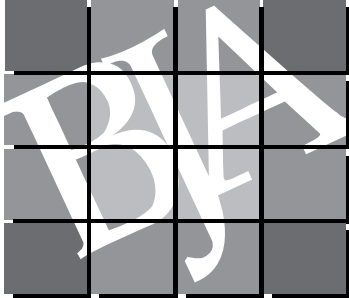


Bureau of Justice Assistance

Differentiated Case Management

PROGRAM BRIEF



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Management

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February 1993
NCJ 140189

This document was prepared under cooperative agreement number 90-DD-CX-0006, provided by the Bureau of Justice Assistance, U.S. Department of Justice. The points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.



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WHAT IS DIFFERENTIATED CASE MANAGEMENT?

Differentiated case management (DCM) is a technique courts can use to tailor the case management process to the requirements of individual cases.

The DCM concept is premised on the assumption that all cases are not alike and, therefore, should not be subject to the same processing events and timetables. Some cases can be disposed of promptly with little or no time needed for discovery and few intermediate events. Others require extensive court supervision over pretrial motions, the scheduling of expert witnesses, and settlement negotiations. Moreover, some cases, even if complex, need to be given scheduling priority for a variety of reasons, such as imminent threat of harm to a party, age or physical condition of a witness, and local prosecutorial policies.

Inherent in the concept of DCM is the recognition that some cases can—and should—proceed through the

court system at a faster pace than others. In a DCM system, the traditional “first-in-first-out” rule for case scheduling and disposition is replaced by a case management system that accommodates the diversity of case processing events and timeframes appropriate to the individual cases filed.

A jurisdiction may want to consider adopting a DCM program to achieve the following goals:

- Make more efficient use of justice system resources by tailoring their use to the needs of the individual cases.
- Serve the public more efficiently by providing different processing paths with different timeframes and procedural requirements geared to the characteristics of each case.
- Achieve a just disposition according to the specific tasks and timeframe.

THE BJA DCM DEMONSTRATION PROGRAM

In 1987, the Bureau of Justice Assistance (BJA) launched a demonstration program to pilot test the application of DCM techniques to criminal and civil caseloads in general jurisdiction courts.¹ Almost all of the demonstration courts that introduced DCM to the criminal caseload have expanded its use to encompass the civil caseload, and vice versa.² In addition, after the National Institute of Justice evaluated these early programs and determined them to be successful, a number of other courts adopted DCM systems modeled after the pilots.

Ironically, while most people agree that all cases are not alike and do not make the same demands on judicial system resources, prior to the BJA demonstration program, DCM was not generally considered in the design of caseload management policies or systematically applied to caseload management practices. While broad distinctions among cases were common (such as civil versus criminal or misdemeanor versus felony) and special tracks for special types of cases were used (such as for domestic violence protection orders and administrative appeals), finer case management distinctions were rare. BJA's DCM Demonstration Program was launched to develop a case management framework that accommodated these finer distinctions.

Although each of the BJA DCM demonstration projects differ, reflecting local practices, policies, and procedures, they share common elements, including:

- A system of multiple tracks for processing cases, each with different events and timeframes.
- The elimination of case events that do not contribute to case resolution and, conversely, the necessary addition of case events that promote case disposition.
- Assurance that timeframes between events provide adequate opportunity for parties to prepare themselves and for cases to proceed as scheduled.

- Early screening of each case for purposes of track assignment.

The experiences of the BJA DCM Demonstration Program clearly establish the benefits of DCM. All of the participating DCM projects significantly reduced case processing times and increased courts' productivity, evidenced by their capability to handle greater numbers of cases in shorter periods of time without corresponding increases in resources.

The experience of criminal DCM programs is typified by Pierce County (Tacoma), Washington, where the drug caseload increased by approximately 50 percent the first year after the DCM program began. Of these drug cases, 88 percent were disposed of within 90 days, compared to only 11 percent disposed of the year prior to DCM program implementation. In Detroit, although the volume of criminal cases increased by 35 percent during the 2 years following DCM program implementation, the rate of case dispositions increased proportionally without any increase in backlog.

Civil DCM programs have had similar results. In St. Paul, Minnesota, for example, the pending caseload was reduced from 12,008 to 680 (a 94-percent reduction) within the first 8 months of the program. After the DCM program had been underway 2 years, the ratio of case dispositions to case filings increased from 70 percent to 105 percent, actually keeping ahead of case filings. The percent of cases more than 12 months old decreased from 46 percent to 33 percent. In addition, the time available for trials increased (attributed to the elimination of scheduled events that often had been continued), and an increased volume of case filings has been accommodated without additional judicial resources.

Many spinoff effects of the DCM program have been noted in other segments of the justice system, such as reductions in pretrial detention time, decreases in the number of bench warrants issued, and fiscal sav-

ings in a number of areas, including litigation costs, witness fees (particularly police overtime), and prisoner transport expenses. These added benefits are attributed to greater scheduling certainty and the elimination of events that do not promote case disposition.

However, a DCM program is not a substitute for additional judicial system resources when they are needed. A DCM system can maximize existing resources by quickly disposing of easily resolved matters, thereby freeing up resources to focus on more complex and time-consuming cases. Throughout this process, a jurisdiction should be in a significantly better position to realistically assess its staffing and judicial needs.

CRITICAL ELEMENTS OF A DCM PROGRAM AND PERFORMANCE GUIDELINES

Every DCM program must contain certain critical elements. This section outlines these elements and recommends guidelines to achieve them.

Case differentiation criteria

It is necessary to identify the factors that determine the level of preparation and court intervention required to achieve a timely and just resolution for each case. The following guidelines will facilitate performance:

- Establish consensus among judges, attorneys, and others involved in the caseload process about which factors determine the degree of court supervision and case processing time required to dispose of the various cases filed.
- Incorporate these factors into formal criteria for defining the different case processing tracks appropriate for the DCM system and the events and timeframes applicable to each track.

Case processing tracks and procedures

Create a sufficient number of processing tracks to facilitate timely disposition of all cases. Also, meaningfully distribute the caseload among the tracks to make each track useful. The following guidelines will facilitate performance:

- Ensure that each event scheduled meaningfully contributes to case preparation and disposition.
- Schedule each event to promote case disposition.

- Ensure that the timeframes and events for each DCM track accommodate the range of management and processing needs of the cases assigned.

Case screening and track determination

Screen each case as soon as possible after filing and assign it to the appropriate case processing track. The following guidelines will facilitate performance:

- Apply the criteria for assigning cases to tracks shortly after a case is filed.
- Ensure that there are suitable forms and procedures to obtain the necessary information about each case at the time of filing to make a track determination.
- Promptly communicate the track assignment and associated deadlines to the attorneys and court staff involved in the case process and record this information in the permanent case record.

Court control of case progress and deadlines

Ensure that cases proceed to disposition according to the procedures and deadlines for their assigned track. The following guidelines will facilitate performance:

- Ensure that court events occur as scheduled.
- Ensure that the court has the capability to identify cases in danger of exceeding deadlines and take action to make sure that they stay on schedule.
- Grant deadline extensions infrequently and only for exceptional cause.

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- Ensure that patterns of requests for extensions are recorded, monitored, and periodically examined to determine whether modifications in DCM track timeframes or events are necessary.
 - Impose sanctions for noncompliance with established deadlines.

Information support

Promptly create a case record to monitor case progress and overall system performance. Use the case record and information system to monitor the progress of all cases in the DCM system; generate notices, calendars, and statistical reports; and prepare periodic analyses of system performance. The following guidelines will facilitate performance:

- Ensure that track assignments and applicable deadlines for each case are promptly entered into the court's information system data base.
- Ensure that the information system enables court personnel to monitor case progress and the condition of the caseload.
- Make readily available information about the current status of each case.
- Provide mechanisms in the system to alert involved parties when cases are in danger of failing to comply with track timeframes.
- Ensure that the system provides information to determine whether the DCM program is meeting its goals and objectives.
- Ensure that the system can generate notices and calendars promptly.

Judicial system leadership

Adopt court rules, policies, and other written guidelines that clearly articulate the DCM goals and critical elements. It is also critical to designate one judge with responsibility for overseeing the DCM program. The DCM judge meets regularly with officials of the agencies involved, reviews case management reports, and addresses operational and coordination problems as they arise. The following guidelines will facilitate performance:

- Provide published policies that clearly articulate the goals and procedures of the DCM approach.
- Ensure that the designated judge has authority to manage the DCM program and address operational and coordination issues as they arise.

Mechanisms for interagency coordination

Establish mechanisms for ongoing communication among all agencies involved in the DCM process. The following guidelines will facilitate performance:

- Review DCM system operations regularly with the agencies involved.
- Resolve operational and coordination problems as they occur and in a collegial manner.

DCM IMPLEMENTATION AGENDA

A jurisdiction cannot simply decide to instate a DCM program. A number of prerequisites must be achieved before implementing any DCM system. These requirements are outlined below.

Judicial system commitment

First and foremost, the court must recognize its responsibility for managing case progress. It must be committed to establishing different processing paths and procedures to reflect the diverse management requirements of the cases filed. In addition, judicial system agencies must be willing to collaborate on the design and implementation of a DCM program and dedicate senior staff with adequate expertise for case screening. Reorganization of staff and modification of existing policies, procedures, and practices will most likely be necessary, and the court and other agencies involved must be prepared to support the operation of the DCM program.

Judicial system leadership and administrative support

In addition to a designated DCM judge, an experienced court administrator must be assigned to coordinate the details of the DCM development and implementation process. This person will need to establish an information system to support DCM program operation, monitoring, and evaluation functions.³

Determining the key players

The first step in planning a DCM program is to identify the affected agencies and individuals integral to the

caseflow process. At a minimum, these will include the chief judge, the presiding criminal or civil judge, the court administrator, and the bar. If a criminal DCM program is undertaken, the prosecutor, indigent defense service provider, sheriff, and pretrial/probation supervision agency should also be involved.

Evaluating the existing caseflow process

All participants must develop a common understanding of the existing system. A systematic analysis of the characteristics of the court's caseload and the manner in which it is currently disposed is the foundation for planning a DCM system. Planners should also analyze recent trends, including:

- The number and types of case filings.
- The number, types, and ages of pending cases.
- The elapsed time from filing to disposition.
- The points and timeframes for case disposition.

In addition, participants should document existing case processes, including, at a minimum:

- Each key event in the caseflow process.
- The prescribed and actual time between events.
- The responsible agency or staff at each stage.
- The points at which the court exercises control over case progress.
- The points at which the court has difficulty maintaining control over case progress.

In developing this analysis, participants should pay special attention to present practices affecting the caseflow process, including applicable rules and statutes, methods for scheduling and assigning cases to

judges, continuance policies, discovery practices, case screening, and case settlement opportunities.

Defining criteria and agreeing on track characteristics

There is no single set of criteria for case differentiation or any special number of tracks a DCM system should use.⁴ The analysis of the existing caseflow process should provide a framework for identifying the factors that best distinguish cases in terms of their management and disposition needs and the number and types of case processing tracks considered. This analysis should focus on identifying:

- The characteristics of cases that can reasonably be expected to be disposed of earlier than others.
- The characteristics of cases requiring significant court supervision and extended case disposition time.
- The degree of court supervision and the disposition time required for case groupings.

Altering existing procedures and instituting new ones

Once there is agreement on the basic case differentiation scheme and characteristics of each track, the participants should develop procedures for each track, from filing and screening through disposition, to promote early court intervention and monitoring, and provide opportunities for early disposition. Existing procedures that contribute to effective case management should be continued and adapted to the DCM program. Where necessary, additional procedures and events should be added to assure adequate case screening, management, and monitoring. Conversely, existing procedures that do not contribute to case disposition should be redefined, rescheduled to a point in the case process when they can be effective, or eliminated.

Assuring adequate interagency coordination, management, and support

The court should take the lead in ensuring that adequate mechanisms are developed for ongoing coordination among all agencies involved in the DCM system and in resolving coordination problems as they arise.

Orientation and training

Orientation and ongoing training programs are vital for judges, attorneys, and staff at all levels in every agency affected by the DCM program. The new DCM system will necessarily change the way business in the court is conducted and, in so doing, the way other justice system agencies operate. It is vital that everyone involved in the caseflow process understands the policies and goals introduced by the DCM system; the purposes of the various track procedures, forms, and reporting required; and the role their respective agencies play in contributing to the success of the program.

Ongoing program assessment and fine-tuning

The DCM program should be monitored on an ongoing basis to address operational problems as they arise, refine system procedures as necessary, and provide periodic reports to all agencies involved on the system's effectiveness and impact.

END NOTES

1. At the time BJA initiated its DCM Demonstration Program, only one court in the country, the Bergen County, New Jersey, Superior Court, had introduced DCM. Bergen County instituted a pilot civil DCM program in March 1986; no courts had yet applied DCM to criminal cases.
2. Descriptions of the BJA DCM Demonstration Program projects are included in the Sources for Additional Information and Assistance.
3. Depending on case volume, automation may be necessary; in many jurisdictions a PC-based system may be adequate.
4. Some courts have DCM systems with three tracks (simple, standard, and complex); others have six or more tracks with additional subtracks.



SOURCES FOR ADDITIONAL INFORMATION AND ASSISTANCE

Six demonstration projects (four criminal and two civil) were launched under sponsorship of BJA's DCM Demonstration Program and began operation in July 1988. Below is a summary of each program with the names, addresses, and telephone numbers of officials who can provide information and technical assistance.

Criminal DCM programs

Berrien County (St. Joseph), Michigan. The Berrien County criminal DCM program builds on a civil DCM project instituted by the court in early 1988. The system consists of three tracks. All criminal cases are assigned to a track based on a number of factors reflecting the complexity of each case and the priority given for its disposition.

Contact: Honorable Ronald J. Taylor
Chief Circuit Judge
Second Judicial Circuit Court
Courthouse
St. Joseph, MI 49085
616-983-7111, ext. 386

Camden County (Camden), New Jersey. The Camden County criminal DCM program extends the concept of the Central Judicial Processing Court previously established in other New Jersey jurisdictions for screening purposes. It establishes a subsequent pre-indictment conference (PIC) for case review, potential disposition, and track assignment. Originally, four tracks were established for cases not disposed of at the PIC conference: expedited, standard, complex, and priority. The priority track was geared to serious offenses requiring expedited processing; it has since been combined with the expedited track.

Contact: Judge A. Donald Bigley
Assignment Judge of the Superior Court
Superior Court of Camden County
Hall of Justice, Suite 570
Fifth and Mickle Boulevard
Camden, NJ 08103
609-757-8182

Pierce County (Tacoma), Washington. The Pierce County DCM project initially focused on drug cases and was expanded in June 1989 to include sexual assault cases. Since April 1990, the DCM system has been applied to all criminal cases, and efforts are now under way to develop a DCM system for civil cases. Implementation of the DCM program has involved transfer of case management functions for criminal cases from the prosecutor to the newly established court administrator's office. Three case processing plans were established: expedited, normal, and complex. Dispositional timeframe standards range from 30 to 90 days, depending on the specific plan. A special category for complicated sexual assault cases has also been developed; the disposition of these cases is guided by the individual judge assigned.

Contact: Judge J. Kelley Arnold
Pierce County Superior Court
930 Tacoma Avenue South
Tacoma, WA 98402
206-591-3655

Beverly Bright
Superior Court Administrator
930 Tacoma Avenue South
Tacoma, WA 98402
206-591-3653

Wayne County (Detroit), Michigan. Wayne County's DCM project, unlike the other three criminal programs, is based on existing sentencing guidelines and data. It operates on the assumption that cases resulting in lesser guideline penalties are managerially less complex and will exit the system sooner. Five case categories and additional subtracks, each with different case processing timeframes, have been established for case assignment according to applicable guideline characteristics.

Contact: Honorable Dalton A. Roberson
Chief Judge
The Recorder's Court for the City of Detroit
Frank Murphy Hall of Justice
1441 St. Antoine Street
Detroit, MI 48226-2384
313-224-2444

George Gish
Clerk/Court Administrator
The Recorder's Court for the City of Detroit
Frank Murphy Hall of Justice
1441 St. Antoine Street
Detroit, MI 48226-2384
313-224-2506

Civil DCM projects

Each of the two civil DCM projects establishes multiple tracks with different provisions for pretrial discovery, court events, and timeframes.

Camden County (Camden), New Jersey. Simultaneous with the introduction of a Criminal DCM program, Camden County launched a civil DCM project, modeled after an established DCM project in Bergen County, New Jersey. Three tracks were established: expedited, standard, and complex. Assignment to the complex track required the approval of the presiding civil judge. Special subtracks have subsequently been established for certain types of cases, including medical malpractice, asbestos claims, personal injury protection claims, and other special case classes.

Contact: Honorable Rudolph J. Rossetti
Presiding Judge of the Civil Division
Superior Court of Camden County
Hall of Justice, Suite 470
Fifth Street and Mickle Boulevard
Camden, NJ 08103
609-757-8116

Linda Torkelsen
Civil Case Manager
Superior Court of Camden County
Hall of Justice, Suite 520
Fifth Street and Mickle Boulevard
Camden, NJ 08103
609-757-8164

Ramsey County (St. Paul), Minnesota. Ramsey County developed three DCM tracks with dispositional timeframes triggered by the filing of a Joint at Issue Memorandum (JIM) 90 days after the attorneys certify that a case is at issue. The three tracks are:

- Expedited, to be disposed of within 90 days of the JIM.
- Standard, to be disposed of within 305 days of the JIM.
- Complex, to be disposed of within a maximum of 2 years of the JIM.

For expedited cases, the only scheduled court event is the trial. For standard cases, a joint disposition conference of the attorneys is scheduled 45 days after track assignment, a judicial settlement conference is held 15 days thereafter, and trial is scheduled within 30 days. Complex cases are assigned to an individual judge for a case management conference where a schedule for requisite subsequent events and applicable timetable are established.

In 1990, Ramsey County developed a criminal DCM program modeled after the case differentiation process established in the civil DCM program.

Contact: Honorable J. Thomas Mott
Second Judicial District Court
1621 Ramsey County Courthouse
St. Paul, MN 55102
612-298-4541

Lynae Olson
DCM Coordinator
Second Judicial District Court
1230 Ramsey County Courthouse
St. Paul, MN 55102
612-298-4500

BJA contacts

The following BJA contacts also will provide DCM program support and technical assistance:

BJA Information Systems Branch
Bureau of Justice Assistance
633 Indiana Avenue NW.
Washington, DC 20531
202-514-5943

BJA DCM Demonstration Project
Caroline S. Cooper, Director
The American University
3615 Wisconsin Avenue NW.
Washington, DC 20016
202-362-4183

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