AN EVALUATION OF THE
DIRECT CALENDARING SYSTEM
IN THE STANISLAUS COUNTY SUPERIOR COURT

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Linda Romero Soles, Chief Deputy Executive Officer
Stanislaus County Superior Court
Modesto, California
Acknowledgements

This research paper is dedicated to the memory of Judge Wray Ladine, Assistant Presiding Judge of the Stanislaus County Superior Court. The court’s direct calendar system was Judge Ladine’s “brainchild.” He passed away unexpectedly two months prior to its implementation and his becoming our Presiding Judge. Despite his loss, the court committed to carry forward with the new direct calendar as planned.

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ABSTRACT

For more than thirty years, the Stanislaus County Superior Court in Modesto, California, like many other courts throughout California, utilized the master calendaring system for the assignment and processing of court cases. In January 2005, the court made a significant change in its current practice and transitioned to a direct calendar system. The focus of this research paper is to perform an evaluation of the new direct calendaring system. The paper's main goal will be to determine the effectiveness of the direct calendar by analyzing case progress during the initial six month implementation period and comparing it to case progress during the same period in 2004 under the former system. The study is designed to determine if the direct calendar system is accomplishing the goals and objectives originally set forth by the court.

This study will analyze and discuss the following measurable objectives: Is the new calendaring system accomplishing the stated goals of increased dispositions as compared to the previous master calendar system? What is the average disposition time and how does it compare to the disposition time under the former master calendar? Has there been a reduction in the number of court appearances, jury trials, and costs to court users with the new direct calendar? What is the various stakeholders overall opinion of the system and is there greater judicial satisfaction with the new calendar?

The method of research used in this study was the creation and administration of survey questionnaires, conducting of personal interviews and collection of quantitative data. The questionnaires were completed by judges, attorneys and court staff. A total of one hundred and thirty eight (138) surveys were distributed and one hundred and thirty four (134) or 97% were returned.
In addition to the surveys, the author conducted interviews with the Presiding Judge, Court Executive Officer, Calendar Manager, Assistant Calendar Manager, Court Security, Jury and Criminal Supervisor in the Stanislaus Superior Court.

The author also collected and analyzed quantitative data of the court’s filing statistics and caseload information. The author utilized a program designed to capture disposition data from the court’s data base. The information collected from the surveys and interviews was very important for this study, because the recommendations are not strictly based on the quantitative data results.

The results of the research show that the direct calendar is achieving the goals of earlier dispositions, fewer preliminary hearings, fewer jury trials and better juror utilization rates among other goals. Cases are being distributed equally among the Judges. The Judges and Attorneys are working together to settle cases at an earlier stage of the process. The survey results also reflect that the majority of the respondents prefer the direct calendar system. Employees in the clerk’s office believe this calendar has helped streamline their work processes.

Based on the quantitative data, survey results and personal interviews, as well as a review of the relevant literature it appears the court should continue the use of the direct calendar system. Therefore, the author will present conclusions and recommendations to support the continued use of the direct calendar system in the Stanislaus County Superior Court. The conclusions and recommendations will likely include some potential areas where improvements could be made to enhance the effectiveness of the direct calendaring system.
INTRODUCTION

Courts are entrusted with many duties and responsibilities that affect individuals and organizations involved with the judicial system, including litigants, jurors, attorneys, witnesses, criminal justice agencies, social service agencies and members of the public. The repercussions from untimely court actions in any of these involvements can have serious consequences for the persons directly concerned, the court, allied agencies and the community at large.

A trial court should meet its responsibilities to everyone affected by its actions and activities in a timely and expeditious manner – one that does not cause delay. Unnecessary delay causes injustice and hardship. It is a primary cause of diminished public trust and confidence in the court.¹

For many years, the Stanislaus County Superior Court utilized a master calendar system. Calendaring is defined as assigning and scheduling court appearances and controlling the movement of the case until disposition. However, at a certain point, the Stanislaus County Superior Court wanted to explore its options in calendaring systems to assist the Judges and be more responsive to litigants and other individuals who use the services of the trial court. There were several issues the court identified with the master calendar structure that needed to be changed. Eventually, the court decided to change from a master calendaring system to an individual/direct calendar structure in January 2005.

Although there are various types of calendaring systems, the systems most commonly used by the courts are the master and individual (direct) calendar. The

requirement of timely case processing applies to trial, pretrial, and post trial events. The Court must control the time from civil case filing or criminal arrest to trial or other final disposition. Early and continuous control establishes judicial responsibility for timely disposition, identifies cases that can be settled, eliminates delay, and ensures that matters will be heard when scheduled. Court control of the trial itself will reduce delay and inconvenience to the parties, witnesses, and jurors. During and following a trial, the court must make decisions in a timely manner.\(^2\)

One of the important roles of courts in the American adversarial legal system is to balance the sometimes competing interests of speed with individual justice. Courts must constrain the natural conflicts and strategies of prosecutors and defense attorneys while managing their own resources wisely to ensure that the quality of justice is not denigrated by a process that is either too speedy or too slow.\(^3\)

This research paper will focus on whether the individual direct calendar system in the Stanislaus County Superior Court is efficiently balancing the interests of speed and individual justice. It will analyze the first six month implementation period of the direct calendar in the Stanislaus County Superior Court and compare it to the same period last year under the former master calendar system. The main focus and primary goal of this research paper will be to determine the effectiveness of the direct calendar system in the Stanislaus County Superior Court and measure if the goals set when the system was first contemplated are being met. The measurable objectives of this project are to collect and examine a number of statistical reports and identify and research the following:


1. Determine whether cases are being processed in a more expeditious manner.

2. Determine whether the new calendaring system is accomplishing the stated goal of increased dispositions.

3. Determine the average disposition time under the new system and compare direct calendar disposition times to disposition times under the former master calendar system.

4. Determine if cases are being disposed of pursuant to the ABA guideline time standards and the California Rules of Court Section 2.1 Trial court time standards.

5. Determine whether there has been a reduction in the number of court appearances under the new direct calendaring model.

6. Determine if there have been fewer jury trials under the direct calendar as compared to the master calendar.

7. Review the results and comments of all individuals surveyed/interviewed and identify what the impact of the new calendar has been on these individuals.

8. Determine whether the court should continue using the direct calendar model and/or recommend possible changes and improvements.

In addition to reviewing statistical data, this report will first provide a description of the former master calendar system as well as a description of the new direct calendar model.

In the **Review of the Relevant Literature** Section, the report provides a summary of books and articles related to this paper which were reviewed in the preparation of this report.
The **Methodology** section of this report describes the survey instruments utilized (questionnaires, interviews) and provides information collected from the instruments. Questionnaires were provided to a number of interested parties. Interviews were conducted with various stakeholders (Judges, Attorneys –District Attorney/Public Defender, Court Staff, Security, and Law Enforcement). The methodology section will also describe the data collected, the data instruments used, the procedures used to code the data and the manner in which the data was compiled.

The **Findings** section of this report will provide a detailed analysis of the caseload information, including graphs and a narrative interpretation of the data. Statistical analysis will be provided for criminal, civil, and family law cases with comparisons between the first six months of 2004 (master calendar system), and the first six months of 2005 (direct calendar system). The section includes Jury data and disposition timeframes for both periods. This section will also include a detailed discussion of the results of the survey instruments that were provided to the Judges, Attorneys (District Attorney, Public Defender, Private Attorneys), and court staff. Also included will be information obtained from the interviews conducted with the Presiding Judge, Court Executive Officer, and Court Security staff. The information obtained in this section will assist in answering the questions identified as measurable results, including, but not limited to: 1) Are cases being disposed of in a more expeditious manner; 2) Are there fewer court appearances under the direct calendar; 3) Is the quality of justice being affected?

The **Conclusions and Recommendations** Section will include a summary of the findings and recommendations on the direct calendaring structure and suggestions for improving the calendaring process in the Stanislaus County Superior Court.
DESCRIPTION OF THE COURT AND CALENDAR SYSTEMS

The Stanislaus County Superior Court has a total of twenty-one (21) judicial officers. This includes seventeen (17) judges and four (4) court appointed commissioners. All but one of the Judges is located in the main courthouse in downtown Modesto. The Court also has a Management Team entrusted with responsibility for all Administrative matters. California provides for the election of superior court Judges to serve a six year term but many enter office through the Governor’s appointment to a vacancy. The court hears civil, criminal, family law and probate matters in the main courthouse. One commissioner is located across the street from the main courthouse. This commissioner is responsible for all Title IV-D cases. Title IV-D of the Social Security Act (42 U.S.C. Section 601) established funding for a child support enforcement Commissioner to assist with enforcing child support matters. These matters are brought before the court by the Department of Child Support Services, formerly a division of the District Attorney’s Office.

The court has four branch locations. Our Juvenile facility is located in Modesto, four miles from the main courthouse. Two judicial officers are assigned to the Juvenile location - one judge and one commissioner. We have a branch location in the city of Ceres, which is located seven (7) miles from the main courthouse. One Judge is assigned to the Ceres facility and is responsible for civil cases. Our Traffic facility is located four miles from the main courthouse in the city of Modesto and a commissioner hears all Traffic and Small Claims matters at that location. We have other facilities located in the city of Turlock, which is approximately fifteen miles away. Traffic and Small claims cases are heard at the Turlock location one day a week by the commissioner responsible
for hearing the Title IV-D cases who moves to Turlock for the day. Each judicial officer is assigned one courtroom clerk and one bailiff. Court security is provided pursuant to contract, by the Stanislaus County Sheriff’s Department. Court reporters are available from a pool. The court has two Research Attorneys who provide legal research support to the Judicial Officers. In addition, three secretaries provide secretarial support to the twenty one judicial officers and Court Management Team.

The Presiding Judge of the Stanislaus County Superior Court is elected by vote of all Judges and serves a two year term. An Executive Committee consisting of seven Judges is responsible for court policy, local rules and procedures. This committee is chaired by the Presiding Judge.4 (See Appendix 1)

The Court Management Team is comprised of an Executive Officer, Court Administrator and Chief Deputy Executive Officer. When the Superior and Municipal courts consolidated in 1998 due to the passage of Proposition 220, the Judges approved the Management Team concept. Under this concept, both the former Superior Court Executive Officer and the former Municipal Court Administrator rotate into the position of Executive Officer every two years. This occurs at the same time the new Presiding Judge is elected. The Chief Deputy Executive Officer (who was the former Assistant Municipal Court Administrator) is the third member of this team and this position does not rotate. Each member of the Management Team is responsible for various divisions of the Clerk’s Office. The team concept gives equal voting authority to each member at their weekly management meetings when proposals are presented. The Stanislaus County Superior Court is the only court in California with this structure, which over the past seven years has proven to be very successful. The court Management Team is

4 Executive Committee Bylaws of the Stanislaus County Superior Court, January 1999, 1-3
responsible for the non-judicial functions of the Superior Court. The total number of personnel in the court is approximately 227. (see Appendix 2).

The annual budget for the Stanislaus County Superior Court is approximately $19 million dollars.

The Stanislaus County Superior Court was selected as one of nine (9) trial courts in California to participate in the time study for the Resource Allocation Study recently completed by the National Center consultants and the California Administrative Office of the Courts, Office of Court Research. The results of the study are being used to determine staffing needs throughout the California courts. The results of the study for the Stanislaus County Superior Court show that the court should have 252 positions.

Stanislaus County is located in the Central Valley of northern California. It is eighty (80) miles south of the city of Sacramento, the State’s capital and ninety (90) miles from the city of San Francisco. The main courthouse is located in Modesto, the largest city in the county. The population of Stanislaus County is 498,355 according to the US Census Bureau’s 2004 estimate. The geographic area is 1,494 square miles. 57.3% of the population is white, 31.7% is Hispanic, 2.6% is Black; 4.2% is Asian and 4.2% other. The main industries in Stanislaus County are agriculture, manufacturing, retail trade, education, health and social services, government and construction. The median household income is $40,101.5

**Background:**

When the Municipal and Superior Courts consolidated in 1998, no significant calendar changes were made. The Municipal Court Judges were made Superior Court

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Judges. The bulk of the criminal processes were being handled by the former Municipal Court Judges since the Superior Court Judges had agreed to this arrangement in the Court's Unification Agreement. The agreement allowed them to maintain their current calendar structure. (see Appendix 3). The two different calendars continued to exist and were not blended into one. Although the courts were consolidated in theory, there were still two sets of judges hearing the same calendars that they had heard before consolidation. Prior to consolidation, the Municipal court Judges heard a felony pretrial calendar just like the Superior Court Judges.

The Stanislaus County Superior Court calendar structure used the master calendar model for the majority of its cases. However, the calendar was not a pure master calendar system as some of the Judges operated under an assignment similar to the direct calendar system due to the case types. The case types calendared under the master calendar system was more analogous to the direct calendar system included traffic, small claims and juvenile court. The Superior Court had one juvenile commissioner and one juvenile delinquency commissioner. These three case types were permanently assigned to the judicial officers who solely handled that type of case. However, for all criminal and civil matters the court used a modified master calendar system. All trials were assigned under the master calendar method. The misdemeanor cases were assigned to a single arraignment court and misdemeanor pretrial court. The cases that did not plea at arraignment were continued to the pretrial court. All felony matters were calendared in the felony pretrial court and misdemeanor matters were referred to the misdemeanor pretrial court. Once at the pretrial court, the District Attorney and Defense Counsel would appear and the Judge would try to settle the case. Often the cases were
rescheduled because the court did not have information that it needed—such as lab or test results to review. If the cases could not be resolved at the pretrial stage, misdemeanor cases were set for trial. Felony cases were set for a preliminary hearing in the Master Calendar department. The master calendar judge in the Stanislaus Superior Court was usually the Presiding Judge of the court. Responsibility for disposition of cases in a master calendar system rests with the judge in charge of the system. Thus, the selection of that person becomes critical.\textsuperscript{6} The master calendar in this court was used primarily for trials and long cause hearings. The role of the master calendar judge was to review all cases that were set for trial or long cause hearings and assign them to specific departments. This calendar structure involved constant communication between the judges and the calendar manager for assignments. The Calendar Management Unit worked closely with the master calendar judge in providing the status of which courts were available for assignment. Due to statutory timeframes, all criminal cases were considered priority. Felony cases were handled before misdemeanor cases due to the seriousness of the crime. Defendants charged with a felony who did not waive time for their case were scheduled to be heard first. The cases were placed in priority order with in-custody defendants being heard before out of custody matters because they were unable to “waive time” due to being incarcerated and their inability to post/ineligible bail. Out of custody defendants had the ability to “waive time” since they were not incarcerated. Civil cases were heard only after the criminal matters. One of the advantages of the master calendar was that it allowed the master calendar assignment judge to match the skills of the judge to the type of trial scheduled. For example, if the

\textsuperscript{6} Maureen Solomon and Doug Somerlot, \textit{Case Management In The Trial Court, Now and For the Future} (Chicago, Illinois 1987) 38.
master calendar judge needed to assign a murder trial and only five of the ten judges had experience in handling these types of trials, one of the five experienced judges would be assigned the murder case. The same would hold true for civil trials, the judge with experience in civil matters would be assigned the civil trial. The master calendar system was more efficient with the participants (prosecutor, defense, judge) involved as the master calendar Judge’s role was is to assign individuals to specific cases. The master calendar system also allows greater flexibility with resources. A master calendar system allows Judges to specialize and allows the court to better utilize the experience and substantive expertise of the judicial personpower. Judges who are good at trying cases can do so. Judges expert in particular types of litigation can be assigned cases of that type.7

Under the old system, the master calendar judge assigned the priority cases first and then created a trailing calendar of cases. These cases would "trail" (that is matters to be assigned) until all courts commenced their trials. The master calendar judge could also hear trials if time permitted. Under the master calendar system, the Stanislaus County Superior Court time standards that measures time to trial were not problematic. The problem was the process that occurred before trial. It was chaotic. Some judges were handling up to one hundred (100) cases per day while trial judges could only handle twenty (20) cases. The Superior Court judges were frustrated and overworked. One courtroom clerk was not enough to assist in the courtrooms that had an average of 100 cases per day. These departments needed two or three clerks to process the minute orders in the courtrooms. The Superior court had eight trial departments. Felony matters went

7 Maureen Solomon and Doug Somerlot, Case Management In The Trial Court, New and For the Future (Chicago, Illinois 1987) 38
from the arraignment court to the felony court. The felony department handled all felony matters including felony violation of probation hearings, preliminary hearings, arraignments and others. The felony department had an average of 100 cases per day in these calendars. There were a total of three full time felony departments: One preliminary/pretrial department, one Probation/Superior Court Review department and one other preliminary department which was handled by the master calendar Judge. The felony pretrial calendar was extremely large and cases were constantly being continued. In order to reduce the number of cases in each of these departments, the court would have had to reduce the number of trial court departments and create another felony department. In addition to the logistical problems faced by the court, inevitably a case would be scheduled for a preliminary hearing, but the parties would not be prepared in order to advance to the hearing stage. The case would then be returned to the preliminary/pretrial department for further proceedings. At this stage some of the cases were settled but the cases that were not settled would be returned to the master calendar court for a preliminary hearing.

Superior Court Judges also heard civil cases with both limited and unlimited jurisdiction under the master calendar. Civil cases with the exception of collection cases were set for a case management conference immediately upon filing. The attorneys were responsible for submitting a Notice of Case Management Conference form. The Civil Clerks would then give the attorneys a date which normally was approximately 160 days out from the filing date. This date represented the first case management conference. Collection cases were not included because 90% of these matters resolved in judgment and the court felt that these types of cases would simply backlog the calendar. Collection
cases were automatically set for a settlement conference and simultaneously for a half day court trial when filed. These cases were set to be heard almost a year from the date of filing. The Judges felt that this would give the collection attorneys sufficient time to prepare for the cases, for example if they were going to prepare service on the defendants or a default judgment. Collection cases include delinquent credit card payments, delinquent loan payments and the like. All Civil settlement conferences and collection cases were heard by the Civil Presiding Judge. At the first case management conference, (which is a hearing to check the status of the case) the Judge would question the attorneys to determine if they were ready to proceed to trial. The Judge would determine from the attorneys if all the parties in the case had been served, appeared and filed their response, answer or demurred prior to setting the matter for trial. Unfortunately, this rarely occurred at the first case management conference. Usually it would take two to three case management conferences to get the civil matter set for trial. One other method to keep the matter on schedule was the Order to Show Cause hearing which the Judge would order when having repeated problems with the attorneys not being responsive. The case management conference would also be used when the parties had settled the case and would be present to advise the Judge to remove the matter from the calendar. The case management conference would also be used in pro per cases where often no one would appear at all, and the Court would add the matter to the Court’s Dismissal Calendar where a notice would be sent to all parties with the Court’s intended notice to dismiss. The Calendar Management Unit would be present at the case management conferences and would supply available trial dates to the Civil Presiding Judge. In determining when to set the matter for trial, the calendar management unit would review the filing date and
look at the specific type of case, for example, a personal injury auto or medical malpractice case and with the Judge’s assistance the matter was set accordingly. The cases would then be set in different “tracks.” Track I was 12 months from the date of filing, Track II was 18 months from the date of filing, and Track III was 24 months from the date of filing and Past Track was any matter being set for trial more than 24 months out. The Past Track cases were usually medical malpractice or large complex litigation cases requiring a longer amount of time. Most of the civil cases in the court were set under Track II because attorneys had difficulty in getting clients served or there were other delays. Once the cases progressed through the case management conference stage, they were heard once again by the Civil Presiding Judge.

Settlement conferences were set two weeks prior to the trial date. The court felt that it was beneficial to hold the settlement conference as close to the trial date as possible. The Court believed that if the settlement conference was heard too early in the case, the parties would not be serious about settlement. The court felt that it was an incentive for the attorneys to try to settle the case without going to trial. The judge would encourage the settlement of cases. If the cases didn’t settle at the settlement conference stage then the case would go forward to the next stage which was the trial stage. These cases would then be sent to the Master Calendar judge for assignment. These cases would be assigned based on the age and type of civil case, the length of the trial required and the availability of a judge to hear the case.

Under the master calendar model, Family Law cases were handled by one single judge who was responsible for all family law matters with the exception of contested trials. The contested trials were sent to the master calendar Judge who would then assign
the trial to one of the other Judges. The advantage of this procedure was that different Judges could hear family law cases. The disadvantage was that Judges who were unfamiliar with family law were assigned family law cases. The pooling of available Judges and ready cases under a master calendar system is said to maximize the use of judges’ time and increase the probability that cases will be reached on the date scheduled or soon thereafter.  

It should be noted that Section 170.6 Peremptory Challenges were often are used as a tactical tool under the master calendar system. Attorneys preserved them to the very end to delay going to trial because the assigned trial Judge might not want to grant the attorney’s a request for a continuance. It was suspected that attorneys also often used the peremptory challenge as a means for judge shopping. Under the master calendar if a case is assigned to go before a specific Judge and either attorney does not want that particular Judge to hear the case, they can exercise their right and file a Section 170.6 peremptory challenge. This can’t happen in a direct calendar system because a peremptory challenge must be filed ten days after an assignment is made. With the direct calendaring the assignment is made when the case is filed; thus the use of the Section 170.6 challenges as a trial tactic should, theoretically, be reduced.

**CHANGING TO A DIRECT CALENDAR:**

The primary goal for changing the calendar structure was to equally distribute the work and balance the caseload. The caseload distribution under the former master

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8 Maureen Solomon and Doug Somerlot, *Case Management In The Trial Court, Now and For the Future* (Chicago, Illinois 1987) 38
calendar was imbalanced. One of the main reasons for changing a direct calendar
assignment system in the Stanislaus County Superior Court was to guarantee that all
judges equally share in the distribution of the caseload and equally share the benefits of
the calendar assignments. “Judges perceive individual calendars as fair when each judge
receives the same number of cases. Master calendars may be more efficient because they
supposedly maximize the use of available judges’ time. However, it is also true that
judges who work more quickly or efficiently than others receive more cases, which might
have the appearance of inequity to some efficient judges.”9 Since the unification of both
benches (superior/municipal) seven years ago, there have been no significant calendar
changes and the Superior Court’s Assistant Presiding Judge wanted to explore the
feasibility of the direct calendar process. Assistant Presiding Judge Wray Ladine was the
chair of the Court’s Criminal Team and a member of the Court’s Executive Committee.
Extensive research was conducted on switching to a direct calendar, which included visits
to two other direct calendar courts in California of similar size, San Luis Obispo and the
Santa Barbara Superior Court. Several meetings were conducted with the Judges and
Clerk’s Office staff. Judge Ladine also held a meeting with the Stanislaus Superior Court
Judges where he presented the various calendar systems used in San Luis Obispo, Santa
Barbara, San Joaquin, Marin and the Monterey County Superior Courts. At the
conclusion of the meeting he distributed a survey to all Judges to determine if they
wanted to change to a direct/individual calendaring system or keep the present master
calendar system. (see Appendix 4). On June 2, 2004, the Superior Court Judges voted to
implement the direct calendar system in the Superior Court effective January 1, 2005.

9 Brian J. Ostrum, Roger A. Hanson, Efficiency, Timeliness and Quality: A New Perspective from Nine
State Criminal Trial Courts (National Center for State Courts, Williamsburg, Virginia, 1999) 32.
The following day, June 3, 2004, a memorandum was sent to the District Attorney, Public Defender, Civil/Criminal Defense Bar President, Chief Probation Officer and the Conflict Firms advising of the proposed Court Calendar for 2005. This memorandum included details and graphs and requested that everyone provide input before the Court published the final calendar in July 2004 with the January 1, 2005 implementation date. (see Appendix 5). Unfortunately, Judge Wray Ladine, who championed the adoption of direct calendaring for the Stanislaus County Superior Court, did not live to see its implementation. One morning in late October 2004, shortly after arriving at the courthouse, Judge Ladine suffered a massive heart attack. He died later that morning at a local hospital.

Before his untimely death, Judge Ladine, the Court Calendar Manager and the Court Executive Officer spent numerous hours planning the entire calendar structure and direct calendar procedures. (see Appendix 6). They also worked with the judicial officers in establishing their calendar assignments. The judge’s Calendar Assignments were determined based on information provided by each judge. The length of time that the judge’s were assigned under the new system was a minimum of two years. Rotations will be made if a judge requests a reassignment six months prior to the end of two years. The Judges were requested to complete another questionnaire where they were asked to indicate their preference on the type of assignment they would prefer. (see Appendix 7). In developing the direct calendar at the Superior Court, the Juvenile, Traffic and Small Claims calendars remained the same. These calendars were already being handled individually by a Judicial Officer in a direct calendar manner. In the criminal courts the existing structure was changed with the exception of the arraignment court. The
arraignment court was the only remnant of the former master calendar system that remained.

The review of the direct calendar processes of other Superior Courts showed that the individual Judges conducted their own arraignments as part of their individual case assignment. The Stanislaus County Superior Court chose not to follow this procedure but rather to leave the arraignments in one court and continue to conduct these in mass. This was the practice under the former master calendar model. The Stanislaus County Superior Court felt that conducting the arraignments in one court was a more efficient calendaring practice rather than assigning cases to each Judge before the arraignment. Defendants who plead guilty to a misdemeanor may be sentenced at the arraignment, unless the commissioner wishes to postpone sentencing in order to study a probation report or for some other reason. If the defendant pleads not guilty to a misdemeanor, the case will be set for trial to be heard by the Judge that will be assigned the case within 30 days if the defendant is in custody and 45 days if the defendant is not in custody, unless the defendant waives the right to a speedy trial. The misdemeanor cases are assigned by the Commissioner on a random, rotational basis to one of the nine criminal departments.

Felony cases are assigned to one of the nine direct calendar departments by the calendar management unit when a complaint is filed. All felony arraignments are assigned to one of the nine direct calendar criminal departments for all purposes and scheduled for a preliminary/pretrial hearing. The Judge assigned to the case will continue to hear the matter all the way through trial, if necessary. The Judge assigned to the case is also responsible for any hearings involving post-sentencing matters. “In an individual
calendar system, each Judge has formal authority, whether exercised or not, over the processing of the cases."\textsuperscript{10} And more importantly the pace of the litigation.

Felony matters are assigned out of the arraignment court to six of the nine direct calendar courts. These six direct calendar courts are known as the public defender and private counsel courts. If there are multiple defendants in a single case the case is sent to one of the three direct calendar conflict courts where a conflict firm (these are private attorneys contracted through the county) is appointed to represent the defendants. The nine criminal courts were divided into three teams consisting of three judges each. Two of the three teams are responsible for public defender courts and one team of three is responsible for the conflict courts. The conflict courts were established as an alternative public defender court approximately twenty (20) years ago. The Public Defender has a very large caseload and the court accommodated their request whereby they do not have to appear in all nine courts due to staffing issues. The Public Defender does not have a sufficient number of attorneys to make appearances in all the courtrooms. A conflict attorney is appointed when the Public Defender declares a conflict and can’t represent a defendant. At that point the case will be assigned to one of the conflict firms. There are two local law firms that are contracted by the county for providing these services. Those cases would be assigned to one of the three conflict direct calendar courts. Another manner in which conflict courts are assigned a case is when there are multiple defendant cases and the public defender has already been appointed to represent one defendant and one of the two or maybe both of the conflict firms would be appointed to represent the

\textsuperscript{10} Maureen Solomon and Douglas K. Somerlot, \textit{Caseflow Management In The Trial Court, Now and For the Future} (Chicago, Illinois 1987) 44.
remaining defendants. In this situation the case would go directly to the conflict courts as those courts handle only cases involving the conflict firms.

In establishing the direct calendar courts, the Stanislaus County Superior Court arranged the criminal courts in this manner to accommodate the conflict firms. The conflict departments handle most of the multiple defendant cases, because almost all multiple defendant cases involve the conflict firms. So in theory, three of the nine criminal departments should handle the more complex cases and likewise should have fewer cases overall because many of the misdemeanor and felony cases only involve the single defendant. Because the conflict courts have fewer cases and their cases tend to involve more multiple defendants, there should be a “balance” in all nine criminal departments.

Under the direct calendar model, an additional Judge was added to the family law court assignments. Under the master calendar system, as mentioned earlier in this report, only one judge handled all non-trial family matters. The decision to add a judge was made as a result of reviewing the family law judge’s workload and relevant family law statistics. Maintaining just one family law judge on the calendar would not have been sufficient. Under the direct calendar model, the family law judges split the pretrial hearings equally by case terminal digit, plus they are responsible for hearing their own trials. The family law judges under the direct calendar are assigned a case from the time of filing until disposition similar to the criminal and civil judges. They are also responsible for post-judgment matters. This process is more efficient because the judges tend to need less time to review the case before a hearing because they are more familiar.
with the case due to previous hearings. Many of the Judges, under the direct calendar system maintain their notes on the case from previous calendared events.

Under the direct calendar system at the Stanislaus County Superior Court, peremptory challenges are also handled differently. Once a judge is assigned to a case, the parties have ten days in which to file an affidavit/ peremptory challenge against the Judge. Only one peremptory challenge can be filed by each side. The direct calendar is ideal for streamlining the peremptory challenge process because it eliminates last minute challenges to a Judge. With direct calendaring, a peremptory challenge has to be filed early on in the case whereas under the former master calendar system the attorneys could file a challenge at anytime as the case progressed through the system because the case is being heard by several judges.

EVALUATION OF THE DIRECT CALENDAR ASSIGNMENTS:

An evaluation of the calendar assignments was scheduled post-implementation for the following intervals:

- 60 day review for Judges and staff
- 90 day review for staff and members of the Bar
- 120 day review for staff and Judges
- 180 day review for staff and members of the Bar

The Judges and Management determined that there would be changes made to the direct calendar system only after 180 days (six month period). Any changes needed prior to that time would be made if a calendar was in a crisis mode with no relief in site, i.e. in an emergency only. The Judges were given a survey on direct calendaring after 60 days
for feedback purposes. Review meetings were scheduled at these interval periods because it was important to obtain feedback from both the internal/external customers involved in this new calendaring system. It was also important to hold these meetings to ensure that issues were being identified and addressed. These interval meetings also helped to refine changes or adjustments needed with the direct calendar. Minutes from the meetings held with the superior court criminal justice partners are included in Appendix 9.
REVIEW OF RELEVANT LITERATURE

There have been numerous books written and studies conducted on the various types of calendaring systems and on the subject of Caseflow Management. The books reviewed for this research project focused in these areas.

One of the first books written on the subject, in 1973, was entitled, Caseflow Management in the Trial Court by Maureen Solomon. The author sets forth the elements needed for an effective caseflow management system. This book provides excellent information on the various types of calendaring systems used to assign cases as well as their strengths and weaknesses.

Ms. Solomon writes the following in her synopsis: The goals of caseflow management are: (1) to expedite the disposition of all cases in a manner consistent with fairness to all parties; (2) to enhance the quality of litigation; (3) to assure equal access to the adjudicative process for all litigants; and, (4) to minimize the uncertainties associated with processing cases. Traditional discussions of managing a court’s caseload have tended to focus on the relative merits of various methods of assigning cases to judges. They have not probed the underlying factors that determine the effectiveness of these methods. Recent court studies have demonstrated that the type of case assignment system used is not per se the determinant of success or failure of caseflow management.

The factors emerging as the key elements of a successful caseflow management system are the following:

1. Policy-level commitment by judges to control of caseflow and speedy trial disposition of backlog. This includes personal acceptance by each judge of responsibility to develop, implement, and rigorously observe effective caseflow management policies and procedures.
2. Continuing consultation among court, bar prosecutor, public defender, *et al.*, about system operation and means of improvement. The court leads the effort but is always open to suggestions from the other participants.

3. Established procedures (to which the judges have agreed upon which related agencies have been consulted) governing the flow and processing of cases, including judicial commitment to tight control of continuances.

4. Centralized judicial responsibility for operation of the caseflow management system.

5. Continuous cognizance and control of case progress.

6. A simple record system specifically designed to facilitate control of case progress.

7. Case processing time standards and caseflow system performance standards developed and adopted by judges and administrators.

8. Continuing measurement of system performance against these goals, including monitoring and feedback and periodic modification of the system.

9. Established techniques for avoiding or minimizing the possibility of attorney schedule conflicts.

10. Service of a court administrator to act as a coordinator and innovator in the caseflow management process.

*Court control* of the progress of litigation, once a case has been filed, is the basic principle on which these elements depend.¹¹

In Caseflow Management in the Trial Court by Maureen Solomon and Douglas Somerlot, written in 1987, the authors provide an updated summary to the original book on caseflow management. The book also discusses how courts can prevent case delay. One of the statements this author found interesting in reviewing their book is the following statement: "Court professionals who have studied this topic realize that caseflow excellence can be achieved under both master and individual assignment systems as well as under the variety of "hybrids" found in

courts across the country." This statement is interesting because in this research report the author is trying to determine if the Stanislaus County Superior Court is achieving caseflow excellence under the direct calendar model.

Another relevant book is, *Courts That Succeed, Six Profiles of Successful Courts* by William E. Hewitt, Geoff Gallas and Barry Mahoney. This book was interesting to read prior to conducting this study especially after completing Phase III and learning about the NCSC’s Trial Court Performance Standards. The demonstration courts discussed in this book which included 1) Detroit Recorder Court, 2) Fairfax (VA) Circuit Court, 3) Maricopa Superior Court, Phoenix, 4) Wayne County Court, Detroit, 5) Sedgwick District Court, 6) Montgomery County Court, Dayton, Ohio. These courts were used as test sites for the Trial Court Performance Standards Project. The authors discuss each court’s caseflow management practices and discuss changes made to make them even more effective courts. For example, the Dayton Court, one of the courts profiled, is considered one of the top ranked courts in America with effective civil and criminal case management practices. It also utilizes the individual calendar system.

Although this court and others identified in the book are effective in their case processing methods, the authors emphasize that courts must constantly strive to improve case management procedures to keep current with the changing times.

One of the other books that this author found very valuable for this study was *Caseflow Management, The Heart of Court Management in the New Millennium* by David C. Steelman, John A. Goerd, and James E. McMillan. This book is like a "cookbook" for caseflow management, as it gives specific details. This book provided beneficial information for this research project. The authors’ research also included

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information from previous books written on the topic of caseflow management. The authors believe that the most important goal of courts is to do justice in individual cases. Attention to individual cases is central to caseflow management. One of the most significant considerations is the manner in which cases are assigned to judges – individual judge statistics are more clearly meaningful in an individual calendar environment.\textsuperscript{13} They reveal that any kind of case assignment system is likely to have both advantages and disadvantages. An important issue in many courts is how the workweek is structured. How much time each day should a judge spend on the bench? How much time is needed for work in chambers? How should motions and conferences be scheduled in relation to time needed for trials? Of course, the answers to these questions will vary from one court to the next and from criminal to civil, family, or probate matters. Yet the success of caseflow management may be defeated without attention to specific details of how the court’s work week is organized.\textsuperscript{14}

The Master-Individual Calendar Study by John G. Fall & Associates, July 1974, this book is a final report on the comparison of master and individual calendar systems. This report provides a synopsis of the various calendaring systems, case studies, surveys and survey results from federal and state courts. The author also provides principles for effective calendaring and case processing management. This book assisted this author in developing the survey instrument used in this project. Some of the questions listed in its appendix at page 246, were used for our scantron survey. Scantron is a software program purchased by the court for designing survey forms.


\textsuperscript{14} Steelman, Goerdt, McMillan, 161
Another book reviewed for this research project was *Best Practices for Caseflow and Calendar Management in the Third Judicial District of Minnesota* by David Steelman and James Thomas, July 2001. This book provides information on recommendations for improving scheduling and calendaring in the Third Judicial District. The Third district uses a "block/volume" calendar system for criminal and juvenile delinquency matters. This was a term that I was unfamiliar with in researching various calendar models. The authors state that the term "blocking" is a common model used in many judicial districts in Minnesota. This term is defined as the setting aside of specific blocks of time for hearing specific kinds of cases, partial days, full days or weeks. Individual calendaring is used for Juvenile protection matters, detention hearings, trials, civil matters, dissolution, adoption and other family matters and probate matters. The authors state that their research considers whether particular techniques work better than others- for example whether individual calendar is better than a master calendar or is it better to have settlement conferences than to have date-certain trial dates. The universal conclusion from this research is that successful courts are those that use different techniques as part of a concerted and ongoing commitment to active management of the progress of the cases from initiation through the conclusion of all court work.  

This book provided many ideas that the Stanislaus Superior Court can utilize to improve its case management practices.

Another publication reviewed was *The Individual vs. Master Calendar Controversy* by Judge William E. MacFaden, 1974. It was interesting to read about court calendar systems from a Judge's perspective. The appendix provides a list of twenty

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questions that the author and his team used for interviews. This author referred to these questions while writing the introduction to this report and in developing the scantron survey. For example, one of the questions was: "What were some of the problems with the old calendaring method?" This author wanted to make sure to explain to the reader what problems our court had with the master calendaring system and why we wanted a change.

The last publication used for this report is the Courtools developed by the National Center of State Courts. Specifically, "Time to Disposition" performance measure was used to determine our disposition rate for the time period of this report only. Our goal is to continue the use of these Courtools in our court to measure court performance.

In conclusion, the author notes that in conducting the relevant research for this project, a common theme found in every publication reviewed was that no calendaring system will be effective unless the court has successful and effective leadership and communication as well as a commitment by the Judge, staff and attorneys to conscientiously implement the system.

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16 National Center for State Courts, Courtools, Trial Court Performance Measures (Williamsburg, VA)
METHODOLOGY

The general research design used to conduct the analysis for this report consisted of the following instruments: 1) Survey Instrument in the form of scantron questionnaires, 2) Case track analysis on various case types for the first six months using the Court’s Database, 3) Informational Statistics-collecting, analyzing and interpreting the data, 4) Interviews with Superior Court staff, Judge’s, Sheriff’s Court Security detail and local law Enforcement.

Initially a manual review of approximately four hundred random cases filed under the direct calendar system was completed. However, our database was readily available to extrapolate data on all cases filed as of January 2005. Once the data was retrieved from our database system, a sampling of case files were reviewed for validation.

Survey Questionnaires - There were a total of three different surveys developed for each group. One questionnaire was developed specifically for the judges. Each participant (judicial officer) was asked to respond to this twenty (20) question survey. A judge and court executive development program classmate from New Mexico “pre-tested” the questionnaire. The Superior Court Judges were advised of the research study being conducted on the direct calendar system for the Court Executive Development Program, Phase III, at the August 2005 judges’ meeting. At this meeting, the Presiding Judge and Court Executive Officer emphasized the importance of the study. Prior to distributing the survey, an email was sent to all Judges that would be involved in the survey advising them that a scantron survey form would be delivered to each of their chambers in a confidential colored file. A total of fourteen surveys were distributed and thirteen were returned. Surveys were not distributed to judicial officers in branch
locations that are assigned to handle juvenile, traffic, small claims and Title IV-D matters. The returned surveys were placed directly in the author’s mail slot. The results of the completed surveys are included in the Findings Section. (see Appendix 10 for questionnaires)

A second questionnaire was developed for the District Attorneys, Public Defenders and Private attorneys. This survey consisted of seventeen (17) questions. This questionnaire was pre-tested by the Court Executive Officer. The questionnaire for the District Attorney’s office was distributed at one of their department meetings. Prior to distributing the survey, the author asked to be placed on the weekly agenda. At the meeting, the author discussed the importance of the study and how valuable their input would be. The survey was distributed after providing the participants information on the research project. A total of twenty eight (28) surveys were distributed and completed. Each attorney took approximately ten (10) minutes to complete the survey. The surveys were collected immediately at the end of the meeting. A copy of the survey results is located in the Findings Section. The surveys distributed to the Public Defender’s office were sent to the head Public Defender, Mr. Tim Bazar, who distributed them to the staff attorneys who had experience with both calendaring systems in our court. The study had previously been discussed with the Public Defender and a follow up email was sent to him. A total of sixteen (16) surveys were distributed and completed. A copy of the survey results is included in the Findings Section. Thirty (30) private attorneys (ten civil, ten criminal and ten family law specialists) were randomly selected and the surveys were distributed to each of them. Due to time constraints, telephone calls were placed to
the attorneys and the study was explained to them over the telephone. All thirty were completed. A copy of the survey results is included in the Findings Section.

A third survey was developed for the Clerk’s office employees. This survey consisted of thirteen (13) questions. The survey was pre-tested by our summer college intern. Once the feedback was received from our intern, revisions were made to the survey and it was pre-tested by three court employees. Prior to distributing the surveys, the supervisors in the various units were apprised of the study and the importance of their feedback. An email was sent to the Criminal, Civil and Family Law Division employees addressing the survey and the anonymity of their responses. The surveys were returned directly to one of our Administrative Assistants for collection purposes. A total of fifty (50) surveys were distributed and forty seven (47) were returned completed for a 94% return rate. A copy of the survey results is included in the Findings Section.

The questionnaires, with the exception of the District Attorneys’ that were collected at their meeting, were returned within three weeks. Follow up emails were sent to the judges and Clerk’s office employees. The response rate from the participants was well above average. The survey participants were all known and readily available for control and follow up purposes. Notwithstanding these factors everyone was eager to share their opinion on the differences of both calendaring systems. This was important since the master calendar had been the predominant calendaring system for many years. Once all surveys were collected, the results were entered into the court’s computerized scantron system for tabulation by one of the technology staff. The written comments made on the surveys were typed and are also included in the analysis in the Findings Section.
The second method used to gather data for this study was the collection of disposition information that was obtained from the Court’s database. With the court’s technology assistance, a program was written and tested that captured the disposition time frames using the first six months of data for 2005 as a baseline. This information was compared to the same six month period for the previous year. At the outset, we started conducting a manual casetrack review because we were not sure we could write an effective program even though all case events are entered into the court’s database system. However, after consulting with one of our in-house programmers, we stopped the manual casetrack. It took one of the court’s programmers approximately three weeks to write the necessary program. The program was reviewed, tested and a few adjustments were made to the timeframes prior to its completion. The back up data includes every case number and total number of days. One of the obstacles encountered during this project was that the Criminal clerk’s staff was behind in data entry. This unit seemed to experience the most
backlogs of any of the units with the implementation of the direct calendar. In order to get current, staff was required to work overtime and input the data. This took the unit approximately one month. The report could not be processed until the data was entered into the court's database system. The program that captured the data was written using C# language with an Oracle database. (see Appendix 11). A copy of the results is included in the Findings Section.

Other sources of information used for this report include the statistical reports prepared by the Court Calendar Manager and Deputy Jury Commissioner. The author obtained a copy of their statistics. After reviewing this data, the author prepared a detailed interpretation complete with statistical graphs and charts. These statistics are included in the Findings Section of this report.

The final source of information used for this report was the personal interviews. These interviews were conducted with the Presiding Judge, Court Executive Officer, Calendar Manager, Deputy Jury Commissioner, Criminal Supervisor, Court Interpreter, Sheriff Security staff and a representative from the Modesto Police Department. Information obtained from these interviews is included in the Findings Section and also was used for assisting in interpreting data.
FINDINGS-SIX MONTH STATISTICAL REVIEW

Below are the total criminal filings for each six month period (January – June) of calendar years 2004 and 2005.

Table 1

Total Criminal Filings

Comparison of Filings-Six Months -2004-2005

<table>
<thead>
<tr>
<th></th>
<th>Felony</th>
<th>Misdemeanor</th>
<th>Total Filings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filings from January to June 2004</td>
<td>3,114</td>
<td>5,255</td>
<td>8,369</td>
</tr>
<tr>
<td>Filings from January To June 2005</td>
<td>3,564</td>
<td>4,698</td>
<td>8,262</td>
</tr>
<tr>
<td>Percent Change</td>
<td>14.45%</td>
<td>-10.60%</td>
<td>-1.28%</td>
</tr>
</tbody>
</table>

Table 1 show that the total number of felonies and misdemeanors filed in the Superior Court during the first six months of the new direct calendar system was 8,262. During the first six months in 2004, while the court was using the master calendar system, there were a total of 8,369 Felony and Misdemeanor filings in the Superior Court. This represents a slight decrease of -1.28% when comparing both six month periods.
Table 2 illustrates a comparison of the total number of Initial Preliminary hearing Pretrials for the first six months in 2005 compared to those held in 2004. As discussed previously, under the direct calendar model, all felony defendants are assigned to one of nine direct calendar criminal departments. The felony pretrial is the first hearing held
after the Arraignment once counsel has been appointed or obtained. In this proceeding the defense and prosecuting attorneys appear to first negotiate before the judge, and then to discuss the facts of the case and to explore settlement options. The total number of Pretrials heard by the nine calendar departments for the first six months in calendar year 2005 was 9,316. This total number represents the overall number of pre-trials conducted and contains all cases calendared for this event type. Therefore, cases that are continued back for further pretrial are included in the data. Of the total 9,316, there were 1,474 or 16% of the total that pled to the felony charge likewise there were 566 misdemeanor pleas out of the 9,316 or 6% where the charges were reduced to misdemeanors and the defendants were sentenced. The total number of cases unresolved and set for hearing (Prelims confirmed) was 1,333 which represent 14% of the overall total. The “Other” category represents defendants with bench warrants, PC 1368 matters (when the proceeding is recessed until a determination of the defendant’s competency is made); and other miscellaneous matters. In comparing these figures to the same period last year under the master calendar model, of the 7,435 total pre-trials heard last year only 612 or 8% of the defendants pled to the felony charges and 295 or 4% to the misdemeanor charges and were sentenced. The number dismissed represents the same percent as this year, 3%; however, the number of pretrials confirmed was greater under the master calendar model, 29% last year versus 14% this year.

Prior to changing to the direct calendar system, our county employed a Superior Court Review, or “SCR” calendar for purposes of reaching a global resolution in cases where felony defendants have multiple cases currently in the system, including misdemeanor cases and cases for which defendants were on felony probation and are then
facing a violation of their probation (VOP), for the commission of a subsequent offense. On this calendar a representative from the Probation Department also appears and all parties attempt to negotiate a satisfactory resolution of all of the defendant’s cases in the judge’s chambers before the case is called in court. If a resolution is reached it is placed on the record and the defendant is sentenced. Sometimes the parties request a continuance so that further research or investigation can be completed before final sentencing is pronounced. Under the master calendar model, one judge was assigned to hear all cases set for “SCR.” Under the direct calendar model, some judges have elected to hold their own Superior Court Reviews, while other judges have elected to dispense with that particular calendar.

In comparing the nine criminal departments, the six departments (departments 3, 4, 7, 10, 5 and 11) which hear all public defender and private attorney matters comprised a total of 1,688 or 27% of the total defendants that pled or were dismissed as compared to the other first three criminal departments. The plea and dismissal rate in Departments 2, 8 and 9 which hear the Conflict firm (Alternate Public Defender) matters was 27% of the 3,039 cases calendared in those courts. Department 7 which is a Public Defender/Private Attorney Court had the highest number of defendants that pled or were dismissed. This total was 31% of the total 1,021 prelim/pretrials. The remaining eight departments averaged from 19% to 27% in their plea or dismissal rates.

One of the goals of direct calendaring is early settlement and the avoidance of multiple pretrial hearings, this result in fewer cases being confirmed for hearing. This data shows that the judges and attorneys are working together in settling more cases at this stage by accepting more pleas and sending fewer cases to the next stage, (the
preliminary hearing) as compared to last year under the master calendar model, where only half the percentages of pleas were being taken. The number of pretrials continued under the master calendar model represents 43% of the total versus 54% under the direct calendar model. Now these matters are continued for a number of reasons, for example, the district attorney and/or defense counsel could be waiting for further discovery, police reports or test results from the Department of Justice. The district attorney may be requesting further negotiations to try to get the defendant to enter a plea of guilty. The defendant may need more time to hire private counsel as they may not want to be represented by the public defender. This number is slightly higher compared to last year, however, it is more cost effective to continue cases at this stage and schedule them for another pretrial hearing rather than advancing them to a preliminary hearing calendar. At the preliminary hearing the district attorney must expend more resources to subpoena the witnesses and law enforcement officers. What is significant on this table is that the number of felony pleas taken has more than doubled, 140% and the number of prelims confirmed (40%) has decreased as compared to last year. Therefore, fewer defendants are continuing on to the next stage of the court process which represents a savings in time and resources for the Judges, Clerk’s Office and our criminal justice partners as well as the public.
Table 3 illustrates the number of Preliminary Hearings held during the first six months of 2005 compared to the same period last year. The Preliminary Hearing is a hearing before a judge to determine if there is 1) enough evidence that a crime has been committed to hold the defendant to answer for one or more of the crimes alleged in the complaint and, 2) reasonable cause to believe the defendant committed the crime. The