular time. Caseloads will continue to increase or decrease; research must continually monitor the filings, dispositions and pending caseload to better understand the effects of the non-complex division.

The reliability of the data may be called into question because we are only monitoring the data over a short period of time; we can compare the data pre Non-Complex Division and post Non-Complex Division. We cannot compare the data to past years prior to 2006 because the same case management plans were not in place.

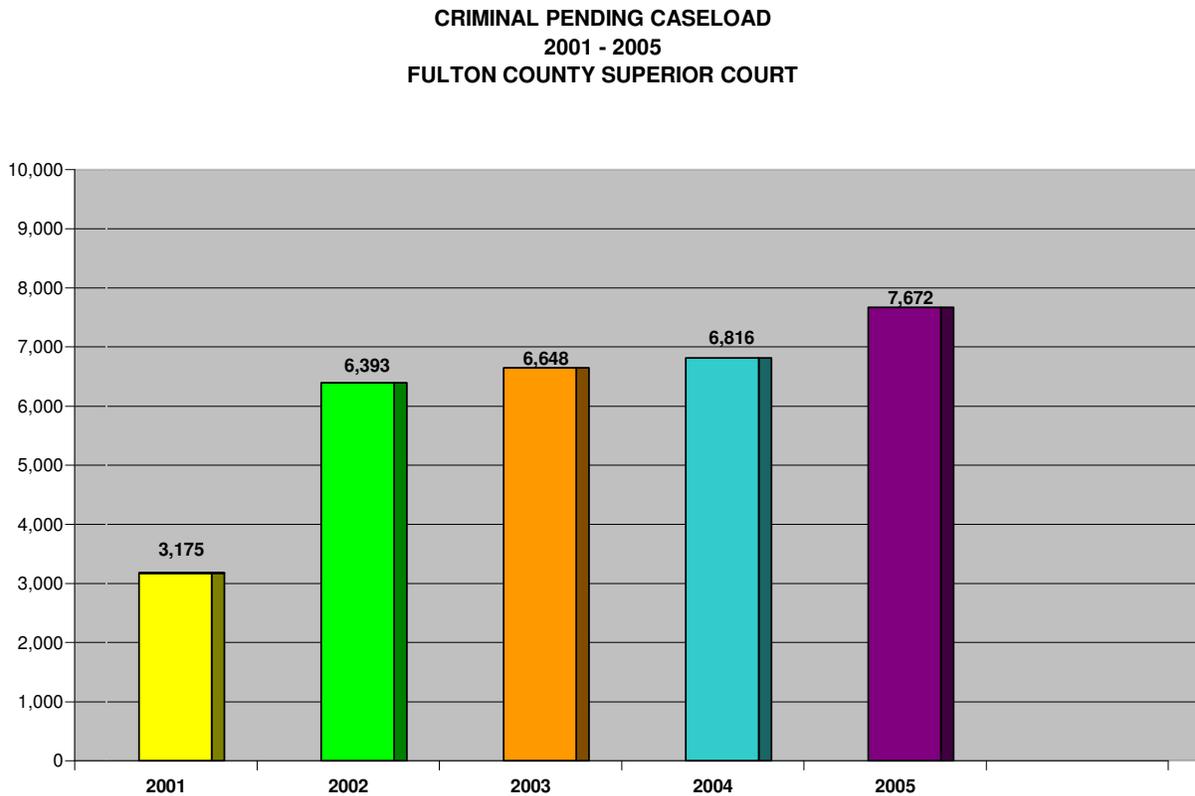
²¹ Personal interview with Geoff Gallas, National Center for State Courts, Williamsburg, VA; March 7, 2007

Findings:

Caseload Trends:

In researching the caseload data for the Superior Court a dramatic increase has occurred from 2001 through 2005. The pending caseload has grown from 3,174 in 2001 to 7,672 in 2005. This increase is more than double the pending caseload in four years. The graph below shows the increase in pending caseload.

Graph 1.



In the years 2002 through 2004 the caseload remained fairly stable with only a six percent increase in pending caseload. This increase can be explained by a growing population. The increase from 2001 through 2004 is a 115% increase. This significant increase in pending caseload cannot easily be explained. In order to understand the increase the court must look inward at its case management practices. To see where cases are being stalled it would be

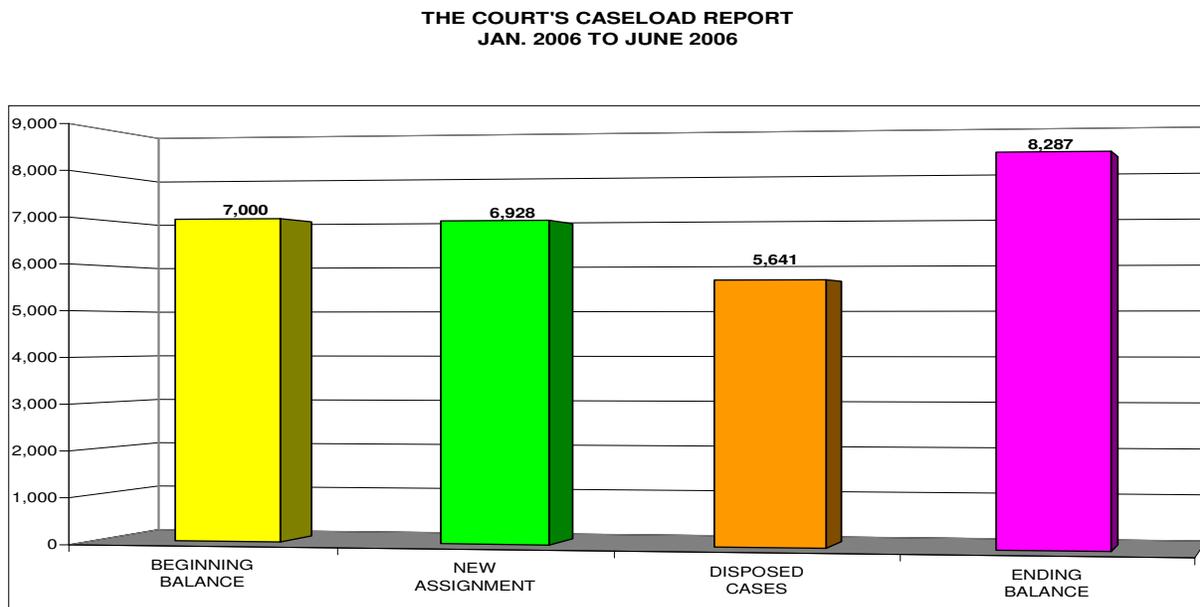
helpful to see the age of cases at disposition. In conducting the research there was no easy way to determine the age of cases at the time they were closed. Case age at disposition would be a helpful research tool for the continuation of this project.

Pending Caseload Trends:

The pending caseload from 2004 to 2005 saw a double digit increase. The pending caseload jumped from 6,816 at the end of 2004 to 7,672 at the end of 2005. The change in pending caseload represents a 13% increase. The judges and administration of the Superior Court realized the importance of examining the case management practices when the increase was realized so that the court did not see another 100% plus increase in pending cases, as seen from 2001 to 2005.

The pending caseload in 2006 still was rapidly increasing. The graph below illustrates the increase in pending caseload by show the beginning balance in January 2006, the number of cases filed from January through June, the number of cases disposed, and the ending balance.

Graph 2.



Clearance Rates:

From the above graphical representation we can determine that the case clearance ration it to low. The clearance ration for the first six months of 2006 was .81. This means that our backlog is growing at about 40% per year. As described in the Methodology section. Clearance ratio was determined using CourTools Measure 2, Clearance Rates.²² Based on this formula the Criminal clearance rate is .81 for the cases disposed of from January through June were divided by the cases filed from January through June 2006.

Clearance rate measures whether the court is keeping up with its incoming caseload. If cases are not disposed of in a timely manner a backlog of cases awaiting disposition will grow... Courts should aspire to clear at least as many cases as have been filed, reopened, or reactivated in a period by having a clearance rate of 100% or higher²³

As of June 2006 the pending caseload had increased another eight percent over the end of 2005. The need for a new case management plan was becoming more and more necessary to deal with the growing backlog of criminal felony cases.

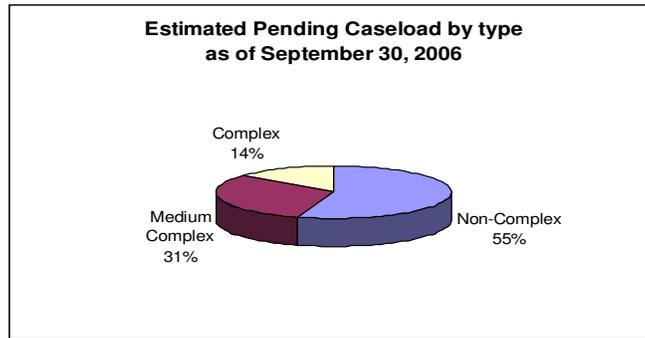
In planning meeting for the new Non-Complex Division it was determined that 75% of all the cases in the then current backlog were non-complex cases. The 75% was not determined by any scientific method or standard just an approximation by the attorneys on the planning committee who were dealing with the cases daily. A later review of the caseload determined that the non-complex cases were approximately 55% of the caseload were deemed non-complex. See the below Table:

²² National Center for State Courts, Courtools, Trial Court Performance Measures, Measure 2, Clearance Rates, National Center for State Courts, 2005

²³ Loc Cit Note: clearly even after cleaning up the list of pending cases that are actually closed but are being carried as pending the court will need to achieve a clearance rate that is much higher than 1.0.

Table 7.
 Fulton County Superior Court
 Estimated Pending Caseload
 As of October 10, 2006

Caseload	Total Pending Caseload
Non-Complex	4,237
Medium Complex	2,415
Complex	1,065
Total	7,717



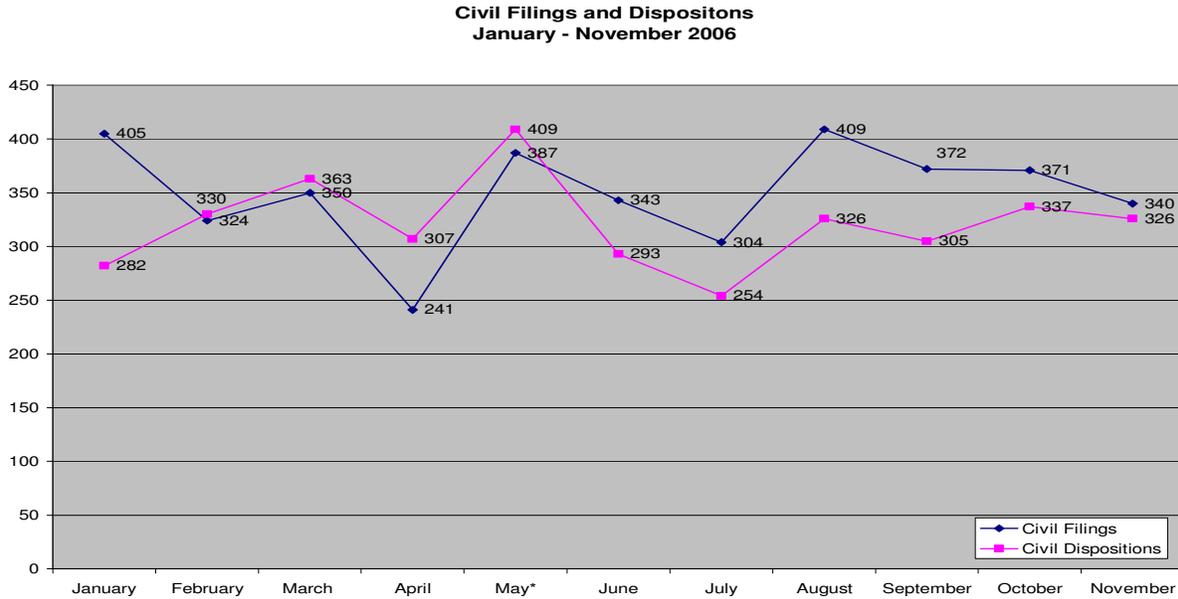
The cases types in this study were determined by Complex, Medium-Complex, and Non-Complex. The cases that were studied were being broken down into three different categories following a more traditional method of differentiated case management (DCM).

In determining the success of the Non-Complex Division the filings and dispositions were measured for each case type handled by the Superior Court. For the purpose of this paper they are described as civil cases, complex criminal, non-complex criminal and all criminal cases.

The case types above were looked at over 2006 in detail and will be shown in graphical format below. The first case type to be examined is the civil cases handled by the Superior Court. For the purpose of this research attention as focused on the affect the Non-Complex Criminal Division had on the civil caseload of the court. As explained above the three generalist judges were removed from the civil case assignment wheel. The made it so all civil cases

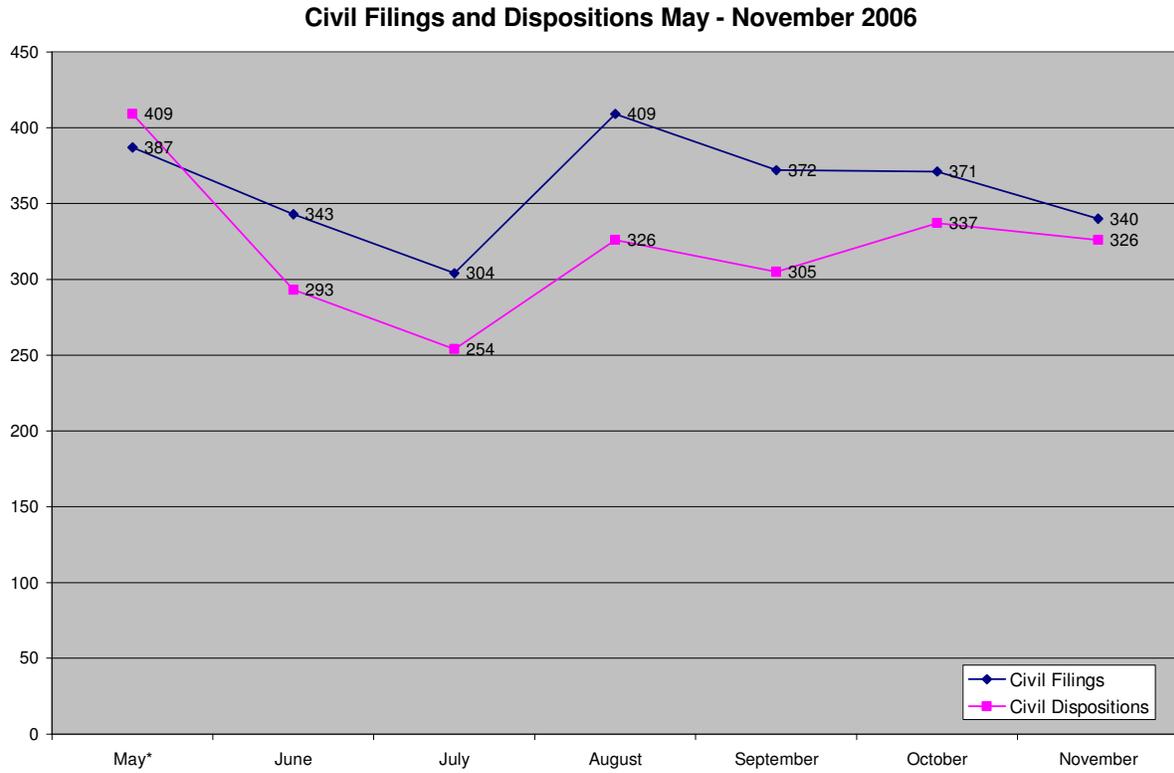
assigned was divided up between fewer judges. Any increase in civil filing would cause backlog problems in this case type area.

GRAPH 3.



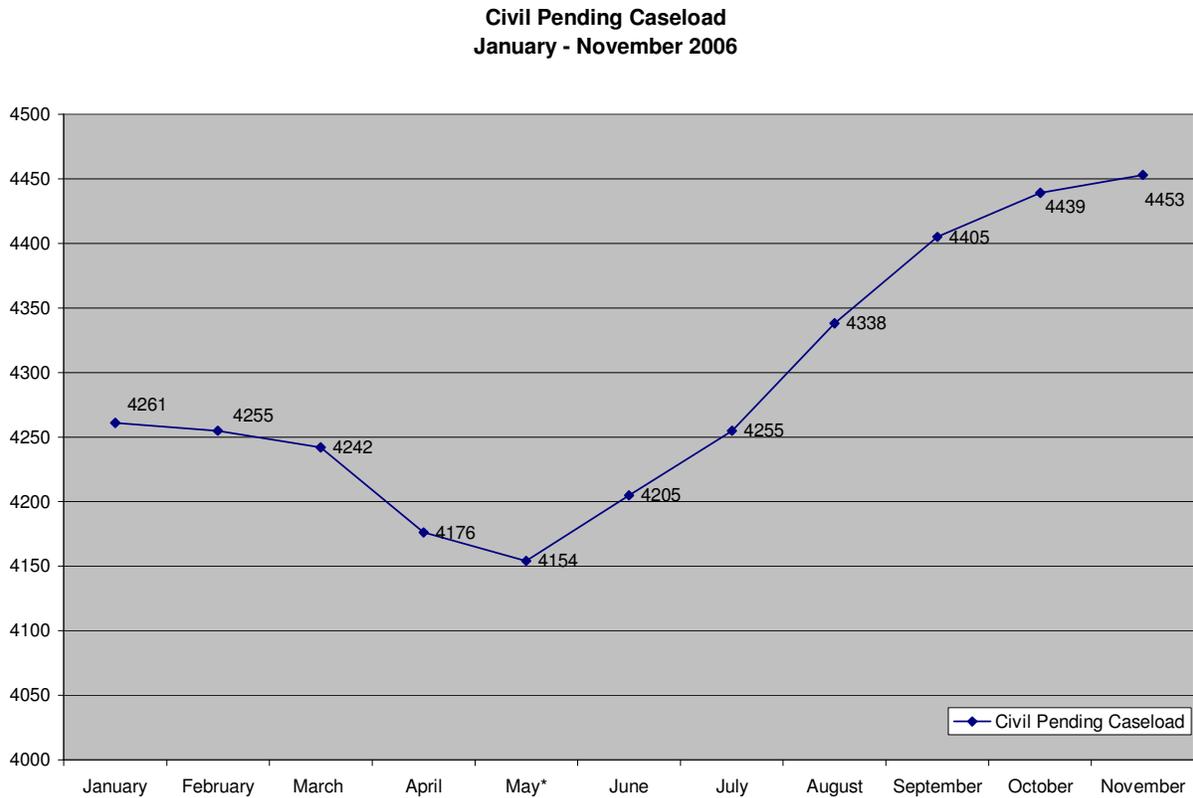
The graph above shows civil filings and civil dispositions from January 2006 through November 2006. From the lines detailing filings and dispositions we can see filings have outpaced dispositions since June 2006. This happens to be at the same time the three judges were taken off the civil assignment wheel and the Non-Complex Division was begun. The civil filings and dispositions for the first five months of the year were keeping good pace, as illustrated above. Below is a detailed look at May through November filings. We can easily see a growing backlog of civil cases since the Non-Complex Division began.

GRAPH 4.



Although the gap is narrowing from August to November filings are still outpacing dispositions. Graph 4 above clearly illustrates the crossing of filings and dispositions in May 2006. The civil information detailed in the civil caseload graphs shows that a backlog of criminal cases is building. Below, graph 5. illustrates the growing pending caseload of civil cases in the Superior Court.

GRAPH 5.

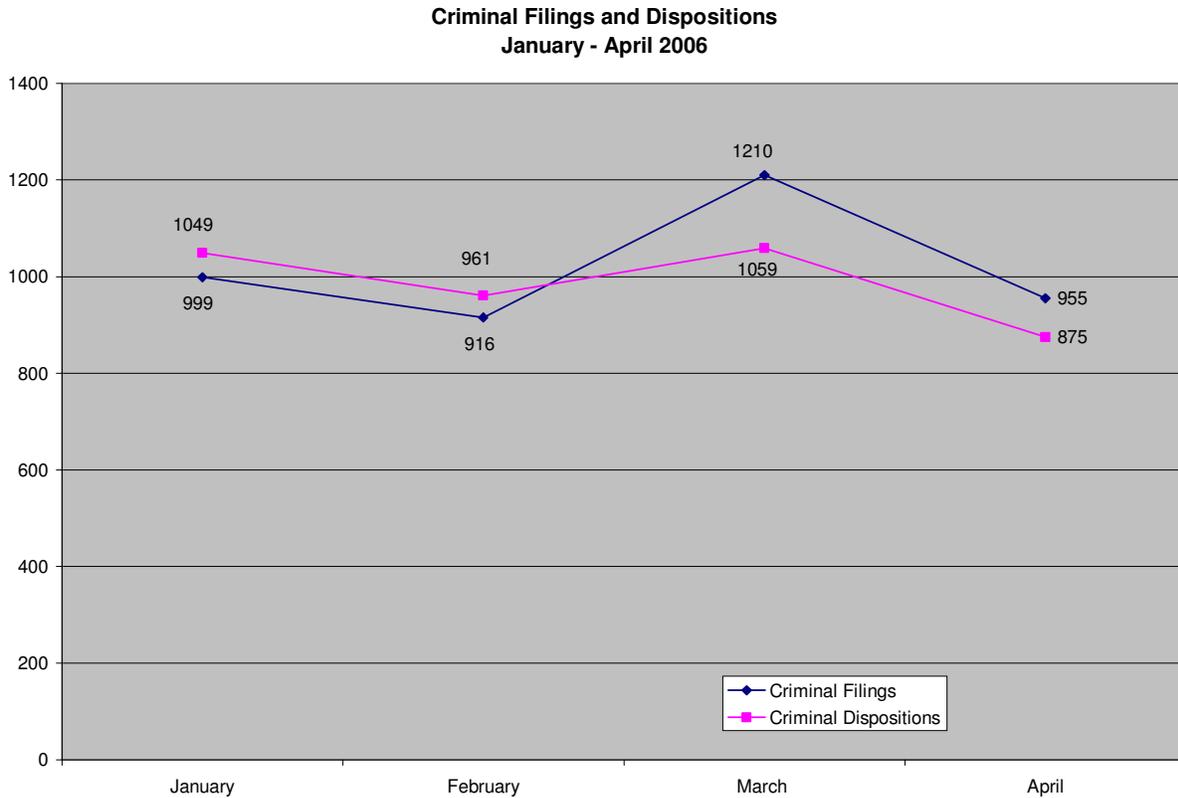


The data in the graph 5 above reflects five percent increase in the pending civil caseload since January 2006. The information also shows a seven percent increase in the civil pending cases since May 2006. It can be deferred from this data that the Non-Complex Division has had an impact on the civil caseload. A directional shift occurred in pending cases at the implementation of the Non-Complex Division.

The same data that was collected for civil cases was collected for complex criminal cases and is illustrated below. Just as with the civil cases, when the Non-Complex Division was begun three generalist judges were removed from the criminal assignment wheel. Criminal cases were

being assigned to fewer judges as of May 2006. The criminal filings and dispositions from January 2006 through May 2006 are illustrated below in graph 6.

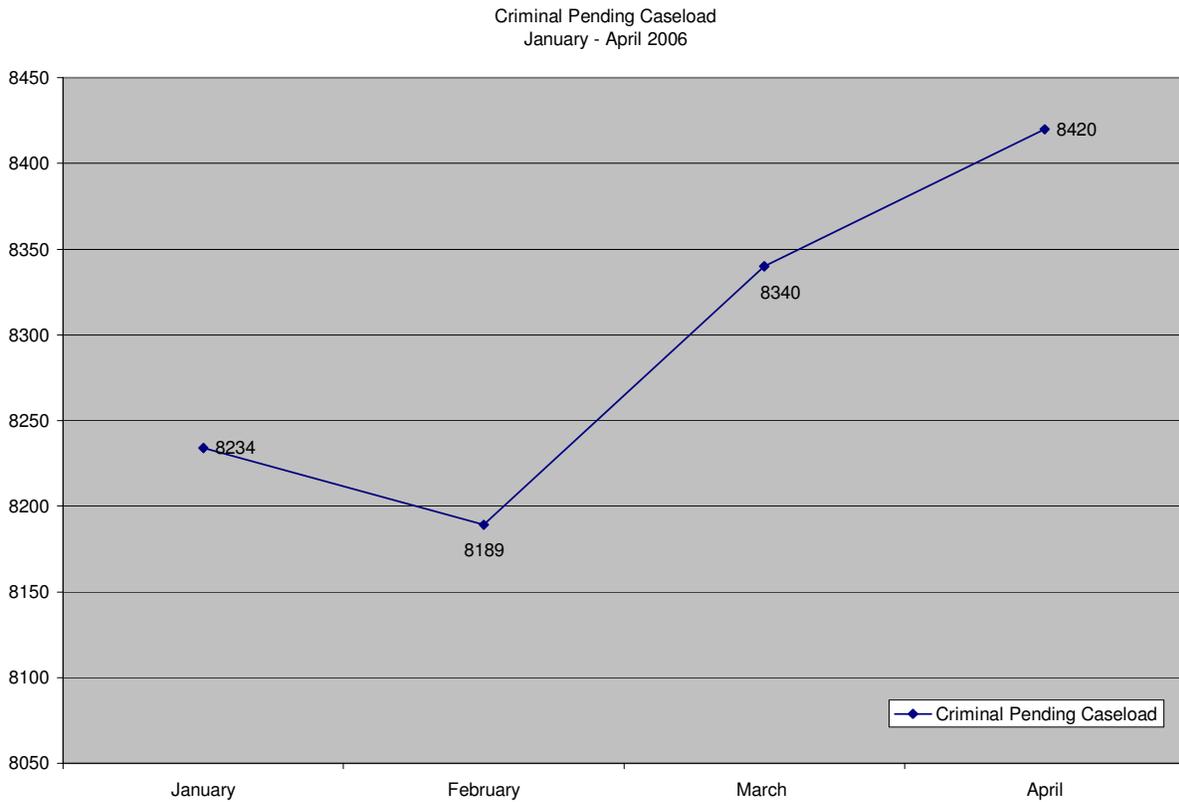
GRAPH 6.



In March and April of 2006 criminal filings were outpacing dispositions. The case clearance ratio for those two months was .87 in March and .91 in April. In January and February the case clearance ratio was greater than 1 with dispositions outpacing filings in January and February the Court was working in its backlog.

Graph 7 shows the pending criminal caseload for before the implementation of the Non-Complex division.

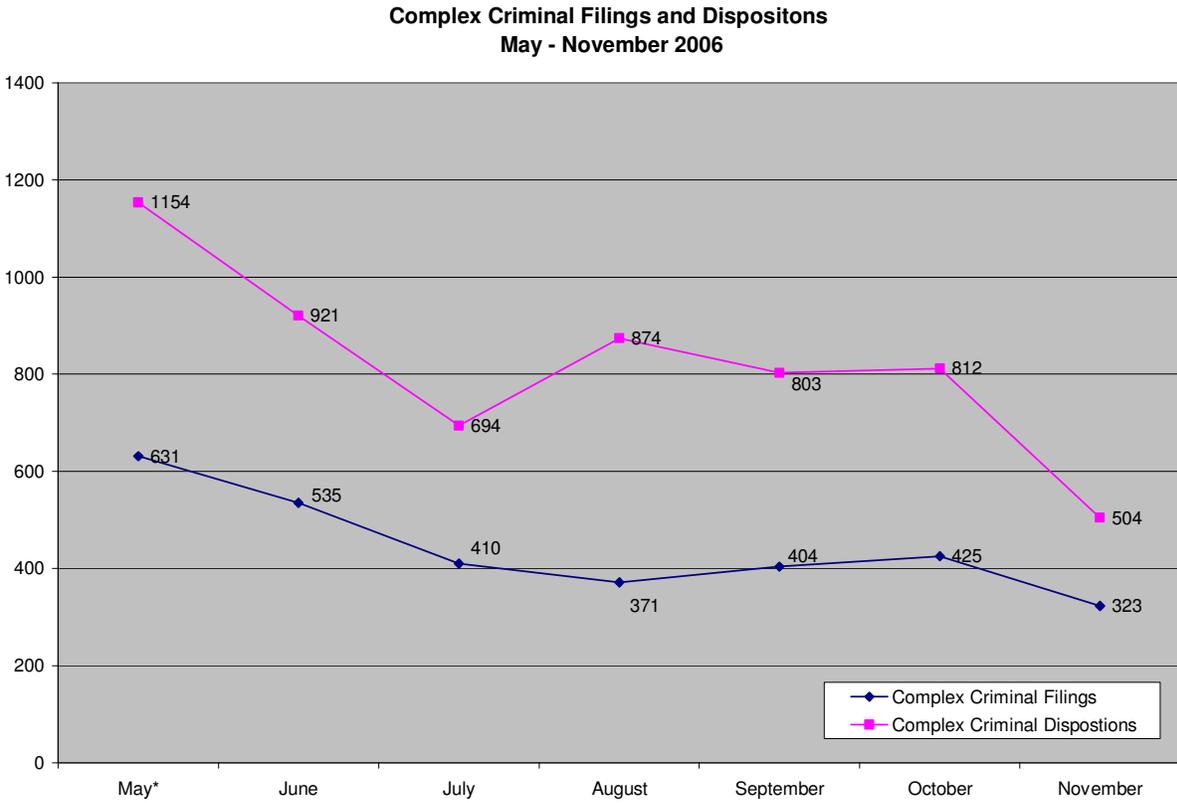
GRAPH 7.



Prior to the implementation the criminal caseload was on an upward trend. The felony criminal caseload had increased from 8,234 in January to 8,420 in April.

Beginning in May the non-complex cases were assigned to a new area. So the complex case load began to drop. With the removal of the non-complex we begin to see a clearance ratio greater than one for every month from May through November as illustrated in graph 8 below.

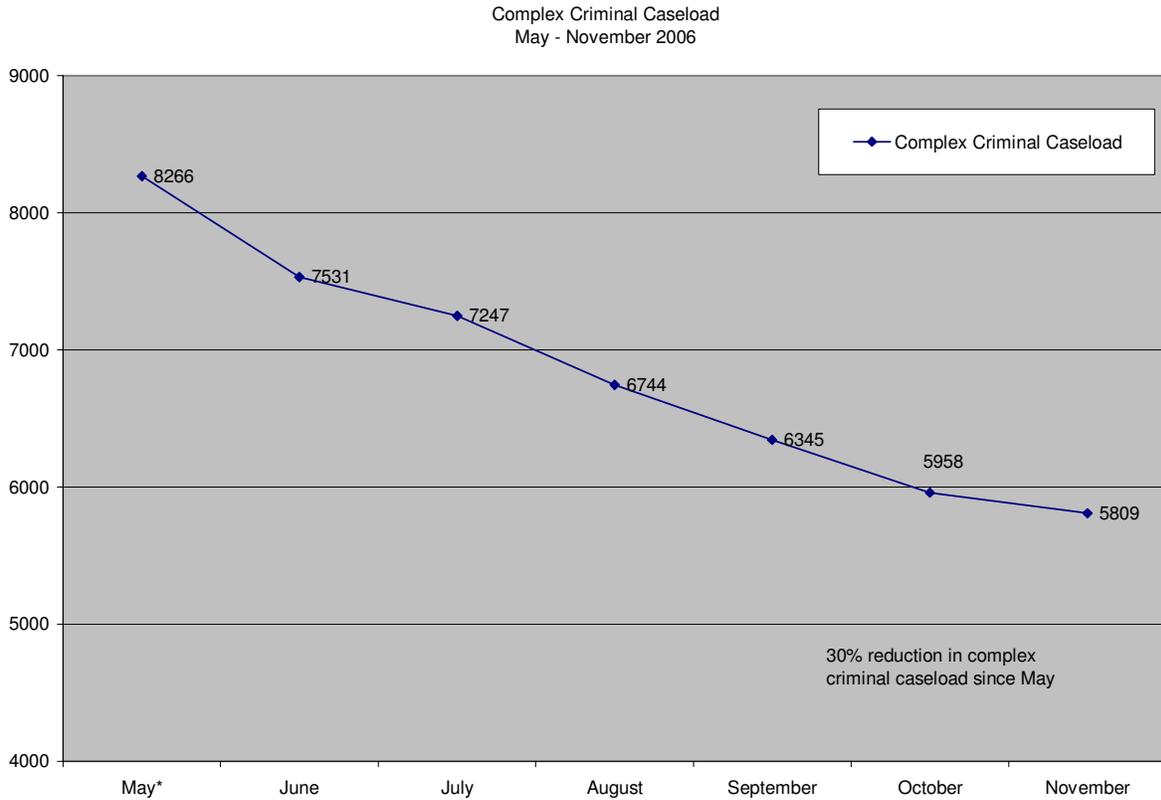
GRAPH 8.



Dispositions are outpacing filings by as much as 2:1 in August 2006. The trend of filings dispositions being greater than filings has had a positive impact on the new complex criminal caseload.

The pending complex criminal caseload from May through November 2006 is shown below in graph 9.

GRAPH 9.

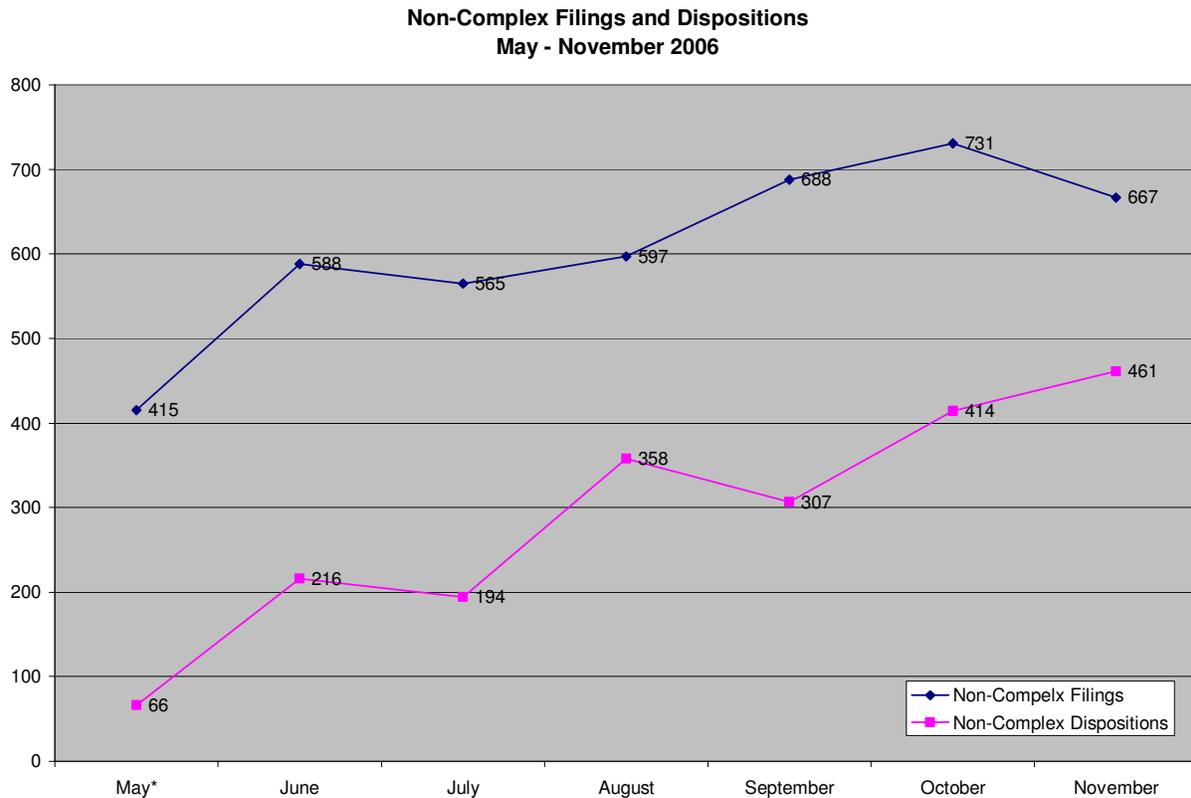


The non-complex division has impacted the criminal caseload by reducing the complex criminal caseload by approximately 30% from May 2006 through November 2006.

It is important to examine the non-complex cases and make sure that we are not just shifting the caseload to another bucket. The remaining generalist judges that are being assigned criminal cases are still disposing of the same amount of cases as in the past but they are receiving fewer cases because approximately 55% to 65% of the total caseload is being sent to the newly created Non-Complex Division.

The non-complex case filings and dispositions are shown in the graph 10. In a newly created division a backlog is expected. There will be a growth and then hopefully a plateau will be achieved followed by a downward trend as dispositions begin to catch up with filings.

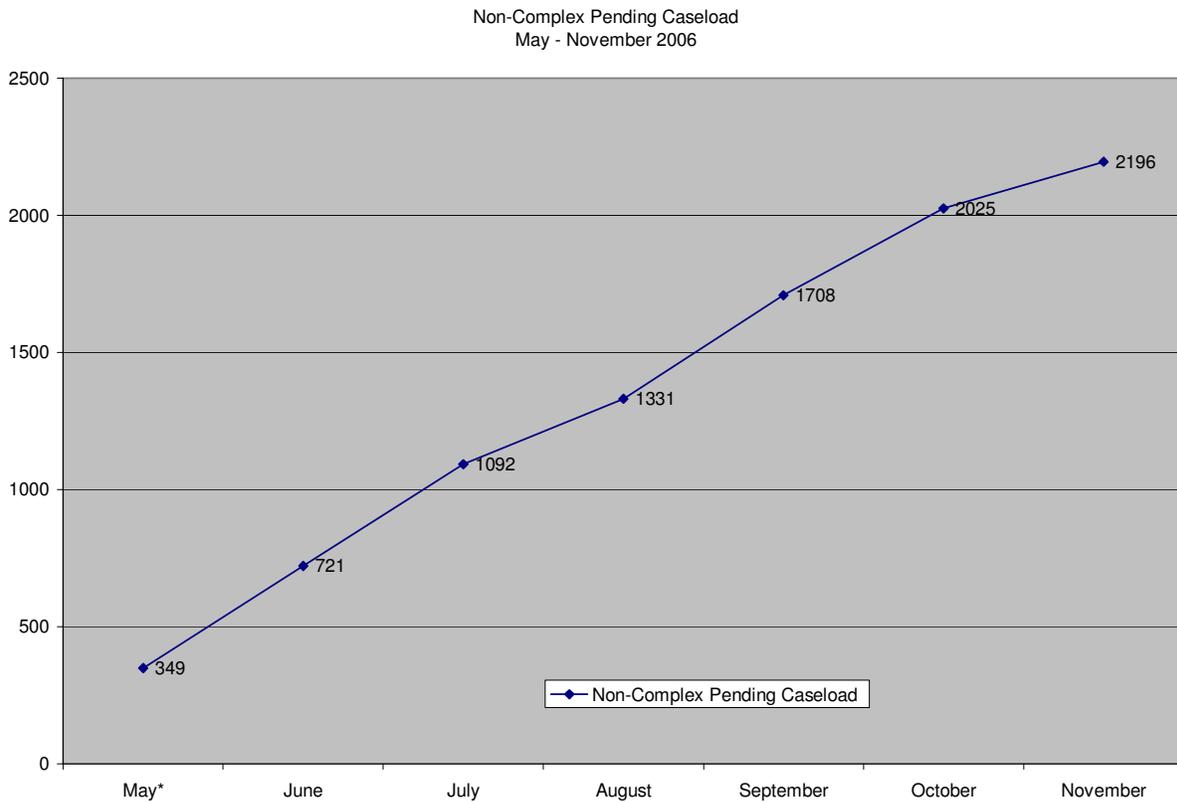
Graph 10.



Filings and dispositions are both climbing. A slight downward trend is seen in the month of November. We cannot say if this is the beginning of a plateau for non-complex case filing without more monthly information. This downward trend may be the result of the holidays in the month of November. From the data that has been presented in the graph above the court is in a grave situation, in which the court is creating a backlog that it may not be able to recover from. The data presented in the filings and dispositions graph should be enough to urge those overseeing the Non-Complex Division to make quick changes to the system. In the coming months the court will continue to evaluate the dispositions and filings to see if we are in the plateau phase of the division. A positive trend is being seen in disposition. The gap between filings and dispositions is narrowing; however we are still creating a backlog within the Division.

This backlog will cut into the 30% reduction in complex criminal cases and may prove that we are just putting cases in different buckets. The pending Non-Complex caseload is illustrated in graph 11.

GRAPH 11.

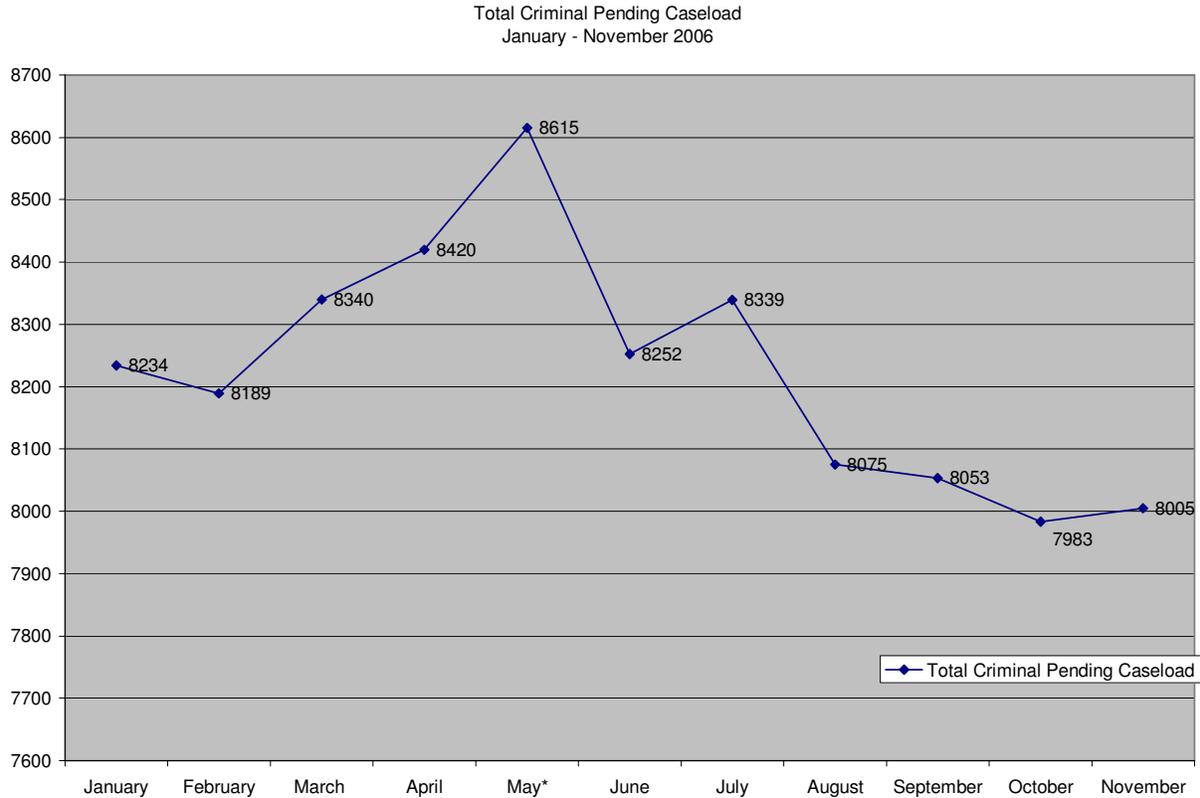


The pending caseload of non-complex cases is growing by about 250 cases per month. This indicates that as seen in graph 10 filings are not keeping up with disposition. The division is becoming burdened and as a result may not be as efficient as it could be. Graphs 10 and 11 illustrate very clearly that the non-complex system needs to be refined and adjusted to close the gap between filings and dispositions, and reverse the upward pending caseload trend.

With the non-complex cases detailed it is necessary to combine the complex and non-complex caseload to determine if the division has been successful in its first six months. It can

be deemed successful if the upward growth trend of pending cases is reversed and downward trend is seen. Graph 12 combines the complex and non-complex cases.

GRAPH 12.



The total criminal caseload has been reduced by three percent from January 2006. The total criminal caseload has been reduced by seven percent since its high in May of 8,615 cases. We can see from the graph above that the Non-Complex division has helped to reduce our pending criminal caseload and reversed the upward trend. We can see that the case management system is effective and we are not just putting cases into different buckets.

Pending Target Determination:

The pending target determination was determined by taking the current pending caseload and applying the time standards as described in the methodology section. Below is a table that outlines the targets with courts' current pending caseload

Table 6.²⁴ Pending Target Determination

CASE TYPE	TIME STANDARD	FILINGS	DISPOSITIONS	PENDING YEAR END	PENDING TARGET
ALL CRIMINAL	98% in 6 Months	7,000	5,641	8,500	1,750 Filings x .25
CRIMINAL NON COMPLEX	98% In 3 Months	3,850	2,993	4,675	481 Filings x .125
CRIMINAL COMPLEX	98% In 6 months	3,150	2,538	3,825	788 Filings x .25

The table above details the number of pending case the court should have at the end of the year. This number is detailed in the pending target column. The pending year end column indicates the number of case that actually existed at the end of November. The research has proven that there needs to be immediate attention given to the backlog of cases for all case types, criminal non-complex and complex. If the current situation continues the court will move further into delay and the legitimacy of the court will be burdened. The Number of pending cases was taken from the month case management reports that are distributed to the judges of the

²⁴ Personal interview with Geoff Gallas, National Center for State Courts, Williamsburg, VA; March 7, 2007

Superior Court. A small unscientific study has been conducted on the oldest case load and we feel that there are far fewer pending cases than what the pending caseload column indicates in the table above. A small amount of research has been conducted on the oldest caseload to try and determine a true number of actual pending cases. From the 50 case that have been evaluated thus far 19 should have been closed out but were not due to clerical errors. About 40% of all cases that three years old or older have not been properly closed out in the system. The 40% has not been extrapolated to the pending caseload population because of the small sample that has been researched. Further research will be conducted to clean the pending caseload total so that we can more accurately determine the pending target caseload.

Conclusions and Recommendations

From the data that was collected we can see that the criminal felony pending caseload for Fulton County Superior Court has been reduced slightly since the implementation of the Non-Complex Division. The criminal pending inventory has been reduced by three percent from January through November 2006. The growing criminal pending caseload has been reversed and the court is now seeing a downward trend in its pending caseload. The case management practices implemented by the Non-Complex Division, however, have not been successful in dealing with the growing inventory problem for non-complex criminal cases. The cases have simply been moved from one category to another. The overall caseload reduction of 3% is nominal. While criminal filings have remained flat we still have too many pending cases. And, many cases being carried as pending are actually closed.

The literature indicates that for a case management plan to be successful it must not only keep up with filings but must also reduce the court's pending inventory particularly pending cases that are backlogged.

The civil caseload in the Superior Court is growing and plans need to be made to deal with civil case management issues. Recently, the court has taken steps to counteract this situation. The three generalist judges who were removed from the case assignment wheels to hear non-complex trials have now been added back into the civil and criminal case assignment wheels. More judges accepting these cases will help to alleviate the growing pending caseload issue.

Scheduling orders and time standards throughout the caseload process have helped move cases through the process, however there needs to be a buy-in of the program by all involved. An example of the Superior Courts scheduling orders is shown in appendix C.

The literature that was reviewed showed that successful case management programs have good scheduling orders, and time standards that are agreed upon by all participants in the criminal litigation process. The literature also reviewed and explained that good case management plans must deal with excessive, unneeded continuances. The Fulton County Superior Court has had issues with cases being reset from one calendar to another. Besides and related to case processing inefficiencies, this practice has made the data collection time consuming, in fact nearly impossible. Cases once assigned should follow the same track, unless there are extenuating circumstances that mandate a continuance or reset to another calendar.

The Superior Court and the justice system as a whole in Fulton County suffers from a lack of technological resources. The systems that are in place are specialized to each department or division and do not easily communicate with one another. The court must rely on a costly maze of interfaces and middle-ware that collects data to be presented. With each department having their own system data is different from department to department. For example the District Attorney's Office will report a different pending caseload than the Clerk of Superior Court. For a case management program to be success there needs to be a sound shared technological system in place that can work within the procedures of the courts case management plans.

The literature that has been reviewed indicated that many similar sized jurisdictions have developed good case management plans that are allowing the courts to keep pace with the filings. The courts with good case management plans have a strong central leader working at the head with collaboration within each department of the Criminal Justice System. Fulton County Superior Court has the building blocks to have a very successful case management plan. A

strong leader is in place and the many individuals working with the criminal justice system are willing to collaborate to make the system work.

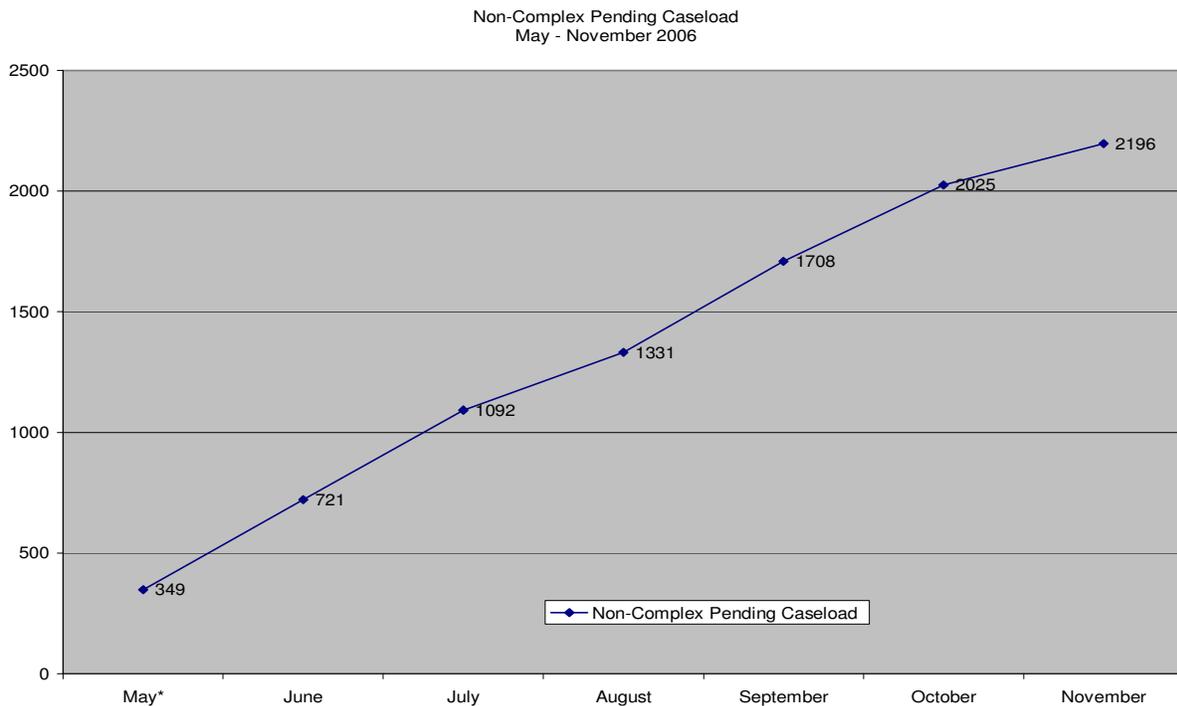
In order for the Non-Complex Division to be more successful, and reduce the pending caseload more judges needed to be included in the process. The three judges who are just hearing trials need to take an active part at each step along the case management path. The Non-Complex Division judges should be conducting Plea and Arraignment Calendars and Final Plea Calendars. The Plea and Arraignment Calendars are being conducted by magistrate judges. A Superior Court judge may be able to lean a little harder on counsel and resolve more cases. The Final Plea Calendar is conducted once a week by the chief judge. The Court is trying to funnel a weekly set of cases in to one day of Final Pleas before a case goes to trial. The court has seen these Final Plea Calendars become very large. The larger calendars are a burden on the staff and the judges trying to move the cases.

All generalist judges need take part in the process and be available to hear trials. This would allow more resources to be applied where needed. In the first six months of the division there have only been approximately five trials. Each generalist judge on the bench would not be overly burdened to be available for any trial that is set and then not settled.

If the research were to be conducted again a better effort should be made to determine at which point the cases were resolved along the case management timeline. An effort could also be made to interview staff who are working behind the scenes in each department of the justice system to see what challenges the newly formed division has created for example in the District Attorney's Office, Public Defender's Office and the Clerk of Superior Court. The work of the court does not take place in a vacuum; it has far reaching affects to many different areas. It may also be helpful to get feedback from private defense attorneys that are trying to work their way

through this newly formed division. The planning meetings have not included any private attorneys from the criminal bar association.

From the research that has been conducted the court must continue to examine the growth of the non-complex pending caseload, beginning with a scrubbing of the oldest pending cases and then designing and implementing a program to clear pending cases, which are actually closed.



These numbers represent a serious problem that only gets worse as time goes by. Graph 11, which has been discussed above is again presented to illustrate the growth of non-complex criminal cases. We must soon see a plateau and then a drop in the pending caseload as the pending inventory is cleared of all closed cases and dispositions catch up with filings in the division. If the pending case inventory is not cleared and continues to grow at the current rate the division is doomed. It should not be continued without major revisions. Revisions to the system and dealing with case backlog could include a specialized backlog calendar with judges

dedicated to handling the oldest cases. The court could make use of senior judges to hear these cases. Issues would come in to play with staffing these backlog calendars with attorneys, and administrative staff.

The caseload research that has been conducted will have an influence on the validity and future of the division. The Court must make all parties aware that the criminal felony caseload has been reduced albeit by a small amount, the court seems headed in the correct direction. The court must also emphasize that we recognize the pending civil caseload has expanded but steps have been take to correct the problem. The judges assigned to the Non –Complex Division has been added to the civil case assignment wheel and now are actively accepting and working on a civil caseload.

The research conducted to date and reported here is only a snapshot. The snapshot has been for the months of January through November of 2006. The data has continued to grow. Research needs to continue on the caseload to see if the pending caseload is continuing to increase. Particular attention needs to be paid to the pending criminal caseload and determining an accurate number of criminal pending cases. The research is currently underway to determine what that pending caseload is. Staff is currently researching each criminal case that is listed as pending and is three years old or older. Staff will then research every pending case that is under three years old to make sure that it is not listed as pending in error and should actually be closed. The process of researching every case in the Superior Courts inventory is very time consuming and tedious, however, the task must be completed to build good case management plans within the court. As well as researching the pending caseload the Court must determined at which point along the case management track case are being disposed of. If the court can accurately

determine the point at which cases resolve; then the court can add recourses to that point and refine the case management process further.

The Superior Court has gone to great pains to work with all areas of the criminal justice system in the implementation of the Non-Complex Division. The policies and procedures for this case management plan have been reviewed by all departments who have an interest in the case management process. However, the plans have not been documented and passed to the judges hearing the cases properly. A bench book must be prepared that distributed to each judge working in the division, and each judge sitting on the Superior Court Bench. The chief judge must sign off on the policies and procedures and enforce them with the bench and give administrators charge to enforce the policies with staff.

The Non-Complex Division cannot survive and if continued as currently implemented will continue to cause serious problems to the Court and all those involved in the criminal justice system. Strong leadership to build consistency among the bench is important to correcting the problem that Fulton County is facing. There must be a continued examination of the caseload data each month to determine if we are increasing or decreasing our pending backlog of criminal cases. A backlog reduction plan must be implemented and funded for senior judges to work with the oldest pending cases to close them out. An examination of the pending caseload must be continued to determine what the accurate number of pending cases is. And a goal must be set of a pending target determination, so the court can work towards a number and be able to measure the success of the plan. The court must also be able to provide data through an enhanced case management information system to track at which point along the case flow process cases are resolving.

In summary the following six recommendations, many of which are already being carried out would improve the case management process:

1. Creation of a Specialized Backlog Calendar

This calendar should begin as soon as possible. Resources need to be evaluated so that this calendar has what it needs to deal with the cases that are backlogged – are older than the agreed upon time standards.

2. Monitor the Court’s Pending Caseloads

Special attention must be paid to the pending criminal caseload. In a small study that is not representative sample the data showed that at least 40% of case that were three years old or older and listed as active were actually closed. Closed cases had not been marked as closed due to clerical errors. Finding the actual pending caseload will make it possible to determine a goal for pending caseload.

3. Study Pending Cases to Determine the Actual Number of Pending Cases and Purge Cases That Are Not Actually In the Superior Court ‘s Pending Inventory

The research needs to begin with the oldest case showing as still open and three years old or older. Once this study is completed and cases are purged, staff should begin to research other pending cases. This information should then be reported on a “Pending Target Determination” report. This report will aid in the backlog calendar described in Recommendation one.

4. Determine at What Point Non-Complex Cases are Falling Out (Being Disposed)

By determining the point at which the majority of cases resolve the court will be better able to refine the non-complex case management process. The recommended criminal justice information systems (see recommendation 6, below) supports this reporting issue.

5. Create and Distribute A Non-Complex Case Management Bench Book to Each Judge Working in the Non-Complex Division and All Other Superior Court Judges.

The chief judge must sign off on the process and procedures and enforce them among the criminal justice community.

6. An Enhanced Criminal Justice Information System Must Be Implemented

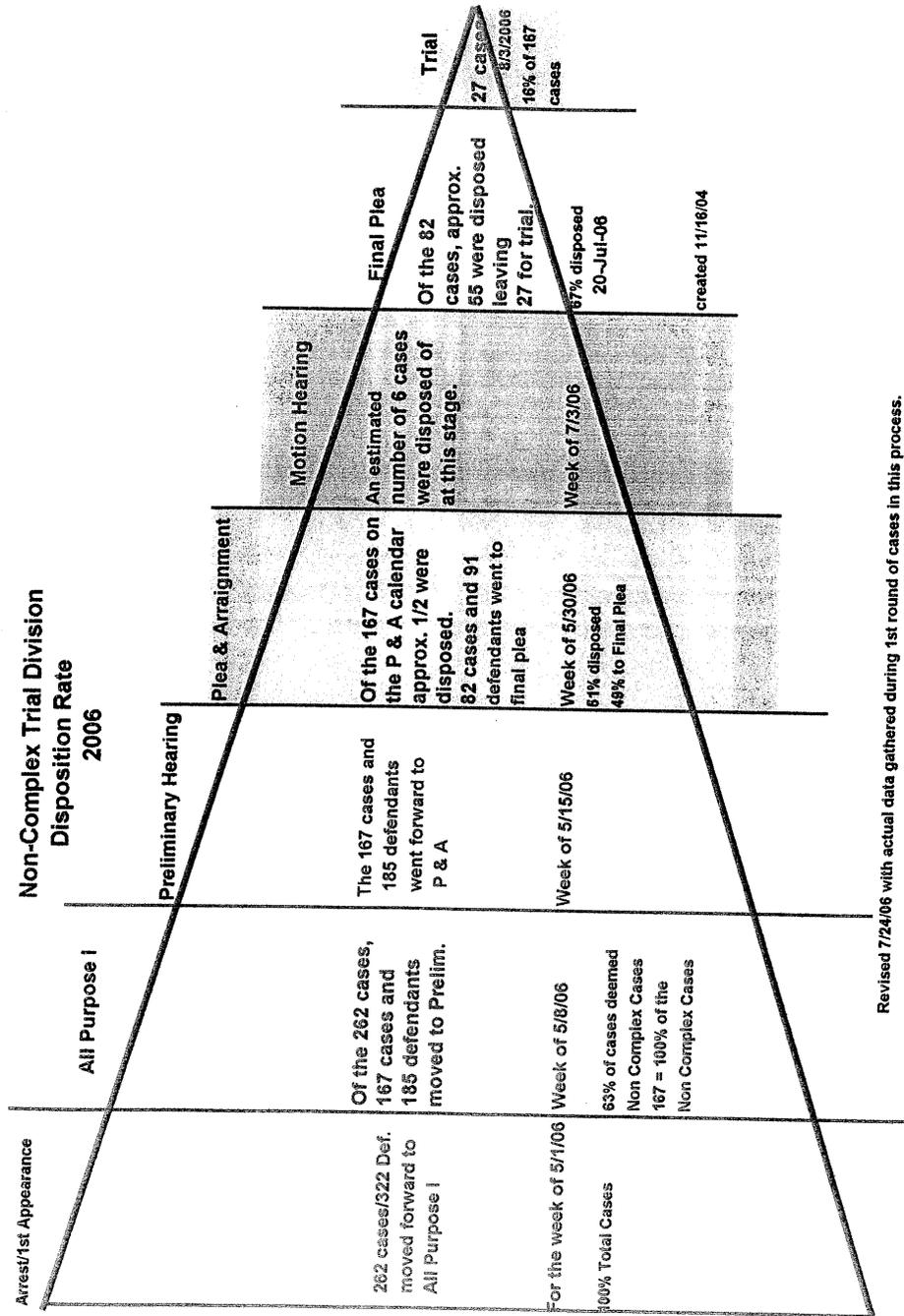
This system must be designed and used by all members of the criminal justice system.

Reports must be created that will aid in the future evaluation of the case management process. Critical reports will include, the point at which case are disposed of in the case management process and the age of the case at disposition.

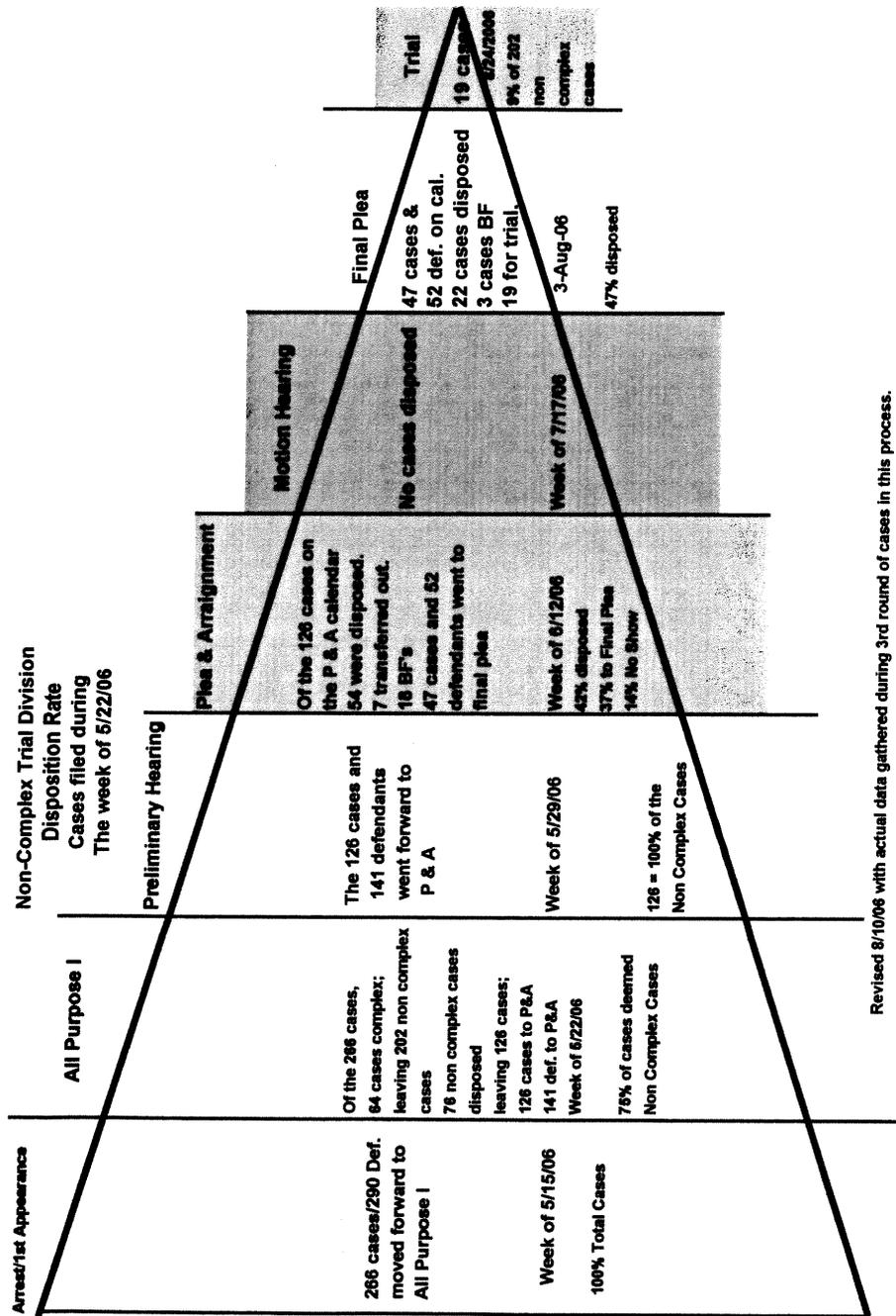
These processes by themselves will not fix the problem but if applied in combination and consistently will reduce the pending criminal caseload and add valuable case management plans to Fulton County.

Appendices

Appendix B. Non-Complex Trial Division Disposition Rate and Time line



Revised 7/24/06 with actual data gathered during 1st round of cases in this process.



Revised 8/10/06 with actual data gathered during 3rd round of cases in this process.

Appendix C.

Non-Complex Case Management Order

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs

CASE NO. _____

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Defendant(s)

SCHEDULING ORDER FOR NON-COMPLEX CRIMINAL CASES

This case has been designated for the **Non-Complex Criminal Division** of this Court. All directives of this Court including scheduling orders and discovery orders shall be closely monitored and maintained by this Court.

Until such time as this Order shall be vacated or amended, the following procedures shall apply in all criminal cases assigned to the Non-Complex Criminal Division of this Court and designated for case management hearings. The following applies in this case:

(1) MOTION FILING DATES

- (a) All motions must be filed in the office of the Clerk of Superior Court by the close of business _____, 20____, and a stamped filed copy delivered directly to Chief Judge Downs Chambers, Suite T-7955, 185 Central Ave., SW, Atlanta, Georgia 30303. A stamped filed copy of the motion must be served on opposing counsel.
- (b) A rule nisi date must be obtained at the time of delivery of the motion to the Court. The original rule nisi must be filed with the Clerk of Superior Court and a stamped filed copy served upon opposing counsel.
- (c) All responses must be filed with the Clerk of Superior Court 10 days from the filing of the original motion with a stamped filed copy delivered to the same location.
- (d) **Failure to deliver a stamped filed copy of the motion to be considered by the court will result in the motion not being heard before trial.**

(2) GBI CRIME LAB NOTICE

- (a) The State is required to notify the GBI Crime Lab of all tests necessary to the prosecution of this case. Further, the State shall be required to provide proof to the Court of this notification including the date notification was made.

(b) The State shall provide the Defendant with a copy of the lab results 7 days prior to the Final Plea Calendar.

(3) FINAL PLEA DATE

This matter shall appear on a **FINAL PLEA CALENDAR** on the _____ day of _____, 20_____ at 9:00 am, before Chief Judge Doris L. Downs in Courtroom 7F, 185 Central Ave., SW, Atlanta, Georgia, 30303. Failure to report shall result in the forfeiture of any bond that may have been set. At the call of the Calendar, the Court will consider a negotiated plea, non negotiated plea, or any other final disposition of the case. A non negotiated plea may be withdrawn immediately after sentencing, and a request for a jury trial will be honored. **The final plea date shall not be reset to a later date.** If the Defendant elects to plead guilty after the final plea date, the Court will proceed only with a non-negotiated plea as charged. The Court will not accept a motion to place the case on the dead docket by the State after this date.

(4) TRIAL CALENDAR DATE

This case is scheduled for a **TRIAL CALENDAR CALL** on the _____ day of _____, 20_____ at 9:00 am before Chief Judge Doris L. Downs in Courtroom 7F, 185 Central Ave, SW, Atlanta, Georgia 30303. Counsel and the Defendant must report to the call of the Trial Calendar. Failure to appear shall result in the forfeiture of any bond that may have been set. Mailing or faxing a conflict letter or leaving a telephone message does not constitute permission not to appear at the call of the Trial Calendar. The Court will only entertain non-negotiated pleas as a case disposition on this date. **Cases proceeding to trial will be assigned a trial judge and date by 5:00 pm on this day.**

SO ORDERED THIS _____ DAY OF _____, 20_____.

**JUDGE
FULTON SUPERIOR COURT
ATLANTA JUDICIAL CIRCUIT**

Copies Received by:

_____ Defendant

_____ Defense Attorney

_____ Attorney's phone number

White – Original

Pink – DA

Canary – Defense Attorney

Goldenrod - Defendant

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs

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CASE NO. _____

Defendant(s)

**RULE NISI FOR MOTIONS HEARING
NON-COMPLEX CRIMINAL DIVISION**

This matter is hereby set for a hearing on all pre-trial motions received by the Court on the _____ day of _____, 20__ at _____ a.m./p.m. before Judge _____, in Courtroom _____, 185 Central Ave., Atlanta, Georgia, 30303. Counsel for the State and for the Defendant(s) are directed and ordered to appear. Mailing or faxing a conflict letter or leaving a telephone message does not constitute permission not to appear. If necessary, counsel may send a representative with full authority to proceed and to receive notice of the next appearance. The Defendant shall also be present at the hearing and failure to appear will result in the forfeiture of any bond which may have been set. Counsel must be prepared with respect to all pre-trial motions which have been set before the court. **Counsel is directed to serve a stamped filed copy of this rule nisi to opposing counsel.**

SO ORDERED this _____ day of _____, 20_____.

Chief Judge Doris L. Downs
Fulton Superior Court
Atlanta Judicial Circuit

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs

§
§
§
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§
§

CASE NO. _____

Defendant(s)

ORDER TRANSFERRING CASE FROM NON-COMPLEX CRIMINAL DIVISION

This matter came before the Court designated as a non-complex criminal case. Upon review of the facts in the case the Court has determined that it does not meet the criteria of the Non-Complex Criminal Division for the following reason(s):

- There is currently a pending case; number _____ with related facts and/or defendants that is assigned to Judge _____ as a complex criminal matter.
- The facts of this case do not fit the criteria of non-complex criminal cases.

It is therefore **ORDERED** that the Clerk of Superior Court designate this case as complex by changing the case type and transferring the case to Judge _____, to whom the open pending related case is before, or to the next available judge if there is no related case.

SO ORDERED this _____ day of _____, 20__.

Judge, Fulton Superior Court
Atlanta Judicial Circuit
Work Cited

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