



EXECUTIVE SUMMARY

Excerpt from the Final Report and Recommendations of
the Arizona Case Processing Standards Steering Committee

INTRODUCTION

Part of the vision for Arizona's Judicial Branch, as set forth in its Justice 20/20 Strategic Agenda, is to strengthen the administration of justice. Timely justice promotes public trust and confidence in the courts. The establishment of case processing time standards will help the courts move toward timely justice. Implementation of time standards emphasizes the need for judicial officers and court personnel to renew focus on the movement of cases from the time of filing through disposition. Supervision of cases and maintenance of a current docket lies with the court, and efficiency in case management will support this essential part of their work.

The development of case processing standards for Arizona provides a reasonable set of expectations for courts, lawyers, and for the public. The case processing standards outlined in this report reflect principles developed by the National Center for State Courts. The standards set forth achievable goals for the courts, establish a timeframe within which lawyers can conduct their fact gathering, preparation and advocacy activities, and define for members of the public what can be expected of their courts.

In 2011, the National Center for State Courts published the "Model Time Standards for State Trial Courts." These standards for the disposition of cases in the state courts were developed and adopted by the Conference of State Court Administrators, the Conference of Chief Justices, the American Bar Association House of Delegates, and the National Association for Court Managers.

On October 17, 2012 the Steering Committee on Arizona Case Processing Standards was established by Administrative Order 2012-80. The Steering Committee was charged with reviewing the national model time standards for processing all major case types in limited and general jurisdiction courts and developing case processing standards for Arizona.

The *Model Time Standards for State Trial Courts*, states that the recommended standards are: Designed for use by the judicial branch of each state as a basis for establishing its own time standards... in communications and consultation with all key justice partners. State time standards should take into account state procedures, statutory time periods, jurisdictional conditions demographic and geographic factors and resources.¹

Discussions with the committee focused on the specific attributes of Arizona when developing recommendations for case processing standards. There was some concern that, with time standards, the Court will sacrifice quality for speed. Committee members expressed the view that the quality of justice would never be sacrificed for speed, but that the management of cases in a more efficient and timely fashion would improve the quality of justice.

A challenge for implementing time standards in Arizona is the diverse nature of the courts. There are large urban courts in Arizona with a high volume of cases filed every year and this negatively impacts the ratio of cases per judge. The court has no control over the number of cases filed every year, and cannot readily deploy additional resources to ensure that cases per judge remain at optimal levels.

¹ *Model Time Standards for State Trial Courts*, p.2, Richard Van Duizend, David C. Steelman, Lee Suskin, National Center for State Courts, Adopted August 2011.

Typically, as the number of cases per judge increases, cases must be scheduled farther in the future and time to disposition inevitably increases.

On the other side of the equation we also have smaller courts with few resources that do not have the high volume of cases but the courts have the challenge of handling a wide variety of cases in the different areas of the law. Given this reality, the committee has developed standards we believe are realistic and reasonable, given the current resources and caseloads, rather than ideal case processing standards which are so aspirational as to be unachievable.

Another challenge is that in some jurisdictions the superior court is split between judges, magistrates and ADR hearing officers. Judges generally retain the more complex caseload. This means that the standards discussed may work well at a court-wide level but not when applied to individual judges.

GUIDING PRINCIPLES

As the dialogue about case processing standards evolved, several principles emerged which affected the development of the courts case processing standards and proved to guide their implementation:

- Case processing standards should complement, rather than supplant, due process considerations. Waiting periods are deliberately built into some court procedures and processes in order to preserve parties' rights, for example to provide adequate notice, to conduct discovery, or to receive service of process. Case processing standards should not override such protections, but should be given due weight.
- Case processing standards should be both aspirational and realistic. Rather than simply adopt standards which are purely aspirational, the committee went to great lengths to develop standards that will move cases forward expeditiously and reflect actual timeframes for certain events that might be statutorily mandated or reflect existing resource limitations, or are contained in court rules for due process reasons. The committee is striving for incremental improvements to allow for changes in the legal culture and careful refinement of processes.
- Case processing standards are separate and distinct from statutory time limits that are imposed on the court by the federal code or Arizona statute, rule or case law. Statutory time limits create rights for individual litigants or defendants to hearings or trials within established time frames. The "speedy trial rule" in criminal cases is a good example where a statutory time limit establishes the right to a speedy trial within a specified time, unless the time is waived.
- Case processing standards should enable the courts to report the total time cases take to move from filing to disposition, as well as the amount of time the court has active control of the cases. Periods of time during which the court cannot move the case forward in any respect, such as when a warrant has been issued because the defendant has absconded, will be excluded in calculating the court's compliance with time standards, as recommended by the National Center for State Courts.
- Case processing standards do not contemplate an individual judge's discipline for failure to comply with the standards but instead, were developed as a management tool for the courts to determine how efficiently the cases are being processed through the system and identify where improvements can be made.
- ~~The purpose of the standards is NOT to set milestones for measuring productivity or cross-court comparisons for which there are other more effective vehicles. The case processing~~

~~standards should establish the timeliness goals against which the delivery of judicial services by courts within Arizona should be measured.~~

- ~~• Performance measure v. individual justice— Court performance measurement is the evaluation of overall systems and programs rather than individual judicial performance. A time to disposition standard is one of the important measures courts should adopt as part of their quantitative and qualitative assessment of court effectiveness.~~
- Case processing standards definitions and measures may differ from other mechanisms in place for statistical measures. In particular, these standards have no bearing whatsoever on the counting and calculation of Judicial Productivity Credits which are defined by statute.
- No case processing standard is set at 100% in recognition that there will be a very small number of cases that will require more time to resolve, e.g. capital murder cases and highly complex multi-party, civil cases that require a trial. Even these cases should be monitored closely to ensure that they proceed to disposition without unnecessary delay.
- Achievement of time standards requires cooperation, communication and commitment from multiple parties and agencies involved in the justice process; the courts should seek an on-going dialogue with stakeholders to achieve a smooth implementation of case processing standards and strongly encourages stakeholders to examine and refine current practices to achieve timely case resolution.
- The newly adopted case processing standards will be considered in effect for a period of not less than two years, while the courts gather data on the impact of case processing standards in managing cases toward timely disposition. The Steering Committee anticipates that the standards may be adjusted in the future.

SUMMARY OF RECOMMENDATIONS:

CASE TYPE	NATIONAL MODEL	ARIZONA STANDARD
Superior Court Civil Cases	Arizona will adopt a different standard than the National Standard.	60% within 180 days 90% within 365 days 96% within 540 days
Justice Court Civil Cases	Arizona will adopt a faster standard than the National Standard.	75% within 120 days 90% within 180 days 98% within 270 days
Justice Court Eviction Actions	Arizona will adopt a faster standard than the National Standard.	98% within 10 days
Small Claims	Arizona will adopt a different standard than the National Standard.	75% within 90 days 90% within 120 days 98% within 180 Days
Civil Local Ordinances	Complies with National Standard for Summary Civil Cases.	75% within 60 days 90% within 90 days 98% within 180 Days

Civil Traffic	Complies with National Standard for Criminal Traffic and Local Ordinances.	75% within 30 days 90% within 60 days 98% within 90 days
Protection Orders	Complies with National Standard for Contested Hearings.	<u>Ex Parte Hearing:</u> 99% within 24 hours. <u>Contested Hearing:</u> 90% within 10 days 98% within 30 days
Criminal Misdemeanor	Complies with National Standard.	75% within 60 days 90% within 90 days 98% within 180 days
Criminal DUI Misdemeanor	Arizona will continue to use the existing case processing standards.	85% within 120 days 93% within 180 days
Criminal Felony	Arizona will adopt a different standard than National Standard.	65% within 90 days 85% within 180 days 96% within 365 days
Criminal Post Conviction Relief	Arizona will adopt a different standard than National Standard.	94% within 180 days
Family Law Dissolution	Arizona will adopt a different standard than National Standard.	75% within 180 days 90% within 270 days 98% within 365 days
Family Law Post-Judgment Motions	Arizona will adopt a different standard than National Standard.	50% within 180 days 90% within 270 days 98% within 365 days
Probate Administration of Estates	Arizona will adopt a different standard than National Standard.	50% within 360 days 75% within 540 days 95% within 720 days
Probate Guardianship/Conservatorship	Arizona will adopt a different standard than National Standard.	80% within 90 days 98% within 365 days
Probate Mental Health Cases	Complies with National Standard	98% within 15 days
Juvenile Delinquency and Status Offense	Arizona will adopt a faster standard than National Standard.	<u>Youth in detention:</u> 98% within 45 days <u>Youth not in detention:</u> 98% within 60 days
Juvenile Neglect and Abuse	Arizona will adopt a faster standard than National Standard.	<u>Adjudication Hearing:</u> 98% within 90 days of service

		<u>Permanency Hearing:</u> 98% of children under 3 years of age within 180 days of removal 98% of all other cases within 360 days of removal
Juvenile Termination of Parental Rights	Complies with National Standard.	90% within 120 days 98% within 180 days

DEFINITIONS:

- **MEASUREMENT-** This is the number of days that will be counted during the life of a case to determine if the case processing standard have been met. For most case types, this is based on the period between the date on which the case is first filed with the court to the entry of the dispositional order (e.g. a dismissal, judgment and sentence). This measurement will be important when writing and running reports for the case management systems in Arizona.
- **EXCLUDED TIME** – This is the days that will **not** be included in the measurement because the court does not have control of the case during this period of time and cannot move the case forward. In Arizona this includes:
 - Stay for special action/appeal
 - Stay for bankruptcy
 - Diversion programs
 - Warrant
 - Rule 11 mental competency proceedings
 - Stay for Servicemembers Civil Relief Act
 - Stay for Conciliation (Petition for 60 day stay must be filed)
 - Pending juvenile cases
- **INTERMEDIATE TIME STANDARDS-**Standards for completing critical decision points during the life of a case, but not the final decision.(e.g. temporary order for child support in a dissolution case)
- **THREE TIER MODEL-** The case processing standards are based on a three-tier model for a majority of the case types. The first tier consists of those cases that are disposed with little court involvement and typically represents a large proportion of the cases. The second tier consists of those cases that are disposed after resolution of one or two issues. The third tier or 98% tier is the key to establishing a backlog measure and setting the expectation of the maximum time within which a case should be resolved. This typically includes the small percentage of cases that proceed to trial for a final resolution.

FUTURE CONSIDERATIONS:

The Steering Committee recommends that the Administrative Office of the Courts develop data collection procedures and statistical reports for the automated collection of data in the case

management systems. In order for the courts to meet the case processing standards and make improvements when necessary the following reports will need to be generated from the case management systems:

- Time to Disposition Report- Courtools Measure 3
- Age of Active Pending Cases- Courtools Measure 4

Currently, the courts are unable to retrieve all the data that will be helpful to the courts for monitoring compliance with the case processing standards. A time to disposition standard will enable Arizona to define the concept of backlog and to identify a case “in backlog” as any case older than the case processing standard. Once these cases are identified the court can take the appropriate steps to move the case to disposition. “Court leaders can use these standards as a tool to monitor and manage active pending cases.”² The time to disposition statistical data along with feedback from stakeholders will be analyzed and used to make any necessary adjustments to the case processing standards in the future.

The Steering Committee recommends that the case processing standards for Superior Court Civil Cases be reviewed if the Rule Petition R-13-0017 Petition to Amend Arizona Rules of Civil Procedure 16, 16.1, 26, 37, 38, 38.1, 72, 73, 74 and 77 is approved by the Supreme Court. This proposed change to the rules will improve the processing of cases and help the Arizona courts reach the case processing standards set forth in this recommendation of 60% within 180 days, 90% within 365 days and 96% within 540 days by getting the parties to discuss case management issues and agree to a schedule in the early stages of a civil case.

The Petition to Amend Arizona Rules of Civil Procedure 16, 16.1, 26, 37, 38, 38.1, 72, 73, 74 and 77 will affect the case processing standards detailed analysis for civil superior court cases in the following ways: Currently, in Arizona Rule 38.1(d) ARCP states that in civil cases if a motion to set has not been filed within 9 months, the case will be set on an inactive calendar by the clerk. If a case remains on the calendar for 2 months, the case shall be dismissed without prejudice. The new rule petition would eliminate this section and (1) alter the default rule for case management from one based on Motions to Set and Certificates of Readiness to one based on scheduling orders and (2) alter the default trial setting system from one based on an “Active Calendar” kept by court administration to trial settings by assigned judges.

CONCLUSION:

The Steering Committee recommends that the Arizona Judicial Council adopt the case processing standards with the understanding that the committee will review the case processing standards a reasonable time after implementation to make adjustments to the standards if necessary.

The adoption of case processing standards is the first step toward the quick and efficient handling of cases by the courts. All agencies and participants in the justice system must commit themselves to the goal of timely resolution. A culture of intolerance for delay must be cultivated, and agencies will be challenged to adapt their processes despite staffing shortages and other resource limitations. The court will lead the effort, but calls on all participants to establish policies and procedures and to work collaboratively to achieve timely case resolution.

The standards were drafted so the system could be implemented without additional or non-

² *Model Time Standards for State Trial Courts*, p.38, Richard Van Duizend, David C. Steelman, Lee Suskin, National Center for State Courts, Adopted August 2011.

judicial resources, but time standards could help advocate for increased resources. The challenge for the Arizona judicial system is to respond constructively to reduce costs and delay.