

Cuyahoga County, Ohio Felony Case Processing Study

Status Report on Implementation of Recommendations

Submitted to:

The Cuyahoga County Commissioners

and

**The Cuyahoga County Criminal Justice
Governing board**

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By

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A. Introduction

1. Background

In the Fall of 2004 The Justice Management (JMI) began a study of felony case processing in Cuyahoga County for the County Commissioners and Adult Justice Group. The study examined the handling of felony cases in the County from arrest to sentencing. A final report with recommendations was submitted to the County in May of 2005 (referred to here as the 2005 JMI Report).¹ Representatives of JMI appeared before the Board of County Commissioners and presented the report and recommendations. The report was favorably received and a significant effort was begun to implement the recommendations.

In the Spring of 2008, Cuyahoga County requested that JMI return to the county, review the progress made towards implementation of the recommendations made in 2005, and provide a status report regarding implementation. The status report addresses each recommendation, identifying what has been accomplished and what has not yet been done. The report will also include observations about challenges facing stakeholders regarding further implementation and the potential impact of recommendations not implemented. To more fully understand the background and rationale for the recommendations made, the reader is referred to the 2005 JMI Report.

2. Project Methodology

The information on which this status report is based is derived from two sources. One source is interviews with people who work in the criminal justice system. The second source is information contained in reports and other documents addressing the implementation of the recommendations. Most interviews were conducted during a three day site visit in early July, 2008. Several additional interviews were conducted by phone after the visit. The interviews included judges and managers in the Court of Common Pleas, managers in the Cleveland Municipal Court, and managers and staff in county agencies (prosecution, public defender, sheriff, administration, and information services), managers in city police departments, and members of the private bar.

It should be noted that the review process was abbreviated, involving a limited amount of time and resources. For example, there was no opportunity to collect and analyze case-specific data on the impact on cases and on the system of the changes made. It was also not possible to identify in any detail the shifting of costs or savings resulting from the implementation efforts as between the cities and counties, or Municipal and Common Pleas courts. Although the report is not comprehensive, it does provide a snapshot of progress and the challenges and opportunities present.

¹ CUYAHOGA COUNTY, OHIO, FELONY CASE PROCESSING STUDY, PHASE I, FINAL REPORT AND RECOMMENDATIONS, The Justice Management Institute, May 2005.

B. General Observations

Overall, the Justice System Reform efforts have been quite productive. The investigation and preparation stage of felony cases in the pilot project has been significantly shortened. Encouraging changes in subsequent stages of cases have also been made. The benefits are apparent, and the effort continues to move in a positive direction. All of the agencies involved are to be commended for shedding their internal focus and for working together in sharing the responsibility to develop workable solutions and implementing them.

The development and implementation of changes to longstanding practices and habits of a criminal justice system is not without controversy. This is particularly true where the system is suddenly jarred from its previous state, as appears to have occurred in Cuyahoga County. A certain amount of frustration, consternation, and resistance is understandable, even expected. However, there appears to be real effort to cooperate, and do what is necessary to ‘make it work’ on the part of the courts and county and city agencies. Equally significant is the lack of finger pointing and the abandonment of a typical ‘silo’ mentality in favor of shared responsibility. People are working together to plan the changes and solve problems that arise. Interestingly, there appear to be as many people expressing a sense that implementation is moving too slowly as expressing a sense that it is going too fast.

Another positive development is that Cuyahoga’s criminal justice system is becoming a learning organization.² There are two aspects to this growth. One is learning from what other jurisdictions are doing. The second is learning from changes made to current practices and procedures. The development of the ability to learn, internally as well as from others, should help Cuyahoga avoid slipping into the type of suboptimal performance observed during the 2004-05 study. The interest in learning what other jurisdictions are doing that could be adapted to Cuyahoga County was very apparent during the recent site visit and is reflected in the expectations expressed regarding this report.

Learning from one’s own efforts is also ongoing, although there is some frustration expressed when further changes are anticipated or proposed. Doing something that does not work is not necessarily a mistake, especially if you acknowledge it, learn from it, adjust your practices, and try again. Part of the value of a pilot project is to try something, see if it works, and then make adjustments, before implementing it jurisdiction wide. While this iterative process can be frustrating and result in additional expenditures (for example, to re-program IT systems), the entities involved must give each other space and support to try new protocols and practices, learn whether they work, make improvements, and try again. Concerns have been also expressed about continual changes to the protocols of the pilot project as it is expanded to more jurisdictions. The specific changes mentioned include what cases to include, exceptions, and how long is enough time for case to be ready for hearings.

While constant change is not healthy, implementing change incrementally and ‘fine tuning’ new procedures to maximize effectiveness is healthy. The Court and

² Peter M. Senge, *THE FIFTH DISCIPLINE, THE ART AND PRACTICE OF THE LEARNING ORGANIZATION*, Currency Doubleday 1990, ISBN 0-385-26095-4.

criminal justice agencies are encouraged to continue to experiment to find the most effective ways to prepare and decide cases in a just and timely manner. An essential aspect of this is open and ongoing discussions where everyone listens to each other's concerns, even if not everyone is in full agreement with the final decision.

Two aspects of the reform effort are discussed in more detail here – the pilot project and video conferencing. This is done because each of these changes was implemented as a package addressing more than one of the recommendations made in the 2005 JMI Report. This also allows for a more coherent summary of the changes and results, and avoids duplication of the discussion in the review of individual recommendations provided below.

1. Pilot Project

The most significant work that has been done is around the early preparation and filing of felony cases, particularly low level felonies, from arrest to indictment. In many respects this is the most difficult stage to change, because it involves law enforcement and justice agencies, courts, and attorneys at both the county and city level. After some initial efforts to devise system-wide changes, a decision was made to develop and test new protocols and practices using a pilot project approach. The pilot project is variously referred to as the pilot project, Expedited Case Management (ECM), or Early Disposition Pilot Project. The term “pilot project” is used here.

Two jurisdictions were chosen as the initial pilot sites: Shaker Heights and Lakewood. After gaining experience in these two jurisdictions, the protocols were modified and the pilot project has been expanded to include Parma and some police districts in Cleveland. Eventually the plan is for the protocols to apply county-wide.

The general parameters of the pilot project are as follows.

Under the pilot project protocols defendants arrested on felonies are brought to the county jail for fingerprinting and booking within 24 hours of arrest. In the less serious felony cases, the police departments agreed to prepare incident reports and the Criminal Incident Form (CIF) within 24 to 48 hours of arrest and send by e-mail or fax to the Prosecutor's office. Previously submission of the reports took up to 2 weeks. Eventually, the plan is to have the reports produced and filed electronically. Potential evidence needing testing is also to be submitted promptly.

The County Prosecutor's office assigns some of its intake prosecutors to screen cases from the pilot sites to make decisions on charges as soon as possible after the arrest. Assistant prosecutors are also available to police officers to discuss cases and charges from the beginning, much earlier than they had been available before.

The Municipal Courts where the case would have been initially filed under the former practices agreed to waive their discretion to appoint counsel for indigent persons for court appearances prior to bindover. The Judges of the Common Pleas Court agreed to allow private attorneys to be appointed for indigent clients prior to arraignment in the Court of Common Pleas from pre-approved lists of attorneys they provided to the Municipal Courts. Private attorneys named to the lists agreed to participate in the program and to take cases in the pilot sites from arrest. There was an increase in the both

the hourly rate and total fees paid to counsel appointed to represent defendants in pilot site cases in recognition of the added appearances and expectation of earlier preparation.

When the defendant is brought to the County Jail, an initial appearance is scheduled, and bail must be set within 48 hours. During this time Pretrial Services screens the defendant regarding possible release and alternative programs. Previously, screening, particularly for program eligibility, occurred later in the process.

In cases where the charge is a level 4 or 5 felony, an Early Disposition Conference is scheduled in the Court of Common Pleas 5 days from the arrest. The prosecutor's office and defense counsel are to exchange discovery and a plea offer is made at or before this hearing. At the conference, there are five possible outcomes: 1) a plea agreement is reached, 2) the case is referred to a program, such as the EIP/diversion or drug court, 3) a brief continuance is allowed for the defendant to consider the plea offer or enter a program, 4) there is no resolution and the case shifts to the grand jury and trial track, or 5) there is no resolution and the case proceeds by information, if the grand jury indictment process is waived.

Recently, the scheduling of the Early Disposition Conference (EDC) was revised to 7 days from arrest. The longer time period was requested to allow more time for the screening and assessment of the defendant, and to reduce the number of continuances of the conference for further negotiations. The change will be tested during a two month period. If the extension reduces the level of plea agreements and referrals, the time frame will revert to 5 days.

The Court of Common Pleas has added judicial resources to hear the additional appearances in the Arraignment Room for defendants who have been brought to the county jail as part of the pilot project. Initial appearances in these cases were previously in the Municipal Courts. Some Arraignment Room Judges have agreed to also handle bond hearings, assignment of counsel, and setting of the first pretrial conference in the Arraignment Room, rather than waiting for the assignment to a trial department. In some cases, the judicial officer is also taking a guilty plea, and sentencing is done by the judge to whom the case is assigned.

In reviewing the experiences from the two original pilot courts and the initial phases of the expanded pilot project, a number of positive benefits have been reported. The benefits inure to the City agencies involved, the County generally, and each of the county criminal justice agencies and the courts. There are also benefits to many defendants in the form of more prompt resolution and less pretrial jail time.

Several statistical reports are provided summarizing the impact on cases in the pilot project compared to other cases. While there is no reason to question the accuracy of the reports, it is sometimes difficult to assess the comparability of numbers about pilot cases versus non-pilot or other cases. Also, when a percentage number is reported, it is sometime difficult to know what set of cases the percentage refers to. Nonetheless, as the summary statistics reported below indicate, it is clear there have been significant reductions in time from arrest to indictment, arrest to resolution, and average length of stay in jail for defendants charged with less serious felonies.

Specific benefits of the reform effort include:

- Arrest to disposition times for cases resolved as part of the pilot project are about 10-15 days, versus 70-80 days under prior practices.
- Arrest to indictment times dropped from about 68 days to 11 days for pilot project cases that are not resolved in the pilot project track and proceeded to indictment.
- Pilot project cases are having a first hearing in the Court of Common Pleas within 5-7 days of arrest, whereas, previously, this did not occur for 5-6 weeks.
- The cases assigned to the pilot project, felony 4s and 5s, represent 35-40% of the filings in the pilot sites, a significant portion of the caseload.
- The time defendants spend in a city jail has been reduced from 10-15 days to 1-2 days, because defendants are taken to the county jail within a day. There is a corresponding increase in time spent in county jail, although generally the total length of stay is shorter than under prior practices.
- Fewer defendants fail to appear at the arraignment on the indictment because of the shorter time period.
- There are fewer events scheduled in the Municipal Court, many of which are cancelled when the defendant is indicted prior to the scheduled events.
- Over half of the low level felony cases are assigned to treatment or some other diversion-type program during the pilot project stage, thus avoiding a Grand Jury hearing and indictment.
- People are reporting that resolving less serious cases early is reducing caseloads generally, which means more time for the more serious cases.
- One pilot city noted that the pilot project had actually saved overtime costs for the city associated with cancelled pretrial hearings. However, other police departments report increased overtime costs for officers completing reports within the 24 hour time frame.

While there are many very positive benefits arising from the pilot project, there are also several challenges that need to be addressed. Some of the key challenges are as follows:

- *Insufficient time for pretrial screening and assessment.* Under the pilot project, more defendants are now brought to the County Jail within 24-48 hours of arrest, and a bond hearing must be held within 48 hours. In the less serious cases, a conference is scheduled 5 (temporarily 7) days from arrest, by which time information about the defendant regarding substance abuse, mental health issues, dual diagnosis issues, and eligibility for alternative programs should be available to all parties to expedite resolution. Accomplishing this requires more pretrial screening and assessment staff and faster mental health assessment. The need will be even greater as more police districts and cities are added to the program and the volume of cases increases.

Several steps are being taken to assist the effort to conduct timely assessments. Additional pretrial staff have been added using grant funds. Video-conferencing and an inmate tracking system will help with access to prisoners. Pretrial Services is also working with mental health providers to assist with mental health screening.

- *Insufficient time to complete preliminary investigation.* Having a hearing 5 days after arrest sometimes does not allow enough time for the case to be ready for resolution. For example, the lab test results may not be back yet. More significantly, defense counsel may not have had adequate time to confer with their client and investigate the case. When there is not enough information to proceed, the 5 day hearing must be postponed. It is not clear how often this is happening, but monitoring this would be relevant to determining how many days are generally required, or to differentiate cases based on how fast they can be ready. Again, as the volume of cases assigned to the 5 day track increases, it will be more difficult to prepare cases unless the number of defense counsel involved increases proportionately.
- *Availability of Assigned Counsel.* For reasons discussed below (see discussion under Recommendation No. 21) some defense counsel have declined to participate in the pilot project. They are concerned about the pace with which defendants are moved through the process, potentially depriving them of enough time to adequately investigate and assess: a) the strength of the case against the defendant, b) possible defenses, and c) alternative programs or sentences that might be appropriate for the defendant. Accepting appointment to represent a defendant shortly after arrest also requires appearances in outlying courts, which can create scheduling conflicts and associated problems in the Municipal Courts.
- *Need for Additional Resources.* The Court and several agencies have indicated additional funds are needed to continue the pilot project and expand it to additional police districts and cities. To the extent new activities are involved for an agency to participate in the pilot project (for example, more extensive pretrial screening and assessments, screening of more defendants, or additional appearances by defense counsel with earlier appointment), additional resources may be needed. Similarly, if activities are shifted from one agency to another (for example, defendants spend more time in the county jail than in city jails, or clerk of court activities associated with cases are now in the Court of Common Pleas rather than Municipal Court), more resources are needed in the agency now doing the work and fewer in the agency no longer doing the work.

However, if the number of cases does not increase, or an individual's caseload is unchanged, but work needs to be done earlier, rather than later, greater justification needs to be provided as to why more resources are needed. This is particularly true when cases are being resolved earlier and/or more are being diverted, resulting in smaller pending caseloads downstream. Although the work has moved earlier in time, the amount of work may not have changed.

Finally, the need for resources is affected by adoption of new business practices or greater use of technology. New practices or technology can increase efficiency and reduce costs. They may also increase costs if the objective is to provide new information not previously provided in cases, for example, more informed pretrial assessments. Some recommendations made in the 2005 JMI Report involving new business practices will reduce costs as well as improve the pace of litigation and the quality of justice. Care must be taken, however, to not expect too much from technology. While technology may sometimes appear to allow an activity to be done at less cost, there may be reasons not to use the technology, such as the need for direct human contact to discuss matters.

The effort to assess the need for additional resources, and funding in these difficult budget circumstances, should ask the Court and agencies to submit information about the positive benefits and cost savings resulting from the pilot project on their operations, along with the justification in requests for new resources.

- *Impact on continuing investigations in certain types of cases.* In certain situations, the requirement for rapid transport of a defendant to the County Jail for booking may interfere with ongoing investigations of similar crimes or other crimes the defendant is suspected of having committed. In the past, a defendant in this type of situation was held in the City Jail, or not transported so quickly to the County Jail, while they were interrogated regarding other reported crimes or investigations were ongoing. Under the pilot project, if the police want to talk to the defendants, they will have to travel to the County Jail, or, when it is operational, use the video conferencing system. This is an example of unanticipated consequences of the pilot project that can be resolved through exceptions negotiated between the affected city and county agencies.
- *Re-prioritization of work of police officers.* The requirement to promptly transport defendants and produce reports in less serious cases has the effect of re-prioritizing the work of police officers. Focusing on more rapid preparation of the less serious felony cases can delay investigation and preparation of both more serious felonies and misdemeanors. This may resolve itself as officers become accustomed to the new practices, possibly including more rapid preparation of all cases.

2. Video Conferencing

The County has embarked on an ambitious effort to establish a video conferencing system linking county, city, and state justice agencies. There are a number of proposed uses for video conferencing, many supporting the recommendations made in the 2005 JMI Report. These include using video for court appearances where the defendant is in custody in a remote location (for example, arraignments, probation violation hearings, extradition hearings, etc.), attorney-client conferences for defendants who are in-custody, other activities involving in-custody defendants (such as pre-trial

release/bond investigations and program assessments), appearances before the Grand Jury, contacts between police and the prosecutor, communications with the staff in forensic labs, and for training of judges, lawyers, and staff.

Video conferencing capability is being installed in detention facilities where defendants are held—the County jail, city jails, and the Geauga County jail. Two Common Pleas Courtrooms are being equipped as an initial pilot, as well as the 12th floor Arraignment Room. Video conference capability is also being established in the Cleveland Municipal Court, Prosecutor’s office, Coroner’s Office, Probation Office, Public Defender’s Office, Pretrial Services, Bond Investigators, treatment program offices, juvenile court, and police departments in pilot sites. Negotiations are also underway for connections with the state Department of Rehabilitation and Corrections.

The expected benefits of video conferencing include the reduction of prisoner transportation and related security and public safety risks, reduced travel time for lawyers and criminal justice staff working with in-custody defendants, and increased contacts between defense lawyers and their clients. Video-conferencing could also allow “virtual central booking”, avoiding the transportation of defendants to the County Jail.

Implementation of video conferencing has begun, with installation and testing of equipment and training of users having occurred in several locations. However, implementation appears to have been slower than anticipated. This is attributable to a number of issues: a lack of a shared, or shifting, consensus as to the goal of video conferencing, slow acceptance of the concept, inexperience with where video conferencing is legal and appropriate, and inexperience with how to make it work, changes in where video capability will be installed, technical challenges (wiring and bandwidth), and, significantly, the sheer magnitude of the effort. The use of video will evolve as parties become more accustomed to it and identify where it has the greatest benefits and advantages.

3. Related Initiatives and Activities

The activities addressing the recommendations of the 2005 JMI Report have not occurred in isolation. There are a number of other initiatives underway in Cuyahoga County that affect, and are affected by, the responses to the 2005 JMI Report. Some were being considered, if not started, during the initial study period in 2004-05. Others have come up since then. These major initiatives include:

- Development of a Community-based Correctional Facility (CBCF) located in Cleveland;
- Establishing a central booking facility in Cleveland serving the entire county;
- Expansion of the Cleveland Municipal Court drug court to create a county-wide drug court; and
- Creation of a re-entry court serving inmates about to be released from custody.

Several of these initiatives support the goals of the recommendations in the 2005 JMI Report. At the same time, these initiatives have consumed resources and, sometimes, lowered the priority of, or postponed the efforts to implement, the recommendations. This is not necessarily bad, but it is relevant to the assessment of the effort to implement the recommendations, explaining why some are not yet fully implemented.

In addition to the reform effort and other initiatives, there is the on-going problem of jail capacity. A number of the recommendations impact the jail population, some increasing the population, some decreasing. The increase or decrease could result from either the number of defendants involved, or the length of stay of individual defendants. As noted, the pilot project brings more felony defendants to the county jail earlier. At the same time, each defendant's jail stay should be shorter. There are a number of other factors affecting population, for example, the variety of practices among the judges about bail decisions, scheduling hearings, sentencing, and post-conviction detention. Although the implementation of the recommendations should reduce the average daily jail population, other factors may increase it.

C. Review of Implementation of Recommendations

Each of the recommendations made in the 2005 JMI Report is addressed below. The organization, numbering, and language in the report are retained for ease of reference. In some instances the assessment notes that the approach taken to implement the recommendation is different than the specific approach recommended, but accomplishes the same objectives.

1. Governance of the Criminal Justice System

Criminal Justice Supervisory Committee.

Recommendation Number 1: Cuyahoga County should form a county-wide Criminal Justice Supervisory Committee. The Committee should be drawn from key leaders at the county and municipal levels and should have top quality staff. It should be charged with planning for system-wide improvements in criminal justice system operations, monitoring progress toward achievement of goals, acting collectively to address systemic problems, and reporting at least annually to county and municipal governing bodies.

This recommendation has been implemented regarding an oversight body. A Supervisory Committee was formed in 2006 to oversee implementation of the recommendations. In March, 2007, a new governance structure, the Cuyahoga County Criminal Justice Services Governing Board (CJSGB), was established by the Board of County commissioners and the original Supervisory Committee dissolved.³ The Bylaws for the Board set forth the purpose and responsibilities (Articles One and Three) and the membership (Article Four) consistent with Recommendation No. 1. The Bylaws authorize staff (Article Eight) and one central staff position is provided by the County.

Under the aegis of the CJSGB, several Councils have been formed (Agency Council, Community Council, and Technology Council) to guide various planning and implementation efforts. Notably, the CJSGB and its Councils, have responsibilities beyond implementing the recommendations contained in the 2005 JMI Report (see B. 3. Related Initiatives and Activities discussion above).

³ Board of Cuyahoga County Commissioners, March 8, 2007, agenda item no. 19. The Bylaws can be found at: <http://jsr.cuyahogacounty.us/bylaws.asp>.

Several of the recommendations in the 2005 JMI Report contain language requiring approval of the new policy or implementation process by the oversight committee established pursuant to Recommendation Number 1.⁴ While it does not appear that the type of formal review and approval of changes contemplated in the recommendation has occurred, there has been a process that meets most of the intent of the recommendation.

One of the objectives of this recommendation is to ensure that all participants affected by the implementation process are made aware of what is being proposed and implemented. A second objective is to obtain buy-in, or at least consensus, about the changes being made. This approach, notice and reaching consensus, minimizes the risk of changes being proposed that benefit only one or a few agencies, but that are suboptimal for the system as a whole. Some changes proposed can raise costs to some agencies in order to reduce overall costs or produce benefits to other agencies, or the system as a whole. If there is notice, discussion, and approval, it is more likely that the costs as well as the benefits of a proposed change will be debated and a policy decision made that is in the interests of the whole justice system, not just the agency(s) driving the proposal. However, it is important to have a mechanism and willingness to debate proposals, and not just a reporting out at an oversight meeting of a decision already made.

While the type of formal approval contemplated in the recommendations did not occur, the format of the oversight body meetings suggests the intent of the recommendation has been achieved. At Board and Council meetings the working groups report what is being proposed, what is being implemented, and what results have been identified.⁵ This provides notice, at least to participants receiving the agenda and attending meetings. While the work groups appear to include representatives of affected entities, the lack of formal, written plans and protocols and lack of formal approval does reduce the transparency of the implementation process to a degree, both to justice system agencies and the public.

Annual reports contemplated by Recommendation Number 1 have not been produced every year. A status report was prepared in the Summer of 2007 indicating progress on each of the recommendations and is posted on the web site.⁶ A least one newsletter has also been prepared and distributed.⁷ Statistical reports about the pilot project impact are regularly produced, distributed at council meetings, and discussed. Ad hoc reports have also been prepared and shared among the courts and agencies.

The recommendations contemplated that the implementation effort would be lead primarily by the oversight body. Often it is difficult for a committee, especially one composed of busy executives, to collectively lead such an effort. Often, one individual takes the lead and becomes “the champion” of the reform effort. This has occurred here.

⁴ Typical language reads: “The process recommended should be forwarded to the Criminal Justice Supervisory Committee for approval and implementation”, and is included in recommendations 2, 3, 4, 5, 6, 9, 11, 12, 16, 18, 19, and 23.

⁵ Agendas and minutes for many meetings can be found at: <http://jsr.cuyahogacounty.us/dates.asp>.

⁶ CUYAHOGA COUNTY CRIMINAL JUSTICE REFORM INITIATIVE, STATUS REPORT ON PROGRESS ON ACHIEVEMENT OF THE JUSTICE MANAGEMENT INSTITUTE RECOMMENDATIONS, undated (appears to be from the Summer of 2007). The status report can be found at: <http://jsr.cuyahogacounty.us/pdf/statusrpt.pdf>.

⁷ The August 2007 Newsletter can be found at: <http://jsr.cuyahogacounty.us/pdf/newsletter.pdf>.

For some time, the prosecutor, William Mason, has provided primary leadership in the planning and implementation of changes, including redeploying significant resources within his office. Other agencies have also actively participated in the planning and implementation effort and devoted significant resources, but are in a more passive role as to leadership. As the reform effort matures, expands system-wide, and becomes the new way of doing business, it is important that all entities accept more equal responsibility for the continued progress of the effort, and that it not be seen as any one person's or one entity's project. Too much dependence on one person or agency increases the risk that the effort will falter if that person changes roles, retires, or there is change in the political climate. Greater sharing of leadership may also assist in the process of re-prioritizing the implementation efforts as time passes and availability of resources changes. The group might consider a rotating chairmanship of boards or councils, or agency heads taking explicit responsibility to lead initiatives within the overall effort as a way to spread leadership responsibility.

2. Arrest to Arraignment

A. Case investigation processing paths should be consistent with the severity and complexity of the crime charged and the possible sentence that could be imposed.

The underlying objective of Recommendation Nos. 2 through 7 is to get a new felony case filed as promptly as possible and to have the appropriate and relevant information gathered and made available as quickly as possible to achieve an earlier resolution of the case. Getting the necessary information together rapidly and early facilitates a number of later recommendations.

Recommendation Number 2: *A committee composed of representatives of the police agencies, municipal and county prosecutor's office, public defender, and probation department should develop a case investigation process which accelerates the law enforcement processing of cases where the charges are lower grade felonies, cases where there is no victim and few witnesses, and cases involving low-level substance abuse. The process recommended should be forwarded to the Criminal Justice Supervisory Committee for approval and implementation.*

Considerable effort has been made to implement this recommendation, with significant success, as described in section B. 1. Pilot Project above.

B. High quality police reports should be transmitted promptly

Recommendation Number 3: *The County Prosecutor, the Clerk of Courts, the Detention Facility, and representatives of the police agencies should develop standard forms for use by police agencies in preparing the grand jury packet. The standard forms recommended should be forwarded to the Criminal Justice Supervisory Committee for approval and implementation.*

A workgroup is meeting to develop standardized forms, beginning with the incident form. Currently each police department has its own Criminal Incident Form (CIF), but most contain the same information. The long range goal is to develop an electronic version that can be used by all agencies as part of a larger effort to develop a records and case management system that will support electronic filing and

defendant/case tracking for all criminal justice agencies in the county. The work group has also met with vendors regarding electronic production of police reports, and has looked at developing web based forms based on an existing records management system for use by police departments. The county is working with municipal authorities to establish the linkage necessary to make electronic filing possible from all the partner agencies.

Recommendation Number 4: The County Prosecutor and representatives of the police agencies should develop time standards applicable county-wide for completion of investigations and preparation of the grand jury packets in charged and direct filed cases. The time standards recommended should be forwarded to the Criminal Justice Supervisory Committee for approval and implementation.

In the course of developing the protocol for the pilot project, the participating entities set time frames for the completion of activities related to investigation and preparation for the grand jury. Although these are not referred to as “time standards”, the time frames established essentially constitute standards for the investigation and preparation of pilot project cases.

Recommendation Number 5: The County Prosecutor and representatives of the police agencies should develop systems to ensure that complete grand jury packets in the appropriate form are received by the County Prosecutor in compliance with the time standards. Monitoring systems regarding compliance with the packet form requirements that are recommended by the County Prosecutor and law enforcement agencies should be forwarded to the Criminal Justice Supervisory Committee for approval and implementation.

A number of efforts are occurring to achieve the objectives of this recommendation. Police departments are submitting reports to the prosecutor either electronically or by fax. Automation projects are underway to make greater use of electronic transfer, either by linking existing systems or implementing a new system.

The lack of a single filing system makes it difficult to track compliance, by the prosecutor, individual police agencies, or the oversight bodies. Instead, compliance is being monitored on a case by case basis by participating agencies.

Recommendation Number 6: Secure electronic mail should be used to transfer the grand jury packets from the police agencies to the County Prosecutor. The process recommended to electronically transfer grand jury packets should be forwarded to the Criminal Justice Supervisory Committee for approval and implementation.

Either e-mail or faxing is currently being used by police departments participating in the pilot project to send incident reports and other documents to the prosecutor’s office. See the discussion in section B. 1. Pilot Project above.

Long range, rather than using e-mail or a fax server, the plan is to modify the prosecutor’s case management system, the Court of Common Plea’s case management system, or develop a shared records management system to support the electronic preparation and transmittal of reports and documents.

Recommendation Number 7: After the monitoring systems are in place the performance of the police agencies in meeting the time standards should be shared

with the Criminal Justice Supervisory Committee on a regular basis. Recurring problems with prompt and complete preparation of grand jury packets by a police agency should be subject to review by the Criminal Justice Supervisory Committee.

The Court of Common Pleas is regularly producing a report that contains information about the pace of pilot project cases and non-pilot project cases. The time frames in the report do not correspond exactly to the time frames established for the pilot project. Part of the problem is that the data about events not occurring in the Court of Common Pleas may not be readily available, or not available electronically in a manner needed to track compliance with the protocol time frames. This is exacerbated by the lack of information in electronic form for the early stages of cases. The result is manual data entry, or the information just not being available.

C. Upgraded forensic lab capabilities

Recommendation Number 8: *The staffing of the Cleveland Police Department's Special Investigations Unit (SIU or Lab) should be increased to a level that will reduce lab test turn around on drug cases back to their previous standard of 48 hours.*

Initially, the Cleveland Police Department reallocated resources internally to allow it to test narcotics within a 48-72 hour timeframe, primarily using overtime funds. In the near term, improvements are planned for the SIU to provide evidence handling for weapon and drug testing that could be used by other police departments that are currently having the state Bureau of Criminal identification do their testing. There are also planning efforts to develop uniform procedures for submission of evidence to a lab and tracking of lab results. Supporting this would be the acquisition of a Laboratory Information Management System (LIMS) to assist in evidence tracking and lab results reporting. The state has made its LIMS available to law enforcement agencies that use the state's lab.

In the long run, the goal is to establish a comprehensive forensic lab in Cleveland that combines the staff and resources of the Cleveland Police SIU and the regional branch of the state's Bureau of Criminal Identification and Investigation (BCI&I), and that works in conjunction with the coroner, local medical clinics, and Cleveland State University to provide forensic testing services to all agencies in Cuyahoga and surrounding counties. This effort is still in the planning stages, and is reportedly not likely to open until 2011 or later. Some expressed concerns about who would pay for testing in this new arrangement.

D. Rapid collection and dissemination of information

The concept behind these recommendations is to facilitate the gathering of more complete information about who the defendant is through early fingerprint based identification.

Recommendation Number 9: *The law enforcement agencies and detention facilities in the county should initiate steps to cause the finger print identification systems in use by all police agencies and detention facilities in the county to be electronically interconnected so that full and complete identification occurs early and only has to occur once when a defendant is arrested. The process should be*

forwarded to the Criminal Justice Supervisory Committee for approval and implementation.

In order to implement this recommendation, a number of activities are planned. In the near term, there are efforts to link the Sheriff and city fingerprint systems to allow access to latent prints and, eventually, to support central booking. The City of Cleveland is seeking to establish a new AFIS system that can be integrated with other agencies' fingerprint systems. There are also long range plans to install LiveScan devices in all agencies that book defendants and install mobile fingerprint devices for use by officers on the street. How soon these plans can be implemented depends on the availability of funding and the resolution of technical issues.

Recommendation Number 10: Full national and state finger print identification protocols should be completed when the defendant is first brought to the police station and, once positively identified, the arrest/custody status should be shared with all police agencies, detention facilities, and the department or division of the County Prosecutor's Office which is reviewing the charges.

Compliance with this recommendation requires police agencies to have fingerprint systems and that they be linked to the county, state, and national systems. Thus, the steps outlined in Recommendation number 9 must occur before this recommendation can be implemented.

E. Individuals who commit similar acts should be charged with similar offenses. Consistent with justice, persons who are convicted of similar offenses should receive similar punishments

The concept here is to achieve greater consistency across defendants allegedly committing similar crimes, regardless of the jurisdiction in which they are arrested.

Recommendation Number 11: Initial charging decisions in all cases possibly involving a felony should be made by experienced trial prosecutors employed by or supervised by the County Prosecutor's Office. All felony charging decisions should involve early, consistent, prosecutorial screening for case severity and complexity and should reasonably reflect what is likely to transpire in the subsequent negotiation and trial phase. The process recommended for transferring the authority to review and draft felony charges from the municipal prosecutors to the County Prosecutor should be forwarded to the Criminal Justice Supervisory Committee for review, approval, and implementation. In order to assure that the same standards are applied to all felony charging decisions, the initial charging decision in all cases charging a felony that proceed through the municipal courts, by direct indictment, or by information in Cuyahoga County should be drafted or approved by the County Prosecutor's office.

The elements of this recommendation are being met in a number of respects. There is a smaller set of County prosecutors reviewing and preparing the initial charges in pilot project cases, which should result in greater consistency of charges. Moreover, it is reported that police have more contact with county prosecutors during the initial stages of cases, which should not only improve consistency of charging, but also the completeness of investigations. Ironically, the booking of felony defendants from cities

within a day or two results in treatment more consistent with that experienced by defendants arrested in Cleveland who are usually booked within a day or two. Finally, more extensive assessment of a greater proportion of defendants will also result in greater consistency in referral to drug court, the EIP/diversion program, or other detention alternatives.

Recommendation Number 12: *The police agencies in the county and the County Prosecutor's office should develop procedures and systems such that, to the extent feasible, if the County Prosecutor's staff needs to meet with police officers during the charging process those meetings should take place by video conference before the end of the arresting officer's shift.. The procedures and systems recommended should be forwarded to the Criminal Justice Supervisory Committee for approval and implementation.*

Implementation of this recommendation is part of the video conferencing initiative described in section B. 2 above. Actual use of the video capability is not yet available. However, it should be noted that practices have already been developed for improved communication between police and county prosecutors, as described in section B. 1 above.

Recommendation Number 13: *The Grand Jury Unit of the County Prosecutor's Office or such other unit as reviews and approves charging decisions in accordance with this recommendation, should operate 24 hours a day, 7 days a week.*

There is no indication that the prosecutor's office is now operating on a 24/7 basis. However, the protocols developed as part of the pilot project appear to result in very rapid review and charging by the prosecutor's office, which is the goal of the recommendation. Whether this prompt response can be maintained as the pilot project expands to include all felony cases in the county remains to be seen.

Recommendation Number 14: *Prosecutors who represent the State in any hearings in any court of the Ohio Court System related to cases where the defendant has been or will be charged with a felony will be under the supervision of the County Prosecutor's Office, as employees or contractors of that Office.*

As indicated in the description of the pilot project in section B.1 above, county prosecutors are the ones making the felony charging decisions and appearing at the hearings in pilot project cases. Presumably this will continue as the pilot project is expanded. In order to fully effectuate county prosecutor representation in all stages of felony cases, beginning at arrest, there may need to be statutory changes.

Recommendation Number 15: *Cases that would be eligible for the Pre-Bindover Resolution Program should be initially charged as misdemeanors and dealt with at the initial appearance/probable cause hearing.*

It appears that the manner in which the cases addressed by this recommendation are being handled in the pilot project is through the more thorough screening and assessment that is occurring in the first few days after arrest. The statistics indicate that a significant proportion of the less serious felony cases are being referred to drug court or the EIP/diversion program within 5 days of arrest. Early referral of appropriate cases to alternative programs is the goal of the recommendation.

F. Rapid initial processing of persons charged with felonies during the indictment process

Recommendation Number 16: *Better use should be made of electronic mail to issue grand jury subpoenas to all police agencies and officers throughout the county and to notify police agencies and officers when a scheduled hearing has been postponed or cancelled. The process recommended to electronically issue grand jury subpoenas and the process recommended to notify police agencies and officers of the postponement or cancellation of grand jury hearings should be forwarded to the Criminal Justice Supervisory Committee for approval and implementation.*

Electronic mail is being use to notify officers of hearing dates, and cancellation of hearing dates. There have been some differences of approach regarding whether to notify the police department, the officer directly, or both. As each department gains experience with this form of notice, presumably an effective approach will be identified. Another alternative being explored is the development of a web site through which officers and agencies can be notified of hearing postponements or cancellations.

Recommendation Number 17: *As a part of the early case preparation process police agencies should obtain releases of medical records from assault victims and other victims where medical condition is an issue relevant to the resolution of the case.*

The objective here is to facilitate the early gathering of information that is relevant to the resolution of a case, either from an evidentiary standpoint, or as it affects restitution or sentencing mitigation or aggravation. While it may seem intrusive to be asking victims for releases, sooner or later it may be needed, and one of the themes of these recommendations is to do things sooner. Ideally, the request should be part of the protocol for the pilot project, but it is not explicitly mentioned in the protocol. No inquiry was made to ascertain whether the police already understand that a release is to be requested at this early stage.

G. Early appointment of competent and effective counsel for indigent defendants

Recommendation Number 18: *Counsel for indigent felony defendants at all levels of court throughout the county should be appointed at the initial appearance/probable cause hearing from a list or lists maintained by the Court of Common Pleas that certifies counsel's experience and ability to be assigned to specific case types. The appointment process recommended should be forwarded to the Criminal Justice Supervisory Committee for approval and implementation. To the greatest extent possible counsel who is appointed to represent the defendant at the municipal court should continue to represent the defendant at the common pleas level.*

As described in the pilot project discussion in section B.1 above, counsel is appointed at the first appearance from a list provided by the Court of Common Pleas. The counsel appointed represent the defendant until the case is resolved, unless there is a conflict or the attorney is relieved from the appointment.

Recommendation Number 19: *A subcommittee of the Criminal Justice Supervisory Committee composed of judges from all levels of courts and representatives of the criminal defense bar should develop a system whereby the skills, ability, and experience of counsel appointed to represent indigent defendants are periodically evaluated. The evaluation system recommended should be forwarded to the Criminal Justice Supervisory Committee for approval and implementation.*

The lists of counsel from which appointments to represent defendants in the pilot project are provided by the Court of Common Pleas and were developed using the Court's prior practices. No committee such as the one recommended has been formed, nor has the process changed for the selection and evaluation of counsel to be on the list.

H. Substantially increased use of deposit bail in lieu of surety bail

Recommendation Number 20: *The system should make substantially greater use of deposit bond and substantially less use of surety bail.*

There has not been an increase in the use of deposit bail. This is attributed to a number of factors. First, there is insufficient data on the existence and extent of problems with the existing bail practices to inform changes, although new data is reportedly being gathered. Second, there are questions about the details of implementation of the 10% deposit bond by the county and its effectiveness in ensuring appearances. Finally, there is a recognition of the need to develop validated instruments for use in the pretrial release risk assessment process that would support more expansive pretrial release practices.

3. Arraignment to Trial

A. Early and open exchange of discovery between prosecution and defense counsel consistent with necessary protection of confidential informants and victims and privileged information

Recommendation Number 21: *Through the collaboration of the Criminal Justice Supervisory Committee, procedures should be developed to require early and expeditious reciprocal discovery of the information permitted by Crim. R. 16 in all criminal cases without the need for a court hearing, consistent with the protection of victims and confidential informants and other privileged information.*

There is considerable difference of opinion about whether discovery practices have changed and whether they are adequate, both with respect to complying with the court rule and promoting the earlier resolution of cases. The differences relate primarily to the manner in which discovery is provided, which also affects whether discovery can be considered complete. Neither Criminal Rule 16⁸ nor the 2005 JMI Report addresses how discovery information is to be provided. The American Bar Association's standards on discovery in criminal cases specify that defense counsel should be able to inspect and

⁸ Several people noted that revision of Criminal Rule 16 may be considered at the state level in the next year, some suggesting that changing practices should wait for possible revisions.

obtain copies of documents and information.⁹ The Court of Common Pleas is considering a new local rule regarding the timing and manner of discovery.¹⁰

The prosecutor maintains that the state rule is being complied with, even though defense counsel generally are not permitted to see or have copies of discoverable documents.¹¹ In justifying not providing access and copies, the prosecutor expresses legitimate concerns about the protection of informants and witnesses from intimidation, harassment, or physical injury. The identity of informants may also need protection, at least in the initial stages of certain types of case. However, as demonstrated in numerous jurisdictions across the country where “discovery packets” with copies of relevant documents are provided to defense counsel, often at first appearance, these concerns can be accommodated by review and redaction of discovery materials before providing them to the defense and through protective orders obtained from the Court. The risk of harm in a few cases does not warrant forms of non-disclosure in the vast majority of cases.

Defense counsel and others reported that discovery practices have not changed appreciably, and are not conducive to earlier resolutions. Defense counsel must meet with prosecutors who reportedly paraphrase or read excerpts of reports to defense counsel. Although copies are sometimes provided, this is not common. In order to achieve early resolution in the less serious cases, defense counsel must be provided discovery sufficiently early to allow them to review the material, talk to their client, and conduct at least a preliminary investigation prior to the EDC hearing. Some defense counsel consider that the current discovery practices do not permit them to meet their profession obligations, and therefore will not accept appointments in pilot project cases.

The single biggest step that will take implementation of justice system reforms to the next level of cooperation and success is providing broader discovery. This is key to obtaining the buy-in and cooperation of the defense bar and achieving appropriate resolutions at an earlier point in time.

B. Availability and effective use of management information throughout the criminal justice system

Recommendation Number 22: The Criminal Justice Supervisory Committee should begin work toward development of electronic links between the separate data systems throughout the County in order to reduce duplicate data entry and ensure that each system is operating with the same information about each case.

⁹ Standard 11-4.2. “Manner of performing disclosure” provides:

“Disclosure may be accomplished in any manner mutually agreeable to the parties. Absent agreement, the party having the burden of production should:

(a) notify opposing counsel that material and information, described in general terms, may be inspected, obtained, tested, copied, or photographed during specified reasonable times; and

(b) make available to opposing counsel at the time specified such material and information and suitable facilities or other arrangements for inspection, testing, copying, and photographing of such material and information.” ABA STANDARDS FOR CRIMINAL JUSTICE, DISCOVERY AND TRIAL BY JURY (3d ed., 1996).

¹⁰ Cuyahoga County Court of Common Pleas, proposed Local Rule 23.1, to be circulated for comment in September 2008.

¹¹ The prosecutor’s office is developing a system that will allow defense counsel appointed in pilot project cases to see redacted documents on a computer monitor at the time of the EDC.

At an early point, an evaluation was made of the case management systems supporting each segment of the criminal justice process as part of a plan to integrate all systems from arrest to sentencing. Some agencies had no IT systems supporting their work. Others had comparatively comprehensive records or case management systems. Overall, it was recognized that, currently, there is insufficient funding available to integrate all of the existing systems, including filling in the gaps where there is no system.

Two initial steps towards integration have been taken. One effort is the development of a basic inmate tracking system. The second is to link the law enforcement systems to the prosecutor's case management system to allow electronic transfer of information, reports, and other documents. Interfaces linking police department records management systems (RMS) supported by two different vendors to the prosecutor's system have been completed and are already in use. The link between the Cleveland Police Department's RMS and the prosecutor's system is about to be activated. For law enforcement agencies without an RMS, a web site with a limited RMS functionality is being established that allows these agencies to enter basic information about a case, which populates the prosecutor's case management system.

Linking the prosecutor's system and the Court of Common Pleas case management system will require writing an interface between the systems, which is complicated by the fact that the court's system is proprietary and more expensive to modify. Links also need to be established with the jail system in order to obtain custody status of defendants who are in custody.

Recommendation Number 22A: The Criminal Justice Supervisory Committee reach consensus about what management reports should be produced to allow monitoring of justice system performance and outcomes.

Several reports are being produced to allow monitoring of the justice reform efforts. There does not appear to have been an explicit effort to identify overall performance measures that are reviewed and approved by the oversight body. As such, there is no way to assess the impact of the reforms from a big picture perspective. Even if performance measures are identified, it might be difficult to calculate the measures because of the lack of integration of the systems containing the necessary data.

The reports that are produced have evolved along with the pilot project, which is appropriate, to the extent changes in the report reflect the experiences gained and questions raised as changes are made in the protocols. For example, the Court of Common Pleas provides a report at Agency Council meetings comparing pilot project cases with non-pilot project cases for all cases since August 20, 2007.¹² The report provides information on both the number of cases, pace of cases, and jail length of stay. While the cumulative nature of the report provides an overall picture of the impact 'from the beginning', it does not allow assessment of any changes over time, for example, did the changes occur at the start of the program, or did it happen more slowly. Also, it obscures the impact of expanding the pilot project to new jurisdictions, as cases from all

¹² The significance of the date is not obvious.

pilot project jurisdictions are included in the report. Perhaps reports can be produced for different time periods and for each jurisdiction participating.

The Court of Common Pleas also produces a monthly report about the filings, dispositions, and pace of criminal cases. The report is issued about two months after the month covered by the report, making it difficult to use for timely monitoring of the impact of reforms. As the report includes all criminal cases heard by the Court, it provides an overview of the impact on the Court as a whole, not a comparison of different categories of cases.

Recommendation Number 23: *The Criminal Justice Supervisory Committee and the constituent agencies and entities should make continual training, exchange of information, and sharing of data top priorities throughout the system. The process for ensuring ongoing training should be approved and implemented by the Criminal Justice Supervisory Committee.*

As noted in the discussions under Recommendations numbers 22 and 22A above, there has been a sharing of statistical reports about the pilot project cases. Also, as noted in the discussion of other recommendations, efforts are underway to integrate case management systems to share data about defendants and cases. The only training that is occurring is whatever support is provided to staff whose work is affected by changes in practices and procedures that occur as the pilot project evolves; no formal training programs were mentioned during the review process.

A Justice System Reform Initiative (JSR) website has been created to share information, not only across agencies involved, but publicly, on the work towards implementation.¹³

C. Development and attainment of case processing time standards at all levels

Recommendation Number 24: *The Criminal Justice Supervisory Committee should develop incremental time standards for the completion of each major stage in the criminal justice process.*

The goal here is to adopt standards that can form a basis for accountability of the process and the participants. The formal adoption of time standards has not occurred. The protocol for the pilot project defines time lines for scheduling purposes. While these are not time standards, they can serve as benchmarks and can be used for evaluation, but only if the intervals are actually measured and compared to the timelines in an explicit manner. The Court of Common Pleas' Local Rule 23 also provides time frames for scheduling purposes, again not standards, for several stages, for example, Grand Jury presentment, arraignment, pretrial, and trial. The time standards recommended in this recommendation would be used for the evaluation in Recommendation number 22A above.

¹³ See <http://jsr.cuyahogacounty.us/Default.asp>.

Recommendation Number 25: *The agencies responsible for completing each activity should be required to develop and implement processes to monitor their performance against these standards and to implement changes or improvements designed to resolve the reasons for failure of compliance with the standards, if any.*

Reports monitoring the performance of the pilot project are discussed in Recommendation number 22A above. As is indicated there, the reporting is not extensive, and is more system-wide than agency or court specific. It may be that agencies are monitoring their own performance, but this was not made known during the review process. Part of the problem may be the inability of the existing case management systems to measure performance, either because of the lack of relevant data fields, or difficulty in producing reports. More effort should be spent here to provide a more precise assessment of the impact, particularly since the results are likely to be positive.

Recommendation Number 26: *The agencies responsible for completing each activity should provide periodic information to the Criminal Justice Supervisory Committee on the status of their performance measured against the standards.*

The reports currently being provided are discussed under Recommendation number 22A above. The primary report provided covers all agencies involved, and is not agency specific. It may be that agencies are producing reports internally, but this was not made known during the review process, nor is it apparent that any such reports are being shared.

D. Streamlining the process of plea negotiation

Recommendation Number 27: *Felony charges should be drafted by experienced trial prosecutors who have knowledge and experience with the likely outcomes of the cases and have the authority to approve negotiated pleas submitted by defense counsel.*

As described in the discussion of the pilot project in section B.1 above, this is occurring in the pilot project.

Recommendation Number 28: *The County Prosecutor's Office should devise a system whereby those who are authorized to approve a plea are available to the Assistant Prosecutors from the courtrooms without requiring travel between floors on the frequently delayed and over burdened elevator system.*

In response to this recommendation, the prosecutor's office is piloting a new process involving use of electronic review and approval of plea offers. Two conference rooms provided by the Court of Common Pleas on the 17th floor are being wired to allow direct electronic communication between the Assistant Prosecutors on the floor and the supervisors on the 9th floor. Once the link is established, prosecutors in trial courts will be able to communicate with supervisors in real time from these rooms, instead of having to travel back and forth on the slow elevators. The initiative in the prosecutor's office to shift to reliance on electronic copies of documents or scanned paper documents allows both attorneys to simultaneously view documents in the case and discuss plea offers without having to be in the same office.

Beyond this pilot, there have not been changes to the prosecutor's office practices or staffing to avoid the problems addressed by this recommendation. Nor have the judges of the Court adjusted their plea conference schedules to provide some relief for these problems (see next recommendation).

Recommendation Number 29: *The Court of Common Pleas should develop a system whereby felony Pretrial Conferences are coordinated and held at staggered times during the day so that the time of defense counsel, floor prosecutors, those members of the Prosecutor's staff empowered to accept plea negotiations on behalf of the Prosecuting Attorney, Deputy Sheriffs, and the individual courtrooms can function more efficiently.*

The judges of the Court have reportedly not adjusted their plea conference settings to facilitate the plea negotiation process and accommodate the availability of attorneys, defendants, and the Sheriff.

E. Effective calendar and trial management in the Court of Common Pleas

There are two groups of recommendations in this subsection. One group (# 30-31) addresses the need for the Court to accept responsibility for case management. The second group (#s 32-36) is about Education and Training on caseflow management principles.

1. Court Responsibility for Case Management

Recommendation Number 30: *The Court of Common Pleas should make a court wide reaffirmation to the principle of individual responsibility for prompt and just resolution of felony cases.*

The Court has participated in the planning and implementation efforts associated with the pilot project from the beginning. The Court has accommodated the increase in cases a first appearance, and changed its practices for these cases. While this certainly reflects a commitment to more prompt resolution of felony cases, no explicit reaffirmation was noted during the review process.

Recommendation Number 31: *The individual judges should take early and continuous active control of all phases of the cases that have been assigned to them. Court scheduled pretrial conferences should only be scheduled when judicial involvement may be needed and always be presided over by the assigned judge or another judicial officer. Each court should schedule the minimum number of conferences or hearings needed for the active management of the case and consistent with accomplishing a just result. Court scheduled conferences or hearings should always be designed to achieve as many purposes as possible to move the case toward resolution or prepare it for trial.*

The efforts of the pilot project primarily affect the arrest to indictment stage of cases. Although the early resolution of less serious felony cases, particularly if they are referred to programs, should reduce the caseloads of the judges of the Court of Common Pleas, the reduction for each judge appears to be quite small so far. In part this is because the cases are allocated across so many judges. As a consequence, the judges have apparently not felt either a pressure or a benefit that would cause them to re-assess their case scheduling practices in order to realize further benefits from improvements in felony case management.

2. Education and Training on Case Management

Recommendation Number 32: *The Court should devise and implement a regular and continuing program of training and education for the bailiffs.*

While changes required by the implementation of the pilot project have been explained to affected court staff, there is no indication that a formal training program was developed or presented regarding the pilot project. This could be attributed in part to the perceived lack of finality of changes to the protocol, making it more difficult to develop training.

Recommendation Number 33: *Periodic meetings of the bailiffs, functioning as a users group, should be scheduled and occur.*

There is no indication that this has occurred as part of the pilot project efforts.

Recommendation Number 34: *Extensive training and education about the concepts and techniques of effective caseload management should be provided to the judges, bailiffs, probation officers, representatives of the sheriff's security officers, senior prosecuting attorneys, representatives of the public defender's office, and representatives of the private bar who receive significant numbers of assignments to represent indigent defendants.*

There is no indication that this has occurred in a formal sense. Changes in practices have been explained to people, but without formal training about caseload management concepts and techniques.

Recommendation Number 35: *The caseload management training programs should include opportunities to develop specific policies and programs to increase the efficiency and effectiveness of the movement of cases from arraignment on the indictment or information through conclusion of the case. To the extent that different techniques and philosophies for dealing with caseload management issues emerge from these discussions, the techniques should be pilot tested and the results evaluated and the results reported.*

As is indicated in the prior recommendation, formal training has not occurred. The variety of approaches of the judges hearing felony criminal cases provides an excellent laboratory for examining the effectiveness of case management practices. There is a value in reviewing the practices, identifying the more effective ones (there may be more than one set equally effective), and implementing them court wide.

Recommendation Number 36: *Every new judge, bailiff, court employee, prosecutor, public defender, and appointed lawyer should receive basic training on the priority of prompt and just resolution of cases, the justice system's expectations with respect to the achievement of prompt and just resolution of cases, the principles of effective caseload management, and the programs in place within the court to achieve these high priority items.*

There is no indication that this has occurred in a formal sense. While there may be training, for example, 'on-the-job training', occurring as new people begin working on pilot project cases, this is not the same as providing formal training that explains the "why" behind the "how" of expected practices in the pilot project cases.