



**TWELVE STEPS TO ENHANCE THE
EFFICIENCY OF COURT
OPERATIONS IN LANCASTER
COUNTY, PENNSYLVANIA**

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Executive Summary

The County of Lancaster in Pennsylvania faces budget shortfalls and increased demand for services. In 2010 the Lancaster County Court of Common Pleas (the Court) made a commitment to the County to study the efficiency and economy of court operations as part of a general initiative to streamline services provided by the County. As part of that commitment, President Judge Joseph C. Madenspacher engaged the services of the National Center for State Courts (NCSC), and gained financial support of the State Justice Institute (SJI), to assist the Court in enhancing the operational efficiency and economy of the business processes of the various departments of the Court without loss in quality and effectiveness. This is a report of the NCSC study findings and recommendations, including estimated cost-savings and efficiencies that might be expected as a result of the implementation of the recommendations.

NCSC Methodology

The NCSC study team members gathered and assessed documents and data pertaining to the structure, organization and operations of the Court and its various divisions and units. They conducted face-to-face interviews with judges, managers and other individuals employed or associated with the Court and the Magisterial District Judge (MDJ) courts and their justice partners during visits to Lancaster in November 2010 and January 2011, supplementing those interviews with further telephone and electronic communications. In addition, the study team assessed financial and case-processing data provided by court system representatives. Finally, they had periodic status meetings and teleconferences to inform the President Judge and District Court Administrator on what they had found to be areas with the greatest potential for improvements in operating efficiency and economy. These periodic status meetings gave the Court opportunities to provide their comments about key issues and proposed recommendations. This feedback provided by the Court helped to finalize the findings and recommendations.

Twelve Steps for Improvement of Court Operations

NCSC concludes that there are 12 steps with broad potential impact that should be taken to improve the efficiency and economy of court operations in Lancaster County. In descending order of immediate systemic importance for the Court and the County, they are:

Most Important Immediate Improvement Options:

Step One. Improve Collection of Fines and Fees in the MDJ Courts

Step Two. Reduce Pressure on Local Criminal Justice System Capacity

Other Promising Immediate Improvement Opportunities

Step Three: Reduce Inefficiencies in Juvenile Delinquency Cases

Step Four: Reduce Inefficiencies in Domestic Violence (PFA) Case Processing

Step Five: Continue Improvement of Adult Probation Misdemeanor & Felony Collections
Step Six: Streamline Processes for Services to Indigent Parties and Limited-English-Proficiency Persons
Step Seven: Improve Court Reporter Work Scheduling and Consider Digital Recording
Step Eight: Continue Reorganization of Adult Probation & Parole Services (APPS)

Strategic Prospects for Dramatic Longer-Term Improvements

Step Nine: Introduce Court Information Technology Improvements
Step Ten: Consolidate MDJ Court Support Operations
Step Eleven: Promote Enhanced Court Employee Commitment and Productivity
Step Twelve. Relocate Court Self-Help Center Into Law Library Space

The findings, observations and conclusions that give rise these steps are presented in the body of this report. Offered below are summaries the specific NCSC recommendations for the implementation of each of the steps, as well as summaries of the efficiencies that can be expected from taking the recommended steps.

Summary of Specific Recommendations and Expected Efficiencies

Step One. Improve Collection of Fines and Fees in the MDJ Courts

Specific Recommendations	Summary of Expected Efficiencies
<i>1-1. Engage in regular and continuous monitoring, analysis and management of collection rates in MDJ courts.</i>	<i>Implementation of Recommendation 1-1 and 1-2 alone might yield close to \$500,000 in increased revenues from collections of fines and fees. The monitoring, analyses and management of the comparative collection rates across MDJ courts on a regular and continuous basis alone may produce an increase in collections of at least 2.5% across the board over a period of a year, a yearly increase of approximately \$250,000 above 2009 -2010 baselines of \$10.9 million in 2009 and 10.4 million in 2010.</i>
<i>1-2. Improve current MDJ court practices for collecting fines and fees.</i>	
<i>1-3. Eliminate payment waiting period for collection of fines and fees assessed for misdemeanor and felony cases in MDJ courts.</i>	<i>An additional conservative increase in yearly collections of \$250,000 (2.5%) might be expected if the MDJ courts institute solutions for collection improvement beyond performance measurement and management.</i>
<i>1-4. Implement interim tracking of receivables for fines and fees assessed for misdemeanor and felony cases in MDJ courts.</i>	
<i>1-5: Introduce alternatives to arrest warrants for parking tickets and other minor violations.</i>	
<i>1-6: Reevaluate third-party enforcement of MDJ financial orders.</i>	<i>It is important to underscore a point here that is made in the full report. Even though the NCSC is unable to verify independently the data used to calculate the illustrative collection rates upon which expected efficiencies are based, and even if the collection rates are adjusted by the Court in the future, the cogency of Recommendation 1-1 and Recommendation 1-2 is not weakened and NCSC stands by the efficiencies and increased revenues projected. In fact, if future adjustments cause the actual collections rates to be lowered – which seems likely given the relatively high rates illustrated in the tables and figures in the full report – the projections would be increased above \$500,000 as the “ceiling” for improvements in collection rates is raised.</i> <i>While NCSC makes no projections of additional revenues generated if Recommendations 1-3 through 1-6 are fully implemented, it is not unreasonable to expect increased collections in the range of \$50,000 to \$100,000 per year.</i>

Step Two. Reduce Pressure on Local Criminal Justice System Capacity

Specific Recommendations	Summary of Expected Efficiencies
<i>2-1. Develop and implement a Common Pleas Criminal Caseflow Management Improvement Plan.</i>	<i>Common Pleas exercise of early and continuous control of criminal case progress would reduce the average monthly population of the County Prison by the equivalent of an estimated 110 inmates.</i>
<i>2-2. Rather than introducing individual calendars, create accountability by assigning one judge to monitor and oversee timely case progress before and after Common Pleas arraignment.</i>	<i>Reduction of the average length of stay for defendants as a result of shorter times to disposition would reduce pressure on the 1,143-bed capacity of the County Prison by almost 10%. Implementing these recommendations changes the scope and urgency of the need to plan for adding jail-bed capacity. While more beds may still be needed before 2025, the need will be less than initially projected by consultants.</i>
<i>2-3. Improve MDJ court scheduling of preliminary proceedings to shorten time from arrest and arraignment.</i>	<i>It is in the interest of the Court, the District Attorney, and the Public Defender to take the steps recommended here. The changes recommended would result in a reduction of the number of scheduled criminal court events by about-25%. This would reduce time committed to such events, so that the people in these organizations would have more time available to deal more fully with criminal cases needing attention.</i>
<i>2-4. Reduce unnecessary delays from Common Pleas arraignment to case disposition through the exercise of early and continuous control of case progress.</i>	
<i>2-5. Deal more efficiently with persons held in County Prison pending resolution of probation violations.</i>	

Step Three. Reduce Inefficiencies in Juvenile Delinquency Cases

Specific Recommendations	Summary of Expected Efficiencies
<i>3-1: Reduce rescheduling of juvenile delinquency adjudicatory hearing dates.</i>	<i>Implementing Recommendation 3-1 would reduce or avoid second or subsequent listings, which require additional time and resources from every person who has to “touch” the case.</i>
<i>3-2: Hold delinquency hearings at the courthouse, and use video hearings when suitable or when required for security.</i>	<i>Reduction of multiple settings for adjudicatory hearings would also solve the problem of where to hold hearings for detained juveniles. With every hearing on a case the juvenile must be transported to the court, which has the disadvantage of incurring additional cost to the sheriff.</i>
	<i>The Lancaster County Youth Intervention Center will be installing video conferencing capability for communicating with out-of-county courts and facilities, and that system could be used for some in-custody proceedings for Lancaster County as well.</i>

Step Four. Reduce Inefficiencies in Domestic Violence (PFA) Case Processing

Specific Recommendation	Summary of Expected Efficiencies
<i>4-1: Reduce rescheduling of protection-from-abuse (PFA) hearings, in part by providing more low-cost legal services to parties.</i>	<i>NCSC estimates that PFA continuances may cost the parties and the Court almost \$500,000 a year in wasted time. It is clear that not all continuances are frivolous or avoidable. But for the Court to manage the progress of PFA cases effectively, NCSC calculates that PFA continuances might be reduced by about 70%, saving the Court about \$190,000 per year through the reduction of wasted time for judges and support staff, and saving PFA parties about \$150,000 a year in terms of wasted time that would be avoided. The improvement program recommended by NCSC would necessarily involve affirmative public expenditures, but reduction of avoidable continuances and delays in PFA cases would not only provide a substantial public service, but it would also result in savings for citizens, judges and court support personnel that would be two or three times the public outlay for the program.</i>

Step Five. Continue Improvement of Adult Probation Misdemeanor & Felony Collections

Specific Recommendations	Summary of Expected Efficiencies
<i>5-1: Improve timeliness of payment Information for fines and fees.</i>	<i>Addressing the delay between assessment and first payment (see Step One), as well as establishing practices that encourage early compliance, should substantially improve the timeliness of payment compliance as well as impact overall collection rates. Additional tools such as automated notices also improve compliance and reduce the effort required by staff to monitor accounts, leaving them to focus on cases which need more individual attention. The combination of improved monitoring and the elimination of delay between assessment and payment should yield an estimated 5-10% (or about \$400,000 - \$800,000) increase in overall compliance.</i>
<i>5-2: Measure collections effectiveness.</i>	
<i>5-3: Develop and use collections management reports.</i>	
<i>5-4. Actively encourage prompt payments.</i>	
<i>5.5: Respond promptly to non-payment.</i>	

Step Six. Streamline Processes for Services to Indigent Parties and Limited-English-Proficiency Persons

Specific Recommendations	Summary of Expected Efficiencies
<p>6-1: Improve indigent defense conflict identification.</p> <p>6-2: Make payment of court-appointed counsel a largely electronic process.</p> <p>6-3: Make broader use of technology for remote court interpreters.</p>	<p><i>Delay in conflict identification alone increases the cost of the judicial process, in all likelihood costing public budgets and private citizens thousands of dollars per year. The cost of providing modest automation for information on which to base conflict decisions in the PD Office would probably be recouped in two years or less by improving the timeliness of conflicts identification.</i></p> <p><i>Finding means with the aid of automation to streamline the process of submitting, processing and paying bills for court-appointed counsel can reliably be expected to reduce the cost for the Court and the County to process payments. For lawyers serving as court-appointed counsel, a streamlined process resulting in quicker payments will reduce the burden of providing legal services for indigent clients at a rate lower than the lawyers' customary fees, thereby helping to assure that lawyers will remain willing to represent indigents.</i></p> <p><i>Given the near certainty that there will be a growing need driven by legal requirements for the Common Pleas Court and the MDJ courts in Lancaster County to provide certified court interpreters for LEP persons, it is important for court and county leaders to consider the ways in which any growing demand for such services can be met in an effective and efficient manner with the aid of suitable technologies. Just as the federal government is becoming more active in the enforcement of this requirement, it is also providing information on how support for broader use of technology might be sought.</i></p>

Step Seven. Improve Court Reporter Work Scheduling and Consider Digital Recording

Specific Recommendations	Summary of Expected Efficiencies
<p>7-1. Introduce a court reporter call-in procedure to Eliminate Idle Time.</p> <p>7-2: Move incrementally to digital recording.</p>	<p>As long as a fail-safe call-in system (e.g., a cell phone call to the Court Reporter's Office causes a court reporter to be dispatched to the courtroom within five minutes) is responsive to the needs of the Court, it will substantially reduce down time if court reporters are not required to be present in court until summoned.</p> <p>The return on investment and any cost analysis from this step will depend on the level of use of the technology and the timing of implementation, as well as other factors. See the discussion of digital recording equipment in Step Nine.</p>

Step Eight. Continue Reorganization of Adult Probation & Parole Services (APPS)

Specific Recommendations	Summary of Expected Efficiencies
<p>8-1: Address such specific aspects of planned changes in organization and administration as the creation of an administrative services division; consolidation of budget cost centers; combining electronic monitoring contracts; and making any necessary appropriate changes to job descriptions and compensation.</p> <p>8-2: Continue workflow management Improvements.</p> <p>8-3: Continue to review data on programs and services.</p> <p>8-4 Assess the Court's Job Court Program.</p>	<p>The proposed organizational changes to administrative support have already yielded position savings through attrition. The further consolidation of services and move to new quarters will offer additional opportunities to improve utilization of staff resources by reduced duplication of duties, more flexibility in covering absences, and better management control.</p> <p>The impact of restructuring on client and program outcomes is difficult to predict, but EBP principles on program measurement and feedback provide guidance on the measurement and assessment of both offender and program outcomes. Application of these principles in combination with data collection and analysis will allow the APPS leadership to assess the impact of programs on offender behavior; the effectiveness of treatment and other service programs; and employee performance.</p>

Step Nine. Introduce Court Information Technology Improvements

Specific Recommendations	Summary of Expected Efficiencies
<i>9-1: Implement mandatory e-filing for selected civil case types.</i>	<i>E-Filing holds the great potential in providing for efficiencies for the Court and the Clerk of Court. The rate of return on this investment could be measured in the three to five year range. Implementing a fully featured Electronic Filing and Electronic Case File system is a major culture change to the practice of law in any jurisdiction.</i>
<i>9-2: Explore courtroom update of case records.</i>	<i>Updating of case records in the courtroom could represent a 10 percent increase in productivity. This would allow greater accuracy and timeliness to the legal community. The estimated cost of equipment recommended by NCSC would be between \$5,000 to \$6,000. The rate of return could be measured in months for an investment of this scope. The time saved by entry in the courtroom alone would pay for the cost of development and operation.</i>
<i>9-3: Develop an expanded digital recording equipment configuration.</i>	<i>adding more equipment for additional courtrooms would assist to reduce the risk of availability of shorthand reporters by providing additional units. This would aid the shorthand reporters and relieve possible bottlenecks for these critical services.</i>
	<i>The estimated cost of this re-configuration is \$19,000. Making three courtrooms digitally-enable and providing the necessary equipment to augment shorthand reporters would cost about \$19,000. This would increase overall productivity for the judges and the shorthand reporters, allowing for increased flexibility to reach 5-10% more cases per year and still provide a court record of the proceedings.</i>

Step Ten. Consolidate MDJ Court Support Operations

Specific Recommendations	Summary of Expected Efficiencies
<i>10-1: Move toward administrative coordination of the 20 MDJ courts.</i>	<i>If the informal organization and communication are built on existing informal relationships, implementation of Recommendation 10-1 would make MDJ court operations more cost-effective, either by (a) being more effective at less cost, or (b) being more effective at the same cost.</i>
<i>10-2: Standardize MDJ court practices and procedures, and move toward electronic case processing.</i>	<i>Implementation of electronic data and document exchange would make it no longer necessary for many case processing activities and data/document storage to be done in each separate MDJ court location.</i>

Step Eleven: Promote Enhanced Court Employee Commitment and Productivity

Specific Recommendations	Summary of Expected Efficiencies
11-1. Conduct and follow up on a survey of court employee engagement.	<i>Specific estimates of return on investment (ROI) in the measurement and management of employee engagement, especially in terms of increased productivity and impact on cost reduction, are difficult to make. While virtually all scholarly research and management studies agree that increased employee engagement leads to higher productivity, there is no credible evidence to suggest by how much. With that caveat, the NCSC Team believes that it would not be unreasonable to expect at least a 10% increase in productivity for every 10% increase in employee engagement measured by Employee Satisfaction or the Court overall and for each division and unit.</i>

Step Twelve: Relocate Court Self-Help Center Into Law Library Space

Specific Recommendation	Summary of Expected Efficiencies
11-1. Co-locate the Library and the Court Self-Help Center.	<i>Relocation of the Court Self-Help Center into the Law Library space would allow full-time coverage of the Court Self-Help Center. Because of the relatively inconvenient location of the Library, co-location of the Court Self-Help Center with the Library would require adequate signage.</i> <i>The one-time relocation and signage costs for this step would soon be outweighed by its benefits. Implementation of this recommendation would make court operations more cost-effective, through greater productivity at either the same cost or at a level to justify any increased one-time costs.</i>

Most Important Immediate Improvement Options

Step One: Improve Collection of Fines and Fees in the Magisterial District Judge (MDJ) Courts

A. The Rationale for Improving Court Collections

Compliance with Court Orders and Revenue to Fund Related Government Operations. Why should courts be involved in collections? Fines, fees, costs, reparations, restitution, penalties and other remittances imposed and collected are sources of revenue that help fund courts. Judges are responsible for assessing and enforcing these obligations and court clerks are responsible for collecting them.

In addition to increasing the revenue generated in many local courts and statewide court systems, there are at least three other good reasons to improve the Court's collection of the fines and fees it assesses: (1) it is means of ensuring compliance with court judgments, thereby increasing public trust and confidence in the judicial system; the enforcement of a fine or fee is as important to the integrity of the Court as the enforcement of any other sentence or judgment; (2) in terms of criminal sanctions, it provides a mechanism for rehabilitating offenders, encouraging responsibility, and discouraging further illegal or unsanctioned activity; (3) and it allows measurement of court performance.¹

Courts should not direct that certain actions be taken or be prohibited and then allow those bound by their orders to honor them more in the breach than in the observance. A court must practice consistent sentence enforcement and related policies and practices so that similarly situated defendants and respondents are treated alike. Standard 3.5 (Responsibility for Enforcement) of the *Trial Court Performance Standards* encourages a trial court to ensure that its orders are enforced. The integrity of the dispute resolution process is reflected in the degree to which parties adhere to awards and settlements arising out of them. Noncompliance may indicate miscommunication, misunderstanding, misrepresentation, or lack of respect for or confidence in the courts.

Assessment, Enforcement and Information. A number of promising practices for improving court collections have been identified in high performing courts. These practices fall under the general categories of assessment, enforcement, and information.

Assessment refers to the steps and processes that courts employ on the front end, including how fines are determined and set, offenders notified and expectations communicated. *Enforcement* involves the activities that are employed to ensure compliance, including

¹ John T. Matthias and Laura Klaversma. *Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions, Second Edition* (Williamsburg, VA: National center for State Courts, 2009), 1.

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notification, imposition of statutory penalties, financial incentives, and third party collections. One of the most important things a court can do, whatever the enforcement strategy adopted, is to minimize delay between the imposition of the fine or fee and payment. Finally, an effective collections system relies on good information to guide management in implementing policies and practices that are effective and efficient.

A court's approach to the imposition of financial penalties can have a significant impact on compliance. Although many offenders may not be able to pay a large fine at the time of sentencing or assessment, firm and consistent policies regarding requests for time to pay and the management of payment plans can substantially increase compliance. Some promising practices for assessment include:²

- Providing multiple methods for offenders to pay.
- Providing public notice of payment policies and fine schedules.
- Developing procedures and practices that create the expectation of payment at time of assessment.
- Keeping time periods between payments and payment schedules as short as possible.
- Requiring offenders who defer payment to provide financial information in support of their request when practical.
- Notifying offenders of the consequences for non-compliance at the time of assessment.

Promising practices for *enforcement* include:

- Developing processes for responding immediately and incrementally to nonpayment or nonappearance.
- Imposing statutory penalties and sanctions for noncompliance promptly as allowed by law.
- Developing a range of effective sanctions for noncompliance and apply them progressively in a timely and consistent manner.
- Identifying alternative sanctions to apply when an individual is financially unable to comply.
- Applying sanctions appropriate to the amount and type of debt.
- Developing systems for monitoring noncompliance on a regular basis.

Of course, an effective collections program depends on the availability of accurate and timely *information*. This includes being able to access and study both individual case information for

² *Michigan Trial Court Collections Standards*, Michigan State Court Administrative Office, Lansing, MI.

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enforcing financial orders as well as aggregate collections data for monitoring program effectiveness.

Court Management Responsibility. Court managers have a major responsibility for exercising internal control over court-collected funds. One of the most astute scholars of court administration, Bob Tobin, author of *Creating the Judicial Branch: The Unfinished Reform*,³ described this responsibility in his 1995 monograph, *Internal Control of Court-Collected Funds*,⁴ as follows:

- Court managers should define the responsibility for internal control of court collected funds and lay out a scheme for discharging this duty.
- Court managers should be familiar with and monitor carefully the cash control procedures of the court.
- Cash accounting should not be regarded as a minor bookkeeping routine and should be under continuous management supervision.
- Court managers should take a particular responsibility for close oversight of employees and supervisors engaged in handling of money and for protecting the courts against loss or misappropriation of court-collected funds.
- The selection of a depository is an important function that should be performed by or carried out in close consultation with the court manager.
- The audit function is an integral element of management control and should not be regarded as extraneous to court management.
- Court managers are responsible for controlling the whole process of collection, not just the funds collected, to ensure that courts receive what they are due.
- Court managers have a special responsibility for administering escrow accounts and for the integrity of the process by which funds are processed through the court on their way to the ultimate point.
- Court managers have a special management responsibility to ensure that any funds authorized for use by the court itself are governed by procedures that ensure their proper use.

³ Robert W. Tobin. *Creating the Judicial Branch: The Unfinished Reform* (Williamsburg, VA: National Center for State Courts, 1999).

⁴ Tobin. *Internal Control of Court-Collected Funds* (Williamsburg, VA: National Center for State Courts, 1995).

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B. Findings and Observations on MDJ Court Collections in Summary Cases

Lancaster County has 20 MDJ courts that decide summary criminal matters, conduct non-jury trials in minor civil cases, issue arrest warrants, and conduct preliminary proceedings in Court of Common Pleas criminal cases.⁵

While the state computer system controls most aspects of office operations and processes, some MDJ courts may use additional unique measures to ensure compliance with court orders and collection of monetary penalties and associated court costs. While the MDJ judges and staff generally are aware of the overall dollar amounts collected and distributed to the state, county and local government by the MDJ courts (see Table 1.1 below) -- and may have a general sense of how their own court stacks up to the other MDJ courts in their collection efforts in absolute dollar amounts, they do not know their district court's compliance and collection rates, i.e., collections as a percent of assessments, and how they compare with those of other MDJ courts.

The results of other compliance and collections efforts at the level of the Court of Common Pleas are similarly opaque. Undoubtedly, the rates of collections vary considerably across MDJs and other divisions of the Court.

The MDJ courts rely heavily on the use of financial sanctions as penalties. They also serve as the enforcement and adjudication arm of local parking enforcement systems. Parking tickets which are contested or have not been paid after the parking enforcement bureau has sent notice to the offender are turned over to the MDJ courts for adjudication and enforcement. In terms of raw numbers, these cases represent the largest part of the courts' workloads.

Enforcement of parking violations involves the issuance of a warning notice followed by a warrant within 10 to 15 days. The system-generated warrant is a three page document that is printed in four copies. One copy with the judge's signature is kept by the MDJ court and the other three copies to the police or constable for service. The courts rely on local constables to serve warrants and do not currently take any additional actions to collect these judgments. A typical parking violation carries a fine of \$89. Constable fees for execution of a warrant and transporting the offender can easily exceed that amount.

⁵ The MDJ court is the first level of judicial authority in Pennsylvania and is the court where most people experience the judicial system for the first time. Magisterial district judges handle all traffic cases, other minor criminal cases and civil cases involving amounts up to \$12,000. They also set bail and conduct preliminary hearings in misdemeanor and felony criminal cases to determine if the cases should be dismissed or transferred to the Court of Common Pleas for further proceedings. The twenty magisterial district judges in Lancaster County are elected to six year terms and are state-level employees.

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Table 1.1. Average Monthly Distribution of MDJ courts Collections to the County, State and Municipality, July through December 2010⁶

2010 MDJs	Average Mo. To County	Average Mo. To State	Average Mo. To Other Munic	Average Mo. Total
Ballentine	\$ 7,700	\$ 15,400	\$ 11,500	\$ 34,600
Benner	\$ 7,300	\$ 23,200	\$ 6,400	\$ 36,900
Brian	\$ 8,700	\$ 31,300	\$ 9,500	\$ 49,500
Commins	\$ 10,800	\$ 40,000	\$ 8,400	\$ 59,200
Duncan	\$ 3,900	\$ 14,000	\$ 4,500	\$ 22,400
Eckert	\$ 8,100	\$ 27,500	\$ 12,700	\$ 48,300
Fee	\$ 6,000	\$ 26,400	\$ 4,000	\$ 36,400
Garrett	\$ 8,300	\$ 42,300	\$ 7,800	\$ 58,400
Hamill	\$ 8,000	\$ 42,000	\$ 5,000	\$ 55,000
C. Hartman	\$ 16,100	\$ 24,200	\$ 16,500	\$ 56,800
R. Hartman	\$ 8,350	\$ 39,500	\$ 4,350	\$ 52,200
Herman	\$ 13,000	\$ 28,800	\$ 13,200	\$ 55,000
Jimenez	\$ 13,500	\$ 21,500	\$ 16,800	\$ 51,800
Miller	\$ 11,600	\$ 39,000	\$ 11,500	\$ 62,100
Mylin	\$ 6,200	\$ 25,000	\$ 2,700	\$ 33,900
Reuter	\$ 4,500	\$ 14,650	\$ 4,500	\$ 23,650
Roth	\$ 13,500	\$ 19,000	\$ 17,000	\$ 49,500
Sponaugle	\$ 9,900	\$ 21,900	\$ 16,000	\$ 47,800
Stoltzfus	\$ 5,600	\$ 24,200	\$ 1,100	\$ 30,900
Willwerth	\$ 9,600	\$ 35,500	\$ 6,700	\$ 51,800
Totals	\$ 180,650	\$ 555,350	\$ 180,150	\$ 916,150

Most summary traffic offenses may be pled and paid at the MDJ court's front counter. These cases are usually set up for installment payments. Offenders may pay at the court or use the "ePay" online case payments system managed by the Administrative Office of the Pennsylvania Courts (AOPC). Failure to pay results in having a case automatically appear on a "Notice of Impending Warrant" list, no matter how small the overdue amount. The court must manually request the computer to generate a "Notice of Impending Warrant" which is then mailed to the defendant. If there is no response to this notice from the defendant for 10 days, the case automatically appears on a "Warrants to Issue for Failure to Pay" list. Again, the court must manually generate a warrant for that defendant and issue it to a constable for service. The warrant is not generated automatically; rather, it must be requested by the court after it appears on the computer list. In the event of non-payment for a traffic offense, the case will also appear on a "DL38 to Issue-Defendant" list. The court must go to the DL38 to Issue list and

⁶ **Source:** Court Administration Office (CAO), January 2011.

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manually request the computer to generate a DL38-Defendant notice which is mailed to the defendant. If the defendant doesn't respond within 15 days, the case will automatically appear on a "DL38 to Issue- PADOT" list, and the court must again manually request that the state motor vehicle licensing agency (the Pennsylvania Department of Transportation, or "PADOT") suspend the defendant's operating privilege.

Computer generation of a "DL38-Defendant" notice or a "DL38-PADOT" thus does not occur automatically but must affirmatively be requested for each case. The courts do not utilize any other collection methods to enforce judgments. There appears to be little deviation from this enforcement process, even though staff admits that warrants may be issued for even very small account arrearages. A prior attempt to use a third party collection agency was discontinued.

Adjustments to assessments and, presumably, payments are routinely made by the MDJ courts. In MDJ 02-2-02, for example, various adjustments reportedly are made in the case record "case balances" including: (1) video arraignments in summary cases in which the defendants choose to do more time in lieu of fines, thereby lowering the assessment; (2) "withdrawals" in which payments are reimbursed when the respondent/defendant shows that he or she has already paid the assessed amount to the local municipality; (3) voids due to mistakes/errors; (4) bad checks; (5) dismissals of cases after two or three years of non-action; and (6) deceased respondents/defendants. AOPC representatives indicate that amounts listed as "payments" represent monetary receipts, and that amounts listed as "adjustments" do not reduce the original assessed amount, but rather represent non-monetary credits against the original assessments.

C. Recommendations

To address the issues associated with the collection of monetary sanctions for summary offenses in the MDJ courts, NCSC offers two recommendations.

Recommendation 1-1: Engage in Regular and Continuous Monitoring, Analysis and Management of Collection Rates. *The Court should compile, and make available to the MDJ courts for regular and continuous monitoring, analysis and performance management their comparative rates of collections, i.e., the amount of money collected in fines, fees and other penalties expressed as a proportion of the amount of money assessed for every one of the 20 magisterial districts. Even without additional collection efforts, regular (at least monthly) and continuous performance measurement of collection rates and performance management (i.e., the use of performance measurement for management purposes) are predicted to produce considerable gains in collection rates.*

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Detailed inspection and knowledge of variation⁷ in collection rates across the MDJ courts provide an opportunity for greater efficiencies and improved collections if the comparative data are well documented, shared widely among judges and managers, and then used as the basis for improvements. Quite apart from the purpose of increasing revenue, implementation of Recommendation 1-1 is a critical part of the internal control of funds that represents a major court responsibility.⁸ Its adoption provides a clear signal of judicial and administrative commitment to the collection of fines and fees.

What one measures gets attention and gets managed. It is quite reasonable to expect that simply making the various rates of collections of the 20 MDJ courts widely known, and instituting simple and sensible goal-setting procedures, even while doing nothing more (see further below), will get managers' and staff's attention and create incentives and healthy competition which, in turn, will improve collections rates. NCSC believes that this can be accomplished with existing resources of the Court and with some assistance and guidance provided by the Administrative Office of the Pennsylvania Courts (AOPC).

Other simple procedures like comparing the practices of those MDJ courts that currently do relatively well with those that do not may produce insights the can further increase collection rates and generate revenues significantly above baseline rates. Finally, the

A Cautionary Note. Collection rates in Tables 1.2 through 1.5 and Figures 1.1 through 1.4 are meant to be illustrative only. They were calculated on the basis of assessment and payment data provided to the Court and NCSC by the Administrative Office of the Pennsylvania Courts (AOPC) on February 10, 2011. As noted in the text of NCSC's report, NCSC was unable independently to verify the assessment and payment data used to calculate collection rates. In particular, the rates have not been reconciled with aggregated monthly and yearly data for "adjustments" made in the assessments and payments. In one district court, MDJ 02-02-02 in 2010, for example, a total of 1,439 adjustments amounted to \$221,670, relative to \$654,638 assessed and \$571,613 paid.

Common Pleas Court might explore processes, procedures and technology designed to better enforce outstanding judgments and improve compliance and collections including: case scoring and documentation to identify levels of cases from the highest to the lowest probability of

⁷ Understanding and controlling variation (e.g., knowing whether performance falls below established lower "control limits") are at the heart of quality improvement methods such as Total Quality Management (TQM) and Six Sigma. Gross variability in core measures of performance is evidence that a business process is not being managed effectively, that managers have no internal control over the processes and the results they achieve. Magnitude of variation is an indicator of organizational health.

⁸ Internal control comprises the plan of organization and all of the coordinate methods and measures adopted by a court to safeguard its assets, to check the accuracy and reliability of its accounting data, and to compel adherence to management policies protecting the integrity of the court's process for receipt and distribution of court-collected funds. See Robert W. Tobin. *Internal Control of Court-Collected Funds* (Williamsburg, VA: National Center for State Courts, 1995), vii.

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payment; interfaces with case management and other information systems; rigorous tracking and management of multiple payment plans; improved contacting systems such as automatic dialers and voice systems; and improved correspondences with notices and legal templates.

Tables 1.2 through 1.5 and Figures 1.1 through 1.4 below illustrate the kind of collections performance data that should be made available to the 20 MJD courts, including judges and staff, as well as to the Court's managers on a monthly basis. It is important to stress that even though the NCSC was unable to verify independently the data used to calculate the collection rates in these tables and figures (see caveat in accompanying box), NCSC believes that the cogency of Recommendation 1-1 is not weakened by this lack of verification. In fact, ultimately, a detailed understanding and verification of the collection rates *by the judges and managers of the Court* is viewed as a critical part of the implementation of Recommendation 1-1.

Each pair of tables and figures illustrates the same data for comparative collections rates in two forms, tabular and graphic. Table 1.2 and Figure 1.1 summarize the results for one month (July 2010), i.e., the total assessments, payments received and the collection rates (i.e., payments as a proportion of assessments expressed in percent) for all 20 MJDs in descending order. MJD 02-3-01 tops the list for this one month with a collection rate of 143.8%, with payments of \$21,115 exceeding assessment of \$14,685. As can be readily seen in Figure 1.1 – showing the same data in graphic form – four MJDs are very close to the average and MJD 02-2-08 brings up the rear with a collection rate of approximately 68%.

An organization's ability to set and achieve realistic goals and performance targets is linked to better performance. MJD courts should be encouraged to use their own relative ranking and collection rates to identify specific goals, such as achieving a certain rate and setting a target date for achieving it. Lower ranking MDJ courts, for example, could be encouraged to set goals for the coming year at rates higher (e.g., 10%) than high-ranking MDJ courts (2%) and to map steps to reach these goals and target performances. In addition or alternatively, low ranking courts could simply be encouraged aim for the average. Managers could, for example, help MDJ court judges and staff effectively set goals using the acronym "SMART": setting **S**pecific, **M**easureable **A**ttainable goals with clear **R**esults in a set **T**ime frame.

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**Table 1.2. July 2010 Fines & Fees Collection Rates
in the MDJ Courts of Lancaster County**

District	Total		Collection
	Assessment	Payment	Rate
1. MDJ-02-3-01	\$14,685.50	\$21,115.01	143.8%
2. MDJ-02-3-09	\$15,488.00	\$21,650.25	139.8%
3. MDJ-02-3-02	\$44,412.33	\$54,468.91	122.6%
4. MDJ-02-3-07	\$45,454.20	\$53,276.40	117.2%
5. MDJ-02-3-03	\$45,030.76	\$48,982.17	108.8%
6. MDJ-02-3-05	\$30,564.64	\$32,572.06	106.6%
7. MDJ-02-3-08	\$30,376.01	\$30,339.14	99.9%
8. MDJ-02-3-06	\$63,291.70	\$63,187.42	99.8%
9. MDJ-02-2-07	\$58,134.70	\$56,126.45	96.5%
10. MDJ-02-1-02	\$48,184.42	\$44,904.44	93.2%
11. MDJ-02-2-01	\$33,088.92	\$30,070.75	90.9%
12. MDJ-02-1-03	\$57,553.37	\$51,398.20	89.3%
13. MDJ-02-2-03	\$61,463.69	\$52,285.80	85.1%
14. MDJ-02-3-04	\$38,763.12	\$32,864.13	84.8%
15. MDJ-02-1-01	\$65,706.29	\$55,660.44	84.7%
16. MDJ-02-2-02	\$57,741.76	\$47,881.91	82.9%
17. MDJ-02-2-06	\$42,690.26	\$34,939.55	81.8%
18. MDJ-02-2-04	\$46,846.39	\$36,253.16	77.4%
19. MDJ-02-2-05	\$54,904.73	\$42,157.78	76.8%
20. MDJ-02-2-08	\$76,756.15	\$52,028.65	67.8%
Grand Total	\$931,136.94	\$862,162.62	92.6%
Average	\$46,556.85	\$43,108.13	97.5%

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Figure 1.1. July 2010 Fines and Fees Collection Rates in the MDJ Courts of Lancaster County

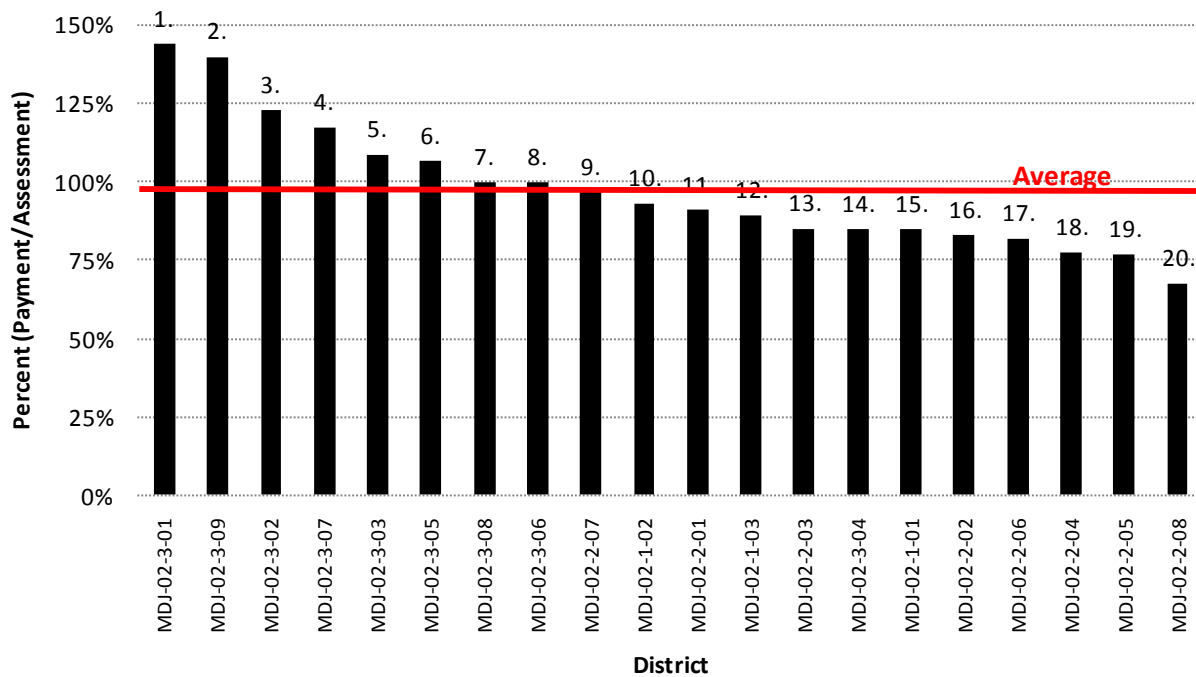


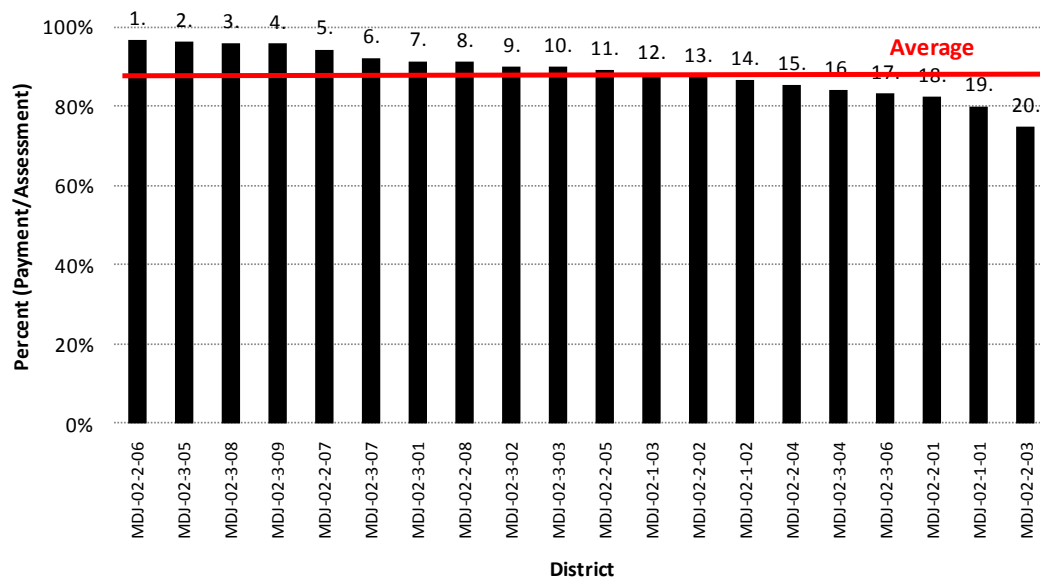
Table 1.3 and Figure 1.2 below show the same kind of data as that shown in Table 1.2 and Figure 1.1, except that they are for the entire year of 2010. They give the court managers and the MDJ courts broader perspective and more insight and understanding of the performance of individual MDJ courts and the variation of rates across all the courts over time.

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**Table 1.3. 2010 Fines and Fees Collection Rates
in the MDJ Courts of Lancaster County**

District	Total		Collection
	Assessment	Payment	Rate
1. MDJ-02-2-06	\$549,100.68	\$530,689.30	96.6%
2. MDJ-02-3-05	\$390,128.02	\$375,353.42	96.2%
3. MDJ-02-3-08	\$410,949.87	\$394,383.67	96.0%
4. MDJ-02-3-09	\$241,095.48	\$230,770.44	95.7%
5. MDJ-02-2-07	\$672,102.54	\$634,637.12	94.4%
6. MDJ-02-3-07	\$664,793.31	\$612,114.99	92.1%
7. MDJ-02-3-01	\$246,559.29	\$225,557.75	91.5%
8. MDJ-02-2-08	\$653,147.65	\$596,015.32	91.3%
9. MDJ-02-3-02	\$811,660.17	\$729,746.50	89.9%
10. MDJ-02-3-03	\$517,148.35	\$464,624.52	89.8%
11. MDJ-02-2-05	\$544,086.03	\$485,331.21	89.2%
12. MDJ-02-1-03	\$730,417.03	\$643,169.43	88.1%
13. MDJ-02-2-02	\$654,638.62	\$571,612.69	87.3%
14. MDJ-02-1-02	\$743,020.96	\$644,411.45	86.7%
15. MDJ-02-2-04	\$677,728.02	\$578,936.31	85.4%
16. MDJ-02-3-04	\$458,511.48	\$385,678.40	84.1%
17. MDJ-02-3-06	\$801,157.43	\$666,612.69	83.2%
18. MDJ-02-2-01	\$488,357.55	\$401,960.75	82.3%
19. MDJ-02-1-01	\$845,491.46	\$676,824.74	80.1%
20. MDJ-02-2-03	\$687,438.00	\$515,000.72	74.9%
Grand Total	\$11,787,531.94	\$10,363,431.42	87.9%
Average	\$589,376.60	\$518,171.57	88.7%

Figure 1.2. 2010 Fines & Fees Collection Rates in the MDJ Courts of Lancaster County



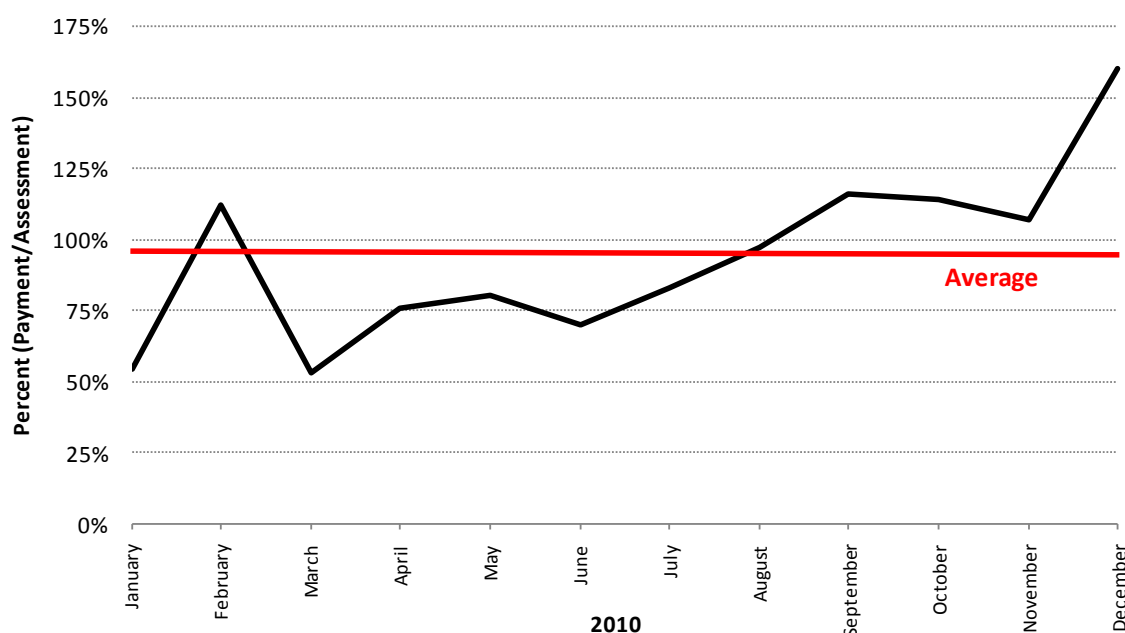
Still another perspective, and perhaps additional insight and understanding for stimulating solutions for improvement, are provided by Table 1.4 and Figure 1.3 showing monthly rates for one MDJ court and by Table 1.5 and Figure 1.4 for all 20 courts combined.

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Table 1.4. 2010 Fines and Fees Collection Rates in MDJ Court 02-2-02 of Lancaster County

Month	Total		Collection Rate
	Assessment	Payment	
January	\$81,040.94	\$43,969.54	54.3%
February	\$48,259.94	\$54,241.05	112.4%
March	\$58,655.80	\$31,222.38	53.2%
April	\$70,699.40	\$53,399.88	75.5%
May	\$61,802.71	\$49,529.54	80.1%
June	\$59,975.48	\$41,993.85	70.0%
July	\$57,741.76	\$47,881.91	82.9%
August	\$57,099.97	\$55,487.07	97.2%
September	\$42,251.16	\$48,943.47	115.8%
October	\$41,677.08	\$47,676.79	114.4%
November	\$44,420.51	\$47,638.69	107.2%
December	\$31,013.87	\$49,628.52	160.0%
Total	\$654,638.62	\$571,612.69	87.3%
Average	\$54,553.22	\$47,634.39	93.6%

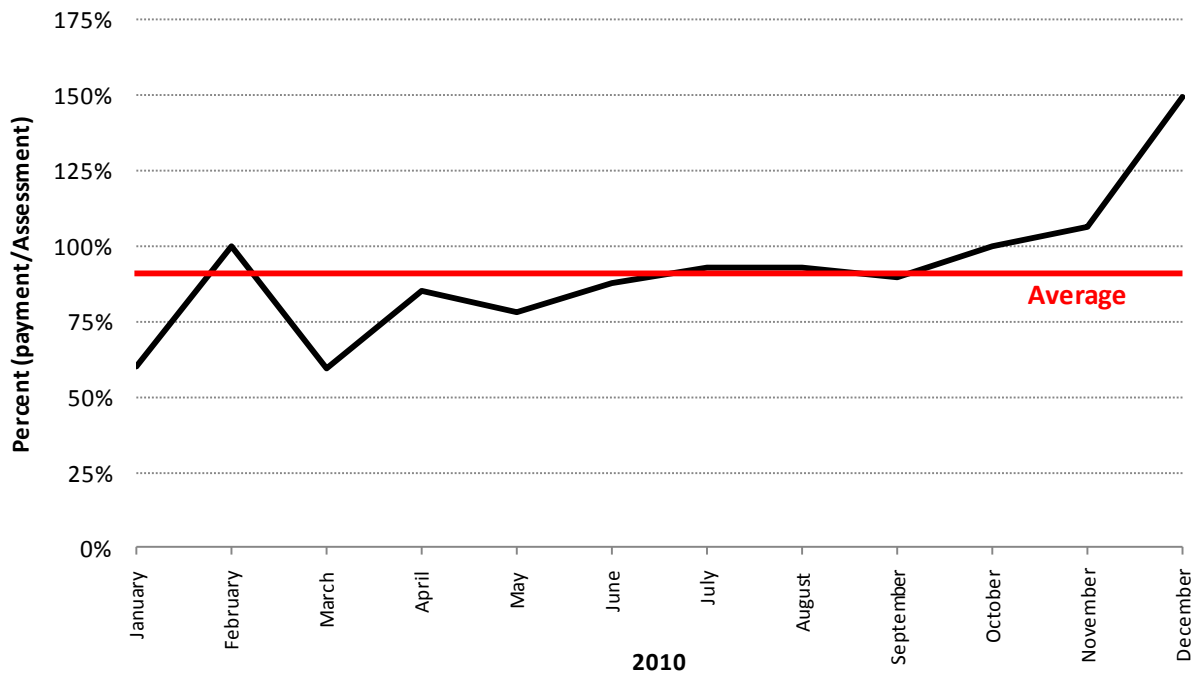
Figure 1.3. 2010 Fines & Fees Collection Rates in MDJ Court 02-2-02 of Lancaster County



**Table 1.5. 2010 Fines and Fees Collection Rates
in the MDJ Courts of Lancaster County**

Month	Total		Collection
	Assessment	Payment	Rate
January	\$1,249,612.34	\$753,558.44	60.3%
February	\$971,773.21	\$971,015.91	99.9%
March	\$1,237,383.11	\$737,582.83	59.6%
April	\$1,083,292.53	\$918,914.19	84.8%
May	\$1,075,871.56	\$840,405.44	78.1%
June	\$1,037,968.86	\$910,360.33	87.7%
July	\$931,136.94	\$862,162.62	92.6%
August	\$935,674.22	\$868,400.68	92.8%
September	\$1,017,109.01	\$908,448.34	89.3%
October	\$841,928.68	\$842,009.41	100.0%
November	\$820,664.73	\$875,152.24	106.6%
December	\$585,116.75	\$875,420.99	149.6%
Total	\$11,787,531.94	\$10,363,431.42	87.9%
Average	\$982,294.33	\$863,619.29	91.8%

Figure 1.4. 2010 Fines & Fees Collection Rates in the MDJ Courts of Lancaster County



Ideally, the collections data illustrated in the above tables and figures should be made readily available by means of a “performance dashboard”⁹ accessible to all MDJ courts and Court managers.

Recommendation 1-2: Improvement of Current Practices for Collecting Fines and Fees. *In addition to performance measurement and management of collection rates (Recommendation 1-1), the Court should institute promising practices for improving the collection of fines and fees.*

The introduction of this section suggests a number of general practices and responsibilities for improving collections. NCSC recommends that the Court refer to two references for detailed guidance: (a) the Second Edition of *Current Practices in Collecting Fines and Fees in State Court: A Handbook of Collection Issues and Solutions* published by the NCSC in 2009¹⁰; and (b) the work in the area of collections by the Florida Clerk of Court Operations Corporation (CCOC). The latter’s quarterly reports of performance measures for collections and “corrective action”

⁹ Ingo Keilitz. “Smart Courts: Performance Dashboards and Business Intelligence.” In *Future Trends in State Courts 2010* (Williamsburg, VA: National Center for State Courts, 2010). Online <http://vis-res.com/pdf/Trends2010.pdf>.

¹⁰ John T. Matthias and Laura Klaversma. *Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions, Second Edition* (Williamsburg, VA: National center for State Courts, 2009), available online <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/financial&CISOPTR=151>.

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plans are particularly instructive. Florida law requires that the CCOC develop standards and measures of performance and when it finds that standards are not met, take corrective actions.¹¹

D. Expected Efficiencies

The NCSC project team believes that the implementation of Recommendations 1-1 and 1-2 will have significant positive consequences, specifically *an increase of additional total yearly revenues of approximately \$500,000, an increase 5% above current baseline.*

What gets measured gets attention. And what gets measured gets done. As suggested above, it is not unreasonable to expect that close monitoring, analyses and management of the comparative collection rates across MDJ courts on a regular and continuous basis *alone* (i.e., Recommendation 1) may produce an increase in collections of at least 2.5% across the board over a period of a year, a yearly increase of approximately \$250,000 above 2009 -2010 baselines of \$10.9 million in 2009 and 10.4 million in 2010. An additional conservative increase in yearly collections of \$250,000 (2.5%) might be expected if the courts institute solutions for collection improvement beyond performance measurement and management (Recommendation 1-2). While these estimates based on a projected total 5% increase in revenue from collections may seem speculative, especially in view of what appear to be relatively high rates of current collections, they are reasonable. For example, from a different perspective, an additional revenues of \$314,770 would be generated if only the nine MJD courts below average of 88.7% in 2010 (see Table 1.3) were brought up to average, *and all other courts remain at their 2010 levels.*

Using the last six months of 2010 average percent of distribution to the county -- i.e., county, state and local municipalities of 19.72%, 60.62% and 19.66%, respectively -- a \$500,000 (5%) increase in collections would mean an increase of revenue to Lancaster County of \$98,600.¹²

NCSC again stresses a point made earlier. Even though NCSC is unable to verify independently the data used to calculate the illustrative collection rates, and even if the collection rates are adjusted by the Court in the future, the cogency of Recommendation 1-1 is not weakened and NCSC stands by the efficiencies and increased revenues projected. In fact, if adjustments cause the actual collections rates to be lowered – which seems likely given the relatively high rates

¹¹ See the Florida's Clerk of Court Operations website at under "Documentation/Forms" and then "Measures and Forms" <http://www.flccoc.org/index.php>. See also, *Clerks of Court Generally Are Meeting the System's Collections Performance Standards* Florida Office of Program Policy Analysis & Government Accountability. Report No. 07 – 21, March 2007.

¹² These are estimates based on available data. See the caveat in the Box above entitled, "A Cautionary Note."

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illustrated in the tables and figures above – the projections for increased revenues would be increased above \$500,000 as the “ceiling” for improvements in collection rates is raised.

E. Findings and Observations on MDJ Misdemeanor and Felony Collections

Offenders entering a plea at the MDJ court level for misdemeanor level three offenses may pay their fines and costs within ten days at the MDJ court in which the plea is entered. After the end of ten days, the MDJ courts forward the account information and a check for any amount paid to the Clerk of Common Pleas for entry on CPCMS, and a copy of the complaint and probation order are sent to the Probation Collections Unit. The offender is informed that it may be as much as long as two months before any further payment toward fines and costs can be made.¹³

This 60-day gap in the time for accepting payments is due to a backlog in entering payment and case information into the system at the Common Pleas Clerk’s level. As a result, it may actually be months before an offender makes a first payment towards their fines and costs. At the time of sentence, the offender will be notified of the amount due and given information on where to pay, but there will be no further follow up until the case and related payment information have been entered by the Clerk and the information is made available to the Collections Unit. In the meantime, the offender must check periodically to see if the Collections Unit is ready to accept payments.

F. Recommendations

NCSC offers the following recommendations to improve collections for misdemeanor and felony cases in MDJ courts.

Recommendation 1-3: Waiting Period. Recognizing the time value of money, the DCA and Clerk of Courts should work on a solution to the current delay in entering accounts on CPCMS with the goal of eliminating the waiting period for accepting payments after transfer from the MDJ courts.

Recommendation 1-4: Tracking Receivables. Until the system for entering accounts receivables at the Clerk of Courts Office is current, CAO and the Clerk of Courts should develop an interim solution under which the tracking of receivables continues and the court system allows payments to be made even after loss of MDJ court jurisdiction, rather than being refused when offered and then possibly never being received at all.

One approach to implementing this recommendation might include setting up an escrow account for payments. Keeping cases active for that purpose on the MDJ courts until the

¹³ The notice reads: “Payment in full may be accepted by this office for 10 days only. Then you must wait 60 days and all payments are made to the Collections Unit at Adult Probation.”

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Clerk's Office is ready to accept payment, however, may contravene the letter of Pa.R.Cr.P. 550(E), which requires that all paperwork related to an accepted M3 guilty plea be forwarded to the Clerk of Courts office after 10 days, at which point the MDJ no longer has any jurisdiction over the case, including the continued collection of payments.

Yet Rule 550(E) could not have been intended to prevent the Court and the County from tracking receivables and achieving timely collection of thousands of dollars in monetary sanctions legitimately due and payable to the Commonwealth. The purpose of the rule was undoubtedly to concentrate accountability and receipt tracking in one office under a single county-level elected official, and not to undermine compliance with court orders or to delay receipt by the Commonwealth, the County and other governmental units of their respective shares from the payment of monetary sanctions.

If an MDJ court loses jurisdiction of a case when paperwork is forwarded to the Clerk of Courts, then such a case is of necessity subject to the jurisdiction of the Court of Common Pleas, which as a result has both the authority and the responsibility to limit the amount of unnecessarily lost or delayed payments. Whether by having a magisterial district judge exercise authority for this limited purpose as delegated by the President Judge, by deputizing a staff member at each MDJ court location to serve as a member of the Clerk of Courts Office for this limited purpose, or by other appropriate means, the NCSC project team is confident that the DCA and the Clerk of Courts, with advice and assistance from the Deputy DCA responsible for the oversight and management of MDJ courts, can identify a sensible solution to this problem that the Court of Common Pleas finds consistent with the requirements of Pa.R.Cr.P. 550(E).

Recommendation 1-5: Alternatives to Arrest Warrants. *The MDJ courts should investigate the feasibility of other sanctions for compelling compliance with parking tickets and other minor violations before issuing arrest warrants to be enforced by constables who are paid fees per case that might often exceed the value of the delinquent payments.*

As is the case with Recommendation 1-4 implementation of this recommendation would call for the development of a sensible way to meet the letter of a procedural rule not intended to create the substantial negative consequences that have come about as a result of its application in Lancaster County. Pa.R.Cr.P. 430 (B) requires the issuance of a warrant upon a default in payment on any summary offense, including parking offenses. That rule cannot have been intended, however, to require that the County of Lancaster automatically pay a fee for the enforcement of a warrant that may often exceed the unpaid balance of the monetary sanction for which there has been a default in payment.

Instead, the terms of Pa.R.Cr.P. 430 (B) might be interpreted for certain parking tickets and other minor violations to call for the entry in the record of a case, with electronic notice to law enforcement officials, and with mailed notice to a defendant (perhaps with return receipt requested) that he or she is in default of payment and as a result is potentially subject to arrest. The notice should indicate further that notice is being sent as well to PADOT, so that the

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defendant must make payment in order to avoid possible arrest or denial of the renewal of his or her operator's license or motor vehicle registration.

If there are defects in the suggestion in the preceding paragraph for implementing Recommendation 1-5, NCSC urges court leaders in Lancaster County to find another way to interpret Pa.R.Cr.P. 430 (B) so that its letter and its purpose are met without the unintended consequence of having Lancaster County pay more to enforce monetary sanctions in hundreds or thousands of cases each year than it actually receives from their payment. As with the implementation of Recommendation 1-4, the NCSC project team is confident that court managers can identify a sensible solution to this problem that the Court of Common Pleas deems consistent with the requirements of Pa.R.Cr.P. 430(B) and other relevant provisions of the law and rules.

***Recommendation 1-6: Third-Party Enforcement.** The MDJ courts should reevaluate the possibility of using third party services for enforcement of financial orders, perhaps starting with a pilot to measure effectiveness.*

G. Expected Efficiencies

Reducing or eliminating the delay between the assessment of financial penalties and payments is critical to increasing compliance. Allowing and encouraging immediate payment, even of an initial installment, will improve both the timeliness of payment (cash flow) and the overall collection rate.

The cost of collection should also be taken into account. The current expenditure of human resources to enforce non-compliance could be reduced through the use of intermediate actions such as automated notices and show causes. These resources could be devoted to enforcement of cases where less expensive interventions have not yielded results.

Greater attention to measuring the effectiveness of various collection activities and sharing of best practices between MDJ courts will help courts with lower rates of collection and compliance improve their effectiveness.

Step Two. Reduce Pressure on Local Justice System Capacity by Improving Management of Criminal Case Progress

In the initial NCSC interviews with CAO managers and staff, as well as with other institutional stakeholders, the NCSC project team reached a conclusion that there are areas in which there may be delays and inefficiencies in the progress of criminal cases. Judges and others indicated to NCSC consultants that there are issues with the timeliness of criminal case processing in the MDJ courts, which they reported took an average of over 50 days. They also pointed to problems in case progress from Common Pleas arraignment to the conclusion of court proceedings, with one person calling it a "culture of continuances." If sentenced defendants violate probation, they are committed to jail, and a probation violation involving charges of a new crime must proceed through a hearing in MDJ court before coming to Common Pleas.

In addition to other burdens that criminal case delays may create, they result in increased pressure on the resources of the Lancaster County Prison. The County Prison has a capacity of 1,143 beds. Table 2.1 indicates that the average prison population was higher in 2006 and than it has been since, but that it has generally been at or above capacity throughout that six-year period.¹⁴

Table 2.1. Trends in Lancaster County Prison Population, January 2005 through December 2010, as Reported to County Prison Board¹⁵

Calendar Year	Average Population	Average Admissions per Month
2005	1,138	491
2006	1,201	514
2007	1,186	--
2008	1,169	--
2009	1,154	--
2010	1,148	478

¹⁴ That there was a lower average prison population each year in 2007-2010 than there was in 2006 is explained in part by the Prison's operation of work release and community service programs.

¹⁵ Source: Lancaster County Prison Web Portal, Prison Board Minutes, <http://www.co.lancaster.pa.us/lanco/cwp/view.asp?a=554&q=605433&lcprisonNav=|> (as downloaded from the Internet on March 9, 2011). See Table A.1 in Appendix A for more details.

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Of the 478 monthly average prison admissions in 2010, the Prison Warden indicates that an average of 368 (77%) were for matters awaiting court action.¹⁶ He reports that among the newly-admitted persons awaiting court action an average of about 105 (22% of the 478 total admissions) were for parole or probation violations, and the remaining persons (an average of 263, or 55% of total admissions) were pretrial detainees awaiting prosecution and adjudication in the Court of Common Pleas.¹⁷

Among the average of 1,078 inmates in the County Prison in December 2010, 380 inmates (excluding probation or parole violators) were awaiting Common Pleas adjudication as of December 31, 2010. The reported length of stay for those 380 inmates in terms of elapsed days of prison is shown in Table 2.2.

Table 2.2. Length of County Prison Stay for Pretrial Inmates Pending Common Pleas Adjudication, December 2010¹⁸

Length of Pretrial Time Held Awaiting Adjudication	Number of Pretrial Inmates
179 Days or Fewer	235
180 Days to One Year	96
One to Two Years	42
Two Years or Longer	7
Estimated Average Length of Stay (N = 380): 197 Days¹⁹	

¹⁶ Lancaster County Prison Warden, report to Lancaster County Prison Board, January 20, 2011. See Prison Board, Minutes of Monthly Meeting, January 20, 2011, <http://www.co.lancaster.pa.us/lanco/lib/lanco/pris012011final.pdf> (as downloaded on March 9, 2011).

¹⁷ Although the Prison Warden has provided the above prison-population statistics for admissions of probation violators and pretrial detainees, the Bail Administration and Pretrial Services unit (BA) maintains statistics that have been reviewed and confirmed by the Director of Adult Probation and Parole, but which are not consistent with the Prison Warden's statistics. BA provided statistics to NCSC that were based on a sample period in November 2010 of prisoners committed and awaiting disposition of criminal charges. Of the defendants in the sample, 50% were probation and parole violators and 50% were pretrial detainees awaiting prosecution and adjudication of new criminal charges which did not include probation and parole violations.

This apparent discrepancy may simply reflect a variation in the November sample period that is not otherwise inconsistent with the Warden's data. On the other hand, it may be a sign of serious institutional differences of opinion about how defendants committed to the County Prison should properly be counted. Although NCSC notes this discrepancy and agrees that any problems should be resolved by the officials involved, the NCSC team members are not in a position to determine which set of figures is more reliable. Since the figures presented by the Warden have been accepted by the County Prison Board and published in its minutes, they are used throughout the remainder of this section.

¹⁸ Lancaster County Prison Warden, report to Lancaster County Prison Board, January 20, 2011. See Prison Board, Minutes of Monthly Meeting, January 20, 2011, *supra*.

¹⁹ The County Prison Deputy Warden for administrative services was not able to provide an exact average to NCSC for this report. The "Estimated Average Length of Stay" in Table 2.2 was calculated by using the midpoint for each

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The table indicates that about 62% (235 of 380) of the inmates in a pretrial status were held in County Prison for a length of time shorter than the Pennsylvania speedy-trial requirement that they be adjudicated within 180 days absent delays attributable to defendants. The remainder of the persons awaiting adjudication (145, or 38%) had been held longer than the 180-day requirement, with a few held two years or longer.

Since 2007, the County Prison Board has had an architectural firm and a jail facilities planning firm studying options for new county prison facilities construction.²⁰ If nothing were to change, the jail facilities planners project that the County Prison would need 1,000 more beds by 2025. They observe, however, that reducing prisoners' average length of stay might have an impact on the need for additional beds. Since an inmate's length of stay is controlled almost entirely by factors outside of the prison itself, they suggested that reducing it might require some shifts in the court system. To explore the extent to which this might be feasible, the NCSC project team has identified the following as areas calling for particular attention:

- MDJ criminal case processing time from arrest to arraignment in Common Pleas Court;
- Common Pleas criminal continuances of pretrial conferences and trial dates; and
- Handling of Common Pleas probation violations.

A. Findings and Observations

The concerns about delay expressed to NCSC representatives in interviews were confirmed by Lancaster County Common Pleas criminal statistical data from the Administrative Office of Pennsylvania Courts (AOPC).²¹ AOPC data show that new criminal case filing levels in the Clerk of Courts Office changed only modestly in the ten-year period from 2000 through 2009. (See Figure 2.1.) In 2005, however, when the CPCMS system was installed, the number of reopened cases increased dramatically, from 342 in 2004 to 2,326 in 2005. The number of cases reopened per year then receded, so that in 2008 (196) and 2009 (195) was much closer to the annual numbers for 2000-2002.

With a relatively steady 4,700-5,200 dispositions per year since 2006, the size of the Court's pending caseload has grown dramatically. At the end of 2009, the inventory of pending

length-of-stay grouping as reported to the Prison Board by the Warden. Thus, for example, 90 days is the midpoint for all inmates with a length of stay of 179 days or less, and 270 days is the midpoint for those with a length of stay of 180-365 days.

²⁰ See Appendix A for edited extracts from the minutes of meetings of the Prison Board.

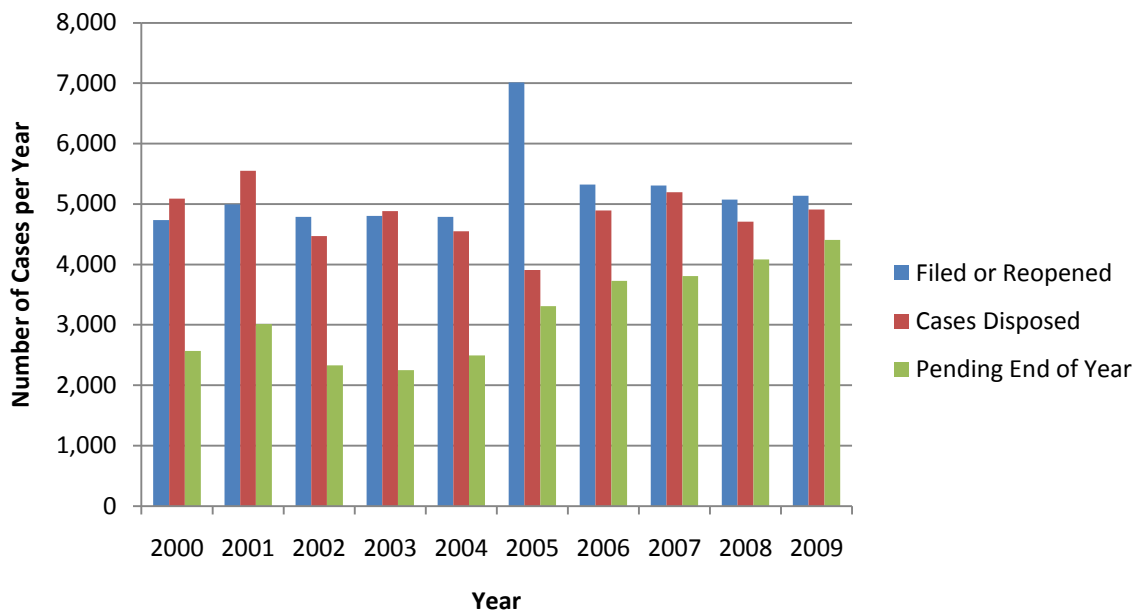
²¹ See Unified Judicial System of Pennsylvania, Administrative Office of Pennsylvania Courts, Department of Research & Statistics, "Interactive Statistics: Common Pleas Criminal" (data for 200-2008), http://dynamicstatistics.pacourts.us/crim_stats_new.aspx, and "2009 Caseload Statistics of the Unified Judicial System of Pennsylvania" (data for 2009), <http://www.pacourts.us/NR/rdonlyres/1190B925-2887-4794-899C-ADE3BDC014A0/0/2009Report.pdf> (as downloaded from the Internet on March 9, 2011).

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criminal cases (4,407) was 72% higher than it was in 2000 (2,568), and nearly double the total in 2003 (2,252). Figure 2.1 shows the trends in caseload from 2000 through 2009.

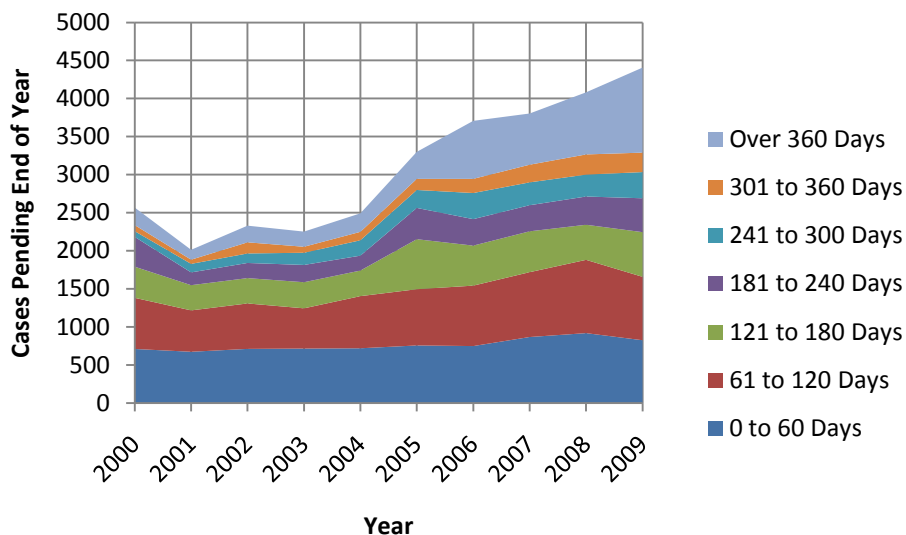
In addition to having more criminal cases awaiting adjudication, the Court has a much larger number of *older* cases in its pending inventory. Figure 2-2 shows trends in the age of cases pending at the end of the year from 2000 through 2009. At the end of the year 2000, 230 pending criminal cases (9.0% of the total) were older than 360 days. As Figure 2.2 suggests, the pool of older pending cases grew significantly after the 2005 spike in reopened cases. At the end of 2009, there were nearly five times as many pending cases older than 360 days than there were in 2000, amounting to 25.3% of the total pending inventory.

Figure 2.1. Lancaster County Court of Common Pleas Criminal Caseload Trends, 2000-2009²²



²² Source: AOPC, Department of Research & Statistics. See Appendix B for details.

Figure 2.2. Age of Pending Inventory of Common Pleas Criminal Cases, 2000-2009²³



To provide support for the NCSC assessment of efficiencies in criminal case processing, it is important to have a overall sense of the manner in which cases proceed from arrest through preliminary proceedings in MDJ courts to those up to and after sentencing in Common Pleas Court.

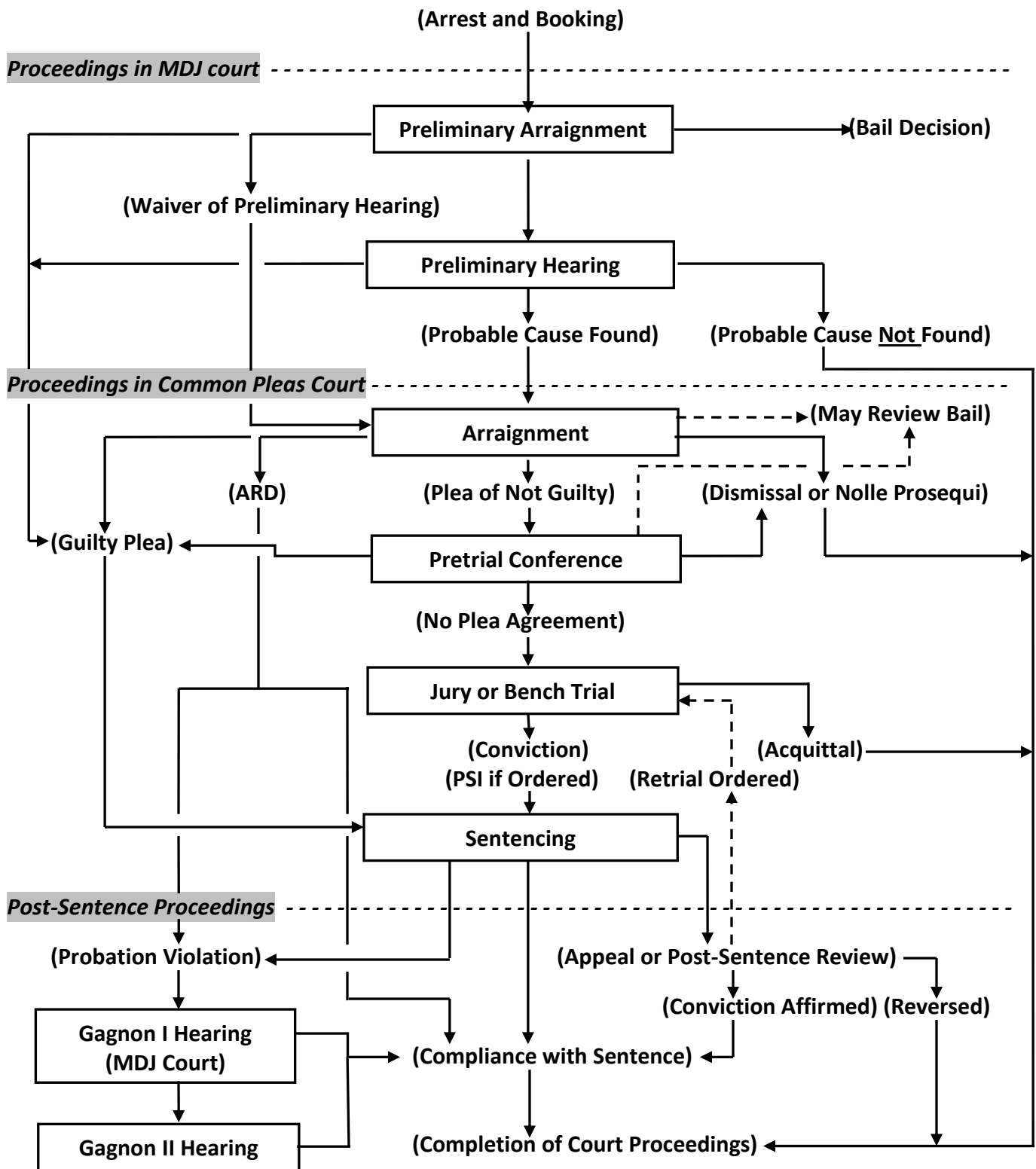
Overall Common Pleas Criminal Case Process. From the initiation of a Common Pleas criminal matter to its conclusion, a series of court hearings may be held. The flowchart presented as Figure 2.3 gives a visual outline of the process.

Preliminary Arraignment in MDJ Courts. Magisterial District Judges have jurisdiction to adjudicate summary offense, which are criminal offenses punishable with no more than a \$300 fine and 90 days in jail. For all felonies and misdemeanors, only preliminary hearings are held in MDJ courts.

The first court hearing in the criminal process is a preliminary arraignment, which is to be held "without unnecessary delay" after arrest. The defendant is brought before a judge in MDJ court either in person or by video. The court gives the defendant a copy of the criminal complaint filed by police, advises the defendant of the right to secure counsel, schedules a preliminary hearing date, decides whether to grant pretrial release, and sets the terms of pretrial release.

²³ Source: AOPC, Department of Research & Statistics, which measures age of Common Pleas criminal cases from the date of filing in the Office of the Clerk of Courts, and not from date of arrest or preliminary arraignment in MDJ court. See Appendix B for details.

Figure 2.3. General Overview of Steps in the Progress of a Common Pleas Criminal Case



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During regular MDJ court business hours, the MDJ with geographical jurisdiction makes the determination. From 5:00 PM until 7:00 AM the next morning, defendants are held in the Lancaster City Police holding facility for central booking, and an on-duty MDJ holds preliminary arraignments at 7:00 PM and 7:00 AM. Most pretrial release decisions (about 90%) are made in MDJ courts. Soon after they are admitted to the County Prison, inmates admitted to County Prison in a pretrial status pending criminal adjudication are met by pretrial release investigators from the Court of Common Pleas Bail Administration and Pretrial Services unit (BA) to provide information on which to base any pretrial release decision made after bail review at the Common Pleas level.²⁴ The investigator also picks up applications for representation by counsel, and BA makes the indigency determination for these prisoners.

Preliminary Hearing in MDJ Courts. The first adversarial hearing in the criminal process is the preliminary hearing in MDJ court. The defendant is faced with the choice of waiving the right to a preliminary hearing or forcing the prosecution to present evidence and call witnesses. If a hearing is held and the prosecution presents evidence regarding each material element of the charges, the MDJ court will find probable cause to hold the case for prosecution in the Court of Common Pleas and set a date on which arraignment is to be held at the Common Pleas level. If the prosecution fails to meet its burden the MDJ court can dismiss some or all of the charges.

The NCSC team learned in interviews that considerable time may elapse at the MDJ level from arrest to Common Pleas arraignment. The preliminary hearing is supposed to be scheduled within 3-10 days after the preliminary arraignment, to be held at some time thereafter. A clerk in one of the MDJ courts told NCSC that defendants are explicitly told to ignore the first scheduled preliminary hearing date when they receive notice.

Some preliminary hearings are in fact held within the 10 day period. Yet most are not and are continued to a later date. Some of the most common factors cited as causing preliminary hearing continuances include:

- defendant is unrepresented by counsel,
- existing counsel is unavailable on the desired date;
- there is no preliminary hearing “block” allotted to the district court within 10 days, or that all blocks that are scheduled within 10 days are already fully scheduled;
- the prosecuting officer is not on duty on the preferred date and time, or is otherwise unavailable because he or she is scheduled at another district court office;
- because of Common Pleas Criminal Court weeks along with Pre-Trial Conference days and Miscellaneous Court days, 42% of all business days in 2011 are unavailable to the

²⁴ See Lancaster County Court of Common Pleas, Pretrial Release Department, Pre-trial Supervision Screen & Order (as modified-8/5/2010). Based on these criteria, few people are admitted to a pretrial release program.

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district courts in which to schedule preliminary hearings, unless the District Attorney and Chief Public Defender agree to provide staff at times other than on one of the regularly scheduled block hearing dates.

In other words, there is compliance in the MDJ courts with the formal requirement that a preliminary hearing be scheduled at preliminary arraignment to be held on a date ten days hence. In fact, it appears that the requirement is not met, so that a preliminary hearing (if not waived) is routinely held later than ten days after the preliminary arraignment.

MDJ Proceedings in NCSC Sample of Recently-Disposed Criminal Cases. To gain a better sense of the consequence of such practices in the MDJ courts on times to Common Pleas disposition for criminal defendants in Lancaster County, NCSC looked at elapsed time data from a 100-case sample provided by CAO and consisting of criminal cases disposed by nontrial means between January 12 and January 28, 2011, with a separate 10-case sample including all criminal cases disposed by jury trial in the Court's January 2011 trial term.²⁵

Table 2.3 Elapsed Time from Case Initiation Through MDJ Preliminary Proceedings to Common Pleas Filing for NCSC Sample Cases²⁶

Days from Initiation Date to Filing in Common Pleas	For Cases with Nontrial Dispositions (N = 100)	For Cases with Jury Trial Dispositions (N = 10)
Longest Elapsed Time	392 Days	96 Days
Average Elapsed Time	68.4 Days	71.4 Days
Shortest Elapsed Time	0 Days	48 Days
Percent within 30 Days	15%	0%
Percent within 60 Days	48%	20%

Some of the elapsed time reflected in Table 2.3 is an artifact of transitional factors susceptible to revision and improvement. The physical mailing of the case or use of the county's courier service to transmit the paperwork from the district court to the Clerk of Court's office now requires anywhere from two to five business days, when same-day or next-day receipt has been

²⁵ A representative sample of 100 cases can be expected to yield sample results in 19 out every 20 efforts that would vary no more than $\pm 10\%$ from the results from analysis of the entire pool of cases from which the sample was drawn. See Herbert Arkin and Raymond Colton, *Tables for Statisticians* (New York: Barnes & Noble, 2d edition, 1963), pp. 142-147. The jury trial cases included nine disposed during the January 2011 trial term, from January 7 to 14, and one disposed on December 2, 2010.

²⁶ Source: NCSC analysis of case data provided by CAO.

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made the norm in many places. In addition, after a preliminary hearing transcript is received by the Clerk of Courts, it typically takes an average of 2-3 days for that office to enter the case into CPCMS. Either through electronic transmission of such transcripts (see Step Nine) or the reengineering of work processes by the Clerk of Courts, such transcripts should be posted to CPCMS within no more than 24 hours.

Among the sample cases with nontrial dispositions in Table 2.3, one case took 13 months (392 days) from preliminary arraignment to Common Pleas filing, although the average was a little over 9 1/2 weeks (68.4 days). The average for cases subsequently disposed by jury trial was virtually the same. Fewer than half of the nontrial-disposition cases were filed in Common Pleas within 60 days, and only 20% of the jury-trial cases.

Common Pleas Proceedings from Arraignment to Disposition. At the Common Pleas level, an arraignment is the presentation of the formal charges filed in the Office of the Clerk of Courts by the District Attorney against the defendant. At the arraignment an Assistant District Attorney (ADA) gives the defendant a copy of the charging document and reads the charges aloud in court if a formal arraignment is required. Formal arraignment is almost always waived, however, so that arraignment is in effect conducted by the ADA. A plea of not guilty is typically entered on behalf of the defendant.

It is possible that a defendant may qualify for diversion to what is called "Accelerated Rehabilitative Disposition (ARD)," which is a program designed to give offenders the opportunity to have the charges against them dismissed. In order to have the charges dismissed the offender typically must complete a period of probation, a number of hours of community service and pay court costs and fines. Admission into the program is discretionary with the District Attorney's Office.

Historically, very little discovery is provided to defense counsel before arraignment. By rule, defense counsel must request discovery, and it is to be provided within 10 days by the District Attorney's Office. NCSC understands that the 10-day requirement is often ignored. Even after cases are listed for trial, defense counsel may inform the Court that more discovery is needed.

On the date of arraignment, the defendant's case is scheduled for a pretrial conference to be held 45 days later. It is a huge work effort for the Court and its staff to hold pretrial conferences. In 2010, the Common Pleas Court's practice was for each of two judges to have a pretrial conference docket of about 500 cases over a two-day period. NCSC understands that the Court plans to have more judges conduct pretrial conferences, so that individual dockets will be smaller and judges can give greater attention to the status of each case.

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This event is to be an opportunity for prosecution and defense to consider the possibility of plea negotiations before a case is listed for trial. Yet one person estimated in an interview that about 75% of all pretrial conferences are continued, calling this part of a "culture of continuances." All continuance requests must be in writing, and all are submitted by the defense, which has the effect of "stopping the clock" on the running of time under the speedy trial rule. Only a handful of cases are disposed by plea at a pretrial conference. If a pretrial conference is continued, it is rescheduled for a date 60 days hence. Cases with multiple continuances of pretrial conference dates are thus rescheduled at 60-day intervals!

If a defendant decides not to take a plea deal or plead guilty to the charges, the case is put on the trial list by the Court. With the exception of some DUI offenses, defendants have a jury trial right in felony or misdemeanor cases. In interviews, NCSC learned that there appear to be many "junk" cases put on the trial list. Defense attorneys insist that cases be listed for trial because they perceive that this is the only way to get meaningful plea discussions.

Common Pleas Proceedings in NCSC Sample of Recently-Disposed Cases. In the sample of Lancaster County criminal cases for which elapsed times in MDJ courts are shown above, CAO also provided data on case events and elapsed times in the Court of Common Pleas. Table 2.4 summarizes NCSC's findings the number of pretrial events in Common Pleas for 100 cases disposed in January 2011 and for cases disposed by jury trial during the first trial term in 2011.

Table 2.4 Common Pleas Scheduled Court Events in NCSC Sample Cases²⁷

Common Pleas Pretrial Court Event	For Cases with Nontrial Dispositions (N = 100)	For Cases with Jury Trial Dispositions (N = 10)
Arraignments		
Held	28 Cases	3 Cases
Waived	72 Cases	7 Cases
Pretrial Settings		
Maximum	30	9
Average	4.6	3.9
Minimum	0	1
Guilty Plea Settings		
Maximum	7	1
Average	1.4	0.1
Minimum	0	0

²⁷ Source: NCSC analysis of case data provided by CAO.

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As Table 2.4 indicates, arraignment was waived in about 70% of all sample cases, whether they were disposed by plea, other nontrial means, or jury trial. With an average of 4-5 continuances per case, the sample data support the observation made to NCSC in interviews, that there is a "culture of continuances" associated with pretrial conference dates. Guilty plea settings were unusual for cases actually disposed by jury trial. Among the cases disposed without trial, 31% had two or more guilty plea settings.

The impact of multiple Common Pleas settings and continuances before the setting of trial dates had a predictable impact on elapsed times from Common Pleas filing to disposition. Table 2.5 summarizes elapsed time data for sample cases with nontrial dispositions and those disposed by jury trial.

Table 2.5. Elapsed Time from Common Pleas Filing to Common Pleas Disposition for NCSC Sample Cases²⁸

Days from Common Pleas Filing to Disposition	For Cases with Nontrial Dispositions (N = 100)	For Cases with Jury Trial Dispositions (N = 10)
Longest Elapsed Time	2,057 Days	1,045 Days
Average Elapsed Time	366.5 Days	406.5 Days
Shortest Elapsed Time	35 Days	152 Days
Percent within 150 Days	24.3%	0%
Percent within 365 Days	66.1%	60%

For cases disposed without trial, average time from Common Pleas filing to plea or other nontrial disposition was a year, and one case took 5.6 years, perhaps because a defendant absconded or an issue went up on interlocutory appeal. The sample cases that went to jury trial averaged just over 13 months, which may be understandable based on their gravity.

Trial Terms. The Court holds trials in trial terms scheduled six times a year -- every other month, for two weeks a term. A typical trial term has about 500 cases listed for trial, for a total of about 6,000 trial listings a year. Yet data from AOPC indicate that no more than about 70-80 cases per year are disposed by an actual jury trial.²⁹ About half of all trial listings are continued, and most of the remainder are disposed by negotiated pleas during the month of the trial term.

²⁸ Source: NCSC analysis of case data provided by CAO.

²⁹ For the total number of Common Pleas criminal cases disposed each year by jury trial in Lancaster County from 2000 through 2009, see Appendix B.

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In the NCSC sample cases with nontrial dispositions, 74% had no trial term settings at all. On the other hand, 11% of those cases had two or more trial term settings before they were concluded by plea or other means short of trial. As Table 2.6 shows, one case was disposed by nontrial means after 17 trial term settings; among the sample cases that actually went to jury trial, one case had 10 trial term settings before it was actually tried to a jury.

Table 2.6. Trial Term Settings in NCSC Sample Cases Not Disposed Before Trial Listing³⁰

Number of Trial Term Settings	For Cases with Nontrial Dispositions (N = 24)	For Cases with Jury Trial Dispositions (N = 10)
Maximum	17	10
Average	2.5	2.9
Minimum	1	1

In fact, the data from the NCSC sample suggest that if a case was listed for trial at all, there was a 50% chance that it would be continued at least once, and better than one chance in four that it would be continued two or more times.

Total Scheduled Common Pleas Events in NCSC Sample. NCSC did not obtain data on the number of times that cases were scheduled for MDJ court events. But the sample results do include information on the total number of Common Pleas events, accumulating the information shown in Tables 2.4 and 2.6 above. Table 2.7 shows the total number of scheduled Common Pleas events in the sample cases.

Table 2.7. Total Number of Scheduled Common Pleas Court Events in NCSC Sample Cases³¹

Total Scheduled Court Events	For Cases with Nontrial Dispositions (N = 100)	For Cases with Jury Trial Dispositions (N = 10)
Maximum	48	13
Average	6.8	7.4
Minimum	1	3

³⁰ Source: NCSC analysis of case data provided by CAO.

³¹ Source: Ibid.

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Based on the Pennsylvania Rules of Criminal Procedure, one might expect criminal cases to proceed from arraignment to disposition with three or four scheduled court events in Common Pleas before sentencing for convicted defendants. Therefore, it is relevant to note that one case in the NCSC sample had 48 scheduled Common Pleas court events. Yet the average was under seven listings for cases with nontrial dispositions and under 7.5 listings for those actually disposed by jury verdict. Nonetheless, the average number of scheduled Common Pleas Court events before sentencing is still roughly twice what the rules of criminal procedure contemplate.

Total Elapsed Time from MDJ Case Initiation to Common Pleas Disposition. In the view of a lay person, the criminal process at the trial court level includes the entire set of events from arrest to conclusion. He or she might not make a distinction between the MDJ court and the Court of Common Pleas. It is therefore important to consider the entire amount of time that has elapsed from preliminary arraignment in MDJ court to disposition in Common Pleas. Table 2.8 presents that information for the cases in the NCSC sample.

Table 2.8. Elapsed Time from MDJ Preliminary Arraignment to Common Pleas Disposition for NCSC Sample Cases³²

Days from Preliminary Arraignment to Disposition	For Cases with Nontrial Dispositions (N = 100)	For Cases with Jury Trial Dispositions (N = 10)
Longest Elapsed Time	2,057 Days	1,133 Days
Average Elapsed Time	434.9 Days	477.9 Days
Shortest Elapsed Time	113 Days	206 Days
Percent within 180 Days	15.2%	0%
Percent within 365 Days	52.7%	50%

From this overall data, we see that only a small percentage of Common Pleas criminal cases are disposed within 180 days after initiation, and that only about half are completed within a year. For sample cases disposed without trial, the overall average time to disposition was over 14 months (about 435 days), and for cases that went to jury trial, it was almost 16 months (about 478 days).

Sentencing, Probation and Probation Violations. If a defendant is convicted, the Court may order a probation officer from Adult Probation and Parole Services (APPS) to prepare a presentence investigation report. That report is then considered at a sentencing hearing, at

³² Source: NCSC analysis of case data provided by CAO.

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which the judge may impose a sentence that can consist of jail, probation, community service and fines. If probation is part of the sentence, the defendant is supervised by a probation officer and is required to follow such terms of probation as drug testing, periodic reporting, and remaining free of any further arrest.

If a person under probation supervision fails to comply with the terms of probation with regard to such requirements as those for drug testing or meeting with a probation officer, he or she may be cited for a "technical" violation.

If the probation violation involves arrest for a new crime, then the violator in almost all circumstances is admitted to County Prison and is jailed pending the completion of court hearings on the probation violation. As we have noted above, the County Prison Warden has reported that there was a monthly average of 478 persons admitted to prison in 2010, of which about 22% (105 persons a month) were for parole or probation violations.³³ Based on the ratio of probationers to parolees throughout Pennsylvania in 2009, NCSC estimates that there were about 75 probation violators per month in the monthly average of 105 persons admitted for this purpose.³⁴

Under the rules of criminal procedure,³⁵ the probation violation process begins with the filing of a written request for revocation with the Clerk of Courts. Following due process requirements set forth by the US Supreme Court in *Gagnon v. Scarpelli*, 411 U. S. 778 (1973), a preliminary hearing to determine probable cause (called a "Gagnon I" hearing) must first be held in MDJ court. As soon as possible thereafter, a full evidentiary hearing (a "Gagnon II" hearing), at which the defendant must be present and represented by counsel, is then held in Common Pleas Court. If the judge revokes probation, there must be a finding entered on the official court record that the defendant violated a condition of probation. Under Pennsylvania sentencing guidelines relevant to probation violations (particularly those under 42 Pa.C.S.A. § 2154.4), the court in resentencing an offender after revocation of probation must consider not only the factors identified in the sentencing guidelines generally, but also the seriousness of the violation and the rehabilitative needs of the defendant.³⁶

³³ Lancaster County Prison Warden, report to Lancaster County Prison Board, January 20, 2011. See Prison Board, Minutes of Monthly Meeting, January 20, 2011,

<http://www.co.lancaster.pa.us/lanco/lib/lanco/pris012011final.pdf> (as downloaded on March 9, 2011).

³⁴ In 2009, Pennsylvania had a total of 267,343 persons under community supervision, of which 192,231 (71.9%) were on probation and 75,112 (28.1%) were on parole. See Lauren Glaze, Thomas Bonczar, and Fan Zhang, "Bureau of Justice Statistics Bulletin: Probation and Parole in the United States, 2009," <http://bjs.ojp.usdoj.gov/content/pub/pdf/ppus09.pdf> (as downloaded March 24, 2011).

³⁵ Pa. Cr. P. Rule 708, "Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition."

³⁶ See Pennsylvania Commission on Sentencing, "Guidelines and Related Statutes," <http://pcs.la.psu.edu/guidelines> (as downloaded from Internet on March 23, 2011).

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Defendants must file a petition for release from County Prison if they might meet criteria for release pending the determination of a request for probation revocation. NCSC understands from interviews that most such petitions are filed by private retained defense counsel, and not by the Public Defender's Office. NCSC received no indication that case processing times for probable cause determinations in MDJ "Gagnon I" hearings are any different from those for preliminary proceedings in MDJ courts for other criminal cases. If this is true, then we would expect on the basis of the NCSC sample results that the elapsed time from filing of a probation revocation petition based on arrest for a new crime to the conclusion of a Gagnon I hearing in MDJ court would average 60 days or more, and that only about 15% of all probation violation cases would reach the Common Pleas Court within 30 days after the filing of a petition.

B. Recommendations

Based on its findings and observations, NCSC makes the following five recommendations for improvement of criminal case processing to assure prompt and fair justice and thereby also to reduce pressure on jail bed resources in the County Prison.

Recommendation 2-1: Develop and Implement a Common Pleas Criminal Caseflow Management Improvement Plan. Working at the direction of the President Judge, a committee chaired by a judge and with members including the District Court Administrator, Deputy Court Administrator, the Assistant Court Administrators for Criminal Cases and Information Technology, and the Directors of APPS and Pretrial Services should prepare a draft criminal caseflow management improvement plan for review and approval by the Common Pleas judges after discussions with the DA, the PD, the MDJ's, the Clerk of Courts, the Sheriff and selected Chiefs of Police, the County Prison Warden, representatives of the private criminal bar, and any others that may be designated by the President Judge.³⁷

The goals in the improvement plan should be the following:

- *Reduction of average elapsed time for preliminary criminal proceedings in MDJ courts to 30 days;*
- *Reduction of the average number of scheduled criminal case events in Common Pleas Court to five per case;*
- *Reduction of average elapsed time for criminal proceedings in Common Pleas Court by at least one-third;*
- *Among persons admitted to County Prison for probation violations involving charges of new crimes, release of 5-10% on grounds that they meet established criteria for "walk-in" status or electronic monitoring; and*
- *Reduction of average elapsed time for completion of "Gagnon I" probation violation proceedings in MDJ courts to 30 days.*

³⁷ For a quick reference on best practices, see Appendix C.

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The improvement plan promulgated by the Court should include policies providing a framework for the Court to address timely discovery and other criminal caseload management problems contributing to delays, any unnecessarily longer length of stay (ALOS) for persons in County Prison, and wasted time for judges, court staff, lawyers and other case participants. It should provide for court monitoring of preliminary proceedings at the MDJ level; the scheduling and rescheduling of pretrial conferences and trial listings; and the timely disposition of probation violations.

Recommendation 2-2: Rather than establishing individual calendars, create accountability by assigning one judge to monitor and oversee timely case progress both before and after Common Pleas arraignment.³⁸ *The President Judge should designate one judge to serve as criminal administrative judge and assign that judge the responsibility to oversee and monitor efforts to reduce unnecessary delay in case processing for criminal cases in preliminary matters at the MDJ level (including "Gagnon I" probable cause determinations on probation revocation petitions), in Common Pleas proceedings from arraignment to disposition, and in proceedings on probation violations.*

Recommendation 2-3: Improve MDJ court scheduling of preliminary proceedings to shorten time from arrest and arraignment. *Criminal cases to be heard in Common Pleas Court should proceed from preliminary arraignment and preliminary hearing to Common Pleas arraignment in no more than 30 calendar days. As part of its early and continuous control over the progress of criminal cases, the Common Pleas Court should reinstate the arraignment of all criminal defendants referred for prosecution. The criminal administrative judge should hold the Common Pleas arraignment docket and use it as a means for active monitoring of the timeliness of MDJ proceedings.*

Recommendation 2-4: Reduce unnecessary delays from Common Pleas arraignment to case disposition through the exercise of early and continuous

³⁸ Over the years, there has been continuing debate over what kind of system is best for assigning cases to judges for hearings or trials. Experts in caseload management have concluded that a court's case assignment system is not the most important issue to consider in caseload management. As early as in 1973, for example, Maureen Solomon wrote,

Experience in studying caseload management techniques throughout the United States confirms that the system and procedures used for assigning cases to judges for hearing or trial are not the most important aspect of the overall caseload management problem. *The most important factor is judicial assumption of responsibility and maintenance of commitment to court control of caseload.* [Emphasis added.]

Maureen Solomon, *Caseload Management in the Trial Court* (Chicago: American Bar Association, 1973), p. 6. For a comparison of the strengths and weaknesses of individual calendars as compared with master calendars and other systems for assigning cases to judges, see Appendix D.

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control of case progress. *The criminal administrative judge should use the arraignment docket as a means*

- *to assure that issues of eligibility for defense representation at public expense have been addressed;*
- *to assure that the provision of discovery from the DA to defense counsel is underway;*
- *to assure that defense counsel has spoken initially to the defendant about the details of the case;*
- *to inquire about PD progress in identifying any conflicts (see Step Six);*
- *to set a timetable for completion of discovery and the hearing of any motions to suppress evidence before pretrial conferences;*
- *encourage the commencement of communications between DA and PD attorneys about plea negotiations,*
- *to determine that there has been a knowing, intelligent and voluntary waiver of rights for any guilty pleas offered at arraignment or before pretrial conference; and*
- *to set the date for an initial pretrial conference in each case not disposed at arraignment.*

The Court should continue its recent introduction of having more judges hold pretrial conference dockets. The caseload management improvement plan adopted by the Court should include a policy limiting unnecessary continuances, and that policy should be followed as consistently as justice will allow by all Common Pleas and MDJ judicial officers hearing criminal matters before and after Common Pleas arraignment. (See Appendix E for a model continuance policy recommended by NCSC.)

Recommendation 2-5. Deal more efficiently and effectively with persons held in County Prison pending resolution of probation violations. *To reduce unnecessary delays in probation violation cases, and especially those for defendants detained in County Prison pending completion of Gagnon I and Gagnon II hearings, the Court's criminal caseload management improvement plan should include provisions for*

- *screening of probation violators promptly after their arrival at the County Jail to determine whether any may be suitable for "walk-in" status,³⁹ electronic monitoring, or other alternatives to detention pending completion of the Gagnon I and Gagnon II hearings;*
- *provisions to monitor and assure timely Gagnon I hearings at the MDJ level; and*

³⁹ For any defendant who appears to meet the criteria for "walk-in" status or electronic monitoring, the procedure for this could be akin to that provided by Pa. Cr. P. Rule 151, which provides that a criminal defendant who is arrested for failure to appear must be seen by a Common Pleas judge within 72 hours after arrest for the setting of new bail.

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- *Prompt appearance before the sentencing judge, or on a "Gagnon II docket" before an assigned judge for any case that need not be heard by the sentencing judge.*

C. Expected Efficiencies

If the NCSC recommendations for criminal case processing are implemented, substantial achievement of the improvement goals suggested above might reasonably be expected within two years. It is possible to estimate the impact of achieving these goals with more specificity.

Reduction of Delay in Preliminary Criminal Proceedings in MDJ Courts. If the average elapsed time in preliminary proceedings in MDJ courts were reduced to 30 days, the average time from criminal case initiation to Common Pleas disposition shown above in Table 2.3 would be reduced by 30-40 days. For any criminal defendants who are in fact innocent, it would mean that they could get on sooner with the rest of their lives and become a contributing member of the community rather than a ward of the County. For victims of crime and citizens generally, this would mean that convicted criminals would be punished sooner. For defendants sentenced for felonies to state prison, it would mean that the cost of incarceration would shift sooner to the Commonwealth of Pennsylvania.

The Lancaster County Prison Warden reports that there were 380 inmates in a *pretrial status awaiting trial* (excluding probation and parole violators) as of December 31, 2010. Based on data provided by the Warden, NCSC estimates that those inmates had been detained awaiting trial for an average of 197 days (see Table 2.2). If the average time from initiation of preliminary criminal proceedings in MDJ court to Common Pleas filing were reduced to 30 days, then the average length of stay for these prisoners would be reduced. The impact of this would be to reduce the average inmate population by 40.5 prisoners.⁴⁰

Reduction of Average Number of Scheduled Events in Common Pleas Court. Tables 2.4, 2.6 and 2.7 present information from the NCSC sample on the number of scheduled court events for criminal cases in Common Pleas Court. Although it is not realistic to expect that all continuances can (or should) be eliminated, it is both possible and desirable to reduce the number of times that court events are rescheduled. To do so calls for the Court to exercise

⁴⁰ This and subsequent NCSC estimates of prison population impact in this section are based on the following manner of calculation. The Lancaster County Prison has a rated capacity of 1,143 inmates. This means, in effect, that in a year it can provide a single jail bed for each prisoner for 365 days. The total jail-bed capacity of the prison is thus (1,143 inmates X 365 days =) 417,195 jail-bed days per year. If the average time to disposition were reduced by one day for 365 inmates awaiting trial or conclusion of probation violation proceedings in the Lancaster County Common Pleas Court, then the average inmate population would be reduced by the equivalent of one prisoner.

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early and continuous control of the progress of cases to disposition with attention to the problems and concerns of lawyers about discovery and plea negotiations.

Based on the results from the NCSC sample of cases disposed by jury trial and nontrial means, a reduction of the number of scheduled court events to an average of five per case would reduced the number of scheduled court events in Common Pleas criminal cases by more than 25%. With about 5,000 criminal cases filed each year (see Table 2.1), this would mean about 9,000 fewer scheduled court events per year. For judges, lawyers, support staff and others engaged in criminal cases, this means that they have about 25% more time, which can be applied more productively to the work they must do.

Reduction of Elapsed Time for Criminal Proceedings in Common Pleas Court. Reducing the number of rescheduled events in criminal cases would reduce times to disposition. Shortening the elapsed time for criminal cases in Common Pleas has all of the general benefits described above for innocent defendants, victims of crime, community safety, and earlier shifting of incarceration costs to the Commonwealth.

If criminal cases were subject to early and continuous control by Common Pleas judges, with greater attention to addressing discovery issues and improved attorney communications about plea negotiations, NCSC estimates that the average time that cases would be pending in Common Pleas would be reduced by one-third, or about four months, if disposed by nontrial means. For cases that actually went to jury verdicts, NCSC estimates that elapsed time in Common Pleas might be reduced by more than 40%, or about seven months.

For cases with defendants in County Prison pending adjudication, the results would be similarly dramatic. NCSC calculates that the inmates who were in a pretrial status awaiting adjudication at the end of December 2010 had been held an average of about 160 days after Common Pleas filing. If the length of time in County Prison pending trial or plea were reduced by an amount proportional to the reduction in average Common Pleas time for all NCSC sample cases, then their jail time pending adjudication would be reduced by an average of 56.3 days, or almost two months. The impact of this would be to reduce the County Prison's average monthly inmate population by the equivalent of 58.3 prisoners.

Release of Low-Risk Probation Violators Jailed Pending Probation Revocation Proceedings.

According to the Warden, the County Prison's average monthly population of 1,148 inmates in 2010 included an average of 105 persons admitted per month to await court proceedings on possible probation or parole revocation. Based on statewide probation and parole data,⁴¹ NCSC estimates that about 75 of the 105 were admitted for probation violations, or a total of about 900 per year. If 5-10% of the persons with probation violations were found to meet criteria for

⁴¹ See above, note 32.

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"walk-in" status or electronic monitoring, then the County Prison might have reduced demand on its facilities amounting to at least 150 jail-bed days per month, or the equivalent of four or five prisoners per month.

Reduction of Time for MDJ Court Completion of "Gagnon I" Hearings. For the estimated 75 inmates admitted each month to the County Prison after arrest for probation violations, shorter average times to the completion of Gagnon I hearings in MDJ courts would have a significant impact on their length of stay. If the average length of stay for inmates admitted for probation violations is the same as that for all criminal cases in the NCSC sample, then achieving an average time of 30 days from prison admission to Gagnon I hearing would amount to a 56% reduction of the elapsed time to a MDJ court finding of probable cause on a probation revocation petition. With an estimated 75 probation violators admitted per month to the County Prison, the impact of this would be to reduce the average month prison population by the equivalent of 8.0 prisoners.

Summary. NCSC estimates that Common Pleas exercise of early and continuous control of criminal case progress would reduce the average monthly population of the County Prison by the equivalent of about 110 inmates. Reduction of the average length of stay (ALOS) for defendants as a result of shorter times to disposition would reduce pressure on the 1,143-bed capacity of the County Prison by almost 10%. Implementing the recommendations offered here dramatically changes the scope and urgency of the need to plan for adding jail-bed capacity. While more beds may still be needed before 2025, the need will be less than initially projected by consultants.

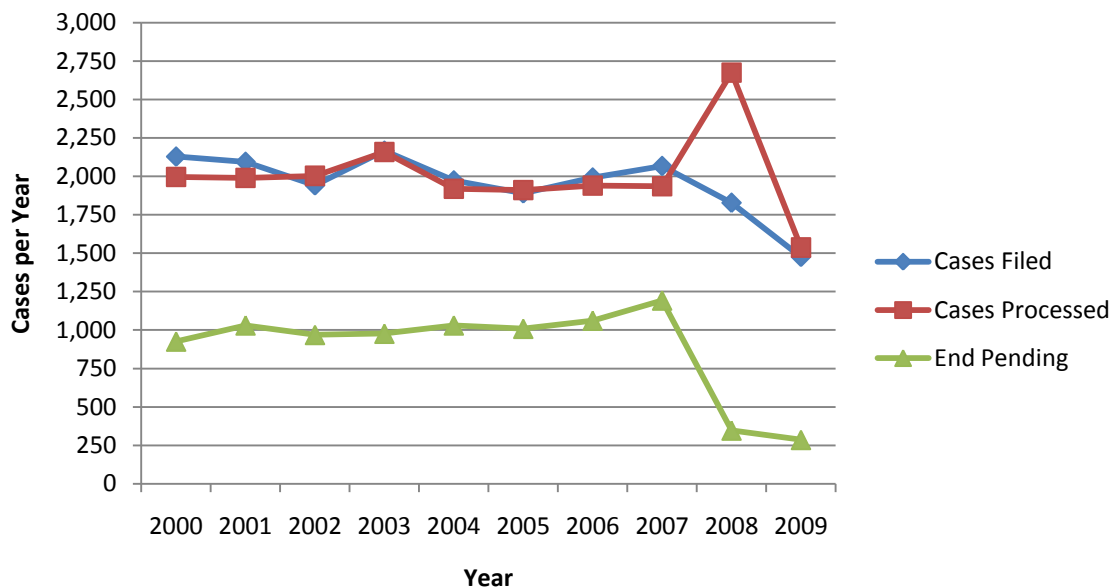
It is in the interest of the Court, the District Attorney, and the Public Defender to take the steps recommended here. A reduction of the number of scheduled criminal court events by 25% as estimated would give the people in these organizations 25% more time to deal more effectively with criminal cases.

Other Promising Immediate Improvement Opportunities

Step Three. Reduce Inefficiencies in Juvenile Delinquency Cases

In Lancaster County from 2000 through 2007, juvenile delinquency case filings and cases processed averaged around 2,000 per year. In 2008, however, as Figure 3.1 shows, the Court processed about 2,700 cases and only about 1,800 were filed.⁴² As a result, the number of cases pending at the end of each year fell dramatically, from almost 1,200 at the end of 2007 to about 350 at the end of 2008. The pending inventory at the end of 2009 was under 300 cases, or about one-third what it was at the beginning of the decade. Notwithstanding these dramatic improvements, some of those interviewed by NCSC still had concerns about delinquency case processing in Lancaster County.

Figure 3.1. Lancaster County Delinquency Case Trends, 2000-2009⁴³



Despite the results shown in Figure 3.1, NCSC learned from interviews with Common Pleas department heads and other institutional stakeholders that there may nonetheless be delays and inefficiencies in the progress of juvenile delinquency cases from initiation to conclusion. Two areas were identified in the interviews for which there may be increased "transaction

⁴² The Office of Court Administration reports that this was due to an administrative purge of certain cases. Over the prior two decades cases had begun to accumulate that had not been processed for reasons like the juvenile was missing or deceased. This created what looked like a large backlog in unprocessed cases, even though in actuality some of the cases could never be processed because the juvenile had 'aged out', passed away or could not be located. In 2008, the Office of Court Administration identified the exact number of cases that could be processed and was granted permission by AOPC to purge the other cases from the report.

⁴³ Source: AOPC. See Appendix H for details.

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costs" arising from avoidable redundancies of effort by personnel of the Court and its justice partners. One of these involves potential system inefficiencies in juvenile delinquency case processing. The other has to do with the location of court hearings for juvenile delinquency cases. These two issues are interrelated, and they are considered together in this section.

A. Findings and Observations

Commencement of Delinquency Case Process. A juvenile delinquency case begins when a person at least 10 years old and under the age of 18 is arrested by the police for committing an offense that would be a misdemeanor or felony if committed by an adult. See Figure 3.2 for an overview of the delinquency process in Pennsylvania.

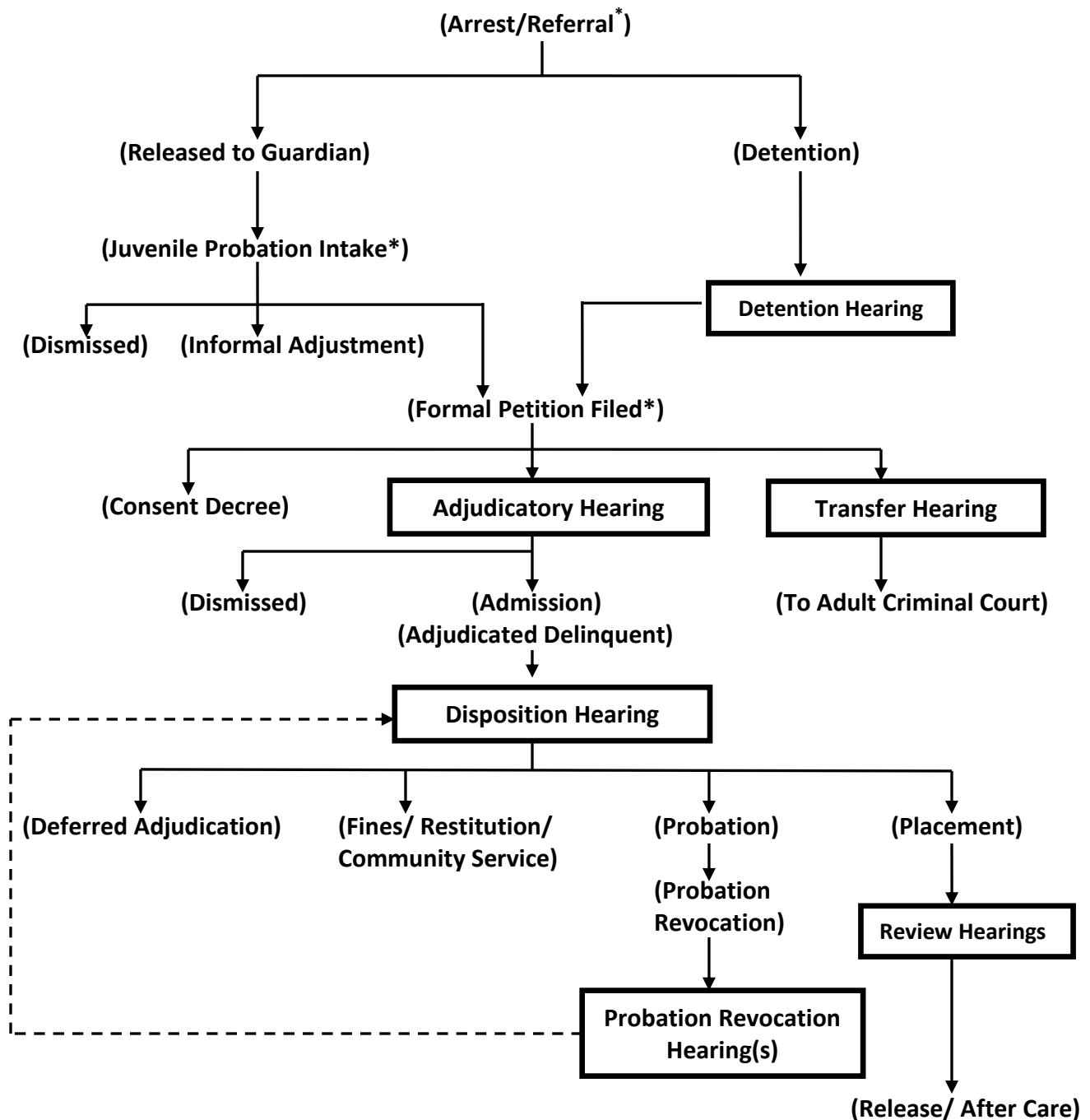
Upon the arrest of a juvenile, there are three options: (1) if there are suitable grounds, allow for diversion from the delinquency process; (2) release the child to the custody of a parent or guardian; or (3) for a more serious offense, hold the child in detention at the County's Youth Intervention Center (LCYIC). If the child is not diverted by law enforcement, the case is referred to the Court's Juvenile Probation Office with a written allegation using a form supplied by the probation office. A copy of the allegation is immediately forwarded to the Office of the Lancaster County District Attorney (DA) for review.

Juvenile in Detention. If a juvenile is held in detention, the referring juvenile probation officer (PO) must give notice to the police and the DA; notify the parents that a hearing will be held within 72 hours of the juvenile's commitment; and schedule the detention hearing on the juvenile calendar through the Office of Court Administration. If the juvenile has not retained counsel, the Court automatically assigns the case to the Office of the Public Defender (PD) prior to the detention hearing. The juvenile PD attorney then represents the juvenile from the detention hearing to final disposition unless the juvenile chooses to retain private counsel.

At the detention hearing, the DA reports to a Hearing Master on the reason for detention and any information available about the personal history of the juvenile, then offers a recommendation on continued detention, after which the PO and PD offer any arguments they may consider appropriate. Detention hearings are held at preset times: Mondays, Wednesdays and Fridays at 8 a.m. at LCYIC before a Juvenile Court Hearing Master.

Adjudicatory hearings for youth who are in detention are generally scheduled on Wednesday mornings. The number of detained youth that appear in court is generally six or less per session, and there are estimated to be less than 20 a week. Girls and boys must be transported separately. With two officers per transport and two transports, this can tie up several deputies on some days. Another concern, in addition to the transport resources and security concerns,

Figure 3.1.
Pennsylvania Juvenile Delinquency Process Overview⁴⁴



⁴⁴ Source: See Feierman, et al., *Navigating the Juvenile Justice System in Pennsylvania: A Guide for Parents and Guardians* (Philadelphia, PA: Juvenile Law Center, 2011), http://www.jlc.org/images/uploads/Parents_Guide-Navigating_the_JJ_System-02-17-11.pdf (as downloaded from the Internet on March 14, 2011).

* A child may be eligible for diversion from the juvenile justice process at any of these stages.

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has been the holding area at the courthouse. On days when there are a number of both adult criminal defendants and juvenile offenders it can be difficult to maintain proper “sight and sound” separation of the juvenile offenders in the holding area in keeping with federal mandates.⁴⁵

Juvenile Not in Detention.⁴⁶ If a juvenile is not held in detention after arrest, the police agency either mails or hand delivers an affidavit in support of probable cause to the Juvenile Probation Office. An initial decision is made the same day as to whether the case will be handled informally or treated formally on a delinquency petition to Juvenile Court. An intake interview is generally conducted three weeks after the case is referred to the intake unit. The juvenile can admit the allegations, deny the allegations or remain silent in response to the allegations.

At any time prior to the filing of a delinquency petition, a juvenile PO may choose to handle the referral informally. An informal adjustment cannot be made after the petition has been filed. If the juvenile admits the allegations after having been read his or her Constitutional rights and the PO finds that the case can be handled informally, then the juvenile and the guardians are informed of rules, terms and conditions of probation. Informal probation begins on that on that day.

If during the probation intake interview a juvenile not represented by retained counsel either (a) denies the allegations, (b) remains silent, or (c) admits the allegations but an informal disposition is not appropriate, then the juvenile and his or her parent(s) or guardian(s) are referred to the PD. The juvenile PD offers advice to the client about whether to make a formal admission or denial of the charges. If the juvenile then makes a formal admission, the case may be handled informally. Otherwise, a delinquency petition is filed in Juvenile Court.

Delinquency Petition. If the juvenile denies the allegations on advice of counsel, or if the circumstances of the case lead the juvenile PO to conclude that it is not appropriate for an informal disposition, the intake officer prepares a petition for the juvenile to appear before a judge of the Court of Common Pleas and immediately files the petition with the Clerk of Courts. While not common, it is also within the prosecutorial discretion of the DA's Office to file a delinquency petition on its own initiative, based solely on the information contained in the

⁴⁵ When juveniles are in secure custody, section 223(a) (13) of the JJDP Act [42 U.S.C. §5633 (a) (13)] requires that they “do not have contact with adult inmates.” Federal regulations explain that avoiding such contact requires “sight and sound separation” of juveniles from adult offenders, and that any contact in a dedicated juvenile area, including any residential area of a secure facility, between juveniles in a secure custody status and incarcerated adults would be a reportable violation that might invoke the penalty provisions of the JJDP Act. 28 CFR §31.303(d)(i).

⁴⁶ If a juvenile is released from detention after a detention hearing, then the case proceeds in the same manner as it would for a juvenile who had never been detained.

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initial referral from law enforcement. A letter with a copy of the petition is immediately sent to the parents or guardian

Formal Adjudication Process. If the Court did not order a juvenile released from detention at the conclusion of the detention hearing, an adjudicatory hearing must be held within 10 days after the date of the petition. Prior to the adjudication hearing, the juvenile intake officer refers the case for assignment to an investigating officer who will take the case after the adjudication. The intake officer handles the case through adjudication.

Most juveniles are not held in detention, however, and statewide juvenile procedure rules provide that the adjudicatory hearing in such a case must be held within a reasonable time. In Lancaster County a date certain is set for an adjudicatory hearing to be held on a Wednesday three weeks after the petition filing date if the juvenile denies or remains silent on the allegation, with the PD or other defense attorney given notice of the court date. An investigator is assigned to the case, and notice is sent to the parents to inform them of the date and time of the hearing. If the juvenile is found to have committed the offense the parents and the juvenile are given a date for an interview by the investigating officer, during which the investigator completes a full social history, does an formal assessment of risk and criminogenic needs and prepares for disposition to be scheduled at a later date, but less than 60 days from the adjudication.

Court rules encourage an informal discovery process in which prosecution and defense counsel provides required or requested information not in dispute. If a request is not met, the demanding party may file a motion with the Court requesting disclosure of the requested information. It is expected that such a discovery motion should be made as far in advance of the adjudicatory hearing as possible. Motions for discovery should include an enumerate the efforts made by both parties in good faith to meet discovery requests.

It is anticipated that the defense attorney would request that discovery be provided during the three-week period, meet with the juvenile and family or guardian, and offer any proposed admission to a lesser offense to the DA, if appropriate in the circumstances of the case. NCSC understands, however, that the reality in Lancaster County is that everyone waits until the date set for the first adjudicatory hearing before taking any action.

NCSC understands further that PD staff attorneys feel overwhelmed, and that the primary juvenile PD does not request discovery if the juvenile defendant does not agree with the charges, or if he himself sees a legal or evidentiary problem with the case. NCSC heard in an interview that juvenile PO's provide key information to the DA's Office early in the process, but that discovery requests are sometimes not made until 30-60 days into the process.

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The juvenile DA, and juvenile PD are both experienced attorneys who know from years of experience how long disposition of a juvenile delinquency case should take given the charge and surrounding circumstances. When the PD and DA start to negotiate the disposition of the case before the adjudicatory hearing, adjudication and disposition could be completed on the same day. This happens in 30% of the cases but could happen more often through better communication between the district attorney and public defender. In interviews NCSC was informed that the procedure in place for processing case is that an adjudication date is set for the third Wednesday after the intake interview and during this three week period the public defender is to meet with the client, determine the strength of the case and submit to the DA a plea, or admission to a lesser charge if appropriate. The reality is that this procedure is not or cannot be followed, and a request for discovery is usually not made until the first adjudicatory hearing.

NCSC learned, through interviews, that the greatest barrier to getting cases resolved quickly is the lack of timely discovery. The DA does not release discovery until a formal request is made. The PD admits that on some occasions, where the case appears problematic, he does not seek discovery. Since in only a very few cases will discovery be contested, there is little reason for untimely discovery. To overcome this barrier, discovery should be deemed requested when the petition is filed. Even in cases that appear problematic, discovery is necessary to reach final disposition of the case, even if it means that allegations are not approved for prosecution. When 78% of cases result in probation, it means that the PD and DA are just negotiating the terms and conditions of probation. Through experience, and available data, both the PD and DA know that the likely disposition of a case is probation. The question then becomes, why wait to get a resolution and hold multiple hearings. The terms and conditions of probation can be determined soon after both sides have reviewed discovery and the facts of the cases.

Disposition. If a juvenile in detention is found delinquent by the Court after an adjudicatory hearing, statewide rules of procedure provide that a disposition hearing must be held within 20 days after the adjudicatory hearing, if the juvenile is in detention. If a juvenile not in detention is found delinquent, then a disposition hearing must be held within 60 days after the adjudicatory hearing. In Lancaster County a date certain is set for a disposition hearing to be held ten Mondays after the delinquency petition filing date. The rules allow for a disposition hearing to be held on the date set for adjudication as long as the distinction between the types of hearings is maintained. This is not uncommon, particularly if there has been a negotiated resolution by the DA and defense counsel, so that the Court is offered an admission by the juvenile defendant on the date set for adjudication.

Location of Court Hearings. There is a debate about whether the effectiveness and efficiency in juvenile delinquency proceedings would be improved by holding more court hearings at the

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Youth Intervention Center (YIC). The NCSC project team will seek to aid the resolution of this debate by identifying the relative advantages and disadvantages, both in terms of qualitative justice and cost considerations, of at least three options: (1) continuing to have all delinquency hearings at the Common Pleas Court; (2) for detained juveniles only, holding delinquency hearings at YIC; and (3) holding all delinquency hearings at YIC.

The NCSC project team was asked to review the feasibility of conducting proceedings for detained juveniles at the Youth Intervention Center (YIC). All juvenile proceedings are currently conducted at the courthouse and assigned to two judges. The detention administrator and sheriff have advocated having the court conduct hearings at YIC in the interest of security and reduced transport costs.

The YIC has a hearing room located just off the main lobby that is currently used by hearing masters three days a week to conduct detention hearings. The setting is informal, with a table for the hearing officer and chairs for participants. Additional modifications would be needed to conduct judicial hearings, including more separation of the judge's work area from the seating area and the installation of a recording system. One of the intangibles to consider is the setting itself and its impact on the seriousness of the proceedings. The formality of a court room setting sets a very different tone than a more informal hearing room. Separate conference space is available in a large conference room adjacent to the administrative offices, and a computer training room could be used in a pinch. However, these areas are within the secure zone and not accessible to the public. The public waiting area is spacious but the only private meeting space is a small visiting room off to the side that is not really suitable for holding witnesses or victims. Secure parking for the judge is available in the detention garage, the judge would be required to access the courtroom by either going around the building and into the public waiting area, or stay inside by going through the residential section of detention. Secure parking for staff would not be available.

B. NCSC Sample of Recently-Disposed Delinquency Cases

The Director of the Juvenile Probation Department provided NCSC with data on a sample of 100 recently-disposed delinquency cases for which a delinquency petition was filed in 2010.⁴⁷ The data sample represented cases handled by various probation officers, but otherwise no identifying information was released. The sample was also not chosen from any specific group of juveniles, so that it included cases with allegations of felonies, misdemeanors or both, and

⁴⁷ A representative sample of 100 cases can be expected to yield sample results in 19 out every 20 efforts that would vary no more than $\pm 10\%$ from the results from analysis of the entire pool of cases from which the sample was drawn. See Herbert Arkin and Raymond Colton, *Tables for Statisticians* (New York: Barnes & Noble, 2d edition, 1963), pp. 142-147.

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with female and male offenders. The previous histories of the juveniles in these cases was also not revealed. The sample included both juveniles in detention and those who were not.

Analysis of the cases in the sample shows that the average number of days from intake to disposition was 95 days. The longest elapsed time of a single case from intake to disposition was over 21 months (658 days), and the minimum time was 9 days.

Time to Adjudicatory Hearing. Fewer than half of the cases were disposed after just one scheduled adjudicatory hearing date. Overall, the adjudicatory hearing was continued at least once in 53% of the cases. Table 3.1 shows data from the NCSC sample on elapsed time from juvenile probation intake to disposition, by the number of times it was necessary to list a case for an adjudicatory hearing date.

Table 3.1. Days from Intake to Disposition for Cases with Formal Delinquency Petition, by Number of Scheduled Adjudicatory Hearing Dates⁴⁸

Number of Scheduled Adjudicatory Hearing Dates Required	<u>Time from Intake Date to Disposition Date</u>		
	Longest Elapsed Time (in Days)	Average Elapsed Time (Days)	Shortest Elapsed Time (in Days)
One (N = 45)	354	55	9
Two (N = 30)	167	96	30
Three (N = 14)	160	118	51
Four (N = 5)	225	167	92
Five (N = 2)	112	104	96
Six (N = 2)	294	193	91
Seven (N = 2)	184	126	68
All (N = 100)	354	95	9

Among the 100 sample cases, 45 were resolved with just one scheduled date (called a "listing" by Juvenile Probation) for an adjudicatory hearing. For those cases the average elapsed time from intake to disposition was 55 days, although some cases took much longer. Fifty-five days is well within what NCSC understands is the statewide goal in Pennsylvania for elapsed time from initiation for disposition in formal adjudication proceedings for juveniles not in detention (i.e., 21 days from intake to adjudication and 60 days from adjudication to disposition).

⁴⁸ Source: NCSC analysis of data provided by Lancaster County Juvenile Probation Director.

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For the remaining 55 sample cases, however, the adjudicatory hearing was continued one or more times. With the exception of two or three cases with second and third listings for adjudication that were disposed within the desired time frame, every other case with more than one listing took longer than the desired time frame to proceed from intake to disposition.

Clearly, the more times a case is scheduled and rescheduled for an adjudicatory hearing, the longer it will take before the matter is disposed. Yet the time frames for cases with just one listing indicate that cases can often be resolved within or near the 81-day time frame.

The impact of multiple listings is reflected in the amount of elapsed time from one scheduled adjudicatory hearing date to the date to which the adjudication hearing was continued. Table 3.2 offers graphic expression of the number of days between scheduled adjudication hearing dates as they were first listed and then relisted.

Table 3.2. Elapsed Times Between Scheduled Adjudicatory Hearings in Sample Cases⁴⁹

	<u>Elapsed Time in Days</u>						
	Intake to Listing 1	Listing 1 to Listing 2	Listing 2 to Listing 3	Listing 3 to Listing 4	Listing 4 to Listing 5	Listing 5 To Listing 6	Listing 6 To Listing 7
N	100	53	24	11	6	4	2
Average	32	33	30	35	40	117	17
Maximum	354	126	91	75	88	294	21
Minimum	5	7	4	9	7	21	12

In 16 of these cases, the juvenile defendant was detained pending adjudication, so that the first adjudicatory hearing was scheduled to take place within 10 days after the filing of the petition. The average number of days between petition and first listing for detained juveniles was 8 days. For the remaining 84 juveniles who were not in detention pending adjudication, the average elapsed time was 36 days to their first scheduled adjudicatory hearing date.

The average number of days from one adjudicatory listing to the next was fairly consistent, with almost all cases continued for an average of about a month. This was not necessarily so in cases that required six or more hearing dates, however. In those cases, the number of days between the fifth listing and the six listing was three or four times the average time between earlier listings.

⁴⁹ Source: Ibid.

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Time to Disposition Hearing. After adjudication in a non-detention case, 60 days are allowed to prepare for a disposition hearing. In many circumstances, case participants consider it desirable to dispose of a case on the same day as the adjudication, without a separate scheduled court event. For cases in which the Court entered a disposition on the same day that the matter was adjudicated, the elapsed time from adjudication to disposition was "0" days. Table 3.3 shows elapsed times from adjudication to disposition, distinguishing cases disposed on the adjudication date from those with a separately-scheduled disposition hearing.

Table 3.3. Elapsed Time from Delinquency Adjudication Date to Disposition Hearing Date in Sample Cases⁵⁰

Timing of Disposition Hearing After Adjudication	Elapsed Days from Adjudicatory Hearing to Disposition Hearing		
	Average Time	Longest Time	Shortest Time
Disposition on Date of Adjudication (N = 37)	0	0	0
Disposition Hearing After Date of Adjudication (N =63)	44	129	19

As the table shows, the average number of days from adjudication to the date of a disposition hearing held after adjudication was about a month and a half (44 days). For 25 cases, a separate disposition hearing was held within 30 days, and for 53 cases the disposition hearing was held within 60 days after adjudication. If the number of cases same-day dispositions is combined with that for separate disposition hearings held 60 days or less after the adjudication date, then 90% of the sample cases had a disposition within the prescribed 60 days after adjudication. By and large, the problems of delay in Lancaster County delinquency cases thus appear to arise between intake and adjudication, and not between adjudication and disposition.

It is instructive to see the actual outcomes in the sample cases. Placement was ordered in only 13 cases. In the great majority of cases, juveniles were placed on probation. There were seven cases resolved through a consent decree.

One of the most interesting data elements in terms of efficiencies is whether the final disposition is substantially different from the original charges. The data provides a record of whether the original charges were substantiated, reduced, amended or withdrawn. In cases where multiple charges were filed more than one event may have occurred, therefore, there is

⁵⁰ Source: NCSC analysis of data provided by Lancaster County Juvenile Probation Director.

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overlap in data. Ninety-four cases had a least one charge substantiated or a consent decree. Charges were not dismissed in any of the cases, although there were 11 cases in which the charges were withdrawn. Charges were reduced in only three cases, but they were amended in 16 cases. This indicates that most of the time the charges were substantiated as originally charged, and only occasionally were the charges amended or withdrawn.

C. Recommendations

Recommendation 3-1: Reduce Rescheduling of Juvenile Delinquency

Adjudicatory Hearing Dates. *The Court, DA and PD should dramatically reduce the number of necessary scheduled adjudicatory hearing dates, so that almost all cases are resolved on or before the first-scheduled adjudicatory hearing date.*

This should be done by providing

- *that a request for discovery is deemed made by the defender as soon as a formal petition is filed, and*
- *that there be early court-sponsored review of cases by a juvenile PO, an assistant DA, and an assistant PD or private defense attorney to determine which are likely to result in probation absent evidentiary issues requiring further discovery, so that they can be resolved promptly without a need for further continuances after the first-scheduled date for adjudicatory hearing.*

Recommendation 3-2: Hold Delinquency Hearings at the Courthouse, and Use Video Hearings when Suitable or when Required for Security. *With exceptions as needed in the interest of justice, court hearings in delinquency cases should be held at the courthouse, and not at YIC. The Court and YIC should establish a video conferencing system to conduct proceedings by video when appropriate. Examples would be cases involving youth who present a substantial security risk or non-dispositive matters such as motions and requests for continuances.*

D. Expected Efficiencies

Delay and Purposes of Juvenile Delinquency Courts. Scientific evidence shows that having prompt consequences after the commission of an offense is important for behavioral change to take place, especially in juveniles. When the consequences for the juvenile are delayed so that the juvenile fails to make a connection between the action and its consequence, the system has failed to impact the juvenile's behavior and increases the likelihood that the juvenile may reoffend. A juvenile court is charged with assisting juveniles make better choices and learn

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from their mistakes. If the court is not assuring immediate consequences, however, then it loses the opportunity to have a significant impact the lives of juvenile offenders.⁵¹

The rescheduling of hearings for juveniles in Lancaster County presents this potential problem. It is difficult for any judicial system to impose immediate sanctions, since the system can only move so fast, and yet multiple listings only add to an already slow process. Although a 30-day continuance may not seem like a lot to an adult but it can dampen the likelihood that the juvenile will learn from his mistakes. Multiple continuances also give juveniles the impression that their offense is not important and not taken seriously by the court. Because the impact of multiple continuances is not easy to quantify it seems that this is a cost that is considered too lightly by a slow moving judicial system.

More Active Early Case Scrutiny. With about 80% of all formal delinquency cases resulting in probation, the NCSC project team suspects that juvenile probation officers and lawyers know or should know at the filing of a petition what the most likely outcome of a case will be, and what cases might turn on particular kinds of evidence that would either substantiate the petition, make a "downgrade" to adjudication on lesser charges necessary, or force withdrawal of the prosecution altogether. Early scrutiny of the legal and evidentiary issues in cases would allow experienced juvenile lawyers like those in Lancaster County to distinguish the cases that have clear evidence and would be very likely to result in lesser sanctions, from those for which the gravity of sanctions may turn on specific evidence, or from those in which there are key evidentiary issues in dispute and a prospect of more serious sanctions.

Reduction of Rescheduled Adjudicatory hearing Dates. The cost due to multiple continuances is substantial. Subsequent listings require additional time and resources from every person who has to "touch" the case. This includes not only judges, lawyers and juvenile PO's, but also support staff In the Court, Juvenile Probation, the DA's Office, the PD Office, YIC, the Clerk's Office, Sheriff's Department juvenile transport to and from YIC, law enforcement officers and others who may appear as witnesses for the prosecution (with possible overtime pay for police witnesses), witness called by the defense, and the parents or guardians of the juvenile (who may have to take time off from work each time a hearing is scheduled).⁵²

⁵¹ See Gene Siegel and Greg Halemba, "The Importance of Timely Case Processing in Non-Detained Juvenile Delinquency Cases". *Technical Assistance to the Juvenile Court: Special Project Bulletin* (Pittsburgh, PA: National Center for Juvenile Justice, 2006).

⁵² Every hearing scheduled in the Court involves time and effort to prepare for and appear in the courtroom. The value of that time and effort can be calculated in terms of salary and fringe benefits. For some participants in a case, there is a clear cost in terms of overtime (police witnesses), lawyers' fees (paid to retained counsel), or lost pay (parents, guardians or civilian witnesses). For a judge or other state or local government employee participating in or providing support for a hearing, there is an "opportunity cost," since time spent for each

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Legitimate reasons for continuing a case exist, but having more than 50% of cases requiring two listings or more is an indication that procedural changes need to be made. The time and resource savings gained through a few very straight forward procedural changes can be significant. Initiatives can be implemented to a relieve workload pressures and decrease costs. Steps that can be taken immediately include:

- The court, in consultation with the PD and DA, setting the expectation that listings beyond the first adjudicatory hearing will be granted only in exceptional cases;
- The PD or retained defense counsel is deemed to have requested discovery when the petition is filed. This may require a change in the local rule.
- The DA and PD should meet before the first adjudicatory hear to discuss the terms of probation when attorneys know from experience that the final disposition will be probation.
- Enhancing awareness of staff in all court and court related agencies of the cost associated with transporting a detained juvenile to and from the court;
- Enhancing the awareness of staff in all court and court related agencies the need for swift consequences for juveniles who have committed an offense.

In the Court of Common Pleas the judge can set an expectation that multiple continuances will not be allowed except in extraordinary cases.

Location of Court Hearings. Another issue the Court is grappling with is where to hold hearings for detained juveniles. The issue is whether the juveniles should be transported to the court or the judges go to the detention facility to conduct hearings. The issue arises out of the concerns about cost in time and staff resources for both the Sheriff's Office and the judges, a cost magnified by the number of subsequent listings. With every hearing on a case the juvenile must be transported to the court, which has the disadvantage of incurring additional cost to the sheriff. Costs are also associated with judges travelling to the detention facility because of lost time on the bench or reviewing other cases. Decreasing the number of adjudicatory hearings would lower the cost of both options but greater savings would be gained by making fewer juvenile transports. The court would have substantial savings just by reducing the number of transports from two to one. Every transport incurs the same cost therefore every additional listing multiplies transport costs.

Conducting proceedings at YIC would require more coordination of resources by the court. Although the distance from the courthouse is relatively short, it will take additional time to assemble case files and staff to conduct hearings. The detention setting is more secure but it

scheduled court event is time not available for the performance of other work responsibilities. For an example of what continuances can cost, see Appendix F.

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may be advisable to have a deputy available for security. Since the court and juvenile division are using paper files it will be more time consuming to pull additional information if it is needed. The Center will be installing video conferencing capability for communicating with out-county courts and facilities, and the system could be used for some in-custody proceedings for Lancaster County as well.

Clearly, a decision regarding the place of holding court is a matter of tradeoffs. The project team believes that continuing to conduct proceedings at the courthouse is the best option at this time, but also recognizes that improvements could be made to the system to reduce the impact on the sheriff's department and detention personnel. These include looking for ways to better coordinate scheduling, reduce continuances, and utilize video conferencing capabilities where appropriate.

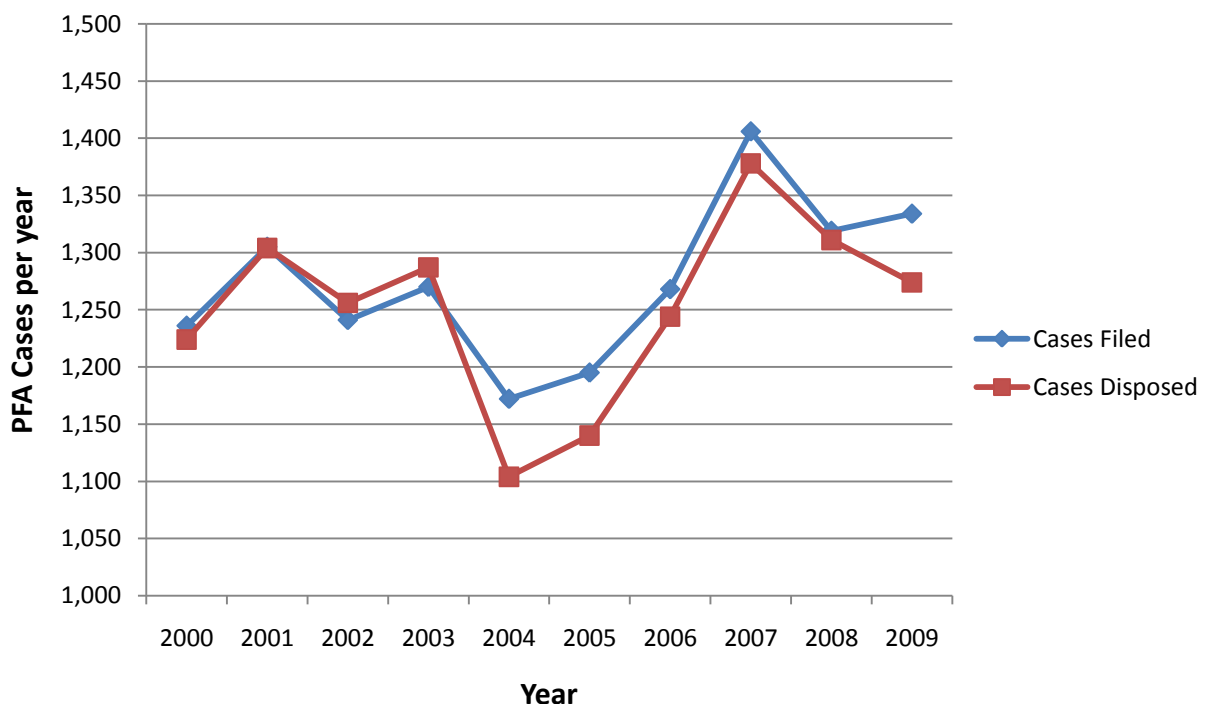
Step Four. Reduce Inefficiencies in Domestic Violence (PFA) Case Processing

In addition to inefficiencies in criminal case processing and delinquency case processing, the NCSC project team learned from interviews that there may also be delays and inefficiencies in the progress of civil domestic violence (protection from abuse, or PFA) cases from initiation to conclusion. To determine if there are increased "transaction costs" for case participants arising from avoidable redundancies of effort, NCSC has studied at the manner in which PFA cases proceed through the system.

A. Findings and Observations

In the ten-year period from 2000 through 2009, the total number of PFA filings per year has remained relatively constant, falling under 1,200 per year in only two years and exceeding 1,400 in only one year. Figure 4.1 shows trends in filings and dispositions.

Figure 4.1. PFA Cases Filed and Disposed per Year, 2000-2009⁵³



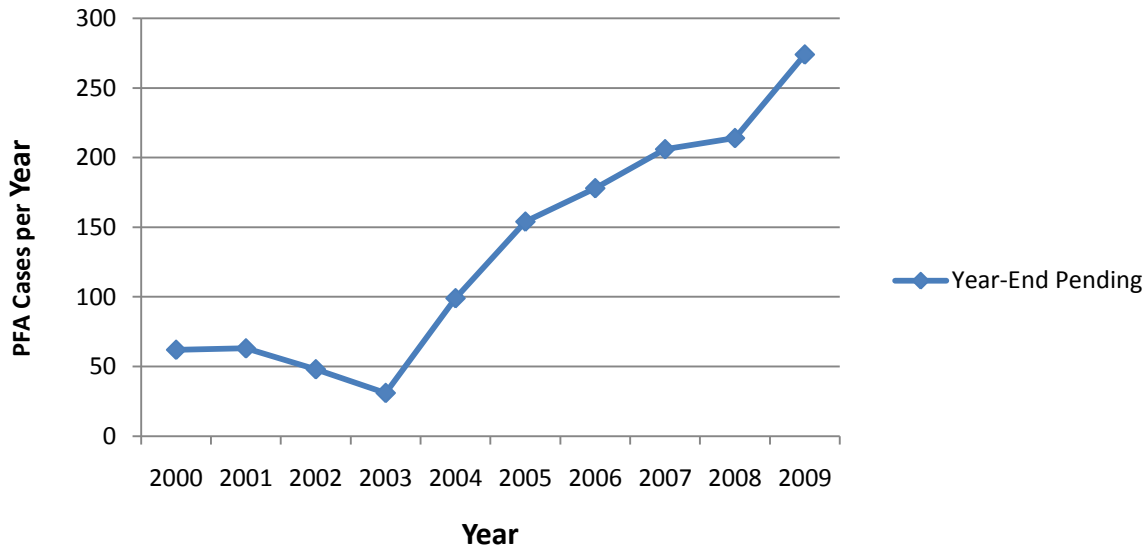
What is most notable about the data shown in the table is that PFA dispositions by the Court have lagged behind new filings every year from 2004 through 2009. Not surprisingly, as Figure

⁵³ Source: AOPC. See Appendix G for details.

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4.2 shows, the number of cases pending at the end of each year has increased consistently as a result.

Figure 4.2. PFA Cases Pending at End of Year, 2000-2009⁵⁴



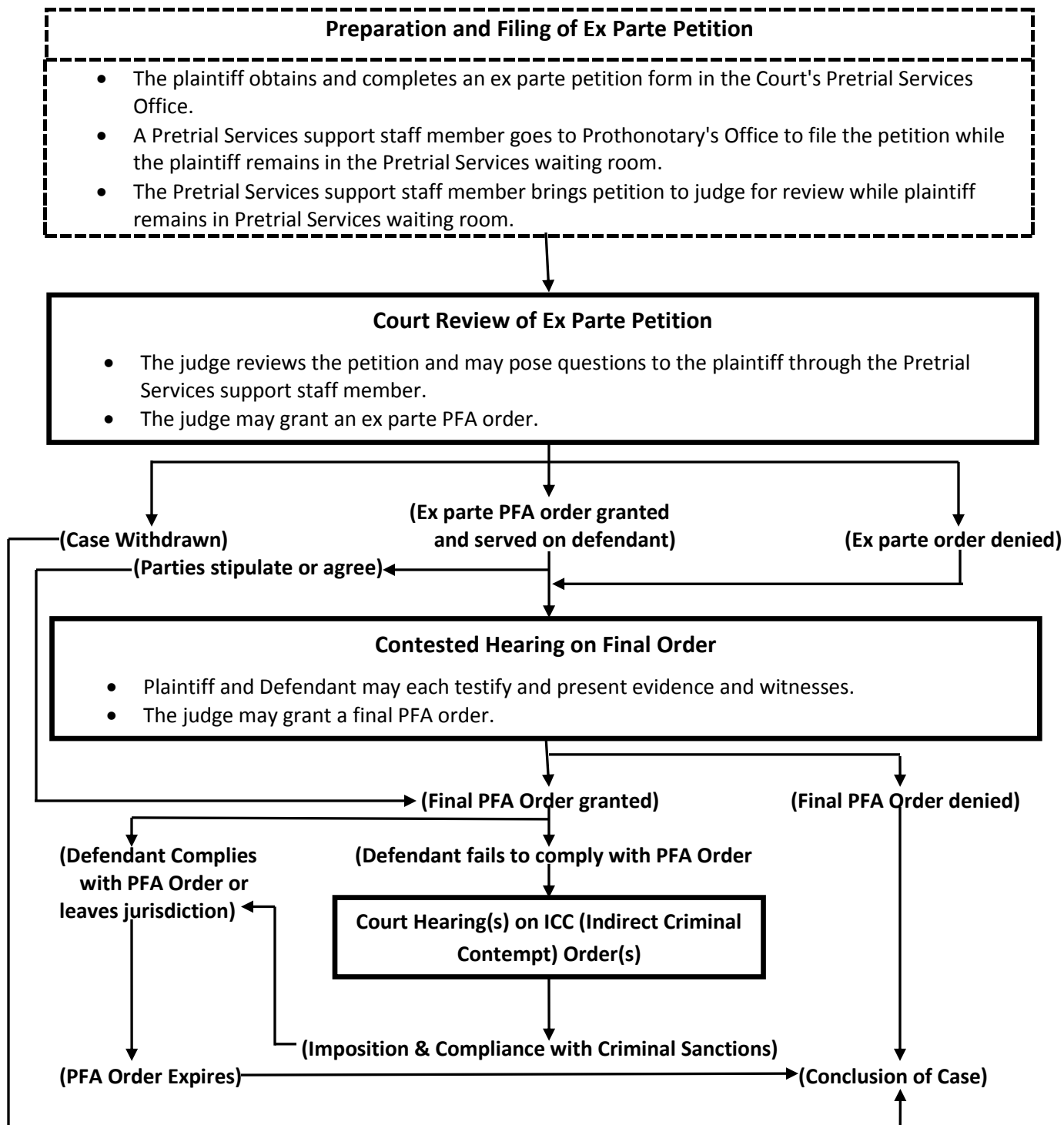
A PFA order is an order issued by a court in a civil proceeding, and its purpose is to protect a person from being harmed by a family or other household member, including a spouse, sexual or intimate partner who is a parent of the person's child. For a visual summary of the steps in a PFA case, see Figure 4.3.

Petition for Temporary PFA Order. In Lancaster County, the plaintiff seeking a PFA order receives and completes the petition for an ex parte protection order in the office of the Court of Common Pleas Pretrial Services Department. If the plaintiff seeks an ex parte order after Common Pleas court hours, he or she can contact the police and is referred to an on-duty MDJ judge for that and other purposes. The MDJ court grants only emergency orders, and the plaintiff must return to the Court of Common Pleas on the next court business day to file a petition for a temporary order.⁵⁵

⁵⁴ Source: AOPC. See Appendix G for details.

⁵⁵ See 23 Pa.C.S.A. § 6110(a)-(b).

Figure 4.3.
Lancaster County PFA Flowchart⁵⁶



⁵⁶ See WomensLaw.org, "Protection from Abuse in Pennsylvania" (as downloaded from the Internet on January 11, 2011), http://www.womenslaw.org/laws_state_type.php?id=10027&state_code=PA&open_id=11658.

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Without giving legal advice, Pretrial Services support staff members provide some assistance with the completion of the petition. When the petition is completed, the plaintiff remains in the waiting room of Pretrial Services while a staff member goes to the Prothonotary's Office to file the petition.⁵⁷ By statute,⁵⁸ the Prothonotary must accept the filing of the petition without requiring that the plaintiff pay a filing fee. NCSC learned in interviews that an unintended consequence of this has been to increase the filing of cross-petitions by domestic abuse defendants, who would have to pay costs and fees if they did not file cross-petitions.

Judicial Decision on Petition. While the plaintiff remains in the Pretrial Services waiting room, the petition is brought to a Common Pleas judge after it has been filed with the Prothonotary. The judge reviews it in chambers while the Pretrial Services staff member waits nearby to answers any questions that the judge may have. If the judge believes that the plaintiff or the plaintiff's children are in immediate danger, the judge signs a temporary PFA order that is then brought back to the plaintiff in the Pretrial Services waiting room.⁵⁹

Elapsed Time from Temporary Order to Contested Hearing. The PFA petition and temporary order stays in effect until a full contested hearing is held, which is supposed to be held within ten business days. On receipt of the temporary order, the plaintiff must give a copy of the petition and the order to the County Sheriff for service on the defendant with notice of the date for the contested hearing. If witnesses are to be called to testify at the hearing, it may be necessary for subpoenas to be issued and served on them.

Before the date of the contested hearing, the plaintiff and the defendant are encouraged to seek the assistance of legal counsel to plan testimony and the presentation of evidence. Since many PFA parties are without means to engage retained counsel, they may seek representation by organizations providing legal services for low-income clients. Unfortunately, the two organizations to which Lancaster County residence might turn -- the Pennsylvania Coalition Against Domestic Violence in Harrisburg and Domestic Violence Services of Lancaster County in Lancaster -- have experienced such severe funding cutbacks that they must ration the availability of the legal services that they can provide.

⁵⁷ NCSC understands that having the plaintiff stand by while a staff member files the petition is not a universal practice in Pennsylvania, and that a more common practice may be for a pretrial services staff member to bring the plaintiff to the Prothonotary's Office to file the petition in person.

⁵⁸ 23 Pa.C.S.A. § 6106(b).

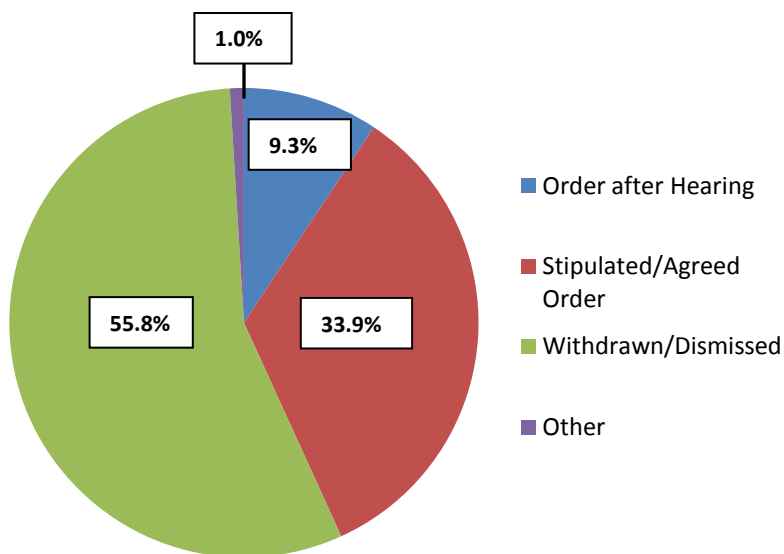
⁵⁹ It appears that Common Pleas Courts in some other counties in Pennsylvania do not follow the Lancaster County practice of having in-chambers review of a petition, but that they require the plaintiff's in court appearance before a judge. It appears that the Lancaster County judges find in-chambers review to better use of judge time and reduces courthouse congestion. Critics of the Lancaster County approach argue, however, that it causes plaintiffs not to experience the gravity and seriousness of the process in the way they would if required to appear before a judge, so that they tend to be too casual about the proceedings.

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The reduced availability of counsel for parties of limited means is one of the considerations that cause plaintiffs and defendants to request the continuance and rescheduling of the contested hearing in a case. NCSC understand that there may be a host of reasons why a contested hearing is often not held within 10 days after the issuance of an ex parte PFA order. Reasons may include difficulty the parties have getting out of work; difficulty finding childcare; difficulty with transportation; problems of substance abuse; desire to file a cross-petition; feelings of trauma; or other intense feelings about the opposing party.

Although the PFA process is designed to proceed to a contested hearing if the Court grants a temporary PFA order, it is much more common for the plaintiff to decide not to go forward, but instead to withdraw the case from Court proceedings. Another alternative is for the parties to reach an agreement and offer a stipulated or agreed outcome for approval by the Court. The pie chart in Figure 4.4 shows the relative incidence of the different disposition alternatives in Lancaster County PFA cases during the ten years from 2000 through 2009.

Figure 4.4. Relative Incidence of PFA Disposition Types, 2000-2009⁶⁰



Only around 43% of all PFA cases are disposed by the entry of a final court order, and most of those come after the parties have reached a stipulated or agreed outcome. Only about one case in ten actually has a court order after a contested hearing.

NCSC Sample of PFA Cases with Expired Final Orders. To develop a better sense of what actually transpires in the time from the entry of a temporary PFA order to the contested hearing on whether the Court should issue a final PFA order, NCSC analyzed a sample from the

⁶⁰ Source: AOPC. See Appendix G for details.

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Prothonotary of 100 PFA cases⁶¹ in which the court's final order had recently expired. For all cases in the sample, the Court's final PFA order expired between September 24, 2010, and January 12, 2011.

Of the cases in the sample, only 28% proceeded from petition date to stipulation, agreement or final order without at least one continuance. In one case, there were seven continuance orders entered, and 13% had three or more continuance orders. Tables 4.1 and 4.2 summarize the results from NCSC analysis of the sample, in terms of continuances and elapsed time between the filing of a petition and the entry of a stipulation, agreement or final PFA order.

Note on NCSC Sample: Final Orders Entered After Contested Hearing versus Those Based on Stipulation or Agreement. In the sample of recently-concluded PFA cases studied by NCSC, 65% were resolved by final PFA order based on a negotiated stipulation or agreement, rather than going to a contested evidentiary hearing that led to a final order by the Court. In the NCSC sample of 100 cases, there was thus about a 2:1 ratio of stipulated or agreed orders to orders after hearing.

In contrast, the pie chart on the preceding page shows that in the past decade there has been a historical average of about 5.5 stipulated or agreed orders for every order entered after hearing in Lancaster County. This suggests that the most recent PFA cases with expired final orders just happened as a matter of coincidence to include a disproportionate number of cases that went all the way to a contested hearing. For this reason, the two tables below distinguish between PFA cases with a stipulated or agreed final order and those with a final order entered after a PFA hearing.

⁶¹ A representative sample of 100 cases can be expected to yield sample results in 19 out every 20 efforts that would vary no more than $\pm 10\%$ from the results from analysis of the entire pool of cases from which the sample was drawn. See Herbert Arkin and Raymond Colton, *Tables for Statisticians* (New York: Barnes & Noble, 2d edition, 1963), pp. 142-147.

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Table 4.1. Number of Contested Hearing Date Continuances: Sample PFA Cases with Stipulated or Agreed Final Orders vs. Those with Final Orders Entered After Hearing⁶²

Basis for Final Order	Number of Continuance Orders Entered		
	Average	90th Percentile	Maximum
Stipulation or Agreement (N = 65)	1.28	3	7
Contested Hearing (N=35)	1.09	2.6	4
All Sample Cases (N = 100)	1.21	3	7

The sample data in this table suggest that the continuance and rescheduling of hearing dates was common in PFA cases. Regardless whether the final order was stipulated or based on evidence at a hearing, only 28% of the sample cases progressed to a final PFA order without the grant of a continuance. About 10% of the cases had three or more continuance, whether or not a final order came after a contested hearing.

Sample cases with stipulated or agreed final orders tended to have more continuances than those resolved after a hearing. It may be that the more often a case is continued, the more likely it is for fatigue to set in for the parties, so that they reach a stipulation or agreement just to make the case "go away." That cases are resolved by stipulation or agreement does not necessarily mean that the parties have returned to an amicable relationship. This is suggested by the fact that post-judgment indirect contempt orders were issued more frequently (an average of 0.91 per case) in sample cases against defendants for failure to comply with stipulated or agreed final orders than they were against sample-case defendants for failure to comply with final orders entered after hearing (an average of 0.69 per case).

As Table 4.2 indicates, the average time to agreement or final order was almost two-and-a-half months (73 days) for all cases in the sample. Cases in which hearings were actually held had final PFA orders entered an average of three weeks sooner than those disposed by stipulated or agreed orders. For both stipulation and hearing cases, only 20 percent reached disposition within ten business days (about 14 calendar days) or less.

⁶² Source: NCSC analysis of data provided by Lancaster County Prothonotary.

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Table 4.2. Days from Petition to Final Order in Sample Cases: Final Orders Based on Stipulation/Agreement vs. Those Entered After Hearing⁶³

Basis for Final Order	Days from Petition Date to Final Order Date		
	Average	Minimum	Maximum
Stipulation or Agreement (N = 65)	80.86	8	518
Contested Hearing (N=35)	58.74	8	316
All Sample Cases (N = 100)	73.12	8	518

Final Order Duration and Compliance. The typical duration of a final order in the NCSC sample of recently closed cases was about 36 months (55% of the final orders expired after 1,075-1,100 days). It was not uncommon for final orders to be in force for 6, 12, 18 or 24 months.

In about three-fourths of the sample cases, defendants complied with final PFA orders, at least enough to avoid the threat of being held in indirect contempt of court. If a defendant violates a final PFA order, a hearing must be held, and a defendant found in contempt can be jailed for up to six months and fined from \$300 to \$1,000.⁶⁴ In the NCSC sample, 22% of the defendants violated a final PFA order two or more times, and one person was cited seven times.

B. Recommendation

Recommendation 4-1: Reduce Rescheduling of PFA Hearings, in part by providing more low-cost legal services to parties. The Common Pleas Court and the County of Lancaster should reduce PFA case-processing costs and delay by taking steps to limit continuances of contested hearings. The Court should exercise greater management control over case progress by monitoring case-processing times in view of statewide time standards and providing brochures and other information to parties about the process. In collaboration with the Court and the County Bar, the County should provide funding support for the full-time equivalent of at least two lawyers to represent the parties in PFA cases.

C. Expected Efficiencies

Having Lancaster County PFA proceedings take two or three months from initiation to the issuance of a final PFA order must inevitably cause emotional stress for adult abuse victims and their children that is exceedingly difficult to measure. Similarly, it is difficult to determine with certainty what is the financial impact of rescheduled PFA court hearings on plaintiffs and

⁶³ Source: NCSC analysis of data provided by Lancaster County Prothonotary.

⁶⁴ 23 Pa.C.S.A. § 6114(b).

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defendants and on the time of judges and court staff, which easily represents the greater part of the Court's annual operating budget.

It is nonetheless certain that reducing the number of times that PFA hearing dates are continued would result not only in reduced delay, but also in a measurable reduction of the costs for citizens, judges and court staff associated with wasted time in court proceedings. Although potential savings are difficult to determine, NCSC can briefly model the manner in which the benefits of reducing the number of PFA continuances can be estimated.

A Model for Estimating Potential Benefits from the Reduction of PFA Continuances

We begin with an estimate of the cost to a party to take a day off from work to attend a court hearing.⁶⁵ The US Census Bureau reports that the median annual household income in Lancaster County in 2008 for a household with an average of 2.64 persons per household was \$55,824. If each household has an average of two wage-earning adults, each paid for 260 days a year (365 days minus weekends), then a typical person in Lancaster County who may be a party to a PFA case would have an average daily income of \$107.35. If a court appearance in a PFA case requires that a person commit an entire day, then we can estimate that each continuance of a PFA court event costs each party \$107.35, or the equivalent of a day's pay.

The cost to the Court for scheduling and then rescheduling a PFA court event involves the time of court support staff and row office staff in the Prothonotary's Office to complete such tasks as recording the scheduled event in the court information system, and preparing case records for the courtroom. Each time the matter is rescheduled, similar work must be done. The time impact for judges, chambers staff, bailiffs, and CAO personnel scheduling the matter and sending out notices, is different, but it is also present. Rescheduling a PFA court event means that all of the time committed to the first event must be repeated for a second time.

The cost of this wasted personnel time is not negligible if it is multiplied for each case before the Court. For example, NCSC estimated in 2010 that rescheduling court events in the Ninth Judicial Circuit Court of Florida wasted about \$5-7 million, and that more careful management of cases would make the full-time equivalent of almost 60 people available for other productive work, including two judges, nine prosecutors, seven public defender attorneys, and ten uniformed police officers.⁶⁶

In 1979-1980, NCSC consultants used unit cost analysis to calculate how much the grant of a continuance in a civil case or a criminal case costs the Courts of Common Pleas for Allegheny County and other western Pennsylvania counties.⁶⁷ The cost to the Court alone for each civil continuance in Allegheny County, adjusted for inflation,⁶⁸ was the equivalent of \$530 in 2011. Since the Court in Lancaster County is smaller and less complex than its sister court in Pittsburgh, NCSC considers it suitable for the purposes of this report to use half that dollar figure (\$265) to estimate the cost to the Court in Lancaster for each PFA continuance.

⁶⁵ The actual computation of costs would be much more complex, since not all people are employed in jobs outside the home. Costs for individual case participants may vary for such things as the costs of obtaining child care, the cost for use of a private vehicle, a bus or a taxi to travel to and from a court event, or other necessary out-of-pocket expenses. NCSC believes that the use of an estimated day's income represents a reasonable surrogate for all costs incurred by a case participant, for the purposes of modeling the analysis of PFA continuance costs.

⁶⁶ See Appendix F.

⁶⁷ See Samuel Conti, William Popp and Don Hardenbergh, *Finances and Operating Costs in Pennsylvania's Courts of Common Pleas* (North Andover, MA: National Center for State Courts, Northeastern Regional Office, 1980).

⁶⁸ See US Department of Labor, Bureau of Labor Statistics, "CPI Inflation Calculator," http://www.bls.gov/data/inflation_calculator.htm.

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If we use the data from the NCSC sample in conjunction with the average number of PFA dispositions per year in Lancaster County, we can estimate the total number of PFA continuances per year. Table 4.3 shows the numbers for this calculation.

Table 4.3. Estimate of PFA Continuances per Year⁶⁹

Manner of Disposition	Average Cases Disposed per Year	Average Number of Continuances per Case	Estimated Total PFA Continuances
Order after Hearing	117	1.09	128
Stipulated Order	424	1.28	543
Withdrawn/Dismissed	699	0.50	349
Other	12	0,50	6
Totals	1,252	--	1,026

If we apply the model on the previous page and assume for purposes of this calculation that a PFA continuance cost both the plaintiff and the defendant \$107.35 each, then the estimated cost to parties in a year is about $[(1,026 \times \$107.35) \times 2 =]$ \$220, 282. If we assume that the cost of each continuance to the Court is \$265, then the estimated total PFA continuances costs the Court about $(1,026 \times \$265 =)$ \$271,890 in wasted time.

It is clear that not all continuances are frivolous or avoidable. But for the Court to manage the progress of PFA cases effectively, it must be more likely than not that the Court will hold the contested hearing in a PFA case on the first scheduled date.⁷⁰ If it were possible for the Court to assure that no PFA case would typically require two or more continuances, and in fact that only half as many cases required any continuances at all, then the Court would have credible PFA hearing dates and a reduction of PFA continuances by about 70% as estimated by NCSC. This would save the Court about \$190,000 per year through the reduction of wasted time for judges

⁶⁹ See Appendix G for the annual totals on which the "Average Cases Disposed per Year" are based. For PFA cases disposed by hearing or stipulation, the "Average Number of Continuances per Case" is taken from the NCSC sample of PFA cases. For cases that were withdrawn/dismissed or disposed by other means, NCSC assumes that dispositions were often reached in cases for which hearings were scheduled, and that half of them were continued.

⁷⁰ A key feature of effective court management of the pace of litigation is the exercise of early and continuous court control of case progress. Providing credible dates for trials and other dispositive court events is a critical part of successful caseload management in a trial court, and this involves the creation and maintenance of a credible expectation that lawyers and other case participants will not be able to avoid or delay having their cases disposed in a trial or evidentiary hearing by the court. See David Steelman, with John Goerdt and James McMillan, *Caseload Management: The Heart of Court Management in the New Millennium* (Williamsburg, VA: National Center for State Courts, 2004 edition).

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and support staff. Moreover, it would save PFA parties about \$150,000 a year in terms of wasted time that would be avoided.

To achieve such a goal would require more than just wishful thinking by the Court and the County. It would require that the Court adopt and apply a policy of managing PFA cases to avoid unnecessary continuances. But parties to PFA cases are seldom either lawyers or represented by counsel in critical steps of their cases. Therefore, NCSC has recommended that the Court and the County work in collaboration with interested members of the Lancaster County bar in a PFA case processing improvement endeavor with three facets: (1) provision of more extensive and more intense information to parties about the nature and gravity of the PFA court process; (2) provision of *pro bono* legal advice to parties, perhaps with the aid of law students; and (3) funding support by the County for the engagement of at least two full-time employees to work for one or more of the local legal organizations who provide low-cost legal advice and representation to parties in PFA cases.

NCSC recognizes that the development and implementation of such a program must involve affirmative public expenditures. Yet the improvement of PFA case processing through the reduction of avoidable continuances and delays would be a substantial public service. Moreover, NCSC estimates that the cost impact of reducing wasted time would save citizens, judges and court support personnel would be substantially more than the outlays recommended here.

Step Five: Continue the Improvement of Adult Probation Collections for Common Pleas Misdemeanor and Felony Cases

The collection of financial obligations from Common Pleas cases was transferred from the County Treasurer's office to the Court's Adult Probation and Parole Department (APPS) in 2009. The Collections Unit Supervisor, one manager, four probation officers and three clerks are responsible for monitoring and accepting collections of fines, costs, and restitution for a current caseload of about 8,000 active cases. Additionally, the unit monitors about 20,000 other cases in which probationers have completed their period of supervision but still owe fines, costs, or restitution.

A. Findings and Observations

Accounts are set up in the CPCMS system by the Clerk's office following the imposition of sentence. When an offender is sentenced the judge will set the fine and restitution. Court costs will be calculated by the Clerk's office when the CPCMS system is updated with payment information. It is estimated that the time between sentencing and establishment of an offender's account in the system takes on average of two months, with some taking up to four months before the information is available. Until that time the collection office cannot take a payment and offenders are instructed to call every two or three weeks to see if they can start making payments. Eliminating this large gap in the system is critical.⁷¹ Once the system is updated offenders have the options of paying by cash, credit, debit card, money orders or personal check. Offenders can also pay online through the ePay Online Case Payments system managed by the AOPC. For 2010 the Unit processed a total of 57,929 payments for a total collection of fines, costs and restitution of \$8,038,723. Of this amount, \$1,651,530 was for restitution. The Collections Unit reports that this is an increase of \$68,377 in total collections from 2009.

Table 5.1. APPS Collection Amounts by Type, 2010

Type of Payment	2010 Amount
Check	\$ 5,287,681.70
Cash	1,911,580.37
Money Order	657,753.24
Credit Card (in person)	147,587.71
Online	34,119.98
Total	\$ 8,038,723.00

⁷¹ See related discussion of this point above in "Step One: Improve Collection of Fines and Fees in the MDJ Courts."

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Despite the large number of payments by check the court received only 137 bad checks during the year, of which 86 were made good following notification. The small amount of online payments is most likely due in part to the system only being available since September of 2010, and the fact that an additional fee must be paid by users who pay through this system.

Once an account is set up on CPCMS the Collection Unit will take over monitoring and enforcement. The offender is required to report to the Unit where a payment plan will be established or modified. Although an offender may pay in full at this point, most do not. The standard practice is to set a monthly payment plan that extends over the remaining period of probation. For instance, if the offender was ordered to serve two years probation and the Clerk's office did not enter the amount ordered into the system for four months, payments would be ordered over the remaining 20 months of the probation period. Offenders who claim indigence must provide proof of public assistance or disability. The Collections Unit is able to monitor and manage all cases for which an offender owes money under one account. In some instances judges may order or allow early payment by waiving the balance of probation when payment in full is made.

The four probation officers assigned to the Collections Unit are responsible for monitoring individual accounts. Cases are distributed between the officers on an alphabetical assignment system. Payment plans are entered into CPCMS, through which payments are made. The officers use the probation case management system (TOM) to monitor compliance and issues notices. Taking the information from CPCMS, the probation officer enters payment information into TOM and assigns a priority of high, medium or low to the case based on the offender's history of compliance. High priority cases are reviewed for compliance every one to two weeks, medium priority every three to four months, and low priority every five to six months. Reports are run at regular intervals and the probation officer will check CPCMS to see if there are arrearages, looking at every case on the report. Each officer can adjust the "filters" on the report to screen out or include cases for review. In addition, the officer will review the offender's file on TOM, checking to see if there are issues which should be taken into account, such as current employment status and reporting history, before taking enforcement action. If the officer feels enforcement action is warranted the next step is typically the issuance of a past due notice.

The probation officer will enter the amount due and a due date to comply. It takes about an hour for a probation officer to issue 30-40 notices. If there is no response, a delinquent notice is sent which requires the offender to report to their probation officer. Continued non-compliance results in a violation of probation hearing which the offender is noticed to attend. Failure to appear for the probation hearing results in the issuance of a warrant. The Collections Office submits accounts which are not collected through this process to the Accounts Recovery

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Bureau, a collections agency that has been used since 2003. Fees charged by the collection agency are the responsibility of the offender. There are no court-generated late fees or interest for payment arrearages added to overdue accounts. Additionally, statute authorizes the Clerk to enter a civil judgment for any amounts due and owing over \$1,000.

The Collections Unit also enforces financial penalties for offenders who have not been placed on probation as well. The office is notified of the obligation when it receives a copy of the offender's sentencing sheet. When the Collections Unit was established all outstanding accounts receivables dating from 1980 through 2001 (approximately 15,000) were turned over to a collection agency. The collection rate for accounts enforced by the collections agency is estimated to be approximately 10-13%. Obligations prior to 1980 were written off as no longer collectable. Other than the total amount collected, the Unit does not have information on the current collection rate, trends in collections, or data that helps management assess the impact of collection activities such as notices, violations of probation, and warrants.

B. Recommendations

Recommendation 5-1: Improve Timeliness of Payment Information. The Collections Unit and DCA should take immediate steps to work with the Clerk of Courts to improve the timeliness of payment information to allow payments to be made as soon as possible after sentencing.

Recommendation 5-2: Measure Collections Effectiveness. The Collections Unit should establish the current collection rate (baseline) to determine current effectiveness and measure the impact of future program changes.

Recommendation 5-3: Develop and Use Collections Management Reports. The Collections Unit should develop routine reports that provide aggregate collections data, such as the following:

- *The pending caseload of open accounts.*
- *The monthly input of new accounts.*
- *Pending receivables amounts due and past due.*
- *Trends in collection rates and pending receivables.*
- *Comparative results of various types of enforcement.*
- *Compliance rates by case type.*

Recommendation 5-4: Actively Encourage Prompt Payments. The Collections Unit should notify offenders at the first contact that encourage payment of financial penalties in full. Installment payments should be based on the offender's need and not be considered an entitlement. Judges and Clerk's staff should be encouraged to impress upon offenders the importance of fulfilling their financial obligations as soon as possible.

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Recommendation 5.5: Respond Promptly to Non-Payment. *The Collections Unit should consider implementing a policy of immediate response to non-payment. Under the current system an offender could miss several payments before there is a response. Developing a system where a late notice is generated automatically within a short time after a payment is missed would also reduce the amount of staff time involved in supervising cases and still allow staff to focus more time on higher priority cases.*

C. Expected Efficiencies

As noted above in the discussion of Step One regarding MDJ courts collections, addressing between assessment and first payment, as well as establishing practices that encourage early compliance should substantially improve the timeliness of payment compliance as well as impact overall collection rates. Timeliness and rate of compliance can also be improved by more prompt response to non-compliance by the Collections Enforcement Unit. Additional tools such as automated notices also improve compliance and reduce the effort required by staff to monitor accounts, leaving them to focus on cases which need more individual attention. Better management information will help the Unit set improvement goals. NCSC estimates that the combination of improved monitoring and the elimination of delay between assessment and payment would yield a 5-10% (or from about \$400,000 to about \$800,000) increase in overall compliance.

Step Six. Streamline Processes for Services to Indigent Parties and Limited-English-Proficiency Persons

During the course of the initial NCSC visit to Lancaster County, the NCSC team looked for other areas for possible improvements in efficiency, having to do with work done by CAO. Two areas of note were the following:

- Identification of conflicts and payment process for lawyers on court-appointed counsel list to provide services to indigent parties
- Arrangements for court Interpreters to assist limited English proficiency (LEP) case participants

A. Findings and Observations

Each of these two areas is within the responsibility of CAO's Pretrial Services unit. Since improvements would have foreseeable systemic consequences beyond Pretrial Services, the NCSC team considers them worthy of attention in this report.

Conflict Identification and Payment of Court-Appointed Counsel. The provision of legal representation at public expense for indigent persons in circumstances where it cannot be done by the Public Defender's Office is a difficult matter for the Court and the County to budget for, since it is highly unpredictable about the extent to which there may be demand for services that must as a matter of right be provided.

The determination of indigency for detained criminal defendants is typically done at the County Prison by personnel from Pretrial Services (PS). PS maintains a list of "conflicts counsel," consisting of local private attorneys willing to receive payments from the Court at pre-established rates to represent clients in multiple-defendant cases or other situations in which the Public Defender (PD) Office lawyers have a conflict for any legitimate reason.

NCSC understands that the PD Office has an antiquated system, based on the use of note cards, for identification of cases in which its lawyers may have conflicts. As a result, a conflict may be overlooked, at least until the court process is well underway. The late entry of conflicts counsel in a criminal or juvenile delinquency case inevitably causes delay, since the court-appointed attorney new to the case must request that discovery be provided, take time to interview his or her client, and otherwise become familiar with the case.

NCSC understands from the Assistant DCA for human resources and fiscal matters that payments for court-appointed counsel to include hourly and stipend billing totaled \$1.4 million in the past year, and that a budget transfer of \$189,000 was required to cover that expense. When a court-appointed attorney seeks payment for services, he or she submits a bill to CAO.

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The process is entirely manual. Hourly invoices are verified by the CAO receptionist. Each invoice is checked for the appropriate information i.e. rate, docket number, defendant's name, etc. Then the invoices are sent to Bail Administration.

The Bail Administration staff verifies the representation was ordered by the Court. Then the invoices are coded based on established categories to ensure the type of representation is credited to the appropriate account line item. The invoices are forwarded to the judges for review and approval. The judges return the invoices to CAO where the receptionist creates a voucher for payment. The original invoice and a voucher signed by the Assistant DCA of HR and Fiscal are sent to the Controller's office for payment.

The Assistant DCA for HR and Fiscal matters indicated to NCSC that this process used to take 6-10 weeks to be completed. She has set a "timely payment goal" that 90% of all bills be paid within 30 days, and CAO has been fairly successful in approaching compliance with that goal. There is a two-week turnaround time for the person in Pretrial Services to verify the case type for which legal representation was provided.

Court Interpreters. The judicial system in Lancaster County, like its counterparts throughout Pennsylvania and every other state, has been responsive to the need for non-English speaking case participants to have the assistance of court interpreters. Assistance to non-criminal case participants who have limited English language skills, performed not long ago on a merely ad-hoc basis by friends, relatives or other persons in the courthouse, is now provided on a programmatic basis by the Court's Pretrial Services unit. Most persons needing assistance are Spanish speakers, and the Court contracts with a local vendor of services who employs three certified court interpreters on condition that they make themselves available on short notice.

For at least the past decade, the availability of a suitably qualified interpreter has been recognized in terms of both civil rights and access to justice. Yet the intensity of the requirement for state and local courts to provide qualified court interpreters was increased in 2010, when the US Department of Justice (DOJ) announced its intent to exercise greater enforcement of the requirement for federal agencies and recipients of federal funds to provide more extensive assistance to limited-English-proficiency (LEP) persons. In a letter to state court chief justices and state court administrators, an attorney in the DOJ Civil Rights Division indicated that DOJ would discourage such practices in state or local courts as the following:⁷²

- Limiting the types of proceedings for which qualified interpreter services are provided by the court;

⁷² See US Department of Justice, Civil Rights Division, Language Access Guidance Letter to State Courts from Assistant Attorney General Thomas E. Perez (August 17, 2010), a copy of which is available online at http://www.justice.gov/crt/lep/final_courts_ltr_081610.pdf.

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- Failure to provide language assistance to non-party LEP individuals whose presence or participation in a court matter is necessary or appropriate, including parents and guardians of minor victims of crime or of juveniles and family members involved in delinquency proceedings;
- Charging interpreter costs to one or more parties;
- Restricting language services to courtrooms; and
- Failing to ensure effective communication with court-appointed or supervised personnel.

In order for a court to provide meaningful access to justice for LEP persons, the DOJ letter indicates that the court must ensure language access in all court operations and encounters with professionals.

In view of this development, state court chief justices and state court administrators in Pennsylvania and every other state are giving considerably more attention to the infrastructure for provision of interpreter services. In addition, AOPC has imposed a requirement that all court interpretation services in Pennsylvania courts must be provided by duly-certified court interpreters.

The assistant district court administrator who directs Pretrial Services indicated in an interview that there have been very few circumstances to date in which interpreter services were not promptly available for court proceedings. With the notable increase in scope of services called for by the federal government, and with the AOPC requirement that courts use only certified court interpreters, pressures and problems may increase. This is likely to be the case especially for LEP persons who cannot be served by a certified Spanish court interpreter, but who speak one of the less common languages.

B. Recommendations

Based on the findings and observations presented above, NCSC offers the following three recommendations for improvement.

Recommendation 6-1: Improve Indigent Defense Conflict Identification. To accelerate the identification of Public Defender conflicts requiring court appointment of private counsel, the County should assist the Public Defender's Office in making a transition to more automated recordkeeping for purposes of identifying conflict cases.

Recommendation 6-2: Make Payment of Court-Appointed Counsel a Largely Electronic Process. To streamline the processing of payment for court-appointed counsel, the Court of Common Pleas and County of Lancaster should develop standard bill forms that can be completed electronically; introduce electronic

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CAO bill processing between Human Resources, Pretrial Services, and County Finance; and provide payment to attorneys by electronic fund transfers.

Recommendation 6-3: Make Broader Use of Technology for Remote Court Interpreters. *To the extent that demand for court interpreters grows beyond the capacity of certified local service providers and causes unacceptable increases in either payments for required services or case delays caused by scheduling difficulties, the Court and the County should explore the costs and benefits of additional tools to permit the provision of suitable services by certified court interpreters in remote locations of the state. These may include not only speaker phones, but also such options as digital audio equipment, voice-over-internet protocol (VoIP), and such videoconferencing approaches as the "Skype" software application.*

C. Expected Efficiencies

Implementation of each of these recommendations should promote efficiencies in court operations and reduced transaction costs to be borne by the County.

Indigent Defense Conflict Identification. The current means by which the Public Defender's Office keeps track of information on which to base decisions about conflicts makes the court process vulnerable to potential disruption. The grant of continuances in criminal or juvenile delinquency cases in association with the late filing of an appearance by court-appointed counsel has the necessary consequence of causing delay in the disposition of a case.

Delay undermines the purposes of courts and results in a longer period of stress for victims, witnesses and their families. It also contributes to a longer stay in the County Prison for any defendant who is detained pending adjudication, with attendant additional burdens on prison resources.

In addition, any avoidable rescheduling of court hearings means that time is wasted for judges, lawyers, law enforcement, prisoner transport, support staff for all of the institutional participants in a case, and all of the private citizens with different roles or stakes in the outcome of each case. Delay in conflict identification alone increases the cost of the judicial process, in all likelihood costing public budgets and private citizens thousands of dollars per year.⁷³ The cost of providing modest automation for information on which to base conflict decisions in the PD Office would probably be recouped in two years or less.

Payment of Court-Appointed Counsel. The actual payouts to court-appointed counsel in Lancaster County are only the most visible cost associated with the provision of counsel at

⁷³ See Appendix F for the executive summary of an analysis of the cost of rescheduling court events in the Ninth Judicial Circuit of Florida, and the consequences of limiting the reasons for such rescheduling.

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public expense. Less visible but very real are the "transaction costs" for processing bills from court-appointed lawyers, including the time required for the attorney and office staff to prepare the bill; the time required for the CAO receptionist and Pretrial Services person to carry out their responsibilities; the time for a judge to approve payment; the time for County personnel to process a check; and any additional time for all participants to resolve any questions about payment.

Another very real cost is the impact of delays in bill processing on the willingness of lawyers to serve as court-appointed counsel at rates well below their normal fees for provision of services. To the extent that there are delays in the payment of a bill submitted by a lawyer providing services at public expense, his or her willingness to remain on the appointed-counsel list may diminish. If lawyers find that it is so "uncost-effective" from a financial point of view, so that they are no longer willing to serve, then the burdens on Pretrial Services to find available counsel are increased, and the prospect of being asked to provide even more low-cost representation is greater for each attorney who remains on the list.

Finding means with the aid of automation to streamline the process of submitting, processing and paying bills for court-appointed counsel can reliably be expected to reduce such problems as these. The return on investment for such a step would probably be realized in less than a year after its introduction.

Remote Court Interpreters. The expected return that Lancaster County can expect from making optimal use of technology in support of the required provision of court interpreting services for LEP persons has been well summarized by two experts on court interpreting services in the Research Division of NCSC:⁷⁴

Remote interpretation via technology allows the courts to better maintain court calendars and to provide interpreting services in a timely and cost-effective manner. When a courtroom is set up to provide interpreter services using technology, the delays in providing language assistance to court users with limited English skills can be dramatically diminished. Cost is certainly a factor when considering the use of technology. There is always a dollar amount attached to the upgrade of existing technology, and any renovations required for the housing of that technology; sometimes, a significant initial outlay is needed from the much-stretched court budget. If courts upgrade courtrooms and implement new technologies, they must also develop business rules and protocol for using the technology, think through definitions and constraints that

⁷⁴ Carola Green and Wanda Romberger, "Leveraging Technology To Meet The Need For Interpreters," *Future Trends in State Courts 2009* (Williamsburg, VA: National Center for State Courts, 2009) 36, at 39, <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/accessfair&CISOPTR=184>.

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apply to the upgraded systems, and ensure that a clear record of the proceedings is maintained.

On the other hand, another factor that can be just as important is the potential savings in the long-term cost of unnecessary delays and wasted time for the court while waiting for an interpreter to arrive. Courts that strategically implement such changes by incorporating technology into their interpreter-service platforms can save money over time.

Given the near certainty that there will be a growing need driven by legal requirements for the Common Pleas Court and the MDJ courts in Lancaster County to provide certified court interpreters for LEP persons, it is important for court and county leaders to consider the ways in which any growing demand for such services can be met in an effective and efficient manner with the aid of suitable technologies. Just as the federal government is becoming more active in the enforcement of this requirement, it is also providing information on how support for broader use of technology might be sought.⁷⁵

⁷⁵ See, for example, Federal Interagency Working Group on Limited English Proficiency (LEP.gov), "Questions and Answers Regarding the August 16, 2010 Title VI Language Access Guidance Letter to State Courts," http://www.justice.gov/crt/about/cor/122910_State_Courts_LEP_QA.pdf.

Step Seven: Improve Court Reporter Work Scheduling and Consider Digital Recording

In its Official Court Reporters' Office, the Court employs 20 machine shorthand court reporters and one support person to assist them. The Office of the Official Court Reporter serves all scheduled hearings held by judges and masters in the courthouse, including all requested Public Defender, District Attorney preliminary hearings, as well as the arraignment court docket held at the Lancaster County Prison.

A. Findings and Observations

One matter of concern in current court operations has to do with scheduling the work of court reporters to make efficient use of their time. Another concern has to do with the prospect of losing court reporters to better-paying work elsewhere, and this raises the question whether the Court should consider the use of digital recording technology to supplement its court reporters.

Eliminating Idle Time. The current inflexible scheduling of court reporters, requiring their presence in the courtroom at scheduled times even though no proceedings are occurring, strains the capacity of the court reporters and support staff member. The Office of the Official Court Reporter serves all scheduled hearings by judges and masters in the courthouse including all requested Public Defender, District Attorney preliminary hearings, as well as arraignment court held at the Lancaster County Prison. Reportedly, the court reporters' presence in court is often requested when there is no work to be done and they simply sit and wait. This general impression was confirmed by an informal check conducted by the Office at the request of NCSC of scheduled start-times and end-times against actual work conducted for six criminal dockets and one family court docket over a period of five days in early January. In one egregious example, a court reporter appeared in the courtroom for a scheduled event at 9:00 am and remained idle in the courtroom far into the morning with no proceeding occurring requiring her presence. If this idle time were made productive, the Office of the Court Reporters would gain efficiencies and more responsive scheduling.

According to court reporters interviewed, an informal arrangement is in place with judges hearing criminal cases whereby the bailiffs or the judges' secretaries will work cooperatively with the court reporters to allow them to return to their offices and other work when no actions are occurring in the courtroom. This informal arrangement has not been extended to noncriminal docket.

Planning for and Implementing Digital Recording. Digital recording is the future and a change toward it is recommended. In a position paper adopted December 2009, the Conference of

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State Court Administrators recommended that “State courts should move to digital recording as the method for making the verbatim record, with the possible exceptions for complex civil and capital criminal cases where real-time or stenographic reporting are specifically designated. Further, COSCA recommended that “State courts should develop their own comprehensive, strategic plan for digital recording, implement the technology as a method of making the verbatim record, and adopt functional and technical standards to provide guidance, support, and service to judges, attorneys, reporters and recorders, transcriptionists, court staff, and the public.”⁷⁶

COSCA makes a compelling case for moving toward digital recording and court administrators would, as COSCA notes, “have difficulty justifying courts’ continued dependence on stenographic reporting if they were to describe the process by which the majority of state trial courts create, produce, and maintain the official record.”⁷⁷ Digital recording technology is an economic alternative to traditional court reporting that promises savings for the Court, litigants and the public. In this economic climate, the Court cannot afford to turn a deaf ear to the advantages of digital recording.

NCSC does not repeat the case made by COSCA here, but the NCSC team fully supports its descriptions of the advantages of digital recording and recommends that the Court use the COSCA report and references cited as the basis for planning and implementing it.

There are no plans for moving toward digital recording emanating from court reporters and is therefore unlikely to be without affirmative action by court leaders. Any shift to digital recording is likely to cause anxiety among the court reporters, judges, attorneys and staff. This anxiety, especially among the court reporters, will need to be managed well by the CAO. The lessons learned from a survey conducted in 2002 by the National Association for Court Management (NACM) – for example, one size does not fit all and the need to maintain flexibility -- and set out in NACM’s “mini-guide” *Making the Verbatim Court Record* serve as good guides for the Court for planning and implementing digital recording.⁷⁸

B. Recommendations

The NCSC project team has suggestions for addressing each of the issues raised above.

Recommendation 7-1. Introduce a Court Reporter Call-In Procedure to Eliminate Idle Time. *The Court should create a formal policy creating a uniform*

⁷⁶ Conference of State Court Administrators. *Conference of State Court Administrators*. Adopted December 2009, 16. Available online at <http://cosca.ncsc.dni.us/WhitePapers/DigitalRecording-Jan-2010.pdf>. Retrieved January 21, 2011.

⁷⁷ COSCA, *supra* note 1 at 1.

⁷⁸ National Association for Court Management. *Making the Verbatim Court Record*. June 2007.

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procedure providing the Court Reporters Office the flexibility of scheduling to eliminate idle time in courtrooms. The procedure should include, but not be limited, to the following elements and considerations:

- Court reporters would report to courtrooms at the start-time of all scheduled hearings unless the designated bailiff and/or secretary has informed the court reporter that the proceedings are not going forward.*
- The court reporters would establish cooperative procedures among themselves and designated bailiffs and secretaries for on-call procedures. The court reporters would bear the responsibilities to make these arrangements transparent to the CAO, judges and court staff.*
- Once summoned by the designated bailiff and/or secretary, a court reporter would appear in the courtroom within five minutes (other time limits should be prescribed for hearings away from the courthouse).*
- Timeliness would be the sole responsibility of the court reporters. Bailiffs and secretaries would be considered only facilitating agents and not responsible timekeepers.*

Once the policy and procedure is announced, the Office of the Court Reporter should closely monitor the results of the new policy and make corrections as needed.

Recommendation 7-2: Move Incrementally to Digital Recording. *The Court should immediately begin its planning and initiate incremental implementation of digital recording coincidental with attrition of court reporters which is expected to occur at the rate of one or two full-time court reporters. The funds freed by attrition should be used to pilot digital recording on a limited basis.*

The planning process should clarify options and strategies including what case types should be considered for a pilot of digital recording (e.g., case for which transcripts are seldom requested), what case types the Court should simply monitor but not annotate, and so forth.

C. Expected Efficiencies

CAO should request that the Court Reporters' Office design, test and implement a simple fail-safe call-in system (e.g., a cell phone call to the Court Reporters' Office causes a court reporter to be dispatched to the courtroom within five minutes) whereby court reporters are not required to be present in court until summoned.

The return on investment and any cost analysis will depend on the level of use of the technology and the timing of implementation, as well as other factors. See the discussion of digital recording equipment in Step Nine below.

Step Eight: Continue Reorganization of Adult Probation & Parole Services (APPS)

The current reorganization and review of business practices of the APPS by its senior management team provides an opportunity for increased efficiencies, elimination of duplicative programs and services, and possible cost-savings. The project team interviewed the APPS Director, most of the APPS program directors, and administrative staff to obtain a picture of current operations and future plans for the Department.

A. Findings and Observations

Department Organization. The Lancaster Court of Common Pleas Adult Probation Department was created in 1933 with the responsibility for supervision of adult, juvenile, and domestic relations cases. Adult and juvenile components were separated in 1977 and from that time until 2000 the department was composed of four distinct divisions that included Adult Probation, the Impaired Driver Program, Special Offenders Services, and Volunteer and Community Services. These divisions operated in relative isolation from one another. In 2000, court leadership moved to unify these divisions under a single entity: Adult Probation and Parole Services (APPS). In 2005 the Office of Coordinated Services was created within APPS to oversee the Central Intake, Collections Enforcement, and Pre-Parole units.

Although department unification resulted in adjustments to the chain of command and revisions of policies and procedures, it did not necessarily improve the efficiency of services or reduce duplication, according to APPS leadership. Many activities, such as administrative support, continued to be duplicated across divisions. Physical separation of staff and programs contributed to vertical isolation of the divisions.

The Department employs approximately 149 staff, including 13 clerical/support staff. It is currently organized into the following divisions with a Program Director at each level:

- Standard Supervision
- Impaired Driver Program
- Community Resources
- Special Offenders Services
- Coordinated Services

Beginning in 2010, the APPS Department leadership took steps to more fully implement unification of the department. Proposed restructuring would reduce the number of program divisions to the following three:

- Re-Entry Services

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- General Supervision Services
- Special Supervision Services

Each of these divisions would be headed by a Division Director who reports to a Deputy Director. Another Deputy Director would oversee the Office of Administrative Services, which would provide administrative support, training, research and evaluation, and collections/enforcement services. In effect, the Department would have two major functional areas: supervision services and administrative services.

Several factors are driving the current effort:

- The need for a more effective distribution of caseloads
- Improved use of resources in the face of budget restrictions
- Potential for reduction in administrative redundancy and costs
- Implementation of “evidence based practices” (see below)

Physical renovation of Adult Probation & Parole facilities has started, and staff has been temporarily moved from three main facilities to the sixth and seventh floors of the Courthouse and the first and second floors of the County Administration building at 150 North Queen Street. Upon completion, staff at the three main facilities will be located at the 40 East King Street building. The Department will continue to maintain satellite offices throughout the County, as well as the Lancaster County Prison where the Pre-Parole Unit is located. Once the move is complete the Department will have one point for reception. The physical consolidation of the majority of APPS staff and services will make organizational unification easier.

Consolidation of administrative services is an important aspect of the current effort to further unify the department. Consolidation of support operations has already commenced with the hiring of a Manager of Support Operations who is responsible for coordinating administrative support functions. Clerical Specialists positions who were supervised separately in each division, are now consolidated under this supervisor. Two full time support positions have been eliminated and it is proposed that Central Reception will eventually be staffed by three individuals instead of four. Processing requisitions is another area where duties spread across sections will be consolidated. Management is also seeking to achieve better coordination of grant management under the Administrative Services umbrella.

APPS is in the process of working with the county Information Technology Division to replace the existing client case management system with a browser-based system that will include information sharing with law enforcement and local corrections. Client records are currently managed by each program subject to retention schedules established by the AOPC. APPS administration is considering a more centralized approach to managing these records.

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Following the completion of a workflow analysis the office is also implementing electronic document management (scanning).

Programs and Services. The Department was supervising 7,783 offenders as of December 31, 2010. Approximately one third were on parole, slightly over a third on probation, and the remainder being supervised on other programs or absconder status.⁷⁹ The Department's 2011 budget exceeds \$9.7 million, of which approximately 70% comes from Lancaster County sources. The balance comes from a variety of special funds and is offset in part by supervision and administrative fees. The Department currently maintains 12 budgetary cost centers to facilitate monitoring of grant programs and expenditures. Department leadership is looking into the feasibility of collapsing the budget into fewer cost centers.

Effective parole and probation programs recognize the need to assess offender risk and address issues that will impact the probability of re-offending. The National Institute of Corrections in 2004 identified eight principles as part of the "Principles of Effective Intervention."⁸⁰ This evidence-based practice approach has also been stressed during the most recent audit by the Pennsylvania Board of Probation and Parole. In 2007 APPS adopted Evidence-Based Practices (EBP) as a business practice philosophy and is in the process of implementing the eight principles into its programs.

The Department is subject to regular audits by the Pennsylvania Board of Probation and Parole. The most recent field audit was conducted in April 2010. This audit follows the American Correctional Association standards used to determine a department's level of compliance for Grant-In-Aid purposes.⁸¹ The principle areas of non-compliance in this audit were the need for written policies to support current practices. The audit noted that the Department has "made significant progress" in implementing EBP concepts into its business practices.

One of the major considerations in service delivery for APPS is whether to distribute caseloads evenly across available staff or create specialized supervision units. The APPS leadership has taken the position that the latter approach is more in line with EBP principles, particularly customizing supervision levels on the basis of client assessments. This approach also allows the department to focus skills training and develop staff specialization. The Department has also eliminated duplicate supervision of offenders through what is termed "case blending" to ensure that offenders are supervised by a single probation officer.

⁷⁹ Source: APPS 2009 Annual Report

⁸⁰ *Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention*. National Institute of Corrections, Washington DC. 2004.

⁸¹ Grant-In-Aid funding from the Commonwealth of Pennsylvania supports a portion of the salaries of adult probation professional positions.

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The proposed organizational structure places special supervision programs in a separate division. These include the specialty court programs, as well as units for supervising sex offenders, domestic violence cases, and mental health. The General Supervision Division includes electronic monitoring programs and general parole and probation supervision. Re-Entry services include intake and assessment activities, pre-parole staff, and the re-entry unit. Although designed as a specialty court, the Job Court would be managed under the Re-Entry Services Division. APPS became responsible for receiving and posting payments after taking over this function from the Treasurer in 2009. Observations and recommendations for the Collections Enforcement Unit are covered in the section of this report concerning Court of Common Pleas collections.

APPS staff are involved with specialty court programs, including Drug Court, a newly created Mental Health Court and the Job Court. The Job Court Program is designed to assist chronically unemployed or underemployed parolees and probationers and is modeled similar to other specialty courts, with phases, incentives, and specialized services. Incentives include debt forgiveness and sentence reduction. Projected Job Court program expenditures for 2011 are \$779,784, compared to \$316,848 and \$124,396 for the Drug Court and Mental Health Court programs. In addition to the high program costs relative to other specialty court programs, concerns about the program center on its relative independence from APPS, the need for better planning, stricter eligibility criteria, and data collection to assess effectiveness. Consistency with EBP principles is also a concern.

APPS leadership is aware of the need for continued monitoring and assessment of program outcomes to ensure the best use of Department resources and measure the effectiveness of interventions. Some individuals indicated that while data was being produced the linkages between the data and outcomes are not always clear, and that there needs to be better coordination of research within the organization.

B. Recommendations

The APPS is to be commended for taking proactive measures to streamline organizational structure, create more efficient administrative systems, and implement nationally recognized standards and principles for probation services. The NCSC encourages APPS to continue these initiatives and offers the following recommendations:

Recommendation 8-1: Address Specific Aspects of Planned Changes in Organization and Administration. In terms of organizational structure and management, APPS should do the following:

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- *Continue with the organizational restructuring proposal to create an administrative services division that includes support, training, research, and collections enforcement.*
- *Provided that proper accountability for grant funds and programs is maintained, proceed with consolidation of budget cost centers. Include grant management and oversight in the newly-created administrative services division.*
- *Investigate the feasibility of combining electronic monitoring contracts.*
- *As part of the consolidation and restructuring, carry out a review of position duties and responsibilities, with appropriate changes to job descriptions and compensation.*

Recommendation 8-2: Continue Workflow Management Improvements. *The Department should continue the move to centralized file management and consider implementing principles of enterprise content management. As development progresses on a new client case management system this project should be coordinated with the document management system to take advantage of integration and further work flow improvements.*

Recommendation 8-3: Continue to Review Data on Programs and Services. *In keeping with EBP principles, APPS should continue to review data collection practices and work with program managers to determine how to best ways to link data to performance and outcome measures.*

Recommendation 8-4: Assess Job Court Program. *Differing views concerning the relationship of Job Court to APPS and its effectiveness need to be resolved. One approach would be to conduct an independent assessment of the program, focusing on such key issues as screening and eligibility, coordination with other services, data collection, suitability of incentives, cost per client, outcome measures, and sustainability.*

NCSC believes the proposed reorganization of APPS is a step in the right direction, and one that balances the need for greater efficiency and economy in today's challenging economy with the goal of improving the effectiveness of programs and service delivery.

C. Expected Efficiencies

The proposed organizational changes to administrative support have already yielded position savings through attrition. The further consolidation of services and move to new quarters will offer additional opportunities to improve utilization of staff resources by reduced duplication of duties, more flexibility in covering absences, and better management control.

The impact of restructuring on client and program outcomes is difficult to predict, however EBP principles 7 (*Measure Relevant Processes/Practices*) and 8 (*Provide Measurement Feedback*)

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provide guidance on the measurement and assessment of both offender and program outcomes. The Department should apply these principles and coordinate data collection and analysis with input from program managers and outside agencies/clients whenever possible. This in turn will allow leadership to assess the impact of programs on offender behavior; the effectiveness of treatment and other service programs; and employee performance.

Strategic Prospects for Longer-Term Improvements

Step Nine. Introduce Court Information Technology Improvements

As is the case throughout Pennsylvania and in other states, court operations and case processing are being changed by information technology. Although the court process still remains largely based on paper documents, with some computer assistance, it must be recognized that case processing will eventually involve the processing of electronic information rather than paper documents. NCSC understands, for example, that the Prothonotary's Office in Lancaster County has begun to experiment with e-filing for civil cases. While further changes for civil and other case types cannot happen overnight, NCSC has explored areas in which court system information technology planning might result in short- and longer-term changes for Lancaster County. NCSC performed this review of technology capabilities using telephone interviews with key stakeholders, including the District Court Administrator, the Assistant Court Administrator for Judicial Information Systems, and the Prothonotary, on February 11, 2011.

A. Findings and Observations

The NCSC court technology specialist addressed an array of information technology issues during the brief assessment for this efficiency study. Each is discussed briefly below.

Electronic Filing("E-Filing"). Lancaster County has had electronic filing since August 2004. This is provided by Lexis-Nexis. There have been about 10,000 electronic court filings accumulated since 2004. In December 2010 there were 259 electronic filings for the following case types: mortgage foreclosure, debt collection, some family, and municipal matters.

The current Case Management System vendor is ACS for the Prothonotary's Office. This Office is satisfied with vendor provided civil CMS, although staff find it not very user friendly and difficult to navigate. An Application Programming Interface (API) is being built for about \$6,000 to enable the electronic image to be applied to the CMS. This will save a significant amount of time for the Prothonotary's staff.

E-Filing is currently not mandatory. The most promising immediate opportunities for introducing mandatory electronic filing are the mortgage foreclosure, debit collection, some family and municipal appeal case types.

There is no fully developed business plan for E-Filing. It would be productive for Lancaster County court officials and their justice partners to develop a full business plan for E-Filing with consideration of use of electronic files (not paper) which would require use of a document management system, and workflow for the distribution of electronic documents to individuals to perform specific tasks. The business plan would outline court rule and statutes which need to

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be modified in order to enable the use of court electronic files and not require the Prothonotary to maintain paper files of any kind.

The Administrative Office of Pennsylvania Courts (AOPC) has provided a criminal case management information system (CPCMS) for Common Pleas and MDJ courts throughout the state, and it has plans for the development of a civil CMS in the future. AOPC currently has no imminent plans to introduce E-Filing as a component of CPCMS, even though the District Attorney's Office and other criminal justice agencies have a degree of access to CPCMS. The Court's assistant court administrator for IT, the DA, and the Clerk of Courts in Lancaster County are waiting to see where the AOPC plans go before considering further investigation of E-Filing for criminal cases.

Scanning of Papers Filed in Civil Cases. The Prothonotary's Office in Lancaster County has scanned all civil actions since 1995. This is an initiative of the Prothonotary as an elected "row officer," undertaken to provide better customer service. This is a considerable effort on the part of the Prothonotary's office and provides electronic records. Yet the paper file is still required for the judges use in the courtroom and chambers.

Communication with MDJ Courts. The 20 MDJ court locations seem to be disconnected from Common Pleas operations in such areas as criminal case processing and court collections. The MDJ's and their staff are functionally remote, and court management communication is difficult. A video conference tool would provide the President Judge, the District Court Administrator and the Deputy District Court Administrator with more effective management communications and opportunities for provision of MDJ staff training.

Updating Court Records in the Courtroom. Updating the court record in criminal cases is a responsibility of courtroom clerks from the Office of the Clerk of Court, while it is a task for the Prothonotary's Office in civil matters only for protection from abuse (PFA) cases. From an efficiency viewpoint, developing a strategy for this to be done in the courtroom represents the adoption of a national best practice for the capture of court actions in the courtroom. To capture the court action in the courtroom is timely, accurate and provides the most value to everyone involved with the case and consuming the information on the case. To proceed forward, there would be a need for court leaders to work with the Clerk of Courts in Lancaster County to formulate specific requirements for this business initiative. A business plan needs to be developed and seriously considered.

One of the barriers to the implementation is the staffing of Clerk's Office personnel in the courtroom. Perhaps a review of the skills and pay grade necessary to accomplish this effort in the courtroom needs should take place. One of the tasks in the development would be to develop a special screen for courtroom updating only. This would reduce the skills necessary to

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provide accurate and timely updates. The President Judge has observed to NCSC that there will soon be a new Clerk of Courts, so that consideration of new directions such as update of case records from the courtroom may be discussed with the new Clerk when he or she takes office.

Use of Technology for Digital Recording. The Court currently employs 20 machine shorthand court reporters and one support person to assist them. (For more on court reporting, see the discussion relating to Step Seven.) It also has FTR Gold hardware in one courtroom for digital recording. There currently is no active planning for broader use of digital recording technology, and machine shorthand reporters are still preferred by judges and lawyers. Yet the Court also faces the prospect that court reporters may leave for better-paying work elsewhere, and the District Court Administrator recognizes the desirability of considering the use of digital recording to augment the court reporters.

B. Recommendations

Recommendation 9-1: Implement Mandatory E-Filing for Selected Civil Case

Types. Court leaders should support efforts by the Prothonotary and participate in the introduction of mandatory E-Filing for mortgage foreclosure, debt collection, some family, and municipal appeal case types. In support of this effort, the Court should work with the Prothonotary, members of the bar, and other stakeholders to develop a full business plan for E-Filing with consideration of use of electronic files (not paper).

The effort recommended here would require the use of a document management system, and workflow for the distribution of electronic documents to court staff members, including those in judges' chambers, to perform specific tasks.

Recommendation 9-2: Explore Courtroom Update of Case Records. The official record of court actions can and should be updated from the courtroom. In preparation for update of case records from the courtroom, the Court and the Clerk of Courts should review the skills and pay grade necessary to accomplish such an effort.

Recommendation 9-3: Develop an Expanded Digital Recording Equipment Configuration. As part of an effort at planning for possible incremental implementation of digital recording coincidental with any attrition of court reporters (see Step Seven), the Court should consider reconfiguration of its current FTR Gold digital recording equipment.

C. Expected Efficiencies

E-Filing. E-Filing holds great potential in providing for efficiencies for the Court and the Clerk of Court. The time involved by judges, court staff and clerk staff to locate and distribute paper files currently would be greatly minimized by a full featured E-Filing System with entirely electronic case files. This would give judges, attorney's, court staff and the public access to an

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electronic case file at the same time. This could represent at least a 10 to 15 percent factor of efficiency within Lancaster County. A productivity enhancement of this magnitude is likely to justify the E-Filing estimated cost of implementation over a two to three period of time. Yet Implementing a fully featured E-Filing and electronic case file system represents a major culture change for judges, lawyers and other key court process participants in any jurisdiction.

The estimated cost of full E-Filing implementation could range from \$500,000 to \$3,500,000, depending on a number of variables. These variables could include existing court rules; resistance to giving up paper documents and using only electronic court record files; the capacity and requirements necessary for a document management repository; and the requirements for workflow and level of public access. The estimated timeframe for implementing E-Filing could be from two to three years.

The business plan for this initiative would need to include consideration for changes in court rules, statutes, and development of a public access policy and delivery. The business plan would need to include considerations for Judges as E-Filers, support for Judges technical use of electronic files and access delivery where ever judges may want to access the electronic files. Other considerations could be training and support for attorneys and ease of use for litigants not represented by counsel.

Failure to build a business plan and consideration of the above mentioned aspects of E-Filing could be concerns about being successful. Establishing stakeholder governance of a business initiative like a fully functional E-Filing system will enhance the opportunities for success. Another factor for success would be assigning a Project Manager to ensure tasks, scope and timelines are properly implemented. The return on this investment could be realized in a three-to-five-year range.

Courtroom Update of Case Records. Updating of case records in the courtroom could represent a ten percent increase in productivity. Court Clerks are in the courtroom currently assisting with a number of duties. They have the time available to enter the key disposition data. We recommend a new screen/view be developed only provide the fields of data necessary to enter case record updates relating to courtroom action or disposition. This would only be a special screen or view for the same database. The recommendation does not expect or want a change in function or process, only a limited view screen to allow entry of data in the courtroom which currently occurs in the Clerk's office some hours later.

This would allow greater accuracy and timeliness to the legal community. The estimated cost of a screen/view of this nature would be between \$5,000 and \$6,000.

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The barrier would be to properly gather all the fields necessary for updating case records in the courtroom. Another consideration would be obtaining approval from CPCMS to build and provide this screen/view. Another barrier would be the increased training and the improvement of skills for Clerk's in courtroom. This increased training and improvement of technical skills will require some consideration of pay grade.

The return on investment for a change of this scope could be realized in a matter of months. The time saved by entry in the courtroom alone would pay for the cost of development and operation.

Digital Recording Equipment Configuration. Our recommendation is to re-configure the existing FTR Gold systems and add more equipment for courtrooms. This would assist to reduce the risk of availability of shorthand reporters by providing additional units. This could assist the court reporters and relieve possible bottlenecks for these critical services.

The estimated cost of this re-configuration is \$19,000. This would enable three courtrooms and provide the necessary equipment to augment shorthand reporters.

This proposal would increase overall productivity for the judges and the shorthand reporters. It would allow for increased flexibility to reach more cases and provide a court record of the proceedings. This could result in reaching five to ten percent more cases a year.

The overall cost of this change is one potential barrier, but it may be only secondary. Instead, the change in the court culture for judges, lawyers and court reporters would be a major factor to consider. Yet the return on investment when considering reaching more cases and resolving cases is of high value to the legal community.

Step Ten. Consolidate MDJ Court Support Operations

The 20 magisterial district judges (MDJs) have jurisdiction over summary offenses, preliminary hearings, guilty pleas in certain DUI cases, and certain third-degree misdemeanors and ordinance violations. Civil cases include certain landlord/tenant cases and some general civil claims under a certain amount. The judges each sit at 20 different locations and that have geographical jurisdiction within the county of Lancaster (see Figures 10.1 and 10.2). Each judge is supported by clerical staff, including a clerk supervisor who coordinates work and assignments at each location. Clerical staff members are employed by the County under general day-to-day direction of the MDJ's. However, daily operations and supervision are under the oversight of the judge. Support staff range from two to six supporting clerks at each location.

Unless venue in a case is changed by court order, hearings must be conducted by the judge with jurisdiction over the case. This does not necessarily mean, however, that all case processing by court support staff must be done in 20 separate locations, especially if a citizen does not want to contest a matter. Moreover, improved court system information technology at the MDJ level provides economies of scale and reduction of redundancies in MDJ case processing and other business processes. It is therefore worthwhile to explore the feasibility in practical terms (with attention to any legal, organizational, and political issues) of taking steps toward service consolidation, whether in the City of Lancaster alone or on a countywide basis.

A. Organizational Findings and Observations

Human resource functions, payroll, and other business processes are today coordinated by the CAO. The remaining business processes are highly dependent on manual procedures unique to each MDC office. The dependency on manual processes mitigates against obvious consolidation, coordination and sharing of resources to avoid redundancies and duplication, and achieve efficiencies. The 20 MDJ courts are examples of what has been called "loosely coupled" organizations⁸² that are organized horizontally instead of vertically, and which enjoy quasi-independence, although the MDJ courts routinely receive directives from both AOPC and CAO regarding required processes and procedures.

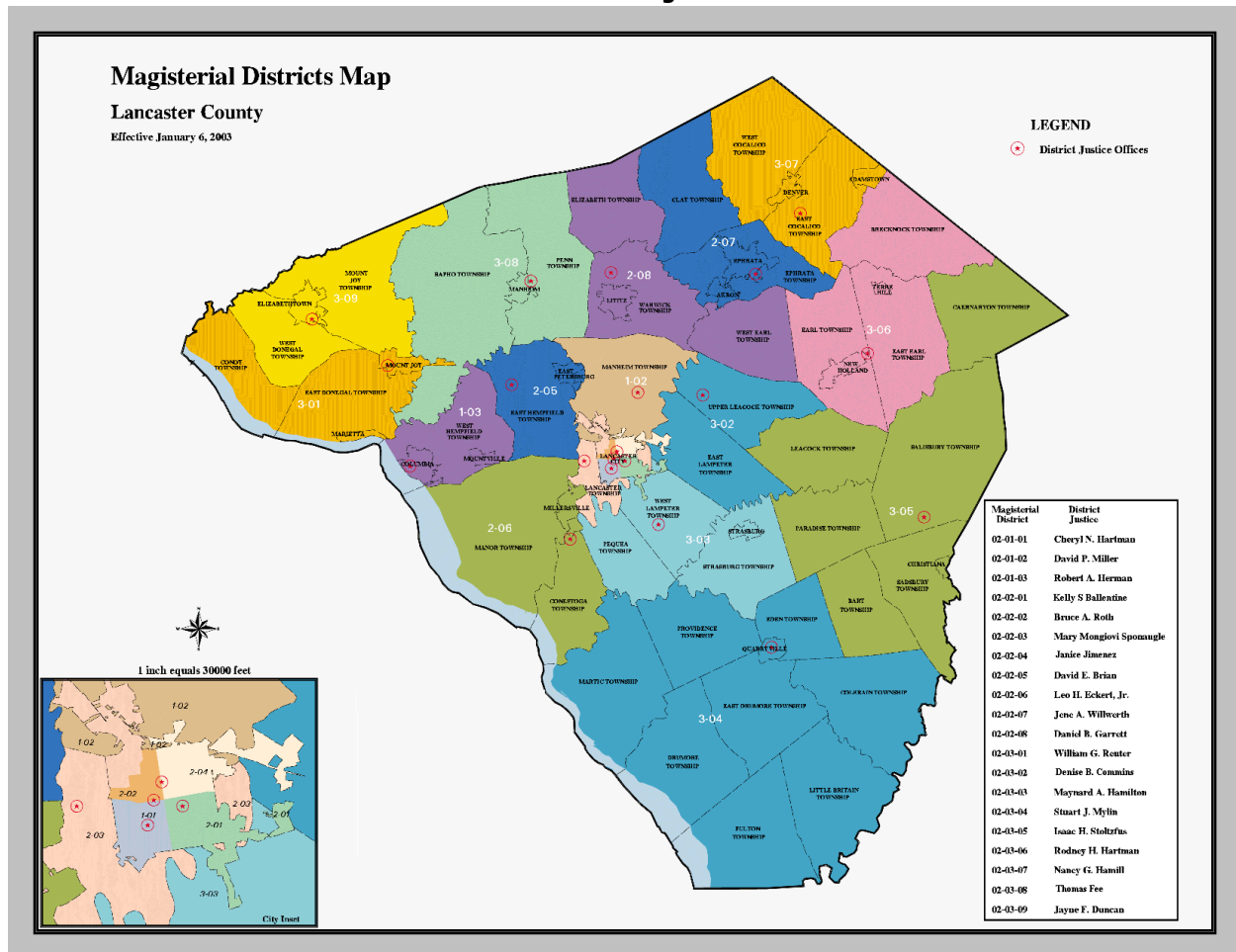
An intermediate approach to consolidation and the efficiencies and cost savings that might result is the creation of a mechanism whereby the MDJ courts could identify and implement efficiencies of back office and courtroom functions through simple communication, coordination and sharing of resources and solutions shy of consolidation of formal governance

⁸² In general, a "loosely coupled" organization is one where each of its parts has, or makes use of, little of the knowledge or the policies and procedures of the other parts of the organization.

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and organizational structures, and merging of locations.⁸³ Such a mechanism already exists in an informal sense. Judges and staff interviewed by NCSC in several MDJ courts, cited instances in which clerical staff and expertise were shared among MDJ courts without “stovepipe” and “silo” impediments and slowdown in various layers of supervision and management of the Court.

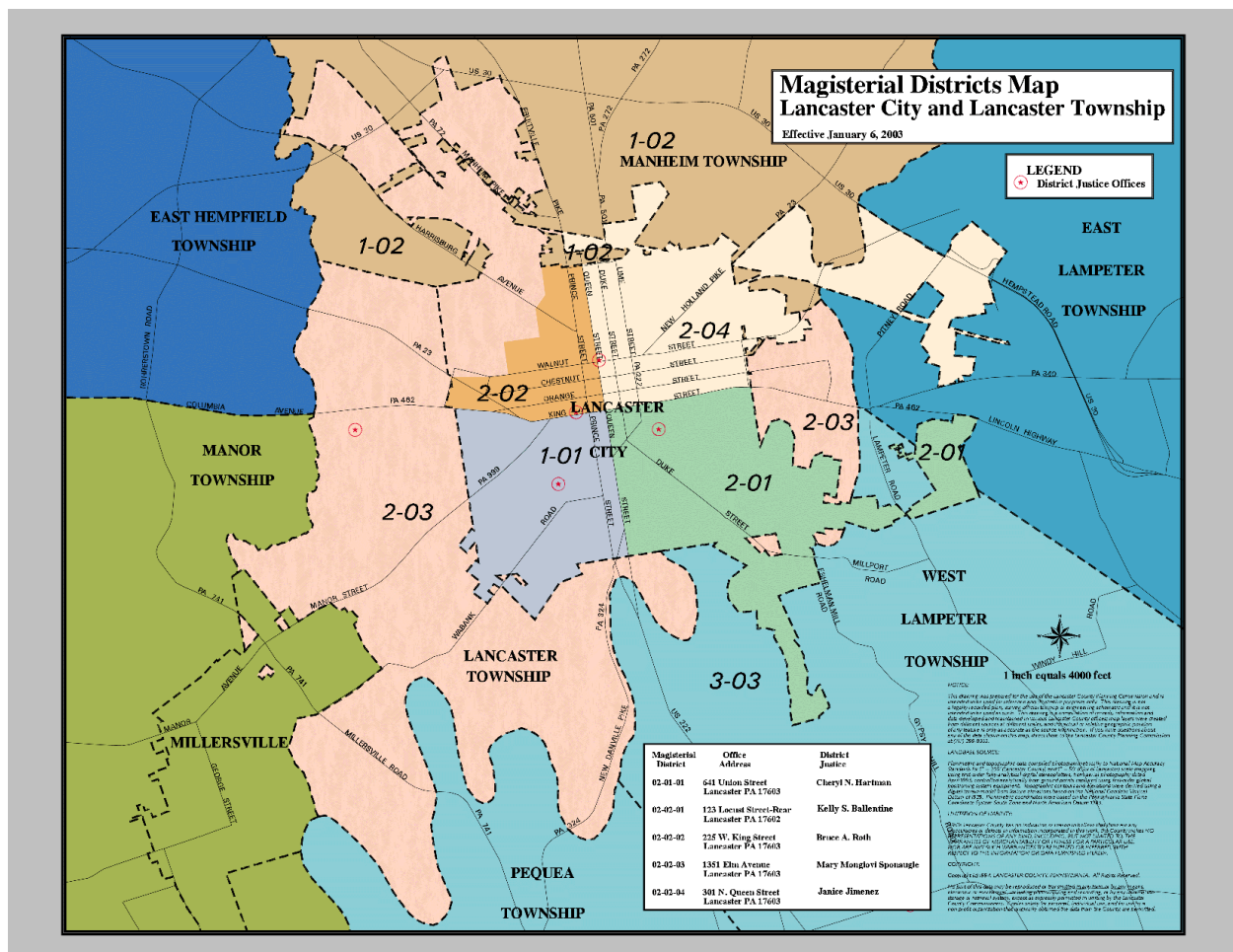
Figure 10.1. Geographical Jurisdictions of the MDJ courts in Lancaster County



⁸³ Consolidation, broadly defined, comprises the coordination of disparate court structures, physical capital, governance, administration services, processes and operations to achieve greater coherence, simplification, economies of scale and greater efficiency without jeopardizing fairness including the equal application of the law, procedural fairness, protection of rights and access to justice. A part of this definition merits emphasis, i.e., consolidation is not limited to facility configuration, structural reorganization. Instead, it encompasses all aspects of court governance, administration, and operations.

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Figure 10.2. Geographical Jurisdictions of the MDJ courts in Lancaster City and Lancaster Township



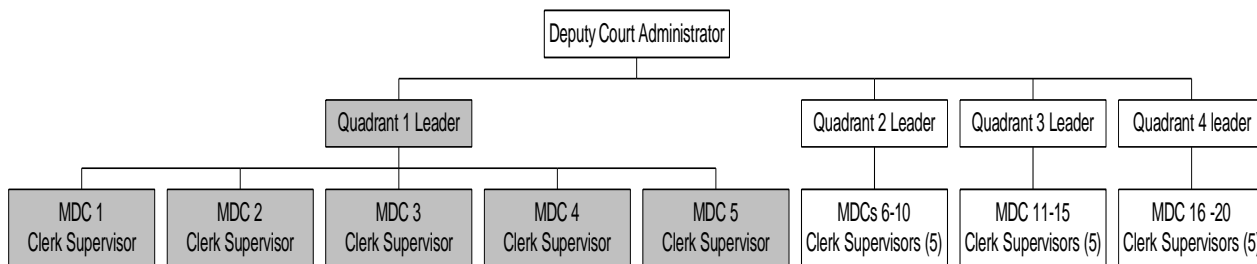
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B. Recommendation for Informal Consolidation of MDJ Courts

Recommendation 10-1: Move Toward Administrative Coordination of the 20 MDJ courts. *The Court should, through the Deputy Court Administrator responsible for the MDJ courts, and in cooperation with the MDJ judges and staff, create an informal organizational structure of four designated clerk supervisors as quadrant “leads.” Each quadrant leader (who will retain responsibility for supervisory duties in the individual MDJ court) will work with the four other clerk supervisors in the quadrant to create efficiencies. Efficiencies that rise to the level of possible implementation across all 20 MDJ courts should be communicated to the Court and considered/implemented via existing mechanisms (e.g., regular meetings of the clerk supervisors, and meeting of MDJs.)*

The following chart illustrates the informal organization proposed in Recommendation 10-1.

Figure 10.3. Proposed Informal Organization of Magisterial District (MDJ) Court Clerk Supervisors Across Four Quadrants and Twenty Districts



In periodic formal and informal meetings and communications, the Deputy Court Administrator, the four quadrant leaders, and clerk supervisors would identify, analyze and characterize each of the MDJ courts’ business processes and operations, as well as governance, supervision, and administrative structures. This would be followed by brainstorming solutions to inefficiencies, duplication of efforts, opportunities for sharing of resources, and improvements of operations.

C. Expected Organizational Efficiencies

Except for solutions to alleviating short-term staff shortages with sharing of staff with neighboring MDJ courts without intervention by the CAO, which might result in a minimal cost reduction of \$25,000 in part-time or over-time costs, NCSC does not project specific efficiencies and cost reductions. Of course, it is possible that the recommended informal move toward consolidation might make MDJ courts’ operations *less* cost-effective. However, if the informal organization and communication are built on existing informal relationships, NCSC believes that the implementation of Recommendation 10-1 would make MDJ court operations *more* cost-

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effective, either by (a) being more effective at less cost, or (b) being more effective at the same cost.

D. Findings and Observations on Business and Service Consolidation

All MDJ courts use the case information system provided by AOPC. The system provides basic electronic case management functionality for the clerk's offices. Case processing is, however, primarily a paper-based process. Case files are prepared for criminal and summary cases. Some documents are generated by the MDJS and others are prepared locally. In many cases judges write on files and many documents are still filled out by hand. Although each MDC has established local procedures for processing cases, the supervisors do meet regularly to compare notes and discuss operational issues.

NCSC was asked to assess the potential for business and service consolidation of MDJ support operations. Though a citizen is entitled to have his or her case heard by a MDJ elected in the district where the alleged offense occurred, this does not necessarily preclude the possibility that certain clerical functions could be consolidated. Many courts have found that case processing activities such as data entry, scheduling, disposition processing, etc., can be performed more efficiently by performing them in a central location. The expanding use of technology to capture and transmit information resulting in less reliance on paper files and documents has helped make this possible.

With this in mind the project team discussed the potential for consolidation of certain case processing activities and their potential application in the MDJ courts, as well as assessed the consistency of case processing activities between courts and specific activities that might be centralized or shared. The project team also looked at the types of dispositions being recorded by the MDJ courts to gain a better idea of how much of the current workload result in judicial dispositions as opposed to cases which are disposed via a clerical function.

The project team understands that the MDJ courts had previously been involved in a consolidation effort that combined the five districts comprising Lancaster City and Lancaster Township into a single office operation. None of the individuals who spoke with the team indicated that the experiment was successful, and further commented that the consolidation attempt was deemed by the Supreme Court to be contrary to statutory requirements for MDJ courts. Against this background any further efforts to move in this direction will likely have little support unless a good case can be made for the benefit.

E. Recommendation on Business and Service Consolidation

Recommendation 10-2: Standardize MDJ court practices and procedures, and move toward electronic case processing. *The MDC support staff supervisors are encouraged to identify areas where office practices and procedures can be standardized across districts to facilitate easier cross assignment of staff and more consistency for constituents. As a strategy the courts should work with local police agencies to implement electronic filing and investigate the feasibility of developing an electronic document management system that would eventually eliminate the need for reliance on paper case files.*

F. Expected Efficiencies from Business and Service Consolidation

While immediate movement towards greater consolidation or restructuring of MDJ court support functions may not be feasible at this time, the courts and DCA's office should keep their options open. There is considerable potential for the MDJ courts to improve the efficiency of their operations through better application of technology. The current processes rely on paper-based exchanges of information with police agencies, corrections, constables, and the Lancaster Court of Common Pleas. It is apparent that these exchanges often result in delays caused by redundant data entry and the time required to prepare and deliver information. Fortunately the MDCs are utilizing a common case management system which allows the MDCs to access data from other court locations. In addition, some electronic data exchange is already used to process parking tickets.

Following implementation of electronic data and document exchange, the physical location of many case processing activities and data/document storage would no longer necessarily need to occur in each separate court office. Integration with the existing MDJ system would be a necessary prerequisite to an efficient workflow system based on electronic document management, as E-filing and document imaging alone would not provide the efficiencies that could be achieved through integration with case management. Advantages would include:

- Online access to case files and documents by judges and court staff from any location
- Electronic data entry of court actions and dispositions
- Improved information exchange with corrections for coordination of transports and video arraignments
- More rapid transmission of case information to the Court of Common Pleas
- Reduced data entry redundancy and errors
- Remote access to case files for defense and prosecution

As a prerequisite to the development of an integrated document management system the MDJ courts are encouraged to look for opportunities to develop best practices across the county.

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The use of a common case management system and common work processes are a good basis for further unification of case and records management practices. This could be a regular topic at periodic MDJ court support staff meetings.

Step Eleven: Promote Enhanced Court Employee Commitment and Productivity

How committed are the employees of the Court to its mission and to helping each other achieve it? Although everyone wants court employees to produce their very best, they must be engaged to do so. To create high levels of engagement, court leaders and managers in Lancaster County might want to build an organization that has the following attributes:

- **Pride in purpose.** If employees are proud of the court and the court department in which they work, they will assume shared responsibility for their success.
- **Group identification.** Belonging to an organization that is considered important is itself a source of pride that carries with it increased engagement.
- **Trust.** When they trust their colleagues to work hard toward shared goals, employees will do more to support their efforts.
- **Fairness.** Disparities and inequities that are seen as unfair are insidious, perhaps more so in courts than any other public or private organization because fairness and equity are what courts are supposed to deliver to those they serve. The Court and CAO should practice with its employees what it preaches to those who appear before it as litigants. If the Court and CAO want employees to engage in and embrace the Court's mission and vision, the Court and CAO must be perceived as putting fairness and equity above self-interests.

Many courts have successfully used a simple and inexpensive instrument – the NCSC Employee Engagement Survey and Process -- to instill these attributes and engage employees including granting them the freedom to design innovative strategies to increase efficiencies and effectiveness. A similar approach can be considered in Lancaster County.

A. Findings and Observations

The greatest asset of the Lancaster County Court of Common Pleas is the talent, energies, enthusiasm and interest of its employees, including judicial and non-judicial staff – that is, high employee engagement. While most employees of the Court may be keen to contribute more at work, the behavior of their supervisors and managers, and the culture of the Court may be discouraging them from doing so. In order to increase its productivity (defined as the amount of time required to perform a service), the Court should pay more attention to employee engagement.⁸⁴

⁸⁴ A recent survey found that only one in seven employees worldwide are fully engaged with their jobs and willing to go the extra mile for their companies. The study by consultants Towers Perrin was carried out with more than

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A measure of employee engagement is a proxy for an organization's overall success. Employee engagement is defined as "a heightened emotional connection that an employee feels for his or her organization, that influences him or her to exert greater discretionary effort to his or her work."⁸⁵

The world's top-performing organizations understand that employee engagement drives performance outcomes. The evidence from research is clear: a high level of employee engagement – its creation and maintenance – is one of the most crucial imperatives of any successful organization. Employee engagement correlates to individual, group and organizational performance in areas such as productivity, retention, turnover, customer service and loyalty. Research by Gallup⁸⁶ and others shows that engaged employees are more productive.

Successful courts have strong, vibrant workplaces in which judges, managers and court staff exhibit good working relationships. The most important variable in employee productivity and satisfaction is not pay, benefits or the physical workplace environment *per se*.

The results from studies of employee engagement in the private sector, and mounting evidence from the use of the National Center for State Courts' *CourTools* Measure 9, "Employee Satisfaction," in trial courts throughout the country⁸⁷ indicate that in "engaged workplaces" employees tend to respond positively to simple questions about the quality of their relationships with supervisors or managers. These are work places with higher levels of productivity, profits, worker retention rates and customer loyalty. Moreover, employees answered the questions differently according to the unit or division they worked in, rather than the organization, indicating that the answers were largely formed by the quality of the relationships between the employees and their immediate supervisors.

Last year marked the fifth consecutive year that Nineteenth Judicial Circuit of Lake County, Illinois, surveyed court employees using Measure 9 of the *CourTools*. It has perhaps made the

85,000 employees of companies in 16 countries and found that there is a vast reserve of untapped "employee performance potential" that could drive better performance if only the companies could tap into this reserve. See Management Issues at <http://www.management-issues.com/2006/8/24/research/employee-disengagement-a-global-epidemic.asp> retrieved online February 20, 2011.

⁸⁵ See the 2006 report, "Employee Engagement, A Review of Current Research and Its Implications," *The Conference Board*, a non-profit business membership and research organization.

⁸⁶ See Gallup at <http://www.gallup.com/consulting/52/employee-engagement.aspx>. (Retrieved online February 20, 2011.)

⁸⁷ Courts throughout the country – including the Nineteenth Judicial Circuit of Lake County, Illinois, the Maricopa County Superior Court in Phoenix, the San Joaquin County Superior Court and the San Mateo County Superior Court in California, the Lubbock County Judicial Branch in Texas, and the Morrow County Court of Common Pleas in Ohio -- increasingly are using the 20-item *Court Employee Satisfaction Survey*, Measure 9 of the *CourTools*, to make improvements in their programs and services and to change the way they do business for the better.

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longest and most productive use of this measure than any other trial court and it serves as a good model for the Lancaster Court of Common Pleas.

The Administrative Office of the Nineteenth Judicial Circuit is responsible for all non-judicial executive and managerial functions of the court divided into six operational divisions: Administrative Services, Adult Probation Services, Judicial Information and Technology, Judicial Operations, Juvenile Probation and Detention Services, and Psychological Services. In addition, two core support units provide technical support and services to each of the judges and divisions of the circuit. The senior management team of the Nineteenth Judicial Circuit recognized the “talent, experience, and dedication to quality public service embodied by court employees...and how employees perceive their workplace is, therefore, important for court managers in evaluating teamwork and management styles, in order to best facilitate organizational development.”⁸⁸

The opinions of all court employees are assessed annually using the *Court Employee Satisfaction Survey*, usually during the final quarter of the calendar year. From 2006-08, the survey was administered in a hard copy format to all non-judicial court employees during the month of October. The 2009 survey was administered in November to coincide with the release of the Court’s new website. In addition, the 2009 Court Employee Survey also utilized an online response form for employees to complete and submit their surveys electronically. Ninety-seven percent (97%) of all 2009 respondents took advantage of this method over the traditional hardcopy survey, which was made available to employees as an alternative. The 2010 Court Employee survey was also administered in November, in a similar fashion. Ninety-one percent (91%) of respondents used the online format during this most recent cycle.⁸⁹

The 19th Circuit Court employee engagement survey results are available to all 19th Judicial Circuit Court employees through the *Courts Daily* intranet website and to the general public on the Court’s website.

As part of its study, the NCSC Team explored the feasibility of implementing the *Employee Satisfaction Survey* in the Lancaster County Court of Common Pleas and concluded that it would offer an attractive return on investment in higher productivity for the Court.

⁸⁸ 2010 *Court Employee Satisfaction Survey*. Administrative Office of the Nineteenth Judicial Circuit of Lake County, Illinois, available online at http://www.19thcircuitcourt.state.il.us/resources/Pages/smaart.aspx#smaart_reports.

⁸⁹ Id.

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B. Recommendation

Recommendation 11-1. Conduct and Follow Up on a Survey of Court Employee Engagement. *Employee Satisfaction, Measure 9⁹⁰ of the National Center for State Courts' CourtTools should be implemented directly by the CAO with the assistance of the IT department to set up an online survey capability and to produce automated result summaries. Using the results of the survey, the Court should take management steps for improvement of employee engagement. On a regular basis monitored, analyze and improve employee engagement.*

The survey can be administered online via the Internet, as it has been in dozens of courts, using an inexpensive, commercially available survey application. An e-mail cover letter from the President Judge and District Court Administrator sent to all potential respondents should contain clear instructions about accessing the online survey, as well as introductory comments designed to encourage good response rates.

To construct, administer, and use the results of the survey, the CAO should be guided by three sources of detailed information:

- a) the prescription for constructing and administering the survey questionnaire laid out in the National Center for State Courts' *CourtTools*, Measure 9, "Employee Satisfaction" and related information available on the National Center for State Courts' website devoted to the *CourtTools*⁹¹;
- b) the description of the measure taken by the Nineteenth Judicial Circuit of Lake County, Illinois, in 2010, available on the Court's website⁹² (see Appendix I); and,
- c) in Appendix J of this report, an edited compilation of articles on the topic of employee engagement that appeared in ***Made2Measure***, a Web blog devoted to emerging issues related to performance measurement in courts and justice systems in the U.S. and other countries.⁹³ These resources provide practical instructions for adapting the survey instrument to the Court's specifications, administering the survey easily and economically, compiling and using the results to improve the Court's productivity.

The Nineteenth Circuit Court's use of breakouts of survey results by division, over time, and according to various "clusters" of survey items (see Appendix I) are particularly noteworthy. Each year following the annual Court Employee Satisfaction Survey, division directors of the

⁹⁰ National Center for State Courts, *CourtTools* ©NCSC 2005, Measure 9, "Employee Satisfaction," available online at http://www.ncsconline.org/D_Research/CourTools/Images/courttools_measure9.pdf.

⁹¹ http://www.ncsconline.org/D_Research/CourTools/index.html

⁹² http://www.19thcircuitcourt.state.il.us/resources/Pages/smaart.aspx#smaart_reports.

⁹³ Ingo Keilitz, *Court Employee Engagement: Enhancing Performance Through Employee Engagement* (Williamsburg, VA: National Center for State Courts, September 2010).

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Nineteenth Circuit Court develop improvement plans for their divisions based on the survey the survey results.

C. Expected Efficiencies

Specific estimates of return on investment (ROI) in the measurement and management of employee engagement, especially in terms of increased productivity and impact on cost reduction, are difficult to make. While virtually all scholarly research and management studies agree that increased employee engagement leads to higher productivity, there is no credible evidence to suggest by how much. With that caveat, the NCSC Team believes that it would not be unreasonable to expect at least a 10% increase in productivity for every 10% increase in employee engagement measured by *Employee Satisfaction* or the Court overall and for each division and unit.

Step Twelve: Relocate Court Self-Help Center Into Law Library Space

A. Findings and Observations

The Court Self-Help Center, currently staffed by a part-time person and supervised by the Court's Law librarian, is conveniently located on the first floor of the courthouse. The Law Library is located on the third floor of the old courthouse.

The purpose of the Judge Henry S. Kenderdine, Jr., Court Self Help Center is to provide one central location where self-represented litigants can obtain some of the information and forms that they may need to represent themselves in certain types of court actions. Neither the staff in the Center nor the staff in any Court office are available to give legal advice or help fill out the forms. Various packets of information may be purchased at the Center or downloaded free from the Court's website.

The Library is staffed by a full-time Court Law Librarian and a part-time assistant. The main purpose of the library is to provide a collection of materials needed by attorneys for legal research, but the library is also open to the public during the regular business hours of the courthouse. The staff provides reference assistance to library patrons, but they do not do legal research for people. The collection consists mainly of primary sources of law, including federal and Pennsylvania statutes, court rules, administrative regulations, and cases; reported cases from the appellate level courts of all fifty states; and a special file of all decisions from the Lancaster County Court of Common Pleas since 1980. The library also contains sources that explain the law, such as treatises, law reviews, loose-leaf services and legal encyclopedias. All library materials are continuously updated to reflect changes in the law. The Library has a coin-operated photocopier, and Westlaw, a computer assisted legal research system, is available for free patron use.

B. Recommendation

With regard to this issue, the NCSC project team offers:

Recommendation 12-1. Co-locate the Library and the Court Self-Help Center. In coordination with the anticipated planning of courthouse renovations, the Court should give consideration to relocating the Court Self-Help Center into the space currently occupied by the Library.

C. Expected Efficiencies

Relocation of the Court Self-Help Center into the Law Library space would allow full-time coverage of the Court Self-Help Center. Because of the relatively inconvenient location of the Library, co-location of the Court Self-Help Center with the Library would require adequate signage.

Arguably, the one-time relocation and signage costs for this step would soon be outweighed by its benefits. It is likely that implementation of this recommendation would make court operations more cost-effective, by (a) being more effective at the same cost, or (b) causing an increase in effectiveness that justifies any increased one-time costs.