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Case processing time standards take hold in state courts

FOR CENTURIES, COURTS HAVE GRAPPLED WITH THE QUESTION OF SPEEDY AND TIMELY JUSTICE. Until the 20th century, this was almost exclusively viewed as a legal question: At what point does the failure to deliver timely justice result in denial of justice?

The question has more recently taken an administrative view: Should the courts proactively develop time standards beyond the constitutional maximums? The American Bar Association and many individual states have adopted case processing time standards for both trial and appellate courts. In 2011, the four largest groups to examine time standards — the Conference of Chief Justices, the Conference of State Court Administrators, the American Bar Association, and the National Association for Court Management — agreed on and adopted a single document, the Model Time Standards for State Trial Courts.¹ In March 2022, the Illinois Supreme Court became the latest to issue time standards for trial courts.²

Today, most states have such time standards. Most states have updated some, if not all, of their standards in the last decade. However, those standards differ widely.

Last year, staff at the National Center for State Courts (NCSC) collected data about case processing time standards in state courts (including the Northern Mariana Islands, the



U.S. Virgin Islands, and the District of Columbia).³ Data was collected for appellate, civil, criminal, domestic relations, juvenile, probate, and traffic cases. Thirty jurisdictions reported having time standards for at least some of these types of cases.⁴ Only Nevada reported that it does not have case processing time standards. In the states that reported having time standards, standards varied by case type. This highlights that there is no

“one-size-fits-all” solution for case processing times.⁵

The standards break down most often into three types:

- **Broad category, single time measure:** Montana’s civil case processing time standard, for example, provides that all civil cases in district court be disposed of within 730 days.
- **Broad category, multiple time measures:** Maine’s standard, for example, provides that 50 percent of civil cases be disposed of within 12 months, 75 percent within 18 months, and 99 percent within 24 months.
- **Multiple categories, multiple time measures:** Illinois domestic relations cases have four subcategories (dissolution with children, dissolution without children, general family, and adoption), each with two or three indicators. The stan-

dard for adoptions, for example, requires that 75 percent of cases be resolved within nine months, 90 percent within 15 months, and 98 percent within 18 months.

ASPIRATION VS. REALITY

Beyond the question of what the standards are is the question of how states and individual courts use them. As noted, the question is more administrative in nature than legal or constitutional. Thus, it is common for states to provide judges and court administrators with reports on whether or not a particular court is meeting the case processing time standards and to assist court administrators and individual judges with managing their caseloads.

Depending on the state or individual court, time standards also can be used as external measures. Several states post performance data online to provide the public with information on whether the courts are meeting the standards. Utah's courts, for example, post data online, including data on all levels of courts in the aggregate and historical data going back to 2011.⁶

One challenge is that these standards often appear to be aspirational rather than based on actual performance. In 2021, as part of the Effective Criminal Case Management Project,⁷ NCSC researchers examined 1.2 million felony and misdemeanor cases from over 136 courts in 21 states. Researchers found that no court consistently met the aspirational time frames defined by the Model Time Standards and that none of the prior efforts to establish time standards used “valid information on actual case-processing time

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to inform the setting of realistic time standards, leading to unrealistic goals.”

Unrealistic standards that cannot be attained, or that no one believes can be attained, can lead to individuals or organizations simply giving up on trying to meet the standards at all. Instead, just like “SMART” goals (specific, measurable, achievable, relevant, and time-bound), time standards need to be more “A” — attainable and achievable. If courts are able to make even small improvements each year, such movement may inspire efforts to continue to improve.

THE PANDEMIC, BACKLOGS, AND CASE PROCESSING

As courts consider case processing time standards, they now need to also factor in a global pandemic and its impact on state judiciaries. For many states, internal, court-established time standards were suspended⁸ or “enlarged”⁹ when courts had to severely curtail in-person proceedings. The result is that, in many respects, even courts that had established time standards must now reexamine how they can continue to

function going forward. For example, it is important to note the distinctions between timeliness in case disposition and case clearance rates. It is possible to continue to close cases within the existing case processing timeframe and still find that new cases are outpacing cases closed.¹⁰ Additionally, the expanding use of hybrid and remote proceedings may necessitate a need to further reevaluate such standards.

For more information on case processing time standards by state, visit www.ncsc.org/cpts.

— **WILLIAM RAFTERY** is senior knowledge and information services analyst with the National Center for State Courts in Williamsburg, Va., and the editor of *Gavel to Gavel*, a weekly review of legislation in all 50 states affecting the courts.

¹ See RICHARD VAN DUIZEND ET AL., MODEL TIME STANDARDS FOR STATE TRIAL COURTS 3 (Nat'l Ctr. for State Cts., 2011), <https://ncsc.contentdm.oclc.org/digital/collection/ctadmin/id/1836/> (last visited Oct. 1, 2022).

² Illinois Supreme Court Announces Time Standards for Case Closure in Trial Courts, ILLINOIS COURTS (March 25, 2022), <https://perma.cc/9JHC-3G8W>.

³ This data is publicly available online. See *Case Processing Time Standards*, NATIONAL CENTER FOR STATE COURTS, www.ncsc.org/cpts (last visited Jan. 13, 2023).

⁴ Twenty-three jurisdictions did not provide data. See *id.*

⁵ *Id.*

⁶ *Performance Measures: Time to Disposition*, UTAH COURTS, <https://perma.cc/U86A-TFEH> (last visited Oct. 1, 2022).

⁷ BRIAN J. OSTROM ET AL., TIMELY JUSTICE IN CRIMINAL CASES: WHAT THE DATA TELLS US 3 (Nat'l Ctr. for State Cts., 2021), <https://ncsc.contentdm.oclc.org/digital/collection/criminal/id/352/rec/1>.

⁸ See, e.g., First Amended Administrative Order on Case Time Standards and Related Reports for Fiscal Years 2020 and 2021 in Light of the COVID-19 Emergency (2021), <https://perma.cc/GF7Z-N7JC>.

⁹ See, e.g., Presiding Judge Statewide Administrative Order Governing Relaxation and Suspension of Various Court Rules Based on the COVID-19 Pandemic (2020), <https://perma.cc/9LMJ-JGNG>.

¹⁰ Paula Hannaford-Agor, *Our New Normal? How COVID-19 Accelerated Pre-Pandemic Trends in State Court Litigation*, 71 DEPAUL L. REV. 279, 295 (2022).