



USAID
FROM THE AMERICAN PEOPLE



—
Верховний
Суд



JUDICIAL CONTROL OVER THE CASEFLOW MANAGEMENT: FOUNDATIONS AND FUNDAMENTALS

An Instructional Guide for Judges-Trainers

2020

DISCLAIMER

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development (USAID) or the United States Government.

PREFACE

This Instructional Guide has been prepared under the New Justice Program funded by the United States Agency for International Development (USAID). The aim of the Project is to facilitate establishment of the rule of law in Ukraine through support of judicial reform, promote transparency and accountability of the judiciary, enhance public awareness of activity of the judiciary, and strengthen public trust to the judicial power.

This Instructional Guide provides materials for an education program on the foundations and fundamentals of caseload management. Effective programs on this subject promote the effective and efficient administration of justice. Furthermore, caseload management is a centerpiece to the purposes and responsibilities of the courts and can lead to greater public support for the Ukrainian judiciary and help improve the quality of justice in Ukraine. Relevant bodies, in particular the National School of Judges of Ukraine, the High Qualifications Commission of Judges of Ukraine, the Council of Judges of Ukraine, can use this Instructional Guide as a template for working out and implementing their own programs on the subject.

This Guide is organized into six parts.

- ❖ **Part 1: Designing a Judicial Education Program**, addresses program planning issues such as adult education principles, the need for the program, working with an advisory committee, articulating program goals, selecting faculty, and using this Instructional Guide.
- ❖ **Part 2: Sample Class Schedule**, provides a schedule for a 20-hour program.
- ❖ **Part 3: Instructional Outline**, includes the substantive content for the program and instructional methods to present that content to the participants.
- ❖ **Part 4: Materials**, contains extracts from legal and normative acts and other documents, outlines, etc.
- ❖ **Part 5: Visual Aids**, suggests content for visual aids.
- ❖ **Part 6: Evaluations**, contains a form to assess the quality of the program, material, and faculty.

This Instructional Guide has been prepared by Dr. Giuseppe M. Fazari, USAID New Justice Program Judicial Case Management Expert, faculty member for the National Center for State Courts (USA) with the participation of David Vaughn, Chief of Party, USAID New Justice Program; Nataliya Petrova, Deputy Chief of Party, USAID New Justice Program; Anna Sukhova, Legal and Judicial Specialist, USAID New Justice Program; Iryna Zaretska, Legal and Judicial Training Specialist, USAID New Justice Program, and with comments by Volodymyr Kutsenko, local expert, USAID New Justice Program. The format of this Guide is based on materials from a guide prepared by Felix Stumpf for the US National Judicial College.

Table of Contents

Part 1. Designing a Judicial Education Program	1
Part 2. Sample Class Schedule	11
Part 3. Instructional Outline	13
Part 4. Materials	44
Part 5. Visual Aids	68
Part 6. Evaluations	70

PART 1

DESIGNING A JUDICIAL EDUCATION PROGRAM

- I Adult Education Principles
- II Planning Process
- III Using the Instructional Guide

This section of the Instructional Guide offers three types of information relevant to the design of a judicial education program on the foundations and fundamentals of caseflow management. First, since judicial education is a subset of adult education, this section begins with a brief overview of principles of adult education that form the basis for planning a program. Then, a model planning process is presented. This section ends with recommendations for the use of this Instructional Guide in designing a Caseflow Management program.

I Adult education principles

Four types of adult education principles are relevant to planning judicial education programs. First, adults have a set of characteristics that affect their learning. Second, educational objectives and learning activities can address six different levels of adult thinking. Third, a variety of instructional methods are necessary to ensure that all participants achieve the objectives of an educational program. Fourth, written materials and visual aids are important ingredients of effective adult education.

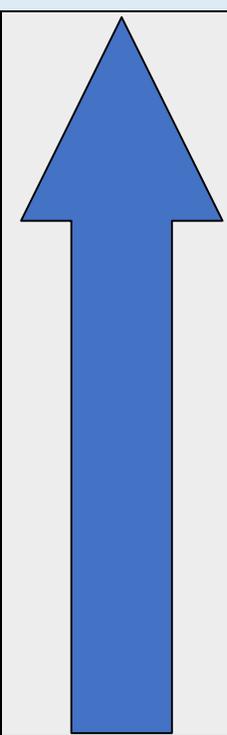
Characteristics of Adult Learners. Judicial education will be most effective when it is designed to reflect the following characteristics of adult learners.

- Adults typically seek to learn new information and skills that they can use immediately in a manner which is relevant and practical regarding their present responsibilities in the court. They are less likely to pursue knowledge for its own sake.
- Adults have extensive knowledge and experience before they enter the educational program. The participants' existing knowledge and experience is an important resource for presenters of judicial education programs.
- Adults learn best when they feel valued and respected. They fear overt competition and public failure, which hinder adult learning.
- Adult learning is enhanced when they are actively involved and invested in the learning process.
- Adult learners require a peer support network so that the learning is enhanced within this group context. It provides learners with the desired range of experiences, competencies, specializations, and interests from which learning can be drawn.
- Follow-up collaboration is often needed for adult learners because the transfer of knowledge from professional development experiences to the actual workplace is not a predictable outcome; thus, ongoing coaching and service is ordinarily required to ensure that the learning is incorporated and sustainable.

Levels of Adult Thinking. Bloom's Taxonomy of Learning recognizes that adult thinking skills fall into six categories of increasing complexity as noted in the below-depicted figure. Judicial education can be designed to help participants achieve objectives at all the following levels.

Bloom's Taxonomy of Learning Objectives by Level, Domain, and Cognitive Processing

Level	Domain	Cognitive Processing
Level Six (Highest Level)	Creating	Combining different ideas in the service of creating something original or integrating ideas into a solution. <ul style="list-style-type: none"> • Create a new paradigm or specific organizational process that incorporates the fundamentals of caseflow management to maximize the efficiency by which cases are resolved.
Level Five	Evaluating	Judging the value of something based on articulated criteria or logic. <ul style="list-style-type: none"> • Justify or otherwise appropriately evaluate the perspective or position of the caseflow management system.
Level Four	Analyzing	Breaking information into component parts to analyze relationships between parts, or to recognize organizing principles. <ul style="list-style-type: none"> • Compare and contrast the components of caseflow systems, data, and processes.
Level Three	Applying	Applying knowledge to new situations or to new problems. <ul style="list-style-type: none"> • Provide examples in applying or using the principles of caseflow management in the court environment.
Level Two	Understanding	Explaining or describing information, often without relating it to anything else. <ul style="list-style-type: none"> • Explain the relevant framework, principles, concepts, etc. of caseflow management.
Level One (Lowest Level)	Remembering	Recalling or remembering facts or terms. <ul style="list-style-type: none"> • Define the terms relevant to caseflow management.



- ❖ *Remembering.* At this most basic level of understanding, learners can repeat, recall, and define the information presented.
- ❖ *Understanding.* This level of learning requires learners to translate the information into their own words. They can explain, give examples, and summarize.
- ❖ *Application.* Learners can apply the information or skill in a new situation. They can interpret, modify, and use concepts and skills.
- ❖ *Analysis.* At this level of thinking, learners can break a complex whole into its component parts. They can distinguish, outline, and subdivide ideas and skills.
- ❖ *Evaluating.* At this highest level of thinking, learners can make judgments based on a set of criteria. They can engage in critical thinking.

- ❖ *Creating.* This level of understanding allows learners to use information to create new ideas. They can devise plans and solve problems.

Variety of Instructional Methods. No single instructional method is effective for all learners. Likewise, no single instructional method is appropriate to achieve all educational objectives. A variety of instructional methods will help all participants in judicial education maintain their interest and reach the goals of the program. Different types of teaching/learning activities are briefly described below.

Lecture. This method allows the instructor to control the presentation of information. Lecture can be an effective way to transmit information when the objectives of the program are limited to knowledge and comprehension. However, most learners are unable to maintain attention for more than 20 minutes of lecture at a time. Lectures are more effective when supplemented with visual aids and when combined with other instructional methods.

Discussion. A discussion features two-way communication between presenter and participants or directly among the participants. Discussion engages participants in active learning. It can be an effective method to increase the participants' retention of concepts and to help them develop problem solving and critical thinking skills. Discussion allows the participants to contribute their ideas and often motivates them to continue learning. A discussion can take place in a large group, small group, or between a pair of participants.

Case Study. A case study is a real or hypothetical situation that illustrates concepts or skills. It can be an appropriate method to achieve goals of application, analysis, synthesis, and evaluation. A case study can be used by a large group, small group, or individual. The case study can be given orally but is usually easier to work with if it is presented in writing. The most effective case studies realistically portray the issues that face the participants in their professional lives.

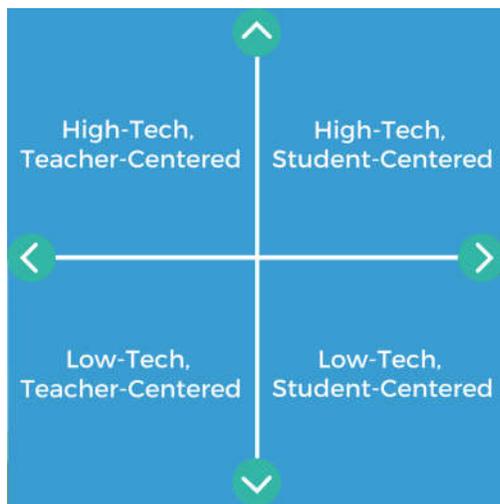
Simulation. This method involves the participants in playing a role. The simulation is designed to reflect real situations affecting the participants. The advantages of simulations are that they actively engage the participants in their learning and encourage critical thinking and evaluation. Simulations require careful planning by the presenter so that the participants are clear about their roles and the purpose of the simulation.

Writing. Short writing exercises can enhance other methods of instruction. For example, during a lecture, the presenter can pause and give the participants two minutes to summarize in writing the major principles of the lecture. Or, after posing a question or problem for discussion, the presenter can ask the participants to briefly write their thoughts; the subsequent discussion is likely to include more participants and more thoughtful responses. An additional advantage of writing exercises is that they actively involve each of the participants.

Quizzes. A quiz asks the participants to respond (silently to themselves or in writing) to a

series of questions. Quizzes are an effective way to open a session by finding out the attitudes and knowledge of the participants or to close a session by reinforcing the major concepts of the presentation. Quizzes actively involve the learners and can serve as a method to generate discussion.

The instructional method incorporates the principles, pedagogical strategies, and management practices that are used by faculty to instruct learners. The framework from which teaching is organized is bifurcated along the two parameters illustrated in the following figure (teacher-centered approach versus student-centered approach and high-tech material use versus low-tech material use):



Learning Styles. There are four major learner styles and are noted as follows:

Learning Style	Preference for Information Acquisition
Visual/Verbal	Preference to read information
Visual/Nonverbal	Preference to acquire information through graphics, charts, diagrams, etc.
Auditory/Verbal	Preference to attain information by listening
Tactile/Kinesthetic	Preference for hands-on, practical application experiences to acquire the information

- ❖ Visual/Verbal adult learners prefer when the instructor presents the information utilizing visual aids, such as PowerPoint presentations in a traditional classroom setting. These learners benefit from text materials and abridged notes which outline the essential points of the lecture.
- ❖ Visual/Nonverbal adult learners prefer information when it is presented in a pictorial context.

These learners benefit when the instructor supplements the lecture with videos, diagrams, photos, etc. and relate best with images and charts to remember the information.

- ❖ Auditory/Verbal adult learners benefit from group discussions and when information is provided through auditory channels. Listening and speaking engagements should be used to enhance lecture presentations for these types of learners.
- ❖ Tactile/Kinesthetic adult learners benefit from practical, “hands-on” activities. Instructors with these types of learners should incorporate fieldwork, in-class demonstrations, and role playing into their presentation of the material.

Material and Visual Aids. Most adults absorb information more effectively through seeing than through hearing. Learning is increased when the information is presented both orally and visually. Consequently, written materials and visual aids are vital components of productive judicial education.

Written materials should accompany each session of a judicial education program. Written materials can take many forms. Common types of written materials for judicial education are described below.

Narrative. This type of material presents information in textual form. It contains all the content that the presenter intends to convey orally and may include additional content as well. Participants may prepare for a session by reading narrative material or may use the material as a reference after the program is complete.

Outline. This material organizes and summarizes, in an outline format, the content that the presenter delivers during the session. Participants can use the outline during the session to follow the presenter’s lecture and to reinforce learning of the content. Outlines can also contain blanks which participants fill in during the presentation, further reinforcing their understanding of the content.

Checklist. A checklist presents participants with a series of questions or steps they can follow to solve problems, analyze issues, or perform skills. Presenters can use checklists to structure their sessions. Participants can use checklists during the session to learn content and skills and after the session to apply content and skills in their professional lives.

Forms. This type of material is useful both during and after the program. During the session, forms are excellent devices to illustrate concepts. After the session, participants can adapt forms for use in their roles as judges.

Bibliography. An annotated bibliography often accompanies the types of written materials described above. The annotations briefly describe sources of printed information and inform the participants how they can get those sources if they want to learn more about a topic after the program.

Visual aids are intended for use during the session. They help participants understand concepts

and help presenters use a variety of active learning methods. Four common types of visual aids are overhead transparencies, chalkboards, flip charts, and handouts.

Overhead Transparencies are the most common type of electronic visual aid. They allow all the participants to see the same material at one time. Presenters can prepare transparency slides in advance of the session by photocopying material onto the transparency or writing on the slide. These transparencies are permanent, compared to material written on chalkboards, so presenters can use them again and again. To maximize the effectiveness of transparencies as a visual tool, only a limited amount of text should appear on each slide and the font should be large enough so that all participants can read the text.

Chalkboards are excellent visual aids for teaching and learning when used effectively. Items written on a board can include objectives for the session, key points in a presentation, contributions from participants during a discussion, to name a few. Boards are most effective when the presenter uses them selectively by including only the most important items on the board to reinforce major ideas of the session.

Flip Charts are large pads of paper. Presenters can use flip charts as substitutes for transparencies and boards in most circumstances. Because of their size limitations, flip charts may not be as effective with large groups as transparencies or boards. On the other hand, flip charts are excellent devices for small groups to record their ideas. Further, flip charts are portable and may be available when other visual aids are not.

Handouts are versatile visual tools. They can include outlines, checklists, graphs, charts, problems, examples, and instructions. Handouts save time during the session because participants do not need to write down information from the board or transparency. In addition, handouts are permanent so presenters can use them in subsequent sessions and participants can use them after the program.

II Planning process

This section of the Instructional Guide develops a model of a planning process for a Caseflow Management program. This model is intended to serve as a guide. In some situations, it may be appropriate for the program organizers to follow the model planning process. In many circumstances, however, the organizers will adapt the model planning process to meet the demands of their unique situation.

The model planning process consists of five elements: (1) needs assessment; (2) learning objectives; (3) planning committee; (4) faculty; and (5) evaluation.

Needs Assessment. The first step that organizers of a Caseflow Management program should take is to conduct a needs assessment. One way for organizers to conduct a needs assessment is to ask and attempt to answer a series of questions. For example:

- ❖ Why is a Caseflow Management program necessary or desirable?
- ❖ Who is the intended audience for the program?
- ❖ What is the present level of learning (current knowledge) of the participants regarding the management of cases?
- ❖ What is their experience (current background) with caseflow management?
- ❖ What is their attitude and perception toward caseflow management?
- ❖ What essential knowledge, skills, and abilities do the potential participants need to develop vis-à-vis caseflow management?

Organizers may find that they know the answers to these questions given their previous experience with Caseflow Management programs. In other instances, organizers will need to consult with case management experts or survey potential participants to learn their current knowledge, experience, skills, abilities, and attitudes with respect to the subject matter. In short, organizers are obliged to have a proper assessment in accordance with the above questions to plan a Caseflow Management program that will meet the needs of the participants.

Learning Objectives. The second step in planning a Caseflow Management program is for the organizers to draft overall learning objectives for the program. Learning objectives answer the question, “What should participants be able to do as a result of this program?” To write each learning objective, organizers can follow a three-step process. First, begin the statement of the learning objective with, “As a result of this program, participants will be able to....” Second, select an action verb that describes what participants will be able to do after the program, such as “define” “identify” “develop” “produce” “analyze” “critique.” Avoid verbs such as “know” and “understand” because they are not observable behaviors. Third, complete the statement of the learning objective with the appropriate content. For example, some or all the following learning objectives would be appropriate for programs of various lengths on Caseflow Management.

As a result of this program, participants will be able to:

1. Describe the **purposes and responsibilities of the courts** and their direct impact on caseflow management (level 2).
2. Define the **fundamentals** of caseflow management (level 1).
3. Identify the **characteristics of effective leadership** and its impact on caseflow management (level 2).
4. Apply caseflow management principles into **defining the purposes and responsibilities of the court** (level 3).
5. Analyze standardized case management **performance measures and benchmarks** (level 4).
6. Create **caseflow charts** and assess the caseflow processes of the court (level 5).
7. Construct preliminary **differentiated case management (DCM)** tracks for selected case types (level 6).
8. Describe the **change management** process, acquire skills of **problem diagnosis** in caseflow management and develop an **action plan** (level 2).
9. Employ the use of **case management data** (data drawn from automated court case management systems) to assess court performance (level 3).

Planning Committee. After completing a needs assessment and drafting learning objectives for the program, the organizers should appoint a planning committee. Although an individual can plan a program, a collaborative planning process is more likely to result in a coherent, balanced, and representative course. The planning committee should consist of five to eight members who are knowledgeable about caseload management and the impact that these practices have on the administration of justice.

The committee should offer its advice on the basic planning elements for the program. The committee should review and offer input on the needs assessment and learning objectives. Then the committee should offer its opinion on the specific topics applicable to achieve the learning objectives. Next, the committee should estimate how much of the program time to allocate to each topic. The committee should consider what learning activities may be appropriate to achieve the program objectives. Finally, the committee should make recommendations of potential faculty members for the program.

Faculty Members. Effective faculty members are vital to the success of the course. Ideal faculty members will be knowledgeable in the topics they are to present, will have excellent teaching skills, and will be diversified as to age, gender, and ethnic composition. If possible, faculty members should meet before the program to coordinate their sessions to avoid repetition and omissions. An instructional development workshop focused on effective, participatory, adult teaching techniques is an excellent way to help faculty members deliver an effective program.

For each session in the program, the assigned faculty member is responsible for developing learning objectives, instructional activities, materials, and visual aids. Part 3, 4, and 5 of this Instructional Guide provides learning objectives, instructional activities, materials, and visual aids for each session in a Caseload Management program. Faculty members can adopt those elements or modify them as appropriate for their sessions.

Evaluations. Organizers should develop a written evaluation form to assess the quality and success of the Caseload Management program. The results of written evaluations will contain important feedback for organizers and faculty members when planning the next offering of the program. Part 6 of this Instructional Guide contains a template of an evaluation form to gauge the effectiveness of the program's subject matter, materials, and faculty.

III Using the Instructional Guide

The general purpose of this Instructional Guide is to enable a judicial educator or program organizer to replicate a course on Caseload Management. To that end, this Guide contains a sample schedule, learning objectives, instructional activities, substantive content, program materials, visual aids, and an evaluation form.

Although the Guide is designed to facilitate replication of a program, in most circumstances the organizers and faculty members will want to adapt it to reflect the knowledge, attitudes, skill set, and overall experience of their participants. Consequently, after conducting the needs assessment, organizers may redraft learning objectives for the program, give greater priority to

some topics, and allocate time differently to the topics during the program. Likewise, faculty members may revise the learning objectives for each session, modify the materials, choose different instructional activities, and adapt the visual aids to reflect the faculty members' teaching style.

In short, in some situations this Instructional Guide will serve as a model that can be copied to replicate a course. More often, judicial educators will exert considerable time and energy adapting the Guide to fit the needs of the participants. In those situations, this Instructional Guide will be a valuable resource to program organizers and faculty members.

PART 2

SAMPLE CLASS SCHEDULE

Introduction

I 20-hour schedule of the Caseflow Management Program

Introduction

A judicial education program on Caseflow Management could span a variety of lengths. The duration of the program will depend on the breadth and depth of the topics that are sought for discussion, available time for the program, the existing practical knowledge and experience of the participants, and the specific objectives the organizers hope to achieve. Instruction on the basic tenets of caseflow management can also be incorporated into a one- or two-hour portion of a broader judicial education program. Alternatively, Caseflow Management could be the focus of an entire program that comprises a two-day program as outlined in the sample schedule.

This Instructional Guide contains a sample schedule for a 20-hour program, which can be applied to a stand-alone program on Caseflow Management or for a portion thereof within a larger judicial education program. The 20-hour schedule could be abridged by eliminating information regarding some of the objectives, content, and learning activities or can be extended by increasing the breadth and depth of coverage through the use of additional literature relevant to the practice of caseflow management and supplementary learning activities.

I 20-HOUR SCHEDULE of the CASEFLOW MANAGEMENT PROGRAM

DAY 1		
8:00 – 8:30	Welcome (Faculty and Participant Introductions)	Seminar Overview
8:30 – 9:00	General Learning Objectives and Goals of Program	
9:00 – 10:00	Court Administration Framework	Unit I Foundations of Caseflow Management
10:00 – 10:15	Break	
10:15 – 11:00	Purposes and Responsibilities of the Courts	
11:00 – 12:00	<i>Organizational Readiness Exercise</i>	
12:00 – 13:00	Lunch	
13:00 – 14:00	Leadership	Unit II Fundamentals of Caseflow Management
14:00 – 15:00	<i>Court Culture Assessment Exercise</i>	
15:00 – 15:30	Break	
15:30 – 17:00	Organizational Culture Dimensions	
DAY 2		
8:00 – 9:00	<i>Flowchart Exercise</i>	Unit II Fundamentals of Caseflow Management
9:00 – 10:00	Stakeholder Consultation	
10:00 – 10:15	Break	
10:15 – 10:45	Court Supervision	
10:45 – 12:00	<i>Benchmark Exercise</i>	
12:00 – 13:00	Lunch	
13:00 – 14:00	Benchmarks	
14:00 – 15:00	Controlling Continuances	
15:00 – 15:30	Break	
15:30 – 16:15	Early Resolutions	
16:15 – 17:00	Information Systems	
DAY 3		
8:00 – 9:00	Differentiated Case Management (DCM) Basics	Unit III Differentiated Case Management Primer
9:00 – 10:00	<i>DCM Exercise</i>	
10:00 – 10:15	Break	
10:15 – 10:45	Stages of Resistance	Unit IV Change Management
10:45 – 11:15	Project Management Lifecycle	
11:15 – 11:45	Change Process & Strategies	
11:45 – 12:15	<i>Case Management Readiness Exercise</i>	Conclusion

PART 3

INSTRUCTIONAL OUTLINE

Introduction

Welcome and Overview

I Foundations of Caseflow Management

II Fundamentals of Caseflow Management

III Differentiated Case Management

IV Change Management and Conclusions

Introduction

The Instructional Outline section of the Guide includes the substantive content and training notes for each topic in a 20-hour program on Caseflow Management. The topics are sequenced in the order that they appear in the Sample Class Schedule in Part 2.

The Instructional Outline follows a column format. For each topic, the right column contains the substantive content for the presenter to cover. The left column consists of training notes which suggest instructional activities for the presenter and participants. The training notes refer to the appropriate Course Materials from Part 4 and Visual Aids from Part 5 that apply to each topic.

Of course, the Instructional Outline *is not intended to constrain faculty members*. For each topic, a faculty member may add, delete, or modify the substantive content to reflect the experience and knowledge of the faculty member and participants. Furthermore, each faculty member *can adjust* the learning activities suggested in the training notes to meet *the faculty member's teaching style* and *the needs of the participants*.

WELCOME AND OVERVIEW

Training Notes	Presentation Content
Show Visual Aid of presentation slides.	Welcome participants to the Caseflow Management program. Slide(s) 1
<p>Direct participants to the cover page. Link the GLOs to the elements of Bloom’s taxonomy. If the number of class participants is too large or if faculty wishes to save time, conduct this inquiry by table. Ask each table to choose a spokesperson who will then introduce everyone at his/her table and summarize the two main issues at the table.</p>	<p>Provide the participants an overview of the program. Slide(s) 2 through 8</p> <ul style="list-style-type: none"> • Introduction of faculty member(s) • Review the general learning objectives (GLOs) of the program <p>As a result of this program, participants will be able to:</p> <ol style="list-style-type: none"> 1. Describe the purposes and responsibilities of the courts and their direct impact on caseflow management (level 2). 2. Define the fundamentals of caseflow management (level 1). 3. Identify the characteristics of effective leadership and its impact on caseflow management (level 2). 4. Apply caseflow management principles into defining the purposes and responsibilities of the court (level 3). 5. Analyze standardized case management performance measures and benchmarks (level 4). 6. Create caseflow charts and assess the caseflow processes of the court (level 5). 7. Construct preliminary differentiated case management (DCM) tracks for selected case types (level

	<p>6).</p> <p>8. Describe the change management process, acquire skills of problem diagnosis in caseload management and develop an action plan (level 2).</p> <p>9. Employ the use of case management data (data drawn from automated court case management systems) to assess court performance (level 3).</p> <p>C. Cover the logistical details and courtesy rules of the program.</p> <p>D. Allow participants to briefly introduce themselves and primary reason for attending.</p>
Direct participants to the agenda and mention that the seminar will include a “bonus” objective at the conclusion of the program – the faculty member will share the “meaning of life” with participants.	Briefly highlight the major portions of the agenda to show participants what will be accomplished each day. “Meaning of Life” slide. Slide(s) 9 through 12

I. FOUNDATIONS OF CASEFLOW MANAGEMENT

Training Notes	Presentation Content
Lecture (Lecture should be placed in Part 4. Materials) and demonstrate the import of management by linking the law to the recipe of Ukraine’s world-renown croissant and the execution of that recipe to the implementation and management of laws and procedures.	Show presentation slides (slide number) of croissant recipe and preparation together with Plato quote on the pivotal role the public servant plays in the management of legislation. Slide(s) 13 through 15
Demonstrate to show that caseload management lies at the center of the purposes and responsibilities of the courts.	Court Administration Paradigm Slide(s)16
Show the film of Ernie Friesen discussing the 8 purposes of the courts. https://www.youtube.com/watch?v=saHb06PNadQ	Ernie Friesen Purposes of the Courts Slide(s) 17 through 19
Review the purposes at the conclusion of the film. Judges must review individual circumstances to determine (within allowable discretion) best course of action; that	

<p>being, to incarcerate, place on a diversionary course, or dismiss matter entirely.</p>	
<p>Ask participants if they can think of any other purpose not mentioned by Mr. Friesen. Conclude the discussion with the understanding that justice delayed is justice denied.</p>	
<p>Separate legislative provisions related to the purposes of the courts in creating proper conditions for legal dispute settlement</p> <ul style="list-style-type: none"> • Article 62 (para 1) of the Constitution of Ukraine • Article 29 (para 1-3) of the Constitution of Ukraine • Article 6 (para 1) of the Law of Ukraine “On the Judiciary and the Status of Judges” • Article 129 (para 2(7)) of the Constitution of Ukraine that refers to the “reasonable time for consideration of a case by court” among fundamentals of justice • Article 7 (para 11) of the Law of Ukraine “On Judiciary and Status of Judges”: “Everyone is guaranteed the protection of his\her rights, freedoms and interests within a reasonable time by an independent, impartial and fair tribunal established by law” • Article 7 of the Code of Judicial Ethics: “A judge must diligently and impartially carry out the duties assigned to him and take steps to deepen his\her knowledge and improve his practical skills” 	
<p>What – the way a court chooses to control the legal process by scheduling, arranging, and conducting key procedural events. The way a court carries out its choices defines the nature of the legal process for the parties and their attorneys. The term “caseflow” is somewhat misleading in that it insinuates cases moving through the judiciary at an uninterrupted pace. Clearly, this is not what happens in reality. Rather than resembling a suggestive river running downstream, once filed, cases are in “stop-and-go” traffic until they reach their destination (disposition). The type of disposition reached governs the destination’s distance. For instance, the exit out of the traffic for a plea or dismissal is much closer than one which is scheduled for trial. Local factors such as, resources, personnel, and leadership dictate whether the congestion is moving through two lanes or six lanes, if the weather is inclement, or whether there are any “accidents” on the road. A factor contributing to delay may be acceptable in one jurisdiction, but not in another. The life of a case consists of a series of events that are separated by varying lengths of time. Managing the caseflow involves an assurance that these events are meaningful; that is, the activity and preparation required for the event to take place</p>	<p>Overview of Caseflow Management (what, why, and how) Slide(s) 20 through 24</p>

<p>on the scheduled date is completed before that date by all involved stakeholders.</p> <p>The case management literature cites three important recurring themes:</p> <ol style="list-style-type: none"> 1) “GOLDEN OPPORTUNITIES” – means not squandering opportunities when all or most parties are present. Instead of just granting a continuance, let everyone know what is expected from each of them the next time they come before the court. Find out what remains to be resolved before trial or settlement, and get the ball rolling toward this resolution. 2) “REASONABLY ARBITRARY EVENTS” – in creating the atmosphere of expectation, judges will need to impose events and decisions that weigh a balance between “reasonable” and “arbitrary.” For instance, some may consider it arbitrary for a judge to ask everyone to provide a plausible explanation for each continuance, but this is a reasonable expectation that could result in fewer requests for continuance. 3) “ATMOSPHERE OF EXPECTATION” – means clearly communicating what needs to be done and when. And letting all parties the expectations as to when discovery has to be completed, when witness/exhibit lists must be exchanged and when the case will actually go to trial. People will live up to this expectation if it is clearly set. <ul style="list-style-type: none"> • For those participants who are not judicial officers, ask how <u>they</u> can further these aims. Examples include resolving matters without judge intervention (if possible), contacting parties to ascertain readiness before a hearing, and providing workflow information to parties showing when events and case milestones are expected to occur. 	
<p>Why – discuss the importance of caseflow management along the principal points:</p> <ul style="list-style-type: none"> • Equal treatment of all court litigants • Timely disposition • Individual Justice • Enhancement of the quality of the litigation process • Public confidence in the court as an institution <p>Show the importance and link Alexander Hamilton quote with earlier quote by Plato.</p>	<p>Quotation of Plato Slide 15</p> <p>Quotation of Alexander Hamilton Slide 22</p>
<p>How – demonstrate the process by which caseflow management is achieved by comparing it to a three-legged stool. The themes include:</p> <ol style="list-style-type: none"> 1. Create Meaningful Events – judges and administrators should ensure that all details of the case are discussed 	

<p>when all or most parties are present. Expectations should be articulated (when and by whom) so that the case expectations are on the record and moving toward disposition. This ensures that the adjournment is not simply granted without any objective.</p> <p>2. Manage Time Between Events – Staff should prepare judges with “green sheets” so that the court is prepared to discuss the details of the case with the attorneys during the event. Adjournments when they are granted, should not be granted unless the attorneys provide an explanation for why it is being requested. Those reasons should be documented and noted on the green sheet for the next event. Ultimately, it should result in fewer adjournment requests because the court is maintaining accountability of counsel.</p> <p>3. Create a Predictable System – communication among stakeholders requires clarity of expectations of when and by whom discovery needs to be completed, lists need to be exchanged, and the scheduled date of trial if the case is not resolved by other means before then. Stakeholders will typically adhere to the expectations that are set by the court if and when they make them.</p> <p>Ask participants how the operation and practicality of these three tenets play out in their respective courts. How do they ensure the timely readiness of the litigating parties in their court? Who provides the caseflow information and data so that the judge can make informed decisions on requested adjournments? How are the court’s performance benchmarks measured (if they are measured)?</p>	
<p>Show the elements of the planning framework and briefly discuss the concept of how the court must utilize it to fulfill its purposes and responsibilities.</p> <p>Remind the Alice in Wonderland children’s story to demonstrate the point of ensuring that the court sets a direction for itself. Caseflow management (at the heart of the purposes and responsibilities of the court) is how the court maintains its direction.</p> <p><i>“Would you tell me please which way I ought to go from here?”</i></p> <p><i>“That depends a good deal on where you want to get to,” said the Cat.</i></p> <p><i>“I don’t much care where...” said Alice.</i></p> <p><i>“Then it doesn’t matter which way you go,” said the Cat.</i></p>	<p>Planning Framework Slide(s) 25</p>
<p>This exercise (put step by step description of the exercise into Part 4 Materials) can be conducted before the course commences if the facilitator has the contact information for</p>	<p>Organizational Readiness Exercise Slide(s) 26 through 27</p>

<p>participants. Alternatively, participants can be provided with a brief period of time to complete. Faculty should discuss the score in showcasing if the particular court is prepared to move forward with its intended change.</p> <p>Greater than 49 30 – 49 Less than 30</p>	
--	--

II. FUNDAMENTALS OF CASEFLOW MANAGEMENT

Training Notes	Presentation Content
<p>Show the first of seven fundamentals – mention the origin of the fundamentals. Literature by Maureen Solomon. Discuss that at the center of the interlocking model of the fundamentals is the professional relationship of the court’s stakeholders in ensuring that the fundamentals are operationalized and ultimately carried out.</p>	<p>Leadership Slide(s) 28</p>
<p>Ask participants what traits characterize a leader? They will mention a variety of traits that they will often draw from their own personal and professional experience. Faculty should write down the traits onto a flip chart as participants state them.</p>	<p>Characteristics of Leader Slide(s) 29 through 30</p>
<p>Once the participant responses have been exhausted, faculty will go to the next slide (slide number) highlighting the 5 traits that are consistently ranked in the leadership research.</p>	
<p>Who are the leaders of the judiciary? Provide an example of judicial leadership and the importance of the executive component.</p>	<p>Judicial Leadership Slide(s) 31 through 32</p>
<p>The judiciary’s leadership is essential element in effectuating change and ensuring that caseflow management is instituted as intended. There must be a commitment and willingness on the part of the judges and court staff to institute these fundamentals or it will fail before it commences. Partnerships must be fostered, and judges must advise other judges. Administrators serve in a consultation capacity to the lead judges. Thus, in accordance to the “executive component” nature of court organizations, judges (not managers), manage other judges. Among other responsibilities, judges in a leadership capacity are expected to manage other jurists in their purview. This can not be left to the professional manager because, however knowledgeable the individual, it will not be as impactful because their titles are not equivalent.</p> <p>Ask participants what their experience has been in the court’s prior initiatives to implement organizational policies, programs, and procedures?</p>	

<p>To what extent was leadership involved? How did they impact the initiative?</p>	
<p>Show participants the failure rate at which attempts to implement change into the organization. Provide participants with the analogy of the organization being a salad (different areas/divisions being the ingredients and the culture representing the dressing).</p>	<p>Organizational Change and Culture Slide(s) 33 through 36</p>
<p>Reflect on the culture of the organization in the court administration paradigm and how its influence encapsulates all aspects of the court. Have the participants consider the extraordinary responsibility that leadership has in developing and shifting the culture toward the vision they should have set for the organization, and for accomplishing purposes and responsibilities of the court.</p>	
<p>Consider Quinn’s notion of how he defines organizational culture and the uniqueness in which it comes to be realized within the respective court. When people are focused on the anecdotal, rather than holistic, circumstances, the most important and impactful questions may not be realized and addressed. Leaders and managers cultivate the entire organizational culture to create an atmosphere in which people enjoy their work so that the efficiencies that occur in this environment manifest into individuals exceeding the standard expectations.</p>	
<p>Have the participants consider the analogy of the court’s culture as an iceberg along the following key points:</p> <ol style="list-style-type: none"> 1. Organizational attributes that can be seen, heard, and felt by the uninitiated observer (Apparent Culture) <ul style="list-style-type: none"> • Formal structure • Official rules • Lines of authority i. All judges and court staff perceive, understand, and accomplish the purposes and responsibilities of the court (Professed Culture) ii. Informal aspect of the organization. Elements of the organization that are unseen and not cognitively identified in daily interactions between organizational members. (Underlying Culture) <ul style="list-style-type: none"> • Unwritten rules • Unofficial networks • History 	
<p>Discuss Brian Ostrom’s research on court culture and define the two dimensions of solidarity and sociability together with the four typologies. Include Ostrom’s four key points in discussing court culture:</p> <ol style="list-style-type: none"> 1. Learn from success in private sector studies 	<p>Court Culture Slide(s) 37 through 38</p>

<ol style="list-style-type: none"> 2. Compare and contrast key values 3. Relate to key work areas 4. Link to court performance 	
<p>Faculty should discuss each of the quadrants as they relate to the case management styles.</p>	<p>Court Culture Exercise Slide(s) 39 through 40</p>
<p>Discuss and highlight each of the charts depicting the two dimensions and four typology examples of court culture classification.</p>	<p>Court Culture Classification Charts Slide(s) 41 through 45</p>
<p>Demonstrate how the areas of work are central to the purposes and responsibilities of the court and the impact that the court culture can have along these four questions:</p> <ol style="list-style-type: none"> 1. Court Leadership: “<i>Why do it</i>” 2. Court Relations: “<i>Who does it</i>” 3. Case Management Style:” <i>What is done</i>” 4. Change Management: “<i>How to change</i>” 	<p>Meaningful Areas of Work Slide(s) 46</p>
<p>Discuss the parameters by which the court culture assessment should be interpreted and to the extent possible show examples of the current and preferred states.</p> <p>Faculty can depict these results along different sets of factors such as stakeholder (judge and administrator), district (urban suburban, and rural), court (criminal, commercial, etc.), or a court instance.</p> <p>Utilize one dimension, such as the desire to shift the court toward greater solidarity, to discuss the measures and performance management strategies in making those changes.</p> <p>To achieve greater solidarity, courts must ensure that they plan and act collectively as an organization, as opposed to silo-thinking, which inevitably creates “separate fiefdoms”. To build capacity requires strategic planning on the part of court’s leadership and includes, among other things, identifying a communications action plan for both internal and external stakeholders, instituting a succession plan to ensure the long-term vision, updating information technology, and improving how the court measures its outcomes. When capacity building is effective, it strengthens the court’s ability to fulfill its purposes and responsibilities in the short and long-term, thereby enhancing its ability to have the intended impact on the lives and communities in which it serves.</p>	<p>Interpreting Court Culture Results Slide(s) 47 through 50</p> <p>Managing Desired Change Slide(s) 51 through 55</p>
<p>Briefly discuss the literature and studies which substantiate general patterns regarding court culture assessments.</p>	<p>Patterns of Desired Change Slide(s) 56</p>
<p>Discuss Ostrom’s characteristics of a high-performance court culture.</p>	<p>High Performance Court Culture Slide(s) 57</p>

<p>Briefly identify the steps in developing a successful case management plan and provide examples of each in the corresponding slides.</p> <ol style="list-style-type: none"> 1. Establish objectives/priorities 2. Establish milestones 3. Formulate strategies 4. Measure for accountability 5. Communicate results <p>An example of a “Statement of Core Values” is included. Within “integrity” and/or “quality service”, “professionalism” among judges and staff can also be included or can be listed separately.</p>	<p>Caseflow Management Plan Slide(s) 58 through 67</p>
<p>Provide participants with the relevant literature on the patterns of organizational failures. Include in the discussion the notion of coordination among the varied stakeholders and their respective accountability.</p> <p>Collectivism (Abilene Paradox) or the ambivalence that judges/managers can sometimes exhibit in groups. The effort to maintain collegiality makes it difficult to confront issues and implement organizational change. The Abilene paradox is a paradox in which a group of people collectively decide on a course of action that is counter to the preferences of any of the individuals in the group. It involves a common breakdown of group communication in which each member mistakenly believes that their own preferences are counter to the group’s and, therefore, does not raise objections. “Don’t rock the boat”.</p> <p>Instructor(s) may seek to also give the background of the Abilene paradox:</p> <ol style="list-style-type: none"> 1. One hot Texas evening, a family played dominoes on the porch until the father-in-law offered to go to Abilene (located 85 kilometers north) to have dinner. The wife said, “Sounds good.” The husband, despite the fact that the trip promised to be long and hot, thought that it was better to do what others do, and said: “In my opinion, not bad; I hope your mother won't object either.” The mother-in-law replied: “Of course, let's go! I haven't been to Abilene for a long time.” 2. The road was hot, dusty and long. When they finally arrived at the cafeteria, the food turned out to be tasteless. Four hours later, they, exhausted, returned home. 3. One of them said insincerely, “It was a good trip, was it?” The mother-in-law said that, in fact, she would rather stay at home, but went because the other three were very enthusiastic. The husband said: “I would be glad not to do what I did, I went only to please others.” The wife said: “And I went, counting on the joy of others. It was crazy to 	<p>Common Reasons Court Leaders Fail Slide(s) 68</p>

<p>voluntarily go on this trip.” The father-in-law said that he offered it only because he felt that others were bored.</p> <p>4. And they sat, stunned that they went on a trip none of them wanted. Everyone would rather enjoy that day at home.”</p> <p>Raise the question on what is the status and stability of the court’s leadership? The slow progress of change and making those cultural shifts necessarily requires considerable time and consequently should have a responsive and stable executive component.</p>	
<p>Having had the discussion of leadership and all that it involves with the principal focus on court culture, participants rate the court’s leadership (first of seven fundamentals ranked on the case management readiness exercise).</p>	<p>Rate the Court’s Leadership Slide(s) 69</p>
<p>Have the participants choose a case type and diagram the flowchart of how the case moves through their current system.</p>	<p>Stakeholder Consultation Slide(s) 70</p> <p>Flowchart Exercise Slide(s) 71</p>
<p>Introduce the idea of what constitutes a stakeholder in the system by asking participants who are the persons who have a vested interest in the outcome of cases.</p>	<p>Judiciary Stakeholders Slide(s) 72 through 73</p>
<p>Discuss the importance of ongoing communication between the bench and bar.</p> <p>What are the components of an effective relationship among judiciary stakeholders?</p> <p>Demonstrate the continuum of judicial-administrative relationship and responsibilities. Speak to the various examples by way of experience.</p>	<p>Communication Slide(s) 74</p> <p>Characteristics of Effective Relationships Slide(s) 75 through 76</p>
<p>Apart from given you a window into my experience, why is this important? While getting to know one another, we are developing a relationship. Why is it relevant to caseflow management? Because the success of caseflow management is ultimately centered on relationships. When judge/manager know each other, they understand each other’s strengths and weaknesses and can compensate for them. Bring out the best in one another.</p> <p>Among other factors, successful caseflow management depends on effective communication in the “mini-office” of the judge (judge, assistant, secretary, and staff), distribution of duties and additional functions regarding case analysis and their assessment of complexity, and preliminary estimates of the length of the trial in view of the workload and overtime schedule. A well-coordinated and open system of communication within and among the stakeholders of the “mini-office” however is critical. That is, successful interaction and concerted effort toward the efficient</p>	<p>Importance and Relevance of Relationships Slide(s) 77</p>

<p>resolution of cases is central to good caseflow management. Thus, the role of the chief judge, chief of staff and judges is very important in this process. The greater the extent to which they are conscience of achieving the common goal by working together as a collective unit in administration of justice, the more likely they will be in accomplishing those ends.</p>	
<p>Discuss and emphasize the need to consult with court staff while receiving and processing the documents of the court case. Refer to Hamilton’s slide again in discussing the importance of administration of justice and how it can more often result in injustice rather than the adjudication of justice. This is a distinct perspective that builds upon the “team” mentality in achieving desired ends.</p> <p>If a court is committed to improved caseflow management, the clerks at the front counter, entering data, making docket entries, and supporting courtroom operations need to be in on the program to avoid self-defeating behavior behind the scenes.</p> <p>To promote equality and fairness, the whole organization must be actively involved.</p> <p>The concept of street-level bureaucracy was first coined by Michael Lipsky in 1969, who argued that “policy implementation in the end comes down to the people [(the street-level bureaucrats)] who actually implement it.”</p> <p>However, the process of street-level bureaucracy has been around for a much longer period. A “government will be better accepted if its administrators [e.g., bureaucrats] reflect the origins [and needs] of its people”, an ideal which embodies the goals of an effective street-level bureaucracy.</p>	<p>Stakeholders Slide(s) 78</p> <p>Court Staff Consultation Slide(s) 79</p>
<p>Having had the discussion of stakeholder consultation, participants rate this fundamental from 1 to 10 (second of seven fundamentals ranked on the case management readiness exercise).</p>	<p>Rate the Court’s Stakeholder Consultation Slide(s) 80</p>
<p>Introduce the idea of court supervision by discussing the four principles court supervision.</p> <p>Inquire with the group if they have seen these axioms played out in their court? If so, how? How did the experience cause them to change (if at all) the methods in how they processed cases?</p> <p>The overarching point to these principles is that courts cannot <i>force</i> resolutions. A case progresses toward disposition when parties are ready and have sufficient information upon which to act. The court must therefore make its expectations clear to the attorneys. And attorneys must understand those expectations and communicate them to their clients so that a</p>	<p>Court Supervision Slide(s) 81 through 83</p>

<p>decision can be rendered on how they would like to proceed. Provide an example of monitoring the progress of a case using the Civil Division Case Information Sheet (CIS) handout.</p> <p>The automatic case management system provides for the entry of mandatory data and information on the caseflow, such as: the date of registration of the claim, the date of scheduling the case for hearing, the reasons for adjournment of the case, etc. The use of the system capabilities and its settings may allow to automatically monitor the progress of the case, which will greatly simplify the work of employees/staff under a heavy workload.</p>	
<p>Discuss the need to ensure that actions occur when they are calendared. Meaningful events bring the case at least one-step closer to resolution. Mention American Bar Association (ABA) in defining the commencement of litigation to its resolution, whether by trial or settlement, <i>any elapsed time other than reasonably required</i> for pleadings, discovery, and court events is unacceptable and should be eliminated. Reference and distribution of the white paper entitled: <i>We Don't Have Enough Resources to Reduce Court Delay: Caseflow Management as a Tool to Provide High-Quality Justice that is Affordable as Well as Prompt</i> by David C. Steelman, outlines a number of findings regarding the importance of meaningful events.</p> <p>For instance, in Orange County, Florida, not having meaningful court dates for pretrial conferences and trials in felony, misdemeanor, and juvenile delinquency cases cost the court and its justice partners about \$4.2 million worth of wasted personnel time each year. In Osceola County, Florida, the wasted time cost about \$3.1 million in personnel expenses each year.</p> <p>These losses were the equivalent of having <u>two</u> more judges, about <u>ten</u> more line prosecutors and <u>ten</u> more assistant public defenders, <u>four</u> more courtroom clerks, <u>four</u> more corrections and juvenile detention officers, <u>ten</u> more law enforcement officers, and <u>more support staff</u> for the Court, State Attorney's Office, Office of the Public Defender and law enforcement agencies.</p> <p><u>Several caseflow management improvement steps to promote more meaningful events were made including:</u></p> <ol style="list-style-type: none"> 1. Reduction of unnecessary continuances. 2. Use of Differentiated Case Management (DCM) as a tool for early and continuous court control of case progress. 3. Early and continuous case management attention to discovery requirements. 	<p>Create Meaningful Events Slide(s) 84</p>

<p>4. Early judicial settlement conferences. 5. Adoption of a plea cutoff policy.</p>	
<p>Show how the adoption of these principles is beneficial to both internal and external stakeholders.</p>	<p>What's In It For Me? (WIIFM) Slide(s) 85</p>
<p>Having had the discussion of court supervision, participants rate this fundamental from 1 to 10 (third of seven fundamentals ranked on the case management readiness exercise).</p>	<p>Rate the Court's Supervision Slide(s) 86</p>
<p>Introduce the importance and relevance of performance benchmarks with exercise. Review separate PowerPoint slides and materials. Benchmarking exercise with males versus females passing around a tennis ball in benchmarking who does it the fastest. Compete first with fastest time between the two groups and then fastest time ever seen by instructor. Link the exercise to the evolution and practice of caseflow management.</p>	<p>Benchmarks Slide(s) 87 Benchmark Exercise Slide(s) 88</p>
<p>Setting goals and standards improves processing at all benchmark levels. Include and distribute example of Judicial Performance Report (micro) and Case Management Report (macro) handouts. Setting goals and standards improves processing on both a macro and micro level. These are specific examples of Macro and Micro standards/goals. Three Types of Standards & Goals Macro (analysis of broad, wide-ranging data)</p> <ul style="list-style-type: none"> • Overall docket or court • Filing to resolution <p>Meso (analysis of group of judges or teams)</p> <ul style="list-style-type: none"> • Performance between different judges of the same docket or team <p>Micro (analysis of individual judge calendars or a subset of the docket's cases or calendar)</p> <ul style="list-style-type: none"> • Specific cases • Time between events • Cases nearing time standards <p>Related performance goals (in accordance to benchmarks)</p> <ul style="list-style-type: none"> • Continuances • Cases over the standard 	<p>Benchmarks Slide(s) 89</p>
<p>If a court is to be successful, it needs to evaluate its performance in a consistent manner. To do so, courts need to set standards for themselves and measure their processes and performance against recognized best practices. This is commonly referred to as benchmarking in management parlance and is relatively uncomplicated.</p>	<p>Benchmark Process Model Slide(s) 90</p>

<p>Introduce the steps that are involved in the benchmarking process.</p>	
<p>Prior to engaging in the benchmarking process, the total process flow needs to be given due consideration. Therefore, many courts choose to document such processes in detail (a process flowchart is deemed to be ideal for this purpose), so that omissions and errors are minimized; thus, enabling the court to obtain a clearer idea of its strategic goals, its primary operational processes, litigant expectations and critical success factors.</p> <p>An honest appraisal of the court’s strengths, weaknesses and problem areas would prove to be of immense use when fine-tuning such a process</p> <p>The methodology adopted and the way in which output is documented should be given due consideration too. A capable team should be established to carry out the benchmarking process, with a leader or leaders being duly appointed, to ensure the smooth implementation of the benchmark proposal and eventual implementation.</p>	<p>Planning Slide(s) 91</p>
<p>Information can be broadly classified under the subtexts of primary data and secondary data.</p> <p>When engaging in primary research, the company that is due to undertake the benchmarking process needs to redefine its data collection methodology.</p> <p>Drafting a questionnaire or a standardized interview format, carrying out primary research via the telephone, e-mail or in face-to-face interviews, making on-site observations, and documenting such data in a systematic manner is vital if the benchmarking process is to be a success.</p>	<p>Data Collection Slide(s) 92</p>
<p>The National Center for State Courts has described a “high performing” court as one that:</p> <ul style="list-style-type: none"> • Uses administrative principles and processes to gain operational excellence and implement improvements. • Understands and leverages the organizational culture. • Uses performance measures to assess operations. • Conducts ongoing steps to improve performance. 	<p>Data Analysis Slide(s) 93</p>
<p>European Commission for the Efficiency of Justice (CEPEJ) considers court administration within the concept of the quality of justice “<i>as comprising not only the quality of judicial decisions and key aspects of judicial service delivery, but all aspects that are relevant for the good functioning of the justice system, typically assessed through the user perception. Measuring in this way means considering the quality aspects that go beyond the quality of the decisions and include a variety of elements such as the clarity of the procedure and judicial decisions, on-time individual</i></p>	

<p><i>procedural steps, the accessibility of the offices and the ease of use of available tools.”</i></p>	
<p>CEPEJ demands of the member states of the Council of Europe to have court performance standards, criteria and indicators in place and regularly checks availability thereof. Refer to the following CEPEJ recommendations:</p> <ul style="list-style-type: none"> • <i>Monitoring and evaluation systems should facilitate the improvement of the efficiency of justice and the quality of the work delivered by the courts, and therefore to effect a more consistent implementation of policies</i> • <i>As part of the management of courts, a periodic evaluation and monitoring of the quality of justice and of the court performance is recommended</i> • <i>Information on the level of court users’ and court personnel (judges and staff) satisfaction (and trust) in the courts are relevant tools for the policies of quality of judicial systems</i> 	
<p>In 2015, the Council of Judges of Ukraine (COJ) approved the Court Performance Evaluation Framework (standards, criteria, indicators and methods) which included four areas of evaluation: <i>efficiency of court administration, case disposition timeliness, quality of court decisions, and level of satisfaction of court users (litigants) with court operations.</i> On April 16, 2016, the COJ approved the Guidelines for the application of the Framework and the list of the basic court performance indicators of its operations’ conformity with evaluation criteria to be applied by the courts every 6 months as well as yearly.</p> <p>The COJ Decision No. 26 of April 08, 2016, recommends to the courts to use the proposed templates of the analytical report on court performance evaluation and the plan of court performance improvement based on the results of its work.</p> <p>The COJ Decision No. 53 of August 17, 2018, “On Applying the Court Performance Evaluation System (CPES)”: in order to receive information about the current situation in the courts and assessing the needs of the justice system, to evaluate the quality of the court system functioning, including the identification of the actual level of each judge’s workload, compliance with procedural deadlines for case disposal. It was recommended to evaluate the Ukraine’s courts performance using basic court performance indicators (Annex IV to Methodological Guide «Applying the Court Performance Evaluation System») and post the basic court performance indicators for the first half of 2018 on the portal of Ukraine’s judiciary in the section “Court performance indicators” of the court web-page.</p>	

<p>It was also recommended to all courts of Ukraine to conduct a survey of judges and court staff during November – December 2018, and during December 2018 – January 2019 conduct a survey of court visitors regarding the quality of court operations.</p>	
<p>A formal action plan that promotes change should ideally be formulated keeping the organization's culture in mind, so that the resistance that usually accompanies change is minimized. Ensuring that the management and staff are fully committed to the process and that sufficient resources are in place to meet facilitate the necessary improvements would be critical in making the benchmarking process, a success.</p>	<p>Implementation Slide 94</p>
<p>As with most projects, to reap the maximum benefits of the benchmarking process, a systematic evaluation should be carried out on a regular basis. Assimilating the required information, evaluating the progress made, re-iterating the impact of the changes and making any necessary adjustments, are all part of the monitoring process. As is clearly apparent, benchmarking can add value to the organization's workflow and structure by identifying areas for improvement and rectification.</p>	<p>Monitoring Slide 95</p>
<p>Show and discuss the different types and collection methods of data.</p>	<p>Macro-Meso-Micro Data Level Illustration Slide(s) 96 through 97</p>
<p>Use as an example to demonstrate the various processing standards as they are applied by the different organizations.</p>	<p>Criminal Division Processing Standards Slide(s) 98</p>
<p>Explain the abbreviations for each of the organizations that are depicted here as an example. Review the model standards as they pertain to the noted case types. These standards are designed for use by select judiciaries as a basis for establishing its own time standards covering general and limited jurisdiction courts. The court's leadership has an obligation to assess the organization's performance on a set of empirical measures.</p>	<p>Approved Model Standards Slide(s) 99 through 103</p>
<p>Draw on the experience and perspective as these model standards compare with Ukraine's standards (if any).</p>	
<p>The four administrative principles emphasized in the High Performance Court Framework clarify what court leaders and managers can do to produce high quality in the administration of justice. They indicate the kind of administrative processes judges and managers consider important and care about. Promptness is a necessary but not sufficient condition for effective justice. Speed by itself does not constitute justice.</p>	<p>High Performance Court Administrative Principles Slide(s) 104</p>

<p>Adoption of time standards for the measurement of court performance is not enough. To assure successful compliance:</p> <ol style="list-style-type: none"> 1. The nature and importance of the standards as performance goals must be communicated to judges/staff/justice system partners. 2. Information must be used by court leaders and managers throughout the court system to measure compliance with time standards in terms of both efficiency (age of pending caseload) and productivity (times to disposition) and take necessary corrective action. 3. Take a leadership role in collaboration with judges, court managers and staff, lawyers, and others in the court process to develop and maintain broad support and understanding of policies and programs to reduce and avoid delay. 4. The court should ensure it has the appropriate level of resources to achieve high performance of its constitutional functions. <p>Organizing the work of the court is within the authority of the chief of staff, and control over exercising the powers is assigned to chief judge. A model regulation on court staff, approved by the Order of the State Judicial Administration № 131 of February 8, 2019, entrusts precisely to the chief of staff the preparation of the court work plans, and the chief judge approves and further controls the implementation of the planned measures.</p> <p>Unfortunately, most courts demonstrate a formalist approach to planning their work and conducting a proper analysis of the implementation of the plan. The situation can be improved by involving judges of the relevant court in the planning process who as part of the working groups will be able to participate in the planning process and further work on improving the performance indicators. But for this purpose, it is necessary to use the potential of Judicial Self-Government by involving the Council of Judges of Ukraine, and to develop a respective system for monitoring the work plans implementation and providing methodological recommendations.</p>	
<p>The court's leadership is responsible for identifying and applying best practices.</p> <p>On a regular and consistent basis, determine performance using the applicable time standard.</p> <p>Courts need a common definition of a case, of when a case begins and when a case is disposed.</p> <p>Court leadership must set the tone and demonstrate the importance of these accountability measures.</p>	<p>3 Benchmarking Rules Slide(s) 105</p>

<p>Cassation courts should have measures as a matter of court policy and not subject to any substantial differences among individual judges and/or courts. Statistics should be published and promulgated in each cassation court.</p>	
<p>Ensure that the importance and emphasis to provide an environment that supports the timeliness of the model time standards. Emphasize the link to judicial independence, public trust and confidence, customer service, and adequacy of funding to develop consensus among the variety of stakeholders. Performance should be reviewed and distributed on a regular, consistent, and uniform basis. Internal and external stakeholders should meet and convene on the tailored time standards affecting each of the jurisdictions. Provide an example of an annual court performance report showing the data. Caseflow management policies and data should be included in ongoing hiring and training initiatives for court staff. Review Dunn’s policy perspective paradigm in detailing the cycle of policy – forecasting, recommendations, monitoring, and evaluation.</p>	<p>8 Implementation Steps Slide(s) 106 through 107</p>
<p>The plan should indicate how the court will exercise early and continuous control of caseflow including:</p> <ul style="list-style-type: none"> • Use of reports to assess and monitor caseload progress. • Early court intervention to screen cases for prompt disposition, alternatives to adversarial adjudication, DCM, scheduling of discovery and other pre-disposition events • Emphasis on meaningful court events and early attention to prospects for disposition by alternative means • The impact of court leadership and justice partners developing coordinated case management policies. 	<p>Case Management Plan Slide(s) 108</p>
<p>Having had the discussion of benchmarks, participants rate this fundamental from 1 to 10 (fourth of seven fundamentals ranked on the case management readiness exercise).</p>	<p>Rate the Court’s Benchmarks Slide(s) 109</p>
<p>Introduce the fundamental by discussing the continuance cycle of granting the adjournments/postponements of events and the problems that it creates in the system. Ask participants about the difficulty to control continuances in their court? Why does this prove so difficult in practice? Provide participants with the Criminal Justice System Vision Handout as an example to show the disconnect between the theory and practice.</p>	<p>Controlling Continuances Slide(s) 110 through 111 Continuance Cycle Slide(s) 112</p>
<p>Provide participants with the Green Sheet Civil Division</p>	<p>Continuance Control</p>

<p>Handout as an example and discuss the effects of continuances including:</p> <ul style="list-style-type: none"> • Loss of time and money • Delay of individual justice • Delay of entire workflow • Affects attorney-readiness <p>In case of excessive workload due to the large number of cases to hear, the adjournment of the case requires additional time of the judge and his staff to prepare the case for further hearings. Therefore, by adjourning cases, in addition to the extra cost and delaying a fair decision, judges create an additional burden for themselves. I would recommend that the judge's office/staff spend more time preparing the case for hearing, informing the parties again right before the hearing and explain the negative consequences of adjourning the case. Judges also need to take a more principled position when deciding on rescheduling a case hearing, but without violating the parties' rights. Adjourning the case affects not only their workload but also the public confidence in justice in general.</p>	<p>Slide(s) 113</p>
<p>Show and discuss how meaningful events proceed toward oral arguments and drive the dispositions of filings.</p>	<p>Filtered Funnel Slide(s) 114 Multiplier Effect Slide(s) 115</p>
<p>Demonstrate the two contrasting impacts on the system for a caseload of 10K filings. Increased workload of a judge due to increased backlog because of adjourned cases adversely affects not only that judge but also the work of the entire court. As the consequence of adjourned cases is the increased burden over the whole court staff. Thus, by paying more attention to the preparatory procedures in scheduling a case for hearing right before the hearing, judges and their staff can reduce not only their workload but also the workload of other court staff.</p>	<p>Adjournment Workload Effect Slide(s) 116 through 118</p>
<p>Provide participants an example how delay impacts the capacity of the jail. When the differences are shown, raise the questions for the participants to consider: Do you need a new jail or a more efficient way of conducting business? Do you have a budget problem or a management problem? Provide participants with the mass calendar call of 120 cases. Communication and cooperation among judges assistance of clerk, court administrator, or judge's secretary. Consider assignment system and the need for specific action plans. Ask participants whether their courts have a formal continuance policy? Is it enforced? If not, why not? These</p>	<p>Impact of Delay Slide(s) 119 Calendar Factors Slide(s) 120</p>

<p>are some of the considerations when deciding how many cases to set on the calendar. There is no magic formula, and the interceding factors are numerous. Even when a good system is developed, it should be monitored regularly to ensure that no outside changes warrant adjustment.</p>	
<p>Review the differences and examples of granting a continuance for good cause. Good cause <u>does not</u> mean:</p> <ul style="list-style-type: none"> • Counsel agreed to the continuance. • A continuance was not previously granted. • Case would probably settle if a continuance were granted. • New counsel has entered an appearance, or a party wants to retain new counsel. • Good cause <u>may</u> mean: • Sudden medical emergency of counsel or parties. • Party failed to receive notice of court event through no fault of counsel or party. • Facts or circumstances arising that would likely cause hardship or miscarriage of justice. • Illness or family emergency of counsel. 	<p>Continuance Policy Slide(s) 121</p>
<p>Having had the discussion of controlling continuances, participants rate this fundamental from 1 to 10 (fifth of seven fundamentals ranked on the case management readiness exercise).</p>	<p>Rate the Court’s Control of Continuances Slide(s) 122</p>
<p>Introduce the fundamental by discussing that it is not <u>if</u> the case is resolved, but rather <u>when</u>. Review the four steps to provide firm and credible event dates. While the judiciary is a separate branch of government, it cannot function completely independently. Courts depend upon other government bodies to determine their level of funding. Judicial leaders have the responsibility to justify what funding level is necessary and to establish administrative structures and management processes that demonstrate they are using the budget wisely. Measuring compliance with established time standards is a critical foundation for building evidence-based requests for additional resources. It ties budget proposals to the mission of meeting agreed-upon goals. Courts that adopt model time standards, measure compliance, take steps to promote compliance, and take steps to effectively govern, organize, administer and manager their court system are well-positioned to request and justify the resources needed to enable the courts to hear and dispose of cases in a timely manner.</p>	<p>Early Resolutions Slide(s) 123</p> <p>Case Management Plan Slide(s) 124 through 125</p> <p>Case Management Resources Slide(s) 126</p>

<p>Reintroduce court management paradigm to link to the case management resources.</p>	<p>Principles of Court Management Paradigm Slide(s) 127</p>
<p>Review Solomon’s proven techniques for managing cases. Ask participants what happens when external stakeholders come to expect that event activities will occur as scheduled?</p> <ul style="list-style-type: none"> • Causes parties to be prepared • Promotes earlier negotiated outcomes • How do we get there? • Maximize dispositions before setting trial dates • Have realistic calendar setting levels • Create and enforce a reasonable policy limiting continuances is critical <p>To the extent the court can accommodate the personnel and judge capacity, cases should proceed with substitute judges if judge on the original calendar is unavailable.</p>	<p>Solomon’s Techniques Slide(s) 128</p> <p>Effects of Techniques Slide(s) 129</p>
<p>Briefly summarize backlog and how it is defined across a wide spectrum of jurisdictions. Identify the three broad approaches that courts can do in mitigating and addressing an existent backlog while also preventing its reoccurrence.</p>	<p>Defining Backlog Slide(s) 130</p> <p>Management Tasks for Targeting Backlog Slide(s) 131 through 133</p>
<p>Having had the discussion of early resolutions, participants rate this fundamental from 1 to 10 (sixth of seven fundamentals ranked on the case management readiness exercise).</p>	<p>Rate the Court’s Early Resolutions Slide(s) 134</p>
<p>Relate story on Hawthorne Effect (1930’s industrial engineering study on effects of working conditions on worker productivity). Hawthorne Electrical Works – Looked at one of its small sub-assembly plants, an old dark factory. Told workers they were going to be studied. Increased lighting level = productivity increased Painted the area to a brighter more pleasant color = productivity increased Added an additional break in the a.m. and the p.m. = productivity increased To further test the theory, they took away the breaks = productivity increased Moved them to a less pleasantly painted work area = productivity increased Dimmed the lighting to original levels and = productivity increased What they discovered was that it was not the conditions that changed productivity, but that someone was paying attention to their output. What you count, counts...and has an enormous impact on</p>	<p>Information Systems Slide(s) 135</p> <p>Hawthorne Study Slide(s) 136 through 137</p>

<p>organizational behavior. The plural of anecdotal is not evidence. Discuss example of chief prosecutor during Speedy Trial Committee meeting.</p>	
<p>Discuss the three tiers of case management reports and provide participants with handout examples of each.</p>	<p>Caseflow Management Report Levels Slide(s) 138</p>
<p>Briefly highlight the appellate CourTools with handouts of measures 2, 3, and 4. Include the handout of the rationale for measuring court performance utilizing the CourTools to demonstrate the overarching importance. Based on the information available on the official web pages of the appellate courts of Ukraine, we can conclude that most of them use the basic indicators of the CPES system recommended by the Council of Judges of Ukraine Decision No. 28 of April 2, 2015. The courts web pages contain the basic indicators for 2018 and 2019. Some courts publish this information quarterly. Indicators such as: percentage of disposed cases; the average length of the case consideration fully coincide with the CourTools evaluation criteria (2, 3 and 4). One-third of the appellate courts of general jurisdiction continue to use the basic performance indicators, approved by Decision No. 21 of the Council of Judges of the General Courts of Ukraine on February 13, 2014, which also apply criteria that measure the percentage of cases disposed. But the majority of the 17 approved criteria are quantitative indicators that show the number of filed cases and materials; the number of disposed cases and materials; the number of backlogged cases from the previous period; the number of quashed decisions; the average number of cases and materials that were under consideration per judge; the average number of cases and materials considered per judge; and other quantitative indicators. This approach is a transitional one from the General Statistics Reports Approved by the State Judicial Administration and is based only on quantitative indicators. However, if we are evaluating the performance of a court, we should use the measurable indicators to be calculated based on the data from the automated case management system. Such a possibility exists, however it is necessary to further develop the appropriate algorithms. Provide an overview of the three measures in addition to the Backlog per 100 measure Refer participants to www.CourTools.org for more details about these key caseflow performance measures. The CourTools are now widely accepted measurement criterion</p>	<p>Appellate CourTools Slide(s) 139</p> <p>Why Use CourTools Slide(s) 140 through 141</p> <p>Time Slide Slide(s) 142</p>

<p>and a growing number of courts now use these criteria to determine how effectively cases are processed. Thoroughly review each CourTool (2, 3, & 4). Ask questions of the class to see if they understand how they are interconnected and can provide a clear picture of the court's caseflow issues when used in concert with one another. All these measures are ultimately about measuring TIME</p>	
<p>Refer to the Court Performance Evaluation Framework and basic court performance indicators approved by the COJ decision No.29 from April 2, 2015:</p> <ol style="list-style-type: none"> 1) Number and percentage of cases and case files pending for over one year. 2) Clearance rate. 3) Average number of considered cases per one judge. 4) Average number of cases and case files pending during the reporting period per one judge. 5) Average case disposition time (calendar days). 6) Conducting surveys of citizens – participants of court proceedings about their satisfaction with court operations. 7) Publishing results of surveys of citizens – participants of court proceedings on court webpage. 8) Level of satisfaction of citizens – participants of court proceedings with court operations according to results of survey conducted under a unified methodology. <p>It worth mentioning that not all courts in Ukraine use the CPES basic indicators, approved by the COJ Decision No. 28 of April 2, 2015, and recommended for use every three years. Part of the courts of general jurisdiction use in their work the basic performance indicators, approved by Decision No. 21 of the Council of Judges of the General Courts of February 21, 2014, according to which the management of local and appellate courts of general jurisdiction is obliged to include the basic court performance indicators in the semi-annual and annual work plans, and based on the results of the analysis of indicators, - to take measures for increasing efficiency of organization and operation of the respective court. The Council of Judges of the General Courts with this decision also ruled that it is necessary to perform a systematic analysis of the organization of the courts based of the data received from the courts. Additionally, some courts use in their work formal generalization/summaries based on statistical reports. Thus, there is a need to streamline and create a single, unified approach to application of the court performance benchmarks. Given the good experience in implementing the CPES criteria, it would be advisable for the Council of Judges of Ukraine to continue its work in this area and oblige</p>	<p>Attachment XVII of Part 4 – Materials (COJ Decision No.29 from April 2, 2015, on CPE Basic Indicators)</p>

<p>all courts to include into semi-annual and annual workplans the CPES basic court performance evaluation information, to analyze the obtained data and take appropriate measures, and to inform the Council of Judges of Ukraine. This whole process can be made part of the automated case management system and fully automated. The Council of Judges of Ukraine, in its turn, may study the information received, summarize, and make appropriate recommendations to the courts that have unsatisfactory indicators.</p>	
<p>Explain the metaphor of a vehicle’s dashboard indicators and driving the vehicle to that of managing a court (judge = driver of vehicle; manager = vehicle’s mechanic).</p>	<p>Dashboard Perspective of Caseflow Management Slide(s) 143</p>
<p>Clearance rate is a tight measurement criterion that shows summarily whether a court is keeping current with its caseload (refer to the COJ Decision dated April 2, 2015 (Annex XVII) on approving the methodological guide “Application of the Court Performance Evaluation System”, which defines this indicator in CPE Guideline with reference to CEPEJ definition).</p> <p>Clearance rate measures whether the court is keeping up with its incoming caseload. If cases are not disposed of in a timely manner, a backlog of cases awaiting disposition will grow. This performance measure is a single number that can be compared within the court for all case types, on monthly or yearly basis, or between one court and another. Knowledge of clearance rates by case-type can help courts pinpoint emerging problems and indicate where improvements can be made.</p>	<p>Clearance Rate Slide(s) 144</p>
<p>Refer to the processing standards and identify the differences between those standards to tailor the CourTool measurements to the individual court.</p>	<p>Processing Standards Slide(s) 145</p>
<p>Utilize as an example the specificity by which the measures can be tailored to the individual court.</p>	<p>Clearance Rates for Pre- and Post-Indictment filings. Slide(s) 146 through 149</p>
<p>This measurement criterion will show whether the court complies with disposition goals and standards.</p> <p>This measure used in conjunction with Clearance Rates (Measure 2) and Age of Active Pending Caseload (Measure 4) is a fundamental management tool that assesses the length of time it takes a court to process cases. It compares a court’s performance with local, state, or national guidelines for timely case processing.</p>	<p>Time to Disposition Slide(s) 150</p>
<p>Provide participants with a description of Mean, Median and Percentile</p>	<p>Methods of Measurement Slide(s) 151</p>
<p>Show and explain the example charts of how median time was applied.</p>	<p>Median Time Intervals Slide(s) 152 through 157</p>

<p>It is critical to know how many cases are in a court’s pending inventory of active cases and their age. This criterion can also indicate whether a backlog exists and its severity. Having a complete and accurate inventory of active pending cases and tracking their progress is important because this pool of cases potentially requires court action. Examining the age of pending cases makes clear, for example, the cases drawing near or about to surpass the court’s case processing time standards. This information helps focus attention on what is required to resolve cases within reasonable timeframes (refer to the COJ Decision dated April 2, 2015 (Annex 1) on approving the methodological guide “Application of the Court Performance Evaluation System”, which defines these indicators in CPE Guideline with reference to CEPEJ definitions).</p>	<p>Age of Active Pending Slide(s) 158</p>
<p>Show and explain the example charts of how age of active pending filings was applied. (Instructor(s) to provide relevant Ukrainian examples)</p>	<p>Active Pending Filings Slide(s) 159 through 162</p>
<p>Provide formula [Backlog / (Most Recent 12 Months of Filings / 12) * 100] And work out the formula utilizing real figures. Provide Backlog per 100 handout article.</p>	<p>Backlog Per 100 Slide(s) 163</p>
<p>Briefly review the charts of how the performance measure was assessed in practice.</p>	<p>Backlog Per 100 Charts Slide(s) 164 through 166</p>
<p>Review the 10 recommendations to institute performance measures in the court.</p>	<p>Recommendations Slide(s) 167 through 170</p>
<p>Link the measures to shifting and supporting the court’s culture that is aligned with this perspective. Refer to the 1, 3, and 5-year strategic plan and the monitoring of goals. Link the strategic planning back to the purposes and responsibilities of the courts noted in Slides 16 through 19.</p>	<p>Build Cultural Alignment Slide(s) 171</p>
	<p>Strategic Plan Framework Slide(s) 172</p>
	<p>Goals/Monitoring/Accountability Slide(s) 173 through 174</p>
<p>Provide participants with the example of the pupillometer technology study. If probationer urine was negative, then the PT was baselined. Backlog reduction program for managed caseload of selected civil division judges (see case study of pupillometer article) Prior to commencing a new program, it is critical to know the status so that the organization can measure how it is progressing from that baseline. In particular, the court needs to know:</p> <ul style="list-style-type: none"> • Size & age of pending caseload • Rates of continuance and reschedule • Trends in filings and dispositions <p>Refer to the original slide about Time (Slide 142). It is through the measurement of time that the system ultimately if</p>	<p>Charting the Information Slide(s) 175 through 179</p>
	<p>Time = Justice Slide(s) 180</p>

justice is accomplished.	
Having had the discussion of information systems, participants rate this fundamental from 1 to 10 (final fundamental ranked on the case management readiness exercise).	Rate the Court's Information Systems Slide(s) 181

III. DIFFERENTIATED CASE MANAGEMENT

Training Notes	Presentation Content
<p>Define DCM including objectives, factors, and differences in a First In First Out (FIFO) system.</p> <p>Provide participant with DCM Factors Handout.</p> <p>Discuss the need for differentiation.</p> <p>Cases are different; not all cases fit neatly into one schedule.</p> <p>Cases needing a judge's attention may not get it, while cases not needing it may be brought before the judge</p>	<p>Differentiated Case Management Slide(s) 182 through 185</p>
<p>Provide participants with example of NJ Judiciary Civil Statistics Handout.</p> <p>Key elements of DCM. How do these work to promote effective caseload management?</p> <p>Early case screening for complexity based on established criteria.</p> <p>Assignment of cases to unique processing tracks based on screening assessment.</p>	<p>DCM Management Slide(s) 186</p>
<p>Identify three prototypical tracks and provide examples of each (simple, basic, and complex).</p> <p>Ask participants about the factors that can potentially make an appellate filing complex.</p> <p>There are generally three case management tracks, albeit research has supported the position that the number of tracks should reflect the requirements of the individual court rather than some arbitrary figure. The first level is often referred as <i>expedited</i> because they tend to be the simplest. These cases often move through the system with relative ease, require minimal judicial intervention, and should be expected to not go into backlog. The second level is regarded as <i>standard</i>. These cases are more difficult than expedited because while there is nothing exceptional or unique about them, they require more of the court's time for motions and conferences to resolve disputed points. The third level and a principal focus of this research is the <i>complex</i> track. For several reasons, cases are tracked into this category because of the time and difficulty that the matter is expected to engender. Notorious or high-profile cases tend to be complex but setting a reasonable (but firm) trial date is the most important factor in managing the case. The trial date sets the tone from</p>	<p>DCM Characteristics Slide(s) 187</p> <p>DCM Tracks Slide(s) 188</p>

<p>which the attorneys are expected to schedule and complete all other events leading up to the trial.</p> <p>Goerdts et al. research was consistent with this finding in that “a firm trial date policy (i.e., a high percentage of jury trial cases starting on the first scheduled trial date) was the best predictor of faster case processing times”.</p> <p>Apart from high profile cases, the literature suggested that designating cases into a complex track is a highly individualized process. It does not cite any formula that can be universally applied to all courts.</p> <p>In fact, scholars advocate quite the opposite. Steelman and associates stated that “a court might determine that its cases need even further differentiation than can be accommodated within this simple three-part scheme”.</p> <p>Several factors impact the court’s ability to process both simple and complex case types. The National Association for Court Management (NACM) enumerated the following issues:</p> <ul style="list-style-type: none"> • Court system and trial court organization and authority relationships, including the mentorship of judges by judges. • The identification, development, selection, and succession of chief judges and court managers, chief judge/court manager executive leadership teams, and the best use of these and other multi-disciplinary executive teams. • Allocation of court resources: judges, managerial, technical, and administrative staff; budgets; technology; and courthouses, courtrooms, and other facilities across courts, court divisions, case types, and types of hearings • Application of court technology and the court’s research, data, and analytic capability. • Coordination with the judiciary’s justice system partners. 	
<p>Inquire participants to consider the alternative dispositions of cases.</p>	<p>Alternative Dispositions Slide(s) 189</p>
<p>Briefly describe this in the historical context of the literature. Provide participants with the example of Full Time Equivalent FTE judge impact on Backlog per 100 measure. Link it to the lessons that have been learned in the court administration profession.</p>	<p>Delay Reduction Evolution Strategies Slide(s) 190</p> <p>Lessons Learned Slide(s) 191</p>
<p>Although courts occasionally need more resources, heavy caseloads, increased case complexity, trial rates and other impositions are not necessarily solved by more judges, staff, rules, or resources.</p> <p>Without court commitment to caseflow principles and active management of cases, delay will not be reduced.</p>	<p>Differences/Similarities Slide(s) 192</p>

<p>Depending upon whether your class consists of all large, all small or a mixed group, this question will come up... there are clear differences in managing large or small, rural, or urban courts.</p> <p>Some will argue that most of the caseload research has been directed solely to large, urban courts, and therefore does not reflect the small, rural court experience.</p> <p>The bottom line is that management techniques will change, but the caseload fundamentals remain the same. Explore some of the different techniques that work in one setting or another, but always bring it back to the caseload fundamentals.</p> <p>Courts can and should consider different techniques, but because of the preferences of the judges, staff, and Bar, not because they are rural or urban.</p>	
<p>Conclude with this slide drawing on the elements of caseload fundamentals and sound management and accountability.</p>	<p>Active Management Slide(s) 193</p>
<p>Participants define what makes a case complex (can be done individually or in groups).</p>	<p>DCM Exercise Slide(s) 194</p>

IV. CHANGE MANAGEMENT AND CONCLUSIONS

Training Notes	Presentation Content
<p>It's not the change, it's the transition lead in... If we want to effectively manage change, we must understand the dynamics of change.</p>	<p>Managing Change Slide(s) 195</p>
<p>Share change article reference in Management Musings.</p>	<p>Change Mindset Slide(s) 196</p>
<p>This list illustrates why resistance to change is to be expected and, hopefully, provides insight as to what needs to be addressed to counterbalance resistance. As Dale Lefever, senior faculty for the Institute for Court Management (ICM), once said, "If they don't know why, the price is too high." Everything is difficult before it is easy. Refer to the dynamics of change. Discuss the passive and active stages of change that occur naturally whenever court leaders attempt to institute it.</p>	<p>Resistance to Change Slide(s) 197</p>
	<p>Change Transition Slide(s) 198</p>
	<p>Stages of Resistance Slide(s) 199</p>
	<p>Categories of Resistance Slide(s) 200</p>
<p>Theory → research → policy</p>	<p>Problem Identification Slide(s) 201</p>
	<p>Project Life Cycle Slide(s) 202</p>
<p>Provide participants with jury Management experience in changing filing system for pending indictments. Strategies for Managing Change in Courts:</p> <ul style="list-style-type: none"> • Begin with a pilot project • Develop a strategy for the backlog 	<p>Change Process Slide(s) 203</p>

<ul style="list-style-type: none"> • Approach the goal in stages • Give feedback of data showing the impact • Provide extra time for administrative judge • Provide adequate staff support • These are self-explanatory human tendencies toward change. 	
<p>Discuss various strategies to manage change in court organizations. Begin with a pilot project. Lead judge with an overarching strategy to reduce backlog Approach the goal in stages as in milestones – first 90 days, 6 months, 1 year, etc. Bolster stakeholder morale by accomplishing early successes (low hanging fruit for the first 3 to 6 months of the project). Give and promulgate feedback of data showing the impact of the project.</p>	<p>Individual Strategies Slide(s) 204</p>
<p>Participants outline a case management initiative that brings together the main objectives that were achieved in the course (can be done individually or in groups).</p>	<p>Case Management Readiness Exercise Slide(s) 205</p>
<p>Conclude by highlighting the following that characterizes a learning environment:</p> <ul style="list-style-type: none"> • Change: Problem Identification and Diagnosis • Stimulate action through appropriate comparisons and analyses • Continuous systemic and day-to-day evaluation • Use of statistics and objective data • Knowledge of the change process and application • Skill in working with funding sources 	<p>Learning Environment Slide(s) 206</p>
<p>Discuss the limited commonality in the responses and that when they mention the same topic, they have different “takes” on that topic. Neither the judges nor the administrators are “right” or “wrong,” they just approach the issue from different perspectives. It is essential to remember this when participants go back home and seek to sell people on their new ideas.</p>	<p>Common Challenges to Instituting Change Slide(s) 207</p>
<p>There are many ways that you can accomplish this: rearing children to be good citizens, volunteering, etc., but how fortunate for us as public servants to be able to achieve this mission by virtue of what we do for a living. BE ALL IN – Do not leave anything on the table. “Live life so completely that when death comes to you like a thief in the night, there will be nothing left for him to steal.” - Anonymous</p>	<p>Meaning of Life Slide(s) 208</p>

PART 4
MATERIALS

Introduction

- I Goals of the Caseflow Management Program
- II Roscoe Pound Address
- III Organizational Readiness Exercise
- IV Court Culture Exercise
- V Flowchart Exercise
- VI Benchmark Exercise
- VII Differentiated Case Management Exercise
- VIII Case Management Readiness Exercise
- IX Sample Backlog Forecast Report by Judge [as of Date]
- X Change Management Article(s)
- XI Managing Complex Change Paradigm
- XII Civil-Law Division Motion Screening Checklist
- XIII Civil Case Information Sheet
- XIV Backlog Per 100 Article
- XV Appellate CourTools

- XVI DCM Assessment Checklist
- XVII Decision of the Council of Judges of the General Courts of Ukraine No.21 from February 13, 2014 “On Approval of Basic Indicators of the Local and Appellate General Courts’ Performance Effectiveness”
- XVIII Methodological Guide “Applying the Court Performance Evaluation System”

Introduction

Course materials should be distributed to participants to enable them to understand the subject matter more fully, to reinforce their learning during the program, and to provide a resource for reference after the program. The materials should be placed in binders and each participant should receive one binder. The materials should be divided and numbered to correspond to the topics set forth in the class schedule.

The Course Materials in this Instructional Guide are arranged in the order that the topics appear in the 20-Hour Schedule in Part 2 and the Instructional Outline in Part 3. Various types of material are included, including substantive outlines, forms, checklists, and excerpts from other publications. The purpose of the Course Materials is not to be encyclopedic. Instead, materials are designed primarily for use during the program to help the participants achieve the learning objectives. In addition, some of the materials will be helpful references for the participants after the program as well.

Faculty members should critically review the Course Materials applicable to their topics well in advance of the program. Faculty members may need to update the materials and may want to modify them in accordance with their teaching styles and the participants' needs.

I Goals of Caseflow Management Program

As a result of this program, participants will be able to:

- 1) Describe the **purposes and responsibilities of the courts** and their direct impact on caseflow management.
- 2) Define the **fundamentals** of caseflow management.
- 3) Identify the characteristics of **effective leadership** and its impact on caseflow management.
- 4) Apply caseflow management **principles** into defining the purposes and responsibilities of the court.
- 5) Analyze standardized case management **performance measures and benchmarks**.
- 6) Create **caseflow charts** and assess the caseflow processes of the court.
- 7) Construct preliminary **differentiated case management (DCM)** tracks for selected case types.
- 8) Describe the **change management** process, acquire skills of **problem diagnosis** in caseflow management and develop an **action plan**.
- 9) Employ the use of **case management data** (data drawn from automated court case management systems) to assess court performance.

II Roscoe Pound Address
(available in a separate PDF file)

III Organizational Readiness Exercise

WAGENKNECHT-IVEY ORGANIZATIONAL READINESS ASSESSMENT ARE CONDITIONS RIGHT FOR DOING STRATEGIC PLANNING?

Circle the number within the range that is mostly closely aligned with the question (i.e. 6 represents complete agreement with the question on the left and 1 represents complete agreement with the question on the right)

1. People have time to participate in developing and following through on the strategic plan.	6 5 4 3 2 1	Everyone is too busy with other, more pressing matters.
2. There is an urgent and compelling need – or pressing reason or opportunity – to do strategic planning.	6 5 4 3 2 1	An urgent, pressing, or compelling need, reason, or opportunity is absent.
3. There are several champions or sponsors for the strategic planning process and the completed strategic plan.	6 5 4 3 2 1	There are no leaders within the organization willing to lead the effort, build support for, or implement the plan.
4. Organizational leaders (judges, administrators, and managers) are genuinely interested in and willing to critically assess the court's performance.	6 5 4 3 2 1	Leaders are uninterested in a critical analysis and unwilling to hear or listen to things that should be improved; they think what the organization is doing and how it is performing are just fine.
5. Leaders and managers are willing to change the priorities of the organization and do business/work differently in the future.	6 5 4 3 2 1	Change is unlikely; the organization will not likely re-think and/or shift its priorities or change and improve how cases are processed and managed or what and how programs and services are delivered.
6. There is stability in the organization's leadership.	6 5 4 3 2 1	There is a volatile, political internal or external climate where the organization's leadership is likely to change and consequently, the organization's direction and priorities are likely to change.
7. Based on the strategic plan, the organization is willing and likely to shift how its resources are	6 5 4 3 2 1	It is likely that the organization's strategic plan will not shape or affect the budgeting process and how

distributed and utilized.		resources are deployed.
8. Organizational leaders will collectively work together to follow through on the strategic plan.	6 5 4 3 2 1	It is likely that judges, court managers, and court staff will continue to do what they have always done and the responsibility for implementing the strategic plan will fall to a select few.
9. The organizational culture supports an open and inclusive planning process that will determine the organization's long-term direction and priorities.	6 5 4 3 2 1	The existing leadership wants primary control over this.
10. The outcomes to be achieved and the benefits to be gained by developing and following through on a strategic plan are clear.	6 5 4 3 2 1	The desired outcomes and benefits to be gained are unclear; judges and staff are wondering why the court is doing strategic planning.
Total Score:		

IV Court Culture Exercise

Court Culture Exercise

The purpose of this exercise is to assess the Dominant Case Management Style dimension of your court culture. In completing the questionnaire, you will be providing a picture both of how your court **currently** operates in terms of this key culture-related value and how you would **prefer** the court to operate. There are no right or wrong answers for these questions.

The survey consists of one set of four statements. The statements in the table are expressions of values that might be more or less emphasized in the local legal culture of a particular court.

Identify the relative degree of CURRENT emphasis that you think is placed on the value by your court. Each question has four alternatives. Divide 100 points among these four alternatives depending on the extent to which each alternative best describes your court. Give a higher number of points to the alternative that is most descriptive of your court.

Turning to your PREFERRED emphasis, identify the relative degree of emphasis you would like to see your court embrace.

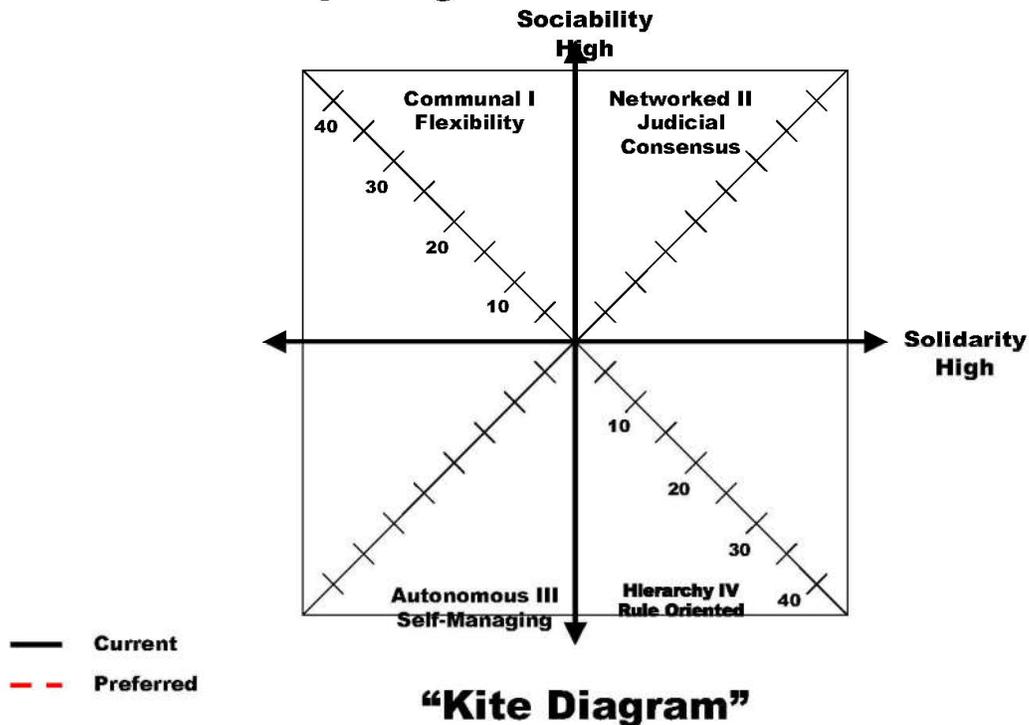
Dominant Case Management Style		Current	Preferred
I	There is general agreement on performance goals, but centralized judicial and administrative staff leadership is downplayed and creativity is encouraged. As a result, there are alternative acceptable ways for individual judges to apply court rules, policies, and procedures.		
II	Judicial expectations concerning the timing of key procedural events come from a working policy built on the deliberate involvement and planning of the entire bench. Follow through on established goals is championed and encouraged by a presiding (administrative) judge.		
III	There is limited discussion and agreement on the importance of court wide performance goals. Individual judges are relatively free to make their own determinations on when key procedural events are to be completed.		

IV	Judges are committed to the use of case flow management (e.g., early case control, case coordination, and firm trial dates) with the support of administrative and courtroom staff. Written court rules and procedures are applied uniformly by judges.		
Total		100	100

Graph your results on the attached Kite Diagram.

What organizational dynamics need to be addressed to move the court from its CURRENT reality to its PREFERRED state?

Comparing Current and Preferred



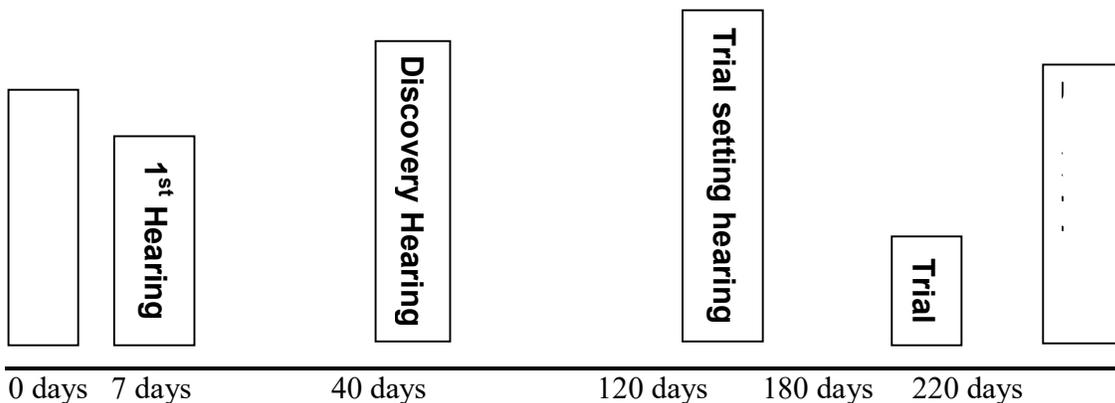
V Flowchart Exercise

Flowchart Your Current and Preferred Calendar Exercise

Choose a case type to diagram the flowchart of how the case moves through the current system.

1. Use either a straight-line flowchart or just a simple list, and identify the typical calendar activities in your current calendar assignment.
2. To the extent possible, show the order in which these events occur.
3. Try to identify the elapsed time between each of these events that typically occur in your calendar.
4. Define what activities need to occur at each event to make them meaningful and cause the case to move at least one step closer to resolution.
 - a. Person responsible
 - b. People directly involved
 - c. People to be informed
 - d. Target completion date
5. Prepare flow chart for new system and for each task
 - a. Person responsible
 - b. People directly involved
 - c. People to be informed
 - d. Target completion date

Sample straight-line flowchart:



VI Benchmark Exercise

(available in a separate PPT file)

VII Differentiated Case Management Exercise

Differentiated Case Management Exercise Identify the Simple, Basic, and Complex Case Characteristics to develop Preliminary Case Tracks

1. Each group will develop a preliminary track for a simple, basic and complex case.
2. Identify a short list of factors that can be identified at the time of filing by court staff that would make the case simple, basic, or complex.
3. Depict a timeline in accordance to the different events from the point of filing to disposition for each of the tracks. Similar to the flowchart exercise, illustrate the event activities along each of the noted tracks.

VIII Case Management Readiness Exercise

Caseflow Management Self-Assessment

Rank each of the fundamental areas of caseflow management for your court. The rating is a confidential score and will serve as a guide in developing your case management plan. For rankings less than 8, name two areas in need of improvement. For scores greater than 8, name two reasons to justify your rating.

Fundamental	Rank									
	More Improvement									Less Improvement
Leadership	1	2	3	4	5	6	7	8	9	10
Consultation	1	2	3	4	5	6	7	8	9	10
Supervision	1	2	3	4	5	6	7	8	9	10
Benchmarks	1	2	3	4	5	6	7	8	9	10
Continuances	1	2	3	4	5	6	7	8	9	10
Resolutions	1	2	3	4	5	6	7	8	9	10
Information	1	2	3	4	5	6	7	8	9	10
Column Totals										

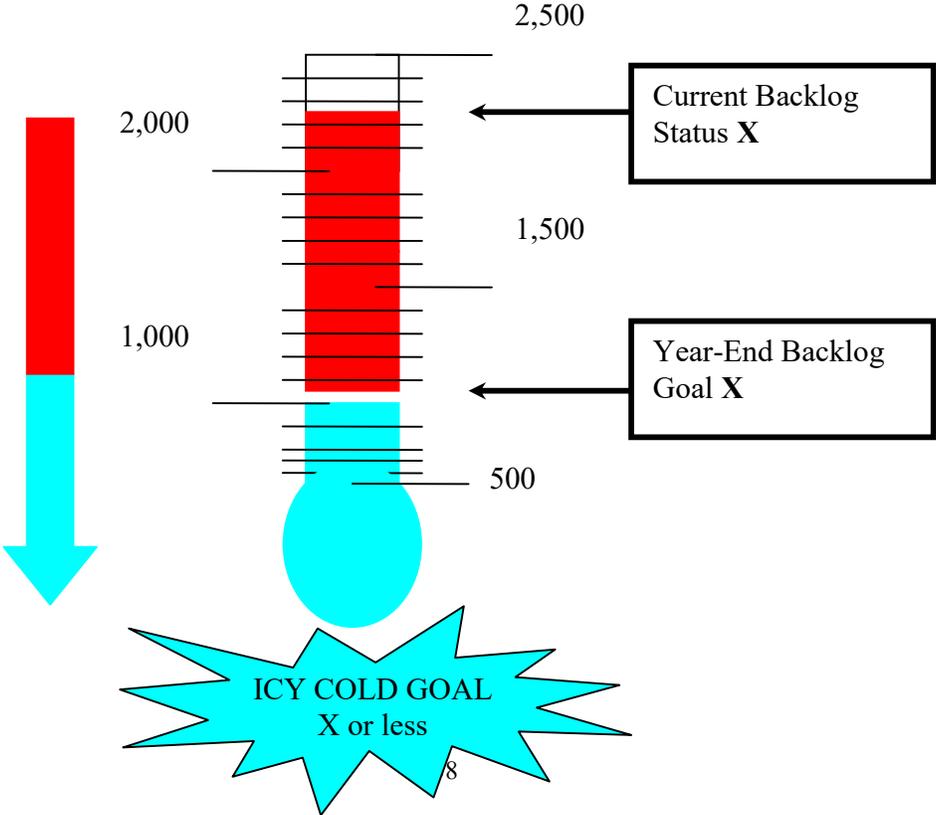
Grand Total _____ / 7 = Self Assessment Score:

Fundamental	Score	2 Areas in Need of Improvement (< 8) or 2 Reasons to Justify Rating (= 8 >)
Leadership		1: 2:
Consultation		1: 2:
Supervision		1: 2:
Benchmarks		1: 2:
Continuances		1: 2:
Resolutions		1: 2:
Information		1: 2:

IX Sample Backlog Forecast Report by Judge [as of Date]

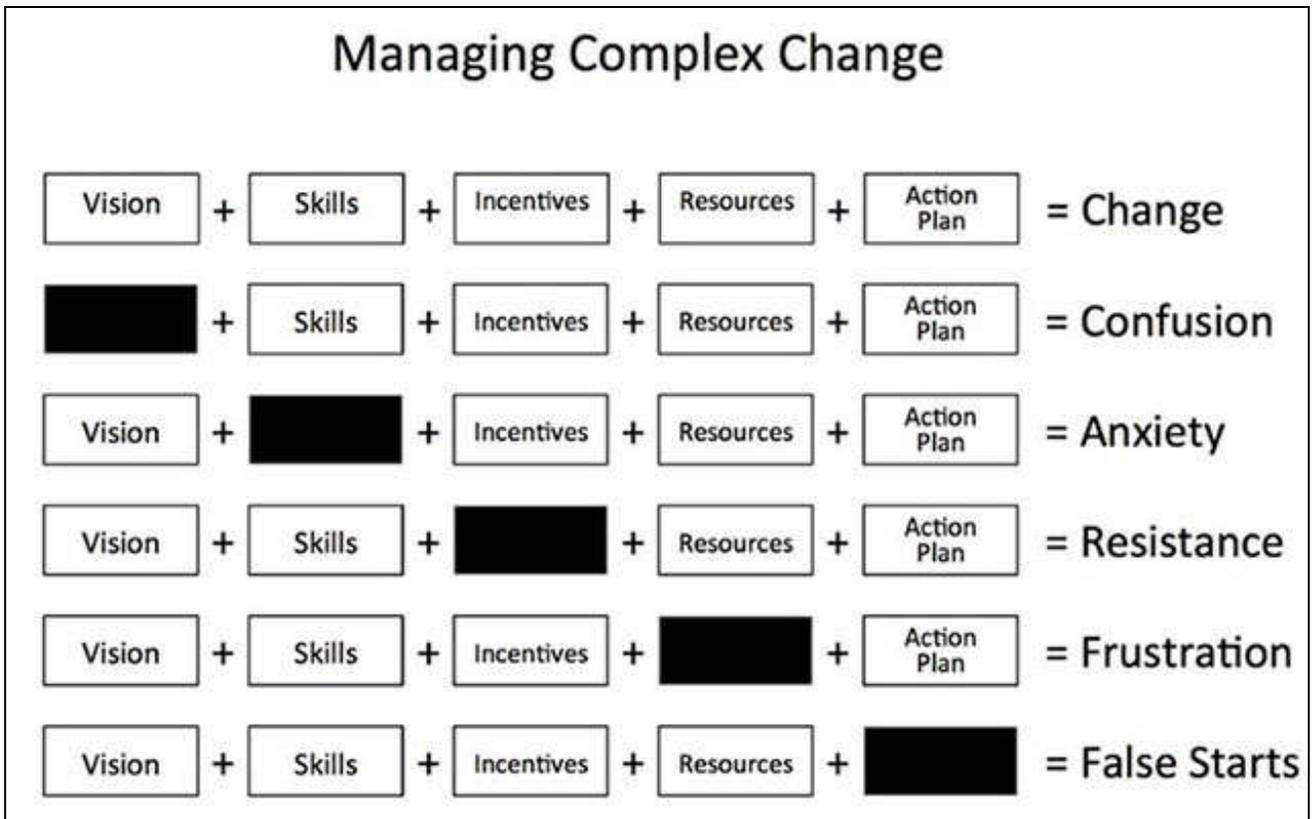
Judge	Backlog Reduction Goal (as of date or earlier)	Average Monthly Goal [Date]
A		
B		
C		
D		
E		
F		
G		
H		
I		
J		
K		
L		
M		
N		
O		
Division	X	X

Heat Index of Division Backlog Performance



X **Change Management Article(s)**
(available in a separate PDF file)

XI Managing Complex Change Paradigm



XII Civil-Law Division Motion Screening Checklist

Docket Number _____

Return Date _____

Case is in Backlog. Age of Case _____

Case is scheduled for Trial. Date of trial _____

Case is scheduled for arbitration. Date of Arbitration _____

Discovery End Date _____

Number of Prior Discovery Extensions _____

Other relevant information: _____

Date: _____

- M31 Motion to extend discovery.
- M33 Motion for 3rd Party.
- M17 Motion to consolidate.
- MB2 Motion to amend complaint.
- MJ7 Motion to change track assignment.
- MS2 Motion to stay.
- M80 Motion to compel discovery (filed after discovery end date).
- MB1 Motion to strike answer.
- M32 Motion to extend time to file an answer.

XIII Civil Case Information Sheet
(available in a separate PDF file)

XIV Backlog Per 100 Article
(available in a separate PDF file)

XV Appellate CourTools
(available in a separate PDF file)

XVI DCM Assessment Checklist

- 1) Case Types. All or some?
- 2) Defining DCM Tracks. What are the factors/priorities and their impact? What factors will be used, how will they be prioritized, are there any conflicting priorities, are some obvious and other more difficult to determine, and how much case supervision will ultimately be required?
- 3) Case Screening. What is the relevant information, how to collect, who will collect it and when?
- 4) Track Assignment. When will the tracks be assigned, who will do it, will it include litigant / attorney input, and how will disputes be handled?
- 5) Case Management. The eventual project plan should cover the fundamental bases: How will you intervene early? How will you control continuances? How will you promote early disposition? What standards will you establish? Also, a clear strategy will be needed to identify those decisions that should be addressed by rule, as opposed to those occurring on a case-by-case basis.
- 6) Case Monitoring. What management information will you gather and report to help identify problems and intervention points? Are challenges are occurring? Are goals being met?
- 7) Silo Coordination. Is intervention needed? The DCM plan must include a strategy to meet and confer with key stakeholders and adjust when needed.
- 8) Evaluation. What are the trends and how do they compare against the baseline data and standards?

XVII Decision of the Council of Judges of the General Courts of Ukraine No.21 from February 13, 2014 “On Approval of Basic Indicators of the Local and Appellate General Courts’ Performance Effectiveness”

(Ukrainian version available in a separate PDF file)

XVIII Methodological Guide “Applying the Court Performance Evaluation System”

(Ukrainian version available in a separate PDF file)

PART 5

VISUAL AIDS

Introduction

I-1 Welcome PowerPoint slides

I-2 Foundations of Caseflow Management (Theory) PowerPoint slides

I-3 Ernie Friesen Purposes of the Courts video

II-1 Fundamentals of Caseflow Management (Practice) PowerPoint slides

II-2 Benchmark Exercise PowerPoint slides

III Differentiated Case Management PowerPoint slides

IV Change Management PowerPoint slides

Introduction

This section of this Instructional Guide contains suggested content for Visual Aids. The Visual Aids are indented to support faculty members' oral presentations, including the video link of Ernie Friesen's Purposes of the Courts. The content in the Visual Aids section of this Guide should be presented in a form suitable for the noted PowerPoint slides. The content of these aids should also be supplemented as appropriate with a flip chart when faculty are eliciting responses from participants so that they can later refer to those comments.

The Visual Aids section is organized according to the topics that make up the 20-Hour Schedule in Part 2. The training notes in the Instructional Outline in Part 3 refer to the Visual Aids in this section.

As with all other parts of this Instructional Guide, faculty members can modify Visual Aids as appropriate to tailor their presentation to help participants achieve the training's objectives.

PART 6
EVALUATIONS

Introduction

I Evaluation

Introduction

Evaluation of a judicial education program is valuable for the participants, faculty, and organizers. The process of filling out evaluations involves participants in the educational process. It allows them to express their views about the course. As they complete the evaluation form, participants review each element of the course, which helps reinforce their learning. From the faculty's perspective, evaluations give them feedback on the types of teaching and learning activities which were most effective to achieve the goals of the program. The results of the evaluations can help faculty continue to improve their teaching skills. Finally, organizers use the results of evaluations to assess the effectiveness of the program and to revise the program in the future.

An effective evaluation form can contain a variety of questions. Organizers should include in the form questions on any issue for which they want feedback from participants. Many judicial education evaluation forms contain sections which assess the following:

- ❖ Whether program objectives were achieved.
- ❖ The value of subject matter of the sessions.
- ❖ The quality of materials for each session.
- ❖ The effectiveness of each faculty member.
- ❖ The overall value of the course.
- ❖ The quality of the facilities and meals.

EVALUATION FORM

“JUDICIAL CONTROL OVER THE CASEFLOW MANAGEMENT: FOUNDATIONS AND FUNDAMENTALS”

[date of the program]

Your views about the program in which you participated will help us improve future programs. Please carefully answer each of the questions on the form. Your answers will be kept confidential and will be used for academic purposes only.

- 1. Evaluate the course objectives listed below.** Please assess how successfully the program achieved the following objectives. Separate evaluations of subject matter, materials, faculty, facilities, and meals are enumerated later in this form.

As a result of this program, participants will be able to:	Low					High
1. Describe the purposes and responsibilities of the courts and their direct impact on caseload management.	[1]	[2]	[3]	[4]	[5]	
2. Define the fundamentals of caseload management.	[1]	[2]	[3]	[4]	[5]	
3. Identify the characteristics of effective leadership and its impact on caseload management.	[1]	[2]	[3]	[4]	[5]	
4. Apply caseload management principles into defining the purposes and responsibilities of the court.	[1]	[2]	[3]	[4]	[5]	
5. Analyze standardized case management performance measures and benchmarks.	[1]	[2]	[3]	[4]	[5]	
6. Create caseload charts and assess the caseload processes of the court.	[1]	[2]	[3]	[4]	[5]	
7. Construct preliminary differentiated case management (DCM) tracks for selected case types.	[1]	[2]	[3]	[4]	[5]	
8. Describe the change management process, acquire skills of problem diagnosis in caseload management and develop an action plan.	[1]	[2]	[3]	[4]	[5]	
9. Employ the use of case management data (data drawn from automated court case management	[1]	[2]	[3]	[4]	[5]	

systems) to assess court performance.

Comments:

2. Evaluate the subject matter and material for each session. Please rate the relevance of the subject matter and the quality of the materials for use during or after the session.

Session	Low					High
Welcome and overview						
Subject Matter	[1]	[2]	[3]	[4]	[5]	
Material	[1]	[2]	[3]	[4]	[5]	
Foundations of Caseflow Management						
Subject Matter	[1]	[2]	[3]	[4]	[5]	
Material	[1]	[2]	[3]	[4]	[5]	
Fundamentals of Caseflow Management						
Subject Matter	[1]	[2]	[3]	[4]	[5]	
Material	[1]	[2]	[3]	[4]	[5]	
Differentiated Case Management						
Subject Matter	[1]	[2]	[3]	[4]	[5]	
Material	[1]	[2]	[3]	[4]	[5]	
Change Management						
Subject Matter	[1]	[2]	[3]	[4]	[5]	
Material	[1]	[2]	[3]	[4]	[5]	
Comments:						

3. Evaluate each faculty member. Please rate each faculty member as to their teaching methods and effectiveness.

	Low			High	
[name of faculty member]	[1]	[2]	[3]	[4]	[5]

Comments:

[name of faculty member]	[1]	[2]	[3]	[4]	[5]
---------------------------------	-----	-----	-----	-----	-----

Comments:

[name of faculty member]	[1]	[2]	[3]	[4]	[5]
---------------------------------	-----	-----	-----	-----	-----

Comments:

[name of faculty member]	[1]	[2]	[3]	[4]	[5]
---------------------------------	-----	-----	-----	-----	-----

Comments:

4. Evaluate the overall value of the program.

Low					High
[1]	[2]	[3]	[4]	[5]	

Comments:

5. Evaluate the quality of the facilities and meals.

	Low				High
Facilities	[1]	[2]	[3]	[4]	[5]
Meals	[1]	[2]	[3]	[4]	[5]

Comments:

6. Please comment on how we could improve this course in the future.