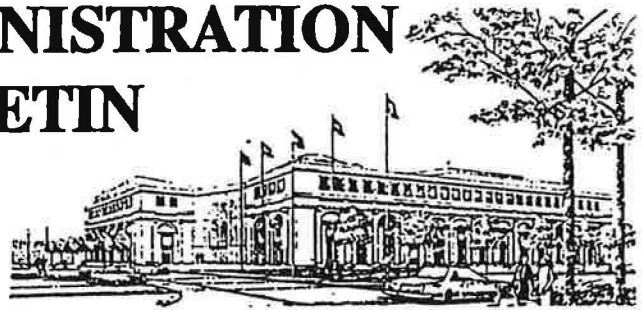




COURT ADMINISTRATION BULLETIN



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REDUCED STAFFING LEVELS

Scott Liddle

Clerks' offices recently received allocations containing unprecedented reductions in authorized staffing levels. Many are now operating at 79% of formula, others are approaching that amount through attrition. While the magnitude of the reductions was sobering, the AO has been pleased with the positive attitude of clerks.

Unfortunately, this allocation, even at such a reduced level, is possible only by decreasing reserves to a minimum and achieving the anticipated savings through attrition. We must take a much harder look at policies regarding critical exceptions and temporary positions.

Other than the position of clerk of court, there will be no automatic exceptions for vacancies in offices that are above the new authorized staffing level. Vacant management and specialist positions that are considered to be critical elements may have to be sacrificed for some time. In all but the most unusual circumstances, the clerk and other supervisors may have to manage without the chief deputy, financial administrator, or other management positions. An exception to fill a systems position or pro se law clerk vacancy, unless it is the sole such position in the clerk's office, cannot be granted. Courtroom deputies for new judges or docket clerks for increased workload will not be available. Similarly, temporary positions cannot be provided to offices that are above the authorized staffing level.

At a time when clerks' offices are attempting to operate with fewer resources, efforts in cross-training must also be increased. It is vital that each clerk's office management team develop contingency plans for addressing the short and long-range reductions in staff and the concomitant increase in workload backlogs.

CAD is working closely with clerks, particularly the Court Administration Advisory Council [see "Clerks Advisory Restructuring," *Court Administration Bulletin*, February 1993, at 1], to find ways to deal with these shortfalls. We need to focus on the development of strategies and techniques to allow us to deal with these cuts with as little degradation of services as possible. Through implementation of specific programs like "Coping with Reduced Resources" and the Task Force on Clerk's Office Efficiencies, CAD hopes to establish a package of innovative and efficient methods for improving operations that all courts can utilize.

If the judiciary is to deal effectively with these funding constraints, we need to sustain our cooperative working relationship. Send ideas for working more effectively to your representative in FCCA, NCBC or CAD, or to the Chair of your Clerks Advisory Group.

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Scott Liddle, Acting Chief, Court Operations Branch and Regional Administrator (CAD) ((202) 273-1534)

five percent each year since 1989, although they still make up the largest single group of persons under supervision.



**NEW JERSEY PERFORMS
CJRA ANNUAL ASSESSMENT**

Mark D. Shapiro

Section 475 of title 28 of the United States Code requires each United States District Court to "assess annually the condition of the court's civil and criminal dockets with a view to determining appropriate additional actions that may be taken by the court to reduce cost and delay in civil litigation. . . ." The Judicial Conference's Committee on Court Administration and Case Management recently distributed a memorandum recommending procedures for conducting annual assessments and revising plans already adopted. The District of New Jersey has completed its assessment and forwarded a copy to the Administrative Office. We thought it would be worthwhile to share some of the highlights with other districts as they undertake their own annual assessments.

Consistent with CJRA the court consulted with its advisory group. The advisory group, which met to review information gathered by a subcommittee, made certain recommendations to the court. These recommendations appear in the annual assessment. The annual assessment is divided into three substantive sections. Section II is a statistical assessment of the civil and criminal docket. The annual assessment uses Statistical Years (SY) ending June 30, 1991, and June 30, 1992. Section III is titled "Review of the Plan." This section undertakes a review of the changes made to case management procedures by the District's Civil Justice Expense and Delay Reduction Plan adopted pursuant to the CJRA. This section gives a brief outline of each provision of the court's plan followed by a discussion of the perceived effects -positive and negative- of each provision. Section IV, "Amendments to the Plan," addresses the two modifications made to the plan and the reasons for them.

Two methodological points should be made. First; the district is aware that analyzing the effects of provisions that have been in effect for only five months (the plan was effective February 1, 1992) is not conclusive. The district did however identify some trends which they can track in future annual assessments. Second in an effort to contain costs the district did not undertake a systematic, statistical analysis of docket events and the time interval between such events, but instead relied heavily on the experience of the Advisory Group for the annual assessment. The district did undertake a survey of the attorneys who volunteer as mediators and those attorneys who represent parties in cases referred to mediation.

The comparisons of statistics for SY 1991 and SY 1992 revealed the following. Civil filings increased by about 4% in the district. Civil case terminations increased by over 11%. The district analyzed at what point in its life a case closed. The following chart summarizes the district's findings for non-prisoner civil cases.

	1991	1992
Disposed of before court action	22.6%	19.1%
Disposed of before pretrial	38.9%	41.9%
Disposed of during or after pretrial	33.8%	35.7%
Cases tried to disposition	4.6%	3.2%

Early indications of some possible impacts of CJRA principles and corresponding trends have been observed by the court. The Act's emphasis on early judicial intervention is reflected in one provision of New Jersey's plan which requires "the initial conference shall be conducted within 60 days of filing of an initial answer. . . ." The experience of the court indicates this provision allows cases at issue to be targeted for initial conferences at an early date.

To contend with the impact on cost and delay caused by discovery disputes, the plan requires that such disputes be brought to the attention of a magistrate judge by "telephone conference call or letter." The court is of the opinion that this procedure has "minimized the expense of discovery suits" and "the length of time required to resolve discovery disputes."

Another measure of the improvement in case processing in the district is the drop in the median time from filing to disposition in civil

cases. In 1991 the district had a median time of 8 months for all civil cases. In 1992 the time was 7 months. The median time to disposition for cases that went to trial did increase from 20 months to 23 months. This increase is due, in part, to the district's success in decreasing the number of cases pending over three years. By disposing of a disproportionate number of older cases, the median time to disposition shows a one-time increase.

The arbitration program in the district appears to be aiding in the court's improving case processing time. The program accounts for disposition of over 20% of all civil cases. Referrals to the program have increased by nearly 47% in the last year. The number of cases referred to the arbitration program that closed prior to arbitration increased by almost 40%. Requests for trial de novo was also significantly decreased. The number of cases actually tried to completion after arbitration was less than 1%.

Three year old cases are down significantly since 1991. They now represent only 4% of the cases in the district. The court's analysis of this area was particularly informative. SY 1991 and SY 1992 were compared on the basis of nature of suit and division. This allows the district to target changes to those case types that are most in need of attention as well as assess subtle or marked differences in case management from division to division.

The assessment of the district's criminal docket showed filings were up by 6.5%, but the number of criminal defendants decreased by over 3%. The district disposed of 700 felony cases, a 12.7% increase over last year. The court also had an increase in the number of trials held.

The "soul" of the district's CJRA Plan was the wholesale revisions to its General Rule 15. Through these revisions the district introduced a differentiated case management (DCM) program. The DCM program in the district utilizes three tracks: Arbitration; Track I (pretrial within a year of joinder of issue); and Track II (complex cases). Revised General Rule 15 also introduced the concept of joint discovery plans into the district. This was intended to heighten the involvement of attorneys in planning discovery and to avoid discovery disputes. Rule 15 amendments were also intended to achieve earlier judicial

involvement, have attorneys with authority to settle the case available at conferences, have parties available at settlement conferences, and have counsel attempt to resolve discovery disputes among themselves before contacting the court.

Other changes included in the District's CJRA plan were intended to clarify rules concerning *in forma pauperis* status and expand the use of ADR, especially compulsory arbitration.

In order to

- (1) utilize judicial resources more effectively;
 - (2) implement early and ongoing intervention in case management by judicial officers;
 - (3) involve the parties and the responsible attorneys; and
 - (4) expand the availability of ADR
- the Advisory Group made two proposals for modifications to the plan.

The first proposal would limit the use of joint discovery plans to complex (or Track II) cases. The District found preparation of the plans to be time consuming and expensive. The Annual Assessment reasons the extra cost is justified only in complex cases as defined above.

The second modification is "intended to establish a permanent mediation program in the District." The court was satisfied with the experimental program established by the plan. In an attempt to address the possible liability of mediators the mediators are also deemed to be quasi-judicial officers.

Several other courts have submitted annual assessments to the AO. While it may be difficult to assess programs that have been fully operational for only a short time the District of New Jersey has shown how useful early assessments can be. Any court seeking assistance with its annual assessment should call Fred Russillo of the AO at (202) 273-1539 or Donna Stienstra of the FJC at (202) 273-4070.

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Mark Shapiro, Attorney (CAD) ((202) 273-1539.