

**District of Rhode Island
Report of the Advisory Group
Expense and Delay Reduction Plan**

Summary

PART ONE: REPORT OF THE ADVISORY GROUP

I. Assumptions; Miscellany; and Background

- A. The district serves the 5 counties that comprise the state.
- B. The district maintains only one court division, located in Providence.
- C. The district has three authorized judgeships, of which two are filled (i.e., one vacancy). There are two full-time magistrate judges, and two active senior judges.
- D. The advisory group conducted interviews of judicial officers, clerk's office, probation, and bankruptcy court staff. It also conducted a general survey of the federal bar, litigants, and openly invited public comment. Site visits to two other district courts were completed by advisory group members. Data analysis was performed utilizing court data, national data, and comparative statistics drawn from a special data base prepared for the advisory group representing similarly situated district courts throughout the nation.
- E. The district has fully implemented ICMS civil and criminal systems. Pacer is also currently running in this district.

II. State of the Docket

- A. The Civil Docket
 - 1. The most significant change in district caseload over the preceding five years is the decline of type one (student loan, veterans benefit, prisoner) cases, and the increase in type two or more complex case types.
 - 2. Civil case filings more than three years old have increased from a low of 1.2% in 1987 to 3.4% in 1992. This figure remains below the national average of 7.7%.

3. Civil filings generally remained relatively stable over the past five year period. Civil filings per judge in 1992 were only 0.4 above 1984, compared to a 100% increase in criminal filings over the same period.
4. Pending civil cases have risen steadily since 1987, while the court has maintained rough parity with this trend in case terminations.
5. Median time from filing to disposition for civil cases for 1992 was 10 months, a figure remaining fairly constant since 1985.
6. The indexed average lifespan for civil cases in this district is 11 months, versus the national average of 12 months for all civil cases.

B. The Criminal Docket

1. Felony filings increased over 100% in the five years since 1987.
2. Trials in criminal cases remain high at over 22% of total criminal filings in 1992.
3. Drug prosecutions, particularly multiple defendant cases, have dramatically increased demands on court resources.
4. The median time to disposition of criminal matters was 7.2 months in 1983; by 1992, it had decreased to 5.3 months.
5. Median time to disposition for criminal cases will likely increase due the district's high trial rate and the continuing deluge of federal criminal legislation.

C. Demands on Court Resources

1. Filings per judgeship have not increased significantly over the past five years.
2. While pending civil caseload has increased by 24% since 1987, pending cases per judge have actually declined. Terminations per judge have risen by 16% over the same period.
3. Weighted filings per judge have not increased significantly over the past five years.

4. Completed trials per judge numbered 50 in 1992, a 28% increase over 1987.
5. Magistrate judge workloads have shown consistent growth, increasing steadily by 27-30% over a number of distinct categories of activity.

III. Assessments [Causes] of Cost and Delay

- A. The failure to resolve both non-dispositive and dispositive motions promptly.
- B. Magistrate judges are not being utilized in this district to the full extent permitted by law.
- C. The unusually high trial rate for both civil and criminal cases, despite early and firm trial dates.
- D. The lack of updated and inclusive local rules.
- E. The expansion of federal jurisdiction into traditionally non-federal areas.
- F. Congressional attentiveness to federal drug crimes.
- G. Budget cutbacks, and consequent staffing reductions in the Office of the Clerk.

IV. Recommendations

- A. Implement the proposed revisions of local rules, and undertake a review every two years.
- B. Revise the way in which civil and criminal cases are initially assigned by the Clerk to insure greater equality in case assignments. This could be done by broadening case assignment categories for civil, and utilizing the U.S. Attorney's submitted estimates of trial length, in three categories, for criminal cases.
- C. Require all discovery motions to have a certification that counsel have met and conferred in good faith to attempt to resolve disputes prior to the filing of motions.
- D. Require that responses to non-dispositive motions be filed within eleven days from the filing of such motions, inclusive of weekends and holidays to reduce response delays.

- E. Automatically refer all non-dispositive, discovery type motions to the assigned magistrate judge to eliminate transfer time entailed in referral from a district judge's chambers.
- F. Adopt a uniform pretrial order satisfactory for use by all the district judges, to promote consistency of practice and improve the value of pretrial submissions.
- G. Encourage the consensual referral of appropriate cases to magistrate judges, to include such traditionally non-jury trial matters as prisoner cases, social security, and civil forfeiture matters.
- H. Adopt a single mandatory settlement conference in civil cases with a provision of an exception if litigants choose one of the other ADR options offered. ADR options approved in this district include: early neutral evaluation; summary jury/bench trials; mediation; and arbitration. These options are voluntary and non-binding; ADR service providers can be chosen by the parties, or the court will appoint from an approved list. These programs should be administered according to local court rules (draft rules attached in the appendix) by a local ADR administrator.
- I. Provide a pamphlet for pro se litigants with instructions in complying with basic tenets of practice and procedure in the federal courts. Such litigants should be required to certify that they have read, understand, and agree to comply with the practices and procedures set forth therein.
- J. Conduct an educational program on the implementation and impact of the CJRA Plan soon after approval and adoption by the court to educate the federal bar and the public on changes resulting from implementation of the CJRA plan.
- K. Consider the use of video technology to conduct arraignments to reduce cost associated with transporting prisoners and detainees as well as eliminating the security risks inherent in that process.

PART TWO: THE COURT PLAN

I. Plan Provisions

- A. The court shall consider at the earliest practicable time the proposed revisions of the local rules submitted by the advisory group's rules subcommittee.
- B. The court shall revise the categories used for assigning cases to more closely reflect the weighted value of civil cases, and the length of criminal cases. TROs and transfers from other districts shall be assigned to a case category that most closely fits the nature of the TRO or transfer. Indictments and bail appeals will be included as a separate case category. Criminal cases will be assigned on a two tiered approach base on trial time estimates of the U.S. Attorney.
- C. All discovery motions shall contain a certification by moving counsel stating that counsel for the parties have met and conferred in good faith to attempt to resolve disputes prior to filing such motions.
- D. All responses to non-dispositive motions shall be filed within 11 days from the date the motion was filed.
- E. The court shall encourage referral of discovery motions that the district judge in his or her sole discretion deems appropriate to the assigned magistrate judge.
- F. The court shall encourage the consensual referral of appropriate cases to the assigned magistrate judge.
- G. The court adopts the Alternative Dispute Resolution Plan submitted by the advisory group, with the exception that, in the case of mandatory settlement conferences and summary jury or bench trials, in the sole discretion of the district judge, the presiding officer may be a district or magistrate judge. All other approved forms of dispute resolution including early neutral evaluation, mediation, and arbitration shall be presided over by a neutral from an approved list, maintained by the ADR Administrator.
- H. The court shall consider the use of video technology to conduct arraignments of criminal defendants in order to reduce cost associated with transporting prisoners and detainees as well as eliminating the security risk inherent in the process, and in appropriate circumstances in civil matters as well.

- I. The court shall conduct an educational program on the implementation and impact of the plan soon after approval and adoption by the court to educate the federal bar and the public on changes resulting from implementation of the plan.
- II. Plan Aspects Departing from the Report
 - A. Automatic referral of discovery motions to assigned magistrate judges: individual judicial discretion shall be preserved in this area.
 - B. Uniform pretrial orders: individual judicial discretion shall be preserved in this area.
 - C. Pro se pamphlet: this would unduly restrict the individualistic approach the court takes with pro se litigants; the preservation of existing flexibility is preferred.
- III. Compliance with the Act
 - A. Systematic, differential treatment of cases: the court will maintain current informal practices to achieve same result.
 - B. Early and on-going control of the pretrial process: existing practices and procedures insure this result.
 - C. Discovery/case management conferences: the present use of conferences under Rule 16(b), coupled with the plan provision for mandatory settlement conferences, obviates the need for this requirement.
 - D. Encourage voluntary exchanges of information/cooperative discovery devices: a similar provision is part of the proposed rules package submitted for court review under the adopted plan (proposed rule 205(h)).
 - E. Prohibit discovery motion filings without a prior "meet and confer" certification by the movant: this is incorporated in the plan.
 - F. Authorize the referral of appropriate cases to ADR: the ADR plan submitted by the advisory group was adopted by the court.
 - G. Require counsel to submit joint discovery/case management plans: the court believes the value of such plans is limited, but retains the flexibility to require them as necessary.

- H. Require the presence of attorneys with the power to bind at all pretrial conferences: this provision is already reflected in existing pretrial orders.
- I. Require all requests for extension or postponements to be signed [by the party] and the moving attorney: this requirement is presently under consideration within the local rules revisions submitted to the court.
- J. Provide for an [early] neutral evaluation (ENE) program: the adopted plan contains an ENE option.