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**PERFORMANCE AUDIT
OF THE TOWN OF
HILTON HEAD ISLAND
MUNICIPAL COURT**

Final Report

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Project Consultants

**Robert W. Tobin
Penelope J. Wentland
Chang-Ming Yeh**

Vice President

Daniel J. Hall

COURT CONSULTING SERVICES DIVISION

**1331 Seventeenth Street, Suite 402
Denver, Colorado 80202
(303) 293-3063
www.ncsconline.org**

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**Performance Audit of the Town of Hilton Head Island
Municipal Court**

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EXECUTIVE SUMMARY

Courts, as instrumentalities of government, provide citizens with a forum in which to resolve disputes. When that dispute is with the government, as it is when a criminal law is allegedly violated, the court, although part of government, remains neutral. The primary purpose of the court is the administration of justice. As a by-product of that administration, courts collect fines and fees that have been assessed as a component of sanctions imposed on guilty offenders. Serving the Town of Hilton Head Island, the Municipal Court consists of one full-time judge who is also the chief administrator of the Court, one part-time judge, three full-time staff, and one part-time staff. The Court shares courtroom facilities with the Beaufort County Magistrate's Court. The Court has jurisdiction over cases arising under the ordinances of the municipality and over all offenses which are subject to a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both, and which occur within the municipality. The following table provides a summary of the Court's cases, expenditures, and revenues.

TABLE 1
CASES, EXPENDITURES, AND REVENUES

Fiscal Year	Criminal and Traffic Cases	Expenditures	Revenues
1997	8,109	\$ 134,135	\$ 278,552
1998	11,342	\$ 178,930	\$ 375,063
1999	9,507	\$ 182,516	\$ 348,419
2000	7,324	\$ 207,670	\$ 306,078
2001	8,153	\$ 293,344	\$ 361,447
2002	8,090	\$ 334,824	\$ 335,388
2003	6,524	\$ 364,635	\$ 269,572

This table does not reflect the other work done by the Court including arrest and search warrants, administrative reporting to various state and local entities, summoning of jurors and preparation for jury trials, as well as preparation of criminal appeals.

The Town of Hilton Head Island contracted with the National Center for State Courts to perform an audit of the Municipal Court. Our focus was on the following areas:

- Administrative processes, systems, policies, and procedures.
- Use of technology.
- Service levels, workload, and staffing levels.
- Allocation of personnel, equipment, and other resources.
- Adequacy of facilities and equipment.
- Effectiveness and efficiency of internal and external communications and information exchanges.
- Effectiveness of management of funds.
- Examination of operating budget and revenue sources.

To summarize our findings, the Municipal Court follows rules, policies, and procedures articulated by the South Carolina Supreme Court, the Office of Court Administration, and the laws of the state. The Court does need to document its specific implementation of these policies and procedures as well as its business processes for reference, training, and audit purposes. The Court was one of the first limited jurisdiction courts to utilize the state's Judicial Enforcement Management Software therefore acting as a key participant in the fulfillment of a statewide technological initiative. Data is keyed into the system at the end of the each court proceeding facilitating the immediate payment of fines and fees imposed. Use of electronic citations can enhance both the Court's and the officer's efficiency, reduce the time needed to establish a case within the case management system, and improve the accuracy of the collected data.

The Court's workload is primarily dictated by the number of tickets issued by law enforcement and the planned unit development officers. Its workload is also impacted by the number of reductions and no prosecutions recommended by these officers who prosecute the majority of the court's cases.¹ The number of cases scheduled for any particular court session is dependent on the specific court dates of the officers issuing the tickets. The workload can be radically uneven from week-to-week. The Court is making some changes in scheduling to better balance the workload but is dependent on the cooperation of and communication with the law enforcement

¹ The part-time town prosecutor prosecutes only those cases where driving under the influence, simple possession of marijuana, and criminal domestic violence charges are involved.

community. In the past, cases where the defendant has requested a jury trial suffered significant delay although the Court and the prosecutor have made significant progress in reducing the jury trial roster. Court standards state that 90% of misdemeanor criminal cases should be disposed of within 30 days of the date of arrest or citation and 100% within 90 days.² The South Carolina Supreme Court has mandated that all criminal cases including traffic cases be tried or otherwise disposed of within 60 days of the return of the charging paper to the court. The Municipal Court meets these standards with the exception of jury trials.

NCSC has not made recommendations concerning specific staff levels at this time. We do recommend that this area be revisited after the Court has had the opportunity to implement recommendations from our report designed to enhance and promote productivity.

The current facility housing the Court does not meet minimum standards recommended for the construction of courts, staff space, or building support. The report makes certain recommendations to optimize the use of current space but on a long-term basis, the Town needs to build a facility designed specifically for use as a court. Security concerns as well as inadequate space for staff, files, and the public make a new court facility a necessity.

Communications between the Court and the Finance Department are somewhat problematic. The Court transfers money to the Finance Department daily and together they are responsible for the preparation of numerous reports concerning the collection and distribution of these funds. We recommend that formal communications channels for the communication of policy and procedure be established and used as well as specialized attention be given to various communication styles and methods of resolving conflict.

The Court operates within the municipal budget system and receives basic administrative services from municipal administration, among them purchasing and accounts payable, payroll, accounts receivable, personnel administration, dealing with depositaries, and coverage under a general fidelity bond. The Court needs better internal controls as well as a separation of functions for its cash-handling responsibilities. The Court relies primarily on the suspension of

² American Bar Association, Judicial Administrative Division, *Standards of Judicial Administration, Volume II, Standards Relating to Trial Courts*, 1992, ABA Press, Chicago, Illinois, p. 86.

the driver's license as a sanction for non-payment of fines and fees. Past collection efforts have not been particularly successful and no viable accounts receivable system exists.

Expenditures to maintain the Court have steadily increased while revenues remained relatively stable until this last fiscal year where expenditures exceeded revenues by \$95,000. Revenue predictions made in past budget cycles do not appear to be based on realistic factors of either performance or capacity and are misleading. NCSC recommends that the Court more actively participate in the budget process. Fines and fees have remained relatively stable but state surcharges have increased and now represent 114% of imposed fines and fees. In addition, each ticket is subject to a \$25 surcharge. All of these monies are transferred to the Office of Court Administration by law.

NCSC is often asked how much revenue should a court produce. The only answer we can give is that a court is not in the business of producing revenue and that monies paid to a court are a by-product of legislatively determined sanctions imposed to punish specific behavior. However, court standards require the court to use public monies wisely which means that while the cost of justice cannot be the determinant of the justice imposed, it is still a factor in its administration.

The Town of Hilton Head Island has a competent court led by a presiding judge who gives each case the individual attention it deserves. Defendants appearing in this court are treated with courtesy and respect. The court's staff are dedicated to the work they do and they do that work diligently.

Section I – Introduction.

Following a competitive bid process, the Town of Hilton Head Island contracted with the National Center for State Courts (NCSC) for a performance audit of its Municipal Court (Court). The Court consists of one full-time judge and one part-time judge with three full-time employees and one part-time employee. Both judges are law-trained. The court's jurisdiction is limited to cases arising under ordinances of the municipality, and over all offenses which are subject to a fine not to exceed \$500.00 or imprisonment not to exceed 30 days, or both, and which occur within the municipality. In addition, S.C. Code Ann. § 22-3-545 provides that municipal courts may hear cases transferred from general sessions, the penalty for which does not exceed one year imprisonment or a fine of \$5,000, or both, upon petition by the prosecutor and agreement by the defendant. The powers and duties of a municipal judge are the same as those of a magistrate, with regard to criminal matters; however, municipal courts have no civil jurisdiction. The term of a municipal judge is set by the council of the municipality, but cannot exceed four years. The Town of Hilton Head Island Municipal Court is one of approximately 200 municipal courts in South Carolina.

The judge is hired by the Town Council and is responsible to the Town Council. Court staff report to the judge and the Court is supported by the Town's Operations (including Information Technology), Human Resources, Finance, and Facilities Maintenance Departments. Law enforcement is provided to the Town through a contract with the Beaufort County Sheriff's Office. In addition, security personnel certified by the South Carolina Law Enforcement Department are authorized to perform law enforcement functions in the Town's ten planned unit developments (plantations or gated communities). These security personnel will be referred to as PUD officers throughout this report. The majority of the island is located within gated communities. The Town also contracts with judges outside of the Town to handle bonds from the Beaufort County Detention Center.

NCSC conducted its site visit to the Court the week of November 17, 2003 and interviewed, in addition to judges and court staff, town officials, information services staff, and finance department personnel, the part-time town prosecutor, representatives from the Beaufort County Sheriff's Office, and the Director of Security for one of the Island's plantations. In

addition, we reviewed numerous documents and data provided by both the Court and the Town of Hilton Head Island's Information Services Department. This report is organized according to the Scope of Work outlined in the Town of Hilton Head Island's Request for Proposals.

Performance audits are intended to be informative. In assessing performance, one is able to identify areas needing improvement and define measurable steps to achieve that improvement. In order to conduct a performance audit, there must be an established and recognized baseline against which court performance is compared. In many instances, courts have adopted measurable goals and promulgated standard operating procedures and protocols that provide the baseline. This Court has adopted certain goals and objectives associated with the budgetary process but these do not represent the type of measurable objectives that permit a thorough analysis of its performance.³ The NCSC project team, in addition to its subject matter expertise, has used as references for this performance audit Trial Court Performance Standards (TCPS), as published in 2003 by the Research Division of the National Center for State Courts in its *Trial Court Performance Standards Desk Reference Manual* under Bureau of Justice Assistance Grant No. 96-DD-BX-0041 and available at the NCSC website (www.ncsconline.org document TCPSTDeskRef.pdf) and in Appendix A of this report. Supplementing TCPS, we reviewed the American Bar Association's *Standards Relating to Trial Courts*⁴ as well as their *Standards for Traffic Justice*.⁵ We have reproduced the *Standards for Traffic Justice* in Appendix B of this report and provide a descriptive account of the Court's compliance standard-by-standard. Another source of standards that is particularly appropriate for this audit is the South Carolina Judicial Department's Bench

³ For example, objectives for Fiscal Year 2003 were 1) provide for a more user friendly translation service and achieve a more cost-effective program with volunteer translators for bench and jury trials; 2) Support and provide continuing staff training for the PCSS court software program to improve the reporting and collections system for the court; 3) develop a comprehensive study on distance technology for bond hearings with a view towards using current contractual services in an emergency fill-in occurrence; 4) study, report and implement new, proper security to include but not limited to after hours surveillance and night court security guard armed with weapon. Taken from budget materials provided to NCSC by the Town for Fiscal Year 2003.

⁴ American Bar Association, Judicial Administrative Division, *Standards of Judicial Administration, Volume II, Standards Relating to Trial Courts*, 1992, ABA Press, Chicago, Illinois.

⁵ American Bar Association, Judicial Administrative Division, Committee on the Traffic Court Program, *Standards for Traffic Justice*, 1974, 1975, ABA Press, Chicago, Illinois.

Book for Magistrates and Municipal Court Judges.⁶ Portions of these standards and guidelines will be quoted throughout the report.

It is also important to note that no court functions in a vacuum and each court is subject to rules and regulations promulgated by the head of the court system⁷ as well as operational policies and procedures defined by court administrative oversight bodies.⁸ Courts also rely on local governing entities for many support functions including information technology, facilities, accounting, payroll, and human resources. Each of these organizations has their own policies and procedures for doing business with which a court must conform.

Section II – Effectiveness of administrative processes, systems, policies, and procedures.

Given the evolutionary nature of the Court's development (as opposed to an intentional organization and formation by court administrative and organizational professionals), it relies primarily on processes and procedures established for municipal courts by the South Carolina's Office of Court Administration (OCA) and administrative orders and memoranda promulgated by the Supreme Court. Judges utilize the Bench Book for Magistrates and Municipal Court Judges (Bench Book) compiled and maintained by the OCA; many sections are applicable to back office and counter operations within the Court and would be of interest to court staff and provide guidance in re-engineering and streamlining business processes. In addition, court staff reference a procedures manual from the Charleston Municipal Court. There are few written policies and procedures in place that are specific to the Town of Hilton Head Island Municipal Court although court staff are attempting to address this on an ad hoc basis. Given the small size of the court staff (and the physical space they occupy), there is constant interaction among staff and that communication fosters cross-training and permits the staff to function with few written instructions. However, written policies and procedures allow for the ready transfer of knowledge, assist court staff in explaining both court and back office procedures to the public and non-court personnel, and serve as a ready reference whenever needed. Reliance on staff rather than independent documentation of operations as the institutional memory presents a risk to any organization.

⁶ Complete text is available at www.judicial.state.sc.us/trial/magistrate/benchbook.

⁷ The head of South Carolina's unified court system is the Chief Justice of the South Carolina Supreme Court.

⁸ In South Carolina, this entity is the Office of Court Administration.

The Court is required by OCA to submit reports concerning caseload, dispositions, 60-day-old cases, and pending criminal and traffic dockets. In addition, there are numerous orders and memoranda concerning bank accounts, cash disbursements, recordkeeping procedures, retention schedules, and required reports--all defined and preserved in the Bench Book. Incorporation of this information as it is specifically implemented within this Court would increase the transparency of its operations.

NCSC recommends that the Court review and compile into a single reference all OCA- and Supreme Court-mandated policies, processes, and procedures as they are implemented within this Court and complete its documentation of all court, back office, and counter operations. Instructions and directions concerning the use of the court's case management system should be integrated into business process documentation. In addition, relevant Town of Hilton Head Island standard operating procedures, directives, and guidelines as they apply to the Court should be incorporated into this reference.

Of particular concern is the lack of written processes and procedures concerning the Court's handling of money. This will be fully addressed in Section VIII of this report.

Section III – Effectiveness of the Court's use of technology.

The Court utilizes the Judicial Enforcement Management Software (JEMS) developed and maintained by Professional Computer Software Services, Inc. (PCSS). This system is currently being implemented throughout the state of South Carolina as a component of the Judicial Department's overall technology strategy. The Town of Hilton Head Island was one of the first sites in the state to implement JEMS in limited jurisdiction courts. Data is input in the courtrooms⁹ as dispositions are reached—a task that many larger courts find difficult to achieve.

The primary functions of JEMS include notice processing, scheduling, case maintenance, financial management, docketing, compliance with state reporting requirements and report generation, and integration with outside entities. The technologies utilized or supported by JEMS include client/server, voice response, credit card processing, imaging, bar coding, GUI—graphical user interface, and Internet inquiry. The Court uses the majority of these functions in supporting its work. JEMS is an appropriate solution to the Court's technology

⁹ Coincidental to the NCSC site visit, arrangements were made to provide access to the case management system in the small courtroom.

requirements and presents several opportunities for enhanced use of technologies and positions the Court to absorb future growth in its data and information requirements.

Although installed in the Court in February of 2001, JEMS is in flux with the most recent application update occurring on October 15, 2003. The Court and the Town's Information Services Department are working closely with both the vendor and the OCA in implementing, customizing, and refining the technology.

Given that customization and refinement are ongoing processes for the Court, use of this technology represents a constant learning curve for court staff, judges, and other users (Finance Department and the town prosecutor). In addition, our review of several reports produced by JEMS led us to question the use of certain codes to reflect certain dispositions. For example, a common disposition is Plead Guilty/Found Guilty and is used to indicate that the defendant did not receive any reduction in fine (or points, if traffic) meaning that no plea agreement was reached. The disposition Guilty/Forfeiture indicates that the defendant posted a bond in the amount of fines and fees due if he/she were to be found guilty as charged but did not appear in court. The dispositions Guilty/Bench Trial and Guilty/Jury Trial imply that the defendant was tried and found guilty. However, it is not possible to determine from these disposition codes whether or not the defendant was found guilty on the original charges and the fines associated with the original charges were imposed or whether the fine was reduced fine. That data is noted by a handwritten entry on the bench docket. Maintenance of this information in this format does not lend itself to ready analysis or take advantage of reporting features within the Court's case management system. Without accurate utilization and precise definition of disposition codes, it is difficult to assess and manage judicial, court staff, prosecutor, and law enforcement performance. JEMS permits the user to choose particular disposition codes and we feel that the use of disposition codes should be reviewed—whether the identification of codes to be used was a decision of the Court or the OCA or PCSS. NCSC¹⁰ recommends that the Court consider identifying those cases where the

¹⁰ These observations concerning the use of disposition codes resulted from the project team's utilization of Disposition Report.

disposition represents a plea agreement reached with the law enforcement officer¹¹ or prosecutor prosecuting the case and accepted by the judge.¹² This would permit those cases to be distinguished from cases where the judge presided over a trial. In addition, cases where the defendant was tried in absentia should be identified from those cases where the defendant was present.

NCSC recommends that the Court review its use of disposition codes in JEMS. The Court should be able to distinguish cases resolved through trial (and type of trial), whether or not the defendant was present for trial, plea agreement, type of plea, forfeiture, and nolle prosequere cases. In addition, the Court should be able to determine through its automated case management system the fines, fees, and points associated with original charges; any modifications made by the officer or prosecutor prosecuting the case; fines, fees, and points imposed at sentencing; and fines and fees actually paid.

Where use of specific codes and their definition are mandated by OCA, NCSC recommends that the Court work with OCA to obtain a better definition of codes currently in use and definition of additional codes that would permit further delineation of the circumstances under which findings have been reached.

Section IV – Effectiveness of the Court’s service levels, workload, and staffing levels.

The Court is currently receiving fewer tickets than in previous years. There have been increases in both the number of people working in the Court and its cost.¹³ Nor have the number of processes it performs and required reports it creates remained static. However, the Court does not issue the citations it hears. Without law enforcement, there are no tickets written. While there is no direct correspondence between the number of officers available to write tickets and the number of tickets written, there is a relationship--even though it is impacted by other factors. These factors include the individual officer’s abilities, level of efficiency, attitude, and personality in seeking out or happening upon violators. In addition, policy may also dictate whether or not the issuing of tickets provides the best method for managing traffic and ensuring driver and pedestrian safety as well as motivating changes in behavior that add to safety. And while fines and fees from traffic tickets can provide a

¹¹ Throughout South Carolina, the law enforcement officer writing the ticket prosecutes it in court. The Town’s part-time prosecutor prosecutes criminal domestic violence, driving under the influence, and simple possession of marijuana charges.

¹² Sentencing codes do indicate when a reduction in points was given. However, this information is not a component of the Disposition Report.

¹³ Case statistics are found in Section IX of this report, Table 2.

source of revenue for the Town,¹⁴ law enforcement officers perform other services of equal or more value to the residents. Each custodial arrest can require up to four hours to process and takes the officer off-island to incarcerate the arrestee. Not every law enforcement action results in a filing in the Municipal Court. Law enforcement officers in court during their shift means they are not available to write tickets. And the more tickets an officer writes, the more court dates¹⁵ he or she is setting.

Several factors impact the Court's ability to process cases. These include how the judge chooses to organize the court session, the number of cases scheduled for Court at any one time, the ability to balance dockets from one court date to another, the age of a case, the complexity of those cases, the pace set by the judge in managing the court session, the skill of the law enforcement officer prosecuting a case, and whether or not the defendant has retained counsel. Balancing dockets from day to day and week to week requires the coordination of the number of tickets issued and who issues them with the availability of court time in which the cases may be heard. Officers are assigned specific court dates in advance and there is no reliable method of predicting the number of tickets any one officer will write during any one shift. Nor does an officer have any way of checking the total number of cases already scheduled for specific dates before he/she issues the ticket. Some courts require the defendant to contact the court to obtain a court date; however, that system has its own issues and tends to add to the length of time it takes to process a case. The Court currently has little control over the balance of specific dockets as court dates are assigned by the officer issuing the ticket. As noted above, there are a number of factors affecting the number of tickets a particular officer may issue during any one shift. However, the Court has recently assigned cases for tickets issued by PUD officers to a session docket from dockets where tickets issued by BCSO are prosecuted. Tickets issued by the Traffic Team are already heard on a separate docket.

¹⁴ It must be noted that all standards relating to courts decry the use of the court as a generator of revenue. However, the reality is that fines are often the sanction mandated for the violation of traffic laws. And while the purpose of the court is the administration of justice, it cannot be ignored that the tangible results of many court cases flow into the general fund. A court must be able to manage its adjudication of cases without concern for any revenues these cases might generate.

¹⁵ Court dates are scheduled at least 10 days from the date of the offense and, hopefully, not more than 30 days from the date of the offense.

At the same time both the Court and the prosecutor have applied significant resources to address the number of pending jury trials and are succeeding in reducing that backlog. Resources devoted to jury trials reduce the resources available for other court sessions. Another factor that impacts the Court's ability to process cases is the availability of courtroom space itself. Currently, space is shared with the Beaufort County Magistrate's Court. The availability and use of space will be addressed in Section VI of this report.

A. Ability to issue citations

The Town of Hilton Head Island contracts with the Beaufort County Sheriff's Office for law enforcement services. In addition, SLED-certified private security officers have law enforcement authority on the planned unit developments throughout the Town of Hilton Head Island. Population expands from a base of approximately 34,000 to over 100,000 in the summer. It does not appear that the contract between the Town and the Beaufort County Sheriff's Office allows for assignment of additional personnel during the tourist season and other holidays when the Island's population significantly increases. However, the contract does allow for the assignment of a dedicated traffic team for a portion of each day.

An important component of a law enforcement officer's duties is to be able to prosecute certain types of cases coming before the municipal judge. It does not appear that officers (and particularly PUD officers) have adequate and uniform training that would allow them to function with confidence and appropriate flexibility within the courtroom. This important function is learned "on the job." Law enforcement officers also have the discretion to reduce fines, fees, and assessed points and, in some instances, nolle prosequere cases before the case is called in the courtroom. NCSC has a concern that, absent articulated policies and procedures, the inconsistent application of reduced fines, fees, and/or points can lead to not only perceptions of unfairness but to, potentially, actual unfairness. While we understand that all tickets are reviewed by the judge including those that do not result in court appearances, we are uncertain as to what mechanism exists to remedy any errors or inconsistencies. We recommend that when inconsistencies or other problems with officer-directed

dispositions occur, that the Court notify law enforcement supervisory personnel as such discrepancies may represent a training issue that needs to be addressed. Our concern is that the Court may be inappropriately perceived as being unfair when it only becomes aware of officer-directed reductions after the fact. Several of the Trial Court Performance Standards speak to this perception including the standards concerning a fair and reliable judicial process (Standard 3.1), court decisions and actions (Standard 3.3), and expeditious, fair, and reliable court functions (Standard 5.2).¹⁶

Currently all tickets are handwritten by officers with one charge per citation. This means that officers must repeat certain information on each citation when a single individual is charged with more than one offense. Once tickets are received by the Court, each must then be keyed into the Court's case management system. This duplication of effort with the officer first handwriting information and the Court then keying that same information can lead to inaccuracies. One method of reducing the potential for inaccurate information is to utilize electronic citations. Similar to hand-held devices used to issue parking tickets, using electronic citations allows for the repetition of data from ticket to ticket,¹⁷ enables the officer to use predefined tables and menus to select appropriate information and codes, can assist in verifying data such as addresses or statute numbers before the ticket is actually issued, and can be downloaded directly to the Court's case management system for the establishment of the case. It must be noted that the Town of Hilton Head Island cannot implement electronic citations without the cooperation, direction, and authorization of the South Carolina Supreme Court, the OCA, and law enforcement agencies. However, the Town may want to pursue its suitability as a pilot jurisdiction within South Carolina for this project.

NCSC recommends that the Town consider seasonal adjustments to the availability of law enforcement personnel assigned to traffic enforcement.

¹⁶ Refer to Appendix A for a complete discussion of Trial Court Performance Standards.

¹⁷ The Uniform Traffic Ticket form currently limits the number of charges that can be written on a Uniform Traffic Ticket to one. However, with electronic citations, the number of charges that can be written is essentially limitless because the citation is printed only after it is completed. Any changes to the Uniform Traffic Ticket as a result of or to prepare for the use of electronic citations must first be authorized by appropriate authorities.

NCSC recommends that the Court and the prosecutor provide appropriate training to law enforcement personnel to assist them in prosecuting cases. In addition, the prosecutor along with management personnel from the Beaufort County Sheriff's Office should formally outline appropriate and consistent plea agreement patterns that reflect the severity of charges, the defendant's attitude and cooperation, his/her previous contacts with law enforcement and the Court, and his/her criminal and traffic violations history. Sanctions are more effective in changing behavior when consistently applied.

NCSC recommends that the Town explore the application of technology to the issuance of tickets by a dedicated traffic team. The use of electronic citations can reduce the time needed to write a ticket, establish a case, and improves the accuracy of the collected data.

B. Organization of the court session

The Court knows in advance how many cases and how many officers are scheduled for a particular court session. It also knows how many defendants have posted a bond. Defendants who have posted a bond are less likely to appear. The Court also knows how many trial demands have been made in advance as well as how many defendants' attorneys have filed notices of appearance. Request for a bench trial made in advance can be shifted to the small courtroom or rescheduled (with notification to the law enforcement officer to ensure that the rescheduled trial occurs on the officer's court date). Demands for jury trials, whether made in advance or on the original court date, must always be rescheduled to permit jurors to be summoned. Cases where the defendant is represented by counsel will typically require rescheduling and this can be done in advance of the original court date. This information can allow the Court to approach organization of a particular session on a dynamic basis. In addition to the foreknowledge gained through advance trial requests, jury demands, and attorneys' notices of appearance, prior to commencement of the court session, the judge could determine which defendants require interpreters (and in what languages), which defendants are represented, which defendants are requesting a bench trial or a jury trial, and which defendants, having posted bond have chosen to forfeit it and not appear. Administrative housekeeping at the beginning of a court session allows both officers and defendants to understand the process ahead, make appropriate decisions, and schedule accordingly and allows the

judge to organize the court session in a manner that permits the efficient use of the judge's, the officer's, and the defendant's time.¹⁸ In addition, prior to any court session, it should be explained to defendants that they have the opportunity to discuss their case with the officer issuing the ticket and determine whether any compromise is reachable. This explanation should come from someone other than the judge--whether this is done by a law enforcement representative or court staff. Those cases where a plea agreement has been reached can be heard by a second judge if the caseload warrants splitting the session. Those cases where a bench trial has been requested can be split among two judges, and those cases where a jury demand has been made can be rescheduled. The judge currently provides instructions and directions at the beginning of each court session concerning the defendant's rights and privileges as well as what will happen as each case is called. We recommend prior to the judge's overview of the court session that either court staff or a designated law enforcement officer explain that a defendant may meet with the law enforcement officer prosecuting his/her case to discuss any options that may be available. We also recommend that appropriate instructions be posted both in and outside the courtroom.

NCSC recommends that prior to the commencement of any court session, either court staff or law enforcement representatives inform defendants of the opportunity to discuss their cases with the officers issuing the ticket. A limited amount of time should be set aside for this discussion before court convenes.

NCSC recommends that the judge while providing both an administrative overview of the court session about to commence and an explanation of the defendant's rights and privileges, make appropriate determinations that will utilize the time of the Court, officers, defendants, witnesses, and attorneys in the most efficient and effective manner possible. Those sessions where a significantly higher number of cases than usual have been scheduled should be staffed by both judges on both courtrooms to allow for the best use of time overall.

¹⁸ Currently, court sessions are organized so that all of the cases of a single officer are heard before moving to another officer. Where a particular case may require more time (such as one where the defendant is represented by counsel), it should be moved to the end of either the session or that particular officer's string of cases in order to reduce the waiting time for other defendants. Or the case could be split off and heard before the second judge.

C. Aging of cases

Cases are initially scheduled by the law enforcement officer writing the ticket.

Factors considered in the assignment of court dates to particular officers include that officer's number of court dates per month, whether the court session falls within the officer's scheduled shift, the number of officers available to cover the shift not scheduled for court, and the officer's assignment. Specialized court sessions to serve the Town's Traffic Team and to hear criminal domestic violence cases at a time the victim advocate is available must also be considered when assigning a court date. If the case is not disposed of during the initial appearance, scheduling becomes a significant matter for the court. Scheduling impacts not only specific court sessions but overall caseflow as well. Trial Court Performance Standards provide for effective participation (Standard 1.3), affordable costs of access to proceedings including time (Standard 1.5), and case processing (Standard 2.1).¹⁹ In addition, ABA Standards Relating to Trial Courts (Standard 2.52 – Standards of Timely Disposition) state that 90% of all misdemeanors, infractions, and other nonfelony cases should be adjudicated within 30 days from the date of arrest or citation and 100% within 90 days. This standard represents a balance among several factors including facilitating the vigorous enforcement of the criminal law while protecting individuals from prolonged pretrial detention and promptly resolving legal uncertainty in cases involving personal status while affording litigants adequate opportunity to reach negotiated settlement and adequate time to prepare for trial. Of equal importance is the order of South Carolina's Supreme Court mandating that all criminal cases including traffic cases be tried or otherwise disposed of within sixty (60) days of the return of the charging paper to the court.²⁰ While scheduling of the initial appearance may occasionally violate the ABA Standard 2.52, it is within the Supreme Court's 60-day mandate. The majority of the Court's cases are disposed of at that initial appearance. However, a review of the jury trial roster printed on November 12, 2003

¹⁹ Refer to Appendix A for a complete discussion of Trial Court Performance Standards.

²⁰ This order, issued by the Chief Justice on June 26, 1980, also states that cases not disposed of within the 60-day period must be reported monthly to the OCA and failure to comply with this order can subject the municipal court judge to contempt of court. This order is included in Appendix C of this report.

indicated 232 pending jury trials that were out of compliance with these standards. It is important to note that both the Court and the prosecutor are making every effort to reduce not only the age of trials on the jury trial roster itself but their number as well.

NCSC recommends that the Court formally adopt time standards as part of an overall commitment to excellence and implement continuous monitoring of its compliance with those standards. Barriers should be immediately identified and strategies developed to overcome those barriers. In addition, continuous monitoring permits the Court to identify those practices and procedures that support compliance with time standards.

Section V – Allocation of personnel, equipment, and other resources.

It is difficult to determine in a single site visit whether personnel are appropriately allocated to tasks. An accurate determination of staffing levels requires the definition of standardized tasks, the assignment of normative time values to those tasks, and the keeping of work diaries over a period of time as well as their quantitative analysis. The week of NCSC's visit did not appear to represent a "normal week" in that dockets were particularly full. However, before any decisions are made to add or reduce either judicial or court staff, it is necessary to apply other recommendations concerning productivity enhancements. In any organization, the implementation of a new information system and the adjustment to ongoing software releases causes a disruption in normal operations due of the learning curve required to become proficient on the system. In this Court, in addition to implementing new case management software and subsequent releases, another factor impacting the flow of normal operations is the conversion and review of data from the Court's previous case management system. It is just now that warrants issued prior to the conversion are being added to the case management system's database. Hiring of new personnel requires the organization and its processes to make accommodating shifts as the new individual is integrated into the environment. This is even truer when the new individual is the head of the department. Having a new judge has impacted the flow of cases as he becomes familiar with criminal and traffic procedure as well as simply adjusting to being a judge and an administrator instead of a lawyer.²¹ A court

²¹ The transition from lawyer to judge is generally accompanied by training. South Carolina requires municipal court judges to complete a training program or pass certification examinations, or both, within one year of taking office, and a recertification examination every eight years thereafter. Members of the South Carolina Bar are exempt from the examination; however, they are required to attend the orientation program.

session always reflects the personality and style of the judge presiding over it and law enforcement personnel and PUD officers must also adjust to the differences a new judge introduces into the Court's routines. We also understand that there has been significant turnover among the Beaufort County Sheriff's Office deputies assigned to the Town. And one should not under-estimate the impact that losing two officers as well as the stress a capital case can have on other law enforcement personnel. This report must note those events as anomalies that have impacted the work before the Court and should be considered when making year to year comparisons.

There will always be anomalous events impacting the flow of work through the Court. However, changes recommended in this report that the Court may adopt as well as changes already underway at the Court's direction should be in place for a long enough timeframe to determine if there has been a positive impact on the workload of Court staff and caseflow.

Section VI – Adequacy of facilities and equipment.

Before discussing specific observations and recommendations, the three biggest threats to security as determined by the National Association for Court Management's Security Subcommittee²² are:

- A false sense of security – “there are a lot of police around,” or “this is a place people respect.”
- Staff will compromise security if it is not convenient, e.g., they may not carry keys, or they may leave doors propped open or tape the lock. All applicants should undergo a background check before being hired.
- Day-to-day inattentiveness and attitude – “security is boring.”

The recommendations offered below are only suggestions to accommodate the Court and its staff in the current facility. A new facility designed specifically to fulfill the needs of the Court is the best solution. However, until such a facility can be built, it is possible that some changes can be made to better accommodate the Court's operations. Projections for a new facility are discussed under letter E of this section.

²² Security Guide Subcommittee, National Association for Court Management, *Court Security Guide*, NACM, Williamsburg, Virginia, 1995, p. 6.

A. Vestibule and Building Access

The placement of the security screening equipment directly at the front entrance to the building and in front of one of the double doors into the large courtroom is an awkward and potentially dangerous arrangement although one dictated by the vestibule's configuration. The one security guard assigned to the court must monitor both the movement of individuals through the magnetometer as well as hand search purses, briefcases, and other carry-in items. Individuals can then enter the large courtroom directly after exiting the magnetometer. When a large number of cases are scheduled for court, congestion in the vestibule is a given. Persons going through security screening must line up out the doors and down the stairs. The building entrance itself consists of a double door, one of which opens directly into the walk path through the magnetometer with the other door opening on the space to the left of the magnetometer. Law enforcement officers routinely bypass the magnetometer by utilizing the left door and walking around the security screening station. On high-volume court days, it would be extremely easy for anyone to bypass the magnetometer without the security guard noticing.

NCSC recommends that the Court reposition the magnetometer relative to the outside entrance and the courtroom door utilizing ropes or other barriers to define a path from the door through the magnetometer and then into the courtroom or to the clerk's office. If permitted by fire regulations, the Court may consider allowing access through only one side of the double doors.

Security screening should be done within a contained and controllable area that allows some separation between individuals undergoing screening so that magnetometer results are not misread and that an individual setting off an alarm can be sent back through the magnetometer or screened with a hand wand. In addition, it is necessary to keep one individual's carry-in items separate from another's and also permit the person undergoing screening to maintain eye contact with his/her belongings to ensure their return to the appropriate person. This scenario requires a minimum of two screeners (one to complete the hand search and a second to scrutinize individuals passing through the magnetometer) and potentially a third – if supplemental screening with a hand wand is done for those persons setting off an

alarm. The number of people required to staff security screening can vary depending on the number of cases scheduled.

NCSC recommends that the Court provide additional security guards for particularly heavy court sessions. In addition, the Court should provide a hand wand for secondary screening if an individual sets off the magnetometer.

The National Association for Court Management recommends in their Court Security Guide that all personnel (including law enforcement and staff utilizing the main entrance) entering the building be screened.²³ In addition, a weapons policy addressing who may carry a weapon into the courthouse and under what conditions (uniformed officers only, any officer presenting appropriate identification, etc.), what constitutes a weapon, and the type of ammunition (some types of ammunition may cause more damage than other types) that may be carried into the building should be developed in concert with the Town of Hilton Head Island and the Sheriff's Office.

NCSC recommends that the Court screen all persons entering the building. In addition, NCSC recommends that the Court, along with its justice partners develop, adopt, and articulate a weapons policy.

Court and Town staffs routinely enter and exit the courthouse through locked doors utilizing a key which gives access to any door in the Town's building complex. These doors between the different buildings in the complex are accessible to anyone from the outside via a series of ramps and staircases although a key is necessary to obtain entrance. A wide distribution of keys can be problematic. In addition, the complex sits in a forest-like area with many trees and other vegetation surrounding the buildings and walkways. Lighting is minimal. This presents opportunities for an employee to be accosted at any door by an unobserved individual who forces the employee to use his/her key to open the courthouse door. It is important to weigh the convenience of using these doors against the potential damage to safety and security and danger to staff.

²³ Security Guide Subcommittee, National Association for Court Management, *Court Security Guide*, NACM, Williamsburg, Virginia, 1995, p. 16.

NCSC recommends that only Court staff and employees housed in the Court building be permitted to utilize doors other than the main entrance. NCSC recommends that outside doors within the Court building be keyed differently than outside doors in other buildings of the Town complex.

B. Large Courtroom

Within the large courtroom, no barrier exists to differentiate the area actually utilized during court proceedings and the public seating area. The judge enters the courtroom from a small anteroom off the same hallway which the public may access once they have cleared the security screening. There is also a locked door to the outside nearly opposite of the courtroom entrance from the anteroom. Law enforcement officers utilize the same entrance as the judge and routinely pass in front of the bench during court proceedings. Officers wait in the jury box as well as utilize chairs set in front of the window that are at a right angle to the public seating. Windows in a courtroom can be problematic unless they have some type of security glazing.

NCSC recommends that the door from the anteroom be utilized only by the judge and court staff. Law enforcement officers should be directed to enter through the main courtroom doors in order to minimize traffic in front of the bench. The courtroom should be modified to erect a barrier between public seating and the area utilized for court proceedings.

The unregulated flow of traffic from this entrance during court proceedings is distracting and potentially disrupting. The judge and courtroom clerk must focus on the case currently underway while officers move between the clerk's office and the courtroom waiting for their cases to be called. No signs providing a general explanation of processes and procedures are posted either outside the courtroom or in the courtroom itself. The courtroom clerk is positioned next to the judge and no one should approach the clerk's desk during court proceedings. It can be difficult for the security guard in the vestibule to answer questions while trying to complete security screening. Appropriate signage (in both English and Spanish) giving the public appropriate instructions should be developed and posted.

NCSC recommends that the Court post appropriate bi-lingual signage (English and Spanish) providing general directions to the public (courtroom, to pay a fine, etc.) as well as expected courtroom decorum.

There is neither staffing nor designated space for a courtroom security officer – someone responsible for the security and decorum within the courtroom itself. Many courts rely on the presence of law enforcement officers either within the courtroom or the building itself. However, this attitude may give rise to a false sense of security as the officer's presence within the building is for some purpose other than the provision of security. In addition, the courtroom security officer can preserve order within the courtroom itself and handle any potential disruptions or disturbances. The courtroom security officer can also continually survey occupants in public seating and enforce appropriate courtroom decorum and dress.

While public seating consists of chairs connected to one another and placed in rows, there are some chairs and tables that are not affixed to the floor. Where possible, chairs, tables, and other objects should be secured to prevent their being picked up and thrown particularly where there is no demarcation between the area in which court proceedings occur and public seating.

C. Small Courtroom

The small courtroom is basically a not very over-sized office with a desk used by both the judge and the courtroom clerk with limited seating for defendants, witnesses, and the public. Its utilization to process a number of cases severely tasks the decorum of the proceedings themselves and places both the judge and courtroom clerk in extremely close contact with defendants and witnesses. However, with some adjustments, the small courtroom could be used for bench trials. Moving the desk from the center of the room facing the door to the side of the room adjacent to the large courtroom anteroom and facing the opposite wall utilizes the room's rectangular shape to provide additional separation between the judge, courtroom clerk, and the public. Providing for and placing the clerk's workstation at right angles to the judge's desk facing the door to the room would also improve both the work space available to the judge and the courtroom clerk and allow the courtroom clerk to

monitor the door. Utilizing the space outside the small courtroom (marked as Reception on the building plans) that is already equipped with chairs to seat defendants, witnesses, and officers for cases not yet called is another option. However, the court would need to ensure that those individuals are properly notified that their cases are being called so as to reduce the chance of holding a trial in absentia when the defendant is sitting outside the courtroom door.

NCSC recommends that the Court rearrange the layout of furniture within the small courtroom to provide appropriate separation between public seating and the area reserved for court proceedings.

D. Hallway to Clerk's Office, Court Staff Offices, and Judges' Chambers

Once a case has been adjudicated, the defendant, if a fine has been imposed, is directed down the hall to the clerk's office on the right side of the hallway. The offices on the left side of the hallway are used by the Magistrate's Court. The municipal court clerk's office has both a window with an opening through which to pass items and a speaker as well as a Dutch door adjacent to the window. The speaker makes it more difficult to communicate with persons on the other side of the window and as a result, the court staff leaves the top half of the Dutch door next to the window open. There is a small ledge on top of the bottom half of the door. Two people share this office and space is at a premium. Given that all monetary transactions occur at this office, it can be very busy depending on the volume of cases scheduled. The hallway becomes quite crowded. With the Magistrate's clerk's offices located on the other side of the hallway, it can become quite congested and people often end up in the wrong line not realizing the difference between the Magistrate's Court and the Municipal Court. In addition to defendants, law enforcement officers and defense attorneys are also doing case-related transactions at this window. Two other court staff share an office on one side and the associate judge shares a half office with the court's files on the other side. The other half of the combination associate judge's office and court filing room was used to create the small courtroom.

NCSC recommends that the Court reconfigure the Dutch door and window to create a counter with writing space for defendants. The cashier should be able to work directly at the window with the computer monitor and locked cash drawer on a return affixed to or part of the counter configuration. An unbreakable window with an appropriate pass-through slot and a working speaker should be installed. The return should be at counter height and seating for the cashier allowing work at either the window or the return should be installed. The return should permit placement of the computer monitor so that it can be seen only by the cashier. Utilizing a flat screen monitor will reduce the footprint required for the monitor itself.

Other than the lack of space for the occupants of these offices, the biggest issue is the number of non-court staff going in and out and sitting in these offices. The court should define a policy limiting access to these offices to authorized personnel only and limit that to court staff and judges. All other individuals, such as maintenance or repair persons, should be admitted on an as needed basis.

NCSC recommends that access to court staff offices be limited to court staff and authorized personnel requiring access for a specific purpose (such as computer or telephone repair). All other business should be conducted at the window.

Law enforcement officers were observed directly accessing files and filing cabinets under control of the court. No access by anyone other than court staff or judges should be permitted. This will not only reduce congestion in the offices but ensure that the court has appropriate control over its records. The court should not accept responsibility for an officer's copy of the ticket until the case is disposed and the ticket is appropriately signed off. If an officer needs access to tickets after a case has been disposed, court staff should locate the ticket and require the officer to sign it out. The viewing of tickets and case files by law enforcement officers and defense attorneys at the window or the Dutch door adds to the congestion and may keep defendants wanting to pay fines and fees waiting. The court should also provide some space for use by law enforcement (as they act as prosecutor for the majority of cases) and defense attorneys where they may view files or discuss cases with defendants and clients. There is currently no space for this in the courthouse and as a result, law enforcement, defense attorneys, and defendants end up having discussions

in the hallways and vestibule adding to a chaotic situation on those days when the court calendar is over-scheduled. The court needs additional filing space and it should not be located in the associate judge's office.

NCSC recommends that the Court restrict access to court files to judges and court staff. Other persons requiring access to court files should first fill out a request identifying the file requested. No files should be removed from the courthouse.

The municipal judge's chambers open onto the same hallway that defendants use to access the clerk's office for the payment of fines and fees. Anyone could continue down the hall into the judge's chambers. Both judges must also use this same hallway to access the courtrooms and lavatory facilities shared with the public. Given the current configuration of the building, much of this is difficult to change; however, additional filing space might be available in the vault located at the end of the hallway. Care should be taken to properly secure this space when no one is in it as it too, opens onto the one hallway shared by judges, court staff, and the public.

E. Town of Hilton Head Island Municipal Court Facility Requirements (Space Needs)

This section of the report contains a summary of the projected future space requirements for the Town of Hilton Head Island Municipal Court. Under the assumption that any new court facility would be shared with the Magistrate's Court, its space needs are included as well. The space standards used are standards generally employed in the planning and designing of new courthouses around the country.

1. Definitions of Square Footage Terms Used in the Space Requirements Projections

The space projections contained in this master plan were developed based on the programmed, assignable, functional space anticipated for conducting the planned activities within the future Town of Hilton Head Island Courthouse and ancillary facilities and the necessary un-assignable floor space for the building elements, circulation space, building service mechanical rooms, and other public areas.

Three types of space data, namely Net Square Feet (NSF), Departmental Gross

Square Feet (DGSF), and Building Gross Square Feet (BGSF), were used for the development of the space requirements.

- **Net Square Feet (NSF):** The unobtrusive floor space required for performing a particular function in the building;
- **Departmental Gross Square Feet (DGSF):** The total floor space required for a department or clustered functional area which includes the net square footage of identified functional areas, and factored space for the interior walls and partitions, interior corridors, and circulation among functional components within the clustered functional areas or departments; and,
- **Building Gross Square Feet (BGSF):** The total space required for the building, including the DGSF space identified, circulation and corridors linking floors and departments, public facilities, and building exterior walls.

2. Space Projection Summary

The following table represents the National Center's space needs estimate for the Town of Hilton Head Island Municipal Court and the Magistrate's Court.

TABLE 2
SUMMARY OF LONG-TERM COURT FACILITY SPACE NEEDS

Functional Areas	Space Requirements
Courtroom and Support Areas	5,304
Municipal Court Staff Work Areas	2,419
Magistrate Court Staff Work Areas	1,469
Building Support	1,696
Sub-total Departmental Space (DGSF)	10,888
Total Building Gross Square Feet Estimate (30% Grossing Factor) BGSF	14,426

3. Departmental Space Requirements Summary

The following table is a departmental summary of the court space requirements for the Hilton Head Island court system.

TABLE 3
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA
COURTROOM AND SUPPORT AREAS FACILITY REQUIREMENTS

Courtrooms and Support Areas	Standard	#	Total	#	Space Requirements	Comments
	NSF	Units	NSF	Units		
Municipal Ct Jury Trial Courtroom	1,400	1	1,400	1	1,400	
Magistrate Ct Jury Trial Courtroom	1,400	1	1,400	1	1,400	
Jury Deliberation/Hearing Room	500	1	500	1	500	
Courtroom Soundlock Entry	64	1	64	3	192	At courtroom public entrances.
Attorney Client Conference	85	2	170	3	510	Two rooms per courtroom.
Public Waiting Areas			Integrated w/ the public hallway design, adjacent to courtrooms.			
Small Prisoner Holding Cells	85	1	85	1	85	With toilet; single person occupancy.
Security Vestibule/Prisoner Preparation	55	1	55	1	55	Ground level.
Jury Room Soundlock	36	1	36	1	36	Located between hallway & meeting area
Jury Deliberation Toilets	65	1	65	1	65	Unisex restroom.
Sub-Total Courtrooms (NSF)					4,243	
With 25% circulation (DGSSF)					5,304	

TABLE 4
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA
MUNICIPAL COURT STAFF WORK AREA FACILITY REQUIREMENTS

Municipal Court Staff Work Area	Standard	#	Total	#	Space Requirements	Comments
		Units	NSF	Units		
Judges' Private Offices	250	1	250	2	500	For both the Municipal Court Presiding Judge and the Associate Judge.
Court Administrator Office	180	1	180	1	180	
Standing Counters	35	1	35	1	35	
Public Counter Waiting Area	70	1	70	1	70	Public waiting/queuing space.
Deputy Clerks' Workstations	85	1	85	4	340	
In-office File Storage	200	1	200	1	200	
Vault Storage	150	1	150	1	150	
Equipment Storage/Work/Copy Area	150	1	150	1	150	
Employee Break Room	200	1	200	1	200	Shared with Magistrate's Court staff.
Employee Restrooms	55	1	55	2	110	Shared with Magistrate's Court staff.
Sub-Total Court Staff Work Area (NSF)					1,935	
With 25% circulation (DGSF)					2,419	

TABLE 5
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA
MAGISTRATE COURT STAFF WORK AREA FACILITY REQUIREMENTS

Magistrate Court Staff Work Area	Standard	#	Total	#	Space Requirements	Comments
	NSF	Units	NSF	Units		
Judges' Private Offices	250	1	250	1	250	
Standing Counters	35	1	35	1	35	
Public Counter Waiting Area	70	1	70	1	70	Public waiting/queuing space.
Deputy Clerks' Workstations	85	1	85	4	340	
In-office File Storage	180	1	180	1	180	
Vault Storage	150	1	150	1	150	
Equipment Storage/Work/Copy Area	150	1	150	1	150	
Employee Break Room						Shared with Magistrate's Court staff.
Employee Restrooms						Shared with Magistrate's Court staff.
Sub-Total Court Staff Work Area(NSF)					1,175	
With 25% circulation (DGsf)					1,469	

TABLE 6
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA
BUILDING SUPPORT FACILITY REQUIREMENTS

Building Support	Standard	#	Total	#	Space Requirements	Comments
	NSF	Units	NSF	Units		
Security Screening Station	54	1	54	1	54	At courtroom floor entrance.
Security Screening Queuing Area	100	1	100	1	100	Adjacent to the lobby entrance.
Janitor Closet	12	1	12	2	24	
Building Storage	250	1	250	1	250	
Vending Area	54	1	54	1	54	Off public hallway.
Building Lobby	400	1	400	1	400	
Telecommunication/Network Server Room	75	1	75	1	75	
Public Restrooms	200	1	200	2	400	At courtroom floor.
Sub-total Administrative Service (NSF)					1,357	
With 25% Circulation (DGSF)					1,696	

Section VII – Effectiveness and efficiency of internal and external communications and information exchanges.

Without formalized procedures for promulgating necessary information throughout the Court's staff and its justice and non-justice partners, communication becomes a matter of personal effort rather than a strategy of the organization. Although independent in mission and influence of the Executive and Legislative Branches as represented by the Town Manager and Town Council, the Judicial Branch as represented by the Court must responsively function as a tax-supported component of the governmental trinity—Executive, Legislative, and Judicial. Trial Court Performance Standards speak to this requirement in Standard 4.1 – Independence and Comity.²⁴ Trial Court Performance Standards also require courtesy, responsiveness, and respect (Standard 1.4)²⁵ to all persons who have business with the court – including those having internal business. Court staff, like all specialists, should also recognize the uniqueness of the functions they perform. All communication between the Court and its justice partners, the Court and the public, and the Court and other Town departments should be clear, unambiguous, understandable, and professional.

The lack of formal procedures leads to lack of accountability and undercuts an already weak communication system. One example cited to the NCSC project team concerns the payment of fines by personal check. Having been offered two divergent sets of circumstances as to what actually happened, we cannot with any certainty know what actual communication occurred or did not occur. However, this incident does illustrate that, in this instance, misunderstandings and misperceptions existed and continue to exist. Questions concerning policy should be directed through a designated route, involving department managers in order to create a mutual understanding and agreement. Questions concerning existing procedures should be resolved by staff whenever possible. However, should a question or conversation result in a procedural change, this, too, should be addressed at the appropriate level to ensure a thorough understanding of the change, its impact on other procedures, and whether or not it impacts policy. Communication is a shared responsibility between the sender and receiver of the message and the sender and receiver may reverse roles within a single communication.

²⁴ The trial court maintains its institutional integrity and observes the principle of comity in governmental relations.

²⁵ Refer to Appendix A for a complete discussion of Trial Court Performance Standards.

Where communications difficulties exist, there are several possible solutions to address them. Perhaps with additional training on communications styles or conflict resolution techniques, individuals can acquire the skills to resolve those difficulties without exacerbating them. Most job descriptions recite the need for communications skills without necessarily identifying what those skills are. Employers should provide opportunities for employees to acquire skills that will enhance their job performance. Understanding different communication styles as well as recognizing one's own style is always helpful in reducing barriers to listening and understanding. Leadership must exert itself both in action and example to overcome communications difficulties between staffs. It is vitally important to ensure that misunderstandings and misperceptions do not degenerate into gossip and speculation but are resolved as soon as possible for the benefit of operations and employee morale. Communications problems that cannot be resolved within a framework of discussion and training need to be resolved with the assistance and mediation of the Human Resources Department.

Another possible solution is through the involvement of all department managers in formal organization-wide communications. The Court is unique in that the presiding judge reports to the Town Council with other department heads reporting to the Town Manager; however, his involvement with other Town department heads in staff meetings, retreats, and organization-wide projects will increase the visibility of the Court within the Town and enhance the Court's understandings of the Town's issues. This participation should be able to be accomplished without comprising judicial independence.

NCSC recommends that the Court complete its documentation of process and procedure and insure that relevant material is communicated to its justice and non-justice partners. Where Court processes impact operations in other areas of the Town and the justice partnership, process change should be reviewed by all those affected before implementation of any modifications.

NCSC recommends that formal communications for the discussion of policy and procedural issues be established between the Court and the Finance Department.

NCSC recommends that Court and Finance Department staff receive training on understanding different communications styles as well as conflict resolution techniques.

NCSC recommends that the presiding judge participate with other Town department heads in organization-wide communications activities.

Section VIII – Effectiveness of the Court’s management of funds.

Financial Role of the Town and the Court–Town Relationship

Typically, municipal courts operate within the municipal budget system and receive basic administrative services, among them purchasing and accounts payable, payroll, accounts receivable, personnel administration, dealing with depositaries, and coverage of court staff under a general fidelity bond. The Court conforms in general to this pattern. It handles the front-end of the money stream and makes transmissions of money to the Town’s Finance Department with appropriate documentation. The Court’s role is quite limited; it is the perception of the Town’s financial officials that the court staff is not sufficiently attuned to financial processes and could be of more help in error identification and noting discrepancies.

Court money is processed through four accounts: fines and fees, victim rights, bond escrow (for money held pending court adjudication that permits disbursement), and a pass-through account that includes, among other things, the receipt and disbursement of restitution. In many jurisdictions, restitution is processed through a dedicated account, but the number of restitution accounts in the Town of Hilton Head Island is relatively small. The Court receives daily a \$100 change fund that is subtracted from receipts and renewed the following business day. There is no petty cash fund in the Court.

Purchasing and accounts payable is quite automated and was not alluded to as a problem area. There is, however, a gray area between the Court and the Town’s Finance Department and some mutual misunderstanding. The areas of concern are overall documentation of procedures, budget process, internal controls and accounts receivable.

A. Procedures

The division of authority concerning the handling of money between the Court and the Town’s Finance Department is not well defined. The Finance Department has promulgated cash handling procedures, but there is a notable lack of written procedural guidance. Because the Court is part of the unified court system, it is also

subject to administrative procedures from the OCA. In any event, there is a major procedural gap because the Court has few documented procedures. Members of the Court's staff are aware of this need and are uncomfortable in the current void.

The Finance Department should have additional training on JEMS. There have been some complaints concerning its effect on established accounting procedures—most notably, the date of payment information that affects reconciliation. The OCA offers courses and procedures for magistrates and municipal court judges that have been attended by personnel from the Municipal Court who felt that the course was primarily for magistrates. Because the criminal jurisdiction of the two courts is essentially the same, it would appear that the course would be, for the most part, applicable to municipal court employees, however they may view it.

NCSC recommends that the Finance Department receive additional training on JEMS.

As noted earlier, court staff has begun to document procedures. In financial matters, this procedural documentation must involve the Town's Finance Department and be shaped by norms, not simply capturing the current procedures. Both the OCA and larger municipal courts are ready sources for developing normative procedures adapted to both this Court's and the Town's milieu.²⁶

B. Internal Controls

A court with a small staff always has some problems with separation of functions. This is true in this Court where one person is the primary cashier and handles other related functions that would normally be performed by a supervisor or co-worker. The more obvious examples of this are:

- No "tilling out" procedure exists where cash and receipts are reconciled by a supervisor.
- Same person handles the cashier function and the preparation of the deposit.

²⁶ Of particular note on this matter is the November 9, 1999 order of the Supreme Court concerning financial recordkeeping standards which is included in Appendix E of this report. While certain sections of the order are applicable to magistrates rather than municipal court judges, the information contained within it should be available to both Court staff and the Town's Finance Department.

- Same person handles mail payments, their receipt, and cashing.
- Various persons may handle transactions from the same cash drawer in the same period.

Without the separation of functions, staff is placed in a difficult situation concerning both the security of and accountability for monies received by the Court. The separation of functions also provides a better level of security for individual employees.

NCSC recommends that the Court define and implement separation of functions concerning the handling of money. Recognizing that this separation is difficult with a small staff, it is still necessary to ensure accountability. Staff functions should be redefined with the goal of providing internal controls that protect both the Court's staff and monies received by the Court.

As discussed in Section VI D of this report, the Court does not have an effective counter with which to process transactions. Among other things, the personal computer of the primary cashier is interposed between the cashier and the window. The window glass deadens sound to the point where transactions must be handled at an open half-door area adjacent to the window with the public leaning over the counter into the office itself. The cashier or her substitute may be required to validate proof of a license or insurance without much guidance. Law enforcement officers may nolle prosequere a ticket at the window and instruct the cashier to dismiss the case. The process places too much responsibility on the employee at the window, particularly as there are no governing procedures.

NCSC recommends that the definition and documentation of financial procedures and internal controls utilized by the Court be done by the judge, court staff, and the Town's Finance Department. Such documentation should be informative of both organizations' roles and responsibilities for the handling and accounting of money as well as the introduction of policy and procedural changes.

NCSC recommends that the role of court staff in accepting proof of compliance be reconsidered, and if retained, be governed by an Administrative Order of the Municipal Court Judge outlining in detail both the circumstances under which a staff member may accept proof and the types of acceptable proofs. The practice of accepting a law enforcement officer's instruction to nolle prosequere a ticket at the counter should also be governed by Administrative Order of the Municipal Court Judge and provide appropriate safeguards to protect both the Court and its staff.

In Section VI of this report, we have also addressed the arrangement of the office as well as access to the office itself.

C. Collections and Accounts Receivable

The Court has not been effective in collecting money properly due the Court and may not have the resources to pursue collections. The majority of cases rely on license suspension as a sanction for non-payment. During 2001-2003, the Town, on the Court's behalf, used Municipal Service Bureau, a Texas corporation, to make collections on delinquent accounts. Accounts were typically referred after 90 days and the contractor was given 180 days to collect. The contractor was empowered to endorse negotiable instruments used for payment of amounts due the Court and to deduct their commission from the amounts remitted monthly to the Town. The commissions were payable on accounts referred even if the payment was made directly to the Court, as many of them were. The size of the commissions (25-30%) suggests the relative deadness of the account referred. The difficulties of communication between the Court and the contractor on specific cases and the relatively small amounts of money being collected led to cancellation of this service by the Finance Department.

Through the Municipal Association, the court is able to use tax intercepts as a means of collecting accounts. Out-of-state motorists, always a more difficult group to collect from, will increasingly find that improved interstate communication among driver's licensing authorities will cause them to encounter license renewal problems. Courts, having utilized contractors for out-of-state collections in the past, will move towards reliance on this interstate network of driver's licensing authorities to coerce (encourage) out-of-state motorists to pay. This is already occurring to a limited extent. In short, most small courts will rely on strategy to increase collections of delinquent traffic accounts.

The Town maintains an accounts receivable record dating back 10 years on amounts due the Court and unpaid. The report is generated by the Court and goes to the Finance Department where it is simply filed. The amount of the receivables is

\$661,000, most of which is considered uncollectible. From an accounting viewpoint most of this should be written off. There is, in effect, no accounts receivable system. Collection rates in traffic cases should be in the 90-95% range while criminal cases will typically have a lower rate of collection. It is not clear what the rate is in the Town of Hilton Head Island, but there should be some performance measure based upon an accounts receivable reporting with aging data for each case within a year to facilitate write-offs.²⁷

An aging report should identify the case, defendant, and charge as well as the age of the case, any steps taken to attempt collection (past due notice sent, telephone call to defendant, notice of impending suspension sent, account turned over to collection agency, etc.), and when those steps were taken. The longer a case remains in an unpaid status, the more expensive it becomes. The Court should establish a cost per case in a past due status and make a determination as to when it is no longer economically viable to continue collection efforts but to write off the case. Another report that would be helpful to the Court would be a disposed case report indicating at what point in the caseload process²⁸ a disposition is reached. The earlier in the caseload process a disposition is reached the less expensive that case is. The most expensive case is a jury trial resulting in a guilty verdict where the defendant fails to pay.

NCSC recommends that the Court create the appropriate reports to allow for tracking collection rates by case type as well as an accounts receivable aging report.²⁹ These reports should assist the Court in determining whether a more pro-active approach to collections is appropriate as well as facilitate the write-off of aging accounts. It may be necessary for the Court (and the Town) to tolerate some percentage of delinquent accounts given the cost of collections and to apply this percentage to projected revenues during the budgetary process.

²⁷ A write-off for accounting purposes does not nullify the validity of the judgment on which the receivable is based.

²⁸ Cases may be disposed of at the following points: before court date, after discussion with the officer writing the ticket before the initial court appearance, bench trial, jury trial.

²⁹ JEMS documentation describes an Accounts Receivable report but the sample provided in the documentation does not indicate the age of accounts.

Section IX – Examination of the Court’s operating budget and revenue sources.

A. Expenditures

During the period FY 1997-2003, the court’s expenditures increased by 172%. The court’s average annual rate of increase was 21%. The smallest annual increase was 8.9 %, the largest 41.2%.

TABLE 7
ACTUAL EXPENDITURES MUNICIPAL COURT

Fiscal Year	Personnel	Contract Personnel	Non-Personnel	Total	% Increase by Year
1997	\$ 107,563	\$ 11,017	\$ 15,555	\$ 134,135	
1998	\$ 153,573	\$ 10,597	\$ 14,760	\$ 178,930	33.3%
1999	\$ 162,887	\$ 10,000	\$ 9,629	\$ 182,516	20.0%
2000	\$ 182,784	\$ 10,163	\$ 14,723	\$ 207,670	12.1%
2001	\$ 231,292	\$ 36,616	\$ 25,436	\$ 293,344	41.2%
2002	\$ 262,450	\$ 39,640	\$ 32,734	\$ 334,824	14.1%
2003	\$ 292,216	\$ 49,207	\$ 23,212	\$ 364,335	8.9%

Source: Annual audit reports and year-end budget reports for FY 2003.
These sources are used for all financial information in later tables.

The steady increase in expenditures bears little relation to caseload. The number of cases has fluctuated upward and downward. In FY 2003, the caseload was lower than the caseload in FY 1997. More and more resources have been focused on a caseload that has not grown in recent years and reached a seven-year low in FY 2003.

Although a court cannot quickly expand and contract to meet changing demands, the escalating cost per case is unusual.

TABLE 8
EXPENDITURES PER CASE

Fiscal Year	Criminal and Traffic Cases	Expenditures	Expenditure per Case
1997	8,109	\$ 134,135	\$ 16.54
1998	11,342	\$ 178,930	\$ 15.78
1999	9,507	\$ 182,516	\$ 19.20
2000	7,324	\$ 207,670	\$ 28.36
2001	8,153	\$ 293,344	\$ 35.98
2002	8,090	\$ 334,824	\$ 41.39
2003	6,524	\$ 364,635	\$ 55.89

As is the case in most courts, the bulk of expenditures are for personnel. The percentage of personnel costs has varied over the years but appears to be stabilized around 80%. Because judges are in higher pay ranges, the two judges account for about ½ or more of the personnel cost. The contractual cost for bond judges in Beaufort City adds considerably to the expenditure for judicial services.

TABLE 9
PERSONNEL EXPENDITURES AS % OF TOTAL EXPENDITURES*

1997	1998	1999	2000	2001	2002	2003
80.1%	85.8%	89.2%	88.0%	78.8%	78.3%	80.1%

*Excludes contract personnel.

The court currently has a full-time judge, a part-time associate judge, who serves roughly ½ time or more, and 3 ½ staff positions. The judicial complement in 1997-78 was roughly the same, but there were only two staff positions. In 1998, the court started to show a pattern of increased overtime and temporary help that suggested the need for additional staff. Overtime has declined since staff was added in the last few years but is still substantial.

TABLE 10
EXPENDITURES FOR OVERTIME AND TEMPORARY SERVICES

1997	1998	1999	2000	2001	2002	2003
\$1,435	\$5,651	\$13,246	\$14,811	\$9,509	\$3,832	\$5,763

From FY 1997 to FY 2000, non-personnel expenditures remained at approximately \$15,000 annually with FY 1999 showing slightly under \$10,000. In FY 2001, non-personnel expenditures increased by 72% due to unusually heavy expenditures for supplies, meetings, and conferences. Contract personnel expenses tripled in FY 2001 due to increases in contractual services. Primarily, the sharp increase to a new spending plateau was caused by the payments to bond judges in addition to the previous contracts for interpretation services. Jury trial expenditures reached a seven-year high in FY 2003, reflecting the court initiative to cut into the backlog of jury trials.

TABLE 11
CONTRACT AND NON-PERSONNEL EXPENDITURES

Fiscal Year	Contract Personnel	Jury	Other	Total	% + or - by Year
1997	\$ 11,017	\$ 4,630	\$ 10,925	\$ 25,572	
1998	\$ 10,597	\$ 3,200	\$ 11,560	\$ 25,357	No change
1999	\$ 10,000	\$ 1,371	\$ 8,258	\$ 19,629	-23%
2000	\$ 10,163	\$ 960	\$ 13,763	\$ 24,886	+27%
2001	\$ 36,616	\$ 1,920	\$ 23,516	\$ 62,052	+149%
2002	\$ 39,640	\$ 4,130	\$ 28,604	\$ 73,374	+18%
2003	\$ 49,207	\$ 8,747	\$ 14,465	\$ 72,419	-1%

NCSC recommends that the Court, after implementing productivity enhancements, re-assess its use of judicial and staff resources.

A change in the current staffing pattern for the Court would be premature in light of potential productivity gains that are possible given current changes underway and the

adoption of recommendations found in this report. Balancing the number of cases on the docket from week-to-week would also reduce the number of slow periods as well as over-scheduled periods and present a more even workload for the Court thereby utilizing its resources more consistently.

B. Revenues

NCSC has been asked by many court funding units the question of how much revenue should a court produce. The only answer that we can give is that a court is not in the business of producing revenue. The monies paid to a court are a by-product of the legislatively determined sanctions imposed to punish specific behavior and to encourage a change in the behavior of the defendant under the same or similar circumstances in the future. In addition, all court standards speak to the need of the court to perform its duty of justice without concern as to its cost or what revenue it produces. In some courts, judges were paid according to the fines they imposed. This raised an inherent conflict of interest and case law now precludes basing a judge's or hearing officer's remuneration on fines imposed and collected.³⁰ The court as a cost to the community is a responsibility of government chosen by that community and whether or not the Town of Hilton Head Island chooses to have its own court, a cost is still paid by its citizens even when cases are heard in the Magistrate's Court. The fact that monies are returned to the general fund of the community funding the court does not mean that the court exists to raise money for the community. The connection, while often made, is inappropriate. On the other hand, court standards also require the court to use public monies wisely (Standard 4.2 Accountability for Public Resources)³¹ which means that while the cost of justice cannot be the determinant of the justice imposed, it is still a factor in its administration and must be considered when reviewing the competency of court operations (as opposed to the decisions made by judge and jury). Courts must ensure that staff and other resources are used efficiently and effectively. Cost will always be a consideration as will the monies received by the court as a component of the

³⁰ See, *Ward v. Village of Monroeville*, 409 U.S. 57 (1972).

³¹ See Appendix A for a complete discussion of Trial Court Performance Standards.

sanctions it may impose. Court standards also require a court to take appropriate responsibility for the enforcement of its orders (Standard 3.5) which means that seeing to the collection of fines and fees is within the responsibilities of the court because the imposition of fines and fees is an order of the court. The enforcement of that order is not for the purpose of obtaining revenue but to ensure that offenders as well as the public respect and are observant of the authority of the court. It is with this caveat that we make the following observations.

Although court expenditures have steadily increased, the amount of fines and fees collected for the Town's general fund has remained more or less flat both as to the actual fine schedule and the gross amounts collected.³² Notwithstanding the relatively stable revenues over a multi-year period, budget revenue estimates have consistently been very high in the period FY 1997-2003. Because revenues have not grown in relation to expenditures they are no longer equal to or above expenditures. In FY 2003, court expenditures exceeded court revenues by \$95,000.

TABLE 12
GENERAL FUND REVENUES FROM FINES AND FEES

Fiscal Year	Fines and Fees	Excess of Revenue Estimates Over Actual Revenues	Revenue Excess Over Expenditures
1997	\$ 278,552	\$ (1,448)	\$ 144,417
1998	\$ 375,063	\$ (250,029)	\$ 196,133
1999	\$ 348,419	\$ (226,581)	\$ 165,903
2000	\$ 306,078	\$ (43,922)	\$ 98,408
2001	\$ 361,447	\$ (88,553)	\$ 68,103
2002	\$ 335,338	\$ (114,662)	\$ 514
2003	\$ 269,572	\$ (255,427)	\$ (95,069)

³² State surcharges have, however, increased greatly in this period and are now 114% of fines assessed. This creates more problems in collection. In addition to the 114% fees assessed on top of fines imposed, defendants now also pay a \$25 surcharge per ticket under South Carolina statutes.

Roughly 80% of the cases in the court are traffic cases, the rest criminal. The former provide the bulk of court revenue. Most of the money collected by the Court goes to the state. Fines and fees constitute the main general fund revenue for the Town. There is also money collected for victim services which is really earmarked and is not included here as Town general fund revenue.

The court revenues have fluctuated with the level of law enforcement activity and were down to a seven-year low in FY 2003. Despite the fluctuation in caseload, the revenue per case has settled at about \$41 per case filed (not per case disposed). This figure would be helpful in making revenue estimates for the budget when coupled with caseload projections.

The revenue per case filed is obviously affected by the number of cases disposed with a guilty verdict, the result of plea arrangements affecting the amount of the sanction to be imposed, the percentage of nolle prosequere cases (roughly 15% of all cases), and the existence of alternatives to monetary sanctions, such as community service (no longer an option). There are also some cases where a person receiving a ticket can demonstrate compliance by producing proof of insurance or possession of a driver's license. The recovery per case filed is well below the lowest fine amount the Court is able to impose, and while the Court (and the Town) should be driven by the fair and impartial application of the law, this item represents important management information.

TABLE 13
REVENUE-CASELOAD RATIOS

Fiscal Year	Criminal and Traffic Cases	Revenues \$	Revenue per Case \$
1997	8,109	278,552	34
1998	11,342	375,063	33
1999	9,507	348,419	37
2000	7,324	306,078	42
2001	8,153	361,447	44
2002	8,090	335,338	41
2003	6,524	269,572	41

The Court provides a variety of means by which persons can make payment, accepting two types of major credit cards, cash, personal checks, and money orders. Cash is by far the most common means of payment. Most of this money is collected at a cashier window, relatively little by mail.

Persons receiving tickets are given court dates and expected to appear. There is, however, a means for paying in advance on most traffic tickets. These advance payments are treated as appearance bonds and forfeited in court when the court enters judgment in absentia. If the defendant overpays, a refund check is issued based on the court judgment. It appears that only 10-15% of the persons charged choose this option, possibly because the failure to contest may guarantee points charged on the defendant's driving record. It is not clear why this mail-in option is not used more frequently, as it would benefit the public, the Court, and the law enforcement officers.³³ Police officers often indicate on the face of the ticket that points may be reduced and that the Court will accept payment at a reduced amount but this requires the defendant to appear to take advantage of this offer.

³³ One factor that may prevent greater use of the mail-in option is that fine and fee amounts are not printed on the ticket thereby requiring the defendant to contact the Court by telephone or in person or access the Town of Hilton Head Island's website. Another factor is that mail-in envelopes are not an integral part of the ticket.

The Court does not permit installment payments of monetary sanctions but, in the event of inability to pay, the court defers payment to a later date, usually 30 days out, when the defendant is required to pay the whole amount. Sometimes, the defendant's date of payment is extended to permit more time to gather the amount. The failure to appear on the due date results in issuance of a warrant. There are a number of transients in the Hilton Head area, complicating any delayed payment scheme. Some defendants remain in jail for up to 30 days, at which point their judgment is considered satisfied; however, this occurs at a loss to the Town.

NCSC recommends that the Court create the appropriate reports for documenting failure to appear and failure to pay rates and monitor those rates on a frequent basis.

The town prosecutor recommends and NCSC concurs that the Court reconsider its use of alternative sanctions—particularly in those instances where failure to pay is a likely response or payment is unlikely to motivate appropriate behavioral adjustments. Many defendants, as well as the Town, can benefit greatly through organized community volunteer-administered and –coordinated service projects such as highway and beach clean-up.

NCSC recommends that the Court consider use of graduated sanctions providing additional opportunities for compliance. Graduated sanctions can involve such processes as a reduction in the fine amount if paid before the initial court date³⁴ and providing additional opportunities for notice and case disposition before issuance of a warrant in those cases where license suspension or tax intercept is not available.

C. Budget

The Finance Department has stated that the Court does not participate enough in the budget process and complains that the Court request is sometimes late and not adequately supported. The Court states that it has been responsive to the requests it receives. As the preceding tables illustrate, the Court's budget has steadily increased

³⁴ Details such as distinguishing among a bond in anticipation of the court appearance, a plea agreement reached with the officer writing the ticket, and the administrative reduction of fine amounts in response to a guilty plea accepted by the Court at the counter under an Administrative Order of the Municipal Court Judge (as well as whether such a scheduled reduction is legal under South Carolina statutes) must be worked out.

although its caseload has been volatile and is currently trending downward.³⁵ There does not appear to be a clearly articulated process as to how the Court should fit into the budget process. Another issue is the consistently high revenue estimate in the budget. Where the Finance Department indicates that the Court failed to provide revenue estimates, the Court states that it was not consulted and that estimated revenues were arrived at through consultation with the law enforcement community. Irrespective of past communication patterns in the budget process, there is a significant gap between actual and estimated revenues each year. There is a perception that the Court failed to meet its estimated revenue projections when 1) it was not involved in their formulation and 2) the Court has no control over the number of tickets written. Trial Court Performance Standards do require that the trial court responsibly seek, use, and account for its public resources³⁶ which means that the Court must be an active participant in the budget process and not simply respond to particular queries. Given the escalating costs of maintaining the Court and the speciousness of previous revenue projections, it is of prime importance that the Court be involved in determining and submitting its budget.³⁷

NCSC recommends that the Court actively participate in the budget process and in the formulation of projections for caseload and revenues within a structured and facilitated process involving both the Town and other components within the justice partnership (law enforcement and prosecutor). Such projections should be based on prior performance of the Court in case processing and the collection of fines and fees rather than anticipated ticket writing activity.

³⁵ The Court's caseload is a product of the tickets written and issued by the BCSO and the PUD officers. The Court is not an initiator of cases. There are numerous factors that impact how many tickets are written.

³⁶ Standard 4.2 – Accountability for Public Resources.

³⁷ It is likely that the Town Council focused more on the need for a strong and effective judicial presence rather than an equally strong administrative and managerial presence during its recruitment, interview, and selection process to fill the position of municipal judge. The class specification for municipal court judge (class code number 1210) does make many references to administrative, managerial, coordinating, and communication functions.

APPENDIX A
TRIAL COURT PERFORMANCE
STANDARDS



Trial Court Performance Standards Desk Reference Manual

*Developed by the Research Division of the National Center for State Courts
to provide the court community with examples of ways courts have implemented
projects and programs that address the Trial Court Performance Standards.*

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Trial Court Performance Standards
Desk Reference Manual

National Center for State Courts

Staff

Pamela Casey
Project Director

Nancy Ross
Senior Court Researcher

Antoinette Marty
Research Assistant

Sara Lewis
Director of Communications

Lynn Grimes
Administrative Manager

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INTRODUCTION

This *Reference Manual* provides examples of court programs and initiatives that address each of the Trial Court Performance Standards. The Standards identify the fundamental goals and responsibilities of courts within five performance areas: access to justice; expedition and timeliness; equality, fairness, and integrity; independence and accountability; and public trust and confidence. The Standards were developed by a commission of judges and court managers and have been endorsed by the Conference of Chief Justices, the Conference of State Court Administrators, the American Judges Association, and the National Association for Court Management. They have been incorporated into the National Probate Court Standards and have been used as a model by countries around the world that are developing their own standards. For more information about the Standards, see the accompanying CD-ROM or visit the National Center for State Courts' Web site at http://www.ncsconline.org/D_Research/TCPS/index.html.

The Trial Court Performance Standards focus on court goals and outcomes. The *Reference Manual* provides examples of projects and programs courts have implemented that address the goals and outcomes. The projects were identified from the Conference of State Court Administrators' State Court Projects Listing and from information obtained from court professionals through the National Center's Public Trust and Confidence Initiative (see http://www.ncsconline.org/Projects_Initiatives/PTC/index.htm). The highlighted programs are illustrative and not exhaustive of the numerous court improvement efforts underway in courts across the country. Individuals reading this *Manual* are encouraged to send information about court programs that address specific standards to tcps@mail.ncsc.dni.us.

Staff thanks the many court professionals across the country who contributed information about their programs. Staff also is grateful to the Bureau of Justice Assistance, Office of Justice Programs, for its ongoing support of the Trial Court Performance Standards and acknowledges Mr. Charles Hollis and Ms. Jeannie Santos for their guidance and assistance.

ACCESS TO JUSTICE.

"Trial courts should be open and accessible. Location, physical structure, procedures, and the responsiveness of personnel affect accessibility."

The five standards grouped under Access to Justice require a trial court to eliminate unnecessary barriers to its services. Such barriers can be geographic, economic, and procedural. They can be caused by deficiencies in both language and knowledge of individuals participating in court proceedings. Additionally, psychological barriers can be created by mysterious, remote, unduly complicated, and intimidating court procedures.

Standard 1.1 Public Proceedings

The trial court conducts its proceedings and other public business openly.

This standard requires the trial court to conduct all proceedings openly, contested or uncontested, that are public by law or custom. The court must specify proceedings to which the public is denied access and ensure that the restriction is in accordance with the law and reasonable public expectations. Further, the court must ensure that its proceedings are accessible and audible to all participants, including litigants, attorneys, court personnel, and other persons in the courtroom.

Electronic Access Program

Description

This program provides on-line access to statewide, automated indexes and docketing systems. Information such as case type, documents filed, proceeding dates and case disposition is available. Civil Judgment and Order Docket (CJ&OD) and the Automated Traffic System (ATS) information is also available.

Resources

Public access terminals; dial-up subscription access for law offices and businesses available upon request.

Contact

Kate McCann
Records Manager
Superior Court of New Jersey
Office of the Clerk
P.O. Box 971
Trenton, NJ 08625
(609) 984-3235
kate.mccann@judiciary.state.nj.us

Standard 1.2 Safety, Accessibility and Convenience

Trial court facilities are safe, accessible and convenient to use.

Standard 1.2 considers three distinct aspects of court performance: the security of persons and property within the courthouse and its facilities, access to the courthouse and its facilities, and the reasonable convenience and accommodation of those unfamiliar with court facilities and proceedings. It urges a trial court to be concerned about matters such as the centrality of its location in the community that it serves, adequate parking, the availability of public transportation, the degree to which the design of the court provides a secure setting, and the internal layout of court buildings (e.g., the signs that guide visitors to key locations). Because the attitudes and behavior of trial court personnel can make (or fail to make) the courthouse safer, more accessible, and more convenient to use, Standard 1.2 pertains to the conduct of trial court personnel as well.

Unusual or unexpected conditions, such as bomb threats, records destruction, employee strikes, sting operations, mass arrests, and natural disasters, challenge the routine operations of the court. Mechanisms (both internal and operated in coordination with other justice system agencies) may be required to handle emergent situations that could impede the courts and disrupt daily routines.

Court Security Procedures Manual

Description

The Court Security Procedures Manual outlines court security procedures and is used by the Court Security Officer (CSO) to ensure a safe court environment for judges, employees, officers, and the public. Specific information about the duties and responsibilities of the CSO is included. An additional manual covers information about each individual court. The information is provided to a CSO prior to assuming security duties in a particular court.

Resources

Staff time and budget to write and produce.

Contact

Jim O'Neil
Security Manager
2 Nobel Drive
Concord, NH 03301
(603) 271-2521
joneil@courts.state.nh.us

Court Security Program

Description

The Administrative Office of the Court's Court Security services assists the sheriff's offices in their service to the judiciary by coordinating security efforts during high profile trials, providing security equipment and personnel for high profile trials, inspecting court facilities and recommending needed changes, and providing and conducting training.

Resources

Security task force of circuit clerks and judges.

Contact

John Conley
Commander of Court Security Services Program
100 Millcreek Park
Frankfurt, KY 40601
(502) 573-2350
JohnConley@mail.aoc.state.ky.us

Circuit Court Visitor's Guide

Description

Schematic guides have been developed to help visitors familiarize themselves with Wisconsin's courthouses. The state bar organized the layout of the guides.

Resources

Local courthouse staff to organize information; court information officer to edit; graphic design and production.

Contact

Amanda Todd
WI Supreme Court
P.O. Box 1688
Madison, WI 53701-1688
(608) 264-6256
amanda.todd@courts.state.wi.us

Standard 1.3 Effective Participation

The trial court gives all who appear before it the opportunity to participate effectively, without undue hardship or inconvenience.

Standard 1.3 focuses on how a trial court accommodates all participants in its proceedings—especially those who have language difficulties, mental impairments, or physical handicaps. Accommodations made by the court for impaired or handicapped individuals include the provision of interpreters for the deaf and special courtroom arrangements or equipment for blind and speech-impaired litigants.

Elder Law Hotline

Description

Arizona residents over 60 years old can speak with attorneys and ask pertinent questions about legal matters via the Elder Law Hotline. Cases are usually cleared within a week of a call. The program is funded by a general appropriation from the legislature.

Resources

Attorneys to take calls, funds to pay attorneys, funds to market program.

Contact

Karen Kretschman, J.D.
Manager, Court Programs Unit
Court Services Division
Administrative Office of the Courts
Arizona Supreme Court
1501 W. Washington St.
Phoenix, AZ 85007
(602) 524-9274
kkretsch@supreme.sp.state.az.us

Multilingual Lawline

Description

Multilingual LawLine offers free recorded telephone messages on law-related topics in various languages. Immigrant service providers were surveyed to identify their clients' information needs and high demand languages. The messages target immigrants with limited-English ability and little or no knowledge of the American legal system.

Resources

Staff time to coordinate project, survey service providers, draft scripts, conduct outreach and publicity; bilingual persons to translate and test scripts; bilingual readers for recording; technical expertise and/or funds for production.

Contact

L. Dew Kaneshiro
Project Director
Equality and Access to the Courts
State of Hawaii Judiciary
426 Queen Street #B6
Honolulu, HI 96813
(808) 539-4860
dew.l.kaneshiro@courts.state.hi.us

Standard 1.4 Courtesy, Responsiveness and Respect

Judges and other trial court personnel are courteous and responsive to the public, and accord respect to all with whom they come in contact.

The intent of Standard 1.4 is to make the justice system more accommodating and less intimidating. A responsive court ensures that judicial officers and other court employees are available to meet both the routine and exceptional needs of those it serves. Requirements of the standard are particularly important in the understanding shown and assistance offered by court personnel to members of minority or disadvantaged groups and to those unfamiliar with the trial court and its procedures. In keeping with the public trust embodied in their positions, judges and other court employees should reflect by their conduct the law's respect for the dignity and value of all individuals who come before, or make inquiries of, the court. No court employee should by words or conduct demonstrate bias or prejudice based on race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation. These requirements extend to the manner in which the employees of the court treat each other.

Customer Service Workbook

Description

Customer service groups conduct public surveys throughout the year, then discuss common customer service issues during a yearly training session. A Customer Service Workbook presents judicial branch employees with Twelve Customer Service Standards. Employees discuss the standards (i.e. "treat all customers with respect"; "focus your attention on the customer") and develop fundamental customer service implementation skills.

Resources

Staff support to organize, write, and produce the workbook.

Contact

Liz Strong
Staff Development Administrator
Colorado State Court Administrator's Office
1301 Pennsylvania St., Ste. 300
Denver, CO 80203
(303) 837-3657
liz.strong@judicial.state.co.us

Counter Intelligence

Description

Training sessions focus on handling difficult customer service issues and understanding how interactions affect the individual. Counter Intelligence sessions are divided into three main parts:

- 1) Internal customer relations – personality type interactions
- 2) External customer service – role-play giving advice and handling difficult problems, and
- 3) Advanced customer service issues – includes staff development sessions in areas such as projecting professional image, professional ethics, and diverse customers.

Resources

Training facility, personality tests

Contact

Brenda Aiken
Resource Development Officer
Alaska Court System
825 West Fifth Avenue
Anchorage, AK 99501
(907) 264-0514
baiken@courts.state.ak.us

Standard 1.5 Affordable Costs of Access

The costs of access to trial court proceedings and records—whether measured in terms of money, time or the procedures that must be followed—are reasonable, fair and affordable.

Litigants and others who use the services of the trial court (e.g., nonlitigants who require records kept by the courts) face three main financial barriers to effective access to the trial court: court fees, third-party expenses (e.g., deposition costs and expert witness fees), and lawyer fees. Standard 1.5 requires that the trial court minimize its own fees for access and participation in its proceedings and, where possible, scale its procedures and those of others under its influence or control to the reasonable requirements of matters before the court. Means to achieve this include the simplification of procedures and reduction of paperwork in uncontested matters, the use of volunteer lawyers to do pro bono work, simplified pretrial procedures, fair control of pretrial discovery, and establishment of appropriate alternatives for resolving disputes (e.g., referral services for cases that may be resolved by mediation, court-annexed arbitration, early neutral evaluation, tentative ruling procedures, or special settlement conferences).

Although a trial court may control its own fees more readily, it can reduce the overall cost of litigation by, for example, conducting telephone conferences in lieu of in-person conferences and by making it easier for citizens to handle uncontested matters (e.g., name changes, stepparent adoptions, or uncontested divorces) without legal representation. As a general rule, simple disputes should be resolved at low cost and by uncomplicated procedures. Procedural accessibility should be enhanced by clear, concise, and understandable language in instructing the parties, witnesses, and jurors about rights, responsibilities, necessary forms, hearings, and court facilities and resources.

Trial courts possess the record of their own public proceedings as well as important documents generated by others (e.g., police records and laboratory analyses of evidence). These records must be available to individuals who are authorized to receive them. Standard 1.5 requires that the court maintain a reasonable balance between its actual costs in providing documents or information and what it charges users.

Mediation for Indigent and Low Income Parties

Description

Grant monies are sought and administered to help indigent and low-income parties with mediation costs. The courts identify individuals and send them to the Office of Dispute Resolution for service through this program.

Resources

Staff to acquire and administer grant(s) and to keep records, schedule, log/time sheet.

Contact

Robert Smith
ODR Projects Manager
Colorado Office of Dispute Resolution
1301 Pennsylvania Street, Ste. 110
Denver, CO 80203
(303) 837-2356
robert.smith@judicial.state.co.us

Standardization of Fee Waivers

Description

Circuit courts must use a uniform fee waiver income scale to grant service-related fee waivers for programs and services provided by Family Division/Family Services Program Grant funds.

Resources

Family Division/Family Services Grant Funds.

Contact

Pamela Cardullo Ortiz
Executive Director, Department of Family Services Program
Maryland Judicial Center
580 Taylor Avenue
Annapolis, MD 21401
(410) 260-1258
pamela.ortiz@courts.state.md.us

E-File Project

Description

As of January 2001, this system went statewide in all general jurisdiction courts in Colorado. The project provides attorneys and courts with an electronic filing system that is accessed through the internet. The fee for this service represents a fraction of what it would cost to otherwise file the pleading.

Resources

Network with adequate bandwidth; high speed printers; programming staff to interface the e-filing system with case management system.

Contact

Bob Roper
CIO
Colorado Judicial Branch
1726 Cole Blvd
Bldg 22, Suite 300
Denver, CO 80401
(720) 921-7835 (Office)
(303) 356-7209 (Cell)
bob.roper@judicial.state.co.us

EXPEDITION AND TIMELINESS

“Unnecessary delay causes injustice and hardship. It is a primary cause of diminished public trust and confidence in the court.”

Courts are entrusted with many duties and responsibilities that affect individuals and organizations involved with the judicial system, including litigants, jurors, attorneys, witnesses, criminal justice agencies, social service agencies, and members of the public. The repercussions from untimely court actions in any of these involvements can have serious consequences for the persons directly concerned, the court, allied agencies, and the community at large.

A trial court should meet its responsibilities to everyone affected by its actions and activities in a timely and expeditious manner—one that does not cause delay. Unnecessary delay causes injustice and hardship. It is a primary cause of diminished public trust and confidence in the court.

Standard 2.1 Case Processing

The trial court establishes and complies with recognized guidelines for timely case processing, while at the same time, keeping current with its incoming caseload.

The American Bar Association, the Conference of Chief Justices, and the Conference of State Court Administrators have urged the adoption of time standards for expeditious caseload management. Timely disposition is defined in terms of the elapsed time a case requires for consideration by a court, including the time reasonably required for pleadings, discovery, and other court events. Any time beyond that necessary to prepare and conclude a case constitutes delay.

The requirement of timely case processing applies to trial, pretrial, and post trial events. The court must control the time from civil case filing or criminal arrest to trial or other final disposition. Early and continuous control establishes judicial responsibility for timely disposition, identifies cases that can be settled, eliminates delay, and ensures that matters will be heard when scheduled. Court control of the trial itself will reduce delay and inconvenience to the parties, witnesses, and jurors. During and following a trial, the court must make decisions in a timely manner. Finally, ancillary and post judgment or post decree matters need to be handled expeditiously to minimize uncertainty and inconvenience.

In addition to requiring courts to comply with nationally recognized guidelines for timely case processing, Standard 2.1 urges courts to manage their caseloads to avoid backlog. This may be accomplished, for example, by terminating inactive cases and resolving as many cases as are filed.

Complex Litigation Docket

Description

In order to ensure timely resolution, Judges receive complex litigation cases before pleadings, motions, and trials. The earlier receipt of information allows additional time for planning and scheduling.

Resources

Staff to plan and coordinate, space for exhibits and equipment.

Contact

Judge John Langenbach
Superior Court
95 Washington Street
Hartford, CT 06106
(860) 548-2792
(860) 548-2887 Fax

Time Standards

Description

The Maryland Judicial Council developed and adopted case time standards for all major case types heard in Maryland trial courts. Subsequent to the adoption of the standards, an independent assessment of all trial courts was conducted and resulted in all courts developing case management improvement plans. Maryland's second case time assessment is underway to measure the progress of individual courts in meeting the time standards.

Resources

A consultant to help with the development and assessment of time standards, and meetings with various stakeholders involved in the effort.

Contact

Frank Broccolina
State Court Administrator
Administrative Office of the Courts
Maryland Judicial Center
580 Taylor Avenue
Annapolis, MD 21401
(410) 260-1295
frank.broccolina@courts.state.md.us

Standard 2.2 Compliance with Schedules

The trial court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.

As public institutions, trial courts have a responsibility to provide information and services to those they serve. Standard 2.2 requires that this be done in a timely and expeditious manner. The source of the information requests may be internal or external to the court. Services provided to those within the court's jurisdiction may include legal representation or mental health evaluation for criminal defendants, protective or social services for abused children, and translation services for some litigants, witnesses, or jurors.

In addition to adhering to case processing time guidelines, an effective trial court establishes and abides by schedules and guidelines for activities not directly related to case management. Moreover, the court meets reasonable time schedules set by those outside the court for filing reports or providing other information stemming from court activities. When disbursement of funds is necessary, payment is made promptly. Standard 2.2 requires that regardless of who determines the schedules, once established, those schedules are met.

Timely disbursement of funds held by the court is particularly important. Fines, fees, restitution, child support payments, and bonds are categories of moneys that pass through the court to their lawful recipients. Depending on the category involved and the laws of a given jurisdiction, the recipients may include funding agencies (e.g., State, county, or city), public agencies (e.g., police academies and corrections boards), and individuals (e.g., litigants or victims). In addition, courts oversee disbursement of funds from their budgets. These funds go to other branches and units of government, vendors, jurors, litigants, or witnesses. For some recipients, delayed receipt of funds may be an accounting inconvenience; for others, it may create personal hardships. Regardless of who the recipient is, when a trial court is responsible for the disbursement of funds, expeditious and timely performance is crucial.

Financial Management System

Description

A point-of-sale system programmed for the court handles all receipts and disbursement. The module includes full reporting capability and the system is constantly being updated.

Resources

Personnel for planning and staffing, hardware and software.

Contact

Mike Carroll
Information Officer
300 Dexter Avenue
Montgomery, AL 36104
(334) 242-0838
mike.carroll@alacourt.state.al.us

Payment to Jurors

Description

Efficiency of payment and availability of records are enhanced by entering juror information into a computerized system. The system disburses and audits payments and provides reports.

Resources

Funding and personnel to develop system and provide technical assistance.

Contact

Tom Nevlud
Business Systems Manager
c/o Administrative Office of the Courts
P.O. Box 2448
Raleigh, NC 27602
(919) 755-5360
(919) 755-6368 Direct
tom.v.nevlud@nccourts.org

Standard 2.3 Prompt Implementation of Law and Procedure

The trial court promptly implements changes in law and procedure.

Tradition and formality can obscure the reality that both the law and procedures affecting court operations are subject to change. Changes in statutes, case law, and court rules affect what is done in the courts, how it is done, and those who conduct business in the courts. Trial courts must make certain that mandated changes are implemented promptly and correctly. Whether a change can be anticipated and planned or must be responded to quickly, Standard 2.3 requires that the court not only make its own personnel aware of the changes but also notify court users of such changes to the extent practicable. It is imperative that changes mandated by statute, case law, or court rules be integrated into court operations as they become effective. Failure to do so leaves the court open to criticism for noncompliance with the law or required procedures.

Distance Learning

Description

Distance learning in California is an expansion of traditional education programs designed to keep judges, justices, and staff updated on recent changes to the administration of the court system. The program includes (1) satellite broadcasts of education events, (2) videotape and Internet summaries of the broadcast events, expert lecturers, and selected live presentations, (3) computer-based training, (4) videoconference colloquy and training, and (5) video/workbook training materials. During the broadcasts, participants are encouraged to telephone, fax, or e-mail questions to panelists and are provided with group exercises to complete at their local site. The program is directed toward all personnel in the court system and includes individual programs for all judges on issues of universal concern, broadcasts for appellate judges, and weekly broadcasts for court staff.

Resources

Center for Judicial Education and Research staff to compile information and produce the broadcasts.

Contact

The Administrative Office of the Courts' Education Division
Center for Judicial Education and Research
cjerinfo@courtinfo.ca.gov

EQUALITY, FAIRNESS AND INTEGRITY

“Integrity refers not only to the lawfulness of court actions but also the results or consequences of its orders.”

Trial courts should provide due process and equal protection of the law to all who have business before them, as guaranteed by the U.S. Constitution and State constitutions. Equality and fairness demand equal justice under law. These fundamental constitutional principles have particular significance for groups who may have suffered bias or prejudice based on race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation.

Integrity should characterize the nature and substance of trial court procedures and decisions, and the consequences of those decisions. The decisions and actions of a trial court should adhere to the duties and obligations imposed on the court by relevant law as well as administrative rules, policies, and ethical and professional standards. What the trial court does and how it does it should be governed by a court’s legal and administrative obligations; similarly, what occurs as a result of the court’s decisions should be consistent with those decisions.

Integrity refers not only to the lawfulness of court actions (e.g., compliance with constitutional rights to bail, legal representation, a jury trial, and a record of legal proceeding) but also to the results or consequences of its orders. A trial court’s performance is diminished when, for example, its mechanisms and procedures for enforcing its child support orders are ineffective or nonexistent. Performance also is diminished when summonses and orders for payment of fines or restitution are routinely ignored. The court authority and its orders should guide the actions of those under its jurisdiction both before and after a case is resolved.

Standard 3.1 Fair and Reliable Judicial Process

Trial court procedures faithfully adhere to relevant laws, procedural rules and established policies.

The first standard in the performance area of Equality, Fairness, and Integrity draws on the concept of due process, including notice and a fair opportunity to be informed and heard at all stages of the judicial process. Fairness should characterize the court’s compulsory process and discovery. Trial courts should respect the right to legal counsel and the rights of confrontation, cross-examination, impartial hearings, and jury trials. Standard 3.1 requires fair judicial processes through adherence to constitutional and statutory law, case precedent, court rules, and other authoritative guidelines, including policies and administrative

regulations. Adherence to established law and procedures contributes to the court's ability to achieve predictability, reliability, and integrity, and to satisfy all parties. Because of its centrality to the court's purpose, Standard 3.1 overlaps with standards in the performance areas of Access to Justice and Public Trust and Confidence, which emphasize that justice should be "perceived to have been done" by those who directly experience the quality of the trial court's adjudicatory process and procedures.

Rules of Evidence

Description

The Rules of Evidence are adopted by the Supreme Court of Pennsylvania to provide statewide uniformity in practice in all the courts in Pennsylvania. The Court has appointed an advisory committee made up of lawyers and judges from around the state and staffed by a full time attorney. The Committee on Rules of Evidence makes recommendations to the Court for new rules and changes to the existing Rule of Evidence, but it is the Court that adopts any rules or rule changes.

The rule-making process is the same for rules of procedure governing practice and procedure in the Civil, including domestic relations, criminal, orphans court, juvenile, appellate, and minors judiciary areas of law.

Resources

Research, normal rule-making procedures.

Contact

Richard L. Kearns
Staff Council
Committee on Rules of Evidence
5035 Ritter Rd., Ste. 800
Mechanicsburg, PA 17055
(717)795-2100
richard.kearns@supreme.court.state.pa.us

Standard 3.2 Juries

Jury lists are representative of the jurisdiction from which they are drawn.

Courts cannot guarantee that juries will always reach decisions that are fair and equitable. Nor can courts guarantee that the group of individuals chosen through voir dire are representative of the community from which they were chosen. Courts can, however, provide a significant measure of fairness and equality by ensuring that the methods employed to compile source lists and to draw the venire provide jurors who are representative of the total adult population of the jurisdiction. Thus, all individuals qualified to serve on a jury should have equal opportunities to participate, and all parties and the public should be confident that jurors are drawn from a representative pool.

Standard 3.2 parallels the American Bar Association's *Standards Relating to Juror Use and Management* (1993). These standards emphasize that "the opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, or any other factor that discriminates against a cognizable group in the jurisdiction" served by the court. Procedures designed to achieve representativeness include combining regularly maintained lists of registered voters and licensed drivers and using random selection procedures at each step of the jury selection process.

Jury Automated System

Description

JAS is a network jury management system that is operated statewide in New Jersey (21 counties). It offers local control of jurors (e.g., number summoned, number made to report, qualification process) but it capitalizes on the greater efficiency and reduced costs that result from centralization of certain functions, such as list merger, printing of questionnaire/summonses, and production of juror checks. As noted, it standardizes jury management practices and also allows production of statewide juror usage reports.

Resources

Technical planning and development, staff oversight.

Contact

Michael Garahan
Jury Programs Specialist
NJ Judiciary
P.O. Box 988
Trenton, NJ 08625
(609) 292-2364
Michael.garahan@judiciary.state.nj.us

Jury Pool Management System

Description

Jurors' names are maintained on the central computer located at the AOC. When any court requests jury venires, names of potential jurors are randomly selected from the computerized list. Computer-generated qualifying and summoning forms are printed and mailed to prospective jurors. Data is also collected regarding the summoning yield, cost of jurors' service, and days of service to assist local courts in analyzing juror usage.

Resources

System development staff and hardware.

Contact

Trisha Campbell
Assistant Director of the Trial Court Services Division
Administrative Office of Courts
Judicial Building
300 Dexter Avenue
Montgomery, Alabama 36104-3741
(334)242-0364
Trish.Cambell@alacourt.state.al.us

Standard 3.3 Court Decisions and Actions

Trial courts give individual attention to cases, deciding them without undue disparity among like cases and upon relevant factors.

Standard 3.3 requires that litigants receive individual attention without variation due to judge assignment or legally irrelevant characteristics of the parties, such as race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation. Persons similarly situated (e.g., criminal defendants faced with or found guilty of similar offenses and having similar criminal histories) should receive similar treatment. The standard further requires that court decisions and actions be in proper proportion to the nature and magnitude of the case and to the characteristics of the parties. Variations should not be predictable due to legally irrelevant factors, nor should the outcome of a case depend on which judge within a court presides over a hearing or trial. The standard refers to all decisions, including sentences in criminal cases, the conditions of bail, the amount of child support ordered, the appointment of legal counsel, and court-supervised alternatives to formal litigation.

Access and Fairness Advisory Committee

Description

The committee was established to monitor issues related to access and fairness. Projects that address issues such as disabilities, gender, sexual orientation, and racial and ethnic bias have been implemented.

Resources

Grants to fund projects.

Contact

Donna Clay-Conti
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Ave.
San Francisco, CA 94102-3660
(415) 865-7680
donna.clay-conti@jud.ca.gov

Race Data Collection

Description

The Minnesota Supreme Court's Implementation Committee on Multicultural Diversity and Racial Fairness in the Courts is overseeing a statewide court race data collection project. Every court currently collects self-reported race data at the first court appearance in traffic, criminal, and juvenile cases. The goal is to understand whether bias enters into decisions made in the criminal justice system, and to work to address those problems so that everyone is treated fairly.

Resources

Court staff time to enter necessary race data and Administrative Office staff time to provide analysis.

Contact

Bridget C. Gernander
State Court Administrator's Office
Court Services Division
105 Judicial Center
25 Constitution Avenue
St. Paul, MN 55105
bridget.gernander@courts.state.mn.us

Standard 3.4 Clarity

The trial court renders decisions that unambiguously address the issues presented to it and clearly indicates how compliance can be achieved.

An order or decision that sets forth consequences or articulates rights but fails to tie the actual consequences resulting from the decision to the antecedent issues breaks the connection required for reliable review and enforcement. A decision that is not clearly communicated poses problems both for the parties and for judges who may be called upon to interpret or apply it.

Standard 3.4 requires that it be clear how compliance with court orders and judgments is to be achieved. Dispositions for each charge or count in a criminal complaint, for example, should be easy to discern, and terms of punishment and sentence should be associated clearly with each count upon which a conviction is returned. Noncompliance with court pronouncements and subsequent difficulties of enforcement sometimes occur because orders are not stated in terms that are readily understood and capable of being monitored. An order that requires a minimum payment per month on a restitution obligation, for example, is clearer and more enforceable than an order that establishes an obligation but sets no time frame for completion. Decisions in civil cases, especially those unraveling tangled webs of multiple claims and parties, also should connect clearly each issue and its consequences.

Uniform Support Orders (USO)

Description

A Superior Court Uniform Support Order, Uniform Support Order – Standing Order, and Instructions for Completion of the Uniform Support Order is used in all child support cases. A computerized program extracts and disseminates information to keep current and encourages awareness of issues like protective orders.

Resources

Network and software to collect and disseminate encrypted data.

Contact

Thomas Edwards
Director of Information Services
Administrative Office of the Courts
New Hampshire Supreme Court
Two Noble Drive
Concord, NH 03301
(603) 271-2521
(603) 271-3977 Fax
tedwards@courts.state.nh.us

Standard 3.5 Responsibility for Enforcement

The trial court takes appropriate responsibility for enforcement of its orders.

Courts should not direct that certain actions be taken or be prohibited and then allow those bound by their orders to honor them more in the breach than in the observance. Standard 3.5 encourages a trial court to ensure that its orders are enforced. The integrity of the dispute resolution process is reflected in the degree to which parties adhere to awards and settlements arising out of them. Noncompliance may indicate miscommunication, misunderstanding, misrepresentation, or lack of respect for or confidence in the courts.

Obviously, a trial court cannot assume responsibility for the enforcement of all of its decisions and orders. Court responsibility for enforcement and compliance varies from jurisdiction to jurisdiction, program to program, case to case, and event to event. It is common and proper in some civil matters for a trial court to remain passive with respect to judgment satisfaction until called on to enforce the judgment. Nevertheless, no court should be unaware of or unresponsive to realities that cause its orders to be ignored. For example, patterns of systematic failures to pay child support and to fulfill interim criminal sentences are contrary to the purpose of the courts, undermine the rule of law, and diminish public trust and confidence in the courts. Monitoring and enforcing proper procedures and interim orders while cases are pending are within the scope of this standard.

Standard 3.5 applies also to those circumstances when a court relies upon administrative and quasi-judicial processes to screen and divert cases by using differentiated case management strategies and alternative dispute resolution. Noncompliance remains an issue when the trial court sponsors such programs or is involved in ratifying the decisions that arise out of them.

Automatic Protective Order Registry and Statewide Interface

Description

The Nevada Supreme Court has mandated the use of 12 standardized forms relating to domestic violence for all Nevada courts. Data from the forms is entered, saved, and merged with files in a statewide electronic repository. Judges and law enforcement have access to criminal histories and information through this system.

Resources

Budget depends on how up-to-date the courts are; major portion of the budget goes toward equipment and communication.

Contact

Susan Strauss
Supervising Court Services Analyst
Administrative Office of the Courts
201 South Carson St.
Carson City, NV 89701
(775) 684-1712
(775) 684-1723 Fax
sstrauss@nvcourts.state.nv.us

Court of Common Pleas Financial Management System

Description

In Delaware, computer systems bring order to the process of collection where flexible payment agreements have been reached. While flexibility is incorporated, the financial management system ensures that schedules are met and that there are consequences for failure to make payments.

Resources

Systems implementation and staff commitment.

Contact

Carole B. Kirshner
Court Administrator
1000 North King Street
Wilmington, DE 19801
ckirshner@state.de.us

Standard 3.6 Production and Preservation of Records

Records of all relevant court decisions and actions are accurate and properly preserved.

Equality, fairness, and integrity in trial courts depend in substantial measure upon the accuracy, availability, and accessibility of records. Standard 3.6 requires that trial courts preserve an accurate record of their proceedings, decisions, orders, and judgments. Relevant court records include indexes, dockets, and various registers of court actions maintained for the purposes of inquiry into the existence, nature, and history of actions at law. Also included are the documents associated with cases that make up official case files as well as the verbatim records of proceedings.

Preservation of the case record entails the full range of responsible records management practices. Because records may affect the rights and duties of individuals for generations, their protection and preservation over time are vital. Record systems must ensure that the location of case records is always known, whether the case is active and in frequent circulation, inactive, or in archive status. Inaccuracy, obscurity, loss, or untimely availability of court records seriously compromises court integrity and subverts the judicial process.

Record Retention and Destruction Schedule

Description

This schedule outlines how long records and transcriptions should be kept and summarizes the process for destroying circuit, probate, municipal, and trial court documents. The schedule includes 22 court-operating rules and is a reference for procedures to maintain or destroy documents.

Resources

Development and production of schedule and procedures guide.

Contact

Christy Kempker
Court Specialist
2112 Industry Boulevard
Jefferson City, MO 65110-4480
christy.kempker@osca.state.mo.us

INDEPENDENCE AND ACCOUNTABILITY

“Independence and accountability permit government by law, access to justice, and the timely resolution of disputes with equality, fairness, and integrity.”

The judiciary must assert and maintain its distinctiveness as a separate branch of government. Within the organizational structure of the judicial branch of government, trial courts must establish their legal and organizational boundaries, monitor and control their operations, and account publicly for their performance. Independence and accountability permit government by law, access to justice, and the timely resolution of disputes with equality, fairness, and integrity; and they engender public trust and confidence. Courts must both control their proper functions and demonstrate respect for their coequal partners in government.

Because judicial independence protects individuals from the arbitrary use of government power and ensures the rule of law, it defines court management and legitimates its claim for respect. A trial court possessing institutional independence and accountability protects judges from unwarranted pressures. It operates in accordance with its assigned responsibilities and jurisdiction within the State judicial system. Independence is not likely to be achieved if the trial court is unwilling or unable to manage itself. Accordingly, the trial court must establish and support effective leadership, operate effectively within the State court system, develop plans of action, obtain resources necessary to implement those plans, measure its performance accurately, and account publicly for its performance.

Standard 4.1 Independence and Comity

The trial court maintains its institutional integrity and observes the principle of comity in governmental relations.

For a trial court to persist in both its role as preserver of legal norms and as part of a separate branch of government, it must develop and maintain its distinctive and independent status. It also must be conscious of its legal and administrative boundaries and vigilant in protecting them.

Effective trial courts resist being absorbed or managed by the other branches of government. A trial court compromises its independence, for example, when it merely ratifies plea bargains, serves solely as a revenue-producing arm of government, or perfunctorily places its imprimatur on decisions made by others. Effective court management enhances independent decisionmaking by trial judges.

The court must achieve independent status, however, without damaging the reciprocal relationships that it maintains with others. Trial courts are necessarily dependent upon the cooperation of other components of the justice system over which they have little or no direct authority. For example, elected clerks of court are components of the justice system, yet in some matters many function independently of trial courts. Sheriffs and process servers perform both a court-related function and a law enforcement function. If a trial court is to attain institutional independence, it must clarify, promote, and institutionalize effective working relationships with all other components of the justice system. The boundaries and effective relationships between the trial court and other segments of the justice system must therefore be apparent both in form and practice.

Inter-Branch Forum

Description

At least once a year, 20 legislators and 20 judges meet to discuss issues that are of mutual interest and concern. As directed by the state's strategic plan, the group strives to improve relations and enhance understanding by participating in this inter-branch forum.

Resources

Clear purpose and convenient time to gather as a group.

Contact

Janet Marshall
Inter-Governmental Relations Liaison
130 MN Judicial Center
25 Re. Dr. Martin Luther King, Jr., Blvd.
St. Paul, MN 55155
janet.marshall@courts.state.mn.us

Standard 4.2 Accountability for Public Resources

The trial court responsibly seeks, uses and accounts for its public resources.

Effective court management requires sufficient resources to do justice and to keep costs affordable. Standard 4.2 requires that a trial court responsibly seek the resources needed to meet its judicial responsibilities, use those resources prudently (even if they are inadequate), and account for their use.

Trial courts must use available resources wisely to address multiple and conflicting demands. Resource allocation to cases, categories of cases, and case processing are at the heart of trial court management. Assignment of judges and allocation of other resources must be responsive to established case processing goals and priorities, implemented effectively, and evaluated continuously.

Justice At Work

Description

Justice At Work: The State of Judicial Performance in Louisiana is an annual report of Louisiana's performance accountability program. The report includes (1) a brief description of the strategies being pursued by courts to improve their performance based on their respective strategic plans; (2) a detailed analysis of the Supreme Court's progress in creating a data gathering system that will provide additional measures of performance; (3) a description of the uniform reporting standards that will be used to guide the development of the data gathering system, and; (4) an analysis of the barriers confronted by the courts in establishing the data gathering system.

Resources

Judicial Administration staff to compile information on performance and produce the report.

Contact

Valerie Williard
Judicial Administrator
Consumer Relations Department
LA Supreme Court
1555 Poydras St., Ste. 1540
New Orleans, LA 70112
vsw@lajao.org

Financial Integrated Accounting System

Description

FIAS is a module of the automated case tracking system that accounts for all revenue and trust funds received and distributed by the state court system.

Resources

Technology services

Contact

Allen Hanawalt
Customer Support and Training
1163 State Street
Salem, OR 97301
(503) 986-5589
alan.e.hanawalt@ojd.state.or.us

Standard 4.3 Personnel Practices and Decisions

The trial court uses fair employment practices.

The trial court stands as an important and visible symbol of government. Equal treatment of all persons before the law is essential to the concept of justice. Extended to the court's own employees, this concept requires every trial court to operate free of bias—on the basis of race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation—in its personnel practices and decisions.

Fairness in the recruitment, compensation, supervision, and development of court personnel helps ensure judicial independence, accountability, and organizational competence. Court personnel practices and decisions should establish the highest standards of personal integrity and competence among its employees.

Employee Mediation Program for EEO

Description

Mediation is made available to court personnel in employee relations matters, including EEO and interpersonal disputes.

Resources

A program development manual is available that includes references to additional resources.

Contact

H. Clifton Grandy
Senior Court Manager
The District of Columbia Courts
500 Indiana Avenue, NW
Washington, DC 20001
(202) 879-1700
(202) 879-4829 Fax
grandyc@dcsc.gov

Exit Interview Program

Description

Employee separation from court administration offices is documented and examined in order to make improvements and answer concerns. A questionnaire probes issues like training, workload, supervision, and work environment and encourages separating employees to state opinions and offer suggestions.

Resources

Compilation of data and research.

Contact

Judith Anderson
Employee Relations Manager
Human Resources Office
580 Taylor Ave., Bldg. A-1
Annapolis, MD 21401
judith.anderson@courts.state.md.us

Standard 4.4 Public Education

The trial court informs the community about its programs.

Most public citizens do not have direct contact with the courts.

Information about the courts is filtered through sources such as the media, lawyers, litigants, jurors, political officeholders, and employees of other components of the justice system. Public opinion polls indicate that the public knows very little about the courts, and what is known is often at odds with reality. Standard 4.4 requires trial courts to inform and educate the public. Effective informational brochures and annual reports help the public understand and appreciate the administration of justice. Participation by court personnel in public affairs commissions also is effective. Moreover, courts can effectively educate and inform the public by including able public representatives on advisory committees, study groups, and boards.

Court With Class

Description

This program helps high school students learn about the work of the Wisconsin Supreme Court by watching a one-hour oral argument and meeting with a justice during the noon break to discuss court process and ask questions.

Resources

Staff and resources to organize, send information, and schedule.

Contact

Amanada Todd
Court Information Officer
WI Supreme Court, P.O. Box 1688
Madison, WI 53701-1688
(608) 264-6256
amanda.todd@courts.state.wi.us

Standard 4.5 Response to Change

The trial court anticipates new conditions and emergent events and adjusts its operations as necessary.

Effective trial courts are responsive to emergent public issues such as drug abuse, child and spousal abuse, AIDS, drunken driving, child support enforcement, crime and public safety, consumer rights, gender bias, and the more efficient use of fewer resources. Standard 4.5 requires trial courts to recognize and respond appropriately to such public issues. A trial court that moves deliberately in response to emergent issues is a stabilizing force in society and acts consistently with its role of maintaining the rule of law.

Courts can support, tolerate, or resist societal pressures for change. In matters for which the trial court may have no direct responsibility but nonetheless may help identify problems and shape solutions, the trial court takes appropriate actions to inform responsible individuals, groups, or entities about the effects of these matters on the judiciary and about possible solutions.

Understanding Community Concerns

Description

During three town hall meetings held in 1998, participants told the judges of the 52-1 District Court that the Court needed to focus on the larger needs of the community and not simply on managing dockets. In response, the Court has created advisory committees to address issues such as domestic violence and teen alcohol and drug use and has implemented program such as the Sobriety Court. The Court now produces an annual report and maintains a Web site to keep the community informed about its efforts.

Resources

Judicial commitment, volunteers

Contact

Judge Brian W. MacKenzie
52/1 District Court
48150 Grand River Avenue
Novi, MI 48374-1222
(248) 305-6066
mackenzieb@co.oakland.mi.us

PUBLIC TRUST AND CONFIDENCE

"Justice should not only be done, but should be seen to be done!"

Compliance with law depends, to some degree, on public respect for the court. Ideally, public trust and confidence in trial courts should stem from the direct experience of citizens with the courts. The maxim "Justice should not only be done, but should be seen to be done!" is as true today as in the past. Unfortunately, there is no guarantee that public perceptions reflect actual court performance.

Several constituencies are served by trial courts, and all should have trust and confidence in the courts. These constituencies vary by the type and extent of their contact with the courts. At the most general level is the local community, or the "general public"—the vast majority of citizens and taxpayers who seldom experience the courts directly. A second constituency served by trial courts is a community's opinion leaders (e.g., the local newspaper editor, reporters assigned to cover the court, the police chief, local and State executives and legislators, representatives of government organizations with power or influence over the courts, researchers, and members of court watch committees). A third constituency includes citizens who appear before the court as attorneys, litigants, jurors, or witnesses, or who attend proceedings as a representative, a family friend, or a victim of someone before the court. This group has direct knowledge of the routine activities of a court. The last constituency consists of judicial officers, other employees of the court system, and lawyers—both within and outside the jurisdiction of the trial court—who may have an "inside" perspective on how well the court is performing. The trust and confidence of all these constituencies are essential to trial courts.

Standard 5.1 Accessibility

The public perceives the trial court and the justice it delivers is accessible.

The five standards grouped in the area of Access to Justice require the removal of barriers that interfere with access to trial court services. Standard 5.1 focuses on the perceptions of different constituencies about court accessibility. A trial court should not only be accessible to those who need its services but also be perceived as accessible by those who may need its services in the future.

Public Satisfaction Survey

Description

This survey collects comments from the public to provide the administration with feedback and indicate areas that need improvement. Survey forms are available in public areas and throughout the state courts offices.

Resources

Staff to develop survey, maintain supplies, tabulate results.

Contact

Marsha Kitagawa
Public Affairs Office
Hawaii State Judiciary
417 South King Street
Honolulu, HI 96813
(808) 539-4900
judpao@pixi.com

Public Opinion Feedback on World Wide Web

Description

A court operations questionnaire is available via the Internet. The responses serve as suggestions for improvements that may be incorporated in the strategic planning process.

Resources

Development staff to design questions and technical staff to implement form.

Contact

Kathy Mays
Director of Judicial Planning for the Office of the Executive Secretary of the Superior Court of Virginia
100 North Ninth Street
Richmond, VA 23219
(804) 786-6455
kmays@courts.state.va.us
www.courts.state.va.us/feedback.htm

Standard 5.2 Expeditious, Fair and Reliable Court Functions

The public has trust and confidence that basic trial court functions are conducted expeditiously and fairly, and that court decisions have integrity.

As part of effective court performance, Standard 5.2 requires a trial court to instill in the public trust and confidence that basic court functions are conducted in accordance with the standards in the areas of Expedition and Timeliness and Equality, Fairness, and Integrity.

Customer Satisfaction Survey for Petit Jurors

Description

A survey collects information about juror satisfaction to improve the jury duty experience. The survey questions processes like check-in, schedules, and payment and includes a section to probe juror attitudes.

Resources

Staff to develop survey and conduct analyses; computers and printers.

Contacts

Roy Wynn
Jury Officer
(202) 879-4837
wynnrs@dcsc.gov

Suzanne Bailey Jones
Jury Officer
(202) 879-1267
baileyjs@dcsc.gov

Standard 5.3 Judicial Independence and Accountability

The public perceives the trial court as independent, not unduly influenced by other components of government, and accountable.

Standard 5.3 requires that the trial court be seen as independent and distinct from other branches of government at the State and local levels and that the court be seen as accountable for its public resources. The policies and procedures of the trial court, and the nature and consequences of interactions of the trial court with other branches of government, affect the perception of the court as an independent and distinct branch of government. A trial court that establishes and respects its role as part of an independent branch of government and diligently works to define its relationships with the other branches presents a favorable public image. Perceptions of other constituencies (e.g., those of court employees) about court relationships with other government agencies, its accountability, and its role within the community also should not be overlooked as important contributions to a view of the court as both independent and accountable.

Ride Along Program

Description

This program matches judges with legislators in their home districts and gives lawmakers an opportunity to spend a day on the bench. The program is also designed for county board members, the media, and other groups, to give them a bird's eye view of challenges in the court.

Resources

Staff to set dates, write press releases, send follow-up questionnaires.

Contact

Amanda Todd
Court Information Officer
WI Supreme Court, P.O. Box 1688
Madison, WI 53701-1688
(608) 264-6256
amanda.todd@courts.state.wi.us

APPENDIX B

STANDARDS FOR TRAFFIC JUSTICE

The following represents a quick look at how the Town of Hilton Head Island Municipal Court meets standards of traffic justice promulgated by the American Bar Association. First the standard is presented and then in ***bold italics*** is a statement describing the court's compliance.

Standards for Traffic Justice

American Bar Association Committee on the Traffic Court Program

Copyright 1974, 1975, American Bar Association

Approved by the American Bar Association House of Delegates in February, 1975.

Part 1 – Traffic Regulations

Section 1.0 – General Principle. Traffic regulations should encourage safe and expeditious movement of traffic and pedestrians. ***Not under the control of the court.***

Section 1.1 – Standard for Behavior. Traffic regulations should set reliable standards for driver and pedestrian behavior. ***Not under the control of the court.***

Section 1.2 – Uniformity. Traffic regulations should be uniform as well as reasonable. ***Not under the control of the court.***

Part 2 – Traffic Adjudication

Section 2.0 – General Principle. Traffic tribunals should be free from political influences and should be operated without regard to revenue production requirements. Traffic cases should be decided within a unified court system in the judicial branch of government. ***Revenues resulting from the court's adjudication of cases become part of the Town's General Fund. The court is part of South Carolina's unified judicial system.***

Section 2.1 – Record of Proceedings. It is desirable that a verbatim record be maintained of all proceedings. ***The court complies fully with this standard. All proceedings are recorded on audio tape.***

Section 2.2 – Appeal. An appellate review by a court should be available as a matter of right. ***Appeals from judgments of this court are heard in the Circuit Court.***

Section 2.3 – Judicial Officers. Where judicial officers, other than judges, hear traffic cases, they should be full-time public employees, appointed in accordance with prescribed regulations. ***Not applicable to this court.***

Section 2.4 – Code of Conduct. All persons hearing traffic cases should adhere to accepted standards of judicial conduct. ***The court complies fully with this standard.***

Section 2.5 – Criminal Charges. Any charge for which a jail sentence may be imposed should be heard by a legally trained judge within the court system under applicable rules of criminal procedure. ***The court complies fully with this standard. Both of its judges are law-trained.***

Section 2.6 – Separation of Traffic Cases. Traffic cases should be treated apart from other court business, and traffic sessions or divisions should be established wherever the caseload is sufficient. ***Cases brought by the Town's traffic team are heard separately from other cases. The volume of traffic cases brought by other officers may not justify a docket separating these cases from misdemeanor criminal and code enforcement cases.***

Section 2.7 – Hearing Facilities. The court or hearing room should be dignified, public and well-maintained. *The courtroom could be improved from both a safety perspective and an aesthetic perspective. However, it does provide the basic elements necessary in a trial courtroom – the bench, workspace for the courtroom clerk, a stand for witnesses, a jury box, and tables for prosecution and defense.*

Section 2.8 – Procedure. Tribunals trying traffic cases should be governed by published rules, uniform throughout the state, with local deviations allowable only where expressly permitted by the statewide rules. *The court complies fully with this standard.*

Part 3 – Pleas and Hearings

Section 3.0 – General Principle. Everyone charged with violation of a traffic regulation is entitled to a fair and speedy disposition of the charge before an impartial and qualified tribunal. *When possible, the court complies with the speedy disposition component of this standard. In some instances, the particular timing of an officer's scheduled court date impacts the length of a case.³⁸ Jury trials have clearly gone beyond the standard of a speedy disposition although the court is addressing this issue and is making headway in resolving this issue. The court complies fully with the other components of this standard – as a fair, impartial, and qualified tribunal.*

Section 3.1 – Single Appearance. Multiple appearances should be avoided, except where appearance at a separate arraignment is required. A single in-person appearance by a person charged with a traffic offense should resolve most ordinary traffic charges. Appearance time and date should be scheduled to minimize waiting time for all persons involved. *The court complies with this standard with the exception of requests for jury trials. The request for a jury trial is typically made at the first appearance and must be scheduled to a court date for which a jury is available.*

Section 3.2 – Advice of Rights. A defendant should be fully apprised of all applicable constitutional rights and should be fully advised of the consequences of a plea of guilty, no contest, or bail forfeiture and the maximum penalties provided by law, prior to acceptance of his plea or forfeiture, whether accepted in person or by mail. *The court complies fully with this standard when the defendant appears before the court. In South Carolina, the payment of a ticket via the mail or at the counter before the assigned court date is considered bond. If the defendant does not appear on the assigned court date, the posted bond is forfeited. Bond amounts equal the total of fines and fees that could be imposed by the court. NCSC did not ascertain whether officers issuing tickets advised defendants of the consequences of a plea of guilty, no contest, or bail forfeiture.*

Section 3.3 – Mandatory Court Appearance. Motorists charged with hazardous or repeated traffic violations should be required to appear in court to answer the

³⁸ Officers' court dates are a component of the individual officer's schedule as set by his/her supervisor and/or his/her employer.

charge in person. Hazardous violations should at least include: a violation that contributes to a serious collision; is punishable as a felony; involves operation of a motor vehicle while under the influence of alcohol or another drug; reckless driving; leaving the scene of a collision; or, driving while the driver's license is suspended or revoked, together with such other offenses as may be added locally. *When NCSC asked if there were any "must appear" offenses, we were informed that there were none. The South Carolina Uniform Traffic Ticket does contain a box permitting the officer to indicate that a court appearance is required. We do not know if, under South Carolina law, a court appearance can be required for any of the offenses heard in this level of court. We do not know if there is a general agreement among officers as to which offenses require court appearances or if there has been any informal direction given by the court that certain types of offenses require a court appearance or if the solicitor has advised officers as to the types of offenses requiring a court appearance. If the court is empowered to do so, it should consider requiring court appearances for defendants charged with hazardous violations as defined within this standard.*

Section 3.4 – Non-Mandatory Appearances. Motorists may be allowed to admit to a violation as charged and pay fines by mail, as prescribed in a schedule promulgated by the tribunal for non-mandatory court appearance cases. *The court complies fully with this standard.*

Section 3.5 – Individual Attention. When hearings are held, each traffic case should receive individual attention from the tribunal. *The court complies fully with this standard.*

Section 3.6 – Juvenile Cases. Cases involving juveniles charged with moving violations should receive special treatment to insure that the juvenile realizes the importance of safe driving habits. *NCSC did not ascertain whether any defendants in the court sessions we observed were juveniles. However, every defendant was counseled by the judge as to the importance of safe driving habits.*

Section 3.7 – Prosecution. It is improper for a police officer witness, a judge or a hearing officer to act as prosecutor. It is advisable that a prosecuting attorney be present at all stages of the proceedings. *In South Carolina, the officer issuing the ticket acts as the prosecutor for all charges except driving under the influence, criminal domestic violence, and simple possession of marijuana. NCSC agrees with the standard as written but recognizes that South Carolina has chosen to utilize its law enforcement officers as prosecutors and the court is not empowered to change this approach.*

Section 3.8 – Defense Counsel. A person charged with a traffic offense should be advised of his constitutional right to representation by counsel at all stages of the proceeding. *The court complies fully with this standard.*

Part 4 – Corrective Sanctions

Section 4.0 – General Principle. Sanctions for traffic law violations should be based upon an informed judgment as to the penalty most likely to help the individual

violation be a safer driver. *South Carolina law provides little leeway for the modification of sanctions.*

Section 4.1 – Drivers' Records. The tribunal should have available the accurate and current state-wide driving record of each offender after judgment, but prior to sentence. The record should be consulted when sentence is imposed. *The driver's history was used only for certain types of charges.*

Section 4.2 – Sentencing Alternatives. Traffic tribunals should employ a variety of sanctions to improve traffic safety. Courts should have the discretionary power to suspend or restrict driving privileges. *South Carolina law provides little leeway for the modification of sanctions.*

Section 4.3 – Judicial Discretion. Courts should have the discretion in the imposition of sanctions provided by law, including discretionary power to suspend terms of incarceration, license suspension, or revocation of drivers' licenses required by law. *South Carolina law provides little leeway for the modification of sanctions.*

Part 5 – Detention or Incarceration for Non-Hazardous Offenses

Section 5.0 – General Principle. Persons accused or convicted of traffic offenses, other than hazardous, should not be detained or placed in jail. *Not under the control of the court.*

Part 6 – Administration

Section 6.0 – General Principle. The court, or other tribunal, should maintain strict control over case processing, to insure that all charges are properly classified and terminated. *The court complies fully with this standard.*

Section 6.1 – Discretionary Disposition. Once a ticket has been issued, discretionary disposition of traffic charges should be accomplished only in a public hearing by the judge or judicial official. *In South Carolina, the officer issuing the ticket acts as the prosecutor for all charges except driving under the influence, criminal domestic violence, and simple possession of marijuana. NCSC agrees with the standard as written but recognizes that South Carolina has chosen to utilize its law enforcement officers as prosecutors and the court is not empowered to change this approach.*

Section 6.2 – Citations. Tribunals should coordinate with law enforcement agencies to insure that all citation forms issued to police officers have been accounted for, without exception. Citation forms should be uniform for law enforcement officers, tribunals, state registrars and other officers. *In South Carolina, Uniform Traffic Tickets are not under the authority of the Judicial Branch.*

Section 6.3 – Internal Audit. The internal operations of each tribunal should be audited, to insure that funds are properly reconciled, the disposition of every citation is properly recorded, and that all convictions for moving traffic violations are reported to the state traffic records system. *The court should continue with periodic performance audits.*

Section 6.4 – Reports. Each tribunal handling traffic cases should report publicly at least annually, with a full description of its operations, costs, revenues and programs.

The court complies fully with this standard.

Section 6.5 – Fines and Costs. Fines and costs should not be imposed for revenue production purposes. Tribunals should be financed by appropriations, rather than by anticipated fines or cost revenues. *The court complies fully with this standard.*

APPENDIX C
CRIMINAL CASE DISPOSITION ORDER

South Carolina Judicial Department - Bench Book

The Supreme Court of South Carolina

O R D E R

The judges of the magistrate courts of South Carolina being a part of the uniform statewide judicial system, and pursuant to the provisions of Article V, Section 4, South Carolina Constitution,

IT IS ORDERED that each magistrate and municipal judge of this State shall try or otherwise dispose of all criminal cases, including traffic cases, within sixty (60) days of the return of the charging paper to the court, in the absence of good cause shown to the court.

IT IS FURTHER ORDERED that magistrates and municipal judges shall report on a form prescribed by the Office of South Carolina Court Administration the reason that any criminal case, including traffic cases, has not been tried or otherwise disposed of within the sixty (60) day period (1). This report shall be made monthly to the Office of South Carolina Court Administration. For magistrates, this report shall be made a part of the Municipal Court Summary Court Report Form.

Failure to comply with this Order shall subject the magistrate or municipal judge so failing to penalties as for contempt of court.

S/ J. Woodrow Lewis
J. Woodrow Lewis
Chief Justice

Columbia, South Carolina
June 26, 1980

1. EDITOR'S NOTE: Monthly written report no longer required of magistrates.

APPENDIX D

FINANCIAL RECORDKEEPING STANDARDS

South Carolina Judicial Department - Bench Book

The Supreme Court of South Carolina

ORDER

The judges of the magisterial courts of South Carolina being a part of the uniform statewide judicial system and pursuant to the provisions of Article V, Section 4, South Carolina Constitution,

IT IS ORDERED that, effective immediately, each magistrate of this State shall comply with each and every one of the procedures published by the South Carolina Court Administration, and each magistrate of this state shall comply with the following financial recordkeeping standards.:

I. Receipts

The uniform receipting system and uniform receipt book promulgated by the office of Court Administration shall be used to record and maintain receipts for all monies collected. Monies received by mail will be receipted the same day they are delivered. A RECEIPT SHALL BE ISSUED IMMEDIATELY UPON

RECEIPT OF

ANY PAYMENT.

The receipt should indicate the following information:

Receipt Number

Date received

Person remitting funds(in cases involving bond money who the bond should be returned to if individual is found not guilty)

Amount remitted

Method of payment (cash, check, money order, etc.)

Ticket, warrant, or civil case number

Type of Case (Civil, Criminal, Traffic, Bond, etc.)

Person receiving funds (signature)

At the end of each day, copies of the receipts issued should be totaled, and the total indicated on the Daily Cash Summary Report.

Voided receipts and mail payments should be retained in the receipt book, preferably by stapling to the office (yellow) copy. All voided receipts must be initialed by the magistrate. All services must be paid for as received. No credit may be extended on civil cases. If an individual is indigent and unable to pay you should attach a copy of the Motion and Affidavit to Proceed in Forma Pauperis to the civil paper. If possible, receiving of funds should be done by a person not responsible for maintaining and reconciling financial records. "For Deposit Only" and the account number should be stamped on all money orders and all checks as received. Those magistrates who are computerized will use computer generated receipts. All information required in item I , B of this section will be applicable to computer generated receipts. The starting and ending numbers will be reported to the Office of South Carolina Court Administration when they are ordered.

II. Deposits

Deposits to the bank must be made: (1) daily, or upon accumulation of \$250.00, whichever occurs least; (2) on each Friday; (3) and for the last working day of the month. It may be helpful to list checks to the deposit slip as funds are received.

Two (2) separate deposit slips shall be prepared; one for criminal receipts and traffic receipts, and one for civil receipts. These deposit slips shall include:

- Date of deposit

- List of checks deposited (name of Defendant / Payee and amount of check must be included), total cash deposited, the starting and ending receipt numbers, and the total deposit.

These deposit slips must be prepared in triplicate, and each copy validated by the bank. One copy will be retained by the bank, the second copy must be attached to the ending receipt number and the third copy will be posted to the checkbook.

Deposits should be made to the bank at the end of the business day.

Those magistrates who are computerized may prepare two deposit slips. This deposit will be the total of all monies receipted for the day. One copy of the deposit slip will be attached to the Daily Transactions Report and one posted to the check book.

In addition, each magistrate shall make such additional notations on each deposit slip so that from the deposit slip and the other records of the magistrate's office the source of all funds deposited and the disposition of all funds received can at any time be readily identified by the magistrate.

III. Checks and Check Register / Check Stub

A record of each check issued shall be written on the check

register / check stub at the time of issuing the check. This check register / stub shall include the date, check payee, the case title, a short explanation of the reason for the check, the check amount and receipt number and any warrant or ticket number. This information should also be placed on the check. The amount of the check and the check number should be entered on the receipt and on the charging paper. **ALL MONIES SHALL BE RECEIPTED AND DISBURSED BY CHECK WITH NO EXCEPTION.** Bonds collected for other magistrates, municipal judges, or clerks of court shall be receipted like any other cash. These bonds shall be promptly deposited to your official bank account and disbursed by check only; noting information (see Item III, A above) on the check. They should always be transmitted to the trial court so as to arrive before the scheduled court date. The check register / check stub(s) should include the following information:

- All deposits made during the period between the use of the previously numbered check and the current check. If available space precludes listing all deposits, a total should be entered.

- The date and amount of each check

- The current balance in the account as indicated by the check register at the time each check is issued.

When the account is reconciled to the bank statement (see section V below) the initials of the person reconciling the account, the date, and any adjustments should be entered in the check register.

All voided checks should be retained in the checkbook or other secure location.

If many deposits are made and few checks written, it may be easier to maintain a cash receipts and disbursement journal.

IV. Remittances to the County Treasurer

At the end of each monthly docket period, all funds related to that docket and accompanying documentation must be remitted to the County Treasurer.

Remittances must balance with the appropriate docket sheet(s).

All documentation must be complete.

V. Account Maintenance

A schedule of bank statement dates should be maintained for each account. If the statement is not received within five working days after it is usually received, the bank should be notified.

Each checkbook account balance should be reconciled against the bank statement following each statement period. This should be done as soon as possible after receipt of the statement. The checking accounts must be reconciled as of the last working day of the month.

Any variances between the magistrate's records (check register, etc.) and the bank's records (bank statement) must be investigated and reconciled.

The magistrate must initial the reconciled bank statement.

Any worksheets, documents, etc. used in reconciling the account should be maintained with the bank statement.

The reconciled bank statement, the reconciled checkbook, and the outstanding cash bonds should all be the same amount. Any variance must be investigated and reconciled.

All financial records including, but not limited to bank statements, receipts, check stubs, deposit slips, etc., shall be retained for a minimum of seven years.

VI. Cross-training (In courts with a single employee this section is not applicable.)

All magistrate staff should be cross-trained so as to ensure that proper procedures are followed in the absence of a staff member.

These written procedures and any other appropriate procedures should be available for use by the magistrate's staff.

VII. Miscellaneous

In the event a defendant is to make scheduled time payments, the following information should be attached to or noted on the ticket or warrant: the total payments to be made, the date these payments are due, the date these payments are made, the receipt number and amount of each payment.

The unpaid Non-Resident Violators Compact (NRVC) forms must be retained until payment is made. All paid Non-Resident Violators Compact forms must be retained for ten years. When payment is received the Court should note the date, amount of payment, and receipt number on the form along with page and line that it was entered on the docket. The unpaid NRVC forms should be kept separate from the paid NRVC forms and unpaid forms should be turned over to the Chief Magistrate when your term expires.

Those magistrates who are computerized are not required to place page and line number on NRVC Forms but should note the date, amount of payment, and receipt date number on the form.

The required training of the staff of the magistrate as to proper procedures for handling the monies of the magistrate's office shall not relieve the magistrate from personal responsibility for compliance with all applicable requirements for the handling of monies and the record keeping related thereto.

VIII. Each magistrate is required to immediately report in writing to the South Carolina Court Administration and also to the Office of Disciplinary Counsel of the Supreme Court of South Carolina when any shortage of funds of the magistrate's office are noted or

reported; when any check of the magistrate's office is returned marked "NSF", "not sufficient funds", or otherwise dishonored upon presentment; when a magistrate receives a check written on any other magistrate's bank account which is not honored upon presentment; and when a magistrate has knowledge of a negative balance in that magistrate's or any other magistrate's bank account.

These financial recordkeeping standards are minimum standards, and may be supplemented by additional standards, or orders, as dictated by the individual needs of each magistrate's office.

While the Court recognizes that magistrates must utilize employees of their office to assist in the handling of the monies of their office, each magistrate is personally responsible for compliance with all procedures for the handling of the monies of their magisterial office and proper record keeping related thereto and shall regularly, but no less than monthly, review bank statements and other records to insure such compliance.

IT IS FURTHER ORDERED that, in addition to the foregoing, every magistrate of this State shall comply with the published requirements of their respective counties for bookkeeping, accounting and fiscal matters except where to do so would be at variance with this or any other order of this Court or at variance with published procedures of the South Carolina Court Administration or where exception is granted in writing for such deviation by this Court or the director of the South Carolina Court Administration.

IT IS FURTHER ORDERED that each magistrate of this State shall fully cooperate in a timely manner with the audits made by appropriate officials of their respective counties except where to do so would be at variance with this or any other order of this Court or the published procedures of the South Carolina Court Administration or where otherwise authorized in writing by order of this Court or the Director of the South Carolina Court Administration

IT IS SO ORDERED.

/S/

Ernest A. Finney, Jr.

Chief Justice

November 9 , 1999

Columbia, South Carolina

APPENDIX E

SUMMARY OF RECOMMENDATIONS

SUMMARY OF RECOMMENDATIONS

1. NCSC recommends that the Court review and compile into a single reference all OCA-and Supreme Court-mandated policies, processes, and procedures as they are implemented within this Court and complete its documentation of all court, back office, and counter operations. Instructions and directions concerning the use of the court's case management system should be integrated into business process documentation. In addition, relevant Town of Hilton Head Island standard operating procedures, directives, and guidelines as they apply to the Court should be incorporated into this reference.
2. NCSC recommends that the Court review its use of disposition codes in JEMS. The Court should be able to distinguish cases resolved through trial (and type of trial), whether or not the defendant was present for trial, plea agreement, type of plea, forfeiture, and nolle prosequere cases. In addition, the Court should be able to determine through its automated case management system the fines, fees, and points associated with original charges; any modifications made by the officer or prosecutor prosecuting the case; fines, fees, and points imposed at sentencing; and fines and fees actually paid. Where use of specific codes and their definition are mandated by OCA, NCSC recommends that the Court work with OCA to obtain a better definition of codes currently in use and definition of additional codes that would permit further delineation of the circumstances under which findings have been reached.
3. NCSC recommends that the Town consider seasonal adjustments to the availability of law enforcement personnel assigned to traffic enforcement.
4. NCSC recommends that the Court and the prosecutor provide appropriate training to law enforcement personnel to assist them in prosecuting cases. In addition, the prosecutor along with management personnel from the Beaufort County Sheriff's Office should formally outline appropriate and consistent plea agreement patterns that reflect the severity of charges, the defendant's attitude and cooperation, his/her previous contacts with law enforcement and the Court, and his/her criminal and traffic violations history. Sanctions are more effective in changing behavior when consistently applied.
5. NCSC recommends that the Town explore the application of technology to the issuance of tickets by a dedicated traffic team. The use of electronic citations can reduce the time needed to write a ticket, establish a case, and improves the accuracy of the collected data.
6. NCSC recommends that prior to the commencement of any court session, either court staff or law enforcement representatives inform defendants of the opportunity to discuss their cases with the officers issuing the ticket. A limited amount of time should be set aside for this discussion before court convenes.

7. NCSC recommends that the judge while providing both an administrative overview of the court session about to commence and an explanation of the defendant's rights and privileges, make appropriate determinations that will utilize the time of the Court, officers, defendants, witnesses, and attorneys in the most efficient and effective manner possible. Those sessions where a significantly higher number of cases than usual have been scheduled should be staffed by both judges on both courtrooms to allow for the best use of time overall.
8. NCSC recommends that the Court formally adopt time standards as part of an overall commitment to excellence and implement continuous monitoring of its compliance with those standards. Barriers should be immediately identified and strategies developed to overcome those barriers. In addition, continuous monitoring permits the Court to identify those practices and procedures that support compliance with time standards.
9. NCSC recommends that the Court reposition the magnetometer relative to the outside entrance and the courtroom door utilizing ropes or other barriers to define a path from the door through the magnetometer and then into the courtroom or to the clerk's office. If permitted by fire regulations, the Court may consider allowing access through only one side of the double doors.
10. NCSC recommends that the Court provide additional security guards for particularly heavy court sessions. In addition, the Court should provide a hand wand for secondary screening if an individual sets off the magnetometer.
11. NCSC recommends that the Court screen all persons entering the building. In addition, NCSC recommends that the Court, along with its justice partners develop, adopt, and articulate a weapons policy.
12. NCSC recommends that only Court staff and employees housed in the Court building be permitted to utilize doors other than the main entrance. NCSC recommends that outside doors within the Court building be keyed differently than outside doors in other buildings of the Town complex.
13. NCSC recommends that the door from the anteroom be utilized only by the judge and court staff. Law enforcement officers should be directed to enter through the main courtroom doors in order to minimize traffic in front of the bench. The courtroom should be modified to erect a barrier between public seating and the area utilized for court proceedings.
14. NCSC recommends that the Court post appropriate bi-lingual signage (English and Spanish) providing general directions to the public (courtroom, to pay a fine, etc.) as well as expected courtroom decorum.
15. NCSC recommends that the Court rearrange the layout of furniture within the small courtroom to provide appropriate separation between public seating and the area reserved for court proceedings.

16. NCSC recommends that the Court reconfigure the Dutch door and window to create a counter with writing space for defendants. The cashier should be able to work directly at the window with the computer monitor and locked cash drawer on a return affixed to or part of the counter configuration. An unbreakable window with an appropriate pass-through slot and a working speaker should be installed. The return should be at counter height and seating for the cashier allowing work at either the window or the return should be installed. The return should permit placement of the computer monitor so that it can be seen only by the cashier. Utilizing a flat screen monitor will reduce the footprint required for the monitor itself.
17. NCSC recommends that access to court staff offices be limited to court staff and authorized personnel requiring access for a specific purpose (such as computer or telephone repair). All other business should be conducted at the window.
18. NCSC recommends that the Court restrict access to court files to judges and court staff. Other persons requiring access to court files should first fill out a request identifying the file requested. No files should be removed from the courthouse.
19. NCSC recommends that the Court complete its documentation of process and procedure and insure that relevant material is communicated to its justice and non-justice partners. Where Court processes impact operations in other areas of the Town and the justice partnership, process change should be reviewed by all those affected before implementation of any modifications.
20. NCSC recommends that formal communications for the discussion of policy and procedural issues be established between the Court and the Finance Department.
21. NCSC recommends that Court and Finance Department staff receive training on understanding different communications styles as well as conflict resolution techniques.
22. NCSC recommends that the presiding judge participate with other Town department heads in organization-wide communications activities.
23. NCSC recommends that the Finance Department receive additional training on JEMS.
24. NCSC recommends that the Court define and implement separation of functions concerning the handling of money. Recognizing that this separation is difficult with a small staff, it is still necessary to ensure accountability. Staff functions should be redefined with the goal of providing internal controls that protect both the Court's staff and monies received by the Court.
25. NCSC recommends that the definition and documentation of financial procedures and internal controls utilized by the Court be done by the judge, court staff, and the Town's Finance Department. Such documentation should be informative of

both organizations' roles and responsibilities for the handling and accounting of money as well as the introduction of policy and procedural changes.

26. NCSC recommends that the role of court staff in accepting proof of compliance be reconsidered, and if retained, be governed by an Administrative Order of the Municipal Court Judge outlining in detail both the circumstances under which a staff member may accept proof and the types of acceptable proofs. The practice of accepting a law enforcement officer's instruction to nolle prosequere a ticket at the counter should also be governed by Administrative Order of the Municipal Court Judge and provide appropriate safeguards to protect both the Court and its staff.
27. NCSC recommends that the Court create the appropriate reports to allow for tracking collection rates by case type as well as an accounts receivable aging report.³⁹ These reports should assist the Court in determining whether a more pro-active approach to collections is appropriate as well as facilitate the write-off of aging accounts. It may be necessary for the Court (and the Town) to tolerate some percentage of delinquent accounts given the cost of collections and to apply this percentage to projected revenues during the budgetary process.
28. NCSC recommends that the Court, after implementing productivity enhancements, re-assess its use of judicial and staff resources.
29. NCSC recommends that the Court create the appropriate reports for documenting failure to appear and failure to pay rates and monitor those rates on a frequent basis.
30. The town prosecutor recommends and NCSC concurs that the Court reconsider its use of alternative sanctions—particularly in those instances where failure to pay is a likely response or payment is unlikely to motivate appropriate behavioral adjustments. Many defendants, as well as the Town, can benefit greatly through organized community volunteer-administered and –coordinated service projects such as highway and beach clean-up.
31. NCSC recommends that the Court consider use of graduated sanctions providing additional opportunities for compliance. Graduated sanctions can involve such processes as a reduction in the fine amount if paid before the initial court date⁴⁰ and providing additional opportunities for notice and case disposition before issuance of a warrant in those cases where license suspension or tax intercept is not available.

³⁹ JEMS documentation describes an Accounts Receivable report but the sample provided in the documentation does not indicate the age of accounts.

⁴⁰ Details such as distinguishing among a bond in anticipation of the court appearance, a plea agreement reached with the officer writing the ticket, and the administrative reduction of fine amounts in response to a guilty plea accepted by the Court at the counter under an Administrative Order of the Municipal Court Judge (as well as whether such a scheduled reduction is legal under South Carolina statutes) must be worked out.

32. NCSC recommends that the Court actively participate in the budget process and in the formulation of projections for caseload and revenues within a structured and facilitated process involving both the Town and other components within the justice partnership (law enforcement and prosecutor). Such projections should be based on prior performance of the Court in case processing and the collection of fines and fees rather than anticipated ticket writing activity.