

Improving Criminal Caseflow

**Best and Innovative Practices
from the
National Center for State Courts**

Agenda

- The CFM Challenge: Sustainable Change
 - Technical problems and solutions
 - Adaptive problems and solutions
- Three-prong Strategy for CFM Sustainability
 1. Assess (diagnose) current state of affairs using the High Court Performance Framework
 2. Institute major change using proven steps
 - ✓ *CourtMD*, a new online web solutions service (techniques for criminal case management)
 - ✓ Kotter's 8 stage change process
 - ✓ Quality circles approach
 3. Build capacity and support for courageous leadership

THE CFM CHALLENGE
SUSTAINABLE CHANGE

Two Types of Problems in Courts

- **Technical problems** – “High ground” issues. There are ready-made solutions available.
- **Adaptive problems** – “Swamp” issues. May understand the problem, but the solution needs to be invented/developed. Requires a mind-set change.

Problem	What Do You Do?	Who Does It?
<i>Technical</i>	Use current know how	Authorities, experts
<i>Adaptive</i>	Learn new ways	People who have the problem

Diagnostic Clues

Technical

- Preferences; routines need to change.
- Proven fixes work and last over time.
- Little resistance or feelings of loss.

Adaptive

- Peoples' hearts and minds need to change.
- Fixes do not help; problem persists
- Crisis may exist (an adaptive problem that has festered)

THREE-PRONG STRATEGY
SUSTAINABLE CHANGE

1. Assess the Current State of Affairs

Numerous Approaches are Used Today

- CFM Maturity Matrix
- “Anthropological” Studies
- Flowcharts
- CourTools
- Trial Court Performance Standards
- Case Processing Time Standards
- Trial Court Self-Assessment Questionnaire
- Court Culture Inventory

Class Project

- Complete the CFM Maturity Matrix
- Plot your results on the classroom graph
- Class discussion

High Performance Court Framework

All-Inclusive Way to Improve Caseflow Management

- Administrative Principles
- Procedural Satisfaction
- Effectiveness
- Efficiency
- Productivity
- Organization Capital
- Human Capital
- Information Capital
- Technology Capital
- Public Trust & Confidence

Administrative Principles

- Judges control the legal process
- Decisions demonstrate procedural justice
- Give every case individual attention
- Treat cases proportionately
- Minimize the time and cost for resolution

**Many of these Principles
are vested in the Purposes of Courts**

Procedural Satisfaction

- CourTool Measure 1: Fairness
- Time Standards
- Due Process steps are clearly evident
- Self-represented processes are understandable to non-lawyers; judicial intervention is appropriate and sometimes necessary to ensure due process (Turner v. Rogers, U.S. Supreme Court 2011 decision)
- Staff is knowledgeable, helpful, and empowered to exercise autonomy within recognized boundaries
- Tom Tyler's work on Procedural Justice...
 - Respect • Voice • Trustworthiness • Neutrality

Effectiveness

- CourTool Measure 5: Trial Date Certainty
- Ratio of trials held to those called for trial that do not settle are recorded and used in assessing problem areas
- Evidence-based sentencing is employed and recidivism rates monitored
- Problem-solving court statistics (outcomes) are kept and used for program improvements

Efficiency

- CourTools Measure 2: Clearance Rate
- CourTools Measure 3: Time to Disposition
- CourTools Measure 4: Age of Pending Caseload
- Average continuance rate
- Average number of hearings or events per case

Productivity

- CourTools Measure 10: Cost per Case
- Judicial and staff case weights by major case type are developed, updated and used to assist court leaders in managing activities

Organization Capital

- Internal governance system works well
- Collaborative decision-making and integrative leadership with justice system partners is evident
- Quality circles process in identifying and solving problems is followed
- Expectations that events will occur as scheduled
- Maximum predictability of court procedures and outcomes is obvious
- Court creates opportunities and incentives for early case resolution
- Court identifies and eliminates process inefficiencies

Human Capital

- Judges are trained and knowledgeable about good practices in caseflow management
- Staff are trained and learned in good practices for caseflow management
- Justice system partners understand and subscribe to the need for delay reduction and exhibit consistent effort to prepare for meaningful events
- There is evidence that caseflow management attitudes, values and beliefs are an internalized mindset among court leaders (adaptive solution)

Information Capital

- Reports regarding caseflow management performance measures are produced by major case type and by judge, and are...
 - Timely
 - Understandable
 - Graphic
- Caseflow decisions are data driven
- Studies occur to gather factual data where discrepancies or computerized information is confusing or absent.

Technology Capital

- The case management system (CMS) automates business processes (streamlines work) as opposed to merely developing a “digitized” file cabinet
- An integrated justice system is a primary goal
- Basic case management workflow is automated, including...
 - Assigning judges and cases
 - Eliminating redundant data entry
 - Scheduling next events
 - Creating standard notices and orders

Public Trust & Confidence

- Key caseflow reports are regularly provided to the public in understandable formats
- Judicial and staff weights are reported each time a workload/staffing study is updated and compared with statewide averages
- Key public and private policymakers are routinely introduced to justice and case related issues by court and justice system leaders

2. Institute Change Using Proven Steps

- *CourtMD*, an online web solutions service, including techniques for successful criminal case management, sample case management plans, examples of caseflow studies
- Kotter's 8 stage change process
- Quality circles improvement guides

Techniques for Successful Criminal Case Management

- Arrest reports and evidence supplied promptly
- Realistic charging by prosecutor
- Prompt filing of charging documents
- Early exchange of discovery
- Every event (including arraignment) a meaningful opportunity for disposition
- Court assumes control of the case early

Techniques for Successful Criminal Case Management

- Future action dates are always assigned
- Deadlines are enforced consistently
- Cases are screened for complexity by court, prosecutor, defense (DCM)
- Realistic plea offers early + plea cutoff dates
- Early disposition of motions
- Trial dates set only if needed
- Continuances given only for exceptional cause

Kotter's 8 Stage Change Process

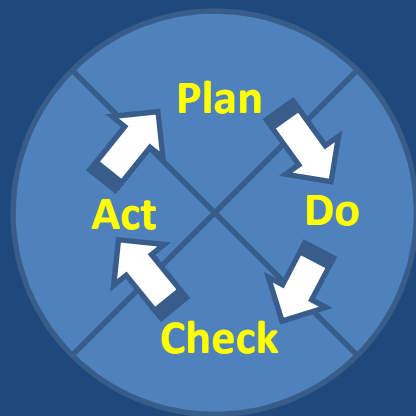
- 1) Establish a sense of urgency
- 2) Create a guiding coalition
- 3) Develop a vision and strategy
- 4) Communicate the change vision
- 5) Empower employees; remove barriers
- 6) Generate short-term wins
- 7) Consolidate gains; more change
- 8) Anchor the new approaches in the culture

Quality Circle Approach to Improvement

A quality circle (QC) is a small group of court employees (team) who meet regularly to...

IDENTIFY • ANALYZE • SOLVE

systemwide caseflow & operational problems



- Plan
 - Get the data
 - Analyze the problem
 - Plan the solution/experiment
- Do It
 - Check – Measure the change
 - Act – Modify as needed

3. Build Courageous Leadership Capacity

Courageous Leadership is Dangerous

It's about Changing the Status Quo

It requires...

- Moral courage ⇒ Act on principle
- Selfless courage ⇒ Put the court, others first
- Intellectual courage ⇒ Embrace new knowledge
- Execution courage ⇒ Implement change

How to Promote Such Leadership

Those in authority may or may not practice courageous leadership, and those who practice courageous leadership may or may not have authority. The overall goal is to build capacity for courageous leadership wherever it is found and to build support for courageous decisions to solve tough problems.