

While a Child Waits:

A Study of Case Delay in Two North Dakota Judicial Districts

**Institute of Court Management
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By Karen Kringlie

ABSTRACT

There are not many people who enjoy being critiqued, judged or graded on their work performance and court employees are no different. There is the fear of the unknown, the wondering of managers about just what level of court performance is out there to be found. But imagine driving your car without ever glancing at the dashboard. How wise a driver would you be? How long would you last out on the road?

There is also the fear of comparison to other courts which leads to the familiar sounding “my court/jurisdiction/geographical region is different”. And yet, as Professor Ernie Friesen so clearly articulates, the core purposes of all courts are the same.

- To do individual justice in individual cases
- To *appear* to do justice in individual cases
- To provide a forum for the resolution of legal disputes
- To protect citizens against arbitrary use of government power
- To make a formal record of legal status
- To deter criminal behavior
- To help rehabilitate those convicted of serious offenses from society (Friesen, 1991).

And so, despite disparities in the two judicial districts which make up North Dakota Administrative Unit Two, there is the common core purpose for which all courts exist and against which all courts, even juvenile courts, can measure their performance. The general public certainly should be able to expect timely and quality service of justice from the courts and when it comes to children and families, delay can have irreparable negative consequences.

This research reviews the literature of case delay studies as well as the unique and specialized purposes of the juvenile courts and the children to which our court performance is dedicated. Causes of case delay are varied and often complex. The factors that create them may or may not be within the control of the courts. But there is one certainty and that is without examination, a court manager can never be confident that the cases under the court's purview are meeting statutory, policy or professional time standards or that unnecessary or preventable delay isn't harming outcomes for children.

Within the arena of the juvenile courts, failure to meet time standards can be significant in the life of a child. Children are the court's most vulnerable customers. Delay caused by inefficiencies in the court's process, the preparedness of the attorneys or the failure of court staff to make proper service can keep a child from accessing treatment, prevent a child from joining a permanent home or keep a child in a secure facility one day longer than necessary . Such delay can border on abuse - abuse by the very system created to protect them. Time matters and time especially matters in the life of a child.

When the state interrupts the continuity of a child's relationship with family, school or community, the cause should be extreme (violent juvenile offender or extreme child abuse and neglect) and correspondingly the court must do its utmost to speed the process and maintain the continuity of relationships which are essential to a child's growth and development. It becomes paramount in child custodial removal cases to remember that "from a child's point of view, no absence from his parents is temporary if it exceeds the period of time during which the child, always according to his age and

state of development, can preserve inner ties to them” (Solnit, Goldstein, & Freud, 1979).

Given the intensity of the issue of time in juvenile cases, this research includes an analysis of the current flow of juvenile cases from referral to case closure in the East Central Judicial District and Southeast Judicial District of North Dakota utilizing NCSC CourTools Two (Clearance Rates), Three (Time to Disposition) and Four (Age of Active Pending Caseload).

Archival data was compared to the results of a survey of judicial officers, attorneys, juvenile staff and agency stakeholder in the two districts, gathering perceptions of district adherence to state time standards and record suggestions for process improvement.

This report summarizes the finding of this research and sets forth some baseline data on timeliness of case processing in the juvenile courts of North Dakota. The purpose is to provide the North Dakota juvenile court with some empirical data against which future improvements in efficiency can be measured and goals for policy or procedure can be refined or set. And also to illuminate areas within the statistical database where data elements are not captured or reported in ways to make regular caseload reports useable by court staff.

Delay defeats the mission of the juvenile courts: to deter future offenses, to maximize connections to treatment and to ensure the safety, well-being and permanency of a child. Certainly to a child removed from home, who or what causes the court delay does not matter. Knowledge and understanding of child development,

along with an ability to see the legal case process from the child's perspective, can be crucial to the implementation of effective policies in juvenile court. Court performance measurement focuses attention on that mission, not to eliminate delay at the cost of due process but to control delay and ensure due process for everyone, regardless of their age.

INTRODUCTION

The passage of time is a deeply embedded human experience. All human beings measure time, discuss time and wait for time to pass throughout their lives. From metaphysical philosophers to children waiting for birthdays, all humans have contemplated time's passage, attempted to slow it, speed it or alter its flow.

In the business of "truth-seeking", a basic purpose of the courts, the passage of time can have a significant impact – deterring or delaying justice, eroding or erasing evidence, fading or coloring human memories and ultimately creating uncertainty in judicial outcomes. And yet, none would argue that speed alone should be the ultimate goal.

The Roman poet, Ovid, noted that "at times it is folly to hasten at other times, to delay. The wise do everything in its proper time". The political philosopher and third President of the United States, Thomas Jefferson remarked that "delay is preferable to error" (Jefferson, 1792). Clearly one must not sacrifice quality for speed. When applied to the profession of court management the aim of case delay studies is to analytically study the time to process cases, reflect upon the importance of speed in balance with

constitutional demands such as due process and continually monitor and adjust the court's processes to enhance both the efficiency and quality of the delivery of justice.

There are some unique challenges to this task when it comes to one small area of the courts: the limited jurisdiction court for children or the juvenile court.

No government entity in this day and age, with the possible exception of the Central Intelligence Agency, would seek to appear to the general public as remote, mysterious or inaccessible. The juvenile courts of this country are no exception in their desire to be understood, recognized and even valued and yet, because of its unique task, the vulnerability of its clientele and resulting procedural safeguards, these specialized courts struggle against the perception of secrecy every day.

Of all the courts within the judicial branch, why is the juvenile court poorly understood or the most misunderstood? In order to meet one of its founding principles, "to remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior" (Uniform Juvenile Court Act, 1968) most juvenile courts in the nation are restricted courts, with closed proceedings to the general public. The names of the parties are not disclosed, the process itself is not observable nor the outcomes published. This lack of public transparency, accompanied by media stories of violent youthful offenders may easily place juvenile court at the top of the list of most likely tribunals to engender public dissatisfaction.

Despite advances in the victim participation, campaigns to increase public understanding and enhanced public release of court statistical information, juvenile court remains the Bermuda Triangle of the court system, so variable in form across

jurisdictions it is quite difficult for even the ultimate juvenile court insider, the court manager, to assess across district or state lines for quality and efficiency.

These characteristics of juvenile court do pose a serious challenge to any court management professional striving to gain the public's trust in the quality delivery of dispute resolution, a timeless goal first pointed out in 1906 by prominent court reformer and one of the preeminent founders of sociological jurisprudence, Roscoe Pound. Pound gave a speech to an assembly of the American Bar Association entitled, "The Causes of Popular Dissatisfaction with the Administration of Justice" which challenged the courts to examine why the institution was held in such low esteem by the general public.

Pound's court reform challenge remains daunting, perhaps even more so for court managers tasked with increasing public trust and confidences in the restricted world of the juvenile court system. Pound was keenly aware that a problem such as case delay can significantly impact the public's perception of the court system as accessible, fair and efficient. More critical perhaps than public perception, a more concerning impact of case delay is that "justice is lost with the passage of time" thereby defeating the very purposes of the courts (Friesen, 1991).

Timeliness in juvenile and family matters must be of heightened concern for the court management professional given that expeditious judicial decisions can protect a child's exposure to further child abuse and neglect in an unsafe home, unite an abandoned infant with a permanent and loving home or require the prompt connection of a youthful offender with proper treatment and rehabilitative services thereby

shortening lengthy pre-adjudicatory stays in juvenile detention centers. These goals are not only laudatory but ethical imperatives placed upon the judicial system. Wasteful court delay that causes backlogs in civil or adult criminal matter is one thing but delay that keeps a child in an abusive home or isolates an adolescent in detention pending the start of treatment is quite another.

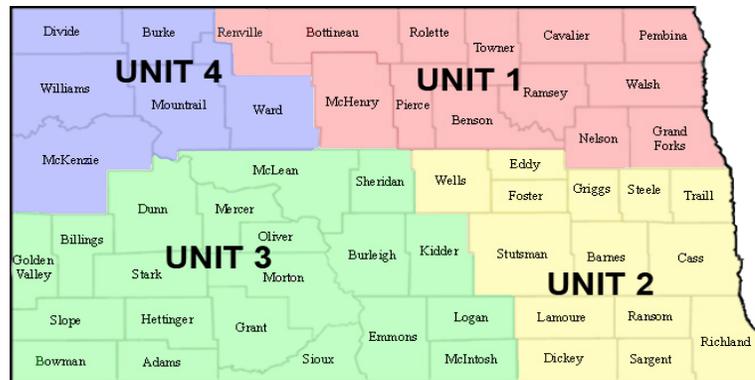
This project will examine case delay in the juvenile courts of the East Central Judicial District and Southeast Judicial District of North Dakota from referral to case closure utilizing three of the NSCS performance measurement tools: CourTool Two (Clearance Rates), CourTool Three (Time to Disposition) and CourTool Four (Age of Active Pending Caseload). (National Center for State Courts, 2005) These three performance measurement instruments were chosen because each one focuses on a different report of court attention and delivery of timeliness. While choosing to utilize only one or two of these tools would have reported adequate performance information, utilizing all three gives the most accurate and detailed picture of how well a court system is doing in meeting its obligation to deliver justice in a timely manner.

North Dakota is a unified court system. There are 53 counties in the state, the vast majority of which are small in population but large in geographic size. According to the United States Census Bureau, North Dakota has a total population of 641,481 with a youth population of 160,849 (United States Census Bureau, 2009).

The state is divided into seven judicial districts, each with one presiding judge court management however, is divided among four court administrators located in the four administrative units. Each unit court administrator oversees court personnel,

budget, facilities, records management and caseflow for his/her own unit. A juvenile court director oversees juvenile court caseflow management, budget and human resources for each unit.

Figure 1: Map of North Dakota Court Administrative Units



The state court administrator is responsible for the efficient oversight and management of the North Dakota state courts and this position is appointed by and serves at the pleasure of the Chief Justice of the North Dakota Supreme Court.

The North Dakota juvenile court system is a relatively small part of the North Dakota District Court, the courts of general jurisdiction in the state. Juvenile courts are sometimes referred to as “specialty courts” because the jurisdiction is limited to addressing disputes wherein a child is alleged to be unruly, delinquent or deprived.

Court Administrative Unit Two will be the focus of this project. Unit Two consists of two judicial districts, the East Central Judicial District (hereinafter referred to as “ECJD”) with three counties and a population of approximately 149,533 (population of youth under the age of 18 estimated at 29,793) and the Southeast Judicial District

(hereinafter referred to as “SEJD”) with 12 counties and a population of 78,694 (youth population estimated at 17,134) (The Annie E. Casey Foundation). Population growth is predicted in the East Central Judicial District, specifically the Fargo metro area, while population decrease is predicted in the Southeast Judicial District counties.

The ECJD is served by two appointed judicial referees who specialize in juvenile and family court law. The SEJD juvenile cases are heard by district court judges who preside over cases of all types from civil to felony jury to small claims. The judges of the Southeast Judicial District travel more often and longer distances than those of the East Central Judicial District.

North Dakota statute provides for a method in which juvenile unruly or delinquent cases can be disposed of without the necessity of a formal court proceeding or judge or referee time in a consent proceeding called an “informal adjustment”. Section 27-20-10(1) of the North Dakota Century Code states:

Before a petition is filed, the director of juvenile court or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties and impose conditions for the conduct and control of the child with a view to an informal adjustment if it appears:

- a. The admitted facts bring the case within the jurisdiction of the court;
- b. Counsel, advice and conditions, if any, for the conduct and control of the child without an adjudication would be in the best interest of the public and the child; and
- c. The child and the child’s parents, guardian, or other custodian consent thereto with knowledge that consent is not obligatory.

This process is used more frequently than the formal court process in which a petition is filed, the state represented by a prosecutor and the matter heard before a judge or judicial referee. Informal adjustment proceedings are held by a juvenile court officer and the parties must consent to the proceeding and the youth must admit to the offense alleged to participate. These proceedings take place on a much faster time

schedule as they are not bound by the formal rules and procedures of the petition process nor do they need to wait to get onto a judge's calendar.

Child deprivation matters in North Dakota are all handled via the formal court process once the allegations of child abuse and neglect are deemed of such significance by the state's attorney to warrant a deprivation petition or in emergency cases, an emergency removal and shelter care hearing.

A study of juvenile court case delay - its existence, its causes, its possible remedies - has not been done in the State of North Dakota. The purpose of this report is to provide a performance measurement baseline for the timely processing of juvenile court cases in North Dakota. This project will look at juvenile cases in the two judicial districts which make up Administrative Unit Two of the North Dakota courts, compare the results and make recommendations to enhance the timeliness of juvenile proceedings.

Nationally, most states do not have mandatory juvenile case processing time standards nor do any but a select few states recognize a right to speedy trial for juveniles (Butts & Sanborn, *Is Juvenile Justice too Slow?*, 1999). Jeffrey Butts has stated that perhaps the best indicator of a child's right to protection from unnecessary case delay is his or her geographical location (Butts, Cusick, & Adams, *Delays in Youth Justice*, 2009). One's right to efficient case processing should not depend on where you live. Court caseflow management can fill the gap by measuring baseline performance and monitoring for patterns and causes of delay.

The North Dakota Supreme Court has set juvenile case processing time standards for petitioned cases have been set by the North Dakota Supreme Court Policy 409(Appendix A). As in many states, this policy is not mandatory nor has compliance with this policy ever been studied.

In addition to the state juvenile court time standard policy, state statutes set some case process time limits regarding the filing of the petition and the scheduling of permanency planning hearings (See N.D.C.C. Chapter 27-20) and federal laws such as the Adoption and Safe Families Act, the Federal Juvenile Justice and Delinquency Prevention Act and the Indian Child Welfare Act also influence and direct the processing times of juvenile court cases in North Dakota.

Additional guidance on appropriate case processing timelines is provided nationally by the Trial Court Performance Standards as developed by the National Center for State Courts (Bureau of Justice Assistance, 1997) as well as the American Bar Association recommended standards for juvenile court cases.

Using the National Center for State Courts' CourTools Two (Clearance Rates, Appendix B), Three (Time to Disposition – Appendix C) and Four (Age of Active Pending Caseload – Appendix D) the performance of these two districts will be examined providing a basis to create and implement juvenile court business rules which will aid in the future data collection necessary to generate a quarterly report on time to disposition and map out a number of possible recommendations to speed case processing and reduce delay in juvenile court.

Archival data will be compared to the results of a survey of judges, judicial referees and attorneys in the two districts, gathering perceptions of district adherence to state time standards and record suggestions for process improvement. This survey will facilitate an examination of whether the local court culture of these two judicial districts impacts the efficiency and timeliness of juvenile court performance.

The intent is to make recommendations upon which change implementation in North Dakota juvenile court case processing and caseload management can be based. Ultimately, the aim is to reduce delay and create positive impact on the welfare of children and families in the North Dakota juvenile court system.

LITERATURE REVIEW

In reviewing the literature of case delay studies it is clear that the focus of research in this area has been on civil court and adult criminal court cases. Juvenile case delay has not been studied extensively although it must be noted that the Adoption and Safe Families Act (which ties state access to federal foster care dollars to speedy reunification of removed children to permanent homes) has created an upsurge of articles and research specifically regarding child permanency within the foster care system.

To conduct this project, an understanding in the historical underpinnings of juvenile court and the purpose of courts in general was necessary. Further, review of past case delay studies, the philosophy of modern caseload management and consequences of local court culture was required.

PURPOSES OF THE COURTS AND CALL FOR COURT REFORM

Courts resolve human conflicts, balancing the rights of the individual with the interest of society as a whole. In this process of conflict resolution, courts must deliver individual justice in individual cases, protect the individual from arbitrary abuses of governmental power and deter criminal behavior (Friesen, 1991). Clearly, court independence, judgment and efficiency are not mere corporate business goals but the foundation of this nation's existence and guardian of citizen rights and freedoms.

It is important to note that the profession of court management is a relatively new one. Historically courts have been managed either by clerks or judges, people who while perhaps wise in the law or the formalities of case processing were not trained or prepared to manage large organizations in contrast to a public administrator of a municipality or a university for example. Small, single-judge courts still rely on the judge as the top administrator because such small size does not justify the hiring of a professional court administrator.

Concern with court efficiency and professional court management cannot be called a recent "trend" in the legal profession. Roscoe Pound, in his 1906 address to an American Bar Association convention, pointed out that a great need existed for court reform due to a "widespread feeling that the courts are inefficient" (Pound, 1906). He was not the only one to call for court improvements. In 1921, President Taft called for reform of the federal judiciary due to excessive case backlogs (Tobin, 1997). Arthur T. Vanderbilt, the 1938 President of the American Bar Association, proposed that national

standards be developed regarding judicial administration based on the needs and rights of the litigants (Berkson, 1977).

Well into the twentieth century court management, as performed by clerks of court or judges, was more a process of aligning resources, calendaring, case assigning and routine file maintenance. The repeated calls for court reform and closer administrative oversight eventually resulted in the appointment of the first professional state court administrator, Edward B. McConnell, who was appointed in the state of New Jersey in 1948 (Steelman D. C., *Caseflow Management: The Heart of Court Management in the New Millennium*, 2000) and the first professional manager, Ed Gallas, who was appointed as the Court Executive Officer of the Los Angeles Superior court in 1950 (Aikman, 2007).

From that point forward, the growth and impetus for a professional cadre of court administrators emerged in the United States. The movement gathered support as proof of “ever-worsening backlogs, time to disposition and waiting times” (Gallas & Gallas, 1991) combined with the 1970’s and its era of “great increases in the volume and complexity of civil and criminal cases filed before the state courts” (Church, Carlson, & Tan, 1978) made the need more visible to the legal profession as well as to the public.

STUDY OF CASE DELAY AND CASEFLOW MANAGEMENT PRINCIPLES

In the early literature on court case time processing, the words “delay”, “backlog” and case “congestion” are used relatively interchangeably. It became more apparent as the field of caseflow management developed, that these terms needed delineation and

separate measures created to study each of them in order to focus in on the cause and effect of excessive case processing time.

“Backlog”, is the accumulation of cases not yet disposed. While keeping current with incoming caseload is important, it is not an accurate reflection of delay by itself as it “fails to indicate the speed at which cases are processed” (Church T. W., 1978). It has been stated that “slow courts are almost always “backlogged” courts” (Steelman D. C., Improving Caseflow Management: A Brief Guide, 2008). If there is significant backlog, a court may have to undertake a “catching up” transition period during which focus and attention is brought to taking care of the oldest cases.

Case aging reports can show the number of cases over a certain age, in other words “deviation from a standard”, provided the jurisdiction has adopted time standards. Without a local time standard policy, the court manager can utilize national standards for comparison purposes; however, the enforcement mechanism of a local policy on time will be lacking. Adoption of a local policy certainly is a clear signal that court management is committed to the timely disposition of cases and studies of case delay all include this point in their recommendations.

Time reports on “case processing” show how long to disposition a case takes from start to finish. At issue in these reports is deciding when a case officially starts and in child custodial cases, when the case ends. Most reports measure the starting point from the time of filing but in some types of cases the court’s control over a file can come and go throughout the process. For example, the court referral is received but the matter waits for a charging decision to be made by a prosecutor. The court does not

have control over that time frame. Or when a child is taken into custody for detention or shelter care due to emergency circumstances put prior to the filing of the petition. In that example a court can control or require the filing of a petition within a certain time frame via court order, statute or rule or combination thereof. In these time to disposition reports, it can be important to decide to measure from certain key events in order to most accurately indicate where the cause of delay arose and which participant in the process was responsible for the delay.

Early solutions to delay were all tied to the formal court process (in other words, how the system is organized) or increasing judicial resources. In other words, the solution proposed usually had to do with master calendaring or creating more judgeships and hiring more court personnel. Another popularly stated cause which certainly holds some validity is lack of attorney preparedness for trial in combination with a passive judge who sees the court's role merely to see to it that the gladiators fight by the rules (Rosenberg, 1964).

The view the court holds of its own role in the process of resolving cases can have quite a measurable impact. If the court takes the more historical and passive referee role (in other words, that the court is on stand-by waiting for the attorneys or litigants to indicate readiness to proceed) it means that delay studies must focus on the time between when litigants indicate their trial readiness to when the court actually hears the case. This is referred to as the waiting in the "trial queue" by Zeisel et al in the 1959 book, Delay in the Courts (Zeisel, Kalven, & Bucholz, 1959).

If, however, on the flip side, the court sees itself entrusted with a responsibility to be the driving force, expediting all cases efficiently through the system, a better measurement of delay is time to disposition. Time to disposition is the measurement in days from date of filing to date of disposition. One challenge with this measurement is that it is not always easy to tell who or what is the cause of delay unless one evaluates each point along the process of a delayed case to see why, for example, a continuance was requested and whether it was reasonable for the court to have granted said request.

In 1973 Maureen Solomon studied case management at the behest of the American Bar Association and found that the most useful way to control court delay was to have committed judges who with the assistance of a court manager, actively monitored and controlled the flow of a case from filing to disposition using agreed upon time standards (Solomon, 1973).

After Solomon's 1973 work, Steven Flanders and Thomas Church both examined caseload and speed to disposition in trial court settings of different sizes and with different resources to apply. The most significant finding of this work was that the presumption that added resources, judicial workload or time standards alone did not result in faster case processing, rather efficiency was impacted "in large part by established expectations, practices and informal rules of behavior of judges and attorneys" (Church & Flanders, 1978) – a group of ideas to which they attached the phrase, "local legal culture". They went on to state that of most significant importance was a concern by the judge about delay and a "determination to do something about it" (Church & Flanders, 1978).

In 1990, the National Center for State Trial Court's put out its groundbreaking but voluminous court measurement model, Trial Court Performance Standards (TCPS) (Bureau of Justice Assistance, 1997). These 22 standards, requiring 68 performance measures, aim to assist courts at evaluating performance across five broadly defined areas: access to justice, expedition and timeliness, equality, fairness and integrity; independence and accountability; and public trust and confidence. This work has shifted the focus of looking inward at court structure and organization to looking outward with the court litigants and the public as true court customers. This clearly changes the perspective from internal organizational issues to the outcomes of court actions, opening up a whole new way to reform and improve the courts with added accountability and responsiveness to the needs and demands of court participants.

Of the 68 performance standards there are three "guiding principles for performance" in the area of Expedition and Timeliness:

"Standard 2.1 Case Processing

The trial court establishes and complied with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.

Standard 2.2 Compliance with Schedules

The trial court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.

Standard 2.3 Prompt Implementation of Law and Procedure

The trial court promptly implements changes in law and procedure" (Bureau of Justice Assistance, 1997).

Recognizing the challenge for any court to study and implement all 68 standards at one time, lead to the 2003 release by the National Center for State Courts of the innovative CourTools – Trial Court Performance Measures (National Center for State Courts, 2005). CourTools provides distilled methods of implementing ten vital court performance measurements: (1) access and fairness; (2) clearance rates; (3) time to disposition; (4) age of active pending caseload; (5) trial date certainty; (6) reliability and integrity of case files; (7) collection of monetary penalties (8) effective use of jurors (9) court employee satisfaction; and (10) cost per case (Appendix A).

These performance measures can provide a court manager with the day-to-day information necessary to know if a court is meeting its purposes by focusing on outcomes in a practical way with proven methods.

An issue that faces any court seeking to use CourTools to analyze performance is that for many courts the data required either “does not exist in usable form or is of dubious quality” (Schauffler, 2007). Most literature available regarding CourTools indicates that a significant first step must be finding out if the data already being collected is valid and what steps must be taken to access court data in such a format as to make the measurements meaningful and reliable. Capturing the right data elements, ensuring good business practices which result in consistent and accurate data entry by court staff and having technical staff write the ad hoc reports necessary to easily report the results is not easy as it may sound from the onset.

Further, once the data is collected and validated, the court manager must be able to interpret the results and apply them in a practical fashion to the business of caseflow

management and court improvement. Juvenile courts, being specialized courts, do not fit as neatly into the Court Performance Measurement Tools as designed for civil and criminal cases.

Recognizing this need in the area of dependency courts, the National Center for State Courts in conjunction with the American Bar Association published in April of 2004, Building a Better Court: Measuring and Improving Court Performance and Judicial Workload in Child Abuse and Neglect Cases and The Toolkit for Court Performance Measures in Child Abuse and Neglect Cases has 30 measures designated specifically for dependency court cases (U.S. Department of Justice Office of Justice Programs)

In order to use performance measures in the context of children, it is critically important to review the purpose of juvenile courts, not only how the process differs but to fully understand that outcomes such as child safety or child placement in necessary treatment can be the focus of this unique and specialized court.

HISTORY OF THE JUVENILE COURT

The judicial branch treatment of children as a separate class of individuals began in the 1800's, ironically at the urging of members of the Society of Prevention of Cruelty to Animals. Prior to that time period, and based upon our inheritance of the common laws of England, children who committed acts defined as crimes by adults were housed with adults in jails and more often than not, the subject of abuse at the hands of adult inmates. The burden in proving infancy or lack of mental capacity to form the *mens rea* to commit a crime was placed upon the child, not the state. The growing sense at that time was that placing the full adult penalty on someone with the limited experience and

mental capacity of a child was immoral and said immorality was only multiplied with the resulting abusive consequences of housing children with adult offenders.

The first juvenile court in the United States began in Cook County, Illinois in 1899. An entire set of terms, rules and statutory codes were established with the mission of promoting the welfare of children in trouble to avoid the stigma of crime and criminality and “as far as practical, treat children not as criminals but as children in need of aid, encouragement and guidance” (Trattner, 1989). The format for the court was based upon the British concept of *parens patriae*, in other words, the state acting as a surrogate parent, and with the aim of individualized justice, outcomes based upon each child’s particular needs and circumstances.

The original juvenile courts were very informal tribunals. An entire set of supposedly child-friendly euphemisms were created that continue to exist today in many jurisdictions. For example, the child was referred to a “delinquent” or “unruly” as opposed to the “defendant” or “the accused”. “Conviction” was replaced with “adjudication” and “disposition” instead of “sentencing”. The Court accepted “admission” to the facts of the case as opposed to the youth “pleading guilty” as occurs in adult criminal court. In order to remove the stigma of criminality from youth, the juvenile court system was protected by confidentiality provisions and most constitutional and legal protections were taken away such as the right to jury trial, right to timely notification of proceedings, right to confront witnesses and even the right to representation. The role of the juvenile court judge was almost that of an early social worker who could act quickly and with impunity to protect a child in danger.

The result however was a court that could operate very quickly but with unlimited power over children and parents and with little to no oversight. Abuses became common. Children charged with minor offenses could be arbitrarily placed in homes for delinquent youth without the benefit of counsel and for relatively long periods of time.

The basic, underlying premise for having a separate court to handle delinquent youth matters is that children cannot be held to the same level of criminal liability as adults for misbehavior due to the developing nature of their character and lack of experience in the world. In other words, in that children are different from adults, so then are youthful offenders different than adult criminals. Utilizing the same criminal system for children was therefore found to be contrary to the most basic sense of human justice.

Despite the benefits of the informal nature of the juvenile court and the focus on treatment rather than punishment, the U.S. Supreme Court found in a series of cases over a period of many years that such broad discretion, exercised in closed proceedings, resulted in some horrendous outcomes for youth and therefore the court's discretion and state's interest in the welfare of the child must be tempered with the constitutional protections so wisely enumerated by the writers of the U.S. Constitution, Bill of Rights.

The case most associated with the increase in juvenile procedural rights is *In Re Gault* (In re Gault, 1967). The Court in *Gault* found that juveniles are entitled to the privilege against self-incrimination, the right to confront and cross-examine witnesses, the right to counsel, the right to receive a timely advisement of legal rights and a written

statement of the charges filed along with notice of the reason for parole revocation. Despite these heightened safeguards, the Supreme Court declined to address whether a juvenile is entitled to a speedy trial under the Sixth Amendment. Future cases in this field highlight the differences between juvenile court and criminal court and some did impose the right to speedy trial based upon state constitutions (See e.g. *In the Matter of the Welfare of J.G.B.* and *In the Matter of Anthony F.*).

In the 1970's and 80's, an increase in the severity of juvenile crime and the media coverage of the court's handling of high-profile juvenile offenses resulted in legislation which increasingly brought the specialized juvenile delinquency court into closer and closer alignment with adult criminal court. Adult criminal court terminology, an enhanced focus on community safety and a lessening of the confidentiality measures meant a serious pulling away from the state-as-parent role of the judge and a heightened sense of the adversarial process at juvenile court hearings, sometimes in contradiction to the best interest of the child involved in the case.

A recent example of how the consequences of such a pendulum swing can be observed in a 2008 Kansas Supreme Court Case, *In the Matter of L.M.* In this case, L.M. argued successfully that the Kansas Juvenile Justice Code has been so changed from its "benevolent, child-cognizant, rehabilitative and *parens patriae* character" that once distinguished it from the adult criminal justice system that he was entitled to a jury trial under the Sixth and Fourteenth Amendments and the Kansas Constitution Bill of Rights as set forth in the Kansas Constitution (*In the Matter of L.M.*, 2008). The Court pointed out some of the following factors as pivotal in its decision: 1.) replacement of nonpunitive language in the code with criminal terminology; 2.) the alignment of

sentencing provisions with that of the Kansas adult system; 3.) the removal of the unique juvenile court purpose statement in the Kansas code; 4.) the removal of the confidentiality protections formerly placed on juvenile files and hearings; and 5.) increased focus on community protection as opposed to focus on the child's rehabilitation.

As accountability and formality have come to replace informality and an emphasis on treatment it is surprising that a child's right to protection from unnecessary court delay has yet to be addressed on a national level. In some states, juvenile case processing time standards have been adopted by statute, policy or rule. Others simply have time standards for juvenile cases as a voluntary goal and North Dakota is one of them. Provisions and rules vary greatly state-to-state but a common factor can be seen in a heightened concern on time where a delinquent youth is detained in a secure facility or where a child is placed in foster care, unable to be returned upon a parent's request. Violations of time standards are rarely causes for dismissal of a case with prejudice or dismissal of the case at all.

PROFESSIONAL TIME STANDARDS FOR JUVENILE COURTS

During the 1970's and 80's, national professional associations or groups representing federal agencies have come out with professional time standards to apply in juvenile delinquency matters. These national standards set standard time to adjudication and maximum time to disposition with tighter time frames for those youth being detained. Statements indicating purpose made during the development of these professional time standards included the higher need for closer court monitoring of case

processing time in cases involved “young, immature, and emotionally troubled juveniles” (IJA/ABA, 1980).

In 2000, the National Council of Juvenile and Family Court Judges (NCJFCJ) completed a useful guidebook entitled *Adoption and Permanency Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* (National Council of Juvenile and Family Court Judges, 2000) and then in 2005 the publishing of the *Juvenile Delinquency Guidelines* occurred (National Council of Juvenile and Family Court Judges, 2005). These two manuals are comprehensive guides to improving juvenile court practice in delinquency court and family court. These guidelines were similar to others that came before but did put an emphasis on tools to improve practice along with a strong recommendation that courts record dates of events within the life of juvenile cases and routinely review data on the length of time to process cases.

The following chart lists time frames recommended by these various professional organizations as well as comparing those standards with the current North Dakota Policy 409 for child delinquency or unruly cases (Appendix A).

Table 1: Juvenile Court Time Standards

Detained Juveniles				
	Maximum time from arrest to detention hrg	Maximum days to adjudication	Maximum days from adjudication to disposition	Maximum days from referral to disposition
IJA/ABA (1977-80)	48 hours	15	15	30
OJJDP (1980)	24 hours	18	15	33
ABA (1984)	24 hours	15 ¹	15	30 ¹
NCJFCJ/OJJDP (2005)	24 hours	10 ³	10	20
ND Policy 409	24 hours	14 ¹	30	60
Released Juveniles				
IJA/ABA (1977-80)	*	30	30	60
OJJDP (1980)	*	65	15	80
ABA (1984)	*	30 ²	15	45 ²
NCJFCJ/OJJDP (2005)	*	20 ³	20	40
ND Policy 409	*	90	60	150
IJA/ABA = Institute of Judicial Administration/American Bar Association				
OJJDP= Office of Juvenile Justice and Delinquency Prevention				
NCJFCJ - National Council of Juvenile and Family Court Judges				
¹ deadline triggered by detention admission				
² deadline triggered by filing of petition				
³ deadline triggered by initial hearing				
* not applicable				

The professional time standards suggested by these various professional organizations are considerably faster than the only suggestive, not mandatory standards adopted in North Dakota. North Dakota's policy was adopted in January of 2003 and has never been studied or evaluated to see if cases are meeting or exceeding the guidelines.

The traditional case delay standards view case closure by way of court order or judgment as the ultimate goal.

From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery and court events is unacceptable and should be eliminated (ABA Standard 2.50).

This traditional view does not fit the child deprivation case model where cases can be open and subject to judicial oversight throughout the child's removal from the parental home until the child is placed in a permanent home.

Dependency court managers must measure time between significant events within the life of a child deprivation case which can potentially last for several years with multiple "dispositions" within the life span of the case. More important in these cases, is measuring the time between these case events and yet most court database system and docket currency reports are not structured to report data based on important dates or events within the life of the child's court case.

Table 2: Linear Time Line for Child Deprivation Events

Event	Maximum Days
Child placed in shelter care	Day 1
Shelter care hearing	Day 4
Petition must be filed	Day 15
Adjudicatory hearing	Day 60
Disposition order	Day 120
Permanency hearing	Day 365
Termination of Parental Rights	Day 450
Adoption or other permanent living arrangement	Day 815

Adding to the challenge of juvenile caseflow is the fact that quite frequently children can move back and forth from home to foster care and that their physical placement dictates how quickly the case must be processed within the system. This is comparable in a juvenile delinquency case when a child moves from home to secure detention setting, thereby shortening the time frame allowed for case processing. Most juvenile court databases do a poor job of recording the data regarding child placement (days in care) in such a way as to generate useful reports.

Certainly the work compelled by federal mandates outlined in the Adoption and Safe Families Act and Juvenile Justice and Delinquency Prevention Act have driven home the funding consequences for states that fail to watch the clock in juvenile cases but federal funding sticks and carrots are not the most persuasive ways to persuade change in this area and no juvenile case delay study would be complete without a discussion of the adolescent brain.

ADOLESCENT DEVELOPMENT AND CASE DELAY STUDIES

Modern studies of the adolescent brain and a recent United States Supreme Court decision, *Roper v. Simmons* (Roper v. Simmons, 2005), have connected for legal professionals the scientific dots about the differences between juveniles and adult when it comes to culpability and the substantive purpose behind the need for speed in juvenile case processing.

The *Roper* case held that the death penalty for juveniles violates the U.S. Constitution's Eight Amendment prohibiting cruel and unusual punishment. Justice Kennedy, writing for the majority, relies upon a growing body of sociological and scientific research which demonstrates that juvenile offenders cannot with any reliability be classified with adults on death row. The opinion goes on to note the ways in which juveniles differ from adult offenders such as adolescent's "more limited time horizons impair their decision-making ability" and that "adolescents live for the present" (Roper v. Simmons, 2005).

The fact that youth measure time or sense time differently than adults is not particularly new or novel, even though the recent brain research does much to support age-old parenting wisdom. Well-known pediatrician and author of many child-rearing books, Dr. Benjamin Spock, advises in his 1974 book, *Raising Children in a Difficult Time*, that when youth misbehave it is important that the parents "guide them back into line promptly...the very second the children start to get into trouble" (Spock, 1974).

Clearly, speed to disposition in juvenile matters is not only important for efficient case management or aging evidence issues but because for a youth the passage of

time can make the disposition less effective and less connected to the activity that brought them to court in the first place. The time from childhood to adulthood is finite and passes quickly. Juvenile delinquency theorists and authors, Elizabeth Scott and Laurence Steinberg, propose in their 2008 book, *Rethinking Juvenile Justice* that juvenile court experts must take into account the development stages of children and “shape legal policies” accordingly (Scott & Steinberg, 2008).

Review of the adolescent literature makes it clear that when reviewing the impact of case delay in juvenile court one must take into account the science of children’s development. Social and biological evidence seems to point to a return to earlier practices in juvenile court – the focus on quick connection to treatment – and yet still balancing the fairness and due process rights that children are entitled to in American Courts of Law.

In the 1990’s Jeffrey Butts and Gregory Halemba studied the juvenile case process in several urban courts and observed several delay reduction tools that would aid juvenile courts:

1. Increasing commitment to achieving timely case processing; and
2. Taking control early over the case progress, especially aggressive efforts to increase and utilize diversion resources; and
3. Improving quality and timeliness of case investigations; and
4. Providing regular and appropriate caseflow management information to aid in identification of any problems (Butts & Halemba, 1996).

Another examination of case delay and juvenile delinquency by the National Center for State Courts in 1997 found common elements in courts which have successfully reduced delay. These courts had effective leadership, known time

standards, early and continuous control over the progress of the case and the provision of “firm and credible trial dates” (Steelman & Conti, 1997).

The significance of effective court leadership is underscored in many case delays studies and further review of the theories of “local legal culture” and the impact the court environment plays on case processing can be pivotal.

The term “local legal culture” was first used in the 1970’s by researchers in the court reform movement. They sought to quantify the reasons that despite having similar policies or resources, some courts operated better than others. The term came to connote the unwritten ways in which a court system operates or in an alternate definition, “the mental representation of the work environments that members of the organization carry in their heads” (Ostrom, Trial Courts as Organizations, 2007).

Business management has been always been in the lead in the study of what organizational culture is most successful in producing results. Since courts are in the public sector and more traditionally focused on delivering justice or dispute resolution than speed or customer service, this angle of research is relatively new to the court management field and more difficult to quantify when the goals are so much more abstract than making a profit. For example, what does it look like when you have improved the life skills and reduced the criminal risk of a delinquent youth? Or how will a court know that its actions have successfully connected a child, whose parent’s rights have been terminated, to a permanent home?

Studies done in the 1980’s sought to examine the link between organizational values and successful performance in courts. Researchers discovered that courts tend

to be much more complex and difficult to place within the traditional business studies of performance measurement.

The more recent 2007 study of 12 felony criminal trial courts completed by Brian Ostrom, Roger Hanson, Charles Ostrom and Matthew Kleiman, resulted in a classification scheme based upon the outlook of the court staff in a given district and gave rise to the term, “local court culture” (Ostrom, *Trial Courts as Organizations*, 2007). This term was used to more closely examine “the expectations and beliefs that judges and court administrators have about how work gets done” (Ostrom, *Court Cultures and Their Consequences*, 2005). This narrowing of the area of examination gave the researchers a more easily definable subculture of the legal community environment, which could then be evaluated in terms of successful court performance.

The areas examined by the study to classify a court included: sociability (how staff get along), solidarity (degree of shared goals, tasks and procedures) and four culture types which describe how the work gets done (Ostrom, *Court Cultures and Their Consequences*, 2005). Four distinct cultures were defined by this study: communal, networked, autonomous and hierarchical.

Courts with the highest degree of timeliness were found to be those with cultures that valued or demonstrated a hierarchical organization (emphasis on rules and order) along with clear agreement on common goals. Research has found that generally juvenile courts can be divided into two categories, those that place the most emphasis on due process and those that emphasize treatment (Ito, 1984). There is a natural tension or pull in this concept in that strict adherence to rules and policies may speed a

system while overlooking innovative treatment modalities. A balance must be struck to obtain good process and the local bar and stakeholders cannot be excluded from the analysis.

Timeliness as a value and goal of judges and court staff can never relay the entire picture as the attorneys and the community, their views and values, also impact the performance of a court. This is a factor that can seem outside the purview or control of the court administrator and yet collaborative work groups involving all participants in the juvenile justice or dependency process can be initiated and led by court managers so as to focus the participants on an efficient and quality court system.

Although there clearly remain areas of the “legal court culture” concept yet to be studied, it is evident that a court manager must consider the impact of court culture when seeking to meet a performance goal such as reduced case delay. A vision of effective caseflow management must be conveyed to the players in a method which works within the given court system, a set of timelines developed and routinely assessed, as well as securing support from members of the local bar.

Mary McQueen, President of the National Center for State Courts, has referred to courts as “loosely coupled organizations” in that there are different sources of authority and leadership which can sometimes be found to work at cross-purposes. In such an organization, to be a leader and change-agent one must clearly possess an understanding of that specific court culture, what motivates which players to positive ends, in other words, better performance and better results for children. This grasp of how the local court culture operates can be important in understanding how to

implement delay reduction programs which were successful for other courts. Also of importance is understanding how a specific case type, like juvenile delinquency or child deprivation, places unique demands and heightened urgency on a court system. Only then can the data collected by CourTools be meaningful and effective for today's juvenile court manager.

METHODOLOGY

This project was conducted using three levels of case delay research: (1) a statistical review of all juvenile case types disposed of between August 1, 2008 and August 1, 2009; (2) the application of CourTool Measures Two, Three and Four pertaining to clearance rates, time to disposition and age of active pending caseload; and (3) a survey of the judges, judicial referees, attorneys, court officers and court staff.

STATISTICAL REVIEW

Statistical data was drawn from the North Dakota Juvenile Case Management System (JCMS), the Unified Court Information System (UCIS) and the annual reports of the North Dakota Supreme Court. Within the JCMS system, the "recidivism analysis" function runs a report which generates the total cases disposed, by county, by case type, charge and disposition. Demographic information such as gender, race, age are also available. This report feature of JCMS does not generate any statistical information directly related to the timing of events in a juvenile case nor does the system easily distinguish between petitioned cases and non-petitioned cases at time of case entry into the system.

Three built-in reports within the “reports” tab of JCMS were run: time to disposition, age of active pending caseload and clearance rate. Each of these reports were run and used and certain categories of data which were lacking will be found within the Findings section of this paper to have had to be gleaned either by hand or by other means.

COURTOOL TWO – CLEARANCE RATES

Clearance rate reports indicate whether the court is keeping up with the new or incoming cases. In order to obtain a clearance rate, one must gather a count of the incoming cases and outgoing cases with a certain time frame – typically, monthly, quarterly or annually. The clearance rate is calculated by dividing the sum of all incoming cases by the sum of all outgoing cases. The goal should be to clear as many cases as are being filing or reopened, in other words to have a clearance rate of 100% or higher. Keep in mind that a court can have a clearance rate of 100% and continue to build a backlog of old cases. This is why the other measures, three and four, must be used in conjunction with CourTool Two to find an accurate picture or report of performance as it relates to timeliness.

In North Dakota, the JCMS system has a vendor-created clearance rate report which is moderately helpful. It allows the user to select the time frame and pull the data into an excel worksheet. It does pull all charges entered and disposed of by the juvenile court staff within the given time frame, regardless of the method of case processing. In other words, it generates a rate for all cases whether handled formally, informally or via

diversion. The following is an example of the type of report the system is able to generate for North Dakota managers:

Table 3: Clearance Rate Report Sample from JCMS Database

Agency: ECJD - FARGO								
Report Name : CLEARANCE RATE								
Report Date: 01/02/2010 17:04								
Agency	COUNTY	Incoming	Outgoing	Difference	Outgoing Percentage	Report Start	Report End	
ECJD - FARGO	CASS	163	177	14	108.5	1-Dec-09	31-Dec-09	
ECJD - FARGO	STEELE	4	2	-2	50	1-Dec-09	31-Dec-09	
ECJD - FARGO	TRAILL	7	8	1	114.2	1-Dec-09	31-Dec-09	

Clearly, the drawback to this report is that it does not allow the user to separate results by case type (delinquent, unruly, deprivation – or by offense or charge type) or by petition versus non-petition process.

Another method was used to attempt to gain an annual clearance rate by formal, petition filed process only using the North Dakota Supreme Court Annual Report which reports filings and case disposed numbers for the year by judicial district and administrative unit. After reviewing the results, which were highly favorable (clearance rates consistently 120% or higher) it was discovered that the soon-to-be legacy database (UCIS) does not distinguish at case closure those cases which were prior filings but reopened for reviews or permanency hearings. The new North Dakota court management system, Odyssey, which was begun as a pilot project in Cass and Traill counties on October 12, 2009, will be able to distinguish new filings from reopened cases and a more accurate picture of clearance rates will be more easily obtained in the years to come.

COURTOOL THREE – TIME TO DISPOSITION

Time to disposition is a critical number for any juvenile court manager as it reports the length in days it takes a case from filing to disposition. It can be used to see whether a juvenile court is meeting statutory deadlines, time standard policies or national expectations, particularly in regards to children in foster care or detention settings. Time to disposition should be reviewed regularly to see trends develop. If the report has to be created by hand each month or if the users do not have the time or talent to create ad hoc queries, it is unlikely such a report would be created, viewed and analyzed by court managers in regular time frames over which trend lines can be observed. The first step was to identify reports currently available to North Dakota juvenile courts.

JCMS does have a report titled “time to disposition”; however it was only moderately of assistance as it simply generates a count of the number of cases in the time frame selected by the user which were closed within time frames such as 30, 60, 90, 120, 150, etc days. It does not allow the user to distinguish between case types (delinquent felony, delinquent misdemeanor, misdemeanor, infraction, child deprivation etc) or the manner of case handling (petition versus nonpetition).

The following figure is an example of the current report available.

Table 4: Time to Disposition Report Sample from JCMS Database

Agency: ECJD - FARGO					
Report Name : TIME TO DISPOSITION					
Report Date: 12/05/2009 15:15					
Agency	County	RANGE	COUNT (RANGE)	Report Start	Report End
ECJD - FARGO	CASS	120	36	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	150	14	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	180	8	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	210	3	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	240	1	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	270	6	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	30	286	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	300	2	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	330	1	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	60	62	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	90	33	1-Jan-09	31-Mar-09
ECJD - FARGO	CASS	unknown	45	1-Jan-09	31-Mar-09

A more specific report to use within the JCMS is the “data charge” report. It is also not ideal, but it does give specific case identifiers, charge type, referral receipt date and date of disposition.

The following table is an example of the data collected via this report.

Table 5: Charge Data Report from JCMS Database

Agency: ECJD - FARGO										
Report Name : CHARGE DATA										
Report Date: 12/05/2009 15:25										
County	Date Received	Name	DOB	MNI	Date Filed	Referral Charge	Filed Charge	Dispo Charge	Disposition	Dispo Date
CASS	1/18/2008	[REDACTED]	###	8177	3/7/2008	CRIMINAL MISCHIEF - MISDEMEANOR	CRIMINAL MISCHIEF - MISDEMEANOR	CRIMINAL MISCHIEF - MISDEMEANOR	FORMAL PROBATION	4/29/2008
CASS	1/18/2008	[REDACTED]	###	9198	3/7/2008	UNAUTHORIZED USE OF VEHICLE	UNAUTHORIZED USE OF VEHICLE	UNAUTHORIZED USE OF VEHICLE	STATE'S ATTY DECLINE	3/7/2008

What this report is lacking is the date of petition filing, and adjudication date, if separate from date of disposition. Nor does it indicate whether the child is in custody, detention or foster care at the time of the case. Custodial status greatly impacting the amount of speed required to handle the case so as to avoid prolonged out-of-home placement pre-adjudication or disposition.

For purposes of this research, the “charge data” report from JCMS was generated for the time frame August 1, 2008 to August 1, 2009 and a sample size of 300 cases or the total if smaller than 300 was to be selected from the two judicial districts to be studied. The cohort consisting only of “petitioned” cases, formally filed and heard before a judge or judicial referee.

After the statistical study was completed, it was discovered that for the time period in question, the Southeast Judicial District only disposed of 218 cases via the

formal process and therefore the cohort selected was all cases disposed of during that time frame.

The report generated a unique identifier number for each case and in the ECJD, the first 300 cases were selected in each district. In the Southeast Judicial District, a more rural area, the 218 sample is a 100% analysis of all cases resolved within the time frame. For the East Central Judicial District, 300 cases is slightly more than a 50% sample of all cases disposed of by petition during that time frame.

Once the cohort was selected for each district, the date of adjudication had to be manually gathered as did information regarding whether the child was in some type of custodial status thereby impacting the time standards adopted by the state of North Dakota. This information was entered into an Excel spreadsheet and formulas were written to generate the days to each time significant event in the life of each juvenile case.

COURTOOL FOUR – AGE OF ACTIVE PENDING CASELOAD

This court management report consists of the age of active cases that are pending before the court, as measured by the number of days from filing until the time of measurement. In other words, cases receive by the courts but not yet disposed. For more applicability in the management of a juvenile court in North Dakota where approximately 70% of the cases are handled via the informal adjustment process, this report was generated using the date of referral receipt rather than the date of filing of the petition.

On the last working day of July, August, September, October, November and December of 2009, the JCMS “Age of Active Pending Caseload” report was run. A summary sheet for each month was completed which recorded the number of cases, for that date and time, which were pending and how old, in days, each case was at the time of the report run.

The following is the July 31, 2009 summary chart which gives an example of the way this data was summarized for each month. This chart indicates, for example, that 13% of the ECJD court’s active pending cases on July 31, 2009 were less than or equal to 270 days old.

Table 6: Age of Active Pending Caseload Summary for July 31, 2009

Age of Active Pending Caseloads - July 31, 2009						
Age in Days	East Central Judicial District			Southeast Judicial District		
	Number of Cases	Percent	Cumulative Percent	Number of Cases	Percent	Cumulative Percent
0-90	275	55%	55%	50	69%	69%
91-180	98	20%	75%	9	13%	82%
181-270	64	13%	88%	3	4%	86%
271-365	36	7%	95%	3	4%	90%
366-450	12	2%	97%	2	3%	93%
451-540	10	2%	99%	3	4%	97%
541-630	3	1%	100%	1	1%	99%
631-730	0	0%	100%	1	1%	100%
over 730	0	0%	100%	0	0%	100%
TOTAL	498			72		

From these monthly summaries, charts were built to visually demonstrate the number of cases pending over time and how old in days those cases were compared to certain case processing time standards.

SURVEY OF BENCH, BAR AND AGENCY STAKEHOLDERS

In December of 2009, a link to an on-line survey was emailed to all judges, judicial referees, attorneys practicing in the juvenile courts (prosecutors and defense attorneys), guardian ad litem, juvenile court officers, juvenile court staff and agency workers from the Division of Juvenile Services and county social services. In total, the email was sent to 112 participants in the juvenile court process utilizing the website Survey Monkey (SurveyMonkey, 2009).

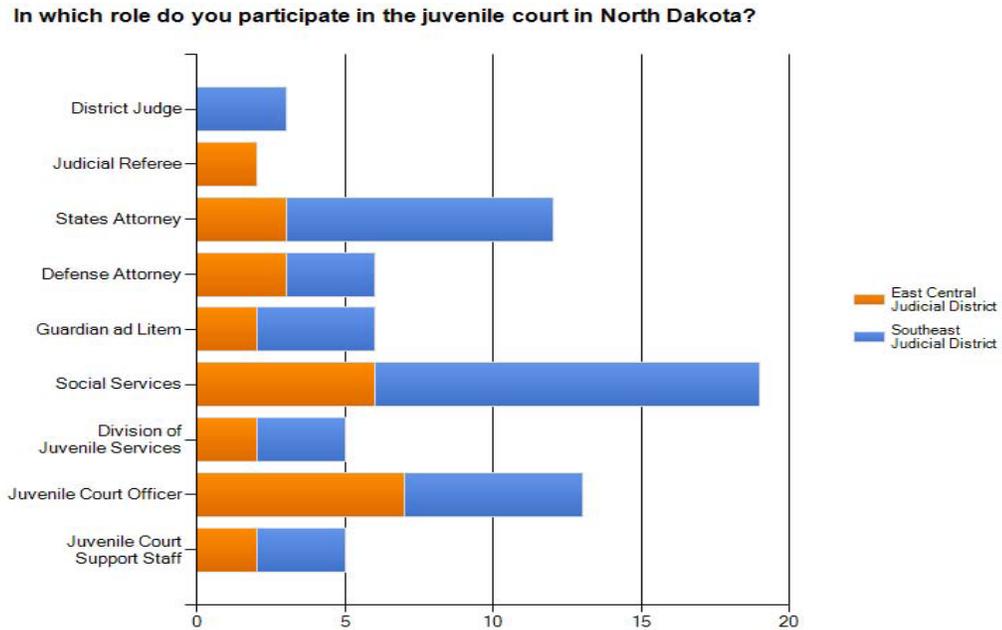
The survey was pretested on two juvenile court staff and revisions made where questions were found to use jargon that may be unfamiliar to some participants or where the question was unduly complicated.

The survey was sent out on December 15, 2009 and the response period allocated was three weeks. All responses were received electronically at the website and the data cross tabbed by judicial district. Overall 74 people completed the survey which is a 66% response rate. Three additional participants accessed the web site and declined to respond due to a stated "lack of experience with the subject matter because no longer practicing law in this area".

The questions and responses were charted by district and also by type of role played in the process. Below is a chart which indicates the responses to survey

question three which asked responders to indicate their role in the court process and also their judicial district.

Table 7: Survey Question #3 Results - Participants by Judicial District and Position



A complete copy of the survey is attached in the appendix and the charted answers to each question listed in the Findings (Appendix E).

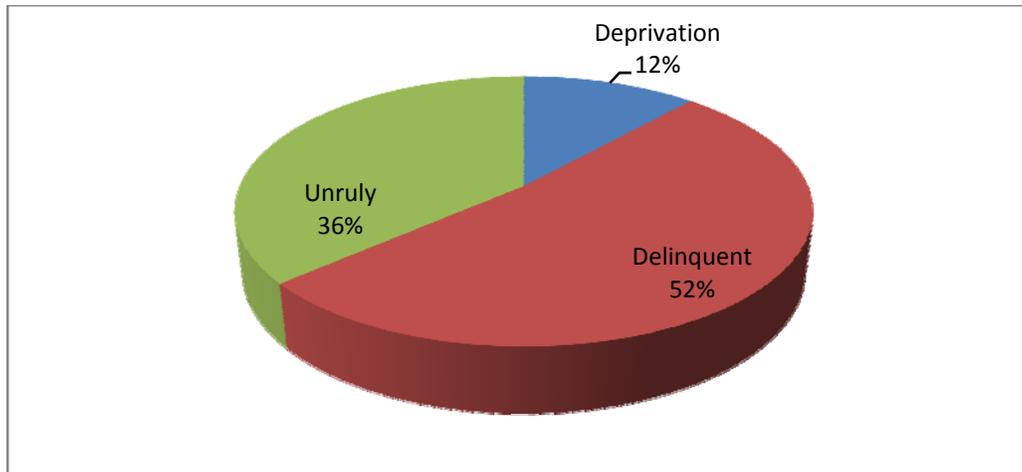
FINDINGS

Statistical information gathered found that a total of 9,074 juvenile cases state-wide were disposed in North Dakota during the time frame of August 1, 2008 to August 1, 2009. Of those, 2,193 were handled in the East Central Judicial District and 866 in the Southeast Judicial District. This constitutes 3,059 cases disposed in Unit Two or 34% of the statewide total.

The case types disposed in Unit Two during this time period were primarily made up of delinquent cases but of that total (1,590) only 172 were felonies. The majority of

juvenile court cases are juvenile delinquent cases however, some of the most complex litigation can be related to the small percentage of child deprivation cases. For this time period, of the 357 child deprivation cases disposed, 35 were termination of parental rights cases.

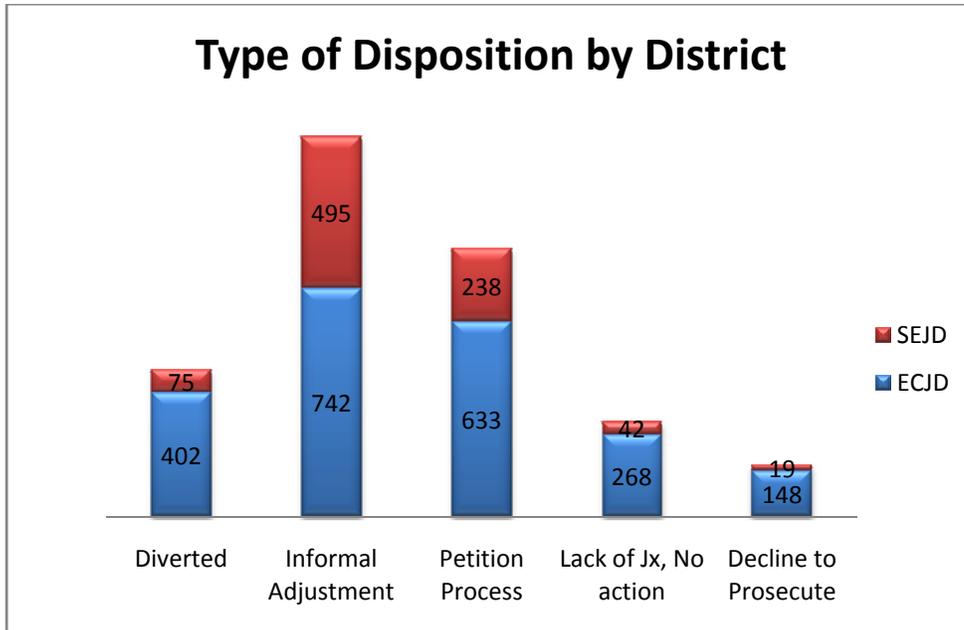
Table 8: Unit Two Juvenile Case Types for 8/1/2008 to 8/1/2009



In the ECJD, 55% of the cases disposed were handled in the courtroom, via the “formal” process. In the SEJD, 42% of the cases disposed were handled formally. The decision on whether a case is handled formally, informally or diverted is made by a senior juvenile court officer. Intake guidelines have been established and primarily only chronic offenders, felonies or disputed cases are petitioned.

Cases are disposed of in one of several ways: (1) formally, via the petition process; (2) by a juvenile court officer in an informal adjustment process; (3) by diversion to an outside program or agency; or (4) “other” which could mean either that the states attorney declined to prosecute, no action at time of intake or lack of jurisdiction. For the time period studied, the 3,059 cases were disposed in the following manner:

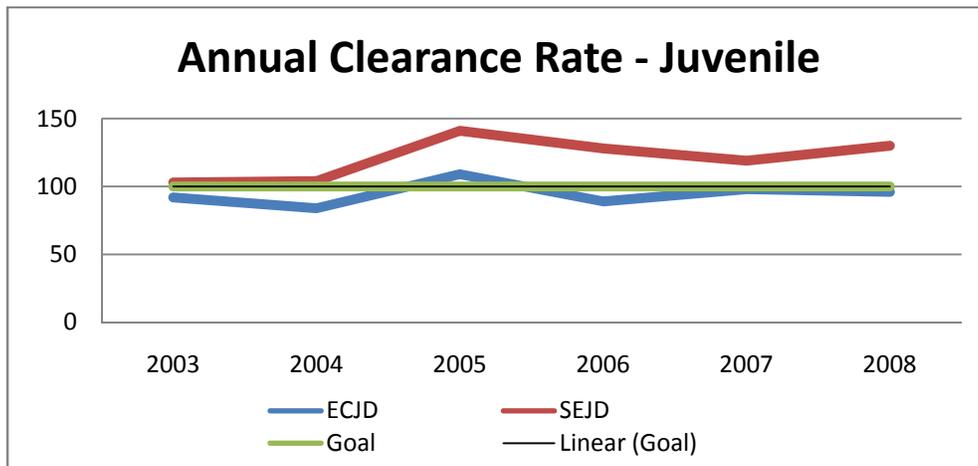
Table 9: Disposition Type for Cases Disposed between August 1, 2008 and August 1, 2009



MEASURE TWO RESULTS

A review of the annual clearance rates for both districts indicates that the SEJD keeps up with incoming juvenile caseload while the ECJD has a more difficult time keeping up. This may reflect the youth population decrease in the rural counties of the SEJD and the corresponding rise in youth population in the ECJD.

Table 10: Annual Clearance Rates 2003-2008

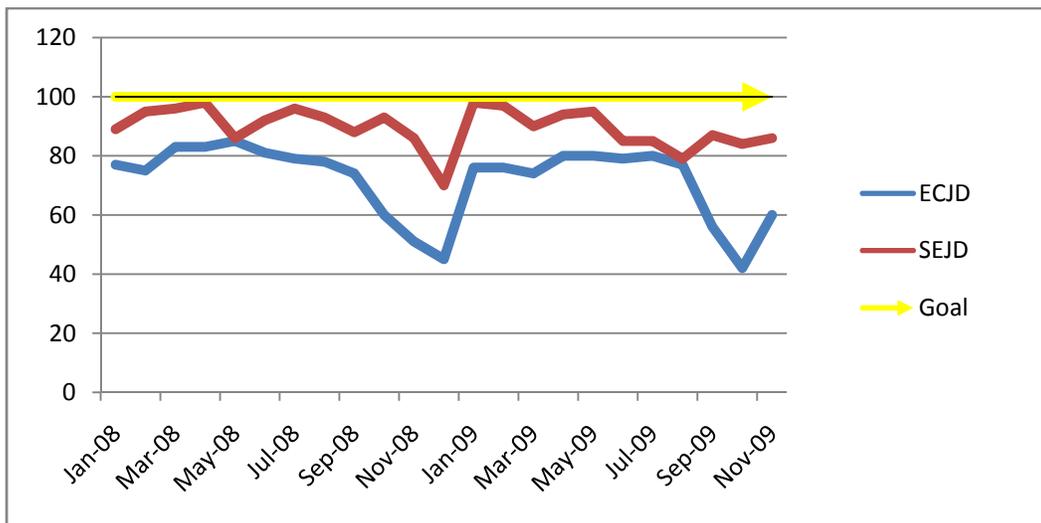


The goal should be to clear, or dispose of, as many cases that are coming in and the annual rates, while an interesting indicator, may not be as telling as a monthly or quarterly review of the same data.

As indicated earlier, generally less than half of the North Dakota juvenile court's caseload is handled in the courtroom and so reviewing only the formal court filing to obtain clearance rates does not give the court manager an accurate picture of how well the entire system is doing in keeping up with the total caseload.

A review of clearance rates for all disposition types, by month, shows that the court staff in the ECJD fall significantly behind in the late fall of the year and then play catch-up in the deep winter months.

Table 11: Monthly Clearance Rates for all Case Types (formal, informal, diversion) from January 2008 to November 2009.



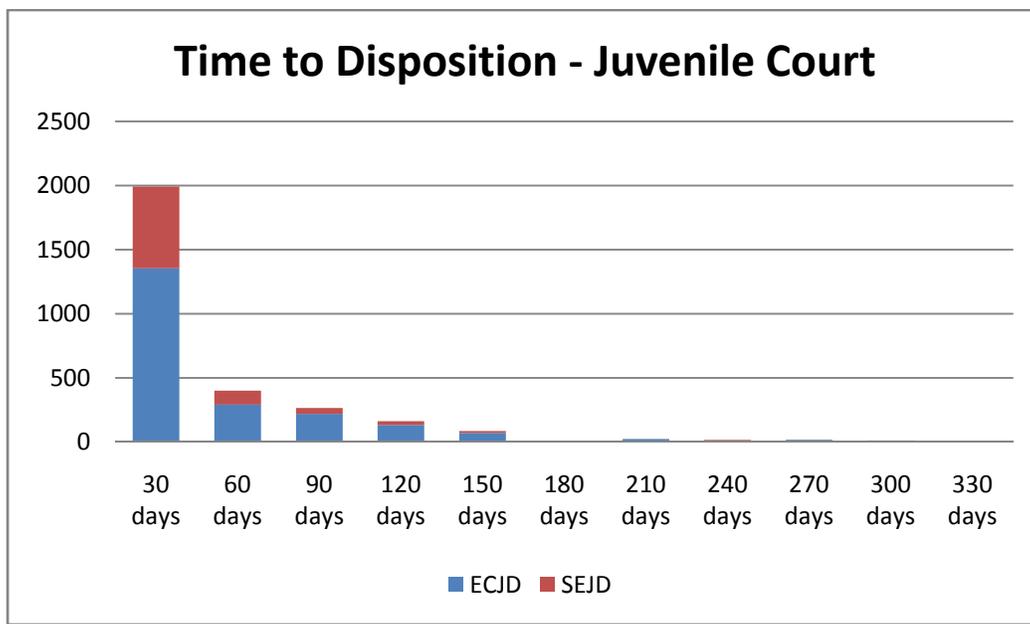
The clearance rate ad hoc report available in JCMS does not allow a break-down by case type or by case disposition which would be needed to narrow down the problem area or areas. For example, it may be that sex offense cases tend to back-log due to a shortage of professionals in a certain area to perform the pre-disposition psychosexual

evaluation. If that was known, then the problem could be directly addressed and the possible solutions narrowed.

MEASURE THREE RESULTS

While clearance rate reports report how well a court system is doing in keeping up with incoming cases, the time to disposition report assesses the actual length of time it takes the court to process cases.

Table 12: Time to Disposition 8/1/2008 to 8/1/2009



For the time period studied, the ECJD reached disposition within 90 days on 87% of all cases and by 120 days, 93% of all cases had been disposed.

In the SEJD, a higher level was observed. 93% of all cases were disposed by the 90th day and 94% by 120 days.

Table 13: Number of Days to Disposition

Number of days to disposition for all cases disposed of between Aug 1 2008 and Aug 1 2009														
	30	60	90	120	150	180	210	240	270	300	330	360	>360	Total
ECJD	1355	291	220	133	71	0	24	12	17	8	5	4	1	2141
SEJD	637	110	46	29	14	8	0	5	1	4	1	0	1	856
Unit 2	1992	401	266	162	85	8	24	17	18	12	6	4	2	2997
Beyond Policy 409 time standards for any case type														

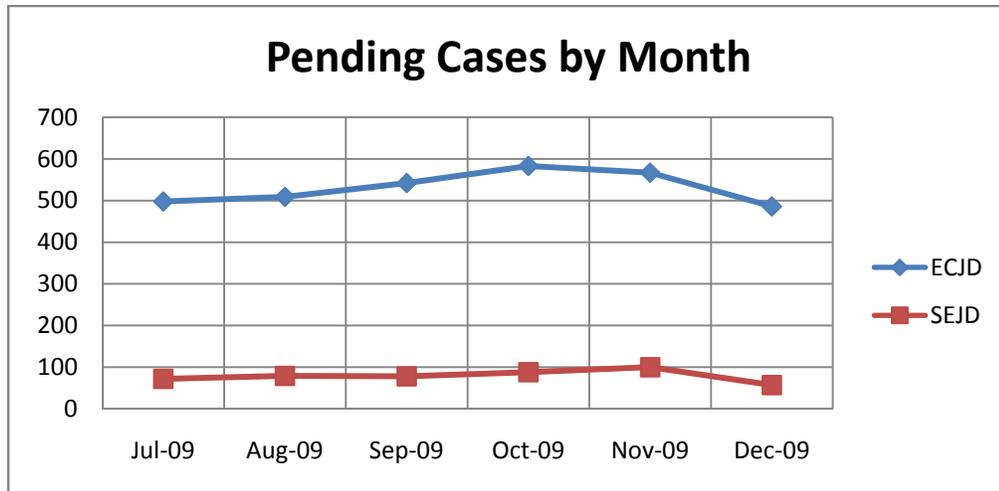
The average amount of days to disposition in the ECJD was 95 while the average for the SEJD was 55 for the entire cohort studied. It comes as no surprise that when breaking the cases studied down by case type that the deprived cases on average took 39 days longer in the ECJD than the delinquent cases. Despite that fact, all cases are treated the same at the time of scheduling.

MEASURE FOUR RESULTS

Using CourTool Four, Age of Active Pending Caseload, one can evaluate whether a court is building up an inventory of older cases. A court can be quite adept at handling the incoming crisis cases but continue to build a backlog to such extent that many months or years of added work may be required to even catch up. An extreme example of this was reported in the news last year about the High Court in New Delhi India which was so far behind that it was going to take “466 years to clear its backlog of cases”. (Kelilitz) Case delay researchers have commonly observed that slow courts are almost without exception also “backlogged courts”. (Steelman D. C., Caseflow Management: The Heart of Court Management in the New Millennium, 2000)

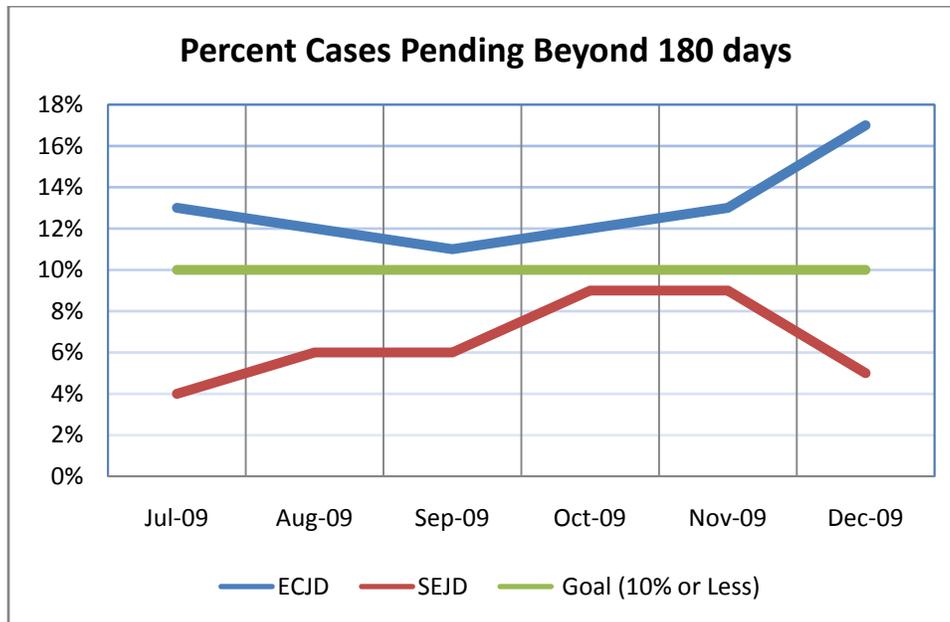
It is clear that the volume of cases pending on any given month in the ECJD far exceeds the number of pending cases in the rural SEJD. This was not surprising.

Table 14: Pending Juvenile Cases from July 2009 - December 2009



There are currently no goals set in North Dakota regarding a target for how many cases (typically 10% or less) are pending at 180 days or older; however for all juvenile case types in North Dakota, regardless of custodial status, 180 days is a relatively good measure of age. The cases at each month's report found to be less than or equal to 180 days old were recorded and are reported in the following chart.

Table 15: Percent of Cases Pending Beyond 180 Days



This information supports the finding in the clearance rates measure which showed that the ECJD seems to fall behind at the end of the calendar year before catching up in the early spring, which is historically a time when fewer juveniles are referred to the system. Anecdotally, juvenile cases seem to increase in the late summer and fall as school begins and decrease as temperatures drop in the Northern plains to the extent that outdoor activities are naturally reduced.

SURVEY RESULTS

Organizational culture has been found to play a part in the aggravation or mitigation of case delay, but is certainly not the most telling chapter of any case delay story. The intent of this survey was to measure norms, expectations and perceptions held by the stakeholders in these two districts regarding acceptable and not acceptable types of juvenile case delay. The thoughts of the local bench and bar can point to why a slower pace of litigation is tolerated or perhaps even encouraged by the local court

culture. In order for possible solutions to be viable an understanding of the attitudinal barriers seemed wise in order to tackle system change in events such as stakeholder or court staff meetings.

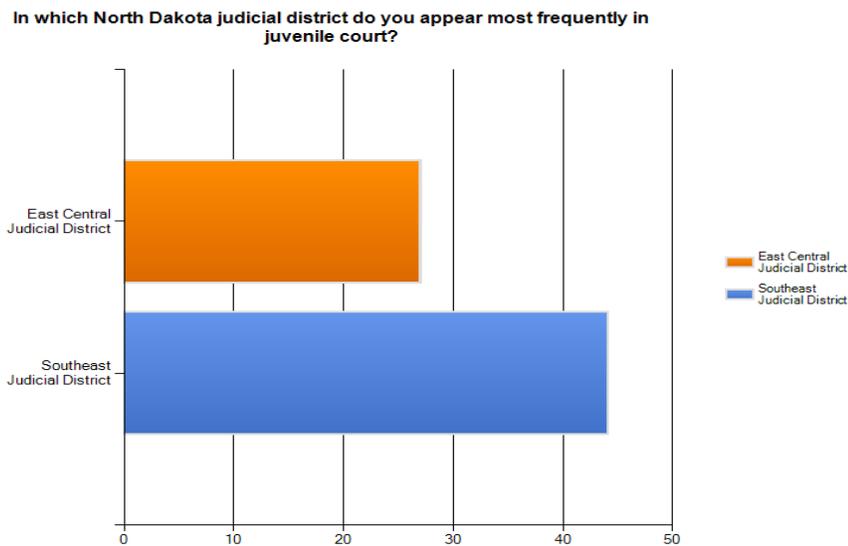
It was discovered in this survey, although not particularly surprising, that not all survey participants in the juvenile court system share common goals or values when it comes to case management and case delay. All may have a great interest in the “process”, *per se*, or certainly the “well-being” of the child involved, but for some delay may serve an individual, case specific purpose such as trying to evade a certain case event such as a disposition sure to result in the child’s placement out of the community. Or even for court staff, case delay can serve as a tool in managing large volumes of workload when an office has few available resources. Identification and recognition of possible competing interests can be instrumental before crafting possible solutions.

The results of this survey have been cross-tabbed by the judicial district of the survey taker. By way of interpretative background, note that a master calendaring system has been used in the ECJD since 1999, while the SEJD has always used a individual, case-by-case system to set juvenile hearings. The term “master calendar” in the ECJD means that at the time of the petition filing, each case is set to appear first for an “initial appearance” and also other future appearances by way of a scheduling order which sets the initial appearance, the pre-trial and the trial dates. Initial appearance day in the ECJD is Tuesday and all parties are summoned at 8:30 a.m. in the morning and then are called into the courtroom by number. Generally, up to ten arraignments can be done in one hour.

In the SEJD, the date set on the summons is generally understood by all participants to be the fact-finding and the dispositional hearing event unless a party files a motion to bifurcate the proceeding or to continue the hearing for cause. A scheduling order is not used and each date and time for a hearing is individually set by each judge. Court dates in non-chambered counties are determined by the one or two days each month that a district judge may be available at the county courthouse to hear cases of all types and of varying complexity.

Survey Question #1: In which North Dakota judicial district do you appear most frequently in juvenile court?

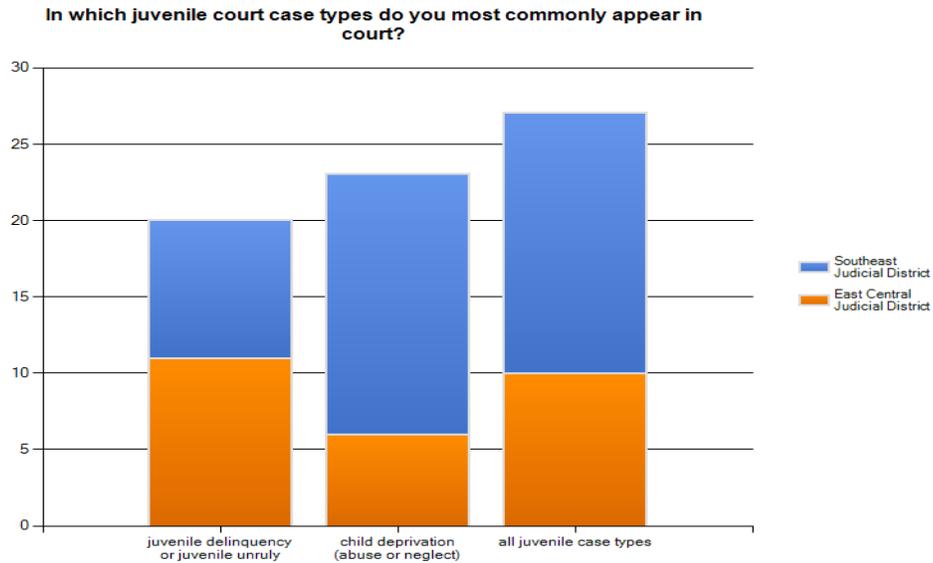
Table 16: Survey Question One Results



Of the total people surveyed, 38% primarily practice or appear in the East Central Judicial District and 62% primarily practice or appear in the Southeast. This finding was not surprising despite the fact that the ECJD is the most populous region because the eleven counties of the SEJD each contain a states attorney and several social service workers.

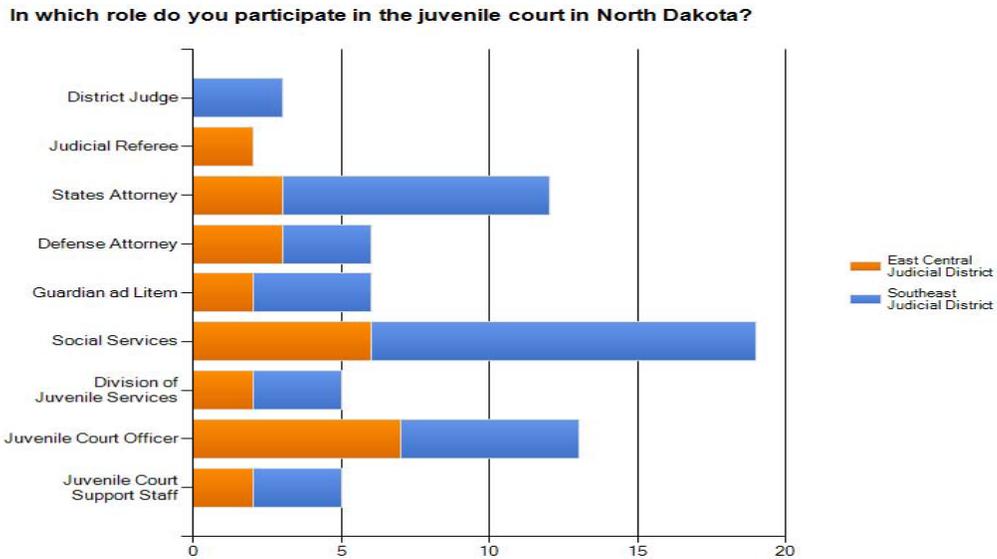
Survey Question #2: In which juvenile court case types do you most commonly appear in court?

Table 17: Survey Question Two Results



There was almost equal representation in the survey of participants who practice in delinquency as well as child deprivation cases. 28% of the respondents indicated that area of practice was primarily juvenile delinquency, 32% indicated child deprivation and 38% indicated experience with all juvenile case types. This result supports the finding that the comments cover the full spectrum of juvenile case types as experts from these areas participated in the survey.

Table 18: Survey Question Three Results

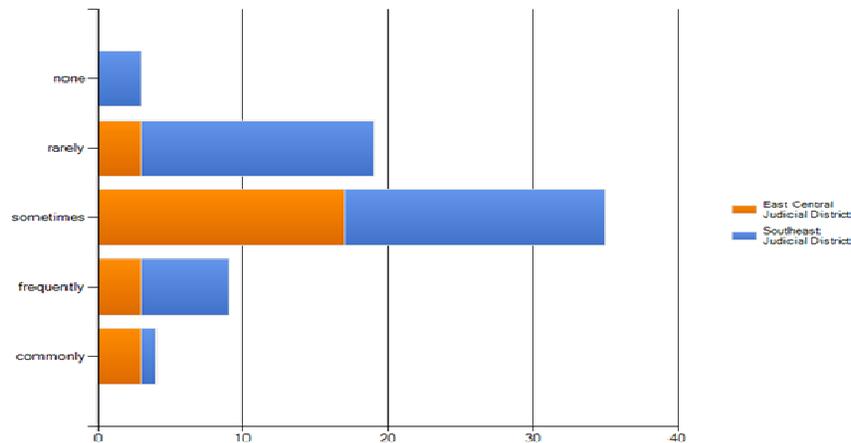


The results of question three indicate that while there was adequate representation from each job position, the largest number of responders were social services workers.

The purpose of survey question four was to gauge the extent to which the survey participants perceived that case delay is an issue in their district.

Survey Question #4: Estimate the extent to which you believe that unnecessary delay in juvenile case processing occurs in your district.

Table 19: Survey Question Four



The results indicate that 50% of all responders felt that some amount of unnecessary case delay did occur. Perception, whether right or wrong, is important to measure as it indicates whether the players believe there is even is a problem that needs addressing. From these survey findings, it is interesting to note that the ECJD perception of a problem is stronger than the perception of the SEJD participants which correlates with the data measures and statistical information gathered.

Based on the above finding, less time will be needed at the beginning of any project explaining the existence of a problem before moving on to actively address court backlog or case delay in the ECJD as the awareness of the problem is already there.

Survey questions five and six were asked to gauge the extent to which stakeholders perceived that the court was meeting time standards, either as set by statute or policy, in the various case types.

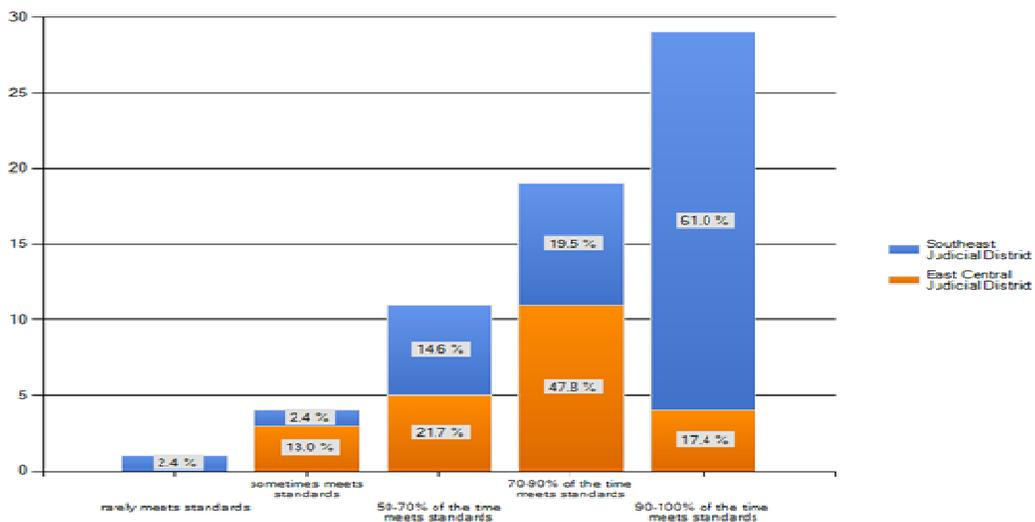
It is apparent that in the SEJD, regardless of case type, there exists a high level of perception that the court meets time standards, while the same cannot be expressed in the ECJD, where child deprivation cases are of most concern.

There is an underlying issue in these answers as relates to state's compliance with the Adoption and Safe Families Act (ASFA). In order to receive the matching federal dollars for foster care placements all foster care placement cases must meet the minimum time guidelines set forth by this federal law. All agency stakeholders taking this survey are well aware that failure to meet ASFA time standards can jeopardize foster care funding so that perhaps even acknowledging a failure to meet the time standards can be risky or seen as risky to those who regularly undergo federal audits in this field. This overarching concern could cause those surveyed to answer questions concerning foster care and child permanency with circumspection.

This background is not limited solely to deprivation cases as all case types – delinquent, unruly and deprived – could result in a foster care placement setting if all less restrictive dispositional options have been tried or ruled out and if the placement is in the best interest of the child's treatment and rehabilitation needs.

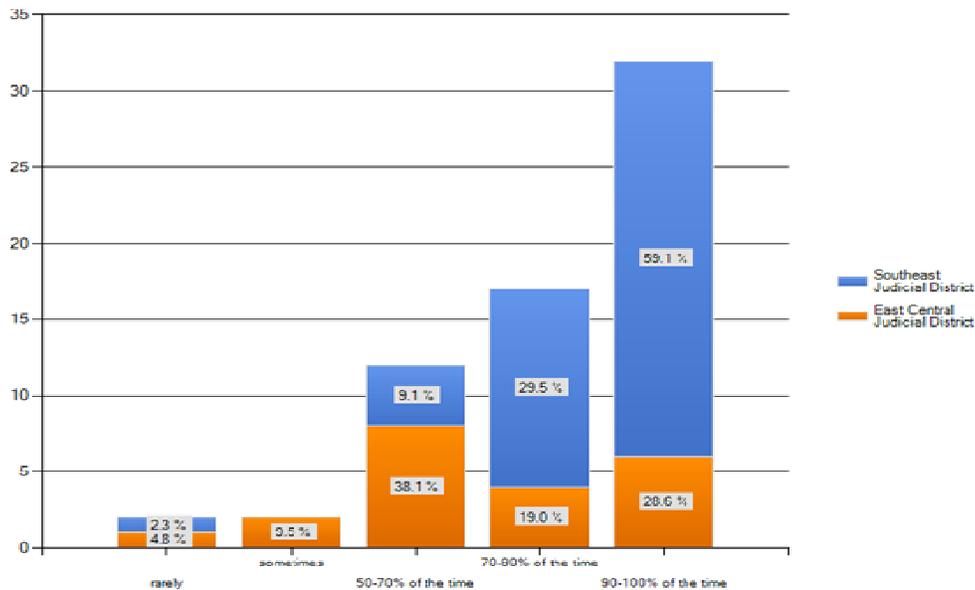
Survey Question #5: Estimate the extent to which the court meets time standards (statutory or policy) in juvenile delinquency or unruly cases.

Table 20: Survey Question Five



Survey Question #6: Estimate the extent to which the court meets time standards (statutory or policy) in regards to child deprivation cases.

Table 21: Survey Question Six

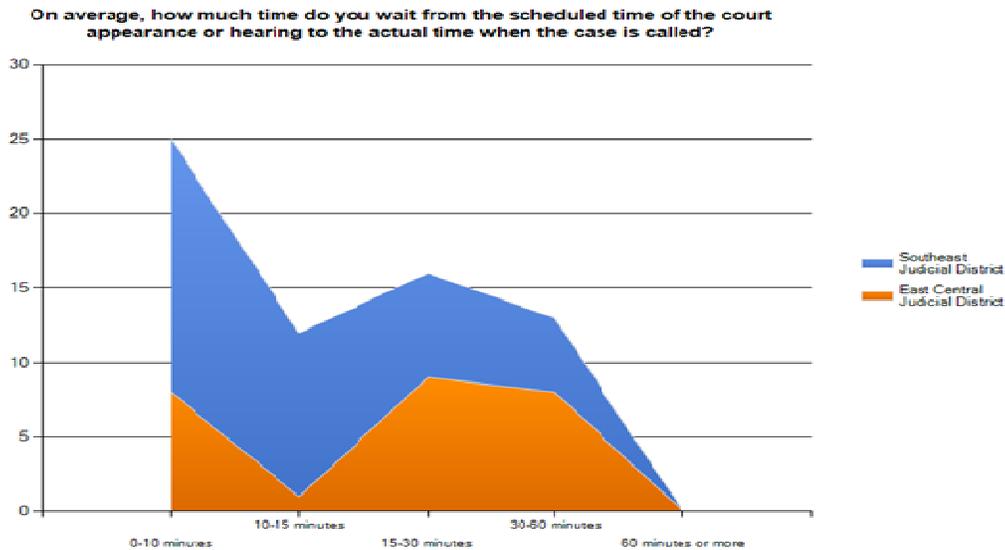


It is possible that this level of concern for ASFA audit protection may be observed in the responses also to survey question 16 which asks to what extent ASFA time standards for permanency hearings are being met in case types involving foster care placement.

Survey question seven asks how much time on average is spent waiting for a juvenile court appearance. This relates to the master calendar system in the ECJD which results in the mass initial appearance schedule every Tuesday which has been the source of some complaints.

Survey Question #7: On average, how much time do you wait from the scheduled time of the court appearance or hearing to the actual time when the case is called?

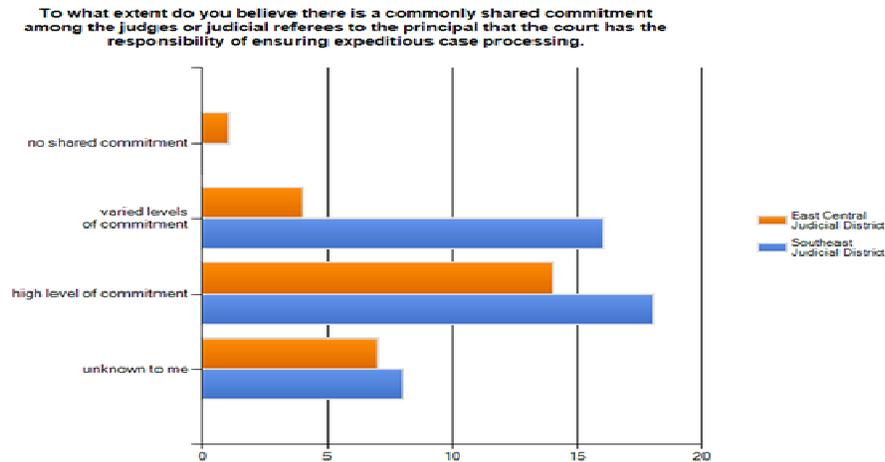
Table 22: Survey Question Seven



Survey question eight measures the perception of commitment among the judges or judicial referees to making sure cases are processed without unnecessary delay. The finding is strong for both districts that stakeholders do view a relatively high level commitment among the judges and referees of Administrative Unit Two. It was found that 47% of all survey participants found a “high level of commitment”. Since the survey participants are appearing in juvenile court hearings on a regular basis, their perceptions are likely based on the words and actions expressed during those court appearances which means that same level of concern and commitment is visible as well to the parties. This question is also a strong indicator of hope for improved practices given the perceived amount of concern for the topic.

Survey Question #8: To what extent do you believe there is a commonly shared commitment among the judges or judicial referees to the principal that the court has the responsibility of ensuring expeditious case processing?

Table 23: Survey Question Eight



Survey question nine finds an unacceptable level in both districts of juvenile justice participants unaware whether North Dakota juvenile courts have any time standards from filing to disposition. 68% of all responders answered “I do not know” to this question. Clearly there is room for education of court staff, attorneys and agency stakeholders in this regard.

Survey Question #9: Has the court adopted a time standard policy that sets forth the outside limits on the court processing time from filing to disposition in juvenile cases?

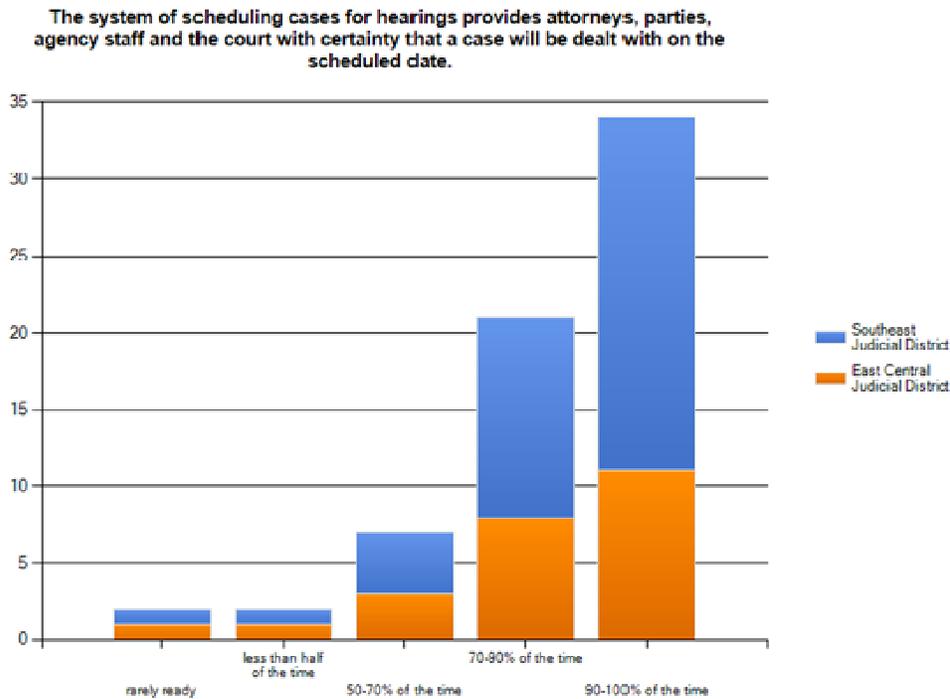
Table 24: Survey Question Nine

Answer Options	East Central Judicial District	Southeast Judicial District	Response Percent	Response Count
no, there is no policy a written policy has been adopted	1	3	5.9%	4
	11	7	26.5%	18
I do not know	14	32	67.6%	46
<i>answered question</i>				68
<i>skipped question</i>				3

Hearing date certainty is an important perception as it reflects upon a participant’s belief that there exists access to the courts and also some expectation that the event scheduled will indeed take place on the date and time for which they were summoned or noticed. Survey question ten finds that a very high level of satisfaction with hearing date certainty can be found in both districts.

Survey Question #10: The system of scheduling cases for hearing provides attorneys, parties, agency staff and the court with certainty that a case will be dealt with on the scheduled date.

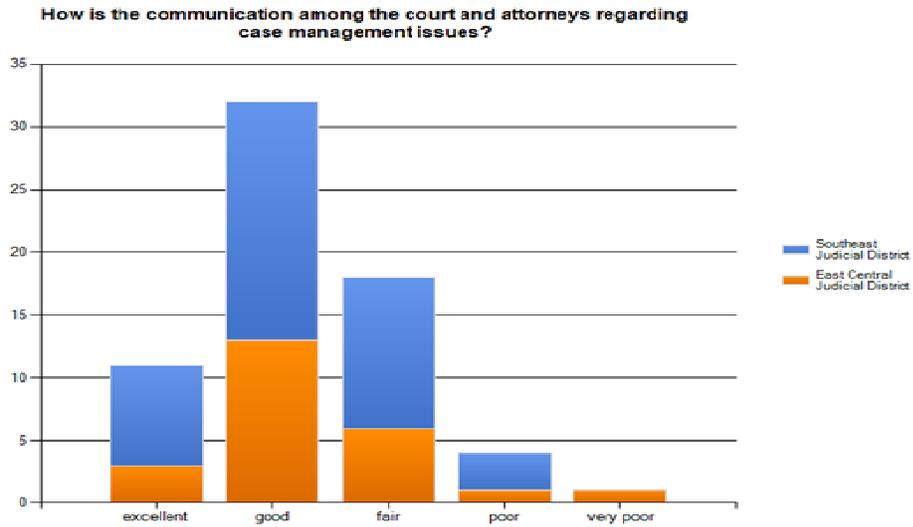
Table 25: Survey Question Ten



Also encouraging was the finding that 66% of ECJD participants found communication between the court and attorneys on case management issues to be “good” or “excellent”; while in the SEJD, 64% also found communication a great strength of the system.

Survey Question #11: How is the communication among the court and attorneys regarding case management issues?

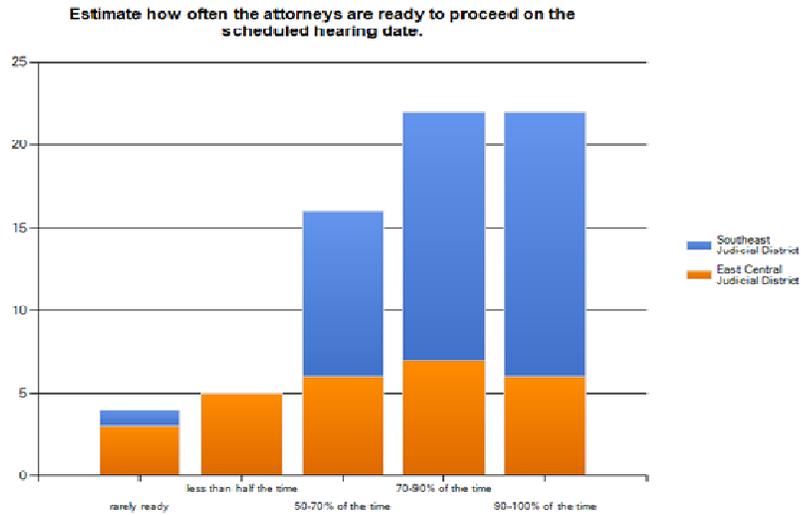
Table 26: Survey Question Eleven



The question regarding attorney readiness to proceed found that participants in both district perceive attorneys on the whole ready to proceed the majority of the time. This question on attorney readiness could be studied further to see if this is also the perception of the clients, who were not included in this survey.

Survey Question #12: Estimate how often the attorneys are ready to proceed on the scheduled hearing date.

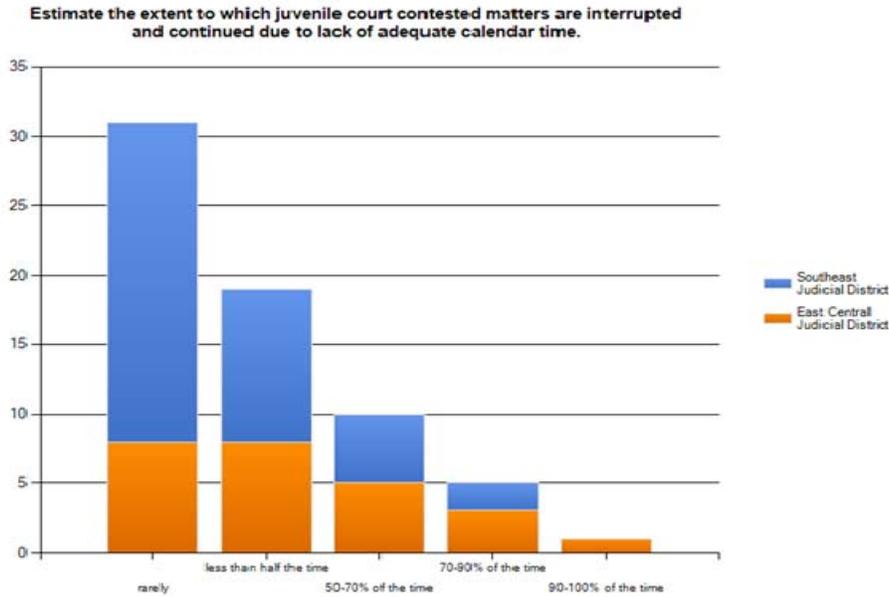
Table 27: Survey Question Twelve



Nor do the survey respondents find that court matters are routinely interrupted and continued to other court dates. The responses to this question seem to indicate that scheduling staff do a good job of predicting the length of contested matters.

Survey Question #13: Estimate the extent to which juvenile court contested matters are interrupted and continued due to lack of adequate calendar time.

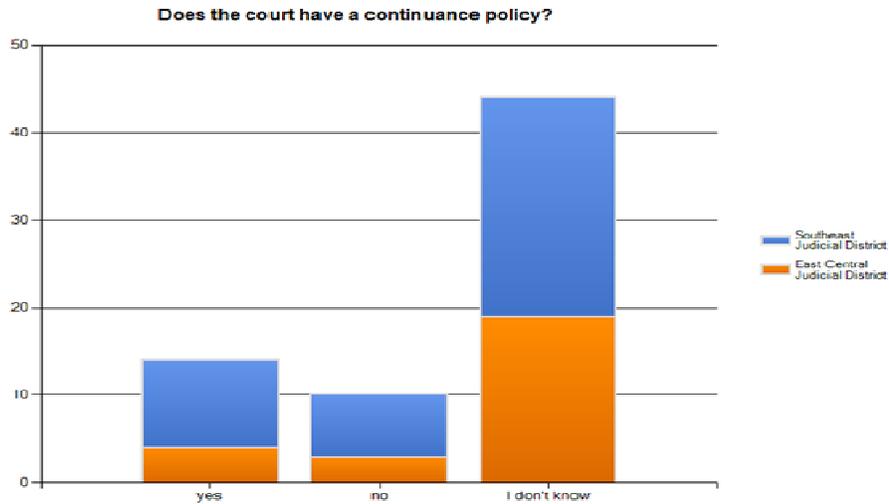
Table 28: Survey Question Thirteen



The aim of the question 14 was to discover the extent to which the survey responders knew whether or not the court in their district has a continuance policy. 67% of these active, juvenile court professionals in both districts are on the whole unaware of the existence of any formalized continuance policy. In fact, the North Dakota Supreme Court has just recently adopted the first North Dakota Juvenile Court Rules which include a provision on the procedure for requesting and the grounds for granting continuances in a juvenile matter. (Appendix F)

Survey Question #14: Does the court have a continuance policy?

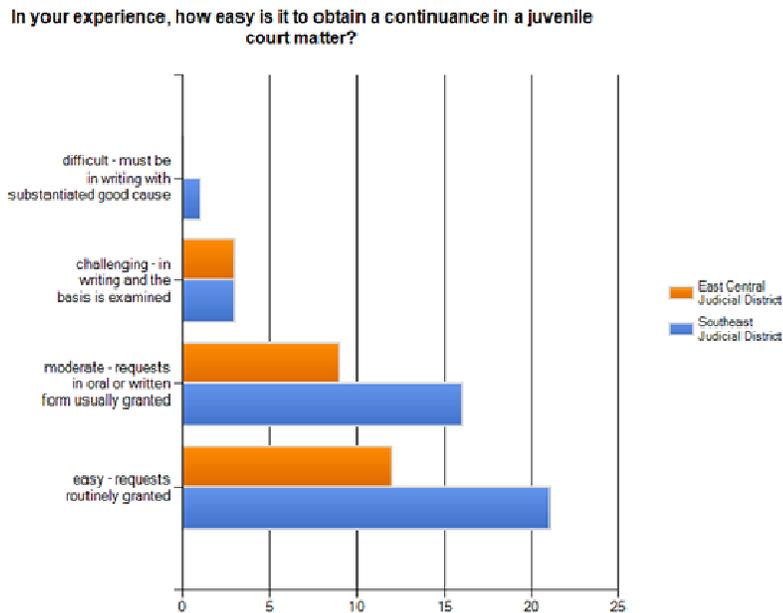
Table 29: Survey Question Fourteen



The responses to survey question 15 indicate that 50% of all survey responders in each judicial district responded that continuances are easy to obtain as “requests are routinely granted”. Case delay literature has long found that a lenient continuance policy or routine granting of continuances without much or any inquiry into the basis for the request, leads to attorney reliance upon continuance which leads to more routine attorney unpreparedness and the resulting postponement of court dates and lack of utilization of judge or referee time. (Solomon, 1973, p. 50)

Survey Question #15: In your experience, how easy is it to obtain a continuance in a juvenile court matter?

Table 30: Survey Question Fifteen



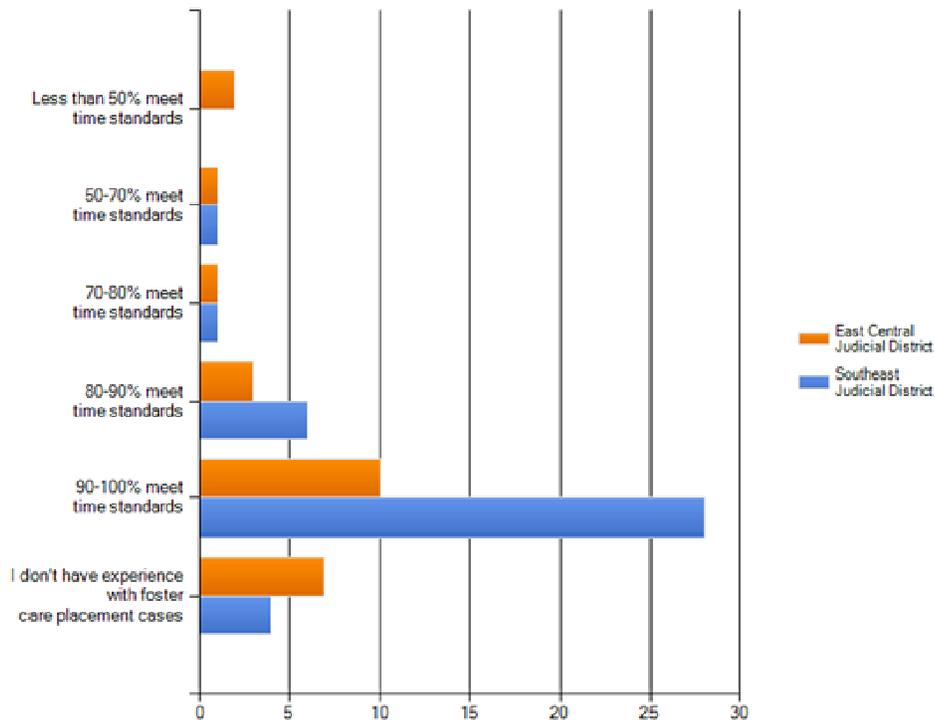
Survey question 16 reflects that most responders believe that their judicial district is on the whole meeting ASFA requirements for timely permanency hearings. Once again, the participants in this survey are aware that failure to meet the federal time standards can jeopardize federal foster care funding.

The current clerk of court database, UCIS, does not accurately capture the hearing events needed to measure time in days between a custodial adjudication and the first permanency hearing. JCMS does collect data on hearing events but there is no built in report created to measure whether or not the North Dakota Juvenile Courts are indeed holding permanency hearings within the federal time frames without hand pulling each case. That is a weakness in the reporting system as there are state goals to increase judicial oversight in juvenile cases involving child removal from the home. The new clerk database, Odyssey, which was implemented in the ECJS starting in October of 2009 and is now rolling out

in stages across the state, will be able to capture dates from hearing event to hearing event, making data capture of timeliness to permanency hearings feasible soon.

Survey Question #16: Estimate the percentage of juvenile foster care placement cases (delinquent, unruly or deprived) in your district that meet the requirements of timely permanency hearings as required by the Adoption and Safe Families Act (ASFA).

Table 31: Survey Question Sixteen

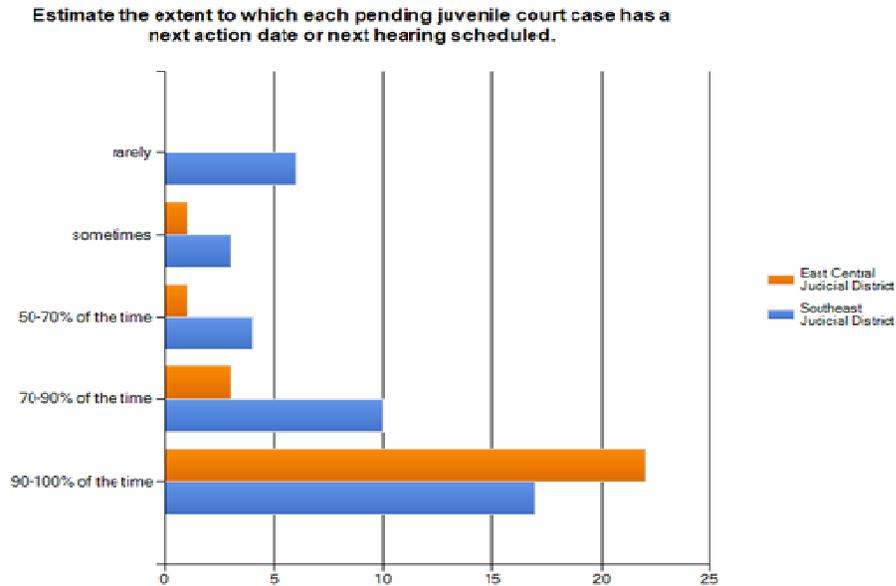


To gather perceptions on how well each pending court case has a future hearing event scheduled, survey question 17 was added. Given the use of a scheduling order in the ECJD, it is not surprising that 82% of respondents believed all pending matters have a future hearing date or action date set. In the SEJD the response indicates that there may be cases, or the perception exists rather, that there may be more pending cases without future action dates set.

Failure to always have a future date set can result in the matter being “lost” within the system.

Survey Question #17: Estimate the extent to which each pending juvenile court case has a next action date or next hearing scheduled.

Table 32: Survey Question Seventeen



Using a Likert scale, survey question 18 asked survey participants to score a number of possible factors which may cause unnecessary delay in the juvenile case process. The three most common factors scored most as a “frequent” or “common” cause of delay in the ECJD were:

1. “attorneys need more time to prepare” (20.8% frequent, 29.2% common)
2. “late request for indigent defense” (23.1% frequent, 19.2% common)
3. “defense attorney just appointed” (15.4% frequent, 23.1% common)

The three most common factors in the Southeast were:

1. “late request for indigent defense” (17.9% frequent, 30.8% common)
2. “defense attorney just appointed” (2.6% frequent, 31.6% common)

3. “child unrepresented” (5.1% frequent, 7.7% common)

Survey Question #18: In your experience, please rate the extent to which of the following factors cause juvenile court case delay in your jurisdiction.

Table 33: Survey Question Eighteen

	never	rarely	sometimes	common	frequent	Rating Average	Response Count
inadequate calendar time set aside	10.6% (7)	33.3% (22)	48.5% (32)	6.1% (4)	1.5% (1)	2.55	66
late request for indigent defense	1.5% (1)	15.4% (10)	36.9% (24)	26.2% (17)	20.0% (13)	3.48	65
respondent failure to appear	1.5% (1)	30.8% (20)	50.8% (33)	13.8% (9)	3.1% (2)	2.86	65
child unrepresented	10.8% (7)	36.9% (24)	38.5% (25)	6.2% (4)	7.7% (5)	2.63	65
incomplete service	7.8% (5)	43.8% (28)	32.8% (21)	9.4% (6)	6.3% (4)	2.63	64
reports or evals not received	3.1% (2)	48.4% (31)	42.2% (27)	4.7% (3)	1.6% (1)	2.53	64
defense attorney just appointed	1.6% (1)	17.2% (11)	45.3% (29)	28.1% (18)	7.8% (5)	3.23	64
attorneys need more time to prepare	1.6% (1)	22.2% (14)	44.4% (28)	23.8% (15)	7.9% (5)	3.14	63
conflict of court calendar	4.6% (3)	50.8% (33)	36.9% (24)	6.2% (4)	1.5% (1)	2.49	65

conflict of attorney calendar	3.1% (2)	38.5% (25)	50.8% (33)	6.2% (4)	1.5% (1)	2.65	65
tribe not properly noticed per ICWA	18.3% (11)	68.3% (41)	11.7% (7)	1.7% (1)	0.0% (0)	1.97	60

At the conclusion of the electronic survey, participants were asked for any written suggestions to reduce unnecessary delay. Eight replies were received from the ECJD and 13 replies from the SEJD.

Survey Question #19: Please give any suggestions you may have for reducing unnecessary delay and increasing timeliness of case processing in the juvenile court.

Suggestions from the ECJD included comments about lack of resources such as courtrooms, judicial referees and referee calendar time. One comment specifically reflected historically on the change seen since the implementation of block scheduling and the master calendar schedule and stating that these practices have been the “biggest contributing factors to delays”.

Suggestions from the SEJD included several mentions of parties requesting indigent defense counsel being the cause of delay with the suggestion that phone calls be made ahead of time to inform or remind them of that right and get the process started before the court date. A couple suggestions were to implement an initial appearance to ascertain a party’s need for court-appointed counsel. (The suggestions in their entirety are posted in Appendix E.)

CONCLUSIONS AND RECOMMENDATIONS

The goal of this research project was to examine the Unit Two judicial districts on timeliness by using CourTools Two (Clearance Rates), Three (Time to Disposition) and Four (Age of Active Pending Caseload) and also an on-line survey of core juvenile justice participants on their perceptions regarding case delay within the North Dakota juvenile court process. The intent was to find a baseline from which future goals could be set and also to discover what weaknesses existed in the current database collections, both data elements and report functions, in order to make recommendations for better automated tools which could be used by Unit Two court administration and possibly implemented throughout the state of North Dakota.

CONCLUSION ONE: The current available databases (Juvenile – JCMS; Clerk of Court - UCIS) do not capture all of the necessary data elements to easily run accurate CourTool reports on timeliness.

In order to run accurate and meaningful clearance rate reports out of JCMS, the program needs to be able to distinguish between formal (petitioned) cases and informal (nonpetitioned) cases. The ad hoc “clearance rate” report also does not allow the user to measure reopened and reactivated cases as the system is “referral” or charge-based, not based upon court formal filings. The new clerk of court database (Odyssey) will be able to capture and report out these data elements, but it will not reflect the approximately 70% of juvenile cases which are handled informally or diverted. A court manager of juvenile court in North Dakota needs to know if the court is keeping up with the incoming caseloads regardless of the method of court processing.

RECOMMENDATION ONE: The clearance rate report in JCMS should have the added features of separating data by method of the process (petitioned or nonpetitioned) as well as by case type (referring charge).

The time to disposition report in JCMS also does not distinguish its data by case type or by the status of the child in the case (detained, in shelter care, not in custody). The blocks of days within which this report lists its case count are not tied to the time standards set forth by the North Dakota Supreme Court in Policy 409 which means that the report has little meaning for the court manager or court administrator. In order to know if a court is meeting the time standards without a time-intensive, case-by-case pull of the meaningful events in the life of a juvenile case, this report must have the added capabilities required to run CourTool Three.

RECOMMENDATION TWO: The time to disposition report in JCMS should have the added features of separating data by case type as well as by the child's status at the time of key events which trigger time standards pursuant to Policy 409.

The age of active pending caseload report in JCMS also does not distinguish between petitioned or non-petitioned cases. The count of cases by age in days is also not tied to the time periods required by North Dakota Supreme Policy 409. In order to apply Policy 409 to the case count reported, the database must be able to distinguish between case type and status of the child at the time of the report.

RECOMMENDATION THREE: The age of active pending caseload report in JCMS should have the added features of separating data by case type as well as by the child's status at the time of key events which trigger time standards pursuant to Policy 409.

The current report features in JCMS can give some idea of how each judicial district is functioning in regards to timeliness, but these reports are not being utilized due to their lack of specificity and how labor intensive they can be to run and report out.

In order to put these reports to good use, the first step is to require the right data elements be collected. Once the report function is gathering the meaningful elements then court managers must put these reports to good use.

CONCLUSION TWO: There has not been a strong focus on measuring juvenile court performance or meeting juvenile court time standards within the juvenile court leadership.

Assigning no fault in the making of this conclusion, but noting the lack of user friendliness which currently exists to run these reports and without specifically assigned IT staff knowledgeable on the core performance measures, it is clear that it is the time for North Dakota juvenile court leaders to place more focus on real-time performance data to address trends, focus resources where they are needed and enhance the overall performance of the court process which serves the children and families that come before it.

RECOMMENDATION FOUR: Make the review of the juvenile court's performance measurement system a permanent item on the court's juvenile director meeting and annual juvenile court conferences.

RECOMMENDATION FIVE: Request that a specific technology staff person be assigned to assist the juvenile directors in capturing and running court performance measures within the existing database of JCMS.

Performance measurement that is held by local leadership as a priority helps to clarify and focus the goals and objectives for line staff. When leaders within the juvenile court pay attention to issues such as timeliness and educate the juvenile staff on how and why the very passage of time can defeat the court's purpose, it establishes within the court office expectations and heightens the urgency to fight unnecessary delay.

RECOMMENDATION SIX: Assign ownership of core measures to key juvenile court staff within each unit and review unit performance at annual meetings.

RECOMMENDATION SEVEN: Give all employees access to performance measurement reports in a simple, easy to read format.

Giving all employees access to the report and training to understand how to use the information made available to them will keep them informed and able to see progress on key measures as it is happening.

North Dakota Policy 409 was implemented by the North Dakota Supreme Court upon the recommendation of the Juvenile Policy Board in 2003. This policy is not mandatory, nor is that necessary without first placing some added focus and reporting of whether the juvenile courts are even able to meet this timelines.

CONCLUSION THREE: North Dakota Juvenile Court Policy 409 on Juvenile Court Timelines has not been reviewed or studied since its inception.

There are new studies and new professional guidelines, particularly in the area of child deprivation regarding timeliness of key events in the life of a juvenile court case. Juvenile court cases are unique and outcomes for children so different than the types of outcomes measured by standard docket currency reports or other civil or criminal types cases.

RECOMMENDATION EIGHT: Request that the Juvenile Policy Board place the topic of Policy 409 on a meeting agenda for a revisiting of the goals and guidelines of this policy particularly as compared to current national professional organization guidelines with an eye towards tighter time frames and goal setting for clearance rates and backlog.

Within both judicial districts of Administrative Unit Two there are strengths and areas for improvements in regards to timeliness of caseflow and the current caseflow management practices. The lack of continuance policy will be solved by March 1, 2010 with the implementation of court-adopted Juvenile Court Rules but caseflow management of these cases still needs to be addressed in a more consistent manner.

CONCLUSION FOUR: The Southeast Judicial District does a better job of disposing of its juvenile cases within one or two court appearances but attorney reliance on ease at which a continuance can be obtained and lack of consistent future date setting for pending cases are areas of concern.

CONCLUSION FIVE: The East Central Judicial District system of master calendar arraignments and multiple hearing dates for all case types results in longer times to disposition for simple matters but does its job to push the complex cases through with the constant setting of future case events.

Use of differentiated case management, assigning a complex case track to cases found to take longer periods of time and use of more judicial oversight on those cases could be useful in the ECJD. The goal would be to simplify cumbersome court procedures and tailor the complex procedures for the complex cases only. To do this, cases would need to be identified for a particular track based on objectives yet to be identified.

RECOMMENDATION NINE: A plan of differentiated case management should be considered in the ECJD to eliminate steps in the less complex cases and more accurately assign court dates to those matters most likely to need additional time to resolve complex cases.

A positive finding of the survey for both districts was the strong response in the affirmative to judicial commitment to the philosophy that the court has a responsibility to oversee expeditious processing of juvenile court cases. Clearly the bench, bar, judicial staff and stakeholders are open to further discussions on how to expedite juvenile cases. Many case delay studies point out that ultimate “success in addressing court delay requires a court culture that is committed to case management”. (Butts, Cusick, & Adams, Delays in Youth Justice, 2009)

RECOMMENDATION TEN: The juvenile court conduct stakeholder meetings to share reports on timeliness and discuss common goals for court improvement in this area thereby increasing a local culture of self-evaluation of practice and procedures which can improve outcomes for children.

In conclusion, these two judicial districts differ in some significant ways that will impact the manner of caseflow management needed to enhance timeliness. The districts differ geographically, in their method of scheduling and significantly differ by their volume of case filings. It is clear that there is not a single solution for both districts. Automation, scheduling orders and differentiated case management may be the best solution for the ECJD and individual case scheduling with some blocked time in the mid-size counties a solution for the SEJD.

The most important factors for both districts may well be growing a court culture of self-evaluation based on empirical reports, a consistent spirit of court control over the calendar and a heightened sense of urgency in regards to timely action in children's cases. Not to seek efficiency for efficiency sake, but to manage for a high level of effectiveness in the specialized field of children's jurisprudence.

Delay not only defeats the very purpose of the courts but delay in juvenile cases, whether delinquency or dependency, often irreparably harms the child's continuity of relationships with family and community, their trust in the system meant to protect them and their very sense of self-worth. Considering a child's vulnerability and the critical elements of childhood development that hang in the balance of these decisions, the court's attention to the causes and solutions of case delay must be of paramount concern and focused, ongoing attention.

Appendices

Appendix A: N.D. Juvenile Court Time Standards

Appendix B: NCSC CourTools: Clearance Rates Measure Two

Appendix C: NCSC CourTools: Time to Disposition Measure Three

Appendix D: NCSC CourTools: Age of Active Pending Caseload Measure Four

Appendix E: Court Performance Survey

Appendix F: N.D. Rules of Juvenile Procedure, Rule 9 Continuances

UNIFIED JUDICIAL SYSTEM

Policy 409

January 22, 2003

JUVENILE COURT TIME STANDARDS**I. Authority**

Under Administrative Rule 35, the Supreme Court has the authority to issue administrative policies relating to the juvenile court which are to be followed by all courts in the state. The authority to keep records confidential and to release information is found in N.D.C.C. §27-20-51.

II. Applicability

The timeframes established in this policy apply to all juvenile courts in this state. This policy sets out time standards for processing cases. A violation is not a cause for dismissal of any case.

III. Time Standards*Delinquent/Unruly Cases*

EVENT	RETURNED PARENTAL HOME	PLACED IN SHELTER CARE	PLACED IN DETENTION
Detention/Shelter Care hearing	Within 96 hours of placement (N.D.C.C. §27-20-17)	Within 96 hours of placement	Within 24 hours, excluding holidays and weekends
Petition must be filed (promptly made & presented)	Within 30 days of being placed in detention or shelter care	Within 15 days of being placed in shelter care	Within 5 days of being placed in detention, excluding holidays and weekends
Initial hearing on petition or adjudication hearing	30 days after filing of petition (N.D.C.C. §27-20-22)	15 days after filing petition	14 days from first day of custody (N.D.C.C. §27-20-22)
Adjudication hearing (if initial hearing used)	30 days after initial hearing	30 days after initial hearing	16 days after initial hearing
SUBTOTAL	90 days	60 days	30 days
Disposition	60 days after adjudication is completed	60 days after adjudication is completed	30 days after adjudication is completed if held in detention
TOTAL	150 days	120 days	60 days

Deprivation Cases

EVENT	RETURNED TO PARENTAL HOME	PLACED IN SHELTER CARE
Shelter care hearing	Within 96 hours of initial placement (N.D.C.C. §27-20-17)	Within 96 hours (court order issued at hearing)
Petition must be filed (promptly made & presented)	Within 30 days of initial placement	Within 15 days of initial placement
Initial hearing on petition or adjudication hearing	30 days after filing petition (N.D.C.C. §27-20-22)	15 days after filing petition
Adjudication hearing (if initial hearing used)	30 days after initial appearance	30 days after initial appearance
SUBTOTAL	90 days	60 days
Disposition	60 days after adjudication completed	60 days after adjudication completed
TOTAL	150 days	120 days

A. Definitions.

1. Promptly.

For purposes of N.D.C.C. §27-20-22, promptly means:

- a. within 5 working days of a juvenile being placed and held in detention;
- b. within 15 working days of a child being placed and retained in shelter care;
- c. within 30 days of a child being placed in shelter care or detention if the child is returned home.

2. Detention.

For purposes of N.D.C.C. §27-20-22, N.D.C.C., detention means a physically secure facility with locked doors and does not include shelter care, attendant care, or home detention.

Approved by Supreme Court 01/22/03

Clearance Rates

Measure **2**

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).

Step 1

Incoming cases are summed using three kinds of cases: *New Filings*, *Reopened cases*, and *Reactivated cases*. If *Reopened* and *Reactivated* cases cannot be counted, just use *New Filings*.

Sum incoming cases	New Filings	812
	Reopened Cases	+ 162
	Reactivated Cases	+ 109
	Total Incoming Cases	= 1,083

Step 2

Outgoing cases are summed by using three kinds of dispositions: *Entry of Judgment*, *Reopened Dispositions*, and *Placed on Inactive Status*. If *Reopened Dispositions* and *Placed on Inactive Status* cases cannot be counted, just use *Entry of Judgment* cases.

Sum outgoing cases	Entry of Judgment	684
	Reopened Disposition	+ 137
	Placed on Inactive Status	+ 92
	Total Outgoing Cases	= 913

Step 3

The clearance rate is calculated by dividing the result of Step 2 by the result of Step 1.

Calculate clearance rate	913 ÷ 1,083 = 84%
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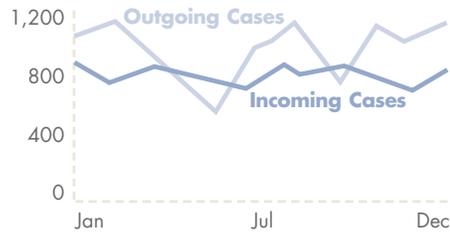




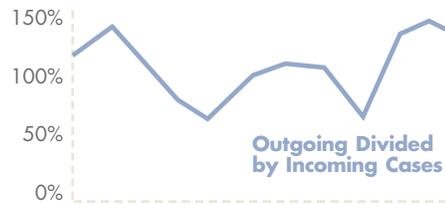
Analysis and Interpretation

The process...

Plot incoming and outgoing cases over time



Calculate a clearance rate



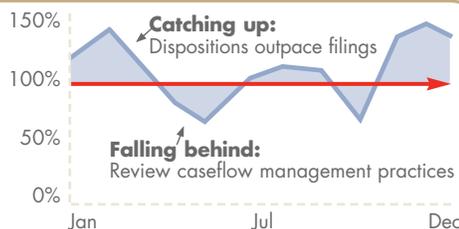
	Outgoing	Incoming	Clearance Rate
Apr	855	843	= 101%
May	734	825	= 89%
June	635	774	= 82%
July	1,016	965	= 105%

partial data shown

Set a clearance rate goal



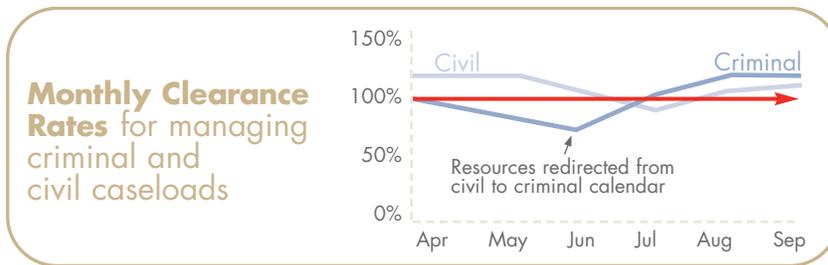
Monitor, analyze, take action



Clearance Rates

Measure **2**

This chart shows clearance rates for two case types (Civil and Criminal) for six months. The Civil clearance rate was above the target level of 100 percent at the beginning of this period. However, the Criminal clearance rate was falling significantly below the target level. The court implemented new caseload management practices and redirected resources from the Civil calendar to the Criminal calendar to improve Criminal case processing. The chart shows that the Criminal clearance rate improved. By the end of the six-month period, the clearance rates for the two case types were in balance. Clearance rate data allow the court to see whether its caseload management changes had the desired effect.



Further analysis shows how clearance rates can be compared on an annual basis to assess the impact of new policies. For example, highlighting districts that reach a clearance rate target allows court managers to assess the effectiveness of caseload management practices across court divisions, court locations, or courtroom by courtroom.

Annual Clearance Rates for assessing comparative performance

	Criminal Cases	Above 100%	Civil Cases	Above 100%
District 1	87%		103%	X
District 2	105%	X	92%	
District 3	93%		102%	X
District 4	90%		101%	X
District 5	107%	X	83%	

Three years of data provides a more representative picture of clearance rate trends by smoothing yearly fluctuations.

3-Year Clearance Rates for analyzing trends

	2002	2003	2004	3-Year Average
District 3	105%	114%	99%	106%
District 2	106%	100%	101%	102%
District 1	100%	99%	97%	99%
District 4	99%	98%	95%	97%
District 5	96%	90%	89%	91%



Terms You Need to Know

Entry of Judgment: A count of cases for which an original entry of judgment—the court’s final determination of the rights and obligations of the parties to a case—has been filed. For cases involving multiple parties/issues, the manner of disposition should not be reported until all parties/issues have been resolved.

New Filing: A count of cases that have been filed with the court for the first time.

Placed on Inactive Status: A count of cases whose status has been administratively changed to inactive because the court will take no further action in the case until an event restores the case to the court's active pending caseload.

Reactivated: A count of cases that had previously been placed in an inactive pending status, but for which further court proceedings and activities can now be resumed so that the case can proceed to disposition.

Reopened: A count of cases in which judgments have previously been entered but which have been restored to the court's pending caseload due to the filing of a request to modify or enforce the existing judgments. When a Reopened Case is disposed of, report the disposition as a Reopened Disposition.

Reopened Disposition: A count of cases that were disposed of by a modification to, and/or enforcement of, the original judgment of the court. For cases involving multiple parties/issues, the manner of disposition should not be reported until all parties/issues have been resolved.

For a full discussion of these definitions, see the *State Court Guide to Statistical Reporting*, available at: www.ncsconline.org/d_research/statistical_reporting.



CourTools

Developed by the NCSC Court
Performance Community of Practice.

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Time to Disposition

Measure 3

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.

The case processing time standards published by the American Bar Association (ABA) and those published by the Conference of State Court Administrators (COSCA) provide a starting point for determining guidelines. Many states and individual courts have adopted their own guidelines, and certain case types (e.g., juvenile) have been the focus of more detailed guidelines by a variety of organizations. Courts should take note of existing guidelines and rules of court in their jurisdiction when developing their own guidelines for each case type.

COSCA Case Processing Standards

Civil

- Non-Jury Trial – 100% within 12 months
- Jury Trial – 100% within 18 months

Criminal

- Felony – 100% within 180 days
- Misdemeanor – 100% within 90 days

Juvenile

- Detention and Shelter Hearings – 100% 24 hours
- Adjudicatory or Transfer Hearings
 - Concerning a juvenile in a detention or shelter facility – 100% within 15 days
 - Concerning a juvenile not in a detention or shelter facility – 100% within 30 days

Domestic

- Uncontested – 100% within 3 months
- Contested – 100% within 6 months

ABA Case Processing Standards

Civil

- 90% within 12 months
- 98% within 18 months
- 100% within 24 months

Criminal

- Felony
 - 90% within 120 days
 - 98% within 180 days
 - 100% within 1 year
- Misdemeanor
 - 90% within 30 days
 - 100% within 90 days

Juvenile

- Detention and Shelter Hearings – 100% 24 hours
- Adjudicatory or Transfer Hearings
 - Concerning a juvenile in a detention or shelter facility – 100% within 15 days
 - Concerning a juvenile not in a detention or shelter facility – 100% within 30 days

Domestic

- 90% within 3 months
- 98% within 6 months
- 100% within 1 year

Source: National Center for State Courts Web site, www.ncsconline.org/WC/Publications/KIS_CasManCPTSPub.pdf.



Method:

This measure should be reviewed on a regular (e.g., monthly, quarterly, 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.

Sampling

This measure should be calculated for all cases disposed or otherwise resolved during the reporting period. However, sampling will be necessary in courts where case volumes are high if a complete report cannot be produced by the case management system. In most instances, a sample of 300 cases will be sufficient. To obtain a random sample requires: a list of all cases in the population, a unique identification number for each case, and a method for selecting cases. A straightforward method is systematic sampling where only the first case is randomly selected and then every *n*th case from a list is selected for the sample, i.e., if the total number of civil cases in a court was 3,000 and the sample size was to be 300 cases, select every tenth case ($3000/300=10$).

Which Cases Are Included?

There are two kinds of cases for which the time to disposition can be computed. The first are typical cases that move through the system without interruption. When these cases are disposed or otherwise resolved by *Entry of Judgment* during the reporting period, they should be counted. The filing dates for these cases will vary, but what qualifies them for inclusion is the fact that the disposition dates all fall within the reporting period (e.g., the calendar year).

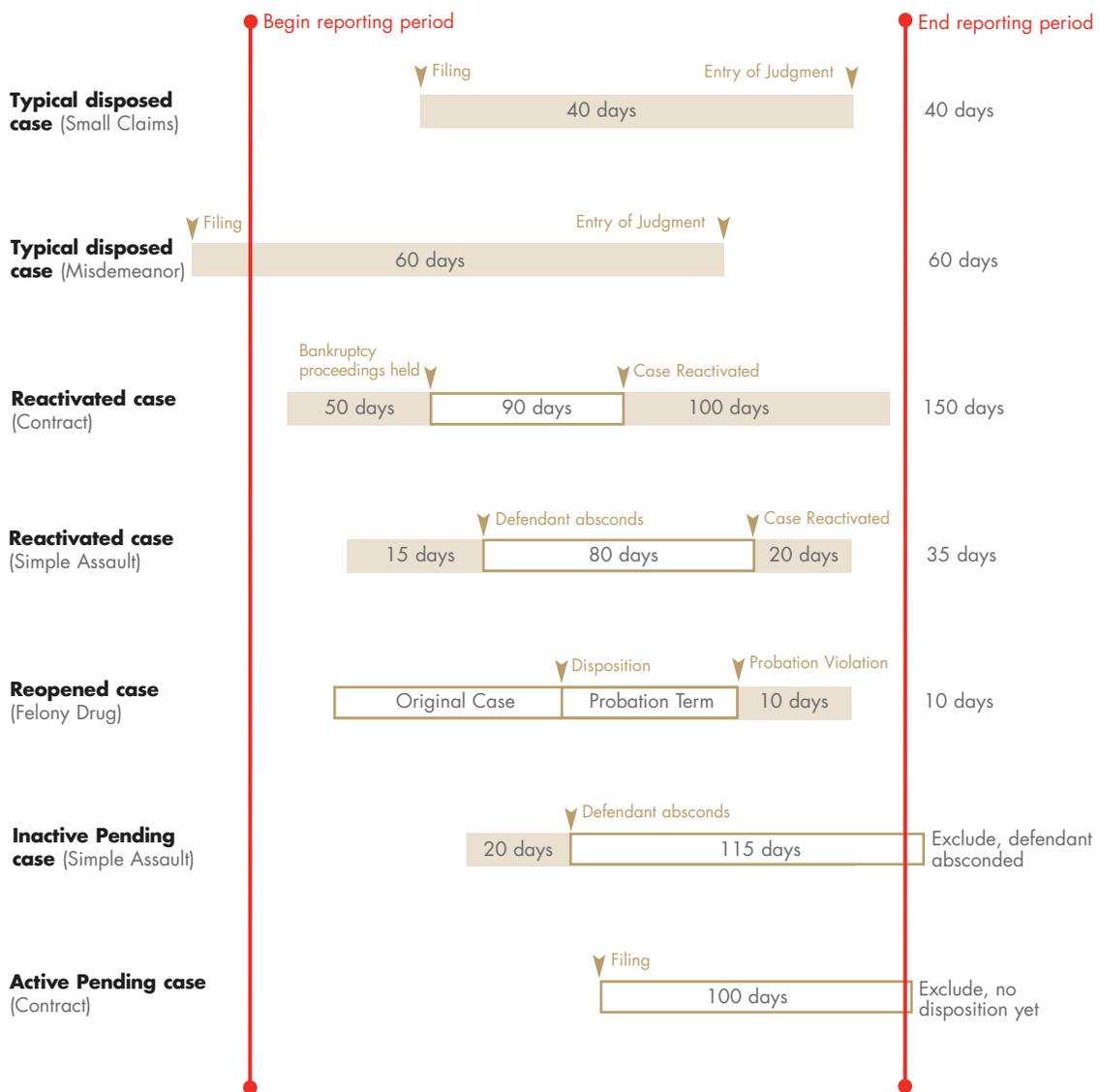
The second kind are cases that had their progress interrupted and underwent a period of inactivity, but were *Reopened* or *Reactivated* by the court and disposed of during the reporting period. An example of this is a contract case that is *Placed on Inactive Status* pending the outcome of bankruptcy proceedings. Following those proceedings, the contract case resumes and is disposed. Another example is a criminal case in which the defendant absconds after the case was filed. The case is *Placed on Inactive Status* during this time, but when the defendant is apprehended and returned to court, the case resumes and is disposed.

Cases in which judgment was previously entered but which have been *Reopened* due to a request to modify or enforce existing judgments are also included. For example, the court might grant a motion to consider newly discovered evidence, and thus reopen a case. In juvenile cases, a case might be reopened due to violation of probation, or due to failure of parents to comply with a court order. When these *Reopened* cases are disposed during the reporting period, they should be included in this measure. In all these examples, the time that is counted starts when the case is reopened, not with the date of the original filing.



Cases that are in an official period of inactivity at the end of the reporting period should *not* be included in this measure. As this type of case is considered to be among the court's *Inactive Pending* cases at the end of the reporting period (i.e., they are not moving toward disposition for a known and legitimate reason and the court is aware of this), they should be excluded from the analysis. *Active Pending* cases are excluded from analysis, since no disposition has been reached.

Time Calculation Examples





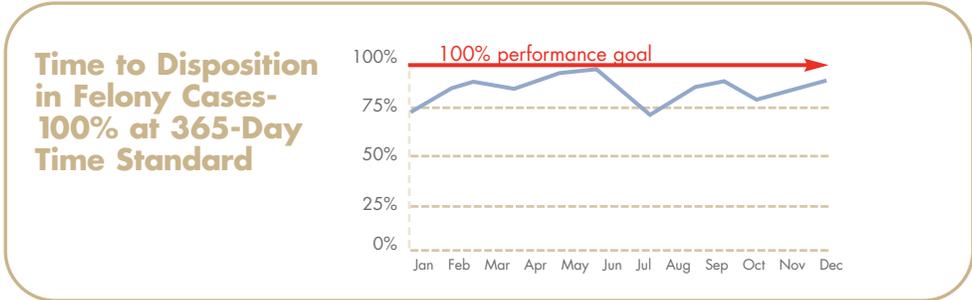
Time to Disposition

Measure 3

Analysis and Interpretation

Division	Percentage of Cases Disposed				Number of Days	
	180 days		365 days		Mean	Median
	Current	Goal	Current	Goal		
Criminal	70%	98%	97%	100%	170	121
Civil	82%	na	95%	90%	151	93
Domestic	90%	98%	92%	100%	158	105

This table summarizes time to disposition in one court across three case types. The court is almost meeting its 365-day standard in criminal cases, exceeding its 365-day standard in civil cases, and lagging behind in domestic cases. The court should examine criminal caseload management in the first 180 days, the period in which the court is furthest from its goal.



This court has adopted the ABA standard for felony cases. The court was steadily improving, and nearly met this goal in June, but in the months following, time to disposition increased. The court needs to examine what happened in July and October to determine the source of the periodic drops in performance.

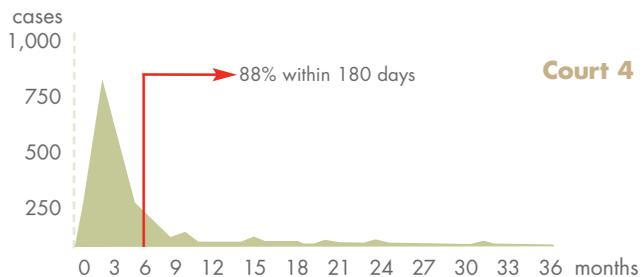
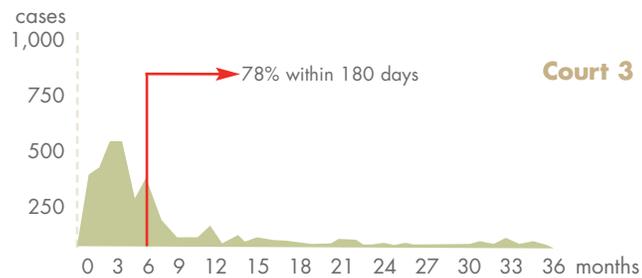
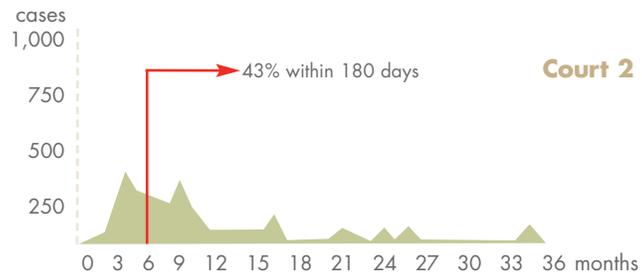
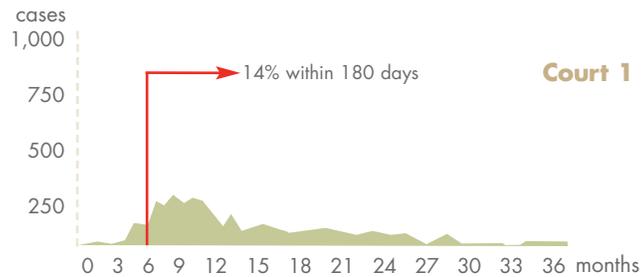


Increases in the criminal caseload caused the court to shift judicial officers from civil to criminal cases and initiate caseflow management improvements in June. Time to disposition for criminal cases did improve, but not without an increase in time to disposition for civil cases.

The graphics here show one way to display time to disposition data for felony cases in four courts. The data show that the vast majority of cases are resolved within six months in the two faster courts, compared to about eighteen months in the two slower courts. The profile of felony case time to disposition in different courts may vary due to the seriousness of the case mix, charging and pleading practices, and the manner of disposition. Of course, differences in time to disposition will also result from variation in court case management practices. Documenting differences in case processing time among courts is the first step in analyzing the reasons for those differences.

For all types of cases, time to disposition is a basic court management tool. Compiling data on the timing of key case events, consistent definition of terms, and distinguishing between active and inactive cases are basic ingredients to understanding and improving caseload management.

Percent of Felony Cases Disposed Within 36 Months...





Terms You Need to Know

Active Pending: A count of cases that, at the end of the reporting period, are awaiting disposition.

Entry of Judgment: A count of cases for which an original entry of judgment—the court’s final determination of the rights and obligations of the parties to a case—has been filed. For cases involving multiple parties/issues, the manner of disposition should not be reported until all parties/issues have been resolved.

Mean: The average value of a set of numbers, equal to the sum of all values divided by the number of values.

Median: The middle value in a distribution of numbers. Half of the values will be above this point, half will be below.

Percentile: A percentile is a score below which a given percentage of the cases falls. Thus, if cases aged 120 days represent the 90th percentile of a court’s pending caseload, it means that 90% of those cases are aged 120 days or less. Spreadsheet and statistical software can calculate percentile ranking of data.

Placed on Inactive Status: A count of cases whose status has been administratively changed to inactive because the court will take no further action in the case until an event restores the case to the court’s active pending caseload.

Random Sample: A sample chosen that minimizes bias in the selection process. A random sample of case files is typically generated by a computer or selected from a random number table. Systematic samples require a randomly selected starting point, then the taking of every *n*th case, i.e., if the total number of civil cases in a court was 3,000 and the sample size was to be 300 cases, select every tenth case ($3,000 \div 300 = 10$).

Reactivated: A count of cases that had previously been placed in an Inactive Pending status, but for which further court proceedings and activities can now be resumed so that the case can proceed to disposition.

Reopened: A count of cases in which judgments have previously been entered but which have been restored to the court’s pending caseload due to the filing of a request to modify or enforce the existing judgment.

Reopened Disposition: A count of cases that were disposed of by a modification to and/or enforcement of the original judgment of the court.

Time Standards: An acknowledged measure of comparison, measured as the time (in days) it takes to process a case, from filing to disposition. A time standard is expressed in terms of the percentage of cases that should be resolved within a certain time frame (e.g., 98% within 180 days).



Age of Active Pending Caseload

Measure **4**

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.

Age of Active Pending Caseloads

General Civil				Felony			
Age (days)	Number of Cases	Percent	Cumulative Percent	Age (days)	Number of Cases	Percent	Cumulative Percent
0-90	344	18%	18%	0-60	438	21%	21%
91-180	410	21%	39%	61-120	559	26%	47%
181-270	245	13%	52%	121-180	785	37%	84%
271-365	267	14%	66%	181-240	82	4%	88%
366-450	189	10%	76%	241-300	92	4%	92%
451-540	168	9%	85%	301-365	123	6%	98%
541-630	90	5%	90%	over 365	32	2%	100%
631-730	124	6%	96%				
over 730	76	4%	100%				
Total	1,913			Total	2,111		

Approaches the court's goal of resolving 90% of cases within 18 months.

This measure should be used in conjunction with *Measure 2 Clearance Rates* and *Measure 3 Time to Disposition* to get an accurate picture of how a court is managing its caseload. For example, a court may have a high clearance rate, and score well on Measure 2, yet still be building up an inventory of older cases (evaluated by using Measure 4). This measure differs from *Measure 3 Time to Disposition* in that the cases being analyzed here have not reached a disposition in the court.



To use this measure accurately, a court must be able to identify and count cases that have been *Placed on Inactive Status*. These are cases that have ceased movement toward a disposition as the result of events beyond the court's control (e.g., a defendant who absconds, the initiation of bankruptcy proceedings, etc.). The ability of a court to track its pending cases will also allow the court to return an *Inactive* case to *Active* status if the case has been *Reactivated*. At the time of measurement, the court should remove *Inactive* cases from the pending inventory because these cases are not directly comparable to *Active* cases and will exaggerate the age of the pending caseload.

This measure should be taken on a regular (e.g., monthly, quarterly, or annual) basis. The measure can be used to report age of the pending caseload for any case type. (Primary case types are defined in the *State Court Guide to Statistical Reporting*.)

Sampling

This measure should be calculated for all cases in the Active Pending inventory. However, sampling will be necessary in courts where case volumes are high if a complete report cannot be produced by the case management system. In most instances, a sample of 300 cases will be sufficient. To obtain a random sample requires: a list of all cases in the population, a unique identification number for each case, and a method for selecting cases. A straightforward method is systematic sampling where only the first case is randomly selected and then every *n*th case from a list is selected for the sample, i.e., if the total number of civil cases in a court was 3,000 and the sample size was to be 300 cases, select every tenth case ($3000/300=10$).

Which Cases Are Included?

Only *Active Pending* cases are included in this measure, and other cases should be excluded. Rules for counting, as defined in the *State Court Guide to Statistical Reporting*, are summarized below and illustrated in the figure.

The most straightforward cases to count are those that are moving through the system without interruption and are active and pending at the time of measurement.

A second category are cases that had their progress interrupted and underwent a period of inactivity but were *Reactivated* by the court prior to the time of measurement. An example of this is a contract case that is *Placed on Inactive Status* pending the outcome of bankruptcy proceedings. Following those proceedings, the contract case resumes, and is counted as a *Reactivated* case (not as a new filing). Another example is a criminal case in which the case is filed and the defendant absconds for a period of time. The case is *Placed on Inactive Status* during this time, but when the defendant is apprehended and returned to court, and case is *Reactivated*.



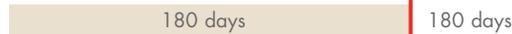
Following those proceedings, the contract case resumes, and is counted as a *Reactivated* case (not as a new filing). Another example is a criminal case in which the case is filed and the defendant absconds for a period of time. The case is *Placed on Inactive Status* during this time, but when the defendant is apprehended and returned to court, the case is *Reactivated*.

A third category are cases in which judgment was previously entered, but which have been *Reopened* due to a request to modify or enforce existing judgments. These cases have been restored to the court's *Active Pending* caseload. For example, the court might grant a motion to consider newly discovered evidence, and thus reopen a case.

A fourth category are cases that should not be included in this measure. These are cases that are in an official period of inactivity at the date of report. As these cases are considered to be among the court's *Inactive Pending* cases (i.e., they are not moving toward disposition for a known and legitimate reason and the court is aware of this) they should be excluded from the analysis.

Time Calculation Examples

Active Pending case
(Automobile Tort)



Reactivated case
(Contract)



Reactivated case
(Simple Assault)



Reopened case
(Felony Drug)



Inactive Pending case
(Simple Assault)





Age of Active Pending Caseload

Measure **4**

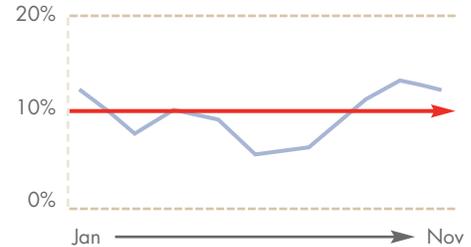
Analysis and Interpretation

The data collected for this measure allow the court to look at cases that are exceeding its time standards. *Measure 3 Time to Disposition* asks, "What percentage of our cases are being processed within our time standards?" Measure 4 asks, "What percentage of our cases exceed our time standards?" A court may be handling its current caseload, but at the same time have old cases that are lingering on. The top graph indicates that this court is managing its caseload effectively, and at the 180-day mark, the court is close to its goal of having no more than 10 percent of its active cases pending beyond 180 days.

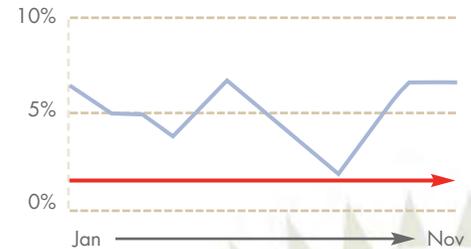
The bottom graph indicates, however, that the court is having a harder time meeting its standard at the 365-day mark. The red line indicates the goal is to have no more than 2 percent of its active caseload pending at 365 days from time of filing. The court is unable to meet this standard.

Identifying specific cases and analyzing their status (e.g., by location, by judge, by type of proceeding) will allow the court to know whether the active pending cases are being appropriately managed. In this example, the court has extracted descriptive information on cases pending beyond 365 days to begin its case-level analysis.

Percent of Cases Pending Beyond 180 days



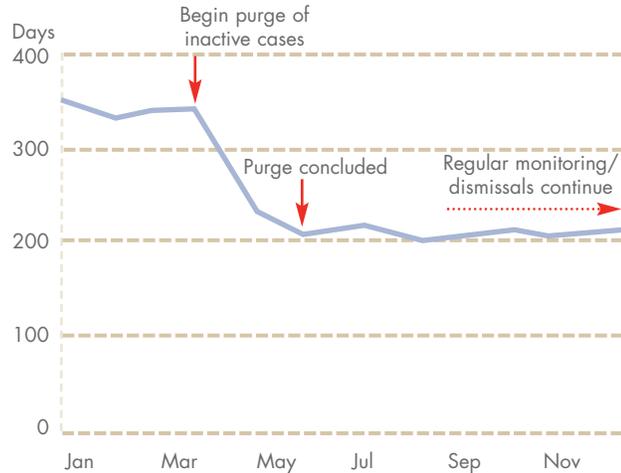
Percent of Cases Pending Beyond 365 days



Focusing on the cases that exceed 365 days...

Case Numbers	Case Type	Age-Days	Next Action	Location	Judge
SC-F-136	Murder	536	Jury Trial	Scott	Jones
SC-F-468	Drug-Sale	382	Motion Hearing	Colton	Smith
SC-F-771	Fraud	439	Bench Trial	Jersey	Kearn

Median Age of Pending Civil Cases



Analysis of the age of the *Active Pending* caseload over time can be used to determine whether caseload management practices are having their intended effects. This figure shows how a court's decision to undertake an intensive program to identify and dispose of stagnant civil cases has caused a noticeable drop in the median age of its pending civil caseload. These stagnant cases appeared to be active cases, but examination of the files and communication with parties revealed the cases had either settled out of court or were no longer being pursued.

Who Sets Time Standards?

The Conference of State Court Administrators (COSCA) and the American Bar Association (ABA) have offered specific time standards for case processing. The question of whether these standards are attainable is an empirical one that remains largely unanswered. Time standards are expressed as the percentage of cases that should be resolved within a certain elapsed period. For example, the ABA offers the following standards:

Civil cases

90% within 12 months
 98% within 18 months
 100% within 24 months

Domestic cases

90% within 3 months
 98% within 6 months
 100% within 12 months

Felony cases

90% within 120 days
 98% within 180 days
 100% within 1 year

Juvenile cases

Detention & shelter: 100% within 24 hours
 Adjudicatory or transfer (Detention or shelter): 100% within 15 days
 Adjudicatory or transfer (Not in Detention or shelter): 100% within 30 days

Source: National Center for State Courts Web site, www.ncsconline.org/WC/Publications/KIS_CasManCPTSPub.pdf.



Terms You Need to Know

Active Pending: A count of cases that, at the end of the reporting period, are awaiting disposition.

Inactive Pending: A count of cases that, at the end of the reporting period, have been administratively classified as inactive. Such circumstances may be defined by statewide court administrative rule or order.

Percentile: A percentile is a score below which a given percentage of the cases falls. Thus, if cases aged 120 days are in the 90th percentile of a court's pending caseload, it means that 90% of those cases are aged 120 days or less. Spreadsheet and statistical software can calculate percentile ranking of data. The percentiles a court selects should be chosen based on its own state or local time standards or those suggested by the Conference of State Court Administrators (COSCA) or the American Bar Association (ABA).

Placed on Inactive Status: A count of cases whose status has been administratively changed to inactive because the court will take no further action in the case until an event restores the case to the court's *Active Pending* caseload.

Random Sample: A sample chosen that minimizes bias in the selection process. A random sample of case files is typically generated by a computer or selected from a random number table. Systematic samples require a randomly selected starting point, then the taking of every n th case, i.e., if the total number of civil cases in a court was 3,000 and the sample size was to be 300 cases, select every tenth case ($3,000 \div 300 = 10$).

Reactivated: A count of cases that had previously been placed in an inactive pending status, but for which further court proceedings and activities can now be resumed so that the case can proceed to disposition.

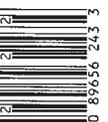
Reopened: A count of cases in which judgments have previously been entered but which have been restored to the court's pending caseload due to the filing of a request to modify or enforce the existing judgments.



CourTools

Developed by the NCSC Court
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Court Performance Survey

1. In which North Dakota judicial district do you appear most frequently in juvenile court?			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
East Central Judicial District	100.0% (27)	0.0% (0)	37.5% (27)
Southeast Judicial District	0.0% (0)	100.0% (45)	62.5% (45)
answered question	27	45	72
skipped question			0

2. In which juvenile court case types do you most commonly appear in court?			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
juvenile delinquency or juvenile unruly	40.7% (11)	20.5% (9)	28.2% (20)
child deprivation (abuse or neglect)	22.2% (6)	40.9% (18)	33.8% (24)
all juvenile case types	37.0% (10)	38.6% (17)	38.0% (27)
answered question	27	44	71
skipped question			1

3. In which role do you participate in the juvenile court in North Dakota?			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
District Judge	0.0% (0)	6.7% (3)	4.2% (3)
Judicial Referee	7.4% (2)	0.0% (0)	2.8% (2)
States Attorney	11.1% (3)	20.0% (9)	16.7% (12)
Defense Attorney	11.1% (3)	6.7% (3)	8.3% (6)
Guardian ad Litem	7.4% (2)	8.9% (4)	8.3% (6)
Social Services	22.2% (6)	31.1% (14)	27.8% (20)
Division of Juvenile Services	7.4% (2)	6.7% (3)	6.9% (5)
Juvenile Court Officer	25.9% (7)	13.3% (6)	18.1% (13)
Juvenile Court Support Staff	7.4% (2)	6.7% (3)	6.9% (5)
Other (please specify)	0 replies	2 replies	2
<i>answered question</i>	27	45	72
<i>skipped question</i>			0

4. Estimate the extent to which you believe that unnecessary delay in juvenile case processing occurs in your district.			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
none	0.0% (0)	6.7% (3)	4.2% (3)
rarely	11.5% (3)	35.6% (16)	26.8% (19)
sometimes	65.4% (17)	40.0% (18)	49.3% (35)
frequently	11.5% (3)	15.6% (7)	14.1% (10)
commonly	11.5% (3)	2.2% (1)	5.6% (4)
<i>answered question</i>	26	45	71
<i>skipped question</i>			1

5. Estimate the extent to which the court meets time standards (statutory or policy) in juvenile delinquency or unruly cases.			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
rarely meets standards	0.0% (0)	2.4% (1)	1.6% (1)
sometimes meets standards	13.0% (3)	2.4% (1)	6.3% (4)
50-70% of the time meets standards	21.7% (5)	14.6% (6)	17.2% (11)
70-90% of the time meets standards	47.8% (11)	19.5% (8)	29.7% (19)
90-100% of the time meets standards	17.4% (4)	61.0% (25)	45.3% (29)
<i>answered question</i>	23	41	64
<i>skipped question</i>			8

6. Estimate the extent to which the court meets time standards (statutory or policy) in regards to child deprivation cases.			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
rarely	4.8% (1)	2.3% (1)	3.1% (2)
sometimes	9.5% (2)	0.0% (0)	3.1% (2)
50-70% of the time	38.1% (8)	9.1% (4)	18.5% (12)
70-90% of the time	19.0% (4)	29.5% (13)	26.2% (17)
90-100% of the time	28.6% (6)	59.1% (26)	49.2% (32)
<i>answered question</i>	21	44	65
<i>skipped question</i>			7

7. On average, how much time do you wait from the scheduled time of the court appearance or hearing to the actual time when the case is called?			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
0-10 minutes	30.8% (8)	42.5% (17)	37.9% (25)
10-15 minutes	3.8% (1)	27.5% (11)	18.2% (12)
15-30 minutes	34.6% (9)	17.5% (7)	24.2% (16)
30-60 minutes	30.8% (8)	12.5% (5)	19.7% (13)
60 minutes or more	0.0% (0)	0.0% (0)	0.0% (0)
<i>answered question</i>	26	40	66
<i>skipped question</i>			6

8. To what extent do you believe there is a commonly shared commitment among the judges or judicial referees to the principal that the court has the responsibility of ensuring expeditious case processing.			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
no shared commitment	3.8% (1)	0.0% (0)	1.5% (1)
varied levels of commitment	15.4% (4)	38.1% (16)	29.4% (20)
high level of commitment	53.8% (14)	42.9% (18)	47.1% (32)
unknown to me	26.9% (7)	19.0% (8)	22.1% (15)
<i>answered question</i>	26	42	68
<i>skipped question</i>			4

9. Has the Court adopted a time standard policy that sets forth the outside limits on the court processing time from filing to disposition in juvenile cases?			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
no, there is no policy on juvenile court time standards	3.8% (1)	7.1% (3)	5.9% (4)
yes, a written policy has been adopted	42.3% (11)	16.7% (7)	26.5% (18)
I do not know	53.8% (14)	76.2% (32)	67.6% (46)
<i>answered question</i>	26	42	68
<i>skipped question</i>			4

10. The system of scheduling cases for hearings provides attorneys, parties, agency staff and the court with certainty that a case will be dealt with on the scheduled date.

	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
rarely ready	4.2% (1)	2.3% (1)	3.0% (2)
less than half of the time	4.2% (1)	2.3% (1)	3.0% (2)
50-70% of the time	12.5% (3)	11.6% (5)	11.9% (8)
70-90% of the time	33.3% (8)	30.2% (13)	31.3% (21)
90-100% of the time	45.8% (11)	53.5% (23)	50.7% (34)
<i>answered question</i>	24	43	67
<i>skipped question</i>			5

11. How is the communication among the court and attorneys regarding case management issues?			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
excellent	12.5% (3)	18.6% (8)	16.4% (11)
good	54.2% (13)	44.2% (19)	47.8% (32)
fair	25.0% (6)	30.2% (13)	28.4% (19)
poor	4.2% (1)	7.0% (3)	6.0% (4)
very poor	4.2% (1)	0.0% (0)	1.5% (1)
<i>answered question</i>	24	43	67
<i>skipped question</i>			5

12. Estimate how often the attorneys are ready to proceed on the scheduled hearing date.

	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
rarely ready	11.1% (3)	4.7% (2)	7.1% (5)
less than half the time	18.5% (5)	0.0% (0)	7.1% (5)
50-70% of the time	22.2% (6)	23.3% (10)	22.9% (16)
70-90% of the time	25.9% (7)	34.9% (15)	31.4% (22)
90-100% of the time	22.2% (6)	37.2% (16)	31.4% (22)
<i>answered question</i>	27	43	70
<i>skipped question</i>			2

13. Estimate the extent to which juvenile court contested matters are interrupted and continued due to lack of adequate calendar time.			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
rarely	32.0% (8)	56.1% (23)	47.0% (31)
less than half the time	32.0% (8)	26.8% (11)	28.8% (19)
50-70% of the time	20.0% (5)	12.2% (5)	15.2% (10)
70-90% of the time	12.0% (3)	4.9% (2)	7.6% (5)
90-100% of the time	4.0% (1)	0.0% (0)	1.5% (1)
<i>answered question</i>	25	41	66
<i>skipped question</i>			6

14. Does the court have a continuance policy?			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
yes	15.4% (4)	23.3% (10)	20.3% (14)
no	11.5% (3)	16.3% (7)	14.5% (10)
I don't know	73.1% (19)	60.5% (26)	65.2% (45)
<i>answered question</i>	26	43	69
<i>skipped question</i>			3

15. In your experience, how easy is it to obtain a continuance in a juvenile court matter?			
	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
difficult - must be in writing with substantiated good cause	0.0% (0)	2.4% (1)	1.5% (1)
challenging - in writing and the basis is examined	12.5% (3)	7.1% (3)	9.1% (6)
moderate - requests in oral or written form usually granted	37.5% (9)	38.1% (16)	37.9% (25)
easy - requests routinely granted	50.0% (12)	52.4% (22)	51.5% (34)
<i>answered question</i>	24	42	66
<i>skipped question</i>			6

16. Estimate the percentage of juvenile foster care placement cases (delinquent, unruly or deprived) in your district that meet the requirements of timely permanency hearings as required by the Adoption and Safe Families Act (ASFA).

	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
Less than 50% meet time standards	8.3% (2)	0.0% (0)	3.1% (2)
50-70% meet time standards	4.2% (1)	2.5% (1)	3.1% (2)
70-80% meet time standards	4.2% (1)	2.5% (1)	3.1% (2)
80-90% meet time standards	12.5% (3)	15.0% (6)	14.1% (9)
90-100% meet time standards	41.7% (10)	70.0% (28)	59.4% (38)
I don't have experience with foster care placement cases	29.2% (7)	10.0% (4)	17.2% (11)
<i>answered question</i>	24	40	64
<i>skipped question</i>			8

17. Estimate the extent to which each pending juvenile court case has a next action date or next hearing scheduled.

	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Totals
rarely	0.0% (0)	15.0% (6)	9.0% (6)
sometimes	3.7% (1)	7.5% (3)	6.0% (4)
50-70% of the time	3.7% (1)	10.0% (4)	7.5% (5)
70-90% of the time	11.1% (3)	25.0% (10)	19.4% (13)
90-100% of the time	81.5% (22)	42.5% (17)	58.2% (39)
<i>answered question</i>	27	40	67
<i>skipped question</i>			5

18. In your experience, please rate the extent to which the following factors cause juvenile court case delay in your jurisdiction.

		In which North Dakota judicial district do you appear most frequently in juvenile court?		
		East Central Judicial District	Southeast Judicial District	Response Totals
inadequate calendar time set aside	never	7.7% (2)	12.2% (5)	
	rarely	26.9% (7)	36.6% (15)	
	sometimes	50.0% (13)	46.3% (19)	
	common	11.5% (3)	4.9% (2)	
	frequent	3.8% (1)	0.0% (0)	
rating average		2.77 (26)	2.44 (41)	2.57 (67)
late request for indigent defense	never	3.8% (1)	0.0% (0)	
	rarely	11.5% (3)	20.0% (8)	
	sometimes	42.3% (11)	32.5% (13)	
	common	19.2% (5)	30.0% (12)	
	frequent	23.1% (6)	17.5% (7)	
rating average		3.46 (26)	3.45 (40)	3.45 (66)
respondent failure to appear	never	0.0% (0)	2.5% (1)	
	rarely	23.1% (6)	35.0% (14)	

	sometimes	50.0% (13)	52.5% (21)	
	common	19.2% (5)	10.0% (4)	
	frequent	7.7% (2)	0.0% (0)	
rating average		3.12 (26)	2.70 (40)	2.86 (66)
child unrepresented	never	11.5% (3)	10.0% (4)	
	rarely	26.9% (7)	45.0% (18)	
	sometimes	46.2% (12)	32.5% (13)	
	common	3.8% (1)	7.5% (3)	
	frequent	11.5% (3)	5.0% (2)	
rating average		2.77 (26)	2.53 (40)	2.62 (66)
incomplete service	never	3.8% (1)	10.5% (4)	
	rarely	26.9% (7)	55.3% (21)	
	sometimes	34.6% (9)	31.6% (12)	
	common	19.2% (5)	2.6% (1)	
	frequent	15.4% (4)	0.0% (0)	
rating average		3.15 (26)	2.26 (38)	2.63 (64)
reports or evals not received	never	0.0% (0)	5.1% (2)	
	rarely	60.0% (15)	41.0% (16)	

	sometimes	28.0% (7)	51.3% (20)	
	common	12.0% (3)	0.0% (0)	
	frequent	0.0% (0)	2.6% (1)	
	rating average	2.52 (25)	2.54 (39)	2.53 (64)
defense attorney just appointed	never	0.0% (0)	2.6% (1)	
	rarely	15.4% (4)	20.5% (8)	
	sometimes	46.2% (12)	43.6% (17)	
	common	23.1% (6)	30.8% (12)	
	frequent	15.4% (4)	2.6% (1)	
	rating average	3.38 (26)	3.10 (39)	3.22 (65)
attorneys need more time to prepare	never	0.0% (0)	2.5% (1)	
	rarely	12.5% (3)	27.5% (11)	
	sometimes	37.5% (9)	47.5% (19)	
	common	29.2% (7)	22.5% (9)	
	frequent	20.8% (5)	0.0% (0)	
	rating average	3.58 (24)	2.90 (40)	3.16 (64)
conflict of court calendar	never	3.8% (1)	5.0% (2)	

	rarely	53.8% (14)	47.5% (19)	
	sometimes	30.8% (8)	42.5% (17)	
	common	7.7% (2)	5.0% (2)	
	frequent	3.8% (1)	0.0% (0)	
	rating average	2.54 (26)	2.48 (40)	2.50 (66)
conflict of attorney calendar	never	0.0% (0)	5.1% (2)	
	rarely	53.8% (14)	28.2% (11)	
	sometimes	42.3% (11)	56.4% (22)	
	common	0.0% (0)	10.3% (4)	
	frequent	3.8% (1)	0.0% (0)	
	rating average	2.54 (26)	2.72 (39)	2.65 (65)
tribe not properly noticed per ICWA	never	18.2% (4)	17.9% (7)	
	rarely	59.1% (13)	74.4% (29)	
	sometimes	18.2% (4)	7.7% (3)	
	common	4.5% (1)	0.0% (0)	
	frequent	0.0% (0)	0.0% (0)	
	rating average	2.09 (22)	1.90 (39)	1.97 (61)
	Other (please specify)	1 reply	0 replies	1

<i>answered question</i>	26	42	68
<i>skipped question</i>			4

19. Please give any suggestions you may have for reducing unnecessary delay and increasing timeliness of case processing in the juvenile court.

	In which North Dakota judicial district do you appear most frequently in juvenile court?		
	East Central Judicial District	Southeast Judicial District	Response Count
	8 replies	13 replies	21
<i>answered question</i>	8	13	21
<i>skipped question</i>			51

Court Performance Survey

Please give any suggestions you may have for reducing unnecessary delay and increasing timeliness of case processing in the juvenile court.				
		In which North Dakota judicial district do you appear most frequently in juvenile court?		
		East Central Judicial District	Southeast Judicial District	Response Count
		8 replies	13 replies	21
answered question		8	13	21
skipped question				51

	East Central Judicial District	Southeast Judicial District	Response Text	
1		X	I would like to see the number of continuances granted limited to 1 or possibly 2. Due to multiple continuances, sometimes by the time you get your disposition, you need to turn around and schedule a permanency hearing within a couple of months. Multiple continuances waste everyone's times and are part of the backlog to begin with.	Dec 18, 2009 4:37 PM
2		X	In the Southeast, there needs to be a case flow analysis and system to follow	Dec 18, 2009 4:37 PM
3		X	The main concern regarding adjudication is that unrepresented respondents show up at the adjudication hearing and then request an attorney. Our Juvenile Officer is very adept at obtaining information from respondents about whether or not they will be requesting an attorney, admitting or if we will be proceeding with the adjudication. However, if the Court would have some type of brief pre-trial hearing early on as a matter of case management to resolve the appointment issue it would be helpful. In the event I do not know how we are going to proceed at the hearing I need to subpoena witnesses in the event the respondent is going to proceed pro se, deny and we are going to proceed with adjudication. This is time consuming and costly when they show up and request an attorney.	Dec 18, 2009 4:48 PM
4	X		Our biggest issue is that we are state and federally mandated to have permanency every 12 months and judges and attorneys constantly postpone hearings leaving children without permanency and put back into shelter care.	Dec 18, 2009 4:51 PM
5		X	set court days for Juvenile Court on the calendar and initial appearances	Dec 18, 2009 4:58 PM
6		X	initial appearances	Dec 18, 2009 5:08 PM
7		X	I beleive the court is processing cases in a timely manner. The change I would like to see is Jamestown inviting GALs to Shelter Care hearings.	Dec 18, 2009 5:32 PM

	East Central Judicial District	Southeast Judicial District	Response Text	
8	X		Page social workers when it's time to be at court hearings instead of having to wait lengthy periods of time outside of the court room.	Dec 18, 2009 5:33 PM
9	X		follow up calls to inquire about obtaining counsel.	Dec 18, 2009 5:36 PM
10		X	Obtain a paging system for social services so that time is not wasted sitting when there is more than one case. Parents often get frustrated waiting also so a different scheduling system may need to be looked at.	Dec 18, 2009 6:28 PM
11		X	The respondents need to be addressed up front and immediately of their right to counsel. I am not sure whose duty this is (is included in the summons but not good enough). i don't know hat it should fall on the juvenile supervisor either. that person can check but this needs to be accomplished face to face, perhaps by a pretrial on Master Calendar day. The hearing needs to be set far enough down the road to allow this but making people who are wage earners miss work too many times is a detriment to them. I am sure there is a solution.	Dec 18, 2009 9:47 PM
12	X		Currently, the new computer system has resulted in some delays; however this was expected.	Dec 18, 2009 10:47 PM
13	X		increase the number of court rooms and court personnel so more hearings can be held. this would reduce the wait time to schedule trials.	Dec 18, 2009 11:30 PM
14		X	Since I am retired I really have nothing to add. I felt the juvenile officers and staff in Jamestown, Valley City and Wahpeton worked well with me when I was on the bench. I don't feel we had significant issues with what this questionnaire deal with.	Dec 19, 2009 4:51 AM
15	X		We need more court time available. Referee calendars are already swamped, thus hearings are being scheduled several months down the road.	Dec 21, 2009 2:49 PM
16	X		Since the time I started as a Lay GAL, I think the biggest contributing factors to deplays have been the combination of block scheduling and pretrials prescheduled. Before that time, parties meet prior to arraignments and vast majority of cases were settled at that point (in deprivation cases.) If they weren't, it was set for trial, or a pretrial was specifically requested because a settlement was close. I dont have statistics, but I assume the time from a shelter care hearing to disposition is longer than it was 10 years ago. Although it is nice to have hearings all set on same day, it can result in attorneys not having enough time to meet with their clients prior to court - much less than confer with states attorney, social workers, GALs, etc.	Dec 21, 2009 4:45 PM
17		X	set pre-adjudication status hearings where respondents are required to request or waive appointed counsel	Dec 21, 2009 8:48 PM

	East Central Judicial District	Southeast Judicial District	Response Text	
18		X	Setting up separate initial and dispositional hearings. This would help in the case where parents request representation the day of the hearing. Court schedules seem to be difficult enough to set up times and that way there wouldn't be such a big delay. When there is a decision made by court officers to request placement of a youth on DJS they could set up a meeting with DJS to answer any relevant questions a parent may have prior to the hearing. When the removal of a child is necessary the parents need to know the process. A lot of the time when we show up a parent may be likely to ask for an attorney or ask for a continuance due to the fact that their child could be removed from their home.	Dec 21, 2009 10:29 PM
19		X	Notice is sent to parties that they have right to appointed attorney. Parties do not indicate they wish to have an attorney until the actual hearing, at which the Petitioner has several witnesses lined up and ready to go. It wastes State money to have these witnesses at the courthouse and then not testify. There should be a deadline of when parties can apply for court-appointed attorney, and after that date must proceed with the hearing.	Dec 23, 2009 2:18 PM
20		X	a third referee would help and attorney on time and prepared for court	Dec 29, 2009 2:41 PM
21	X		Certain defense attorneys that have not met with clients ahead of time.	Jan 4, 2010 2:14 PM



Effective March 1, 2010

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RULE 9. CONTINUANCE

(a) Granting Continuance.

(1) In General. The court may continue a scheduled proceeding, hearing or adjudication to a later date so long as time requirements for resolution of the matter are not delayed.

(2) Findings Required. Before granting a continuance, the court must make written findings or oral findings on the record that the continuance is necessary for the protection of the child, for accumulation or presentation of evidence or witnesses, to protect the rights of a party, or for other good cause shown.

(3) Notice. The court must, either in writing or orally on the record, provide notice to the parties of the date and time of the continued proceeding.

(b) Adjudication or Disposition. An adjudication or disposition hearing may not be continued or adjourned except on written motion under [Rule 14](#). The court must make specific findings that the continuance or adjournment is in the best interests of the child.

(c) Existing Orders. Unless otherwise ordered, existing orders remain in full force and effect during a continuance. When a continuance is ordered, the court may make any interim orders that are in the best interests of the child.

EXPLANATORY NOTE

Rule 9 was adopted effective March 1, 2010.

The good cause standard in paragraph (a)(2) applies when a situation occurs that is not within the control of the party seeking the continuance. It does not apply when there is fault, excusable or otherwise, on the part of the party seeking the continuance.

SOURCES: Juvenile Policy Board Minutes of [February 20, 2009](#); [December 5, 2008](#); [August 8, 2008](#); [May 9, 2008](#); [February 29, 2008](#); [September 21, 2007](#); [April 20, 2007](#).

STATUTES AFFECTED:

CROSS REFERENCE: [N.D.R.Juv.P. 14](#) (Motions); Unified Judicial

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