

Caseflow Processing in the Travis County District Courts



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Abstract

Travis County has seventeen general jurisdiction district courts, with seven of these courts having felony jurisdiction. The courts are located in the state's capital of Austin. The county has a long history of jail overcrowding, going back to 1972, when a federal lawsuit was filed and the county jail was placed under federal supervision for nearly two decades. This resulted in the addition of new courts and a new jail. However, in spite of these efforts, from 1993- 2001, Travis County was still cited by the Texas Commission on Jail Standards for jail overcrowding.

Based on this history, judges and county officials worked to develop innovative and effective strategies to expedite the processing of jail cases. A task force comprised of county officials, judges, prosecutors, and law enforcement successfully implemented several jail reduction programs. These include: a felony jail docket to handle low level felons, a daily misdemeanor jail call, and a third grand jury to expedite the prosecutorial review of cases. These measures have allowed the jail to maintain its population at stable levels.

In 2011, the district courts face unique challenges because of the retirement of three district judges, and the implementation of an electronic docket management system. These factors present a unique opportunity to review how the courts operate and whether or not they are efficient. To conduct this study, baseline data was established to measure against adopted national standards and some comparable urban counties in Texas.

Since the state of Texas has not adopted statewide standards (to date, 44 states have standards), the American Bar Association and Conference of Chief Judges standards were used as a benchmark. Furthermore, because all Texas counties are required to submit disposition data to the state office of court administration, comparable large urban counties were selected for comparison. This study focused on all felony cases disposed of in 2009, with further identification of in-custody versus out of

custody status, and by type of case, from least complex (expedited, basic) to most complex. Research methods used were four of the National Center for State Court's measures (time to disposition, clearance rates, age of active pending caseload, and trial date certainty). The second part of the study focused on a survey distributed to judges, judicial staff, prosecutors and defense attorneys, with the intent to determine perceptions of caseflow management policies and time to disposition goals.

The analysis revealed that the courts do not meet the ABA standards (90 percent disposition rate within 120 days); only 31 percent of felony cases were disposed of within 120 days, compared to 44 percent for Bexar County, 57 percent for Tarrant County, and 65 percent for Dallas County. However, upon further analysis of the custody status of these cases, the courts disposed of *jail* cases efficiently, an average of 74 days for expedited cases and 116 for basic jail cases. A special magistrate docket for expedited jail cases actually disposed of cases in an average of eleven days. The clearance rate for the courts was 104 percent, indicating that more cases are disposed than filed, which will help with backlogs. Age of pending caseload was also high, in that 43 percent of cases were older than six months. Finally, cases set for trial were reset an average of seven times for jury and five times for trial before the court, significantly higher than the desired number of one or two.

The findings of the survey reveal that defense attorneys and prosecutors are not aware of court guidelines for time intervals governing the processing of felony cases, while the judges and staff believe there are known policies. This analysis supports the need for written published policies and education to improve knowledge of court guidelines.

The study proposes four recommendations for consideration by the district courts:

1. Convene a workgroup including judges, prosecutors, defense bar, court staff and county officials to develop policies that address caseflow processes and include education, training and monitoring.

2. Follow up with an evaluation of court processes and a survey one year after implementation of policies and measure against the baseline data of this report to determine whether perceptions and processes have improved.
3. Monitor clearance rates, time to disposition, age of pending caseload, and trial date certainty quarterly and use existing electronic reports to help prioritize their workload.
4. Conduct a similar evaluation in the six county courts at law to ensure consistent management of all cases including misdemeanors.

Introduction

Travis County is a diverse, thriving community, in which government, technology and the state university are primary employers, and has the unique reputation of being a liberal center in an otherwise conservative state. While the county prides itself on being compassionate and innovative in its service delivery to the poor and less fortunate, Travis also suffers from a long history of poor jail conditions and overcrowding. During the past decade, county officials have prioritized jail overcrowding through the development and implementation of creative court jail programs, aimed at early judicial intervention and disposition. Additionally, the advent of technology has enabled information to flow more efficiently between criminal justice agencies, giving the courts access to data that identifies potential bottlenecks.

At the end of 2010, nearly half of the district judges on the bench retired, making this a unique opportunity to review existing practices and data, and simultaneously research best practices in the country. To accomplish this, Travis County Court Administration worked with the National Center for State Courts to carefully research county data, and compare it to similar counties as well as national standards. Time to disposition, case filings, age of pending caseloads and trial date certainty also were examined. Based on jail overcrowding issues, where possible, data was further divided into custody vs. non-custody cases. The goal was to determine not only how the Travis County courts are performing, but how this information could be used to determine which best practices to adopt.

Texas Court Structure

Texas' judicial structure is highly complex, featuring five layers of courts, instances of overlapping jurisdiction and an unusual bifurcated appellate system. The Supreme Court has jurisdiction over civil and juvenile cases and the Texas Court of Criminal Appeals has jurisdiction over criminal cases. The Texas Constitution authorizes the legislature to establish other courts when necessary, an unusual practice not common in other states. As such, the Texas legislature has created additional courts to handle its growing population.¹For a more detailed review of Texas court structure, see Appendix 1.

This report focuses on the Travis County Criminal District Courts located in Austin, Texas. Travis County is one of the fastest growing counties in Texas, with an estimated population in 2009 of 1,026,158.

Based on its natural beauty, music scene and world class university, the city continues to attract businesses and a diverse population. For example, the percentage growth from April 1, 2000 to July 1, 2009 was estimated at 26.3 percent compared to the state growth rate of 18.8 percent.²

Travis County currently has 17 general jurisdiction district courts; however, by local practice, seven of the district courts hear criminal cases brought by the District Attorney. As a result of a federal lawsuit filed in 1972 on jail overcrowding issues, the Travis County jail

1. Texas Courts Online, "Court Structure of Texas," <http://www.courts.state.tx.us/> (accessed 12 July 2010).

2. US Census Bureau, "State and County Quickfacts", *2010 Census*, <http://quickfacts.census.gov/qfd/states/48/48453.html> (accessed 15 Jul. 2010).

was placed under the supervision of the federal court and two new courts were created by the legislature in 1982 to give preference to criminal matters. Consequently, four of the existing courts at that time gave preference to criminal matters. In 2000, 2001 and 2008, three additional district courts were added to address criminal cases.³ The seven Criminal District Courts hear all felony cases, from the lowest level state jail offenses such as theft and drugs, to the most serious felonies, including capital murder, which can result in the death penalty. The courthouse is located in the county seat in downtown Austin, Texas.

Each Criminal District Court is comprised of a judge with three judicial FTE assigned to each court. The judges in Travis County are elected for four year terms. In 2009, the eighty-first Texas Legislature provided for the election of a Presiding Criminal Judge for the Criminal Courts for two year terms.⁴ District Judge Bob Perkins was elected to this position.

In 2009, 13,812 felony cases were filed in Travis County by the District Attorney's Office. Cases are assigned by rotation and divided equitably between the district courts. Each judge processed approximately 3,453 cases during the past year. In addition to district courts, there are seven county courts-at-law that hear misdemeanor cases in Travis County. In 2009, approximately 35,704 misdemeanor cases were filed in the county courts-at-law.⁵

3. District Judge Bob Perkins, conversation with author, 14 Jul. 2010.

4. Texas Legislature Online, *81(R) History for HB3468*, <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB3468> (accessed 15 Jul. 2010).

5. Texas Office of Court Administration, "Trial Court Judicial Management System," *Travis County District Court Reports* <http://dm.courts.state.tx.us/OCA/ReportSelection.aspx> (accessed 13 Jul. 2010).

While a significantly smaller percentage of felony cases are processed annually (28 percent of filings are felonies), these cases require much more judicial time.

Table 1-Cases Filed in Travis County CY 2009

Travis County Criminal Courts Cases Filed Calendar Year 2009	
County Courts	
New Cases Filed	33,658
Motions to Revoke, etc.	2,046
Subtotal	35,704
District Courts	
Indictments	9,221
Informations	1,459
Motions to Revoke, etc.	3,132
Subtotal	13,812
GRAND TOTAL	49,516

Analysis of Judicial Workload in Texas

In 2007, the National Center for State Courts (NCSC) conducted an 18-month research study on workload in the district courts in Texas. The goal was to determine the number of judicial officers needed to “provide for the equitable handling of cases....” Basic methodology was a calculation (by judicial officers) of the amount of time spent by case type. Cases were assigned weights according to complexity. For example, the most serious felonies (capital murder and violent crimes) were weighted

the highest based on complexity, averaging 186 minutes per case of judicial time to resolve. The next level of felonies (primarily drug and property crimes), was given a weight of 39 minutes.

The conclusion of the NCSC study was that Texas needs 650.1 judicial officers.⁶ With the sustained increase in case filings and rapid population growth in Travis County, there is a pressing concern that there are not enough judicial officers to meet the increasing needs.

History of Jail Overcrowding

Travis County has struggled with jail overcrowding for over 30 years. In 1972, a class-action lawsuit was filed by a local defense attorney on behalf of Travis County inmates, citing crowded and inhumane conditions in the jail. Several years later, a federal judge ruled the jails were substandard and the county was placed under federal court supervision for 16 years. This led to the building of a new correctional complex, scheduled for completion in 1981. Later that year, a federal judge issued a new order requiring Travis County to alleviate crowding problems. However, two years later the opening of the new jail complex was canceled when inspectors were able to open locks from inside cells with popsicle sticks and small magnets. By the time the new jail opened in 1986, it was five years late, over budget, and overcrowded. A federal judge subsequently ordered the county to send inmates to other counties to address overcrowding. In 1990, the Del Valle Correctional Complex opened and federal oversight ended after 18 years.

6. National Center for State Courts, *Measuring Current Judicial Workload in Texas, 2007*, <http://www.courts.state.tx.us/oca/jnas/pdf/WeightedCaseloadStudy.pdf>, (accessed 13 Jul. 2010)i.

However, only three years later the sheriff was forced to house inmates in tents due to overcrowded conditions. Finally, from 1993-2001, Travis County was cited by the Texas Commission on Jail Standards for consistent overcrowding.⁷

Without the funding to add another jail facility, county officials worked to develop innovative and effective case processing strategies to alleviate overcrowding. A task force comprised of county officials, judges, prosecutors, and law enforcement officers subsequently implemented jail reduction programs. These included: a felony jail docket to handle low level felons, a daily misdemeanor jail docket call, and a third grand jury to expedite the prosecutorial review of cases.

Transitions

Three of the seven district judges retired in December 2010, including the Presiding Judge of the Criminal Courts. A significant amount of history and knowledge was lost with their absence. Although this may potentially result in delays as new judges are acclimated to the system, this unique period enables the courts to review and improve their current case management practices.

Furthermore, in 2011, the District Courts are scheduled to go paperless, or have all of the files and documents scanned and viewable from computers in the courtroom. Currently, a significant amount of time is spent searching and waiting for files. Although the learning phase may actually increase case processing times initially, the new system will ultimately enhance judicial efficiency.

7. Alex Taylor, "Travis Cited For Crowded Jails," *Austin American Statesman*, 26, Aug. 2001, A1.

Standards for Case Disposition

Texas does not have standards for the timely disposition of cases. Therefore, for purposes of this report, the American Bar Association standards have been used as benchmarks for timely disposition. Other national standards such as COSCA could not be used, since their benchmark is 180 days, and Texas disposition data is reported up to 120 days. Since Texas counties must submit case filing, disposition and other data annually to the State Office of Court Administration (OCA), the following jurisdictions were selected for comparison: Bexar County (San Antonio), Tarrant County (Fort Worth) and Dallas County (Dallas).⁸

Table 2 – ABA Standards and County and State Data Reported to TX OCA, CY2009

Travis County District Courts Indictment to Disposition Percentages Compared to OCA Data and ABA Standards Calendar Year 2009	
ABA Established Goal	90% within 120 days
Travis County	31%
Statewide	49%

8. While other counties in the United States would have been interesting and possibly more comparable demographically, the unusual court and legal structure in Texas as well availability of data led to the selection of Texas counties. All of the comparable counties are urban and have a state university.

A cursory review of time to disposition data indicates that Travis County is significantly slower at processing cases than both the statewide average⁹ and ABA standards.¹⁰ This is a major concern of the judges and a primary factor in the selection of the topic of this report.

Current Caseload Management Reports

Every month the judges receive a variety of reports to help them manage their dockets. These reports include but are not limited to the following:

Monthly Active Caseload Report – includes active cases with future settings by type of setting and court.

Exception Report- active cases that have not been reset on the docket.

District Criminal Settings Schedule-An alphabetized list of defendants with all setting information (date, time, offense, attorney, court, etc.).

District Courts Undisposed Jail Cases-A jail list by court detailing pending cases by court with setting information and number of days in jail.

9. Texas Office of Court Administration, “Trial Court Judicial Management System,” *Travis County District Court Reports* <http://dm.courts.state.tx.us/OCA/ReportSelection.aspx> (accessed 13 Jul. 2010).

10. American Bar Association Criminal Justice Standards, Criminal Justice Standards, http://www.abanet.org/crimjust/standards/speedytrial_blk.html#2.1 (accessed 13 Jan. 2011).

Project Goal

For several years the District Judges have collaborated with county officials, prosecutors and the defense bar in efforts to implement strategies aimed at improving case processing. Many “low hanging fruit” initiatives have been integrated into current practices and the jail population has leveled off to approximately 2,300 inmates on any given day. However, disposition times and age of pending caseloads are not within the parameters of national standards, to the consternation of judges and staff. Delays continue to hinder the efficient administration of justice. The courts are also concerned with future challenges. These include:

- An increasing population (based on the popularity and quality of life in Austin), which correlates to increased criminal case filings.
- Implementation of the electronic docket management system, which may cause temporary delays during the transition.
- Retirement of three district judges, potentially resulting in delays until new judges are familiar with all district court processes.
- Ongoing potential for jail overcrowding and desire to implement court initiatives to impact this population while not in crisis mode.

For this report, the focus is on case processing of felonies in the county. Research conducted by the sheriff’s office staff consistently identifies felons as primary drivers of the jail population, based on pretrial length of stay. The objective is to create a baseline of case processing practices in the district courts. Standards developed by the ABA were used as benchmarks. Data collected included time to disposition for calendar year 2009, distinguishing between persons in and out of jail based on the county’s history of jail overcrowding. All felonies disposed of during this time period were

included in the study. The age of pending caseloads was reviewed, as well as clearance rates, and trial date certainty. Comparison counties in Texas were selected based on metropolitan demographics and available data. Surveys of judicial officers, court staff, prosecutors and the local defense bar were administered to determine knowledge of established policies as well as perceptions.

This report includes a literature review, methodologies used to gather and analyze data, and conclusions based on an analysis of the findings to ultimately answer the question: “*What strategies should be implemented to improve caseflow management in the Travis County District Courts?*”

Literature Review

*Justice delayed is justice denied.*¹¹

British statesman William E. Gladstone, Nineteenth century

An abundance of literature exists dating back to the seventeenth century on the importance of swift justice and how court delays and inefficiencies hinder both the appearance and actual administration of justice. This concern is still relevant in our courts today. However, questions persist as to whether it is truly beneficial for the courts to operate swiftly or whether justice is somehow sacrificed. The literature review answers the following questions:

- *Do courts need to operate swiftly to be just?*
- *Does the research support this finding?*
- *What are the best methods of measuring court performance?*
- *How do we determine how the Travis County courts are currently performing?*
- *What best practices should the Travis County Courts adopt to ensure optimal caseflow without hindering the administration of justice?*

The literature review also includes the evolution and purposes of court administration as well as current best practices for improving caseflow in local and state courts.

11. David C. Steelman, John A. Goerd, James McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium*, (National Center for State Courts, 2000), xi.

History of Modern Court Administration

“Uncertainty, delay and expense, and above all the injustice of deciding cases upon points of practice, ...have created a deep-seated desire to keep out of court, right or wrong, on the part of every sensible business man in the community.”¹²

In his controversial address to the American Bar Association in 1906, Roscoe Pound, distinguished legal scholar and dean of Harvard Law School, described numerous issues he ascribed to the criminal justice system. Among them, he noted that court delays and inefficiencies erode the public trust as well as the administration of justice. A century later, the concerns he described in his lecture titled, “The Causes of Popular Dissatisfaction with the Administration of Justice,” remain surprisingly relevant and speak to the need for continued improvement in the court system.

In 1969, Warren Burger assumed the office of Chief Justice of the U.S. Supreme Court and became a leading advocate for court reform. One of his primary goals was addressing problems with backlogs and delay in the courts. Subsequently, his efforts led to the creation of the Institute for Court Management (ICM), which provides training for court managers. He also convened the first judicial conference, leading to the establishment of the National Center for State Courts.¹³ Through extensive research, NCSC serves to improve the

12. Roscoe Pound, “The Causes of Popular Dissatisfaction with the Administration of Justice”, (1906) Law Library-American Law and Legal Information, <http://law.jrank.org/pages/11782/Causes-Popular-Dissatisfaction-with-Administration-Justice-Causes-Popular-Dissatisfaction-with-Administration-Justice.html> (accessed 10, Aug., 2010).

13. David C. Steelman, John A. Goerdt, James McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium*, (National Center for State Courts, 2000), xiii.

administration of justice in courts around the world.¹⁴ Since the 1960s, in response to concerns arising from inefficient court systems, the field of court administration has grown and court administrators now play an active role in monitoring and managing caseloads.

“...we may look forward to a near future when our courts will be swift and certain agents of justice, whose decisions will be acquiesced in and respected by all.”¹⁵

Emergence of Caseflow Management Principles

The U.S. Supreme Court emphasized the importance of speedy trials in the criminal process by stating that this right was “as fundamental as any of the rights secured by the Sixth Amendment.”¹⁶ In a study of nine state criminal trial courts conducted with researchers from the National Center for State Courts and the American Prosecutors Research Institute, Ostrom and Hanson (1999) reported a key finding that “well-performing courts should be expected to excel in terms of both timeliness and quality.”¹⁷ This conclusion was based on data collected from court systems located in various parts of the country (Albuquerque, New Mexico; *Austin, Texas* (emphasis added); Birmingham, Alabama; Cincinnati, Ohio; Grand Rapids, Michigan; Hackensack, New Jersey; Oakland, California; Portland, Oregon; and Sacramento, California).

14. National Center for State Courts website, http://www.ncsc.org/Webpercent20Documentpercent20Library/AboutUs_Mission.aspx, (accessed 11 Aug. 2010).

15. Pound, “The Causes of Popular Dissatisfaction with the Administration of Justice” (1906).

16. Brian Ostrom and Roger A. Hanson, *Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts*, Williamsburg, VA: National Center for State Courts (October 1999). <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=409> (accessed 27 Jul. 2010) 11.

17. Ostrom, *Efficiency, Timeliness, and Quality*, (accessed 27 Jul. 27)13.

It should be noted that this author was amazed to discover that a study had been conducted *over 10 years ago* comparing district courts *including Travis County* to courts in comparable counties throughout the United States. This prior research has proven invaluable, because despite the fact that technology today allows for more accurate data collection, varying methodology and requirements for reporting data are not consistent nationwide. Therefore, for this report, only counties in Texas were used for comparison purposes, since statewide reporting requirements are the same.

In his 1999 study, Ostrom placed courts into one of three categories (faster, moderate or slower) based on their time to disposition percentages. *For example, since Travis County courts disposed of 43 percent of cases within 180 days, the district courts were placed in the “slower” category.* Ostrom sought to determine whether swiftness hindered the quality of justice. Researchers observed that in both faster and slower courts, the more complex cases took longer to resolve than the less serious, *however, in the faster, expeditious courts, cases were resolved within tighter time frames.*¹⁸ The distinction between the courts was that the “presence of more efficient work orientations among prosecutors and criminal defense attorneys underlies the tighter time frames.”¹⁹ Ostrom’s study concluded that future strategies in the area of court management should include training programs for the judiciary and attorneys that focus on how judges and lawyers can become more efficient to ensure both timeliness and case resolution quality.²⁰

18. Ostrom, *Efficiency, Timeliness, and Quality*, (accessed 27 Jul. 2010) 81-89.

19. Ostrom, *Efficiency, Timeliness, and Quality*, (accessed 27 Jul. 2010) 11.

20. Ostrom, *Efficiency, Timeliness, and Quality*, (accessed 27 Jul. 2010) 107-109.

In an earlier study referenced by Ostrom, Church, Carlson, et al. (1978) defined the collection of attitudes in a court system as its “local legal culture.” Particularly, this concept included the relationship between attorneys’ views and timeliness, as well as the shared “expectations, practices, and informal rules” of the attorneys and judges.²¹ In summary, the amount of time judges and attorneys expect a case to take to be resolved has a significant effect on how long the case actually takes to resolve. In Ostrom’s words, “prosecutors and criminal defense attorneys live up to their expectations.”²²

Standards

During the past forty years, judicial officers have focused on addressing delay in the courts through the management of caseload processing. One of the initial steps was the establishment of time standards, which allow courts to ensure timeliness and determine whether their goals for efficient case processing are being met. The implementation of time standards also pinpoints areas that need improvement. In 1983 the Conference of State Court Administrators (COSCA) adopted National Time Standards for Disposing of Cases (NTSDC). The following year, the Conference of Chief Justices (CCJ) and the American Bar Association (ABA) also set standards. COSCA’s and CCJ standards are to dispose of 100 percent of felony cases within 180 days while the ABA standard is to dispose of 98 percent within the same time frame.²³

21. Thomas W. Church, Jr., Alan Carlson, Jo-Lynne Q. Lee, and Teresa Tan. 1978. *Justice Delayed: The Pace of Litigation in Urban Trial Courts*. Williamsburg, Va.: National Center for State Courts, 451, quoted in Brian Ostrom, *Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts*, 78.

22. Ostrom, *Efficiency, Timeliness, and Quality*, (accessed 27 Jul. 2010) 78.

23. Figure 1: Case Disposition Time Standards Adopted by the Conference of State Court Administrators (COSCA), the Conference of Chief Justices (CCJ), and the American Bar Association (ABA). http://www.ncsconline.org/D_Research/TCPS/Measures/me_2.1.1.htm, (accessed 10 Aug. 2010).

In 2009, the National Center for State Courts published a report that summarized the case processing standards adopted, implemented and amended by 41 states and the District of Columbia.²⁴ Interestingly, the state of Texas is not one of these states. The state of Texas standards for criminal cases are addressed in Rule 6 of the *Texas Supreme Court Rules of Judicial Administration*, and refer to Code of Criminal Procedure 32A.02, which no longer exists, therefore, there is no standard.²⁵

However, the Texas Office of Court Administration tracks clearance rates, age of cases disposed, and backlog of pending cases, all at the county level. Therefore, despite the fact that performance standards have not been adopted in Texas, counties in the state are required to submit the data noted above annually. This allowed for the comparison of relevant data for this project. Furthermore, it should be noted that Office of Court Administration time to disposition data is only reported in increments ending at *120 days*. Therefore, ABA standards will be used instead of COSCA or CCJ, since ABA also reports at 120 days (90 percent disposition rate in 120 days).

Best Practices in Caseflow Management

Over the past 40 years, delay reduction has been a primary focus of American court improvement efforts. Since the 1970s, caseflow management has been defined as a group of guidelines and values that have been developed to reduce delay in the courts.

24. National Center for State Courts, Case Processing Standards in State Courts, 2009 (accessed 13 Jan. 2011) <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1409>.

25. Texas Supreme Court, Rules of Judicial Administration <http://www.supreme.courts.state.tx.us/rules/rja-home.asp#rja6>, Angela Garcia, e-mail to author, 11 Aug. 2010.

“Caseflow management involves the entire set of actions that a court takes to monitor and control the progress of cases, from initiation through trial or other initial disposition to the completion of all post-disposition court work, to make sure that justice is done promptly.”²⁶

In 1973, Maureen Solomon emphasized the importance of judicial officers controlling the pace of litigation using a court administrator to manage case processing time standards and performance guidelines adopted by the judiciary.²⁷ The courts further made notable efforts toward increasing their ability to measure and assess performance through the inception of the Trial Court Performance Standards (TCPS).²⁸ The TCPS provide a framework to assess court performance in five general areas: (1) access to justice, (2) expedition and timeliness, (3) equality, fairness and integrity, (4) independence and accountability, and (5) public trust and confidence.

David Steelman, in his research publication, *Caseflow Management: The Heart of Court Management in the New Millennium* (2000), summarized that not only is controlling caseflow critical to reduce court delays, but it is the core of successful court management.

26. NACM Professional Advisory Development Advisory Committee, “Core Competency Curriculum Guidelines: History, Overview, and Future uses,” *Court Manager* 13, no. 1 (winter 1998); 6 at 7.

27. Maureen Solomon, *Caseflow Management in the Trial Court*, (Chicago, American Bar Association, 1973), 29-30.

28. *Trial Court Performance Standards and Measurement*, National Center for State Courts and Bureau of Justice Assistance, US Dept. of Justice, 1987
http://www.ncsconline.org/D_Research/tcps/Introduction.htm#History (accessed 10 Aug. 2010).

Due to constitutional and statutory speedy trial legislation, criminal courts were among the first to implement caseflow management techniques.²⁹

Steelman identified the following techniques as essential for criminal cases:

- **Early assembly of key case participants and critical case information.**
- **Early and continuing court attention to the management of case progress.** A goal of the court should be that prosecutors and defense attorneys be prepared at each setting.
- **Differentiated Case Management (DCM) case screening by court with prosecution and defense counsel.** The court should adopt criteria to differentiate case processing requirements for different types of cases based on complexity and severity.
- **Management of plea negotiations.**
- **Early decisions on motions and realistic trial scheduling.**
- **Post-disposition management of probation violations that involve new offenses.** Violation proceedings that include new arrests should be consolidated at the earliest opportunity and with the same judge.³⁰

All of this research invariably leads to the question: *How do courts measure their performance?* Over the years several guides have been designed to assist courts with establishing baselines to measure their caseflow efficiency.

29. David C. Steelman, et.al, *Caseflow Management: The Heart of Court Management in the New Millennium*, (National Center for State Courts, 2000), xi, 31-35.

30. Steelman, *Caseflow Management*, 31-35.

In 2005, the National Center for State Courts developed ten “CourTools”³¹ (see Appendix 2) to assist courts with measuring their performance. Four of the CourTools address caseflow management.

They include:

- **Measure #2, Clearance Rates – The number of outgoing cases as a percentage of the number of incoming cases.**
- **Measure #3, Time to Disposition – The percentage of cases disposed or otherwise resolved within established time frames.**
- **Measure #4, Age of Active Pending Caseload – The age of the active cases that are pending before the court, measured as the number of days from filing until the time of measurement.**
- **Measure #5, Trial Date Certainty – The number of times cases disposed by trial are scheduled for trial.**

When used together, these four measures provide exceptional techniques for assessing caseflow management and court performance.

31. *CourTools, Trial Court Performance Standards*, National Center for State Courts, 2005.

Literature Summary

Courts are progressively inundated with an increasing number of cases, and funding levels have been unable to keep up with the growing demand for new courts. Court administrators and judges have struggled with efforts to maximize staff resources, process cases efficiently, and sustain the public trust in their ability to administer justice efficiently. The primary tool that has emerged as successful in assisting courts address this problem is “caseflow management.” Judges and court administrators are now aware that an active case management plan is necessary if cases are to be disposed of justly, as well as efficiently and with minimum delay.³²

In the 1980s, efforts to address court delays resulted in the establishment of case processing time standards by COSCA (1983) and the ABA (1984). Section 2.54 of the *ABA Standards Relating to Trial Courts*, 1992 edition, encourages all courts to have a program to reduce and prevent delay. The *NCSC Trial Court Performance Standards* (1990) recommend that courts adopt guidelines for timely case processing. Trial courts that efficiently handle their pending caseloads and process cases in a timely manner significantly enhance the administration of justice.³³

32. *CourTools, Trial Court Performance Standards*, 2005.

33. Barry Mahoney, *How to Conduct a Caseflow Management Review*, National Center for State Courts, Introduction by Jim Denver (1994), v, vii, viii
http://www.ncsconline.org/WC/Publications/KIS_CasManHowToCondCaflow.pdf.

Caseflow management is defined as the management of time and events involved in the movement of a case through the court system from arrest to disposition. The goal of effective caseflow management is “to maximize the possibility of achieving a just result in each case.”³⁴ Therefore, success requires a comprehensive collaboration that involves all the criminal justice agencies in analysis, planning, and implementation. Involvement of all the effected agencies is the best way to maximize identification of problems and facilitate the type of change needed to provide outstanding public service. Maureen Solomon, in her report, “Improving Criminal Caseflow,” (2008) described four steps needed to improve criminal caseflow management.³⁵ They include:

- Step 1: Acquire and Analyze Accurate Information;
- Step 2: Develop Findings, Conclusions and Recommendations;
- Step 3: Convene a Planning Meeting with All Participants; and
- Step 4: Plan Implementation, Reporting and Monitoring.

With the formulation of a caseflow management plan, the courts will be able to create a “system of expectations that encourages timely lawyer preparation and assures that events will occur as scheduled.”³⁶ Experienced court administrators and judges understand that a system that implements standards for timely disposition, early court involvement in each case, deadlines for completion of case events, and meaningful trial dates “will avoid the delays and backlogs that threaten a justice system’s ability to achieve timely and just disposition”.

34. Maureen Solomon, “Improving Criminal Caseflow,” *American University*, Oct. 2008, 2 <http://www1.spa.american.edu/justice/documents/2444.pdf>, accessed 13 Aug. 2010.

35. Solomon, *Improving Criminal Caseflow*, 2-9, accessed 13 Aug. 2010.

36. Solomon and Somerlot, *Caseflow Management in the Trial Court: Now and for the Future*, (Chicago, IL: American Bar Association), 1987, 3, quoted in Maureen Solomon, “Improving Criminal Caseflow,” *American University*, Oct. 2008, 2 <http://www1.spa.american.edu/justice/documents/2444.pdf>, accessed 13 Aug. 2010.

37. Solomon, *Improving Criminal Caseflow*, 2-9.

Methodology

This project was conducted using three methods: 1) a statistical review of all felony cases disposed of in the county in calendar year 2009, 2) a review of all felony cases disposed using CourTool measures 2-5 (clearance rates, time to disposition, age of active pending caseload, and trial date certainty) including a review of all bench and jury trials conducted during 2009, and 3) a survey of the prosecutors, defense counsel including court appointed and hired attorneys, judicial staff and district judges. The review of all felony cases disposed in 2009 was further broken down into the following categories: complex, basic or expedited, based on the type of case; as well as by jail status. Since Travis County has experienced such significant issues with jail overcrowding, elected officials and administrators typically require detailed data regarding jail status. Furthermore, because the courts do not have jurisdiction over a case until it is indicted, average length of time prior to and post indictment was captured as well. Finally, warrant arrests were included separately because many cases have already been indicted prior to arrest (Appendix 2).

Statistical Review

To conduct the analysis of statistical information for CourTools 3 and 4 (age of active pending caseload and trial date certainty), multiple queries and periodic reports were executed to obtain data and reports from the Travis County Criminal Courts internal databases and reporting infrastructure. The databases and reports contain data elements from January 1, 2009 to December 31, 2009. The source data for the booking and booking charges data is a county-wide, proprietary implementation known as the Integrated Justice Database, or IDB. The IDB was developed for Travis County by Tiburon Corporation and is a SQL Server 2005 based data store for cross-organizational reporting, with data elements being contributed real-time from Tiburon's Correction Management System, Adult

Probation and Pretrial System, other Tiburon software modules, as well as from the County's Fully Automated Case Tracking System (FACTS) case management system.

Because the source FACTS System is a transactional system, a separate reporting database is used for actual reporting purposes, including those referenced in this report.

For comparison purposes with other Texas urban counties, the Texas Courts Online Trial Activity Database, was queried to collect data relating to CourTools 2 and 3 relating to time to disposition and clearance rates.

Case Reporting Practices

In Texas offenses are reported as an individual case as opposed to by person, and each case number is considered an offense case. If an indictment or information contains more than one count (Section 21.24, C.C.P.), this is reported *as one case under the category for the most serious offense alleged*. If an information, indictment, or complaint contains multiple defendants, each defendant is assigned a separate case number. All felonies are statistically counted as filed once the District Clerk officially accepts the file, file marks the case, and it becomes public record. Once a felony case is filed, it becomes active. Cases are considered inactive if they are outside the court's control. Offense cases are outside the court's control under the following circumstances:

- Failure of the defendant to appear for a scheduled court appearance resulting in the issuance of a warrant.
- Filing of an appeal to a higher court.
- Defendant is committed to a state institution for psychiatric issues.
- Defendant is incarcerated in another jurisdiction.

Cases are returned to active status when the defendant is arrested or next appears for further proceedings on the case.

Data Collection Tools

When conducting the statistical analysis, information was collected on **all** felony cases disposed in 2009 via a query of the IDB. The query results include the following data elements:

Cause (case) number
Defendant name
File date
Booking date
Jail status

The following data elements were then manually extracted from the court's case management system, FACTS:

Charge
Charge level
Case indictment date
Date case disposed
Number of trial settings
Type of disposition

CourTools

The following CourTools were measured as part of the study:

CourTool #2, Clearance Rates – The number of outgoing cases as a percentage of the number of incoming cases.

CourTool #3, Time to Disposition – The percentage of cases disposed or otherwise resolved within established time frames.

CourTool #4, Age of Active Pending Caseload – The age of the active cases that are pending before the court, measured as the number of days from filing until the time of measurement.

CourTool #5, Trial Date Certainty – The number of times cases disposed by trial are scheduled for trial.

The Texas OCA publishes on-line reports of measures 2 and 3 for all Texas counties using data warehouse data. CourTools #4 and #5 were captured through a query of the Travis County IDB. For a more extensive summary of the NCSC's CourTools, see Appendix 3.

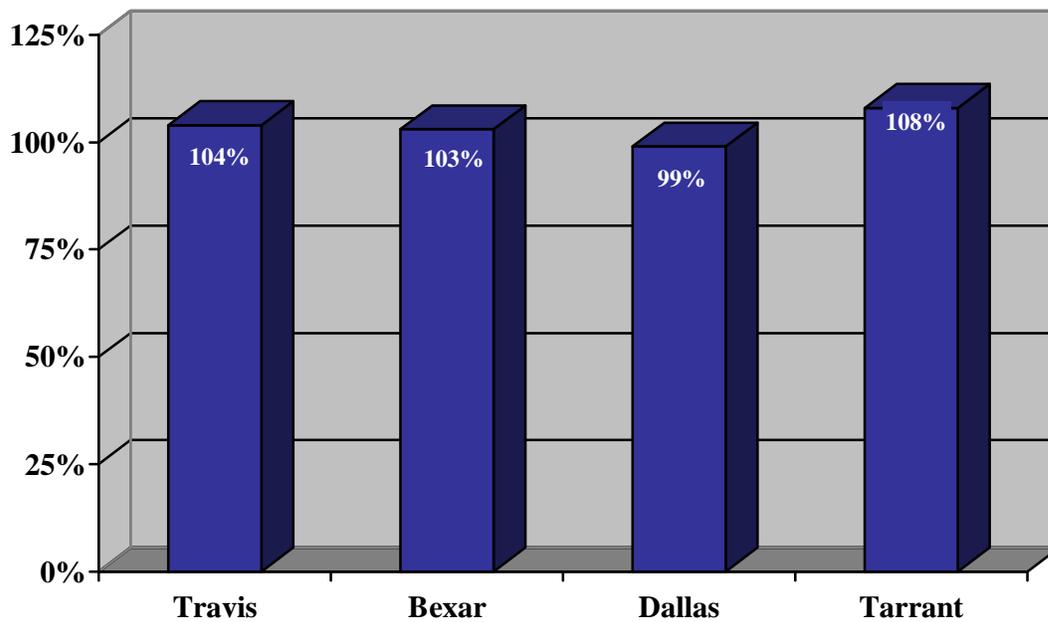
Survey of Bar/Bench/Judicial Staff

A brief 17 question confidential survey of all seven judges, judicial staff, the prosecutor's office and both private and court appointed defense attorneys was conducted on-line using Survey Monkey®. The survey opened on August 27, 2010 and closed on September 10, 2010, allowing participants two weeks to submit responses. Before conducting the survey, a sample survey was submitted to the judges for testing and feedback. After the judges were consulted, a final instrument was defined and distributed (see Appendix 5). A supporting letter from the Presiding Judge (Appendix 4) accompanied the survey. *The survey covered four areas: 1) Time to Disposition Goals, 2) Judicial Commitment, 3) Backlog Inventory Control, and 4) Caseflow Management.* Six of the seven judges responded to the survey (86 percent). Forty percent of the assistant district attorney's office answered the survey. The response rate for the defense bar was twofold: court appointed attorneys (25 percent) and private retained attorneys (46 percent) were both surveyed. Finally, seven of the court coordinators (100 percent) responded to the survey.

Findings

CourTool #2 – Clearance Rates

**Table 3 - Clearance Rates of Comparison Counties
January - December 2009**



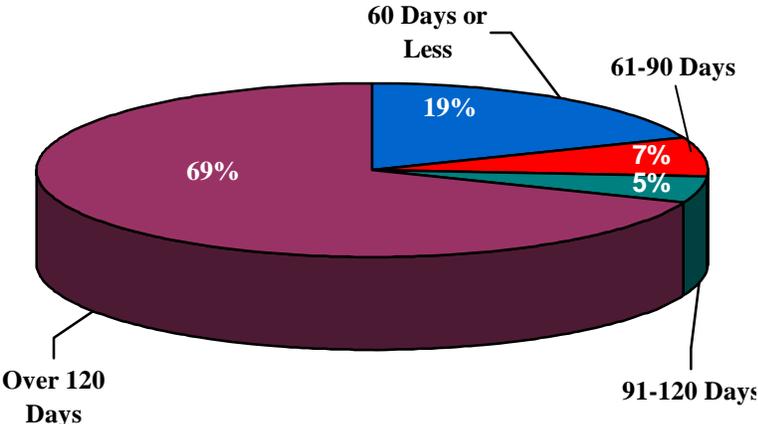
	Travis	Bexar	Dallas	Tarrant
New Cases on Docket	13,812	16,707	37,017	16,733
Total Dispositions	14,343	17,244	36,756	18,009
Clearance Rates	104%	103%	99%	108%

Clearance rates for Travis as well as comparison counties were calculated from information obtained from the state Office of Court Administration. Travis County is consistent with the other counties in establishing high clearance rates.

CourTool #3 – Time to Disposition

The ABA standard for case disposition is 90 percent of cases disposed within 120 days; Travis County disposed of 31 percent during that time frame.

**Diagram 1 - Time to Disposition
January – December 2009
14,343 Cases**



Dallas County disposed of 67 percent of cases within 120 days, and was closest to reaching the ABA national standard. All of the urban counties reviewed disposed of cases more quickly than Travis County, as noted in the chart below.

Table 4 – Comparison of Disposition Rates for Texas Urban Counties

County	% of Felony Cases Disposed within 120 days
Travis	31%
Bexar	44%
Tarrant	57%
Dallas	65%

Since Travis County has a documented history of defendants remaining in jail for relatively longer periods of time prior to disposition, a further review was performed of case custody status, identifying defendants as residing in-jail versus out-of-jail, and by degree of case complexity. This analysis is critical because more complex cases tend to be denied bond and remain in jail longer than either basic or expedited cases. After this analysis was done, it was determined that basic jail cases were disposed of within 155 days on average and expedited jail cases were disposed of within 98 days (avg.). It should be noted that courts do not have jurisdiction over cases until they are indicted or an information is filed. Therefore, for example, by excluding this time period when the court *does not* have jurisdiction over the case, expedited jail cases actually take an average of 74 days to resolve (98 days avg. – 24 days avg. days until indictment). The same formula for basic jail cases illustrates that after subtracting out the number of days from arrest to indictment, these cases take an average of 116 days to resolve. Both of these time frames are below the ABA national standard.

**Table 5 - Time to Disposition Comparison
Jail Cases Based on Case Complexity
January – December 2009**

Type of Case	Case Count	Avg. Days Booking to Indictment	Avg. Days Indictment to Disposition	Avg. Days Booking to Disposition
Complex-Jail	35	131	433	491
Basic-Jail	3,297	39	116	155
Expedited-Jail	886	24	74	98

Complex Cases	Basic Cases	Expedited Cases
Capital Murder Murder	Attempted Murder Assault Sexual Assault/Adult Sexual Assault, Indecency-Child Robbery Burglary Arson Felony DWI Other Felony	Theft Auto Theft Drug Sale/Manufacture Drug Possession Felony Graffiti

Furthermore, in 2002 and 2003, the District Attorney’s Office worked with the courts to implement “Rocket/Missile Dockets,” which involve the setting of expedited cases before the Magistrate in four days and the waiver of the indictment (plead to information). These dockets resulted in reduced disposition times for expedited cases. In 2009, the average disposition time for these cases was 11 days.

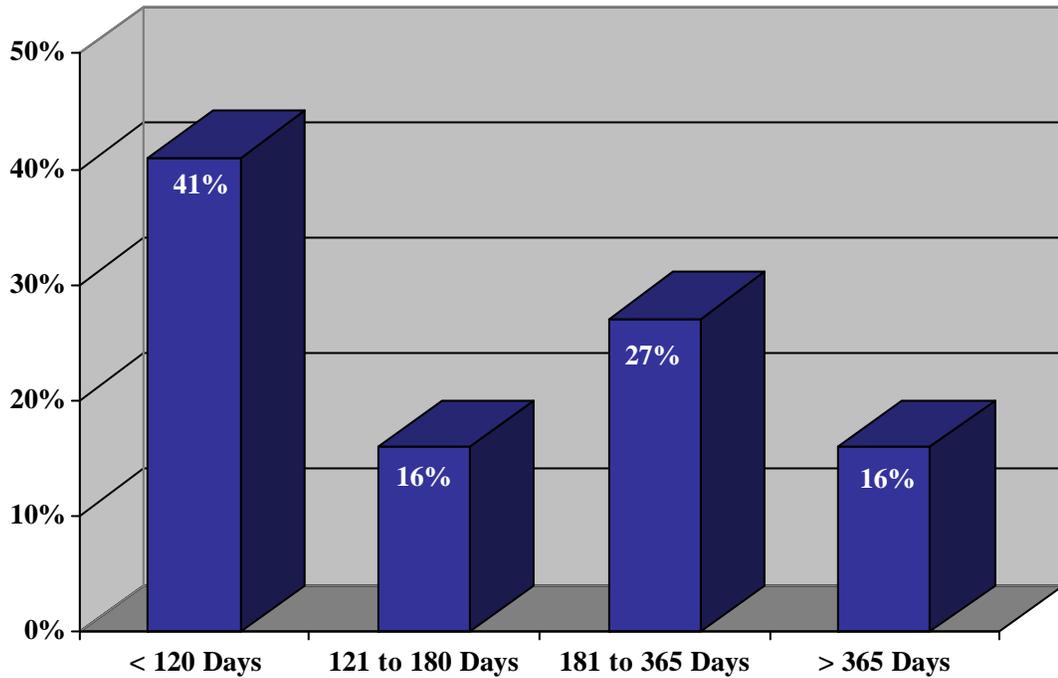
**Table 6 - Magistrate Court
Time to Disposition for Expedited Jail Cases
January – December 2009**

Number of Cases Disposed	Booking to Disposition
758	11 days

CourTool #4 - Age of Pending Caseload

Used in conjunction with CourTool #2 (indicating greater than 100 percent clearance rate) and CourTool #3 (31 percent of cases are disposed of within 120 days), the age of pending caseload appears to be somewhat high, in that there were a fair number of cases older than six months (43 percent).

Table 7 – Age of Pending Caseload



Total Indicted Cases (4,356)*

*Excludes probation revocation cases and motions to proceed with an adjudication of guilt

CourTool #5 – Trial Date Certainty

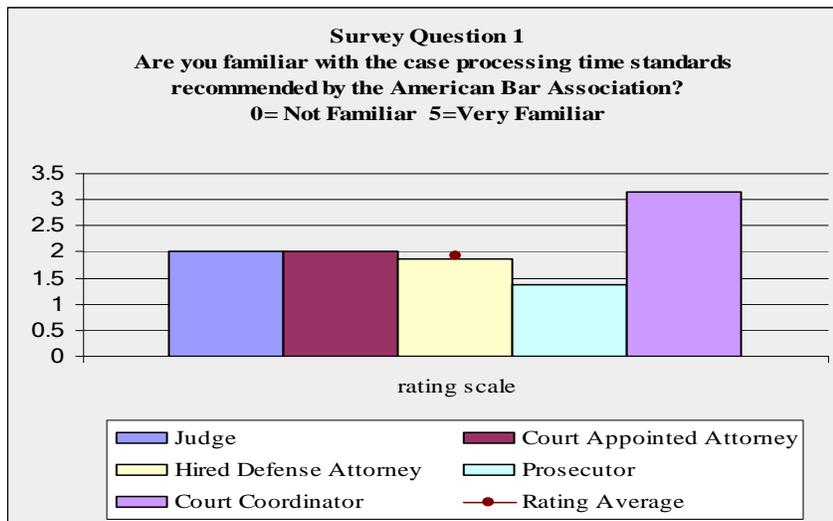
To review trial date certainty, all felony jury trials and trials before the court (TBC) (a total of fifty-nine) held during calendar year 2009 in the district courts were analyzed. Once again, data were further broken down into type of offense (complex, etc.) and jail status. The analysis determined that forty-one percent of trials were disposed of within two trial settings. It should be noted, however, that the courts have not yet adopted a standard for an optimal number of trial settings (see Table 8).

Table 8 – Number of Settings for Cases on Jury/Bench Trial Dockets

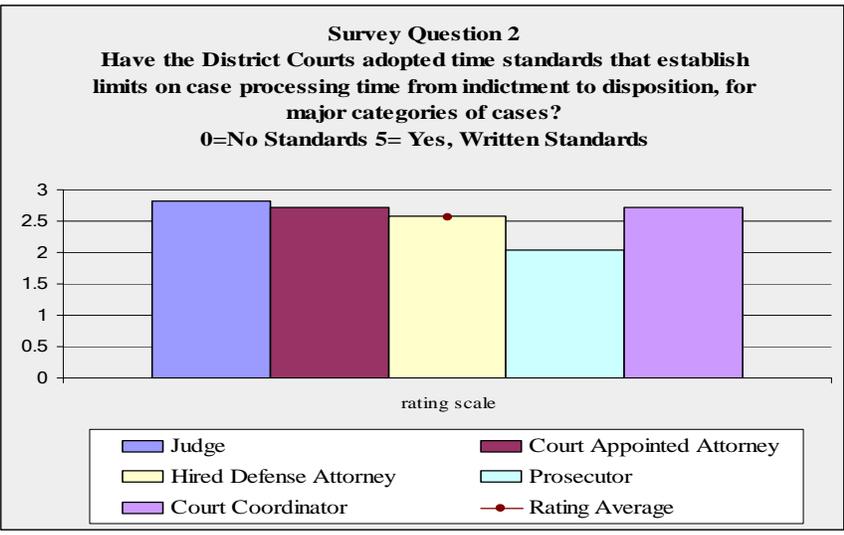
Case-Trial Type	Total Cases	Average Number of Trial Settings	Percentage with Two Settings or Less	Number of Settings							
				1	2	3	4	5	6	7	> 7
Jury	36	6.8	17%	0	6	4	6	2	2	2	14
Bench	23	1.7	78%	14	4	4	0	1	0	0	0

Survey Results

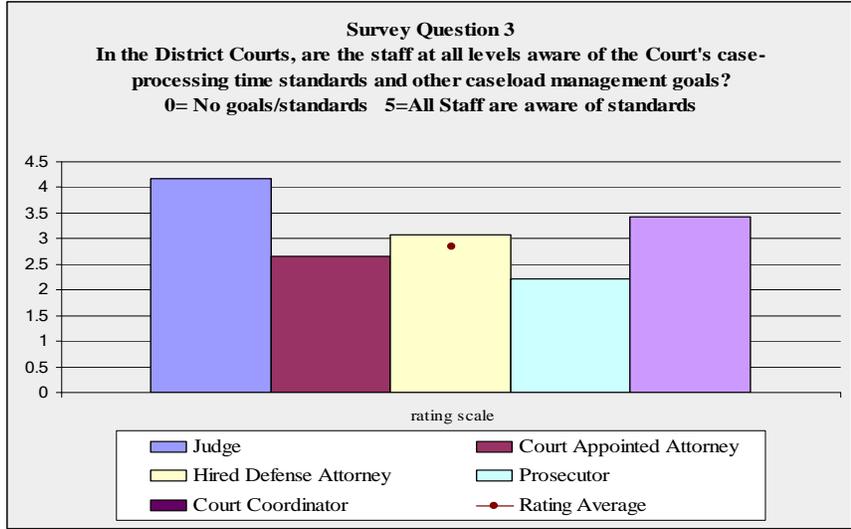
In August 2010 a survey link was e-mailed to judges, judicial staff, prosecutors, court appointed attorneys and private attorneys. The survey consisted of 17 questions. Each question was rated on a scale of 0-5. The survey questions and corresponding responses are noted below. Findings related to each question are also noted below the survey questions.



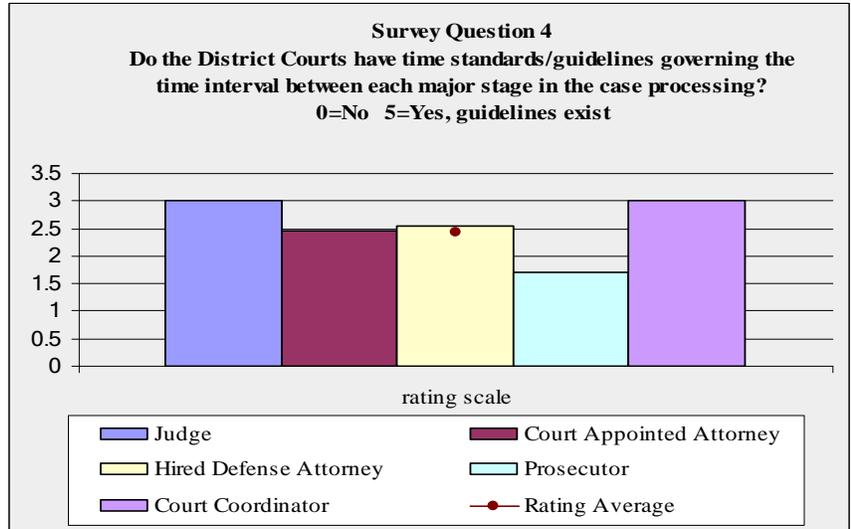
Analysis of the results indicates that the judges and defense attorneys all responded similarly with an average score of approximately two (meaning somewhat familiar), while the prosecutors appear to have little knowledge of case processing time standards. This is consistent with the data that indicates only 31 percent of cases in Travis County are disposed of within 120 days, significantly lower than the ABA standard of 90 percent disposed within 120 days. Interestingly, judicial staff had the highest understanding of the standards most likely based on their prior exposure to training in this area.



With the exception of the prosecutors, the other groups surveyed indicated there are some time standards adopted for case processing. It should be noted that the District Courts as a whole have not formally adopted case processing time standards; however, some individual Courts have steadfast deadlines for particular case processing events. For example, the 331st District Court had a 90 day standard for indictment of jail cases.

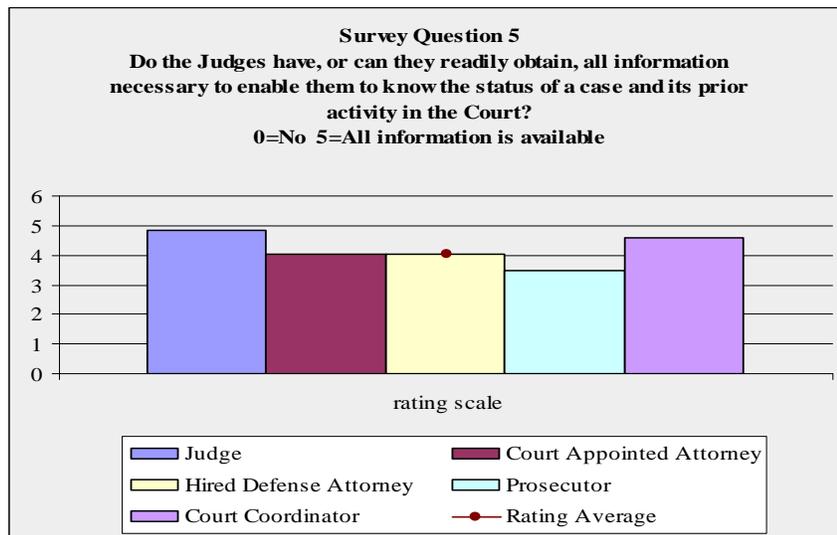


Once again, the judges and judicial staff are of the opinion that court staff is aware of court processing time standards. However, the prosecutors and defense attorneys are less certain.

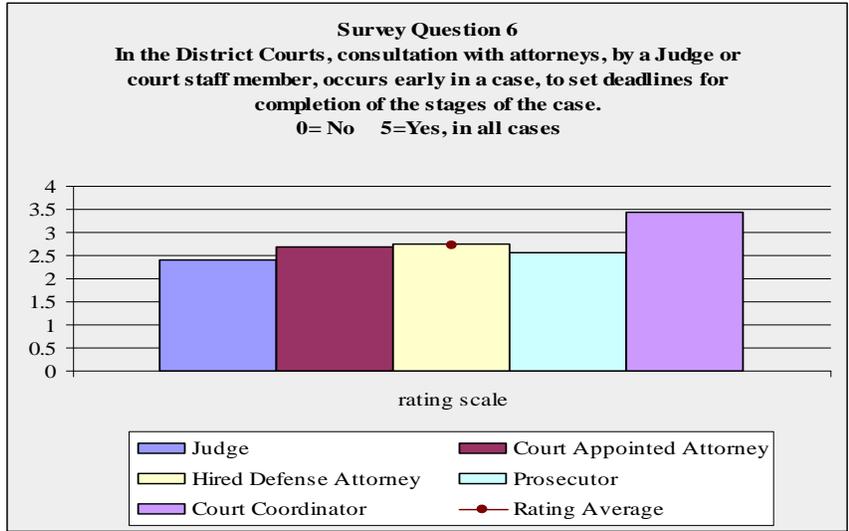


It is interesting to note that the judges and judicial staff both stated they have time standards for intervals between each major stage in case processing; however, both the prosecutors and defense attorneys did not appear to have knowledge of these standards. Interestingly, there are no written or

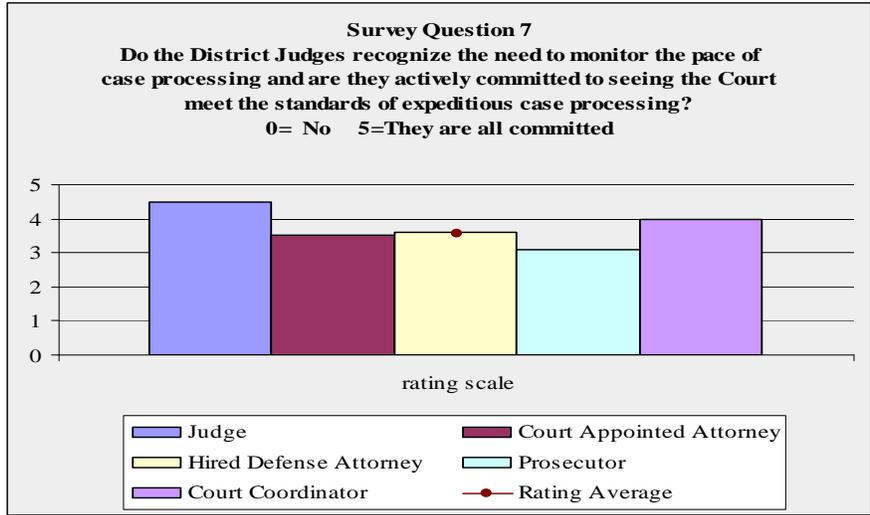
published standards governing time intervals, which may contribute to this result. However, despite the lack of written standards the courts meet case processing standards for to basic and expedited jail cases.



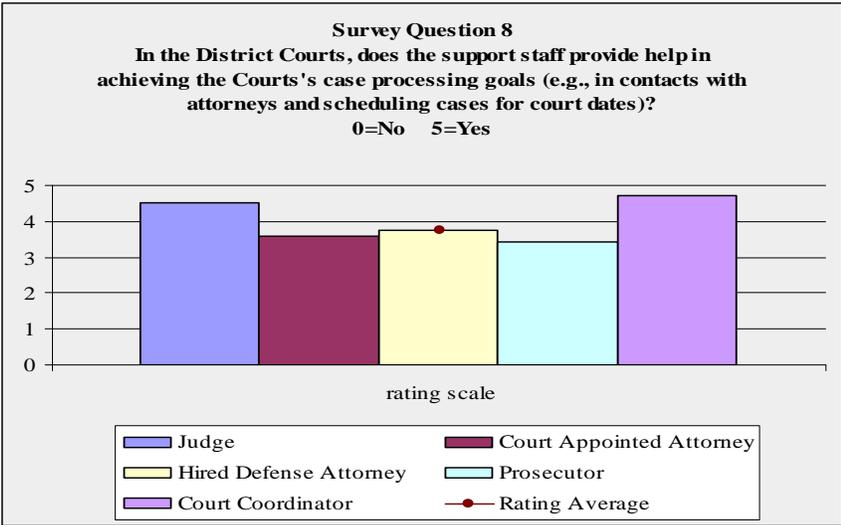
Judges and judicial staff displayed similar positive responses regarding the availability of case information to the Court. The Courts have access to the computer database, FACTS, as well as the District Clerk files, all of which provide detailed information on the cases. The prosecutors perceive that overall only some data is available to the Judges.



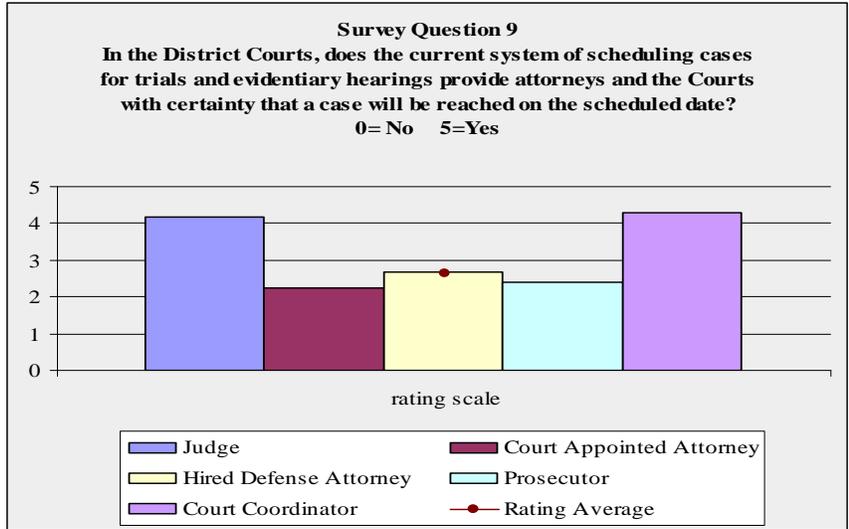
There appears to be a discrepancy between judicial staff and the other respondents surveyed concerning whether consultations with attorneys occur early in the case process. Judicial staff believes attorneys are consulted; however, judges and attorneys do not share this perception. Data indicating only 31 percent of cases are disposed within 120 days is consistent with the belief that consultations are not held to set case deadlines. This reinforces the need for the courts to adopt written time standards that are shared with all officers of the Court.



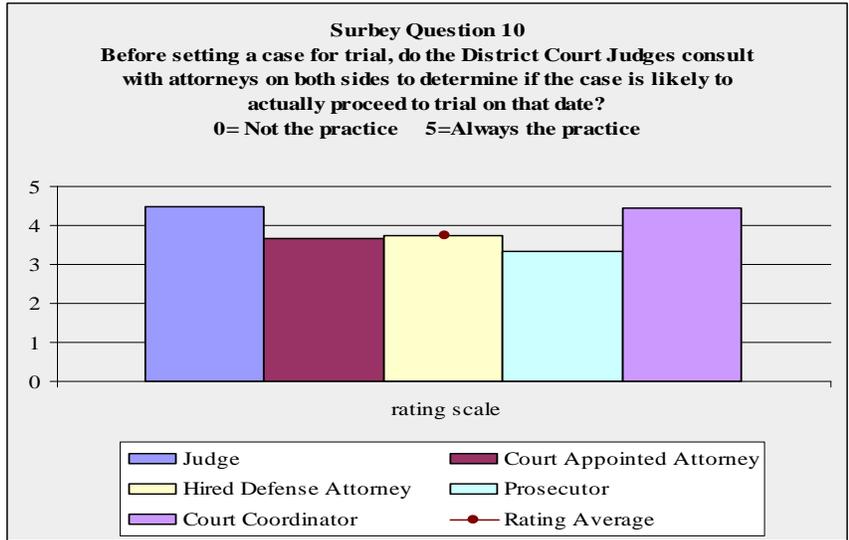
The Judges and judicial staff seem confident that they recognize and are committed to ensuring the courts meet standards for expeditious case processing. The other stakeholders were mixed in their opinions. The data indicate that the age of pending caseload in Travis County is somewhat high, in that 43 percent of cases are older than six months. Unfortunately, data could not be obtained to distinguish between in jail and out of jail cases with regard to age of pending caseload.



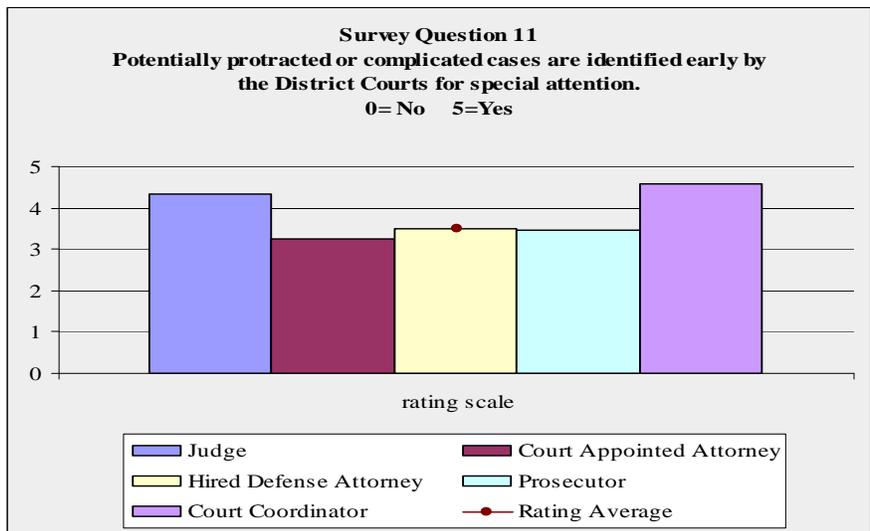
Once again, the judges and judicial staff share the opinion that support staff provides assistance in meeting court processing goals. All of the attorneys surveyed mostly agreed with this perception; however, not to the same degree as court staff and judges.



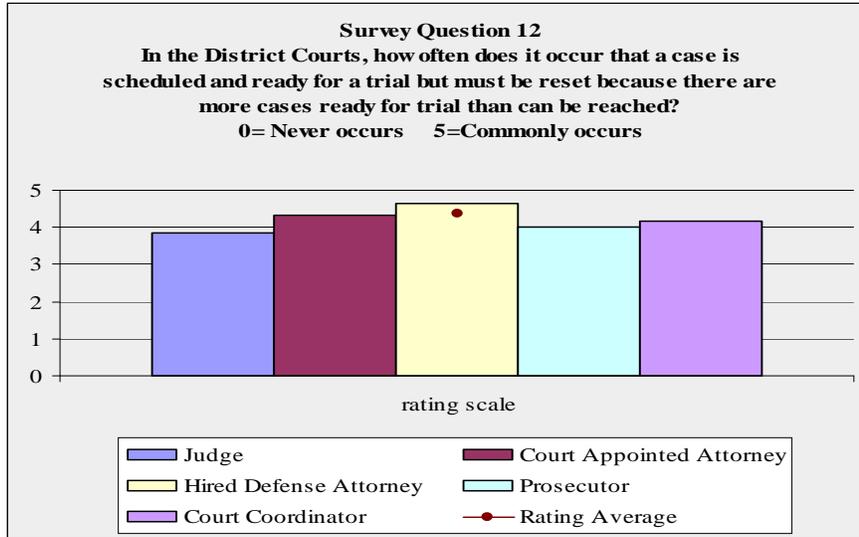
There is a significant difference between the perceptions of the judges/court staff and the attorneys practicing in the courts. In fact, data suggest that cases set for trial require an average of 6.8 settings for jury trials.



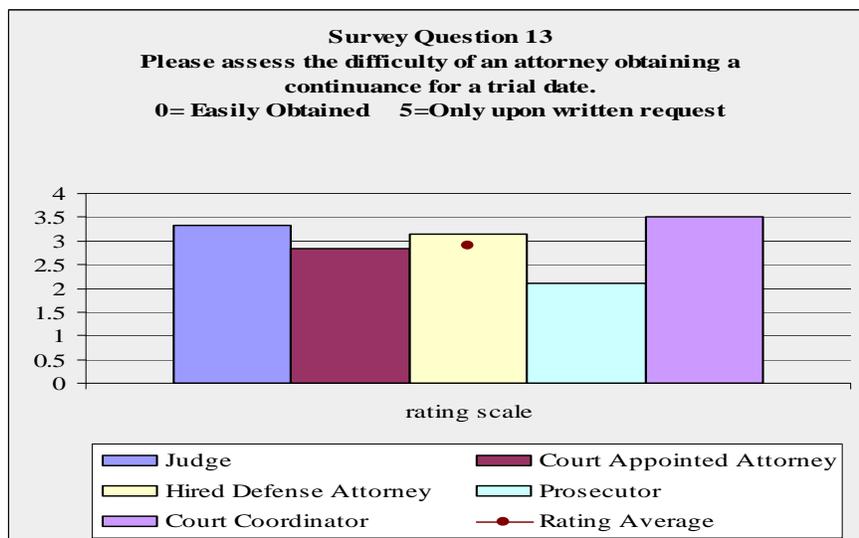
For the most part, all of the respondents surveyed agreed that judges consult with attorneys on both sides regarding trial date certainty. However, as noted earlier, while attorneys are consulted, cases are set on a trial docket quite a few times before a trial is actually heard.



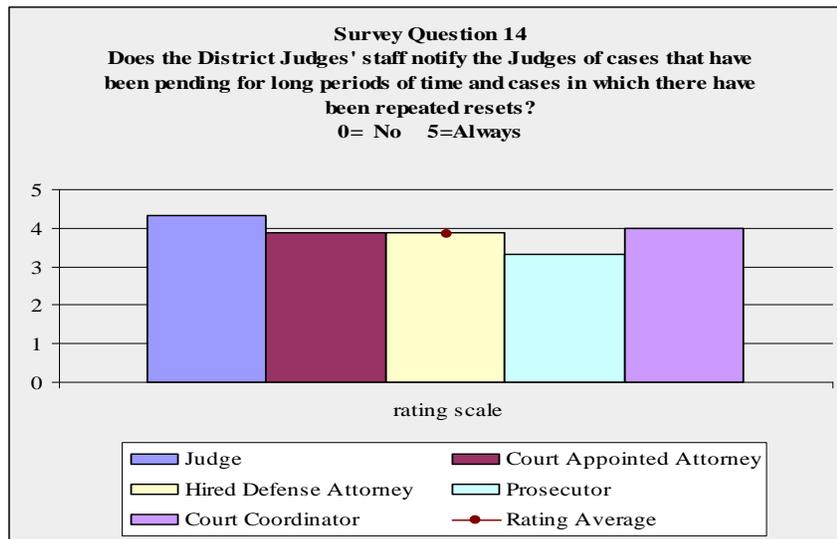
It is interesting to note that attorneys in court do not share the judicial perception that complex cases are identified early. However, the manner in which court appointed cases are assigned to indigent defendants, with more experienced and qualified counsel appointed to the most serious cases, seems to belie this perception. Furthermore, 46 percent of Travis County cases are court appointed, and an even higher percentage, according to the judges, are appointed in the most serious cases.



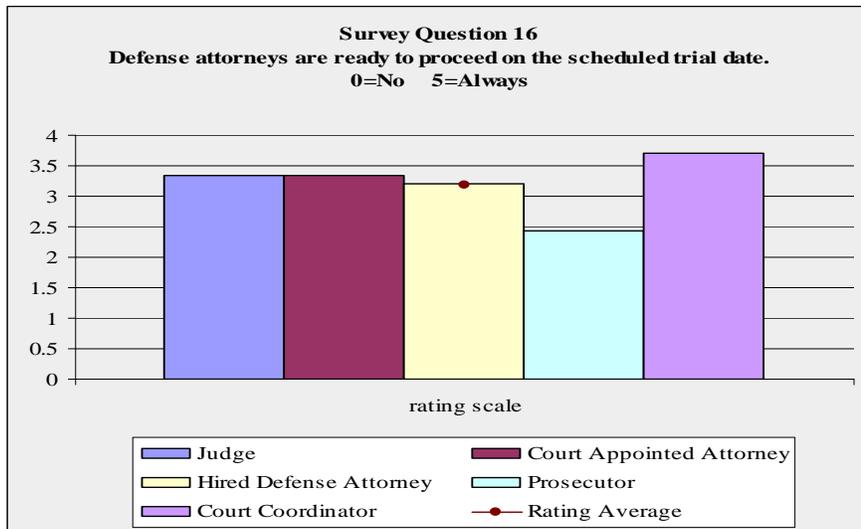
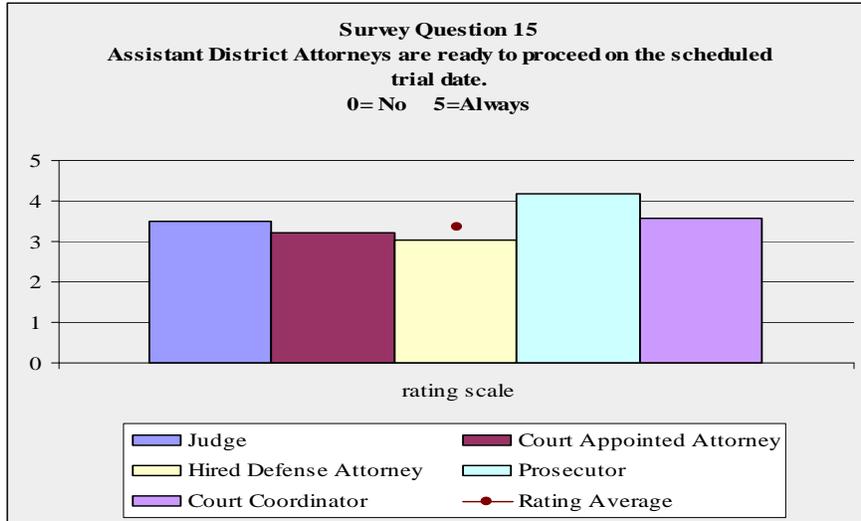
The perceptions of all the court staff, judges and attorneys are consistent with the actual data indicating that jury trials are commonly reset because there are more cases than can be reached. In fact, jury trials are reset an average of 6.8 times as noted earlier in this report. This belief contributes to the local culture that attorneys do not need to be ready to proceed on an early trial setting.



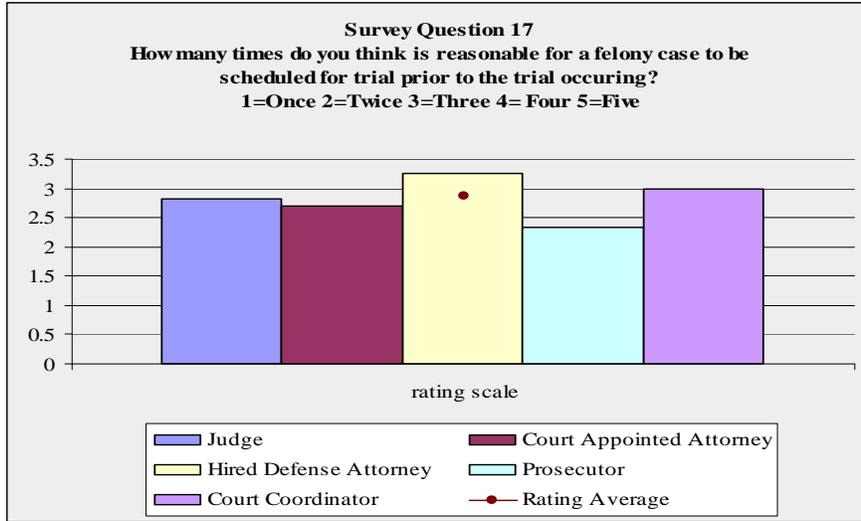
It is interesting to note that Judges, Court Staff and hired defense attorneys all answered similarly that continuances are somewhat difficult to obtain. Prosecutors, however, do not agree and seem to believe the opposite. None of the groups surveyed believed strongly that resets are difficult to obtain, and this is most likely the reason that disposition times in Travis County are longer on average than the ABA standard and than other large urban counties in Texas.



All of the respondents surveyed, with the exception of the prosecutors, agreed that judicial staff notify the judges of repeated resets. There was little variation in these responses.



These two charts are interesting in that prosecutors tend to believe that defense attorneys are not ready to proceed on trial dates, while the reverse is also true. The judges and judicial staff, however, seem to be of the opinion that both parties are equally responsible.



All of the respondents surveyed believe it is acceptable to reset a case for trial more than twice. Prosecutors come closest to the desired number of settings, while judicial staff and defense attorneys believe that more settings are acceptable. This is once again representative of the local culture and the reason disposition times are longer than the national standard.

Conclusions and Recommendations

The results of this project support the findings of leading researchers in caseflow management concerning the need for early identification of case participants and case information, early and continuing attention to case progress, case screening by court with prosecution and defense counsel, and early decisions on motions and realistic trial setting.³⁸

Interestingly, a study conducted in 1999 compared case processing practices in Travis County with other states and subsequently placed Travis in the category of a “slower” court (43 percent of cases were disposed of within 180 days).³⁹ In 2009 for this project, 31 percent of cases were disposed of within 120 days (unfortunately, different time frames were used based on state data collection requirements). However, clearly Travis still operates more slowly than other large urban counties in Texas when comparing disposition rates. This is most likely due to what Ostrom described as the “local legal culture” or the notion that, “prosecutors and attorneys live up to their expectations.” In other words, the amount of time attorneys and judges expect is needed to resolve a case has a significant effect on how long it actually takes to resolve the case.

While further improvements are needed a decade after Ostrom initially studied our local courts, historically the judges have demonstrated commitment, leadership and a willingness to work with other criminal justice participants toward common goals when needed. For example, the courts have implemented jail reduction strategies to reduce the length of time from arrest to disposition for basic and expedited jail cases. In both types of cases, the strategies have successfully reduced disposition rates to fall within the accepted ABA standards.

38. Steelman, *Caseflow Management*, 31-35.

39. Ostrom, *Efficiency, Timeliness, and Quality*, 13.

However, there is clearly room for improvement in the area of caseload management. Listed below are conclusions followed by recommendations that will assist the courts achieve greater enhancements.

Conclusion #1 – The District Courts do not dispose of all felony cases within 120 days of arrest, with the exception of basic and expedited jail cases.

Only 31 percent of felony cases were disposed of within 120 days, compared to 44 percent for Bexar Co., 57 percent for Tarrant Co., and 65 percent for Dallas Co. The delays appear to be limited to out of jail cases, as data illustrates that Travis district courts dispose of jail cases efficiently (74 days for expedited and 116 days for basic jail cases). The clearance rate was over 100 percent (104) and illustrates that the courts are successfully disposing of as many cases as are being filed, in addition to slightly reducing the backlog. However, out of jail cases continue to experience delays, most likely because of 1) easy to obtain continuances, 2) either defense attorney or prosecutor not ready for trial, as illustrated by the number of trial continuances, 3) lack of a cohesive written policy concerning resets, 4) potentially different prosecutorial plea bargain practices, and 5) differences in practices between the courts.

Recommendation # 1 – Convene a planning meeting with all relevant criminal justice participants, to develop policies that improve caseload processes.

Travis County should assemble a criminal justice committee that includes all integral participants to review the results of this report and develop policies that impact caseload processes. The inclusion of the defense bar, district attorney’s office, judges, court staff and court administration in these meetings is essential and is the best recourse to address the “local legal culture.” Issues identified by Steelman that are vital for criminal cases would need to be prioritized by this committee. They include: (a) early meeting of key case participants and critical case information; (b) continuing court attention to the management of case progress; (c) expansion of specialized dockets based on case

complexity; (d) management of plea negotiations; and, (e) early decisions on motions and realistic trial scheduling. (Probation violations are already handled in the manner Steelman suggests, which is that the hearing occurs with the original judge if a re-arrest occurs and that the case is reviewed at the earliest opportunity).

Once the committee reviews the findings of this report, they should follow up with recommendations to the presiding administrative judge concerning court policies addressing caseload management and time standards for case intervals. The judges as a group would need to formally adopt these policies and ensure that education of the criminal justice participants ensues. For example, court administration could work with court staff to provide training and education, and defense bar representatives could provide relevant information at the annual conference. Similarly, the district attorney's office could train their prosecutors.

Conclusion #2 – The “local legal culture” has not changed since the study by Ostrom and Hanson in 1999.

The “local legal culture” has been defined as the collection of attitudes in a court system. This culture includes the shared “expectations, practices and informal rules” of the attorneys and judges, as well as attitudes towards timeliness.⁴⁰ This legal culture is evident in the responses to the survey questions relating to whether the courts have time standards and reset policies. While the judges and staff indicated that guidelines existed for the processing of cases, the prosecutors and defense attorneys did not share this perception. However, there is positive evidence that time standards can be successfully implemented, as noted by the adoption in 2002 and 2003 of expedited dockets for processing in-jail cases.

40. Church, *Justice Delayed: The Pace of Litigation in Urban Trial Courts*, 451, quoted in Brian Ostrom, *Efficiency, Timeliness and Quality*, (accessed 27 Jul. 2010) 78.

Recommendation #2 – Repeat the survey and statistical analysis one year following the implementation of any new policies related to caseload processing.

This step is critical in that the local criminal justice participants including the judges, court staff, prosecutors and defense bar, must have a good understanding of adopted procedures or they will continue to “live up to their expectations.”⁴¹ Since staff turnover is not unusual in the courts, it would be most effective to conduct this evaluation annually, to determine whether court personnel have a good understanding of court guidelines. Furthermore, any policies adopted by the courts should be disseminated to new attorneys signing up for court appointments, and shared with all new court staff, judges and prosecutors as part of a training program.

Conclusion #3 – Cases that exceed time limits for time to disposition, age of pending caseload and trial date certainty are not consistently prioritized.

The courts currently receive a number of statistical reports on a bi-weekly or monthly basis to help them manage and prioritize their caseloads; however, since written policies governing time standards have not been adopted, the reports do not directly keep cases from exceeding national standards.

Recommendation #3 – Court Administration should monitor court clearance rates, time to disposition, age of pending caseload, and trial date certainty on a quarterly basis.

Fortunately, Travis County’s ability to capture accurate data has improved significantly over the past few years. Court Administration is able to provide data regarding in-jail and out-of-jail cases, as well as related to level of complexity. Furthermore, the courts receive several reports bi-weekly that list all of the cases on their dockets, ordered by age of case and jail status,

41. Ostrom, *Efficiency, Timeliness And Quality*, (accessed 27, Jul. 2010) 78.

and that further detail setting type, offense and attorney of record. Some of the courts already use these reports as a means of prioritizing cases on the jury docket, for example. Information in these reports should be shared with the prosecutors and attorneys assigned to the cases.

Conclusion #4 – An evaluation of case processing practices of misdemeanor cases is also needed to impact all cases in the criminal justice system.

Travis County is somewhat unique in that one of only a few Texas counties have separate prosecutorial offices for misdemeanor and felony cases. While this practice has some advantages (for example, prosecutors for each office are able to specialize), there are also disadvantages. One disadvantage is that delays can occur when reducing or enhancing a charge (from a felony to a misdemeanor or vice versa) since it requires coordination between two separate offices.

Furthermore, the ABA standards state that 100 percent of misdemeanors should be disposed of within 90 days; however, data from the OCA indicate that the Travis County Courts at Law dispose of only 37 percent of cases within that same time period.

Recommendation #4 – A similar evaluation should be performed on the Six Travis County Courts at Law.

Since many defendants have both misdemeanor and felony charges (simultaneously), the County Courts at Law should also adopt case processing and time interval standards, in order to effectively impact disposition times. This could be accomplished by convening a workgroup, as noted in Recommendation #1, comprised of judges, prosecutors, court staff and defense attorneys that represent the County Courts at Law, to review similar evaluation data and propose relevant time standards for case processing. The administrative judges for the Criminal District and County Courts at Law, would then present the data and recommendations, along with the Court Administration Office, to the combined judges for all of the criminal courts.

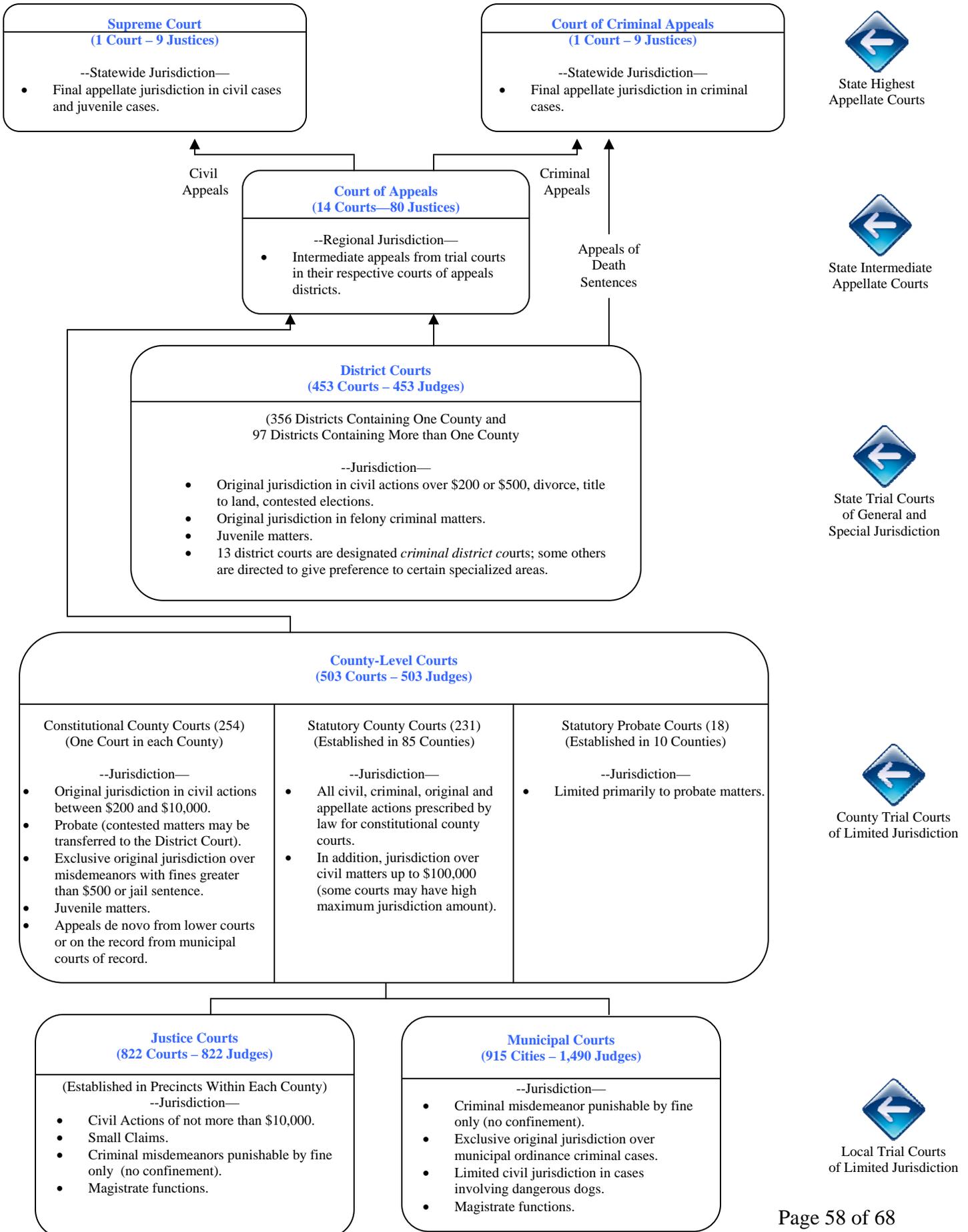
Conclusions

As mentioned previously in this report, Travis County historically has struggled with jail overcrowding. The jail was placed under federal supervision in the mid-1970s for 18 years resulting in the building of a new jail facility in 1990. However, from 1993-2001, the county was cited by the Texas Commission on Jail Standards for overcrowded jail conditions once again. Without funding to construct another jail facility, county officials created a task force comprised of judges, court staff, prosecutors and defense attorneys to improve caseload processing and impact disposition times. The types of cases targeted were low level or expedited felonies and misdemeanors that could not bond out of jail. As a result, special dockets were developed and guidelines were established for time intervals between court activities. The county jail went from housing an average of 2600 inmates to a current average of approximately 2300. These initiatives were the result of committed leadership in the judiciary as well as in prosecutorial offices and county administration. The bar and county officials have also consistently been willing to work along with the courts to improve case processing, when the need has arisen. Hopefully, they will once again be willing to convene a task force to further improve caseload processing and reduce delays in the courts.

Fortunately, Travis County has shown significant improvement in the ability to provide accurate up-to-date statistical data concerning cases on the dockets and length of time cases are pending in the courts. Many of the courts are starting to use the data to assist them in prioritizing the disposition of cases, with an emphasis on jail cases. Now that baseline data has been established, any improvements that are implemented in the future can easily be measured against this data, to determine whether the desired outcomes are being achieved.

Appendices

Court Structure of Texas



Jail vs. Non-jail, Based on Case Complexity

Travis County Time to Disposition January – December 2009				
Type of Case	Case Count	Avg. Days Booking to Indictment	Avg. Days Indictment to Disposition	Avg. Days Booking to Disposition
Complex-Jail	35	131	433	491
Complex-Warrant	4	N/A	3,272	444
Complex-Non-jail	22	154	1,942	673
Subtotal	61	135	1,094	531
Basic-Jail	3,297	39	116	155
Basic-Warrant	1,124	N/A	382	81
Basic-Non-jail	5,018	70	394	328
Subtotal	9,439	55	279	234
Expedited-Jail	886	24	74	98
Expedited-Warrant	1,298	N/A	453	22
Expedited-non jail	2,775	68	360	328
Subtotal	4,959	55	288	203
Grand Totals	14,459	56	286	225

Complex Cases	Basic Cases	Expedited Cases
Capital Murder Murder	Attempted Murder Assault Sexual Assault/Adult Sexual Assault, Indecency-Child Robbery Burglary Arson Felony DWI Other Felony	Theft Auto Theft Drug Sale/Manufacture Drug Possession Felony Graffiti

Summary of CourTools 2-5 Trial Court Performance Measures National Center for State Courts, 2005

CourTool #2 - Clearance Rate

Definition: The number of outgoing cases as a percentage of the number of incoming cases.

Purpose: Clearance rate measures whether the court is keeping up with its incoming caseload. If cases are not disposed in a timely manner, a backlog of cases awaiting disposition will grow. This measure is a single number that can be compared within the court for any and all case types, from month to month and year to year, or between one court and another. Knowledge of clearance rates by case type can help a court pinpoint emerging problems and indicate where improvements may be made. Courts should aspire to clear (i.e., dispose of) at least as many cases as have been filed/reopened/reactivated in a period by having a clearance rate of 100 percent or higher.

Method: Computing a clearance rate requires a count of incoming cases and outgoing cases during a given time period (e.g., year, quarter, or month).

CourTool #3 - Time to Disposition

Definition: The percentage of cases disposed or otherwise resolved within established time frames.

Purpose: This measure, used in conjunction with *Measure 2 Clearance Rates* and *Measure 4 Age of Active Pending Caseload*, is a fundamental management tool that assesses the length of time it takes a court to process cases. It compares a court's performance with local, state, or national guidelines for timely case processing. When the underlying data conform to the *State Court Guide to Statistical Reporting*, the measure takes into account periods of inactivity beyond the court control (e.g., absconded defendants, cases suspended pending decision on an appeal) and provides a framework for meaningful measurement across all case types.

Method: This measure should be reviewed on a regular (e.g., monthly, quarterly, or annual) basis. If reviewed regularly, the court can observe trends as they develop, then aggregate the data for annual reporting. For each case type, the first task is to compile a list of all cases that were disposed or otherwise resolved during the reporting period. For the purpose of this measure, "disposed or otherwise resolved" is defined as having had an *Entry of Judgment*. If the data for the measure are not available in automated form, and data collection requires manual review of case files, then the measure will likely need to be taken on an annual basis. Sampling is an option in courts where case volumes are high.

CourTool #4 - Age of Active Pending Caseload

Definition: The age of the active cases that are pending before the court, measured as the number of days from filing until the time of measurement.

Purpose: Cases filed but not yet disposed make up the court's pending caseload. Having a complete and accurate inventory of active pending cases as well as tracking their number and age is important because this pool of cases potentially requires court action. Examining the age of pending cases makes clear, for example, the number and type of cases drawing near or about to surpass the court's case processing time standards. Once the age spectrum of cases is determined, the court can focus attention on what is required to ensure cases are brought to completion within reasonable timeframes.

Method: For each case type being analyzed, the court should produce a report that calculates the time, in days, from filing of the case until the date established for the reporting period being examined (e.g., last day of the month, last day of the year). A report, similar to the one below, can be used to display the age of pending cases in time periods relevant to the court. Success in achieving a particular case processing time goal is easily monitored by referring to the Cumulative Percent column. In the example below, 85 percent of the General Civil cases are being disposed in 540 days or less, close to meeting the court's goal of resolving 90 percent within this timeframe.

CourTool #5 - Trial Date Certainty

Definition: The number of times cases disposed by trial are scheduled for trial.

Purpose: A court's ability to hold trials on the first date they are scheduled to be heard (trial date certainty) is closely associated with timely case disposition. This measure provides a tool to evaluate the effectiveness of calendaring and continuance practices. For this measure, "trials" includes jury trials, bench trials (also known as non-jury trials or court trials), and adjudicatory hearings in juvenile cases.

Method: Measuring trial date certainty requires identifying all cases disposed by trial during a given time period (e.g., a year, quarter, or month). After the cases are identified, additional information must be collected to determine whether those cases were tried on the first date they were set for trial or were continued one or more times before the trial actually began.

Appendix 4 – Presiding Judge Survey Cover Letter

August 26, 2010

Dear District Judges, Defense Bar, Prosecutors, and Court Staff:

The Travis County Criminal Courts are committed to providing fair and accessible justice to all - justice that protects the rights of individuals, preserves community welfare, and inspires public confidence. We cannot accomplish these goals alone. We need your help.

As part of our on-going efforts to meet these goals, we are conducting a comprehensive study of all felony cases disposed in 2009. The primary purpose of this study is to assess our case management processes and procedures. Part of this study includes a survey of judges, prosecutors, court staff, and criminal defense attorneys that practice in our county. Your responses to this survey will help us examine whether we should implement any changes to our local procedures.

The survey will take about 5 minutes to complete. All responses to the survey will be anonymous and individual confidentiality will be preserved. Group results (e.g., perceptions and trends) will be shared in the future.

The survey will close on Friday, September 10, 2010. We will not be able to accept late responses. To ensure your response is received, please submit it before 5:00 pm on that date. If you experience technical difficulties or have questions regarding the survey, please contact our Court Administrator, Debra Hale, at debra.hale@co.travis.tx.us.

Thank you in advance for your assistance with this very important matter.

Sincerely,

/s/ Bob Perkins

Judge Bob Perkins
Presiding Criminal Judge of Travis County

Travis County Criminal Courts Survey
Age of Pending Caseload and Trial Date Certainty – August 2010

Which of the following best describes your current role?

Judge **Court Appointed Attorney** **Hired Defense Attorney** **Prosecutor**

1. Are you familiar with the case processing time standards recommended by the American Bar Association?

1	2	3	4	5
Not familiar		Somewhat familiar		Very familiar

2. Have the District Courts adopted time standards that establish limits on case processing time from indictment to disposition, for major categories of cases?

1	2	3	4	5
No standards or guidelines		Informal guidelines exist		Yes-written standards have Been adopted and published

3. In the District Courts, are the staff at all levels aware of the Court’s case-processing time standards and other caseload management goals?

1	2	3	4	5
There are no goals or standards		Some are aware	Top staff are aware	Yes

4. Do the District Courts have time standards/guidelines governing the time interval between each major stage in the case processing?

1	2	3	4	5
No		Guidelines cover some but but not all intervals		Yes

5. Do the Judges have, or can they readily obtain, all information necessary to enable them to know the status of a case and its prior activity in the Court?

1	2	3	4	5
No		Some information available		Yes

Age of Pending Caseload and Trial Date Certainty Survey – Continued

6. In the District Courts, does consultation with attorneys, by a Judge or court staff member, occur early in a case, to set deadlines for the completion of the stages of the case?

1	2	3	4	5
No	Only if requested by atty.	Sometimes	Mainly in complex cases	Yes, in all cases

7. Do the District Judges recognize the need to monitor the pace of case processing and are they actively committed to seeing the Court meet the standards for expeditious case processing?

1	2	3	4	5
No	Some if they are committed			They are all committed

8. In the District Courts, does the Judges’ support staff provide help in achieving the Court’s case processing goals (e.g., in contacts with attorneys and scheduling cases for court dates)?

1	2	3	4	5
No	Some			Yes

9. In the District Courts, does the current system of scheduling cases for trials and evidentiary hearings provide attorneys and the Courts with certainty that a case will be reached on the scheduled date?

1	2	3	4	5
No	Sometimes			Yes

10. Before setting a case for trial, do the District Court Judges consult with the attorneys on both sides to determine if the case is likely to actually proceed to trial on that date?

1	2	3	4	5
Not the practice of the Court	Rarely	Sometimes	Usually	Always

11. Potentially protracted or complicated cases are identified early by the District Courts for special attention.

1	2	3	4	5
No	Sometimes			Yes

Age of Pending Caseload and Trial Date Certainty Survey – Continued

12. In the District Courts, how often does it occur that a case is scheduled and *ready* for a trial but must be reset *because there are more cases ready for trial than can be reached on the scheduled date?*

1	2	3	4	5
Never occurs	Sometimes occurs		Commonly occurs	

13. Please assess the difficulty of an attorney obtaining a continuance for a trial date.

1	2	3	4	5
Easily obtained upon request or stipulation	Attorney must show cause, but request is usually granted		Can be obtained only on written request/motion and showing of substantial cause	

14. Does the District Judges’ staff notify the Judges of cases that have been pending for long periods of time and cases in which there have been repeated resets?

1	2	3	4	5
No	Sometimes		Yes	

15. Assistant District Attorneys are ready to proceed on the scheduled trial date.

1	2	3	4	5
No	Sometimes		Yes	

16. Defense attorneys are ready to proceed on the scheduled trial date.

1	2	3	4	5
No	Sometimes		Yes	

17. How many times do you think is reasonable for a felony case to be scheduled for trial prior to the trial occurring?

1	2	3	4	5
1 time	2 times	3 times	4 times	5 or more times

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