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# INTRODUCTION

Differentiated case management (DCM) is a technique courts can use to tailor the case management process—and the allocation of judicial system resources—to the needs of individual cases.

## A. Understanding Differentiated Case Management

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The DCM premise is simple: Because cases differ substantially in the time required for a fair and timely disposition, not all cases make the same demands upon judicial system resources. Thus, they need not be subject to the same processing requirements. Some cases can be disposed of expeditiously, with little or no discovery and few intermediate events. Others require extensive court supervision over pretrial motions, scheduling of forensic testimony and expert witnesses, and settlement negotiations. The early case screening that a DCM system promotes also enables a court to prioritize cases for disposition based on other factors such as prosecutorial priorities, age or physical condition of the parties or witnesses, or local public policy issues.

Inherent in the concept of DCM is the recognition that many cases can—and should—proceed through the court system at a faster pace than others if appropriate pathways are provided. Under a DCM system, cases do not wait for disposition simply on the basis of the chronological order of their filing.

DCM synthesizes the past three decades of development in the field now known as caseload management. As caseloads increase and more judges and administrators acknowledge the importance of active supervision of case progress, greater attention has turned to methods for reducing delay, making the courts more accessible to the public, and improving predictability and certainty in calendar management. For the most part, the many techniques developed, modified, and expanded in this process tend to be “event oriented.” For example, the concept of the

pretrial conference was developed as a method for narrowing issues, perhaps shortening trials, and providing an opportunity to advance settlement possibilities. Mandatory settlement conferences were also attempted. The focus was primarily on creating additional and more useful case events.

More recent research and development focus equally (if not more) on control of time intervals between events and on methods to supervise, control, and make these intervals more predictable. As part of this focus, emphasis has returned to the recognition that, although cases may be classified by broad definitions, each case is unique. Further, minimizing and making more predictable the time between case events calls for tailoring a disposition timetable to the characteristics of each case.

The premise that all cases are not the same and do not make the same demands is one that everyone accepts intuitively, but it was not broadly applied to case management until recently. In July 1987, the Bureau of Justice Assistance (BJA), Office of Justice Programs, of the U.S. Department of Justice launched a demonstration program to pilot test the application of DCM techniques to criminal and civil caseloads in the State trial courts. At the time, only one court in the country had introduced a DCM program. The Superior Court in Bergen County, New Jersey, had adopted in March 1986 a pilot DCM program designed by the New Jersey Administrative Office of the Courts. No court had yet applied DCM to criminal cases.

The demonstration program confirmed the logic and benefit of differentiated case management for the trial courts and the usefulness of such programs for courts of varying sizes and caseload composition. This guide grew out of the experiences of six jurisdictions that implemented DCM techniques for criminal and civil caseloads in courts of general jurisdiction during the 1988–1991 demonstration. A list of these pilot jurisdictions, along with the names of the local officials involved in their operation, is included in appendix A.

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Although the guide is based on pilot testing in general jurisdiction courts, the DCM concept can be readily adapted to the case processing systems in courts of limited jurisdiction as well as to special classes of cases, such as domestic relations, juvenile, probate, and other matters.

## **B. Purpose of This Guide**

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This guide focuses on the issues that must be addressed by jurisdictions that plan to implement a differentiated case management program. It is designed to be used by judges, prosecutors, public defenders, members of the private bar, court administrators, and other judicial system officials involved in adapting the DCM concept to the case processing systems in their jurisdictions. Because a successful DCM program requires continual coordination among all agencies affected, it is critical that they be involved from the start in DCM planning and operation.

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# GOALS AND OBJECTIVES OF DIFFERENTIATED CASE MANAGEMENT

Regardless of the criteria chosen for differentiating among cases or the case assignment system in use, two goals and four resulting objectives characterize differentiated case management. The goals:

- Timely and just disposition of all cases consistent with their preparation and case management needs.
- Improved use of judicial system resources by tailoring their application to the dispositional requirements of each case.

To achieve these goals, a DCM program should have the following objectives:

- Creation of multiple tracks or paths for case disposition, with differing procedural requirements and timeframes geared to the processing requirements of the cases that will be assigned to that track.<sup>1</sup>
- Provision for court screening of each case shortly after filing so that each will be assigned to the proper track according to defined criteria.
- Continuous court monitoring of case progress within each track to ensure that it adheres to track deadlines and requirements.
- Procedures for changing the track assignment in the event the management characteristics of a case change during the pretrial process.

The key to developing meaningful DCM track criteria is to identify factors that determine the levels of preparation and court intervention required to achieve a just and timely resolution of each case. A variety of

approaches are possible. Some courts differentiate on the basis of the seriousness of the case—the nature of the charges and sentence exposure involved, for example—or the characteristics of the claims and defenses asserted, such as the amount in controversy. Other courts estimate the time required for preparation and disposition based on the need for forensic testimony or psychiatric evaluation, the number of parties, the amount of discovery anticipated, or other such factors.

Some courts simply differentiate on the basis of case type; others use a combination of these approaches. No approach has been demonstrated to be superior as long as it permits a jurisdiction to distinguish the amount of preparation and judicial intervention needed to resolve each case fairly and expeditiously. Appendix B provides examples of criteria used by several of the DCM pilot programs.

DCM can be used with any type of case assignment system as long as it permits early, meaningful case screening and differential processing procedures and pathways. Courts using a master calendaring system will manage DCM program functions centrally. Courts that use an individual calendaring system will require some central management functions, such as defining program goals, operational policies, and procedures; monitoring system performance; and the like; but most case management tasks will be performed by the individual judges and their staffs. Hybrid calendaring systems will require a combination of these management approaches.

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<sup>1</sup> The term “track” has become associated generically with DCM programs. However, some jurisdictions have found the term offensive to the qualitative aspects of the judicial process that a DCM program is designed to promote. Instead of “track,” some jurisdictions therefore have adopted the term “plan” or “category” for their DCM classifications.

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# BENEFITS TO BE DERIVED FROM A DCM PROGRAM

Seven principal areas, summarized below, are likely to be affected by a DCM program. Users of this guide may wish to contact officials in the BJA pilot sites (see appendix A) to discuss the DCM concept and its implementation in their jurisdictions in more detail.

## A. Use of System Resources

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DCM is designed to enable a court to make better use of judicial and staff resources. Early screening identifies cases that require substantial judicial involvement to ensure timely preparation and disposition as well as those that require less judicial intervention and preparation time. By tailoring the disposition process to the management needs of cases filed, court resources can be used more efficiently, and judges' time can be reserved for functions that require a judge's effort. For certain simpler cases, pretrial case management activities can be delegated to administrative staff. Increasing administrative staff responsibility for case management can also build a sense of organizational responsibility for case disposition and enhance job satisfaction.

This is not to say that DCM is a substitute for additional resources where these are needed. However, such a program will contribute to a more efficient use of existing resources and enable a jurisdiction to assess its staffing and judicial needs more realistically.

## B. Case Disposition Time

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Although DCM is a technique to enhance management of the case disposition process, it also may reduce the time to disposition. The impact of a DCM system on case processing time is particularly apparent in those cases that do not require a trial. Since 90 percent or more of cases filed are disposed of without trial, earlier attention to these cases and shorter

deadlines for case completion can have a marked effect on the court's overall time to disposition.

Setting deadlines, particularly when done in consultation with counsel, can also be expected to reduce requests for continuance springing from lack of preparation. If the deadlines within the DCM tracks are realistic and counsel know the court will enforce them, compliance is far more likely.

## C. Quality of the Judicial Process

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By tailoring case processing time and procedures to the individual cases, DCM improves the quality of the case process. Early case screening, an essential component of DCM, promotes better attorney preparation and more informed discussion of disputed issues at each event. For the litigants, DCM provides greater certainty that their cases will receive the degree of time and attention necessary and that they will reach timely disposition. DCM also facilitates greater public access to the court process by assuring that the time and procedures allocated for the disposition process are consistent with case requirements. DCM results in greater certainty that events will be conducted when scheduled; thus, judicial system officers, including attorneys, need to prepare only once for each scheduled event.

## D. Cooperation Among Agencies Involved in the Justice System

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Because the planning and implementation process for a DCM program requires that all components agree collegially on priorities for case processing and resources, the DCM program—if it is to succeed—necessarily fosters increased cooperation among judicial system agencies and the recognition that they are working toward *system* goals as well as their respective institutional missions.

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## E. Litigation Costs

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A DCM system may be expected to affect litigation costs in several areas. Earlier case disposition and deadlines for completion of key activities, such as discovery, result in fewer discovery-related motions. Limitations on the amount of discovery for cases in certain tracks or at certain pretrial stages, if explicitly incorporated into the DCM system, reduce litigation costs.<sup>2</sup> The number of appearances resulting from continuances as well as events that do not meaningfully contribute to case disposition also are significantly decreased.

Some offsetting costs may be connected with DCM system requirements, such as completion of forms and reports by counsel relating to case screening and monitoring. A jurisdiction should assess the implications of its DCM system on litigation costs as the system is being designed.

## F. Public Perception of the Court

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Improving the court's public image is a related benefit of implementing a DCM system. The efficiency and predictability achieved through a well-functioning DCM program can enhance the respect and credibility of the court among the legal community and the general public.

## G. Other

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In most of the pilot DCM jurisdictions, the DCM programs have had an impact on numerous other aspects of judicial system operations and resources, including:

- Reducing the number of jail days for defendants in pretrial custody as a result of the reduction in case processing times for detained defendants.<sup>3</sup>
- Reducing the number of bench warrants issued as a result of shorter time between court events and greater certainty that scheduled events will, in fact, occur.
- Savings in clerical and postage costs by eliminating unnecessary continuances and associated notices.
- Savings in prisoner transport costs as well as in the time expended per case by judges and attorneys by eliminating unnecessary continuances and events that do not contribute to case disposition.
- Savings in witness costs, including those related to police overtime, resulting from greater certainty in the court's calendar and the elimination of events that do not contribute to case disposition.
- More efficient coordination of individuals and tasks associated with complicated cases by identifying these cases early and imposing management supervision.

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<sup>2</sup> Some jurisdictions use a two-stage discovery process so that limited discovery is permitted for purposes of early settlement discussions which, if not successful, are then expanded for purposes of trial preparation.

<sup>3</sup> An essential element of all of the pilot criminal DCM programs has been the creation of separate subtracks for detained and released defendants within each major track.

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# PREREQUISITES FOR IMPLEMENTING A DCM SYSTEM

The prerequisites for implementing a DCM program are:

- The court must acknowledge its responsibility for managing case progress.
- Judicial officials must agree that all cases filed are not alike and that they need different management and processing.
- Participants must commit themselves to differentiate among cases for management and processing purposes.
- A key judge must assume leadership throughout the development and implementation process.
- An experienced administrator must be assigned to coordinate the details of the DCM development and implementation process.

- Key justice system agencies must be willing to collaborate on the design and implementation of a DCM program.
- The court and other agencies involved must be willing to reorganize existing staff to support the operation of a DCM program.
- Each agency must be willing to dedicate senior staff with expertise and credibility to evaluate cases.
- An information system must be available to support the DCM program operation, monitoring, and evaluation. Depending on case volume, automation may be necessary, although in many jurisdictions a PC-based system has been adequate.

If these prerequisites exist, a court can start to plan for a DCM program. The principal planning tasks are summarized in chapter 5.

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# PLANNING FOR A DCM PROGRAM

The first step in planning a DCM program is to identify the agencies and individuals integral to the caseload process who will be affected by the changes a DCM program introduces.

## A. Determining Who Should Be Involved in Planning

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If a criminal DCM program is being implemented, the following officials need to play a role:

- Chief judge.
- Presiding criminal judge.
- Court administrator.
- Prosecutor.
- Indigent defense service provider.
- Representative from the private criminal bar.
- Sheriff or other agency responsible for prisoner transport and court security.
- Agency responsible for preparing pretrial release recommendations and presentence investigation reports.
- Agency responsible for probation supervision.

If a civil DCM program is being implemented, individuals who need to be involved include:

- Chief judge.
- Presiding civil judge.
- Representatives from the local bar.
- Court administrator.
- Civil case manager or assignment clerk.
- Representatives from the court clerk's office.

Once these have been identified, the directors of each agency identified should assemble a policy committee to develop the DCM overall goals and objectives. Once these have been agreed to, detailed planning

can begin. This can best be accomplished by creating a task force drawn from the membership of the policy committee and supplemented by staff in key operational positions within these agencies (see chapter 7).

## B. Information Gathering by the DCM Policy Committee

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Before it considers the changes a DCM might achieve, the policy committee must develop a sound understanding of the court's caseload characteristics and how it presently is being disposed. Thus, the committee should obtain and analyze information on the current state of case processing, including:

- Recent trends in the number and types of case filings.
- The number, type, and age of pending cases.
- The reasons for and frequency of continuances and the types of cases in which they commonly occur.
- Current time from filing to disposition and trends over the past 5 years.
- Points and timeframes at which case disposition is occurring.

This information will provide a general picture of the pace and methods of case disposition as well as special problems occurring in the case process, as evidenced by continuances, for example. These data should then be further analyzed to indicate the percentage of cases disposed of in 30-day increments, the events at which disposition occurs, and the disposition methods used. This analysis will provide a clear picture of how time consumed by the case process is currently being employed. The results will provide a framework for gathering the data discussed below relevant to the design of the DCM program.

Primary focus should be upon identifying:

- Types of cases that can be disposed of early in the caseload process and the events and information necessary to trigger their disposition.

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■ Types of cases that warrant more extended dispositional timeframes and the extent of judicial supervision or management they require.

The caseflow information described above will provide a basis for identifying problems with the existing caseflow system that the DCM program should address. Among the specific issues that should be explored to determine how cases should be differentiated and the various procedures and times applicable to each category are:

■ **The stage (event) in the caseflow process at which different types of cases are being disposed and the most common types of disposition at each stage.**

In other words, what events—such as completion of discovery, conduct of a pretrial conference, omnibus hearing, motions hearing, or trial—are associated with disposition of various types of cases? What methods of case disposition—such as settlement, plea agreement, alternative dispute resolution (ADR) referral, or jury verdict—occur most frequently? Because more than 90 percent of civil and criminal cases filed are disposed of through nontrial methods, a DCM program should promote the occurrence of whatever events are needed to trigger disposition as early in the process as possible as well as identify which cases will, in fact, require trial. A sample “fallout” chart showing the events and times at which case disposition occurs and the methods of case disposition used is provided in appendixes F1 and F2.

■ **The age of cases at disposition.**

A historical summary of the age of disposed cases, measured from filing to disposition, should provide a general picture of case processing time. The data should be coupled with an analysis of the events that occurred prior to disposition to determine whether these intervening events—and the elapsed time between them—contributed to case disposition. For example, on the criminal side, whether significant numbers of dispositions occurred at arraignment depends upon whether discovery was exchanged, whether the defendant was represented by counsel, and so forth. On the civil side, whether or not pretrial conferences contributed to case disposition depends upon the timing of the conference and the preparation required of attorneys for the conference.

■ **The reasons for and frequency of continuances**

In addition to reviewing the nature of activities preceding disposition, the reasons for and frequency of continuances of any of these events and the types of cases in which they commonly occur should also be assessed. Special attention should be given to identifying situations in which continuances reflect unrealistic timing of scheduled events (for example, defendant’s counsel was not yet appointed), inadequacy of existing resources to accommodate scheduled events (for example, no trial judge was available), lack of coordination among participants (for example, the prisoner was not transported), or other dysfunctions. This analysis should provide a basis for identifying general management problems as well as specific issues that the DCM program should address.

## C. Setting Standards or Goals for the DCM System

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Goals for the DCM system serve two principal functions:

- To provide a common standard toward which all parties can direct their efforts.
- To provide a basis for measuring the system’s effectiveness.

This analysis will provide a solid foundation for developing the goals and objectives of the DCM program and a framework for adapting DCM principles to local caseflow requirements. Goals should include:

- General performance objectives for the justice system as a whole as well as for the court and specific justice agencies involved.
- General case processing objectives and priorities.
- Objectives relating to judicial and other system resource allocations systemwide and within each involved agency.

The case processing goals and objectives of several of the BJA pilot DCM programs are included with the project descriptions in appendix A.

Within this framework, the operational policies and procedures for implementing the DCM program can then be developed by the DCM task force. The role and function this task force should play in designing the DCM program are discussed in chapter 6.



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# DESIGNING AND IMPLEMENTING A DCM PROGRAM

The DCM task force should design the program and implementation plan for the DCM to achieve the program goals and objectives developed by the policy committee and address specific caseflow problems identified during the analysis phase.

To ensure the successful design and implementation of a DCM program, a task force should assemble key policy and operational staff of the agencies and organizations necessary to implement a DCM program. The DCM policy committee members can be a valuable nucleus, but the task force also needs the operational perspective of people who can help develop requisite program procedures. Mechanisms for assembling the task force and conducting its activities will vary from one jurisdiction to another, but the court must take the leadership role in the task force.

The following outlines the principal jobs the task force should perform.

## A. Developing a Common Understanding of the Existing Caseflow Process

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As discussed in chapter 5, design and implementation planning should be the responsibility of task force components of the DCM policy committee. The existing case process—civil, criminal, or both—should be documented, including at least the following:

- Each key event in the caseflow process.
- The estimated time between events.
- Responsible agency or staff at each stage.
- Points at which the court exercises (or loses) control over case progress.

Sample diagrams of criminal and civil caseflow processes are provided in appendix F3.

The task force should develop a thorough understanding of present practices affecting both the civil and criminal caseflow process. The principal areas that should be addressed are summarized in exhibit 1.

This analytic process will give the task force the necessary level of understanding and common frame of reference for an effective DCM program.

## B. Defining Criteria for Case Differentiation and Agreeing on DCM Track Characteristics

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Chapter 1 described a variety of possible criteria for differentiating among cases. The analysis explained above should provide a framework for identifying factors that best distinguish among cases in a specific jurisdiction in terms of case management and disposition needs.

Some courts have begun their DCM systems with three tracks that represent three different speeds of case disposition; others have used as many as five or six tracks to address both speed and special categories of cases. The number and characteristics of the DCM tracks appropriate to an individual jurisdiction will depend upon the case categorization that emerges from the first-step analysis. Among the issues that need to be addressed in determining the specific tracks and track characteristics appropriate in a specific jurisdiction are:

- What cases can be reasonably expected to be disposed of earlier than others? For example, if plea agreement and probationary sentences currently dispose of most first-offender cases involving less than 3 years potential incarceration, is it possible to assign these cases to a special track that will provide an early conference at which realistic plea offers can be made and assessed and disposition can occur? Similarly, if completion of discovery triggers the disposition of certain classes of civil cases, is it

## Exhibit 1. Relevant Criminal and Civil Caseload Practices: Areas for Review by the DCM Task Force

<p>■ <b>General</b></p> <ul style="list-style-type: none"> <li>a. Method for assigning cases to judges</li> <li>b. Method for scheduling cases             <ul style="list-style-type: none"> <li>– formal</li> <li>– informal</li> </ul> </li> <li>c. Key intervention points or scheduled events and when they occur</li> <li>d. Current procedures for case screening</li> </ul> <p>■ <b>Criminal Case Processing System</b></p> <ul style="list-style-type: none"> <li>a. Criminal caseload process overview: Major events and timeframes</li> <li>b. Relevant statutory and rule provisions             <ul style="list-style-type: none"> <li>(1) Delay/speedy trial provisions                 <ul style="list-style-type: none"> <li>– description</li> <li>– degree of compliance</li> </ul> </li> <li>(2) Mandatory sentencing provisions and frequency of their use</li> <li>(3) Other provisions that impact on the caseload process</li> </ul> </li> <li>c. Judicial system policies             <ul style="list-style-type: none"> <li>(1) Court policies                 <ul style="list-style-type: none"> <li>– Regarding scheduling cases of detained defendants</li> <li>– Regarding continuance requests</li> <li>– Regarding case processing priorities</li> </ul> </li> <li>(2) Prosecutorial policies                 <ul style="list-style-type: none"> <li>– Regarding method (use of indictment/accusation/information, etc.)</li> <li>– Regarding plea negotiation</li> <li>– Regarding provision of discovery</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(3) Defense policies             <ul style="list-style-type: none"> <li>(a) Issues relating to indigent defense services                 <ul style="list-style-type: none"> <li>– Method for providing defense services</li> <li>– Method for assigning cases to attorneys</li> <li>– Point in case at which attorneys are assigned</li> </ul> </li> <li>(b) Issues relating to private counsel</li> <li>(4) Special issues affecting caseload                 <ul style="list-style-type: none"> <li>(a) Obtaining lab reports</li> <li>(b) Scheduling forensic experts</li> </ul> </li> </ul> </li> <li>d. Case filing and disposition information             <ul style="list-style-type: none"> <li>(1) Historical information (last 5 years)                 <ul style="list-style-type: none"> <li>– Annual case filings</li> <li>– Average and median case age at disposition by year (and type of case if available)</li> <li>– Method of disposition and average and median age for each case disposition method by year</li> </ul> </li> <li>(2) Management information on the pending caseload                 <ul style="list-style-type: none"> <li>– Volume</li> <li>– Age</li> <li>– Stage in caseload process</li> </ul> </li> </ul> </li> <li>e. Major problems identified by judicial system officials             <ul style="list-style-type: none"> <li>■ <b>Civil Case Processing System</b></li> <li>a. Civil caseload process overview: Major events and timeframes</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>b. Applicable rules regarding case processing             <ul style="list-style-type: none"> <li>(1) Applicable timeframes</li> <li>(2) Applicable events</li> <li>(3) Discovery</li> <li>(4) Lack of prosecution</li> <li>(5) Sanctions for noncompliance</li> </ul> </li> <li>c. Alternative dispute resolution programs             <ul style="list-style-type: none"> <li>(1) Applicable procedures and timeframes for their use</li> <li>(2) Impact on civil case process system</li> </ul> </li> <li>d. Judicial system policies             <ul style="list-style-type: none"> <li>(1) Scheduling</li> <li>(2) Continuances</li> <li>(3) Use of sanctions</li> </ul> </li> <li>e. Case information collected             <ul style="list-style-type: none"> <li>(1) Information used to screen cases</li> <li>(2) Type of information</li> <li>(3) Point at which it is collected</li> <li>(4) Action taken as a result</li> </ul> </li> <li>f. Case filing and disposition information             <ul style="list-style-type: none"> <li>(1) Historical information (last 5 years)                 <ul style="list-style-type: none"> <li>– Annual case filings</li> <li>– Average and median age at disposition by year</li> <li>– Disposition methods average/median age for each by year</li> </ul> </li> <li>(2) Management information on pending caseload                 <ul style="list-style-type: none"> <li>– Volume</li> <li>– Age</li> <li>– Stage</li> </ul> </li> </ul> </li> <li>g. Major problems identified by judicial system officials.</li> </ul>
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possible to assign these cases to a special track that will provide for the completion of discovery at the earliest practical time, with a settlement conference scheduled shortly thereafter?

■ What degree of court supervision do cases require that need more extended case disposition time? Adequate court supervision of cases with extended dispositional timeframes ensures that these cases proceed as scheduled and that the extended time promotes *disposition*—not delay.

■ Do any special classes of cases present special management considerations? Management considerations of some special cases warrant assignment to a special category—or subcategory—within a track. These might include criminal cases involving foreign-speaking defendants who require interpreters for court proceedings as well as for interviews with attorneys, pretrial service, and probation officials, or cases requiring competency or psychiatric evaluations. Civil cases for special attention may include those involving multiple expert witnesses or third-party complaints.

## C. Defining the Case Characteristics for Each Track

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The case differentiation criteria adopted in task B above should define the characteristics of cases assigned to the various tracks.

For example, a drug case involving one defendant, a simple laboratory analysis, and minor criminal sanctions may be assigned to an expedited track. Another drug case that has similar characteristics, but also includes search-and-seizure issues and a defendant with an extensive criminal history, may be assigned to a standard or complex track. Similarly, a contract dispute involving two parties, no expert witnesses, and limited discovery may be assigned to an expedited track; another contract dispute with four parties, several expert witnesses, and extensive discovery may be assigned to a standard or complex track.

Approaches used by the pilot criminal and civil DCM sites to define case characteristics for each track are included in appendix B. Based on the track characteristics adopted, forms should be designed to capture essential case information for track assignment. Sample forms used by several of the pilot sites appear in appendix C.

## D. Identifying Procedures That Need To Be Instituted or Changed

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Once the basic case differentiation scheme and the characteristics for each track are agreed upon, procedures must be developed for each track. These procedures should address the entire caseflow process from filing and screening through 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 instituted to assure adequate case screening, management, and monitoring.

Additional events may likely be needed or existing events modified to provide for earlier court intervention and a chance of earlier disposition. For example, if the flow chart developed during the planning phase indicates substantial delay before any court intervention, an early pretrial conference (that is to say, within 10 to 15 days of the filing of a criminal case and within 30 days of the filing of the answer in a civil case) may be essential to ensure that cases are disposed of as early as possible, consistent with their management needs. Examples of the track procedures and timeframes adopted by several of the pilot sites are included in appendix E.

## E. Assuring That Essential DCM Functions Are Performed

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The procedures developed for the DCM system should promote performance of the critical DCM functions listed in exhibit 2 and clear-cut responsibility for the tasks entailed.

## F. Ensuring Interagency Coordination, Management Support, and Periodic Training

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The task force also will need to:

■ See that each agency affected by the DCM program develops adequate internal implementation policies and procedures.

## Exhibit 2. Critical DCM Functions and Planning Issues

### ■ *Defining the tracks for the DCM System*

- What factors distinguish cases in terms of their management and disposition needs?
- What procedures, events, and deadlines should be established to reflect the different management and disposition requirements of the caseload?
- What degree of court supervision will the cases in these tracks require?

### ■ *Case screening*

- What information will be used to screen cases for track assignment, and how will that information be obtained?
- Who will screen the cases?
- When will case screening be done?

### ■ *Track assignment*

- When will the track assignment be made?
- Who will make the track assignment?
- What attorney input will be considered?
- How will attorneys be notified of the assignment?

### ■ *Case management*

- What management functions are needed to ensure that cases in each track are disposed of in accordance with applicable track procedures and timeframes?
- What management functions can staff perform?
- What management functions require a judge?

### ■ *Case monitoring*

- What information is needed for case monitoring?
- How will compliance with applicable event deadlines be monitored?
- How will noncompliance be addressed?

### ■ *Program assessment*

- What are the goals and objectives of the DCM program?
- Who will be responsible for assessing the degree to which the DCM program achieves its goals and objectives?
- What information will be used to perform this assessment?
- How will needed modifications in DCM be identified and made?

### ■ *Interagency coordination*

- Who will be responsible for assuring continuing communication and coordination among agencies involved in the DCM process?
- What procedures will be instituted to promote close cooperation among the agencies involved and identification and resolution of problems as they arise?

- Develop mechanisms for ongoing interagency coordination between all agencies involved.
- Secure adequate management and information support to manage and monitor individual cases as well as the overall DCM program.
- Guarantee ongoing education and training programs for all levels of staff in each agency affected by the DCM program.
- Establish mechanisms for ongoing assessment of DCM program operations, resolution of internal operational and interagency coordination problems, and periodic modification of program policies and procedures.

## G. Regular Meetings To Watch Program Operation and Address Any Problems

The task force should meet regularly to review operations of the DCM program and address implementation problems as they occur. The meetings should occur at least once a month for the first 6 months of the program and no less frequently than every other month after that. Many unanticipated problems will develop. Most of them will be relatively minor, but if not addressed promptly may impede the program's success. Minutes of a task force meeting in one of the pilot sites shortly after implementation, included in appendix D, highlight the range of issues and questions that can come up once the DCM program is implemented.

## H. Special Issues To Consider in Developing the DCM Program Implementation Plan

**(1) Changing the rules or other provisions relating to the case process.** To the extent that the DCM program changes discovery practice and timeframes for case processing, adds new events, or changes the character of old events, civil DCM programs most likely will require changes in existing court rules. Rule changes will be the most effective way of giving attorneys and the public adequate notice of the new civil case processing procedures, including case processing applicable to the various tracks. For

jurisdictions without local rules, publishing special rules may be necessary. Starting the DCM program with temporary or interim rules may be desirable; these can be modified to reflect changes as the program completes its pilot test period. Examples of rules prepared for civil DCM programs are included in appendix G1.

Criminal DCM programs, on the other hand, most likely will require only minimal changes, if any, in court rules. Most of the changes brought about by the DCM program can be introduced by court administrative order or interagency agreement within existing statutory or rule provisions regarding case processing time and events in the criminal case process. As an example, appendix G2. includes the Pierce County (Washington) Superior Court's Memorandum and Supplemental Memorandum on revised criminal procedures instituted for the DCM program.

To determine whether implementing DCM requires rule changes or other action, a jurisdiction should carefully review existing rules and statutory and other provisions on time, events, and other details of case processing. Based upon this review and the "local legal culture," local officials should determine how best to proceed. In any event, the bar and the public should learn in local legal and other publications of the adoption of DCM. Appendix H has examples of publication announcements explaining the DCM program.

**(2) Evaluating the pros and cons of pilot programs.** Some jurisdictions may want to consider a DCM program for the entire criminal or civil docket—or for both. Benefits of this approach are that all cases go through a uniform procedure. Others may want to begin with a pilot program, focusing on only a segment of the caseload. This approach permits DCM to be tested in a limited number of cases and program procedures to be refined before the system is applied to the rest of the docket. The BJA pilot projects have used both strategies. However, those jurisdictions that phased in the DCM program found that maintaining one caseflow management system for DCM cases and a second system for non-DCM cases required added management functions and necessitated orienting agencies to the procedures of the new system while still maintaining the old. This has been a particular problem in situations in which the DCM program imposed more stringent management and preparation requirements.

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**(3) Assuring adequate program management and support staff.** The intensive case management characteristic of a DCM program and its focus on early disposition require adequate staff and information system support. This support enables staff to perform necessary case management and monitoring functions and issue notices of applicable events for each track. In jurisdictions where a special judge is designated to handle a high volume of dispositions, such as those at arraignment or shortly thereafter, sufficient clerical and security support must be provided for the volume of cases. This does not necessarily require additional staff. Redefining existing responsibilities and duties will often suffice.

**(4) Handling the current case inventory.** Regardless of whether DCM is implemented on a pilot basis or extended to the full caseload, the court will need a plan to dispose of pending case inventory. Although DCM procedures will not apply to these cases, there is no reason why the court cannot informally adhere to DCM principles by tailoring the case disposition process to the needs of each case in inventory. Many jurisdictions initiated their DCM systems with an audit of all pending cases to determine their status and schedule them for disposition. For the initial period, the court will need to maintain two parallel scheduling systems. The DCM program must be designed to accommodate systems for DCM and non-DCM cases.

**(5) Developing necessary forms.** The DCM system will require new forms for case screening and monitoring and for notices regarding track assignment and scheduling. The design of these forms should give particular consideration to:

- The purpose of each form.
- The source from which the information will be obtained.
- How the information will be used.

Requests for information for case screening should be unambiguous and geared to obtaining objective information that can be readily coded.

**(6) Assuring adequate information system support.** The experiences of the BJA pilot DCM jurisdictions made it apparent that many trial courts lack information systems that provide adequate information for day-to-day case management and monitoring as well as for managing the overall DCM program.

Efforts by the pilot DCM sites to adapt statewide court or county information systems proved unsatisfactory, and most of them developed supplemental PC-based systems to manage and monitor DCM.

A number of existing software programs can provide the capability necessary for DCM in most jurisdictions. When adapting any of these programs to the needs of a local jurisdiction, judges and administrators should meet to define the functions they need to have performed in order to manage and evaluate the new system, to supervise individual case progress, to determine the status of the caseload, and to measure the degree to which DCM goals and objectives are being achieved.

At a minimum, the DCM information system should provide:

- Information necessary to manage and monitor case progress.
- Information necessary to assess the degree to which the system's goals and objectives are being achieved.
- Flexibility to generate ad hoc reports that various users of DCM find helpful.
- Information on the DCM program and individual case progress as frequently as needed.

Sample computer screens and management reports generated by several of the pilot sites are included in appendix I.

**(7) Fostering cooperation between prosecutors and public defenders.** The prosecutor and public defender must cooperate to make a criminal DCM program work. Each of these offices should designate a senior-level attorney with expertise and credibility to screen each case, exchange discovery early, and conduct realistic settlement discussions. The objective is to reach the earliest possible disposition of each case consistent with the legal and management issues presented. For example, many jurisdictions require that the early plea offer be the best offer and not be reopened after the time for acceptance has expired. In determining the range of reasonable offers to promote early disposition in a given type of case, some jurisdictions sample the types of sentences arrived at prior to the DCM program, considering case type and offender characteristics, through plea or trial disposition.

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**(8) Analyzing costs and benefits.** Cost is, of course, an important consideration in designing a DCM system, and it is difficult to quantify in dollar terms the economies—or costs—that will result. Certainly a DCM program will produce significant savings by eliminating unnecessary, repetitive events and functions and by permitting more efficient use of judicial and staff time. On the other hand, a DCM program requires adequate staff, management, and information resources to be effective. It may require enhanced information system capabilities (either automated or manual) and increased staff support. However, it may simply require reorganizing existing staff and resources and redefining the functions they perform.

Most DCM pilot sites used the resources provided by BJA or local matching funds to support information system needs (primarily the purchase of personal computers); hire court staff to coordinate and monitor case progress; and perhaps hire additional prosecutors, public defenders, and paralegals to screen and handle the caseload. In many instances, however, existing staff responsibilities were reorganized, thus obviating the need for new hires solely to implement the DCM program.

In the long run, whether a DCM program results in cost savings or higher expenditures will depend upon the type and level of resources existing before DCM, the degree to which the court currently manages cases efficiently, and the capabilities of the information system in place. Regardless of whether DCM reduces costs or increases savings, it should contribute significantly to more efficient use of existing judicial system resources.

**(9) Providing training.** An initial orientation program is essential for judges, court staff, prosecution and defense attorneys, probation officers, sheriffs, and all their staffs. In addition, ongoing training must follow the orientation to address operational problems as

they arise and reinforce DCM goals and procedures. In many jurisdictions attorneys who practice before the “DCM court” also practice in courts *not* using DCM and therefore need to be exposed regularly to the DCM program to promote compliance with its new procedures.

## I. The Justice System Environment

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An effective DCM program should capitalize on the organizational strengths of the local judicial system and address its weaknesses. In considering how to implement a DCM program, the following questions need to be addressed:

- What factors in the environment would support efforts to implement DCM, and how can they be utilized in the court? In other justice system agencies?
- What factors would work against DCM implementation, and how can they be overcome or counteracted in the court? In other justice system agencies?

Usually it is more effective to identify and capitalize on the facilitating factors rather than to try to make arbitrary changes. In designing a DCM program, it is important to:

- Identify specific problems that will be remedied by implementing differential case management.
- Secure the agreement of key leaders to participate in development.
- Listen carefully to objections or problems raised in your agency and in others because many will have merit and must be addressed.
- Make sure adequate resources, staff, and equipment will be available at program startup to maximize the chances of success.

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# CRITICAL ELEMENTS OF A DCM PROGRAM AND ASSESSMENT GUIDELINES

Here are the essential elements of a DCM program along with the objectives they support and the criteria and guidelines for assessing the effectiveness with which they function.

## A. Case Differentiation Criteria

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**Objective:** *Identification of the factors that determine the level of preparation and court intervention required to achieve a timely and just resolution in each case.*

### Assessment Criteria:

- Policymakers have agreed on the factors that meaningfully differentiate cases.
- These factors are the basis for formal criteria used to define the number and nature of case processing tracks in the DCM system.
- Track criteria are unambiguous and easily used.
- Track criteria are clearly understood by all, including the bar.

### Assessment Guidelines:

- Do the track criteria for the DCM program provide a meaningful guideline for categorizing cases according to the time and tasks required for their fair disposition?
- Are the track criteria clearly defined and capable of easy, unambiguous application?

## B. Case Processing Tracks and Procedures

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**Objectives:** *Creation of sufficient processing tracks to facilitate timely disposition.*

**Scheduling of case events consistent with the needs of each case.**

### Assessment Criteria:

- Each of the DCM tracks is used with sufficient frequency to justify its existence.
- No DCM track has so high a percentage of cases assigned that it defeats the purpose of case differentiation.
- Each event on the track and its timing meaningfully contributes to timely case preparation, disposition, or both.
- The time and processing characteristics of each track accommodate the range of management/processing needs of the caseload.
- Track reassignment is easily accomplished when justified.
- Track reassignment occurs infrequently.

### Assessment Guidelines:

- Do the distinguishing processing characteristics of the tracks in the DCM system reflect the range of management needs of the cases filed?
- Do the time and processing characteristics of each track permit flexibility to accommodate the range of management/processing needs of the individual cases assigned?
- Is the time between events individualized to reflect the management needs of each case?
- Are all of the tracks established being used frequently enough to make them useful?
- What percentage of cases are assigned to each track? What percentage of cases were anticipated to be assigned to each track? [If the actual percentage of cases assigned to the tracks differs significantly from the anticipated percentages, are there any special issues that need to be addressed, such as



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possible need for refinement of the track criteria?  
creation of subtracks? etc.]

- Are the tracks serving the purposes for which they were established?
- How are cases warranting track reassignment identified?
- What criteria are used to determine whether or not reassignment is necessary?
- What procedures are used to reassign a case to another track?

## C. Case Screening Process and Track Determination

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**Objective:** *Screening of each case as soon as possible after filing and assignment to the appropriate track.*

### Assessment Criteria:

- Suitable forms and procedures exist for obtaining necessary information about each case at the time of filing for the purpose of track determination.
- Case differentiation criteria are applied shortly after each case is filed.
- Track assignment is communicated promptly to attorneys and appropriate court staff.
- Deadlines imposed as a result of track determination are communicated promptly to those who need them.
- The track assignment and associated deadlines are recorded in the permanent case record.

### Assessment Guidelines:

- Does the court review the pleadings in each case shortly after filing (i.e., after charges are filed in criminal cases and after issue is joined in civil cases), using the criteria established for each track, to determine the track assignment for each case and the timeframe appropriate for its disposition?
- Is there adequate information available to make the track assignment at the time of this review? If not,

what additional information is needed for track determination and how soon can it be obtained?

- How are the results of the case review recorded and communicated to attorneys and court staff?
- How much time elapses between the time of filing and the track assignment? Can this time period reasonably be reduced? What case disposition activity is occurring during this period?

## D. Court Control of Case Progress and Deadlines

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**Objective:** *Assurance that cases proceed to disposition in accordance with the procedures and deadlines for the track to which they have been assigned.*

### Assessment Criteria:

- Hearings or other court events occur on the scheduled date.
- The court can identify cases that are in danger of exceeding deadlines and take action to assure that they stay on schedule.
- Extensions of deadlines occur infrequently and are granted by the court only for exceptional cause.
- Requests for extensions are recorded and their frequency monitored.
- Patterns of requests for continuances are examined to determine whether modifications in the DCM system may be necessary.
- Consequences are imposed for noncompliance with established deadlines.

### Assessment Guidelines:

- Are cases heard when scheduled for pretrial events? For trial?
- What mechanisms are used to monitor compliance with case processing deadlines?
- Can the court identify cases in danger of noncompliance with these deadlines? Who identifies these cases? What action is taken on them?

- How and when are cases identified that have exceeded deadlines? Who identifies these cases? What action is taken on them?
- What mechanisms are used to monitor the frequency and reasons for motions to extend deadlines?
  - How frequently, by track, are such motions filed?
  - By track, what action is taken on these motions?
- Are continuance requests made for any special category of cases or for any specific events with such frequency as to suggest that existing DCM time-frames are unrealistic or that resources are not adequate to achieve case processing objectives?
- What mechanisms exist to monitor the frequency and circumstances of motions to compel compliance with discovery requests by track? By case type?
- How frequently are such motions filed by track? By case type?
- What action is taken on these motions?

## E. Information Support

**Objectives: *Prompt creation of a case record to facilitate monitoring of case progress and overall system performance.***

*Use of the information system to:*

- *monitor case progress.*
- *generate notices, calendars, and statistical reports.*
- *permit periodic analysis of system performance.*

### Assessment Criteria:

- Case information, track assignment, and deadlines are entered promptly into a data base.
  - The information produced by the system enables court personnel to monitor case progress and the condition of the caseload.
  - Information about the current status of each case is readily available.
- The system flags cases in danger of exceeding time standards.
  - Performance of cases on each track can be evaluated, by track.
  - The system can respond to ad hoc inquiries.
  - The system provides information to determine whether the DCM system is meeting goals and objectives.
  - Notices and calendars are generated promptly.

### Assessment Guideline:

- Is the track decision promptly entered into a data base?
- Is this information subsequently used for day-to-day case management?
- Is the track assignment promptly communicated to the parties involved along with the schedule for subsequent case processing events?
- Is the information needed to manage and monitor your DCM program routinely collected?
- Is the information needed to determine whether modifications need to be made in the DCM program routinely collected and readily available?
- How is this information obtained and what is done with the information after it is obtained? (i.e., to whom is the information communicated?)
- Is the information needed to measure the success of your DCM program routinely collected and readily available?
- How is this information obtained and to whom is it communicated?
- Does the information system routinely provide information by track regarding:
  - case inventory by age, case type, and event?
  - compliance with event and track deadlines?
  - frequency, reason for, and effect of continuances?
  - case dispositions by age, track, and type of disposition?

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## F. Judicial System Leadership

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**Objectives:** *A key judge to assume responsibility for overseeing the DCM program, meet regularly with officials of the agencies involved, review case management reports, address problems disclosed by these reports, and meet periodically with the DCM policy board and implementation task force.*

*The court has adopted policies that articulate the DCM goals and policies clearly.*

### Assessment Criteria:

- The court has published policies that clearly articulate the goals and procedures of the DCM program.
- There is evident judicial leadership of the DCM system.
- There is frequent, open consultation between the court and each agency involved with the DCM system.

### Assessment Guidelines:

- Has the court clearly publicized the goals and procedures of the DCM program to attorneys and others involved in the caseflow process?
- Has one judge been designated with administrative responsibility for monitoring and managing the DCM program and assuring that goals and procedures are achieved?
- Does he or she meet regularly with other judges and officials in other agencies involved in the DCM program to address the operation of the program?

- Does he or she have authority to adopt/revise procedures to address operational problems that occur?
- Have mechanisms been established to assure that all judges adhere to DCM policies and procedures?

## G. Mechanisms for Interagency Coordination

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**Objective:** *Establishment of mechanisms for ongoing communication among all agencies involved in the DCM process.*

### Assessment Criteria:

- Representatives of the agencies involved meet regularly concerning system operation.
- Operational problems are addressed and resolved in a collegial manner.

### Assessment Guidelines:

- Do representatives from each of the agencies involved in the operation of the DCM program meet regularly to discuss the DCM program from the perspective of their respective offices?
- Are operational problems relating to interagency coordination promptly identified and addressed?
- Is the information needed to measure the impact of the DCM program routinely collected?
- What actions are taken as a result of having this information?

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# FREQUENTLY ASKED QUESTIONS ABOUT DCM

## **Why would a jurisdiction want to consider adopting a DCM program?**

(1) To make more efficient use of justice system resources by tailoring their application to the needs of the individual cases filed.

(2) To serve the public more efficiently by providing different processing paths with different timeframes and different procedural requirements, appropriately geared to case requirements to achieve a just disposition in each case filed.

## **What types of cases are most appropriate for a DCM system?**

All types of cases are suitable for a DCM program.

## **Which cases—civil or criminal—will most benefit from DCM in terms of improved case-processing time?**

The case-processing time for both civil and criminal cases can be substantially improved by DCM, particularly with regard to cases not disposed of by trial—i.e., disposed of by plea or settlement, dismissal, etc.—which make up at least 90 percent of cases filed. These cases can be disposed of efficiently and fairly by obtaining whatever information or scheduling or other court events are necessary to reach their disposition as early as possible, rather than waiting until the trial date approaches. In addition, the docket time that might otherwise have been unnecessarily reserved for their trial can be freed up for those cases that will, in fact, require trial.

## **How do you decide on the right criteria for differentiating your caseload? For example, how do you determine and isolate those factors that truly make a difference among the cases?**

The best way to determine criteria for differentiating cases is through a combination of brainstorming with officials representing various components of the judicial process (i.e., plaintiff and defense counsel, prosecutor, public defender agencies, and the court) to identify differentiating factors based on experience

as well as to identify the critical information and events necessary for disposition of different classes of cases.

## **What resources are needed to perform the case screening for a DCM program, and how many staff are needed for the screening process? Can we get the attorneys to provide enough information to intelligently screen each case?**

One experienced staff person can perform the case screening functions in most courts. This person can perform other DCM program functions as well, such as case monitoring, coordination with attorneys, etc. Experience with the pilot DCM programs has demonstrated that attorneys will provide all information necessary to screen cases intelligently, provided that the forms requesting this information are readily usable, the request for information is clear and unambiguous, and the response is capable of objective interpretation. Case screening also can occur at an early status conference conducted by a judge or magistrate, thus relieving staff of that function.

## **How much information needs to be collected on each case to classify it for the DCM program? How much is needed for monitoring compliance with case-processing schedules? Who should monitor compliance with the case-processing schedules developed for the DCM program?**

The data needed to classify a case in a DCM program should be geared to the criteria the jurisdiction has adopted for case differentiation and the information desired to evaluate the DCM program. The various track criteria developed by the pilot DCM projects, included in appendix B, give examples of the type of information needed. In terms of monitoring case-processing schedules, the information needed would relate to the time and events scheduled and the track to which a case was assigned. Appendix I provides sample computer screens used by several of the DCM projects demonstrating the data used for monitoring purposes.

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**Will our existing information system be able to support the needed DCM data? If it can't, should we give any further consideration to a DCM program?**

To decide whether your existing information system can support a DCM program, local officials should meet and determine the questions they will need to answer and the information they will want to maintain on a regular basis in order to manage and monitor the DCM program. They should then present these questions and information items to the director of the court's information system, asking the director whether the system can provide this information and, if not, what if anything can be done to obtain it. (Based on the experiences of the pilot sites, very few court information systems can provide the day-to-day management information that a DCM program—or any court management program, for that matter—requires.)

That the present court information system cannot support the DCM program, however, should not be a reason to abandon the program. Most of the pilot jurisdictions developed simple PC-based programs that were inexpensive, user-friendly, and adequate until such time as a more permanent system could be developed. Specific information on the development and use of these PC systems can be obtained by contacting the local officials involved in the development of these systems in Pierce County, Washington, and Ramsey County, Minnesota.

**When should track assignments be made?**

The track assignment should be made as soon as possible after filing—within 5 to 10 days of the filing of an answer in a civil matter and at the time of the first appearance, or very shortly thereafter, in a criminal matter.

**Who should make the track assignment?**

Under a master calendar, an administrator or coordinator can make the case track assignment; in an individual assignment system, the track assignment can be made by the judge to whom the case is assigned or by his or her designee. In either instance, clear criteria should be established for assignment to the various tracks established and the attorneys involved in the case should be consulted and have an opportunity to provide input to the track assignment decision.

**How many tracks should there be?**

Many jurisdictions have begun their DCM programs with three tracks; others, however, have used more or have subsequently developed subtracks so as to address special classes of cases. There is no magic number; the number should reflect realistic distinctions in case-processing requirements.

**What should be the procedure if litigants object to the track classification? Does that add to case-processing delay?**

Procedure for prompt appeal to a judicial officer should be provided. The appeal process should be simple and in no way delay case progress. The experience of the pilot DCM sites was that appeals of a track determination were extremely rare. Appeals of a track determination should be minimal if the criteria for track assignment are unambiguous and capable of objective and uniform application.

**Do case screening and track assignment delay case processing in any way?**

No. If anything, the information obtained at the time of case filing should accelerate case progress by forcing opposing counsel to consider much earlier the issues and tasks necessary for disposition and to provide each other this information.

**Should all cases be included in the DCM program?**

Yes. Some courts exclude certain types of cases initially, such as probate or domestic relations, but there is no reason to make such exclusion once a DCM system has been pilot tested.

**What will be the impact of a DCM program on cases not included in the program?**

Cases filed before the DCM program was implemented, and therefore not subject to DCM procedures, will need to be processed according to pre-DCM practice. It will be very important that these cases not be relegated to second-class status. Many of the pilot jurisdictions conducted an audit of these cases and were able to dispose of many of them, scheduling those remaining for trial as soon as possible. The same concerns apply to cases not subject to the DCM program because they are excluded by case type (i.e., civil cases in a court using a criminal DCM program, general criminal cases in a court using a DCM program for drug cases only, etc.). In either

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situation, there is no reason why the principles underlying a DCM program—active court management of the case process and categorization and processing of cases based on their complexity—should not be applied to all of the cases, DCM or non-DCM.

**Are civil cases more or less difficult to screen than criminal cases?**

Civil cases are neither more nor less difficult to screen than criminal cases, as long as the criteria for case screening are clearly articulated and capable of unambiguous application.

**Our individually calendared judges are randomly assigned cases of all kinds at the time of filing. How could we go about integrating a DCM program into their caseload system?**

Since differentiation can be applied to all types of cases, these judges can devise differentiated case management procedures for all cases assigned to them. Their first step should be to define the case-screening criteria that the DCM system will use. The DCM tracks and procedures should then be defined, followed by a determination on how to allocate judicial time to the events prescribed for each track. Since all types of cases might be expected to have an early conference, a judge might designate part of one day a week simply as a conference day regardless of case type.

**Does DCM assume that each judge has a “specialty” calendar and gets only one type of case?**

No. The DCM principles apply to all types of cases and are concerned with the complexity of cases, not the case type as such.

**What agencies, departments, or entities in addition to the court are affected by a DCM program? Do they need to be involved in the decision to implement a DCM program?**

Virtually every agency involved in the civil or criminal case process will be affected by a DCM program. While not all of these agencies can realistically be involved in the decision to implement a DCM program, they will certainly play a role in determining its success. Special effort should therefore be made by the DCM Task Force to coordinate development of the program with these agencies and to plan for the

program’s anticipated impact. On the criminal side, for example, the agency responsible for prisoner transport will be instrumental in assuring that detained defendants are brought to court when scheduled. To the extent that the criminal case process is expedited or there is any increase in the numbers of detained defendants needed to be brought before the court each day, resources must be available to guarantee that the program does not break down at this point. Similarly, the agency responsible for obtaining criminal histories and preparing presentence reports must fulfill its role in order for cases to be disposed of in accordance with the DCM timeframes. If it is difficult to obtain timely and adequate criminal history information to satisfy statutory requirements, the planning process must address this situation.

**Can a DCM program have an impact on crowding in our jail?**

Definitely. Not only will a DCM program give priority to cases involving detained defendants but, in addition, it should promote much earlier disposition of those cases that do not require extensive preparation. In addition, the scheduling certainty built into the DCM program should ensure that cases involving detained defendants are not continued except for a showing of very good cause.

**Our prosecutor will not negotiate pleas. Would a DCM program still be useful to our jurisdiction?**

Yes, because it will permit the court to manage the pace and procedures of the criminal case process from time of filing. In addition, if sentence exposure is a factor considered in track assignment, a DCM program can also contribute to earlier disposition.

**Our prosecutor and public defender indicate that their heavy caseloads prevent their “screening” cases for purposes of DCM tracking until shortly before trial. How can a DCM program be useful, given this constraint?**

Many prosecutors and public defenders have expressed this reaction initially, when a DCM program is first discussed. Their later experience, however, tends to be that, by disposing of those cases which can be disposed of fairly expeditiously and by ensuring that each event scheduled contributes meaningfully to the disposition process of each case, they have had more time to devote to those cases that require their attention.