

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 09-12**

Performance Measure – Time to Disposition with Excludable Time

Supersedes Administrative Order 08-13

WHEREAS, Strategy 6.2.3 of *Delivering Justice, Strategic Plan of the District of Columbia Courts, 2008-2012*, calls for the implementation of courtwide performance measures adopted by the Joint Committee on Judicial Administration; and

WHEREAS, *time to disposition* is a case processing measure which assesses whether cases are timely disposed from the date they are filed with the Court; and

WHEREAS, *time to disposition* standards help to ensure that parties receive timely case resolution, further the interests of litigants and the public in timely justice, help to assure effective utilization of resources, and promote high quality justice; and

WHEREAS, *time to disposition* standards are separate and distinct from statutory time limits that are imposed on the Court by the U.S. or D.C. Codes or by case law, and shall be superseded by statutory time limits where applicable, unless such statutory requirements are waived; and

WHEREAS, an examination of best practices indicates that periods of case inactivity beyond the court's control, known as *excludable time*, should be subtracted from *time to disposition* calculations; and

WHEREAS, a Performance Standards workgroup recognized the need for a system-wide approach to successfully implement *time to disposition* standards and therefore consulted with many different institutions, agencies, and individuals having key roles in case processing to develop time standards in Superior Court; and

WHEREAS, on April 5, 2007 the Performance Standards workgroup unanimously approved *time to disposition* standards and *excludable time* categories;

NOW, THEREFORE, it is by the Court,

ORDERED, that *time to disposition* standards with *excludable time* categories, issued herewith (copies are attached to this Order, along with Supplemental Information), are hereby adopted for use until further Order of the Court; and it is further,

ORDERED, these standards shall apply to all cases filed in all divisions on and after March 1, 2008.

ORDERED, that the standards will be disseminated to the District of Columbia Bar and all agencies and institutions involved in case processing to encourage their establishment of practices to help achieve the Court's *time to disposition* standards; and it is further,

ORDERED, that the standards will be incorporated in interim reports and in fully automated *time to disposition* reports as soon as development of the Court's Integrated Justice Information System permits.

SO ORDERED.

BY THE COURT

October 1, 2009

/s/
Lee F. Satterfield
Chief Judge

Attachments:

- 1. Time to Disposition: Performance Standards**
- 2. Time to Disposition: Excludable Time**
- 3. Time to Disposition: Supplemental Information**

Copies to:

Judges
Senior Judges
Magistrate Judges
Executive Officer
Clerk of the Court
Division Directors
Director, Office of Strategic Management
Library
Daily Washington Law Reporter
Gideon Website
DC Bar Webmaster

**Time to Disposition: Performance Standards
Superior Court of the District of Columbia
October 1, 2009**

Division	Case Type	Standard (from filing to disposition unless noted)
Civil	General Civil II complaints	75% within 12 months 90% within 18 months 100% within 24 months
	Vehicle	75% within 10 months 85% within 14 months 100% within 18 months
	Civil I complaints	50% within 24 months 100% within 36 months
	Administrative proceedings and Judge-in-Chambers	95% within 45 days 100% within 90 days
	Merit Personnel Act and Other Agency Appeals	95% within 12 months 100% within 18 months
	Traffic Adjudication Appeals	60% within 90 days 90% within 180 days 100% within 1 year
	Libel of Information	80% within 10 months 100% within 14 months
	Collection and Subrogation Cases	95% within 24 months 100% within 30 months
	Title 47 Tax Lien Cases	95% within 24 months 100% within 36 months
	Landlord Tenant Non-Jury Cases	65% within 45 days 85% within 100 days 100% within 150 days
	Landlord Tenant Jury Cases	100% within 9 months
	Small Claims and Conciliation Non-Jury Cases	98% within 240 days 100% within 1 year
	Small Claims and Conciliation Jury Cases	100% within 9 months
Criminal	Felony I	75% within 12 months 90% within 18 months 98% within 24 months
	Other Felony (Felony II and AFTC) ¹	75% within 6 months 90% within 9 months 98% within 12 months

¹It should be noted that for defendants detained pursuant to D.C. Code § 23-1322 (b)(1), there is a statutory requirement that the case be tried within 100 days of the date of detention. Barring a waiver of this statutory requirement, such cases remain under a shorter time constraint than our performance standards allow.

	U.S./D.C./Traffic Misdemeanor (Trial Track)	75% within 3 months 90% within 6 months 98% within 9 months
	U.S./D.C./Traffic Misdemeanor (Diversion Track)	<u>Community Service/First Time Offenders:</u> 75% within 7 months 90% within 8 months 98% within 9 months <u>Programs for Behavioral Changes or Avoidance of Re-arrest:</u> 75% within 6 months 90% within 9 months 98% within 12 months
	U.S. Misdemeanor Drug Possession	75% within 4 months 90% within 6 months 98% within 9 months
Domestic Violence	Civil (Protection Orders) ²	80% within 30 days or less 95% within 60 days
	Criminal	75% within 90 days 90% within 180 days 98% within 12 months
	Criminal: Deferred Sentencing	95% within 12 months
<p>² Hearing on petition for Civil Protection Order is within 14 days pursuant to Superior Court DV Rule 7A (c) and D.C. Code §16 1004 (d). Hearing for Criminal Contempt (violation of civil protection order) is within 14 days pursuant to Superior Court DV Rule 12 (e) (1).</p>		
Family Court	Abuse/Neglect	<u>Child not removed from home (filing of petition to disposition):</u> 100% within 45 days ³ <u>Child removed from home (date of removal to disposition):</u> 100% within 105 days ³
<p>³Pursuant to D.C. Code §16-2316.01.</p>		
	Non-Neglect Adoptions	99% within 12 months

	Child Support	<u>Order of support from date of service of process</u> ⁴ : 50% within 45 days 75% within 6 months 90% within 12 months
⁴ D.C. Official Code, 2001 Ed. § 46-206 requires the Court to schedule hearings in cases seeking to establish or modify child support within 45 days from the date of filing of the petitions. Additionally, federal regulations mandate that orders to establish support be completed in 75% of the cases within 6 months and 90% of the cases within 12 months of the date of service of process (see 45 CFR §303.101).		
	Child Support	<u>Order of support from date of filing</u> ⁵ : 60% within 180 days 75% within 270 days 90% within 18 months
⁵ These standards include time for service of process, which is not under the Court's control and involves the process of locating non-custodial parents.		
	Delinquency (Securely Detained Only)	<u>Juveniles held in secure detention (initial hearing to disposition)</u> : Serious: 100% within 45 days ⁶ Most Serious: 100% within 60 days ⁶
⁶ Pursuant to D.C. Code §16-2310(e).		
	Delinquency	<u>Non-securely detained (initial hearing to disposition)</u> : 50% within 45 days 100% within 60 days <u>Released (initial hearing to disposition)</u> : 70% within 120 days 90% within 180 days 98% within 270 days
	Juvenile Traffic	70% within 120 days 90% within 180 days 98% within 270 days
	Divorce/Custody	<u>Uncontested (from filing of the uncontested praecipe)</u> : 50% within 30 days 98% within 45 days <u>Contested - Domestic 1</u> : 75% within 9 months 98% within 12 months <u>Contested - Domestic 2</u> : 75% within 6 months 98% within 9 months

	Termination of Parental Rights	50% within 180 days 75% within 270 days 90% within 365 days
	Visitation	75% within 9 months 98% within 12 months
	Mental Health	80% with 30 days 90% within 45 days 99% within 60 days
	Mental Retardation	50% within 270 days 75% within 365 days 98% with 24 months
Probate	Decedents Estate: Small Estate	95% within 120 days
	Decedents Estate: Large Supervised Unsupervised <i>Unless:</i> Standard Probate Proceeding opened pursuant to D.C. Code § 20-321; Special Administrator appointed Contested estate with complaint filed One year extension of appointment granted in unsupervised estate pursuant to D.C. Code § 20-1301 (c)	95% within 1125 days 95% within 1125 days 95% within 1245 days 95% within 1490 days 95% within 1490 days
Tax	Civil	85% within 24 months 95% within 36 months
	Criminal	55% within 180 days 90% within 365 days 100% within 24 months

Time to Disposition: Excludable Time Superior Court of the District of Columbia

For purposes of calculating time to disposition, the Court will define two categories of continuances. The first category constitutes “Excludable Time” and includes delay due to circumstances over which the Court has no control and for periods over which the Court has no control, such as when a defendant is out on a bench warrant. Often in these instances, no further court date is scheduled. The second category, defined as “Other,” encompasses all other continuances.

When calculating time to disposition, only delay in the “Excludable” category will be excluded from the time calculation.

1) Excludable Time

The Court has no control over length of delay.

Civil:

Civil Actions:

- a. interlocutory appeal from stay entered to stay lifted
- b. bankruptcy stay entered to stay lifted
- c. military stay entered to stay lifted
- d. other stay that precludes any activity in case to stay lifted
- e. ancillary proceeding that precludes all other activity in case to resolution of ancillary proceeding
- f. qui tam cases during period of seal to seal lifted

Small Claims:

- a. same as civil actions
- b. Drayton stay entered to stay lifted

Landlord Tenant:

- a. same as civil actions
- b. Drayton stay entered to stay lifted

Criminal:

Felonies:

- a. bench warrant issued to bench warrant quashing or execution
- b. interlocutory appeal from stay entered to stay lifted
- c. foreign jurisdiction/fugitive arrest to return to D.C.
- d. pre-indictment time
- e. competency evaluation ordered to finding of competence
- f. PSI report preparation time

Misdemeanors:

- a. bench warrant issued to bench warrant quashing or execution
- b. interlocutory appeal from stay entered to stay lifted
- c. foreign jurisdiction/fugitive arrest to return to D.C.
- d. stet docket/diversion to dismissal or reactivation
- e. competency evaluation ordered to finding of competence
- f. PSI report preparation time

Family:

Juvenile:

- a. interlocutory appeal from stay entered to stay lifted
- b. custody order issued to custody order quashing or execution
- c. competency evaluation ordered to finding of competence
- d. psychiatric evaluation preparation time
- e. consent decree to closure or reactivation
- f. foreign jurisdiction/fugitive arrest to return to D.C.

All other Family:

- a. interlocutory appeal from stay entered to stay lifted
- b. bench warrant or custody order issued to bench warrant or custody order quashing or execution
- c. bankruptcy stay entered to stay lifted
- d. order of reference to completion of adoption home study

Domestic Violence:

Criminal:

- a. bench warrant issued to bench warrant quashing or execution
- b. interlocutory appeal from stay entered to stay lifted
- c. foreign jurisdiction/fugitive arrest to return to D.C.
- d. competency evaluation ordered to finding of competence
- e. PSI report preparation time

Civil:

- a. interlocutory appeal from stay entered to stay lifted

Probate and Tax:

- a. bench warrant issued to bench warrant quashing or execution
- b. interlocutory appeal from stay entered to stay lifted
- c. bankruptcy stay entered to stay lifted
- d. ancillary proceeding that precludes all other activity in case to resolution of ancillary proceeding

2) Other

Next event scheduled; all continuances not included under 1) above.

Time to Disposition: Supplemental Information Superior Court of the District of Columbia

The Superior Court of the District of Columbia is implementing time standards to manage cases in all operating divisions. The goal of the standards is to promote the timely disposition of cases consistent with their seriousness and complexity, while continuing to ensure due process and fairness.

Background

In 2005, the District of Columbia Courts' policy-making body, the Joint Committee on Judicial Administration, adopted a set of nationally-recognized measures to assess and report on the Courts' performance of its mission, thereby enhancing public accountability. The adoption of courtwide performance measures fulfilled Strategy 5.2.1 of the Courts' 2003 – 2007 Strategic Plan and put in place a framework to achieve Strategy 5.2.2, which called for the Courts to “measure organizational performance, monitor results, and achieve performance goals.”

The adoption of performance measures follows a 15-month period of study of standards and measures developed by the American Bar Association, the National Center for State Courts, the Conference of Chief Justices, the Conference of State Court Administrators and other entities with an interest in court or public sector performance measurement. The standards reflect an adaptation of national best practices to the caseloads and circumstances unique to the Superior Court.

Thirteen performance measures address key outcomes the D.C. Courts must achieve in order to deliver justice effectively, including: resolving cases fairly and timely, treating court participants with courtesy and respect, ensuring access to court services and facilities, managing resources prudently, and maintaining Judicial Branch independence.

Time to disposition is one of several measures that assess the Courts' performance of its core mission to resolve cases fairly and timely. Together with *clearance rate* (ratio of case dispositions to filings), *age of pending caseload*, and *trial date certainty*, these *case processing* measures indicate whether the Court manages caseloads efficiently and ensures that cases are timely resolved.

The Superior Court has a tradition of successfully managing caseloads using time standards. Beginning in 1991, the Civil Delay Reduction Program dramatically changed how civil cases are processed, with matters set on individual calendars rather than a master calendar and assigned to tracks with different timeframes and requirements to move the case towards disposition. This initiative reduced the Civil Division's backlog of pending cases and brought most matters to conclusion within twelve months. Since 2001, the Family Court has used time standards to manage child abuse and neglect cases, as required by the D.C. Family Court Act. The Criminal Division also is mandated to process preventive detention cases within timeframes established by speedy trial laws.

Development of the Standards

Throughout 2006 and 2007, Chief Judge Rufus G. King, III, convened bi-monthly

meetings with Presiding and Deputy Presiding Judges and Directors of the operating divisions to discuss approaches to implementing time standards in Superior Court. The group reviewed standards promulgated by national organizations, standards adopted by other states and the federal courts, and available court data. Each operating division met extensively with its assigned judges and convened working groups of external stakeholders such as prosecutors, public defenders, private practitioners, and pretrial services and probation staff to discuss the need for time standards, to gain input on proposed standards, and to identify implementation issues to be addressed. Following this extensive consultation and assessment process, standards were adopted in April 2007.¹

In reviewing standards offered by national organizations such as the American Bar Association (ABA), the Court found that, while some jurisdictions have adopted standards, few actually achieve them on a regular basis. For instance, the ABA standards, issued in 1992, were developed based on experts' estimates of how long a typical case of a general type (e.g., civil or criminal) should take to be resolved. They were never empirically validated and have not been reviewed or updated since their promulgation. The standards are not realistic for cases which do not fit the standard profile, and do not take into account newer methods of managing cases such as diversion programs or deferred sentencing. They also do not take into account the volume of cases per judge which can preclude a judge from scheduling each event within an optimal timeframe. The Conference of State Court Administrators (COSCA) issued standards in 1983. These standards were even more ambitious than the ABA standards, but were not realistic and, therefore, are no longer endorsed by COSCA.

In 2002 and 2003, the National Center for State Courts examined state courts' use of time standards and found that:

“Case processing time standards are continuously being adopted, implemented, amended and reevaluated in various states around the country... Although it is unanimously recognized that time standards are *average* goals and that certain extraordinary cases may need to be considered beyond the given standard, it is also widely recognized that time-setting provides a means to a more efficient and well-organized court system.”²

Discussions with this Court's stakeholders focused on the specific attributes of our jurisdiction. There was some concern that, with time standards, the Court will sacrifice quality for speed. In meetings with stakeholders, the Chief Judge and Presiding Judges addressed this concern directly, making it clear that the quality of justice would never be sacrificed for speed, but also expressing the Court's view that time standards will, in fact, *contribute* to delivering high quality justice. This view is borne out by the findings of a study by the National Center for State Courts of nine criminal trial courts, where higher quality case outcomes were achieved in the relatively faster courts compared to the slower courts. The study concluded:

¹ Standards were adopted for most case types in April 2007 and subsequently for all case types.

² *Case Processing Time Standards in State Courts, 2002-03*, Heather Dodge and Kenneth Pankey, National Center for State Courts.

“...efficiency is the foundation of a well-run court. Higher levels of both timeliness and quality are possible by adoption of a more efficient work orientation.”³

As referenced above, a key challenge for this Court in implementing time standards is its high volume. Large urban courts have a high volume of cases that negatively impacts the ratio of cases per judge. While the ABA standards were based on an estimate of the average time it should take to process an individual case, large urban courts must manage thousands of case filings a year. The Court has no control over the volume of cases that are brought before it, and cannot readily deploy additional resources to ensure that case per judge ratios remain at optimal levels. Typically, as the number of cases per judge increases, cases must be scheduled farther in the future and time to disposition inevitably increases. Given this reality, the Superior Court has developed time standards we believe are realistic and reasonable, given current caseloads and resources, rather than ideal time standards which are so aspirational as to be unachievable.

Finally, stakeholder discussions highlighted the need for a systemic approach to managing cases with time standards. All agencies and participants in the justice system must commit themselves to the goal of timely case resolution. A culture of intolerance for delay must be cultivated, and agencies will be challenged to adapt their processes despite staffing shortages and other resource limitations. The Court will lead this effort, but calls on all participants to establish policies and procedures and to work collaboratively to achieve timely case resolution.

Guiding Principles

As the dialogue about time standards evolved over many months of meetings between judges and justice system stakeholders, several principles emerged which informed the development of the Court’s time standards and will guide their implementation:

- ✓ Time standards should complement, rather than overtake, due process considerations. Waiting periods are deliberately built into some court procedures and processes in order to preserve parties’ rights, for example, to provide adequate notice, to conduct discovery, or to receive service of process. Time standards should not override such protections, but should be given due weight.
- ✓ Time standards should be both aspirational *and* realistic. Rather than simply adopt standards which are purely aspirational, the Court went to great lengths to develop standards that will move cases forward expeditiously *and* reflect actual timeframes for certain events that may be statutorily mandated or reflect existing resource limitations, or are contained in court rules for due process reasons. The Court is striving for incremental improvements to allow time for changes in the legal culture and careful refinement of processes.

³ *Efficiency, Timeliness and Quality: A New Perspective From Nine State Criminal Trial Courts*, p. 109, Brian J. Ostrom and Roger A. Hanson, National Center for State Courts, 1999.

- ✓ Time standards are separate and distinct from statutory time limits that are imposed on the Court by the U.S. or D.C. Codes or by case law. Statutory time limits create rights of the parties to hearings or trials within established time frames. For example in criminal matters where a statutory time limit establishes the right to a speedy trial within a specified time, cases must go to trial within the statutory time limit, unless waived. In cases of waiver, trials should still be considered on an expedited track and should be managed to meet or exceed established time standards.
- ✓ Time standards should enable the Court to report the total time cases take to move from filing to disposition, as well as the amount of time the Court has active control of cases. The first measure reflects the time it takes for the justice system as a whole to process cases, while the second measure more accurately depicts the Court's performance in managing cases. Both measures are instructive in revealing where delay occurs and pointing to solutions to reduce delay. Periods of time during which the Court cannot move the case forward in any respect, such as when a defendant has absconded, will be excluded in calculating the Court's compliance with time standards, as recommended by the National Center for State Courts. It should be noted that the Court has selected the narrowest possible interpretation of such "excludable time" in order to maximize accountability for timely case resolution.
- ✓ Achievement of time standards requires cooperation, communication and commitment from multiple parties and agencies involved in the justice process; the Court will seek an on-going dialogue with stakeholders to achieve a smooth implementation of time standards and strongly encourages stakeholders to examine and refine current practices to achieve timely case resolution.
- ✓ The newly adopted time standards will be considered in effect for a period of not less than two years, while the Court gathers data on the impact of time standards in managing cases towards timely disposition. The Court anticipates that the standards may be adjusted in the future.

Implementation of Time Standards

The Superior Court will begin immediate implementation of time standards in all operating divisions. Presiding Judges will convene regular meetings with stakeholders to refine best practices as needed and to assess progress and impact on all participants. Division Directors are working with the Information Technology and Research and Development Divisions to develop data collection procedures and statistical reports that will provide time data and allow the Court to track compliance with time standards. Currently, the Court is unable to retrieve all of the data that will be helpful in monitoring compliance with time and performance measures. Nevertheless, the standards are going into effect immediately in the belief that it is important to begin the use of performance measures even if gaps will remain in some of the data at first. Data on time measures, along with statistical data on the Court's other case processing performance measures

(e.g., clearance rate, age of pending caseload, and trial certainty), and stakeholder feedback, will be analyzed and used to make any necessary adjustments in the future.