



EXECUTIVE SUMMARY

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

INTRODUCTION

The National Center for State Courts (NCSC) published the *Model Time Standards for State Trial Courts* in 2011. 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. The model standards were designed as a tool “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

Recognizing that the *Model Time Standards* fit well within the vision of its *Justice 20/20* strategic agenda, the Arizona Judicial Branch embraced their concepts and set out to adapt them for Arizona. The Arizona case processing standards will set forth achievable goals for the courts, establish an expected timeframe within which lawyers should conduct their fact gathering, preparation and advocacy activities, and define for members of the public what can be expected of their courts.² The establishment of case processing time standards in Arizona 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. The supervision of cases and maintenance of a current docket are essential if the courts want to effectively manage their cases.

On October 17, 2012, the Steering Committee on Arizona Case Processing Standards was established by Administrative Order 2012-80. The committee was charged with reviewing the national model time standards for processing all major case types in the limited and general jurisdiction courts and developing case processing standards for Arizona. The committee focused its discussions on the specific attributes of Arizona’s courts, statutes, and court rules when developing recommendations for case processing standards.

One challenge for implementing time standards in Arizona is the diverse nature of the jurisdictions the courts serve. Arizona has large urban, mid-sized, and small rural general jurisdiction (superior) and limited jurisdiction (justice and municipal) courts. Typically, the justice and municipal courts have less complex cases but a higher volume. Fewer, but more complex cases are filed in the superior courts.

The courts have no control over the number of cases filed. A larger caseload for each judge may result in cases being scheduled farther into the future, with time-to-disposition inevitably increasing. The large urban and mid-sized courts experience a higher volume of filings that require more resources. To handle the increased workload, these courts have created specialty courts (e.g., drug court) or have dedicated personnel for processing certain types of cases. On the other side of the equation, the smaller

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. <http://nsc.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/1836>

² *Id.*

rural courts may have a lower volume of cases, but they also have fewer resources and face the challenge of handling a wide variety of cases without specialty courts or dedicated personnel.

Another challenge in meeting time standards is the way cases are distributed among judicial officers. Arizona's courts may use a combination of judges, judges *pro tempore*, commissioners, magistrates, and hearing officers. Judges generally retain the more complex cases that result in a longer time-to-disposition. Judges managing complex cases may find it more difficult to meet time standards, while other judicial officers handle the less-complicated, quickly resolved cases. Standards may work well at a court-wide level but not when applied to individual judges.

The final challenge the committee faced in the development of case processing standards was that case management systems do not have fully developed reports well-suited to the measures. Unable to rely on statistical data, the committee instead studied the rules, statutes, and business processes of the courts to try to develop realistic case processing standards for Arizona courts. The committee recognizes that courts will be unable to measure their progress and that a final determination of whether the proposed standards are realistic cannot be made until accurate time-to-disposition reports are developed.

Given the resources, caseloads and the diverse nature of courts statewide, the committee has developed standards it believes are realistic and reasonable, rather than idealistic case processing standards that are so aspirational as to be unattainable.

GUIDING PRINCIPLES

As the dialogue about case processing standards evolved, the following principles emerged:

- 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 (e.g., to provide adequate notice, to conduct discovery, or to receive service of process). Case processing standards should not override such protections but should guide the courts in the fair and timely disposition of cases.
- The case processing standards should encourage courts to move cases forward expeditiously, reflecting the actual timeframes required for certain events statutorily mandated, existing resource limitations, and limitations 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 imposed by the Arizona statutes, rules, or case law. Statutory time limits create rights for individual litigants. For example, the "speedy trial rule" in criminal cases establishes the right to a trial within a specified time, unless the time is waived.
- Case processing standards should enable courts to report the total time it takes cases 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 will be excluded in calculating the court's compliance with time standards.

- The case processing standards are being developed as aspirational goals and as a management tool for the courts to determine how efficiently cases are being processed through the system as a whole and to identify where improvements can be made. The committee strongly emphasizes that it would be misleading and unfair to evaluate the performance of any individual judge on the basis of these case processing standards. This is true for many reasons, including the fact that time-to-disposition reports used for case processing standards do not reflect whether a case has been assigned serially to multiple judges or how long a case has been assigned to the current judge. Likewise, in considering individual cases, the standards do not account for the complexity of the case assigned, external factors such as the availability of the parties, or other matters beyond the control of the court.
- 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 that are defined by statute.
- Within each case type, a case processing standard of less than 100 percent is used. The committee recognizes that one to four percent of the cases will require more time to resolve (e.g., capital murder cases or highly complex multi-party civil cases requiring a trial). However, these cases should be monitored closely to ensure 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 should strongly encourage stakeholders to examine and refine current practices to achieve timely case resolution.

SUMMARY OF PROVISIONAL STANDARDS:

<u>CASE TYPE</u>	<u>ARIZONA STANDARD</u>
Superior Court Civil Cases	60% within 180 days 90% within 365 days 96% within 540 days
Justice Court Civil Cases	75% within 180 days 90% within 270 days 98% within 365 days
Justice Court Eviction Actions	98% within 10 days
Small Claims	75% within 90 days 90% within 120 days 98% within 180 days
Civil Local Ordinances	75% within 60 days 90% within 90 days 98% within 180 days
Civil Traffic	75% within 30 days 90% within 60 days 98% within 90 days
Protection Orders	<u>Ex Parte Hearing:</u> 99% within 24 hours. <u>Contested Hearing:</u> 90% within 10 days 98% within 30 days
Criminal Misdemeanor	75% within 60 days 90% within 90 days 98% within 180 days
Criminal DUI Misdemeanor	85% within 120 days 93% within 180 days
Criminal Felony	65% within 90 days 85% within 180 days 96% within 365 days
Superior Court Criminal Post Conviction Relief	94% within 180 days
Family Law Dissolution	75% within 180 days 90% within 270 days 98% within 365 days
Family Law Post-Judgment Motions	50% within 180 days 90% within 270 days 98% within 365 days

<u>CASE TYPE</u>	<u>ARIZONA STANDARD</u>
Probate Administration of Estates	50% within 360 days 75% within 540 days 95% within 720 days
Probate Guardianship/ Conservatorship	80% within 90 days 98% within 365 days
Probate Mental Health Cases	98% within 15 days
Juvenile Delinquency and Status Offense	<u>Youth in detention:</u> 75% within 30 days 90% within 45 days 98% within 75 days <u>Youth not in detention:</u> 75% within 60 days 90% within 90 days 98% within 135 days
Juvenile Neglect and Abuse	<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	90% within 120 days 98% within 180 days

DEFINITIONS:

- **MEASUREMENT** – The number of days that will be counted during the pendency of a case to determine if the case processing standard has been met. For most case types, this is based on the time between the date on which the case is filed through the entry of the final dispositional order (e.g., a dismissal, judgment, and sentence).
- **EXCLUDED TIME** – Certain occurrences may happen that require the suspension of time and exclusion of days from the measurement. These occurrences disrupt the court’s control of the case and its ability to move the case forward. Occurrences that result in excluded time are:
 - Stay for special action/appeal
 - Bankruptcy stay
 - Participation in court-ordered diversion programs
 - Warrants
 - 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 in family law cases
- **INTERMEDIATE TIME STANDARDS** – Standards for completing critical decision points during the life of a case but not the final disposition (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 case types. The first tier consists of cases that are disposed of with little court involvement and typically represents a large proportion of the cases. The second tier consists of cases that are disposed of after resolution of one or two issues. The first two tiers are intended as points of measurement for effective management of pending cases. The third 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 committee recommends that the Administrative Office of the Courts (AOC) 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 where necessary, the following reports will need to be generated from the case management systems:

- Time-to-Disposition Report – CourTools Measure 3 is the number of days that will be counted during the pendency of a case to determine if the case processing standard has been met.
- Age-of-Active Pending Case Report – CourTools Measure 4 is a measure of the age of cases currently pending and awaiting disposition.

The courts do not currently have the necessary tools to retrieve all the data that will be necessary to monitor compliance with the case processing standards. The development of an accurate time-to-disposition report will enable Arizona courts 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. The courts can also use these standards as a tool to manage and monitor active pending cases.

The first step in the development of statistical reports will be the establishment of case processing or business requirements for all the case types. These business requirements will be used by the courts to create the time-to-disposition and age-of-active pending case reports for all the case management systems. This will ensure that all the courts are including the same information and measuring the cases the same way. Once the business requirements are finalized, the requirements will be provided to all non-ACAP courts and the AOC can establish a time frame for implementation of reports for those courts which are supported by the AOC.

Additional steps will include the development, programming, and testing of reports and then the pilot phase of implementation. When the preliminary case management reports are released, the courts will need to validate that the data on the report is correct. If the report does not reflect the correct information the reports may need to be modified or the courts may need to enter additional codes or clean-up the data in the case management systems for the reports to display the correct information. Training on the correct entry of data into the case management system will be provided if deemed necessary.

CONCLUSION:

The committee recommends the following steps in the development of case processing standards for Arizona: *First*, the committee is requesting an extension of its term. *Second*, the provisional set of case processing standards, measurements and excluded time included in this report will be used to develop case management reports. *Third*, the courts will validate that the reports are accurate and enter additional codes or missing data in the case management systems so the reports display the correct information. *Fourth*, the provisional set of standards will be reviewed, along with the actual data from the case management systems, so the committee can determine whether the standards are realistic. *Fifth*, based on this review, the committee will propose realistic and reasonable case processing

standards, rather than aspirational standards. *Finally*, the revised case processing standards will be presented to the Arizona Judicial Council for adoption.

The committee recommends that the provisional set of standards be valid for one year. Following the one year the committee will adopt in whole or in part these standards or extend the provisional standards in whole or in part. The committee will be provided updates on the implementation of case management reports, integrity of the data and the status of the Consolidated Case Index (CCI) throughout the year. The schedule for updates to the committee will be determined by the chair.

The committee further recommends that the preliminary case management reports remain inaccessible to the public until the data has been validated and the standards have been revisited.

The *Model Time Standards for State Trial Courts* states:

Courts that adopt model time standards, measure compliance, take steps to promote compliance, and take steps to effectively govern, organize administer and manage their court system are well positioned to request and justify the resources needed to enable the courts to hear and dispose of cases in a timely manner.³

The adoption of case processing standards is the first step toward the more efficient handling of cases by the courts. The implementation of standards in Arizona should result in the more effective use of time by judges, clerks, lawyers, public defenders, prosecutors, jail personnel and all other administrative personnel involved in the judicial system. The challenge for the Arizona judicial system is to respond constructively to them, in order to reduce costs and delay for the public. With that in mind, the standards were drafted so the system could be implemented without additional or non-judicial resources. The effective management of cases can reduce the pressure for more resources. For those courts that are processing cases in a timely and efficient manner but have reached a saturation point where additional resources are needed, the standards may be used as a justification for requesting additional state and local funding.

See the Interim Report for more details on the development of case processing standards for Arizona.

³ *Model Time Standards for State Trial Courts*, p. 51, Richard Van Duizend, David C. Steelman, Lee Suskin, National Center for State Courts, adopted August 2011.