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Handling Municipal Case Flow Management During a Pandemic

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Abstract

There is no right or wrong way to create your case flow management process. What works for one court, may not work for yours. The guidance provided by the Office of Court Administration, although confusing, played a major part in the Dayton Municipal Court's success. During the COVID-19 pandemic, our court shut down all in-person proceedings. What we've learned about the pandemic response has provided our court and our defendants with new options in case management. Although we are now open, some of the new processes that were implemented during COVID-19 will continue to be used. Our relationships with peers will continue to grow and our use of electronic resources will remain a normal practice.

The time spent with staff and co-workers during this recent period helped to build much needed relationships and trust, allowing us to work on our teamwork and cross-training. Allowing staff to cross-train not only benefits the employers but also the employees. The shutdown enabled staff to expand their knowledge and helped them find ways to build their own career. Having great staff, great employers, and up-to-date resources allowed our city to step up to the challenges of COVID-19.

Introduction

Case flow management in the Municipal Court can be a challenge under ordinary circumstances, but even more so during a pandemic like COVID-19. We are currently experiencing this challenge and are learning as we go. We had a great opportunity during this time to build relationships and learn from other courts, and we found it is easier to truly understand how the criminal justice system works when seen from all angles. This paper will explain what we did in our court during the pandemic, and how this experience has provided new options that we will continue to use even after all the restrictions have been lifted. Observing professionals during this time was a great learning experience. Also, the Office of Court Administration (OCA), the National Center for State Courts, and the Texas Municipal Courts Education Center all provided invaluable resources.

Original Case Flow Management Process

Ordinarily, we had a normal way of doing things without the new mandates and new rules set out by the OCA. We had goals that we needed to meet to stay on target. Case flow management, for example, is the continuous supervision of cases. This process requires the clerk to manage the time and events that are involved in moving cases through their court. In order for a court to be effective, the clerk must determine what the phases will need to be, how they should be maintained, and their disposition using our operating procedures.

Goals and Responsibilities

Court staff is responsible for creating and maintaining all of the court records, processing each case, preparing for and coordinating arraignment dockets, and assisting defendants. Staff attends yearly training and legislative updates to keep up with any changes in laws and procedures required.

Organizational Processes

The court administrator should have standing orders on file that are signed by the judge. This protects the judge and the court staff. Having these orders in writing removes all discretion on how to handle court processes. This also helps lower the number of defendants that need to appear in court. For example, defendants requesting community service must fill out the indigent forms and show their proof of income to the judge in open court. All of the proceedings and trials in the court must be public. The defendant does not have to prove that he or she is innocent. In a criminal case, it is presumed that the defendant is innocent. Having the defendant sign for their trial date at this time eliminates several unnecessary steps and any confusion by the defendant about the next action that they need to take.

Our standing orders establish a policy requiring the defendant to file a motion for a continuance to be submitted within a certain number of days before trial. If a defendant were to need a postponement of any court proceeding, hearing, or trial, they would need to request a continuance. Typically, the judge will make the decision to grant a continuance, but in our standing orders, court staff is permitted to grant one 30-day continuance. After the judge decides whether or not to grant any additional motions, the clerk should notify the defense attorney or the defendant of the outcome of the request. When it pertains to dismissals, there are certain statutes that create a mandatory judicial duty to dismiss criminal charges.

Statutory Guidelines

According to our statutory, situations which create a duty to dismiss include the following:

- When a defendant completes a driving safety course for certain traffic violations and the defendant presents the court with a completion certificate and the other required evidence, the judge must dismiss the traffic charge. Art. 45.0511, C.C.P.¹
- When a person presents satisfactory evidence of compliance with conditions of deferred disposition, the judge must dismiss the complaint, note the dismissal in the docket, and record no final conviction. Art. 45.051, C.C.P.²
- When a person presents satisfactory evidence of completion of a teen court program, the court must dismiss the charge. Art. 45.052, C.C.P.³
- When evidence is presented that a person was committed for and completed court-ordered treatment for chemical dependency, the court must dismiss the charge, note the dismissal in the docket, and record no final conviction. Art. 45.053, C.C.P.⁴

Scheduling

Our court staff are allowed to sign defendants up for the driver's safety course as well as for a deferred dispositions at the window, or via mail or email requests. If a defendant is requesting a payment plan or community service, they must fill out the indigent forms and show their proof of income, to be presented to the judge by court staff, in order for the payment arrangement to be approved. If a defendant requires more time than provided to pay in full, they will be given 30 days to pay the fine from the time of the request. According to the law, the judge, during or immediately after imposing a sentence, to ask whether the defendant has the resources to immediately pay all or part of the fine and court costs. Depending on the defendant's response, at this point, the judge could consider installment payments, community service, or other alternatives. Officers would issue court dates for the first Wednesday falling 10 days after the citation was issued. Court is normally held every Wednesday at 9:00 a.m. with no appointments needed.

Cross-Training/Education

Some municipal court administrators split work between two departments and cross-training is a benefit for them and their employers. In smaller courts, it is key to have all of the court staff, including the administrator, cross-trained on all the essential functions of the court. This allows the court to run efficiently while clerks are out sick or on vacation. Cross-training is a great opportunity to develop relationships and to win staff over with interaction. One can make their workplace friendlier and more enjoyable, which in turn provides a better quality of service. Being cross-trained and jumping in to help staff develops a sense of trust in the workplace. Leaders must be agents for change and know the importance of mentoring and coaching and encourage their employees to better themselves. Leaders should also be an advocate for higher education.

The responsibilities of our office were broken down into the following departments: warrants, citations, windows, trials, and juveniles. As an example, the clerk responsible for the warrant department would normally issue all warrants, including failure to appear warrants, monthly. She is also responsible for maintaining the payment plans. Operations can become seamless even if an administrator or clerk is out of the office.

Mandates and Shortfalls

It was a challenge to follow the ever-changing guidelines, closures, and rules barring in-person court proceedings after the mandatory closures. During times like these, it is important to have an effective team, not just within the court, but within the entire city structure. We were required after the post-closure mandates to allow defendants to submit all requests via email or regular mail. This was difficult, especially for the judge, since, as mentioned above, we had previously been taught that the defendant must appear in open court. However, we have changed many processes to allow for other ways to dispose of court citations, and these changes have proven to be beneficial to everyone. For example, allowing our court staff to sign defendants up for the driver's safety course and for deferred dispositions not only at the window, but also via mail or email requests, lowered the number of defendants that needed to appear in court, which is one of our main goals during the pandemic. If a defendant is requesting a payment plan or community service, it is possible to do this all electronically. We have been receiving most of these requests via email recently, which also helps expedite the process. Each court operates differently,

so understanding your processes and reviewing the processes of other courts could help perfect your procedures.

Following State Guidelines

Throughout the pandemic, the Office of Court Administration altered deadlines, protocols, and procedures throughout all court systems regularly. The court administrator is responsible for continuously designing the case flow management process, setting staff goals, and following the ever-changing guidelines provided by the Office of Court Administration. The health of the court's case flow management system depends on these procedures. The administrator must also monitor the methods of significant events. Examples of these events include not having in-person court or jury trials. Throughout the pandemic, it was also important to monitor the status of each case to verify if the case was falling within the time guidelines that had been set by the OCA. Some cases do require special procedures, depending on the judgement rendered by the judge.

Closely monitoring the case flow management system helps reduce the lag of cases moving throughout our systems. We must also prepare and keep policies and procedures up-to-date. During the beginning of the pandemic, we were receiving updated Emergency Orders weekly and sometimes daily. This made it hard to keep up with case management and made the process confusing to our staff and most importantly, our defendants. These updates could be lengthy and not every emergency order was pertinent to the municipal court level.

Timeline of Emergency Orders/Guidance

Several of the following guidelines have been slightly edited from their original form as issued by the Texas courts, for the purposes of brevity and clarity.

- **Guidance # 1**

We received the first Guidance on March 13, 2020. The order stated that all courts in Texas, in any case, civil or criminal, to avoid risk to court staff, parties, attorneys, jurors, and the public, had to:

1. Modify or suspend all deadlines and procedures, for a period ending no later than 30 days after the lifting of the Governor's state of disaster, which was set to expire May 8, 2020;
2. Require anyone involved in any court proceeding to participate remotely via teleconferencing, videoconferencing, mail, email, or other means; and
3. Require participants in a proceeding to alert the court staff if they had COVID-19 or flu-like symptoms, a fever, cough, or sneezing.⁵

- **Guidance # 2**

On March 18, 2020, a new order prohibited judges from conducting non-essential court proceedings in person contrary to the local, state, and/or national directives.⁶

- **Guidance # 5**

On April 1, 2020, a new order amended the First Emergency Order to delay all deadlines regarding service and the statute-of-limitations in civil cases falling from March 13 through June 1, 2020.⁷

- **Guidance # 8**

On April 27, 2020, new guidance amended the 1st, 2nd, 3rd, 5th, 7th, 8th, 9th, and 11th Emergency Orders by:

1. Prohibiting courts from conducting any in-person proceeding contrary to guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions.
2. Requiring courts to use all reasonable efforts to conduct proceedings remotely; and
3. Extending the statute of limitations deadlines in civil cases for deadlines falling between March 13 and June 1 to July 15 (not including appellate deadlines, requests for relief from which must be made to the court and should be generously granted).⁸

- **Guidance # 11**

On June 29, 2020, a new order was issued stating that no jury proceedings were permitted, including jury selection and jury trials, prior to September 1 (previously August 1).⁹

- **Guidance # 14**

On August 6, 2020, a new order was issued stating that no jury proceedings were permitted, including jury selection and jury trials, prior to October 1.¹⁰

- **Guidance # 19**

On September 18, 2020, a new order was issued stating that in-person jury trials must not be held prior to December 1.¹¹

- **Guidance # 22**

On May 26, 2021, the OCA published the document “Best Practices for All Court Proceedings during COVID-19 Pandemic.” This document gave us detailed protocol for restricting in-person proceedings, following standard health protocols, protecting staff health, protecting the vulnerable populations, conducting remote proceedings, scheduling proceedings with limited defendants, conducting health screening, practicing social distancing, and more.¹²

Re-opening

The tricky part during this past year was following these ever-changing orders and administering a fair forum. Our court was closed to the public from the middle of March 2020 until June 1, 2020. After re-opening, we were required to create an operating plan for in-person proceedings that was to be approved by our Regional Presiding Judge. This plan would have to be re-certified by January 2021. The difference between these two operating plans was that in December 2020, we had to use the plan set out by the Office of Court Administration instead of the one we created in June 2020. The mandated plan from December sent courts back to square one by prohibiting in-person proceedings. Luckily, our Governor lifted restrictions shortly after that was required, and new guidance was sent out by the Office of Court Administration on March 5, 2021, that would once again lift those restrictions on in-person proceedings and void previous operating plans.

Problems

The judge and court staff are responsible for administering a fair forum for all court users. This is not always easy to do, and close attention must be paid to both due process and how the defendants are treated. There are four objectives listed in Article 45.001 of the Code of Criminal Procedure:

1. to provide fair notice to a person appearing in a criminal proceeding before a justice or municipal court and a meaningful opportunity for that person to be heard;
2. to ensure appropriate dignity in court procedure without undue formalism;
3. to promote adherence to rules with sufficient flexibility to serve the ends of justice; and
4. to process cases without unnecessary expense or delay.¹³

How Re-opening Worked with Mandated Limitations

Since all cases were put on hold for several months, the clerk had to shift her filing systems to incorporate the guidelines extending the timeframe for disposing of these cases. The citations clerk is responsible for initializing and filing all of the new citations. Since officers were not issuing many citations, it did not take much time to complete these tasks. She would also be responsible for maintaining all of the deferrals and driver safety course case files. Like the warrants and the payment plans, the filing systems were made to incorporate the guidelines extending to disposal of these cases.

During this pandemic, we have to be prepared for one or more staff to be out sick for up to two weeks or more. Having witnessed this in my court and during my observations at Mont Belvieu, I found that cross-training is a benefit that all employers should utilize. You must identify the strengths and weaknesses of employees' teamwork, risk-taking, accountability, and productivity, and use this knowledge to the advantage of your department.

Addressing Mandates

New Procedures

In order for our court to be effective, we had to determine what the phases of procedures would need to be, how they should be maintained, and how to handle dispositions using the new operating procedures. The intergovernmental relationships that clerks achieve with other courts can be a good source of information and assistance.

Lessons Learned from the Process

We gained ideas on case flow management through connections with other court administrators, the Texas Municipal Court Education Center, and the Office of Court Administration websites. The success that we have had so far is due to these relationships that were built with peers and to the quick response of city leaders.

I reached out to the court in Mont Belvieu to see how they were handling the closures. Observing the procedures at the Mont Belvieu Municipal Court in action opened my mind to all of the possibilities that could occur from small changes and how they could increase productivity

and help with case flow management. It was interesting to see the differences in our systems. The Mont Belvieu court shared sign-in sheets, scheduling processes, and facts—such as the fact that they only held staff meetings as needed. Personally, I believe these types of meetings are essential. In our city, all department heads attend weekly meetings. I, in turn, have my staff meetings the following Wednesday to discuss those important topics. This process will keep my staff informed and help them to meet goals, work on problem-solving, and polish leadership skills. The weekly meetings also provide a chance for training. There is also an opportunity to bond and celebrate personal or team victories. As for Mont Belvieu, weekly emails and some in-person meetings are held with their court administrator to keep the communication chains open for new ideas and resources.¹⁴ The lesson learned was to have to have communication and the only way to do that is to keep the staff informed. You cannot expect to tell one person and for the information to get out correctly, which is what makes the meetings important.

Scheduling

As of July 1, 2020, we started holding in-person court arraignments and scheduling trials. The city provided the court with masks for staff to use. We continued to encourage defendants to dispose of their cases via phone, mail, or email. During our court proceedings, after the defendant signs in at the court window and provides a contact number, they must wait in their vehicles until they are called. Only one defendant is called into the courtroom at a time. For extra protection, all paperwork and payment transactions are no longer handled face-to-face in the courtroom. After speaking with the judge, defendants are directed to the main court window to see a clerk. Any defendants wanting community service or needing assistance with their fines are provided with an indigent form to be filled out and returned to the court via mail or email before being presented to the judge. This provides an alternative for appearing in court.

All pre-trials have been handled through our city prosecutor's office via phone or email. Defendants were given the prosecutor's contact information and instructed to contact his office on or before their scheduled trial date.

We used the time that the office was closed to go through all of our old cases. This allowed us to review the cases, determine their status, and send them through the appropriate collection channels.

To be successful, the court must set goals, standards, and timelines. These timelines, however, were put on hold for an ever-changing amount of time during the pandemic. Nevertheless, we all learned a lot, and we had some successes.

Staffing Successes

Duties

Because our court is small, all staff are well versed in all the primary job duties required of the court. They work as a team on specific projects to get them done efficiently. Our three clerks are qualified to do the primary functions of their jobs, and the court administrator delegates duties to the court staff to take some of the workload off of herself.

The book *Skills for New Managers*¹⁵ provides useful tips to help prevent mistakes managers can make when delegating. A few of these tips would be to not over-explain, to not rush through instructions, and to make oneself available. The details about motivating employees are especially

valuable. If you want your employees to invest more of themselves in their job, then you must give them the chance to grow professionally and personally. *Skills for New Managers* would be helpful for all managers, new or old, to read.

Teamwork

There is a need to have set roles and clear purposes and established open communication for staff members; these are characteristics of an effective team as outlined in the book *Team Players and Teamwork*.¹⁶ Implementing these roles allows more time for managerial duties and keeping up with new emergency orders. Having effective teams is important, not just for the court, but for all city employees, and city managers play an integral role. City managers can allow employees to join one team and eliminate the departmental silos.

Goals

Some of the goals for good case flow management are to: make the sequence and timing of events more predictable and efficient; provide equal treatment of all defendants; have timely dispositions consistent with the circumstances of the individual cases; enhance the quality of the court process; ensure easy on-line access to the court; and enhance public confidence in the court. All of these normal goals for case flow management went out the window during the pandemic. At least, they had to be adjusted. All cases were on hold until after July 1, 2020. At that time, we sent out what we call a last warrant notice and amended it to reflect our new procedures and means of disposing of the violations. We also had to develop new long-term goals for our court to implement the new requirements.

Continuous Supervision of Cases

My continuous supervision of cases during this period reminded me of what the author of the book *Applied Strategic Planning: A Comprehensive Guide*¹⁷ described. When I started in the courts, I had to start from scratch and be strategic. There was no order or process for any of the court divisions. As described in the book *Organizing your Workspace: A Guide to Personal Productivity*¹⁸, the court clerk had to evaluate where the backlogs were and how the paper processing system had broken down.

Courts should have diverse processing procedures and time frames because of the complexity of the cases. This would require them to create multiple options for case processing, each with different procedures and time frames constructed to follow the different requirements of each case filed. Even after working in the courts for twenty years and I am still finding new ways to be efficient in managing each process, from entering citations, to issuing warrants, but also to getting caught up on all the backlogs caused by shutting down during COVID-19. As cases progress through the judicial system, clerks are required to perform many technical and detailed procedures. Setting standards for each process, one at a time, is what worked for us.

One of our goals, and we have worked hard at it, was to create the court's standard operating procedures for each process of the court. If a court has standard operating procedures there is no reason for our court to go back to the unorganized situation that inherited when I started my court career.

The success of a case filing system depends on the adequacy of the records management system and of the staff's planning. Managing records will require the clerks to provide active supervision and control of the records. The six-stage cycle of records management generally includes (1) creation; (2) distribution; (3) active use; (4) maintenance; (5) inactive storage; and (6) disposition, which includes destruction. The book *Caseflow Management: The Heart of Court Management in the New Millennium*¹⁹ is of great assistance by illustrating what to look for when it comes to case flow management. Tracking the time frame from the issuance of a citation to the judgment, setting firm trial dates, and tracking current caseloads are all processes that one might not notice before reading that book. Our court adjusted our procedures to include restrictions that may be implemented in the future.

Conclusion

We at the Dayton Municipal Court know that our success during the pandemic would not have been possible without all the resources provided by the Office of Court Administration, the National Center for State Courts, and the Texas Municipal Courts Education Center. Also, having personal support from other courts can make crazy times a little more bearable. Case flow management is always the top challenge in municipal courts and can almost seem impossible when the guidance provided is being issued weekly during a pandemic like COVID-19. We have made it through this challenge and are continuing to learn and perfect procedures as we go. Court administrators have to make and cultivate important relationships inside and outside the city. The knowledge gained from these experiences will enhance public servant careers. These experiences has provided our court and our defendants with new options in case management.

Notes

¹ Texas Constitution and Statutes, *Code of Criminal Procedure*. Title 1, Code of Criminal Procedure, Chapter 45. Justice and Municipal Courts, Subchapter A. General Provisions, Art. 45.0511, <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.45.htm>.

² *Ibid.*, Art. 45.051.

³ *Ibid.*, Art. 45.052.

⁴ *Ibid.*, Art. 45.053.

⁵ Supreme Court of Texas and Court of Criminal Appeals of Texas, *First Emergency Order Regarding the COVID-19 State of Disaster*. SCOTX Misc. Docket No. 20-9042, CCA Misc. Docket No. 20-007, 2020, 1, <https://www.txcourts.gov/media/1446056/209042.pdf>.

⁶ Supreme Court of Texas and Court of Criminal Appeals of Texas, *Third Emergency Order Regarding the COVID-19 State of Disaster*. SCOTX Misc. Docket No. 20-9044, CCA Misc. Docket No. 20-008, 2020, 1, <https://www.txcourts.gov/media/1446178/209044.pdf>.

⁷ Supreme Court of Texas, *Eighth Emergency Order Regarding the COVID-19 State of Disaster*. SCOTX Misc. Docket No. 20-9051, 2020, 1, <https://www.txcourts.gov/media/1446315/209051.pdf>.

⁸ Supreme Court of Texas, *Twelfth Emergency Order Regarding the COVID-19 State of Disaster*. SCOTX Misc. Docket No. 20-9059, 2020, 1-3, <https://www.txcourts.gov/media/1446470/209059.pdf>.

⁹ Supreme Court of Texas, *Eighteenth Emergency Order Regarding the COVID-19 State of Disaster*. SCOTX Misc. Docket No. 20-9080, 2020, 2, <https://www.txcourts.gov/media/1448109/209080.pdf>.

¹⁰ Supreme Court of Texas, *Twenty-second Emergency Order Regarding the COVID-19 State of Disaster*. SCOTX Misc. Docket No. 20-9095, 2020, 2, <https://www.txcourts.gov/media/1449564/209095.pdf>.

¹¹ Supreme Court of Texas, *Twenty-sixth Emergency Order Regarding the COVID-19 State of Disaster*. SCOTX Misc. Docket No. 20-9112, 2020, 2,

¹² *Best Practices for All Court Proceedings During COVID-19 Pandemic (Effective May 2021)*. State of Texas, 2021. <https://txcourts.gov/media/1451876/best-practices-for-court-proceedings-during-covid-may-2021.pdf>.

¹³ Texas Constitution and Statutes, *Code of Criminal Procedure*. Art. 45.001, <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.45.htm>.

¹⁴ Jenny Garcia, Interview by author, Mont Belvieu, Texas, April 20, 2020.

¹⁵ Morey Stettner, *Skills for New Managers*, 2nd ed. (McGraw-Hill Education, 2014).

¹⁶ Glenn M. Parker, *Team Players and Teamwork: New Strategies for Developing Successful Collaboration*, 2nd ed. (San Francisco: Jossey-Bass, 2008).

¹⁷ Leonard David Goodstein, Timothy Nolan, and J. William Pfeiffer, *Applied Strategic Planning: A Comprehensive Guide* (McGraw-Hill, 1993).

¹⁸ Odette Pollar, *Organizing Your Workspace: a Guide to Personal Productivity*, 2nd ed. (Crisp Publications, 1999).

¹⁹ David C. Steelman, John A. Goerdt, and James E. McMillan, *Caseflow Management: the Heart of Court Management in the New Millennium*, 3rd ed. (National Center for State Courts, 2004).