



USAID
FROM THE AMERICAN PEOPLE



STUDY OF THE PROCESSING OF PENAL FILES FROM ARREST THROUGH DECISION: PROFILE OF 664 FILES REVIEWED

NOVEMBER 2007

This report was prepared by the National Center for State Courts (NCSC) under the USAID/Haiti – Judicial Strengthening and Reform Program, IQC# DFD-I-00-04-00176-00. The points of view and opinions expressed in this material are those of the NCSC project and do not necessarily reflect the official policies or positions of the United States Agency for International Development.

Table of Contents

I.	Introduction	p. 1
II.	Context	p. 1
III.	Purpose	p. 2
IV.	Methodology	p. 2
V.	Results	p. 4
VI.	Analysis	p. 10
VII.	Principle Problems Discovered and Possible Solutions	
	1. Police.....	p. 10
	2. Justice of the Peace Courts	p. 12
	3. Parquet.....	p. 13
	4. Cabinet d' Instruction.....	p. 16
	5. Clerks, Office of the Dean and Trial Courts	p. 18
	6. Detention Judges	p. 20
VIII.	Conclusions	p. 21
	APPENDIX I (Case Flow Tables)	p. 22
	APPENDIX II (Case Flow Theory and Practice)	p. 55

STUDY OF THE PROCESSING OF PENAL FILES FROM ARREST THROUGH DECISION PROFILE OF 664 FILES REVIEWED

I. Introduction

In the course of the National Center for State Courts' (NCSC) project to support and strengthen the reformation of Haiti's justice sector, funded by the United States Agency for International Development (USAID), it has been frequently said that the lengthy processing of cases constitutes a serious impediment to the delivery of justice in Haiti. To better understand the issues, NCSC completed a study of more than 650 closed penal cases to determine case processing times at each stage of the process, from the moment of an arrest up to the final decision. This document presents the context for the study, the methodology used, an analysis of the results obtained, recommendations, and issues to consider in management of cases.

NCSC wishes to acknowledge with gratitude the assistance and cooperation of the courts in Saint Marc, Petit-Goâve, and Port-au-Prince. The issues present in these courts reflect the issues in courts throughout the country; nothing in this document is intended as a criticism of these particular courts. It is a courageous court that opens itself to examination and analysis, for these are essential steps to acquiring the knowledge necessary for effective change.

This study and report are the result of a collaborative effort of the Haiti team, the NCSC home office, and two particularly experienced and talented consultants. Special thanks go to Pierre Gaudet and Don Cullen, who collectively represent 75 years of court administration experience. Their expert guidance made this study possible. Jacques Miguel Sanon spearheaded the work in Haiti, as well as contributed to the analysis and report. Our talented law student team made up of Alexandra Jackson, Myriame Elvariste, Esther Delaire, Launie Badette, Florence Liauteau, Josue Pierre-Louis, Isaac Jean-Widner, and Jean-Edgard Lide spent several weeks collecting information and entering the data onto a spreadsheet; their research skills and experience from this project can be put to good use in the years to come. Philippe Lamarche, Carl Anderson, Yirui Mu, Wendy Betts, and Peggy Ochandarena of NCSC; as well as the Honorable Josue Pierre, Justice of the Supreme Court; the Secretary General of the Bar Association of Port-au-Prince and criminal defense attorney Carlos Hercule; and former Minister of Justice, the Honorable Henri Dorleans, contributed to various parts of the project and report.

II. Context

Abiding by the law; an independent and functioning judiciary; preservation of the integrity of the judicial system; transparency in the administration of justice; observation of rules of procedure and of merit; and equality before law; are fundamental values that are common to the rule of law. A justice system is the bulwark that protects societal values and human rights against criminal behavior and arbitrary government action. In a democratic context, citizens expect judicial authorities to be responsible for maintaining the integrity, equity, and transparency of the judicial system. Unless the courts have public trust and confidence, they will never be able to dispense

justice as intended, for citizens will not defer to a system they do not trust. Several ways a court system can demonstrate to the citizens that it acts on their behalf to uphold societal values by being efficient, timely with its decisions, perceived as being fair (even to the losing party), and providing equal protection and due process to all who come before it.

One of NCSC's objectives, in conjunction with the judicial authorities, is to develop administrative tools to assist in the sound dispensation of justice. When precise information concerning operations and decisions of judicial institutions is lacking, it is impossible to demonstrate that these authorities are fulfilling their duties. Information is essential for judicial institutions to assess the progress made towards providing proper administration of justice to the public. It helps also in identifying the strengths and weaknesses of the courts and prosecutors' offices, in improving the system, in enhancing the public's trust in the judicial authorities and institutions, and in paving the road towards a comprehensive reformation of the entire State.

The functioning of the Haitian judicial system is governed by the Constitution of 1987, the Decree of August 1995 on Judicial Organization, various penal and civil codes of procedure, and some scattered laws. The administrative and management structure is not well defined, which makes the system non-transparent and difficult for users to navigate. Furthermore, the day-to-day functioning of the court does not permit the establishment of reliable statistical data, which could lead to targeted and documented measures.

In November 2005, NCSC gathered data for a major study on pretrial detention in the National Penitentiary. The study showed that, among the sample of released prisoners, all misdemeanants were released within three months. For felonies punishable by up to three years in prison, the overwhelming majority reached final disposition and were released within 90 days. For the most serious felonies (those carrying a sentence of 3 years to life), most were resolved and released within five months. However, while the majority of cases were processed in these timeframes, there remains a segment of the prison population who have spent more than a year in pretrial detention. These cases demonstrate the existence of systemic problems in case processing.¹ As a result, NCSC conducted a case flow study tracing, the path that cases follow throughout the various stages of the penal process to identify gaps, delays, and unnecessary steps contributing to unjustified detention in preventive custody and provide recommendations to address them.

III. Purpose

The purpose of the study is to clearly determine the time that cases remain in various stages throughout the penal process, in order to make recommendations that could maximize efficiency, shorten processes, and ultimately reduce the duration of pre-trial custody.

IV. Methodology

The data yielded by the study covers the judicial process from the moment of arrest until the rendering of a decision by a correctional or criminal court. Cases with a variety of outcomes were analyzed, whether the charges were dropped (at various stages), or convictions resulted. The study only looked at disposed cases; no currently pending cases were used. It was observed that there are cases which remain open but blocked within the system. These cases were beyond the

¹ *Pretrial Detention in Haiti*, National Center for State Courts, May 2006.

scope of this study and should be the object of another study. A major consideration in choosing closed cases is that it is more difficult and requires a larger sample size to ascertain the length of time between steps in cases that are still in process. Moreover, the use of closed cases does not pose the same difficulty as the use of files from open cases, due to considerations involving confidentiality of ongoing cases and investigations.

The files of closed cases at the Justice of the Peace (JP) Courts were not used in this study due to the difficulty connected with the lack of a complete record keeping system of judicial files at that level.

The study reviewed 664 closed cases in three jurisdictions: Port-au-Prince (299), Saint Marc (201), and Petit-Goâve (164). NCSC selected these communities as special pilot jurisdictions, in which it has targeted its judicial reform programs. These jurisdictions allowed NCSC to focus its review and data gathering efforts on their case files. The 664 cases are distributed as follows: 450 cases closed as a result of charges dropped by the Prosecutor offices (Saint Marc 133, Petit-Goâve 142, Port-au-Prince 175), 61 cases closed pursuant to decisions rendered by Correctional Courts (Saint Marc 36, Petit-Goâve 11, Port-au-Prince 14), 102 cases closed pursuant to charges being dropped by the investigating judge for lack of evidence (Saint Marc 13, Petit-Goâve 3, Port-au-Prince 86), and 51 cases closed pursuant to verdicts rendered by the Criminal Courts (Saint Marc 19, Petit-Goâve 8, Port-au-Prince 24).

A data gathering tool or form was designed to collect information on these closed case files from the Prosecutors Office (Parquet), Cabinet d' Instruction, Trial Courts, and in some cases, detention centers. The form was comprised of approximately fifty questions concerning basic information on individuals such as the case number, date of birth, name and gender of the individuals charged, as well as other technical information on the processing of cases at the various stages of the penal process. Data were collected by a group of eight law school graduates who were trained for this purpose and who have knowledge of the judicial system. Their work was supervised by an experienced and knowledgeable NCSC staff member.

The researchers conducted the arduous work of gathering the data at the Registrars of Courts and Parquets in the targeted jurisdictions. They analyzed the closed files from 2004 to 2006. They randomly selected one out of three files that were dropped/dissmissed by the prosecution in each of the three jurisdictions. However, for the other categories of closed cases, the researchers examined every file that was available in the archives.

The research was quite tedious because no standard or systematic registration and filing system exist. In spite of good cooperation offered by the judicial authorities involved, it was impossible to collect significant portions of the data that was needed, due to the structural and administrative weaknesses of the judicial system as mentioned above. For this reason, this study should not be construed as a comprehensive portrait of the situation. The assessment of the data bears only on the delays encountered at the various stages of the process for those cases found.

Even though there are some limitations to the study, it should be used as a viable basis from which justice professionals examine the problems relating to case flow management and derive effective solutions. The study also has tremendous value as a starting point for justice system management research and as a tool for potential case management systems in Haiti

Once the data was collected, it was entered onto a spreadsheet, time frames were computed, and presented in table format in order to facilitate the understanding and interpretation

of the study's results. NCSC then convened a group of experienced lawyers and jurists to analyze the results and offer recommendations. This group was composed of NCSC staff, and the following: the Honorable Josue Pierre, Justice of the Supreme Court; the Secretary General of the Bar Association of Port-au-Prince and criminal defense attorney Carlos Hercule; and former Minister of Justice, the Honorable Henri Dorleans. Several brainstorming sessions were followed by more detailed working sessions that reviewed the results of the study at each step of the penal chain and case flow process. Lengthy debates ensued over procedural rules and practices. The objective of this exercise was to produce possible solutions or avenues for criminal justice system improvement, especially relating to case flow management. These ideas should also serve as a basis for additional debate and consideration among criminal justice professionals.

V. Results

The prevailing political context at the time of this study (2004-2006), particularly in the studied jurisdictions (Port-au-Prince, Saint Marc, Petit-Goâve), was hardly favorable for the normal functioning of the criminal justice system. On the other hand, one could also say that it was at the same time a tremendous opportunity to return to a system baseline in that all the prisons were emptied due to the political events of February 2004. It is also appropriate to note that since 2004, the jurisdiction of Petit-Goâve has not had a prison. Detainees are held in Port-au-Prince, which complicates the situation, particularly at the Cabinet d' Instruction level. Of course, these circumstances cannot explain the delays observed in the treatment of criminal cases where more often than not the individual's liberty is at stake.

The emphasis here is on the treatment of cases in the penal chain, but the study can also be considered a mirror that reflects the general condition of the functioning of criminal justice in all its components and in its interrelations with the principal actors. The table that follows is a summary of the processing times for the 664 penal cases comprising the object of this study, in the jurisdictions of Saint Marc, Petit-Goâve and Port-au-Prince. For the complete results, the reader can refer to Appendix I.

Tracking of 664 penal cases at Saint Marc, Petit-Goâve and Port-au-Prince (2004-2006)

Note: The deadlines prescribed by law, where they exist, for each of the following steps is described in their respective Tables found at Appendix II.

Steps in penal chain	Saint Marc					Petit-Goâve					Port-au-Prince				
	Total days					Total days					Total days				
	Longest	Shortest	Mean	Median	Mode	Longest	Shortest	Mean	Median	Mode	Longest	Shortest	Mean	Median	Mode
1. Between arrest and booking	266	0	13	3	0	391	0	11	3	0	321	0	22	8	0
2. Between booking and receipt by JP court registry	186	0	11	3	0	65	0	9	4	0	264	0	22	5	0
3. Between receiving file and first hearing by JP	38	0	2	0	0	72	0	4	0	0	196	0	5	0	0
4. Between first hearing and first decision by JP	6	0	0.1	0	0	20	0	1	0	0	21	0	0.3	0	0
5. Between first hearing and last decision by JP	102	0	7	2	0	97	0	8	3	0	93	0	5	1	0
6. Between last decision and release	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
7. Total days in JP court for released defendants	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
8. Between last decision and sending file to prosecutor	56	0	2	0	0	34	0	1	0	0	265	0	4	0	0
9. Total days in JP court	121	0	10	4	0	97	0	13	5	0	264	0	14	5	0
10. Between sending file from JP court and receipt by prosecutor's office registry	27	0	2	0	0	43	0	3	0	0	256	0	6	1	0
11. Between file receipt by registry and receipt of file by Chief Prosecutor	78	0	0.4	0	0	182	0	2	0	0	11	0	0.1	0	0
12. Between receipt by Chief Prosecutor and assignment to staff prosecutor	5	0	0	0	0	7	0	0	0	0	154	0	1	0	0
13. Between assignment of case and receipt of case file by prosecutor staff	14	0	0.3	0	0	34	0	1	0	0	18	0	0.1	0	0
14. Between receipt of case file by prosecutor and first hearing	245	0	4	0	0	33	0	0.4	0	0	267	0	1	0	0
15. Between first hearing and first decision	245	0	3	0	0	274	0	5	0	0	267	0	3	0	0
16. Between receipt of case file by prosecutor staff and dismissal	416	0	23	4	0	745	0	162	33	0	1,280	0	35	5	0
17. Total days in prosecutor's office for dismissed cases	416	0	24	6	0	745	0	164	33	0	1,280	0	36	6	0

Steps in penal chain	Saint Marc					Petit-Goâve					Port-au-Prince				
	Longest	Shortest	Mean	Median	Mode	Longest	Shortest	Mean	Median	Mode	Longest	Shortest	Mean	Median	Mode
18. Between first decision and date prosecutors summoned defendant to correctional court	326	0	40	13	6	128	0	24	3	1	85	0	19	7	0
19. Between first decision and date prosecutors summoned the parties	316	0	37	10	2	105	0	27	4	n/a	81	0	18	7	0
20. Total days in prosecutor's office for cases referred to correctional court	361	0	42	14	6	230	1	53	15	9	169	0	34	15	n/a
21. Between the prosecutor's first decision and drafting the investigation request	133	0	10	1	0	72	0	7	0	0	489	0	61	5	0
22. Between drafting the investigation request and sending file to investigative judge	42	0	4	0	0	40	0	7	0	0	489	0	56	0	0
23. Total days in the prosecutor's office for cases referred to investigative judge	137	0	15	6	0	274	1	50	18	n/a	250	0	13	4	0
24. Between summoning parties and first hearing at correctional court	40	0	6	5	5	23	1	14	19	n/a	19	0	5	4	0
25. Between first hearing and final hearing	331	0	37	21	0	35	0	10	6	0	22	0	4	0	0
26. Between final hearing and judgment	7	0	0.4	0	0	30	0	4	0	0	0	0	0	0	0
27. Between judgment and receipt of file by prosecutor's office	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
28. Between receipt of file and when defendant is notified of the judgment	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
29. Between notification of judgment and release	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
30. Between notification of judgment and date appeal filed	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
31. Between appeal filed and case review at Appeal Court	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
32. Between case review and decision of Appeal Court	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
33. Between summons and judgment in correctional court	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	161	18	90	90	n/a
34. Total days in Appeal Court	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Steps in penal chain	Saint Marc					Petit-Goâve					Port-au-Prince				
	Longest	Shortest	Mean	Median	Mode	Longest	Shortest	Mean	Median	Mode	Longest	Shortest	Mean	Median	Mode
35. Between sending file to investigative judge and receipt by the Chief Clerk of the criminal court	4	0	0.4	0	0	12	0	3	0	0	252	0	7	1	0
36. Between receipt of file by the court clerk and receipt by the Dean for assignment	32	0	1	0	0	156	0	24	0	0	266	0	12	4	2
37. Between assignment of file to investigative judge and receipt of file by judge's clerk	40	0	3	0	0	7	0	1	0	0	231	0	17	4	0
38. Between receipt of file by judge's clerk and receipt of file by investigative judge	22	0	1	0	0	0	0	0	0	0	23	0	1	0	0
39. Between receipt of file by investigative judge and the first legal act in the case	54	0	6	1	0	125	1	59	50	125	448	0	59	21	0
40. Between receipt of the file and the first hearing	197	0	22	13	0	126	1	54	21	126	448	0	62	22	0
41. Between first hearing and last hearing	253	0	20	0	0	382	0	62	23	0	321	0	26	0	0
42. Between last hearing and the investigative judge sending file to prosecutor's office for final request	328	0	67	45	0	285	0	114	61	0	531	0	85	51	0
43. Between sending file and receipt by prosecutor's office	0	0	0	0	0	64	0	11	0	0	161	0	8	2	0
44. Between receipt of file by prosecutor's office and sending final request to criminal court registry	175	0	30	20	7	80	2	36	30	n/a	321	4	37	21	6
45. Between sending final request from prosecutor's office and receipt by investigative judge	1	0	0	0	0	18	0	4	1	0	20	0	2	0	0
46. Between the investigative judge receiving the final request and issuing the closing order	659	1	42	9	5	35	0	14	1	0	265	0	37	19	2
47. Between issuance of closing order and receipt of closing order by registry in prosecutor's office	110	0	6	0	0	28	0	10	1	0	105	0	20	13	0

Steps in penal chain	Saint Marc					Petit-Goâve					Port-au-Prince				
	Longest	Shortest	Mean	Median	Mode	Longest	Shortest	Mean	Median	Mode	Longest	Shortest	Mean	Median	Mode
48. Between receipt of closing order and prosecutor summoning defendant	31	0	9	3	0	392	0	73	6	3	90	0	20	13	0
49. Between summoning defendant and release of defendant	3	0	1	0	0	2	0	1	0	0	253	0	16	5	0
50. Total days case with investigative judge in cases where prisoner is ultimately released	389	20	156	123	n/a	549	63	306	306	n/a	696	96	311	273	169
51. Between prosecutor's summoning the defendant and sending file to the Dean	196	13	84	42	n/a	11	0	7	8	n/a	161	1	96	111	n/a
52. Between prosecutor's notification order upon the defendant and date appeal filed	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
53. Between filing appeal and case reviewed by Appeal Court	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
54. Between case review and first hearing by Appeal Court	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
55. Between hearing and judgment of Appeal Court	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
56. Between Appeal Court judgment and notification of the parties	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
57. Between notifying parties and sending indictment file to the Dean	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
58. Between indictment file sent to Dean and date of first hearing by Dean	0	0	0	0	0	0	0	0	0	0	44	0	11	0	0
59. Between first hearing by the court and first hearing by the Dean	38	0	6	3	0	16	5	11	12	n/a	248	2	54	36	20
60. Between the first and last hearing in the criminal court	35	0	7	4	0	0	0	0	0	0	25	0	4	0	0
61. Between last hearing and issuance of judgment	29	0	2	0	0	28	0	4	0	0	7	0	0.3	0	0
62. Between issuing judgment and informing the accused	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Steps in penal chain	Saint Marc					Petit-Goâve					Port-au-Prince				
	Longest	Shortest	Mean	Median	Mode	Longest	Shortest	Mean	Median	Mode	Longest	Shortest	Mean	Median	Mode
63. Total days case in criminal court	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
64. Between announcement or notification of the verdict and the accused to recourse to Supreme Court	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
65. Between Supreme Court assignment and Supreme Court Decision	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

VI. Analysis

A. The first observation is the difficulty the researchers encountered in simply locating the files and extracting the information. Thus, there is a need for a systematic method for court personnel to receive, store, transfer, and dispose of the files that they create, receive or transfer to another institution.

B. The second observation is the need for more communication at all levels and between all system participants to ensure that the files are moving through the system in a coordinated and timely fashion.

C. The next observation is that there needs to be more regularity and consistency in preparing statistical and management reports at all levels of the court system. Once the reports are prepared, the information contained in them needs to be actively reviewed, and the numbers and the trend(s) which they identify used in management decisions.

D. During the analysis it was evident that streamlining procedures is needed because of a lack of consistency between the steps in the process. Codes are outdated. Reform is imperative to adapt to Haitian realities, and to meet international standards. Finally, during the analysis there was confusion in the interpretation of code and constitutional provisions. This requires that more parties bring their cases to appellate chambers to resolve differences in interpretations. Appeal courts should establish precedent and jurisprudence, and lastly, the publication and distribution of court decisions must be ensured. Jurisprudence and precedence help avoid lengthy legislative reform efforts to clarify differences in law.

VII. Principle Problems Discovered and Possible Solutions

The complexity of the criminal justice system poses an important contextual element in this study. From the commission of the criminal act to the imposition of the penalty, the justice apparatus employs a plethora of mechanisms incorporating all written laws, administrative rules, judicial practices and the different actors themselves (accused, victims, witnesses, police, attorneys, judges, etc.). (Pires et Landreville, 1985; Poirier, 1984). The broad range of actors and factors involved in the processes render understanding of the justice system difficult. The unreliability or lack of official statistics, and the numerous and disparate methods of registering cases at different stages in the justice process, leaves the tools to analyze the justice system limited. (Adelberg,198)

A first review of the present study by Haitians and international jurists generated the identification of key problems as well as suggested ways to resolve them. The study examines the following different levels of the penal chain: police, Justice of the Peace Courts, Parquet, office of the Dean and Clerk of the Trial Courts, and Cabinet d' Instruction.

1. Police (Arrest and in Police Custody)

Review of the Results

The time spent in police custody upon arrest is on average: 13 days in Saint Marc, 11 days in Petit-Goâve, and nearly double that number in Port-au-Prince. The longest period spent in police

custody for any single defendant was: 266 days in Saint Marc, 391 in Petit-Goâve, and 321 in Port-au-Prince.

Implications and Potential Causes

1. According to the Constitution (Article 26), an arrested person must be brought before a judge within 48 hours. This constitutionally imposed deadline on all the actors in the penal chain, including the Parquet, is rarely respected. It is not understood in the same way by the various actors. The police believe that the deadline is observed if the detainee is referred to the Parquet before the expiration of the 48 hours. From their point of view, Parquet officials do not believe it is their responsibility to ensure that the deadline imposed on the investigation branch of the police (*police judiciaire*) is met.
2. The lack of respect for the custody deadline is exacerbated by the absence of control of the police stations by the Parquet as described in the Criminal Procedure Code. The Parquet is not sufficiently proactive and does not consider itself as an integrated party with the police, particularly in the case of police arrest and custody.
3. In some instances police hold a file for a prolonged period. There are a number of reasons for this practice. The police do not readily release a file for fear of losing control of it and damaging the police officer's reputation. At the other extreme, files are held to produce a bribe.
4. There is also a challenge of logistics (lack of vehicles, poor infrastructure, etc.) in attempting to respect the custody deadline. This situation is especially the case in many rural areas.

Possible Actions

On the administrative level:

1. Improve the rapport between the police and Parquet to ensure better collaboration between the two entities, through measures such as cross-training or joint task forces.
2. Take measures (cross-training of police and prosecutors, policy directives, inspection, etc.) to ensure the full understanding and strict respect of the Constitutional requirement to bring an arrestee before a judge of competent authority.
3. Make effective the control of the police administration by the officers of the Parquet through greater involvement by the MOJ to ensure the Parquet fulfills its duties in relation to the police.
4. Implement the immediate hearings procedure.

On the prescriptive level:

1. Write regulations to govern police arrest and custody procedures.

2. Justice of the Peace Court

Review of the Results

The average time a case is before the Justice of the Peace Court is approximately 10 days for Saint Marc, 13 days for Petit-Goâve, and 14 for Port-au-Prince, with the longest periods of delay being 121, 97 and 264 days respectively.

Implications and Potential Causes

Justices of the Peace have three principal functions: judge, mediator, and investigator for the Parquet. When acting as an investigator on behalf of the Parquet in felony matters, the prosecutors of the Parquet control and supervise the JP's work. In this role they are also considered part of the *police judiciaire*, or investigating officer. Some jurists invoke Article 12 of the criminal procedure code to justify a three-day deadline from the time of arrest by which the JP must send the entire case file (for felony cases only) to the Parquet. However, the 48 hour deadline for appearance before a judge is a constitutional obligation imposed on all actors in the penal chain, including the JP in his capacity as an officer of the criminal investigation. Unfortunately, the time it takes a JP to process a file is not sufficiently controlled. It is also not subject to evaluation. Most justices illegally issue detention orders. These orders are not properly registered and are not transferred to the Parquet within the 48 hour constitutional deadline.

Possible Actions

On the administrative level:

1. Ensure that JPs, in their role as investigating officers, regularly apply the aforementioned deadline of 48 hours prescribed in Article 26 of the Constitution (see Section 1 – Police) through training, prosecutor's supervision, Ministry of Justice (MOJ) administrative guidelines, etc.
2. Reinforce the supervision of the work of JPs by the Parquet and the Judicial Inspection Unit of the MOJ. This can be accomplished, for example, through periodic meetings with the chief prosecutor of the jurisdiction (*Commissaire du Gouvernement*). In addition, improving telecommunications (cell phone and radio) can directly and immediately put justices in contact with their supervisors at the Parquet and with the police.
3. The institution responsible for the selection, promotion and the career of JPs should periodically evaluate each JP. The evaluation should examine in particular the time it takes to process files.
4. Draft forms to avoid the editing process by JPs in long proceedings. Currently, JPs write out in long hand all judgments and commitments which can consume a great deal of time and resources.
5. Establish a standard case registry. Computerization and information technology to be made available in all justice of the peace courts should be a medium term goal for the MOJ.
6. Implement legal defense programs at JP Courts to ensure first, the respect of the law and observance of human rights, and second, the timely processing of the case file.

3. Parquet

Review of the Results

The Parquet is, in many ways, the lynchpin of the penal system; it is here the research results reveal significant deficiencies in case processing. Because of slow bureaucracy and lack of organization, certain case processing actions that should be taken without delay take an excessively long time. Similarly, deadlines prescribed in law during other processing stages are not respected.

For example, in those circumstances in which decisions should be taken without delay, such as in dismissed cases, the Parquet in Saint Marc takes an average of 24 days, Petit-Goâve 164 days, and Port-au-Prince 36, with the longest delays in taking action ranging from 416 days in Saint Marc, 745 in Petit-Goâve to 1280 days for Port-au-Prince (cf. Table 17).

Similarly, to charge a defendant in a misdemeanor or non-serious felony criminal proceeding, (Correctional Court), the Parquet in Saint Marc takes an average of 42 days, 53 for Petit-Goâve, and 34 for Port-au-Prince, with the longest delays being respectively, 361, 230 and 169 days (cf. Table 20). If the person is already in custody the legal deadline is the same day if possible, or at the earliest court audience possible.

For those cases the Parquet refers to the Cabinet d' Instruction (cf. Table 23), the average time in Saint Marc is 15 days, 50 in Petit-Goâve, and 13 in Port-au-Prince with the longest delays being 137, 274 and 250 respectively whereas the legal deadline is the same day.

According to the law, the time allowed for the Parquet to edit and present the final request to the Cabinet d' Instruction is five days.² However, the study shows that the Saint Marc Parquet takes 30 days, against 36 for Petit-Goâve and 37 for Port-au-Prince, with the longest delays being 175, 80, and 321 days respectively (cf Table 44).

Moreover, the Parquet in each of the three jurisdictions studied takes an average of two months after the notification of initial indictment before sending the case file to the Dean of the Trial Court. This delay is particularly egregious because the Parquet has no procedural or strategic advantage in keeping the file. Since the Criminal Procedure Code prescribes that the accused should be transferred to the prison of jurisdiction (if he is not already there) within 24 hours of the notification of the indictment, one can logically conclude that the Dean should receive the file within the same deadline.³

Finally, in this study a significant number of cases were dismissed at the Parquet. Although this may not relate directly to case flow, it's a matter of great concern. In fact, NCSC conducted a study in November 2005 on pre-trial detention which revealed that only 3% of all detainees released by the National Penitentiary had ever been convicted. This signals a need for further study, especially concerning dismissed cases by the Parquet. NCSC is conducting a study to determine the reasons for the low conviction rate.

² Article 7, Law of Criminal Appeals, July 26, 1979

³ Code D'Instruction Criminel, Article 176, annotated, Me. Jean Vandal

Implications and Potential Causes

1. Due to a lack of teamwork between JPs, the police and the Parquet, prosecutors often return case files they deem incomplete to the investigative police or JPs. This lengthens the delay.
2. In Port-au-Prince, the distance separating the Parquet and the Court does not facilitate the rapid flow of cases between the two institutions. In Petit-Goâve and Saint Marc the Parquet and the Court are in the same building. While this is not in and of itself a guarantor of speediness, it is an advantage.
3. Some case files were not processed by the Parquet for the following reasons: a) the prosecutor refused to accept or process a particular case because it was considered to be too sensitive or controversial; or, b) the prosecutor in charge was revoked, transferred, deserted his post, or was on leave and no administrative follow-up occurred.
4. The Parquet does not have an adequate registry system. For example, in Port-au-Prince there are disparate registries which make file tracking difficult.
5. In some cases, there is a lack of specialization among the officers of the Parquet. The lack of expertise contributes to delays. For example, a prosecutor unfamiliar with a complex case (*i.e.*, money laundering, financial crimes) may hesitate in making decisions affecting the handling of the case. This indecision can translate into lengthy delays.
6. There is a reluctance to handle misdemeanor and less serious felony cases directly by the Parquet. A common characteristic among the prosecutors of the Parquet is a hesitation to send these types of cases directly to the Correctional Court as is permitted by the law. Instead, there is a propensity in the Parquet to send these cases to the Cabinet d' Instruction which leads to more time spent investigating and/or processing cases.
7. The May 6, 1927 law establishing a rapid procedure for misdemeanor and less serious felony cases of *flagrant délit* is rarely applied.
8. Some officers of the Parquet have difficulty writing the necessary procedural acts and documents required in law (*i.e.*, initial/final request for Instruction, indictment, summons to appear at correctional court, etc.).
9. Among the Parquet officers there is only a limited sense of ownership and professional responsibility regarding timeliness and quality.
10. The chiefs of the Parquet do not always demonstrate administrative leadership. For example, chief prosecutors tend not to supervise the processing and monitoring of the case file after it is distributed to the other prosecutors.

Possible Actions

On the administrative level:

1. Establish and implement deadlines for the Parquet that are not now prescribed in law (e.g., time standards) and sanction those that do not respect deadlines that are prescribed in law.
2. Facilitate the work of the Parquet by aiding the police and JPs in better preparing their case files through continuing education. (This training could include writing police reports, taking and writing witness and victim statements, and on the duties of investigators: police, judges and prosecutors, etc.).
3. Improve the competence and skills of Parquet officers in writing procedural acts, concerning case preparation and in litigating the case before the court. Improving these skills will help speed the processing of cases as prosecutors become more adept in their work.
4. Reinforce the coordination between the Parquet and the *police judiciaire* to ensure the treatment of cases is conducted contemporaneously, and carry out similar enhanced coordination between the Parquet and the Trial Court to ensure that files are processed systematically and hearings take place within a reasonable period of time.
5. Conduct civic education campaigns to inform citizens not to use the Parquet to bring questions or complaints that are not related to its function, and likewise, encourage the officers of the Parquet not to receive these complaints, instead they should refer citizens to the competent authority. Having the Parquet accept the complaints only to have them later referred to the appropriate agency takes time away from the handling of cases properly before the Parquet. It also delays the handling of the complaint received from members of the community.
6. Encourage the officers of the Parquet to better assume their responsibilities particularly concerning case files being sent to the Cabinet d' Instruction, being careful to vet those files that should be classified for a misdemeanor or less serious felony correctional charge only.
7. Help the chief prosecutors to develop their leadership skills. It is not sufficient that chief prosecutors be expert in criminal and procedural law, they should through training acquire personnel and administrative management skills.
8. Evaluate the quality and volume of the Parquet's work (particularly concerning the handling of and decisions to close cases) without negatively affecting prosecutorial discretion. The chief prosecutor should participate in periodically evaluating Parquet officers and employees.
9. Designate, if necessary, one officer of the Parquet to assist the chief prosecutor in case management matters, such as case follow-up, coordination with the court, supervision, etc.
10. When an officer of the Parquet leaves his position regardless of the cause, make sure his/her cases are properly disposed or transferred to another officer.

On the prescriptive level:

1. Equip the officers of the Parquet with a clear governing statute that includes ethical and disciplinary rules.
2. Equip the Parquet with internal rules of operation.
3. Promote the systematic application of the law of May 6, 1927 providing for immediate proceedings in cases of *flagrant délit* and other special laws that permit a rapid procedure such as theft of electricity, illegal carrying of weapons, etc.

4. Cabinet d' Instruction

Review of the Results

The Cabinet d' Instruction is considered to be one of the major bottlenecks of the Haitian penal system. An analysis of the data collected clearly demonstrated as much.

The investigating judges in Port-au Prince and Petit-Goâve each take an average of nearly two months from the receipt of the file before setting forth their first act of inquiry, while in Saint Marc the period is 6 days. The law requires this act to be completed in the same day (cf. Table 39). The longest periods observed were 54 days for Saint Marc, 125 for Petit-Goâve and 448 days for Port-au-Prince. Nevertheless, in Saint Marc and Port-au-Prince observing the short, one day legal deadline is strongly encouraged.

If the results reported in Table 41 can be explained in part by the particular complexity of certain files, one cannot say as much for the results reported in Table 42. Table 42 shows the amount of time which it takes for the investigating judge after the last hearing has been completed to then send the file back to the Parquet for the completion of the final request. These results show that after the last appearance or hearing the average time it takes to send the completed file to the Parquet in Saint Marc is 67 days, 114 in Petit-Goâve and 85 days in Port-au-Prince. The longest delays were 328, 285 and 531 days, respectively.

Investigating judges in Petit-Goâve respect the one month legal deadline in issuing an order closing the case following the prosecutor's final request on the investigation.⁴ It takes the investigating judges in Petit-Goâve an average of 14 days to complete this task while their colleagues in Saint Marc and Port-au-Prince take an average of 42 and 37 days respectively. The longest delays for these last two jurisdictions merit particular attention: 659 days for Saint Marc and 265 days in Port-au-Prince (cf. Table 46).

Implications and Potential Causes

1. Investigating judges rarely respect the deadlines imposed on them by law and grant themselves new deadlines. In general, after the expiration of the two month deadline, investigating judges do not issue an order justifying extending the period of the investigation.

⁴ Article 7, Law on Criminal Appeals, July 26, 1979

2. On the administrative level the work of investigating judges is rarely controlled by the Dean of the Court. The Parquet often fails in its responsibility to follow-up on the files it sends to the Cabinet d' Instruction, and to report delays to the Ministry of Justice (Art. 196 CIC).

3. Delays recorded before the first act of the Cabinet d' Instruction prevent early release thereby aggravating the problem of prolonged pre-trial detention. In fact, all the delays combine to make the process of collecting evidence which can lead to a conviction more difficult, because witnesses and victims may no longer be available.

4. Compared to the number of cases in the Cabinet d' Instruction, there is a paucity of judges. Adding to this problem is the fact that investigating judges have a second and simultaneous role as a sitting judge. This reduces their ability to concentrate efforts on their role as case investigators.

Possible Actions

On the administrative level:

1. Consider removing the sitting judge function from the portfolio of responsibilities of the investigating judge. This will allow them to devote their entire time to the investigating judge tasks.

2. Consider assigning a group of investigating judges in extremely sensitive cases (e.g., political cases). These cases are often set aside and not processed for fear of reprisal or other consequences.

3. Promote specialization of investigating judges in particular types of crimes such as, financial crimes, kidnapping, corruption, etc. This specialization will allow judges to become more experienced and over time increase efficiency and speed in processing of cases.

4. Encourage the investigating judge in his/her capacity as a judicial police officer to visit crime scenes at the time the offense is reported, to ensure a good investigation from the outset. Consequently, he/she or any investigating judge later assigned the file will benefit (in principle) from this initial work which will improve the quality and the speed of the investigation.

5. Extend legal defense assistance programs to the Cabinets d' Instruction. Legal defense programs ensure that the accused will have his/her constitutional right to representation in the investigation of a case preserved. Zealous representation will also help to advance the processing of the file.

6. Establish an apprentice or intern program in the Cabinets d' Instruction for law students or students enrolled at the magistrates' school. The interns and apprentices will benefit from the experiences of the investigating judges. The investigating judges will benefit from their assistance in legal research, administration, and in scheduling.

7. Promote establishment of a standardized case file registry to facilitate appropriate follow-up by the Dean of the Court and by the judicial inspection unit whose role is to supervise the administrative functioning of the courts.

On the prescriptive level:

1. Launch a discussion on the role and necessity of the investigating judge in the penal chain. In several countries in Europe and Latin America reforms have been enacted changing, limiting or abolishing the position of investigating judge in the effort to reduce processing time, increase efficiency, and improve the administration of justice.
2. Ensure that in the internal rules of each Trial Court there are specific rules governing the functioning of the Cabinet d' Instruction.

5. Clerks, Office of the Dean and the Trial Courts

Review of the Results

The results obtained from the clerk of court, Office of the Dean of Court, and examining court hearings, are another illustration of administrative delays which could be reduced. The acceptance of the case file by the clerk of court should also logically imply receipt by the Dean of the Court. One can expect an hour or two time lag in the formal registering of the case. In fact, study data demonstrate that to be the case in the majority of instances in each of the three jurisdictions (cf. Table 36). Unfortunately, the longest delays are the most worrying, being 32 days in Saint Marc, 156 in Petit-Goâve, and 266 in Port-au-Prince.

For example, one case file sent by the Dean of the Court in Saint Marc to the clerk of the Cabinet d' Instruction was 40 days in transit despite a physical distance of only 20 meters between the two offices. In Port-au-Prince, one case file took 231 days to be received (cf. Table 37). Two investigating judges, one each from Saint Marc and Port-au-Prince, were made aware of case files received by their clerks 22 and 23 days respectively after their original receipt (c.f. Table 38).

Moreover, as indicated in Table 25, the misdemeanor and non-serious felony Correctional Court of Saint Marc takes an average of 37 days between the first and last hearings of a given defendant as compared with 10 days in Petit-Goâve and 4 in Port-au-Prince. The longest delays are 331 days in Saint Marc, 35 in Petit-Goâve, and 22 days in Port-au-Prince. In one case, the Correctional Court of Petit-Goâve took approximately a month to render a decision after the last court hearing in a penal matter (cf. Table 26).

The situation is similar at the felony, or Criminal Court, level. Between the reading of the charges by the Dean and the first hearing, the Criminal Court in Saint Marc took an average of 6 days against 11 for Petit-Goâve and 54 for Port-au-Prince. The longest delays ranged from 38 days in Saint Marc, to 16 in Petit-Goâve, and 248 in Port-au-Prince (cf. Table 59).

Normal administrative steps, *i.e.*, clerk to Dean of the Court, Dean to the clerk of the investigating judge, further hindering the administration of justice.

Implications and Potential Causes

1. The office of the Dean of Court is not organized in a manner which maximizes court efficiency. Part of the Dean's function is the orderly distribution of all cases (civil and criminal) to the different chambers. In practice, he/she does not devote sufficient time to

ensuring prompt and proper distribution of cases. A related problem is that the clerks of court are lax in the administrative distribution of cases because there is little supervision or systematic control of the process by the Dean.

2. There is little division of labor among the clerks of courts which leads to a poor management of correctional and criminal court files. Likewise, there is no structured and standardized file classification and archive system, which hampers rapid access to the file. It can take days, weeks or months to locate a file. Sometimes a file is simply lost. This can lead to serious and diverse consequences for the system.

3. There is a lack of consistent planning and control over the day-to-day functioning of the court. Some hearings are not held as scheduled due to the absence of the prosecutor, the judge, court staff, or the defendant (due to the failure of the prison administration to transport the defendant to trial).

4. Typically, when presiding, judges do not hear enough cases in a given day and many cases are then continued. Judges and/or court staff do not respect the working hours of the court. Although the law prescribes that the daily trial session should last at least three hours, this rule is not always respected by judges and/or court staff.

5. Some judges do not conduct hearings efficiently leading to excessively long trials. In addition, overly formalistic trial rituals can extend the time of hearings. Decisions to have clerks manually record (without the benefit of stenography) all testimony add significantly to the length of the hearing.

Possible Actions

On the administrative level:

1. Structure and organize the office of the Dean of the Court, by detailing its various administrative and jurisdictional functions, tasks, lines of authority and responsibility, to improve overall court efficiency.

2. Establish guidelines for case distribution by the Dean of the Court to investigating judges and the correctional and criminal courts. Among the criteria for distribution, the Dean should take into consideration judges' workload and the complexity of the case. Provide training to judges and clerks on file distribution strategies and case management.

3. Implement a uniform case registration, classification and archive system. Provide equipment to facilitate its implementation.

4. Professionalize the clerks of court, offering them appropriate training, instruction and certification.

5. Guarantee that Deans of Court ensure that judges and court staff respect their working hours and are managing workloads to avoid backlogs. Ensure that the appropriate judicial authority (*i.e.*, the Judicial Council) sanctions judges and court staff violating the rules of court.

6. Train judges in trial management.

7. Modernize overly formalistic court rituals and administrative practices to speed the hearing process.

On the prescriptive level:

1. Adopt and implement trial court internal rules according to the August 22, 1995 Decree on Judicial Organization.
2. Adopt a clerk of court Code of Ethics implemented through training, certification, and enforcement measures.

6. Detention Judges

Review of the Results

While the option for pre-trial release exists in the law, this option is rarely used in practice. This study found no cases where an accused benefited from a pre-trial release mechanism.

Implications and Potential Causes

Currently, there are no functioning, systematic, pre-trial release mechanisms. Lack of pre-trial release mechanisms is a major contributing factor to the grave problem of prolonged pre-trial detention. It also contributes to prison overcrowding and its associated costs. However, under procedural law, pre-trial release is permitted in certain cases. For example, pre-trial release is allowed at the Cabinet d' Instruction for some cases in its competence. However, it is not systematically applied and, in fact, is rarely used. In some cases of *flagrant délit*, an accused may benefit from early release while waiting for the expedited trial date to be set.

Moreover, some jurists contend that Articles 26 and 26.1 of the Constitution open the possibility for a systematic pre-trial release process requiring judges to rule on the question of detention or provisional release for each accused appearing before them. Although the option of *habeas corpus* is available, most detainees do not have the means to contract legal counsel and *pro bono* legal assistance programs are rare.

The Haitian Constitution accords great importance to the concept of individual liberty, conforming to international human rights standards. Unfortunately, persons are too easily detained in custody in Haiti in disregard of the presumption of innocence and the situation of detention before judgment borders on the violation of human rights.

Possible Actions:

Instituting in law and practice a system of a “detention judge” who is charged with rendering decisions on the lawfulness and advisability of whether or not to retain the accused would greatly reduce pre-trial detention.

VIII. Conclusions

The study has shown that legal deadlines are overwhelmingly not respected in the penal chain. Also, administrative steps that should occur without delay take an excessively long time. This is the case in the transmission of files from one authority to the other as well as within the different sections of the same authority. The results demonstrate that the penal justice system does not function effectively, which is akin to the denial of justice in general. Given the state of the system, the extremely low conviction rate in the Haitian court system is not surprising. After a given period witnesses no longer remember facts or are no longer motivated to appear, if they can be found in the first place. The evidence and file documents become lost and eventually the social conscience demanding justice dwindles. The result is impunity and injustice.

In sum, this study only begins to clarify our understanding of the progression through time of cases in the penal chain. Other research should be undertaken concerning the types of crimes, demographics, verdicts, dismissed cases at the Parquet level or even of the procedures before the courts or Parquets in order to better determine the problems of delays in the Haitian penal system.

The high percentage of files/cases dismissed at the level of the Parquet is a matter calling for further study. What are the causes for these cases to be dismissed? Is it a matter of the case being dropped by the victims, an agreement between the parties, legal nullity, lack of probable cause, or other causes?

The possible actions listed above propose some potential solutions and leads, that hopefully, will help generate new ones. Immediate actions need to be taken regarding key transversal problems: classification and registration of files; overall working conditions of members of the judiciary and court staff; management and leadership; coordination between actors of the penal chain; control; supervision; evaluation; and finally, professionally training participants in the system on the principles of case flow management.

Despite the many deficiencies, the study showed that some deadlines were respected at every level in each jurisdiction. This finding suggests that the system could function much more effectively if the suggested treatments were applied.

APPENDIX I

Case Flow through the Penal Chain in the Jurisdictions of Saint Marc, Petit-Goâve and Port-au-Prince

Table A > Days between arrest and booking 2 d. C. 26

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed ^{Note 1}	201	164	299	664
2	Total number of cases with invalid results ^{Note 2}	83	78	42	203
3	Total number of cases with valid results ^{Note 3}	118	86	257	461
4	Total number of days for the valid results ^{Note 4}	1,487	976	5,571	8,034
5	Average period of time (row 4 ÷ row 3) ^{Note 5}	12.6	11.3	21.7	17.4
6	Longest period of lapsed time ^{Note 6}	266	391	321	391
7	Shortest period of lapsed time ^{Note 7}	0	0	0	0
8	Median ^{Note 8}	3	3	8	5
9	Mode ^{Note 9}	0	0	0	0

Note 1 This number represents the total number of cases analyzed for this step.

Note 2 This number represents the number of cases for which the information was not available for this step.

Note 3 This number represents the number of cases for which the information was available for this step.

Note 4 This number represents the total number of days passed in this step for all cases in which the information was available

Note 5 The average period is calculated by dividing the number of days by the number of cases for which information was available for the given step.

Note 6 This number represents those cases having spent the most number of days in a given step

Note 7 This number represents those cases having spent the fewest number of days in a given step.

Note 8 This number represents the middle number of days, such that half of the cases have spent less than this amount and half have spent more than this amount in a given step.

Note 9 This number represents the most frequently occurring number of days spent in a given step.

General note: On the title row of each table, following the description of each step, are numbers and letters corresponding to the legal deadlines for each step and the legal provision governing them. For example, 2 d C.26 above refers to a two day deadline as provided in the Constitution, Art. 26. “W/D” refers to without delay. The “CIC” is the Criminal Procedure Code. “NP” means the deadline is not provided in law.

Table B(2) > Days between booking and receipt by JP court registry N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	93	88	128	309
3	Total number of cases with valid results	108	76	171	355
4	Total number of days for the valid results	1,186	651	3,819	5,656
5	Average period of time (row 4 ÷ row 3)	11.0	8.6	22.3	15.9
6	Longest period of lapsed time	186	65	264	264
7	Shortest period of lapsed time	0	0	0	0
8	Median	3	4	5	4
9	Mode	0	0	0	0

Table C(3) > Days between receiving file and first hearing by JP W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	54	50	110	214
3	Total number of cases with valid results	147	114	189	459
4	Total number of days for the valid results	283	424	1,022	1,729
5	Average period of time (row 4 ÷ row 3)	1.9	3.7	5.4	3.8
6	Longest period of lapsed time	38	72	196	196
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table D(4) > Days between first hearing and first decision by JP

W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	49	48	107	204
3	Total number of cases with valid results	152	116	192	460
4	Total number of days for the valid results	17	82	55	154
5	Average period of time (row 4 ÷ row 3)	0.1	0.7	0.3	0.3
6	Longest period of lapsed time	6	20	21	21
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table E(5) > Days between first hearing and last decision by JP

W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	54	50	108	212
3	Total number of cases with valid results	147	114	191	452
4	Total number of days for the valid results	949	951	980	2,880
5	Average period of time (row 4 ÷ row 3)	6.5	8.3	5.1	6.4
6	Longest period of lapsed time	102	97	93	102
7	Shortest period of lapsed time	0	0	0	0
8	Median	2	3	1	2
9	Mode	0	0	0	0

Table F(6) > Days between last decision and release

		W/D			
No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	201	164	299	664
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. The information in this study was taken from files in the prosecutor's office and the trial courts of the three subject cities. Therefore, there is no information available for this particular calculation as all cases moved from the Justice of the Peace Court to the next step in the penal chain without any prisoners being released at this stage in the process.

Table G(7) > Total days in JP court for released defendants

		2 d. C. 26			
No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	201	164	299	664
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. The information in this study was taken from files in the prosecutor's office and the trial courts of the three subject cities. Therefore, there is no information available for this particular calculation as all cases moved from the Justice of the Peace Court to the next step in the penal chain without any prisoners being released at this stage in the process.

Table H(8) > Total days between last decision and sending file to prosecutor W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	58	46	106	210
3	Total number of cases with valid results	143	118	193	454
4	Total number of days for the valid results	336	147	811	1,294
5	Average period of time (row 4 ÷ row 3)	2.3	1.2	4.2	2.9
6	Longest period of lapsed time	56	34	265	265
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table I(9) > Total days case in JP Court 2 d. C. 26

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	56	47	109	212
3	Total number of cases with valid results	145	117	190	452
4	Total number of days for the valid results	1,429	1,557	2,712	5,698
5	Average period of time (row 4 ÷ row 3)	9.9	13.3	14.3	12.6
6	Longest period of lapsed time	121	97	264	264
7	Shortest period of lapsed time	0	0	0	0
8	Median	4	5	5	5
9	Mode	0	0	0	0

Table J(10) > Days between sending file from JP court and receipt by prosecutor's office registry W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	32	26	12	70
3	Total number of cases with valid results	169	138	287	594
4	Total number of days for the valid results	294	450	1,622	2,366
5	Average period of time (row 4 ÷ row 3)	1.7	3.3	5.7	4.0
6	Longest period of lapsed time	27	43	256	256
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	1	1
9	Mode	0	0	0	0

Table K(11) > Days between file receipt by registry and receipt of file by Chief Prosecutor W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	1	0	0	1
3	Total number of cases with valid results	200	164	299	663
4	Total number of days for the valid results	81	274	25	380
5	Average period of time (row 4 ÷ row 3)	0.4	1.7	0.08	0.6
6	Longest period of lapsed time	78	182	11	182
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table L(12) > Days between receipt by Chief Prosecutor and assignment to staff prosecutor W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	2	0	1	3
3	Total number of cases with valid results	199	164	298	661
4	Total number of days for the valid results	8	7	306	321
5	Average period of time (row 4 ÷ row 3)	0.04	0.04	1.0	0.5
6	Longest period of lapsed time	5	7	154	154
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table M(13) > Days between assignment of case and receipt of case file by prosecutor staff W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	3	0	1	4
3	Total number of cases with valid results	198	164	298	660
4	Total number of days for the valid results	67	118	35	220
5	Average period of time (row 4 ÷ row 3)	0.3	0.7	0.1	0.3
6	Longest period of lapsed time	14	34	18	34
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table N(14) > Days between receipt of case file by prosecutor and first hearing W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	15	10	7	32
3	Total number of cases with valid results	186	154	292	632
4	Total number of days for the valid results	706	63	419	1,188
5	Average period of time (row 4 ÷ row 3)	3.8	0.4	1.4	1.9
6	Longest period of lapsed time	245	33	267	267
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table O(15) > Days between first hearing and first decision W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	201	164	299	664
2	Total number of cases with invalid results	16	10	9	35
3	Total number of cases with valid results	185	154	290	629
4	Total number of days for the valid results	610	803	848	2,261
5	Average period of time (row 4 ÷ row 3)	3.3	5.2	2.9	3.6
6	Longest period of lapsed time	245	274	267	274
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table P(16) > Days between receipt of case file by prosecutor staff and dismissal W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	133	142	175	450
2	Total number of cases with invalid results	0	1	1	2
3	Total number of cases with valid results	133	141	174	448
4	Total number of days for the valid results	3,074	22,794	6,059	31,927
5	Average period of time (row 4 ÷ row 3)	23.1	161.7	34.8	71.3
6	Longest period of lapsed time	416	745	1,280	1,280
7	Shortest period of lapsed time	0	0	0	0
8	Median	4	33	5	8
9	Mode	0	0	0	0

Table Q(17) > Total days in prosecutor's office for dismissed cases W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	133	142	175	450
2	Total number of cases with invalid results	0	1	1	2
3	Total number of cases with valid results	133	141	174	448
4	Total number of days for the valid results	3,217	23,151	6,210	32,578
5	Average period of time (row 4 ÷ row 3)	24.2	164.2	35.7	72.7
6	Longest period of lapsed time	416	745	1,280	1,280
7	Shortest period of lapsed time	0	0	0	0
8	Median	6	33	5.5	9
9	Mode	0	0	0	0

Table R(18) > Days between first decision and date prosecutor summoned defendant to correctional court W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	2	4	1	7
3	Total number of cases with valid results	34	7	13	54
4	Total number of days for the valid results	1,365	165	245	1,695
5	Average period of time (row 4 ÷ row 3)	40.1	23.6	18.8	31.4
6	Longest period of lapsed time	326	128	85	326
7	Shortest period of lapsed time	0	0	0	0
8	Median	13	3	7	10.5
9	Mode	6	1	0	0

Table S(19) > Days between first decision and date prosecutor summoned the parties W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	1	6	2	9
3	Total number of cases with valid results	35	5	12	52
4	Total number of days for the valid results	1,276	134	211	1,621
5	Average period of time (row 4 ÷ row 3)	36.5	26.8	17.6	31.2
6	Longest period of lapsed time	316	105	81	316
7	Shortest period of lapsed time	0	0	0	0
8	Median	10	4	6.5	7.5
9	Mode	2	n/a	0	0

Table T(20) > Total Days in prosecutor's office for cases referred to correctional court 3 d. CIC157

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	2	2	1	5
3	Total number of cases with valid results	34	9	13	56
4	Total number of days for the valid results	1,437	474	447	2,385
5	Average period of time (row 4 ÷ row 3)	42.3	52.7	34.4	42.1
6	Longest period of lapsed time	361	230	169	361
7	Shortest period of lapsed time	0	0	0	0
8	Median	13.5	15	15	14
9	Mode	6	9	n/a	6

Table U(21) > Days between the prosecutor's first decision and drafting the investigation request W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	0	0	1	1
3	Total number of cases with valid results	32	11	109	152
4	Total number of days for the valid results	303	77	6,619	6,999
5	Average period of time (row 4 ÷ row 3)	9.5	7	60.7	46.0
6	Longest period of lapsed time	133	72	489	489
7	Shortest period of lapsed time	0	0	0	0
8	Median	1	0	5	3
9	Mode	0	0	0	0

Table V(22) > Days between drafting the investigation request and sending file to investigative judge W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	0	2	0	2
3	Total number of cases with valid results	32	9	110	151
4	Total number of days for the valid results	111	60	6,151	6,322
5	Average period of time (row 4 ÷ row 3)	3.5	6.7	55.9	41.9
6	Longest period of lapsed time	42	40	489	489
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table W(23) > Total days in the prosecutor's office for cases referred to investigative judge W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	0	2	0	2
3	Total number of cases with valid results	32	9	110	151
4	Total number of days for the valid results	466	448	1,397	2,311
5	Average period of time (row 4 ÷ row 3)	14.6	49.8	12.7	15.3
6	Longest period of lapsed time	137	274	250	274
7	Shortest period of lapsed time	0	1	0	0
8	Median	6	18	4	5
9	Mode	0	n/a	0	0

Table X(24) > Days between summoning parties and first hearing at correctional court 3 d. CIC157

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	1	6	3	10
3	Total number of cases with valid results	35	5	11	51
4	Total number of days for the valid results	198	72	59	329
5	Average period of time (row 4 ÷ row 3)	5.7	14.4	5.4	6.5
6	Longest period of lapsed time	40	23	19	40
7	Shortest period of lapsed time	0	1	0	0
8	Median	5	19	4	4
9	Mode	5	n/a	0	4

Table Y(25) > Days between first hearing and final hearing N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	1	5	2	8
3	Total number of cases with valid results	35	6	12	53
4	Total number of days for the valid results	1,282	61	42	1,385
5	Average period of time (row 4 ÷ row 3)	36.6	10.2	3.5	26.1
6	Longest period of lapsed time	331	35	22	331
7	Shortest period of lapsed time	0	0	0	0
8	Median	21	6	0	12
9	Mode	0	0	0	0

Table Z(26) > Days between final hearing and judgment

N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	1	4	1	6
3	Total number of cases with valid results	35	7	13	55
4	Total number of days for the valid results	14	30	0	44
5	Average period of time (row 4 ÷ row 3)	0.4	4.3	0	0.8
6	Longest period of lapsed time	7	30	0	30
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table AA(27) > Days between judgment and receipt of file by prosecutor's office

W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	32	10	14	56
3	Total number of cases with valid results	4	1	0	5
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. *Insufficient data available to permit this calculation.*

Table AB(28) > Days between receipt of file and when defendant is notified of the judgment N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	36	10	14	60
3	Total number of cases with valid results	0	1	0	1
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

Table AC(29) > Days between notification of judgment and release W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	36	11	14	61
3	Total number of cases with valid results	0	0	0	0
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. *Insufficient data available to permit this calculation.*

Table AD(30) > Days between notification of judgment and date appeal filed 10 d. L. 26/7/79. 2

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	36	11	14	61
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. No dates were entered for filing of appeals.

Table AE(31) > Days between appeal filed and case reviewed 10 d. L. 26/7/79.15

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. Insufficient data available to permit this calculation.

Table AF(32) > Days between case review and decision of Appeal Court 30 d. L26/7/79. 15

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. *Insufficient data available to permit this calculation.*

Table AG(33) > Total days between summons and judgment in correctional court 3 d. CIC157

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	36	11	14	61
2	Total number of cases with invalid results	36	11	12	59
3	Total number of cases with valid results			2	2
4	Total number of days for the valid results			179	179
5	Average period of time (row 4 ÷ row 3)			89.5	89.5
6	Longest period of lapsed time			161	161
7	Shortest period of lapsed time			18	0
8	Median			89.5	89.5
9	Mode			n/a	n/a

N.B. *The majority of the cases did not have dates entered for informing the defendant of the judgment.*

Table AH(34) > Total days in Appeal Court N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. *Insufficient data available to permit this calculation.*

Table AI(35) > Days between sending the file to the investigative judge and receipt by the Chief Clerk of the Criminal Court W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	0	2	7	9
3	Total number of cases with valid results	32	9	109	144
4	Total number of days for the valid results	13	28	736	777
5	Average period of time (row 4 ÷ row 3)	0.4	3.1	6.8	5.4
6	Longest period of lapsed time	4	12	124	124
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	1	1
9	Mode	0	0	0	0

Table AJ(36) > Days between receipt of the file by the court clerk and receipt by the Dean for assignment W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	156
2	Total number of cases with invalid results	0	2	13	15
3	Total number of cases with valid results	32	9	97	138
4	Total number of days for the valid results	32	214	1,203	1,449
5	Average period of time (row 4 ÷ row 3)	1.0	23.8	12.4	10.5
6	Longest period of lapsed time	32	156	266	266
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	4	2
9	Mode	0	0	2	0

Table AK(37) > Days between assignment of file to investigative judge and receipt of file by judge's clerk W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	2	2	59	63
3	Total number of cases with valid results	30	9	51	90
4	Total number of days for the valid results	76	7	886	969
5	Average period of time (row 4 ÷ row 3)	2.5	0.8	17.4	10.8
6	Longest period of lapsed time	40	7	231	231
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	4	0
9	Mode	0	0	0	0

Table AL(38) > Days between receipt of file by judge's clerk and receipt of file by the investigative judge W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	2	2	60	64
3	Total number of cases with valid results	30	9	50	89
4	Total number of days for the valid results	22	0	67	89
5	Average period of time (row 4 ÷ row 3)	0.7	0	1.3	1
6	Longest period of lapsed time	22	0	23	23
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table AM(39) > Days between receipt of file by investigative judge and the first legal act in the case W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	2	5	57	64
3	Total number of cases with valid results	30	6	53	89
4	Total number of days for the valid results	193	353	3,140	3,686
5	Average period of time (row 4 ÷ row 3)	6.4	58.8	59.2	41.4
6	Longest period of lapsed time	54	125	448	448
7	Shortest period of lapsed time	0	1	0	0
8	Median	1	49.5	21	11
9	Mode	0	125	0	0

Table AN(40) > Days between receipt of the file and the first hearing W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	1	4	59	64
3	Total number of cases with valid results	31	7	51	89
4	Total number of days for the valid results	691	376	3,161	4,228
5	Average period of time (row 4 ÷ row 3)	22.3	53.7	62	47.5
6	Longest period of lapsed time	197	126	448	448
7	Shortest period of lapsed time	0	1	0	0
8	Median	13	21	22	20
9	Mode	0	126	0	0

Table AO(41) > Days between first hearing and last hearing N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	0	2	10	12
3	Total number of cases with valid results	32	9	100	141
4	Total number of days for the valid results	650	557	2,589	3,796
5	Average period of time (row 4 ÷ row 3)	20.3	61.9	25.9	26.9
6	Longest period of lapsed time	253	382	321	382
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	23	0	0
9	Mode	0	0	0	0

Table AP(42) > Days between the last hearing and the investigative judge sending file to prosecutor's office for final request N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	0	2	16	18
3	Total number of cases with valid results	32	9	94	135
4	Total number of days for the valid results	2,158	1,026	7,970	11,154
5	Average period of time (row 4 ÷ row 3)	67.4	114	84.8	82.6
6	Longest period of lapsed time	328	285	531	531
7	Shortest period of lapsed time	0	0	0	0
8	Median	44.5	61	50.5	48
9	Mode	0	0	0	0

Table AQ(43)⁵ > Days between sending file and receipt by the prosecutor's office W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	2	5	14	21
3	Total number of cases with valid results	30	6	96	132
4	Total number of days for the valid results	0	65	761	826
5	Average period of time (row 4 ÷ row 3)	0	10.8	7.9	6.3
6	Longest period of lapsed time	0	64	161	161
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	2	0
9	Mode	0	0	0	0

⁵ In the data collections spreadsheet in columns BH and BI, row 637, the two cells show the entry of 11/16/05. The program has recognized the first cell (BH-637) as September 16, 1905. However, the second cell (BI-637) is reflected as September 16, 2005. The value of 36525 resulting for this case was removed from the calculations and shown as a "no value" entry.

Table AR(44) > Days between receipt of file by Prosecutor's Office and sending final request to criminal court registry 5d. L.26/7/79.7

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	4	7	12	23
3	Total number of cases with valid results	28	4	98	130
4	Total number of days for the valid results	848	142	3,615	4,605
5	Average period of time (row 4 ÷ row 3)	30.3	35.5	36.9	35.4
6	Longest period of lapsed time	175	80	321	321
7	Shortest period of lapsed time	0	2	4	0
8	Median	20	30	20.5	20.5
9	Mode	7	n/a	6	13

Table AS(45) > Days between sending final request from prosecutor's office and receipt by investigating judge W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	4	6	9	19
3	Total number of cases with valid results	28	5	101	134
4	Total number of days for the valid results	1	21	157	179
5	Average period of time (row 4 ÷ row 3)	0	4.2	1.6	1.3
6	Longest period of lapsed time	1	18	20	20
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	1	0	0
9	Mode	0	0	0	0

Table AT(46) > Days between the investigating judge receiving the final request and issuing the closing order 30 d. L.26/7/79.7

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed ^{Note 1}	32	11	110	153
2	Total number of cases with invalid results	4	6	11	21
3	Total number of cases with valid results	28	5	99	132
4	Total number of days for the valid results ^{Note 2}	1,180	71	3,701	4,952
5	Average period of time (row 4 ÷ row 3)	42.1	14.2	37.4	37.5 ^{Note 4}
6	Longest period of lapsed time ^{Note 3}	659	35	265	659 ^{Note 5}
7	Shortest period of lapsed time ^{Note 3}	1	0	0	0 ^{Note 5}
8	Median ^{Note 8}	8.5	1	19	17
9	Mode ^{Note 9}	5	0	2	2

Table AU(47) > Days between issuance of closing order and receipt of closing order by prosecutor's office registry W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	6	4	12	22
3	Total number of cases with valid results	26	7	98	131
4	Total number of days for the valid results	151	68	2,002	2,221
5	Average period of time (row 4 ÷ row 3)	5.8	9.7	20.4	17
6	Longest period of lapsed time	110	28	105	110
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	1	13	9
9	Mode	0	0	0	0

Table AV(48) > Days between receipt of closing order and prosecutor summoning defendant 5 d. CIC.174

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	32	11	110	153
2	Total number of cases with invalid results	13	5	18	36
3	Total number of cases with valid results	19	6	92	117
4	Total number of days for the valid results	168	438	1,805	2,411
5	Average period of time (row 4 ÷ row 3)	8.8	73.0	19.6	20.6
6	Longest period of lapsed time	31	392	90	392
7	Shortest period of lapsed time	0	0	0	0
8	Median	3	5.5	12.5	11
9	Mode	0	3	0	0

Table AW(49) > Days between summoning the defendant and release of the defendant 1 d. L.26/7/79.9

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	13	3	86	102
2	Total number of cases with invalid results	8	0	23	31
3	Total number of cases with valid results	5	3	63	71
4	Total number of days for the valid results	3	2	995	1,000
5	Average period of time (row 4 ÷ row 3)	0.6	0.7	15.8	14.1
6	Longest period of lapsed time	3	2	253	253
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	5	3
9	Mode	0	0	0	0

Table AX(50) > Total days case with investigative judge in cases where prisoner is ultimately released 90 d. L26/7/79.7

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	13	3	86	102
2	Total number of cases with invalid results	4	1	20	25
3	Total number of cases with valid results	9	2	66	77
4	Total number of days for the valid results	1,407	612	20,543	22,562
5	Average period of time (row 4 ÷ row 3)	156.3	306	311.3	293
6	Longest period of lapsed time	389	549	696	696
7	Shortest period of lapsed time	20	63	96	20
8	Median	123	306	272.5	265
9	Mode	n/a	n/a	169	169

Table AY(51) > Days between prosecutor summoning the defendant and sending file to the Dean 8 d. CIC.178

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	19	8	24	51
2	Total number of cases with invalid results	16	3	20	39
3	Total number of cases with valid results	3	5	4	12
4	Total number of days for the valid results	251	35	384	670
5	Average period of time (row 4 ÷ row 3)	83.7	7	96	55.8
6	Longest period of lapsed time	196	11	161	196
7	Shortest period of lapsed time	13	0	1	0
8	Median	42	8	111	12
9	Mode	n/a	n/a	n/a	n/a

Table AZ(52) > Days between prosecutor’s notification order upon the defendant and date appeal filed 10 d. L.26/7/79.14

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. The review did not consider any case files from the Appeal Courts. No data available.

Table BA(53) > Days between filing appeal and case reviewed by Appeal Court 30 d. L.26/7/79.15

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. The review did not consider any case files from the Appeal Courts. No data available.

Table BB(54) > Days between case review and first hearing by Appeal Court N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. The review did not consider any case files from the Appeal Courts. No data available.

Table BC(55) > Days between hearing and judgment of Appeal Court 30 d. L.26/7/79.15

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. The review did not consider any case files from the Appeal Courts. No data available.

Table BD(56) > Days between Appeal Court judgment and notification of the parties

3 d. L.26/7/79.15

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. The review did not consider any case files from the Appeal Courts. No data available.

Table BE(57) > Days between notifying parties and sending indictment file to the Dean 8 d. CIC.176

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. The review did not consider any case files from the Appeal Courts. No data available.

Table BF(58) > Days between indictment file sent to Dean and date of first hearing by Dean N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	19	8	24	51
2	Total number of cases with invalid results	16	1	20	37
3	Total number of cases with valid results	3	7	4	14
4	Total number of days for the valid results	0	0	44	44
5	Average period of time (row 4 ÷ row 3)	0	0	11	3.1
6	Longest period of lapsed time	0	0	44	44
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table BG(59) > Days between first hearing by the court and first hearing by the Dean N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	19	8	24	51
2	Total number of cases with invalid results	6	1	0	7
3	Total number of cases with valid results	13	7	24	44
4	Total number of days for the valid results	82	77	1,301	1,460
5	Average period of time (row 4 ÷ row 3)	6.3	11	54.2	33.2
6	Longest period of lapsed time	38	16	248	248
7	Shortest period of lapsed time	0	5	2	0
8	Median	3	12	35.5	20
9	Mode	0	n/a	20	0

Table BH(60) > Days between the first and last hearing in the criminal court N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	19	8	24	51
2	Total number of cases with invalid results	0	0	0	0
3	Total number of cases with valid results	19	8	24	51
4	Total number of days for the valid results	140	0	83	223
5	Average period of time (row 4 ÷ row 3)	7.4	0	3.5	4.4
6	Longest period of lapsed time	35	0	25	35
7	Shortest period of lapsed time	0	0	0	0
8	Median	4	0	0	0
9	Mode	0	0	0	0

Table BI(61) > Days between last hearing and issuance of judgment N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed	19	8	24	51
2	Total number of cases with invalid results	0	0	0	0
3	Total number of cases with valid results	10	8	24	51
4	Total number of days for the valid results	29	28	7	64
5	Average period of time (row 4 ÷ row 3)	1.5	3.5	0.3	1.3
6	Longest period of lapsed time	29	28	7	29
7	Shortest period of lapsed time	0	0	0	0
8	Median	0	0	0	0
9	Mode	0	0	0	0

Table BJ(62) > Days between issuing judgment and informing the accused

W/D

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. *Insufficient data available to permit this calculation.***Table BK(63) > Total days case in criminal court**

N/P

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. *Insufficient data available to permit this calculation.*

Table BL(64) > Days between the announcement of the verdict to the accused and recorded by Supreme Court 3 d. CIC.303

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. The review did not consider any case files from the Supreme Court. No data available.

Table BM(65) > Days between Supreme Court assignment and Supreme Court decision 3 d. CIC.330

No. (A)	Explanation (B)	St. Marc (C)	Petit-Goâve (D)	Port-au-Prince (E)	Total (F=C+D+E)
1	Total number of cases reviewed				
2	Total number of cases with invalid results				
3	Total number of cases with valid results				
4	Total number of days for the valid results				
5	Average period of time (row 4 ÷ row 3)				
6	Longest period of lapsed time				
7	Shortest period of lapsed time				
8	Median				
9	Mode				

N.B. The review did not consider any case files from the Supreme Court. No data available.

APPENDIX II

Case Flow Theory & Practice

I. INTRODUCTION:

In all the Democracies of the world, the court systems of those forms of government derive their authority from a Constitution or a set of laws enacted by a Parliament. However, a court system can only get its credibility from the people upon whom those sets of law are applied. Unless the people have what is popularly referred to as “public trust and confidence” in the courts, the institution of courts made up of judges, prosecutors and court staff will never fully be looked upon as fair and just.

One of the tenants of the Rule of Law is the participation of the citizens in the legal process either on their behalf or as a witness or as party to a case. There are several ways in which a court system can demonstrate to the citizens that they are acting on their behalf in order to preserve a civilized society. A court should be efficient, timely in their decisions, perceived fair (even to the losing party) provide equal protection and afford due process to all who come before it.

Another aspect of a court system dedicated to the Rule of Law concept is a court that is independent and accountable to the principles and values of the society. Further, accountability and transparency in court operations is most important to a free society.

II. PURPOSE OF COURTS⁶

1. To do individual justice in individual cases

Comment: Each judge must strive to administer justice in each individual case that is before him/her. Judges apply the law to the facts of an individual controversy. In most instances, the controversy is about what happened (the facts) not about the law which would be applied if a specific version of the facts were assumed. The whole docket is important but while the parties are before the court, the judge must give that case their undivided attention.

2. To appear to do justice in individual cases

Comment: The predictability of the consistent application of law to similar controversies is the basis of order in a society. It is not only important that the judge hear each case individually but the parties must sense the appearance of justice is being done. The citizens must have trust and confidence in the process and the judgment that is rendered.

⁶ NCSC, Institute for Court management 2002

3. To provide a forum for the resolution of legal disputes

Comment: The courts provide a place and time for legal disputes to be determined. The courthouse is the alternative to the citizens settling their differences on the street. The establishment of the institution of courts says to the citizens that under the Rule of Law they can bring their disputes to an independent unbiased magistrate in order to interpret the law and render final judgment. In a timely manner the court brings to finality an issue that all parties must abide by. The citizens will abide by the decision of the court if they perceive the courts to be fair.

4. To protect the citizens against arbitrary use of the Government power

Comment: The court system should be a guardian against violations of the citizens' civil rights and abuse of the police and prosecutorial powers of the government.

5. To make a formal record of legal status

Comment: Many court activities do not involve hearings or trials, but making records of legal status (e.g., adoptions, divorce). A registration of legal status made long after the events which supported the creation of the record if not accurate could disrupt people's lives, impairs business relationships and unnecessarily deprives persons of benefit from property. Of all the money spent on courts, a vast majority is spent on creating and maintaining the record of the proceedings of the court. By maintaining a safe and secure environment for court records the judicial system acts as the warehouse for "the" records and documents pertaining to any legal activity in the community. The storage, retention and possible destruction of court records are a very important function of the custodian of the record, the Clerk of Court.

6. To deter criminal behavior

Comment: Criminal behavior in the community can be deterred if the courts act in a timely and firm manner. The findings of the court must be consistent given similar circumstances. Deterrence only occurs when the punishment is near or close to the time of the commission of the crime. Therefore, it is the courts' duty to provide good case management in the processing of its cases.

7. To help rehabilitate persons convicted of crimes

Comment: Along with the swift application of the law to deter crime, the court through its sentencing practices can also provide avenues of rehabilitation where available.

8. To separate persons convicted of serious offenses from society

Comment: In any society there are individuals who must be put in jail for long periods of time even for life in order to protect the well being of the citizens.

III. CASE FLOW MANAGEMENT

The life blood of a court is the processing of cases. There is no other reason for the courts to exist. Only the judicial system can bring finality to an issue of law or civil discourse. Only the judicial system can remove criminals from society for a long period of time. It is in the pursuit of those functions of the court that the issue of how cases are processed and the time it takes the court system to perform its constitutional mandates that case flow management comes into play.

What destroys an efficient court or denies citizens of their access to the court system is DELAY. Delay will naturally occur in the life of a case such as a witness may be hard to locate, or one of the parties to the lawsuit becomes ill or a defendant fails to appear at a hearing. These typical examples of delay can be examined and dealt with on a case by case basis. But what erodes the public trust and confidence in the courts is the “institutional” delays. Delays that occur because the court fails to gain early control of the case and thus manage the flow of the case from filing to disposition are an example of delays that can be addressed by Presiding Judges and Clerks of Court.

The American Bar Association (ABA) in its Standards Relating to Court Delay Reduction states:

“From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events, is unacceptable and should be eliminated....A strong judicial commitment is essential to reducing delay and, once achieved, maintaining a current docket” (Standard 2.50)

In the previous section (Purposes of Courts) all of the reasons for courts to exist are destroyed by delay. Delay prolongs the disposition of cases, it promotes public distrust of the court system and it leads to the creation of a backlog of pending cases. When courts are seen to do things promptly, the public has reason to trust the judicial system and to behave within the law.

When discussing case flow and the management of cases, there are key elements to consider:

Ten Key Elements of Successful Case Flow Systems⁷

- 1. Leadership**
- 2. Goals**
- 3. Information**

⁷ ICM-Case flow Management Principles and Practices, Solomon, Friesen, Mahoney, 1991

4. **Communications**
5. **Case Flow Management Policies and Procedures**
6. **Commitment**
7. **Staff Involvement**
8. **Education and Training**
9. **Mechanisms for Accountability**
10. **Backlog Reduction and Inventory Control**

You can review the above Elements by asking a few questions:

1. How can court leadership contribute significantly to the court's ability to create and maintain effective case flow management systems?
2. Why is goal setting important to achieving an efficient and effective court system?
3. Why is it important to continuously monitor the size and age of the pending caseload?
4. How can effective court management of the caseload help reduce the cost of litigation?
5. Under what circumstances does your court consult with the bar regarding case processing policies and procedures?
6. How can the court become more accountable to the public?

The National Center for State Courts has developed a series of management principles that deal with case management fundamentals.⁸ These fundamentals lay out a process whereby a court can plan for effective management of their cases. The definition of case flow management is:

- *Coordination of court processes and resources to move cases timely from filing to disposition, regardless of the case type or the type of disposition*
- *Creation of case events, but most importantly, management of the time between events (i.e., long enough to allow preparation; short enough to encourage preparation)*
- *Creation of a predictable system that sets expectations and helps assure that required action is taken*

Consistent with the definition above are the Eleven Fundamentals of Case Flow Management.

Eleven Fundamental Elements of Case Flow Management

1. **Judicial Commitment and Leadership**
2. **Court Consultation with the Bar**

⁸ National Center for State Courts; Eleven Fundamental Elements of Case Flow Management, 2005

3. **Court Supervision of Case Progress**
4. **Standards and Goals**
5. **Monitoring and Information Systems**
6. **Case Assignment Systems**
7. **Early Court Intervention and Early Dispositions**
8. **Setting Firm Hearing Dates**
9. **Controlling Continuances and Avoiding Backlogs**
10. **Systems Approach and Vision**
11. **Attention to Detail**

1. **Judicial Commitment and Leadership**

Comment: This is a very important element to the whole success of case flow management. This leadership and commitment must start at the top of the court system. The Supreme Court must set the tone for the whole court system to follow. It is also very important that Presiding Judges at the trial court level be committed to the principles of good case management. Among the characteristics that demonstrate commitment by the leadership of the court are:

- Accountability
- Persistence
- Willingness to initiate change
- Commitment to follow through

On the other hand there are characteristics that are demonstrated by the court leaders that lead to failure. Among them are:

- Lack of leadership skills
- Lack of willingness to lead
- Focus on pet projects

2. **Court Consultation with the Bar**

Comment: Case flow management should be a concern of both the court and the bar. A good relationship between the judges and the lawyers needs to be established. The court is in charge of the progress of the cases but the cooperation of the lawyers is important. Both should be interested in the speedy and just resolution of all cases.

3. **Court Supervision of Case Progress**

Comment: There are three axioms to good supervision of the progress of cases.

- Lawyers settle cases, not judges
- Lawyers settle cases when prepared
- Lawyers prepare for significant events

There are five principles of court supervision of case progress.

- Early court control
- Continuous court control
- On a short schedule
- Be reasonably arbitrary
- Create the expectation and the reality that events will happen when scheduled

Comment: Once the case is filed the court should take control of the case. Once having control they should retain continuous control. The case should progress on a short schedule; at the conclusion of one event the next event should be scheduled. The court should set the next event in a reasonable time for the lawyers to prepare, but not too far out to allow unnecessary delays. If hearings occur when scheduled it will create an expectation among the parties that they need to be prepared.

4. Standards and Goals

Comment: Every court should have a time frame in which all cases should be disposed. The settings of goals for those time frames aid in the process since all parties know the expectation of the court. Standards are arrived at through the input from the bar. The standards should state the number of days in which 98% of all cases are disposed. For example:

Case Type	90%	98%
Civil	12 mos.	18 mos.
Domestic	3 mos.	6 mos.
Felony	120 days	180 days
Misdemeanor	30 days	90 days

The court should establish time frames for disposition for all of its case types (juvenile, probate etc). Without time standards the court cannot determine when a case is considered in “backlog.”

5. Monitoring and Information Systems

Comment: Whether the court has a manual or an automated record keeping system, the monitoring of the court’s performance is vital to determining its effectiveness. Information in the form of management reports should enable the court to see the status of a case at anytime in its process. A good reporting system can help locate a “lost” file. Other useful aspects of a good reporting system are:

- Monitor dispositions, adjournments and final hearings
- Determine whether or not the standards and goals are being met
- Give the court a count of all pending cases by judge and case type

The court can determine the level of information it needs and the detail upon which the staff can efficiently gather the data in order to compile the reports.

6. Case Assignment System

Comment: There are several models of case assignment to judges. The most popular is the Individual Calendar System. A judge is assigned a case and stays with it throughout the life of the case. Other models require more than one judge to handle the case, for example; one judge will hear all motions in the case and another judge will hold the trial or final hearing. This assignment system is called the Master Calendar System. The number of judges in the court and volume of cases should determine the best method of assignment.

7. Early Court Intervention and Early Dispositions

Comment: Early court intervention can lead to more settlements and pleas before trial. The court can take affirmative action to lead the parties to settlement. Among the activities that courts can take are:

- View every hearing as an opportunity for settlement since the parties are present
- Make timely decisions on all motions before them
- Create the environment for disposition; require the lawyers to talk to each other through settlement conferences
- Allow cases that are active and ready to proceed by giving them early hearing dates

Techniques for successful settlement conferences (usually used in civil cases) are:

- Talk to the lawyers
- Outline options and offer mediation
- Outline strengths and weaknesses of case
- Tell clients (with their lawyers) consequences of similar cases
- Talk to expert witnesses
- Make settlement recommendation
- Be active in the settlement process

Comment: The judge can be very active in the settling of cases. The client may not understand the consequences of pursuing the case. If settlement is available and appropriate it will save the client money for attorney's fees and time spent while in litigation. The court must control the case not the attorneys. The court does not represent the clients but does act as an unbiased arbiter in the matter.

8. Setting Firm Trial Dates

Comment: The court should set the hearing dates not the lawyers or prosecutors. The court should schedule no more than twice the number of hearings per session than the actual hearing rate. The court should set the hearing date when the case is hearing-ready after all procedural matters have been resolved. Once set, the dates should be firm and there should be no continuances.

Reasons why meaningful hearings do not occur on the date scheduled.

- Poorly prepared or poorly trained attorneys
- Court not getting its act together (error in the calendar)
- Last minute problems, defendant not present
- Reluctance by the court to sanction parties
- Attorney conflict (in another court, sick etc)
- Court taking too long on previous hearing causing next hearing to be delayed or continued

Comment: The court can take measures to avoid some of the reasons why “meaningful” hearings do not occur. The court should not over schedule too many hearings in the same time frame. The court should know by experience how long a hearing will take and when they expect to complete each case. By actively reviewing the management reports, a court can determine or identify problems that may occur. Some of those early warning signs could be:

- Report shows the continuance rate is greater than 20%
- Next available hearing dates are 180 days or longer from the last hearing
- Lack of sufficient courtroom time
- Too few hearings scheduled per week
- Too many hearings on same case
- Judge taking too much time off for non-courtroom activities
- Reluctance of some judges to help other judges when their calendar is completed for the day

Comment: A review of the activity of the hearing calendar can spot some problem before they occur. Adjustments can be made to the calendar based on past experience of unsuccessful court days. Judges fall into routines that are hard to break, like starting late in the morning for their first hearing.

9. Controlling Continuances and Avoiding Backlogs

Comment: The bane of a good case flow management system is the liberal use of continuances. The court should have a strict written policy on allowing continuances to occur. The court can track continuances and determine who requests them the most, the reasons for the continuances

and the amount of time requested and granted. There are two Continuance Rules:

- Continuances breed continuances. If attorneys believe the case will proceed as scheduled, they will prepare. Preparation minimizes the need for continuances
- The court cannot establish hearing date certainty with a lot of continuances

The allowance of continuances by the court not only has an impact on the credibility of the court but greatly affects the parties. They have to prepare to appear again and again, the witnesses are inconvenienced, and notices of hearings have to be served: all of this inconvenience and the case are still pending.

On the issue of backlogs, the definition is: *The backlog is the number of cases in the inventory that are older than the time standard set by the court.* (See Fundamental Element 4: Standards and Goals)

If the time standard for a felony case is 180 days from filing to disposition, then when the case is 181 days old it is considered in backlog.

Attacking a backlog requires a systematic process.

- Determine the inactive pending caseload; this review should go back as far as there are pending cases.
- Administratively review all cases for disposition
- Send notices to parties to determine the current status of the case
- Schedule hearings for cases, or arrange mediation

Comment: This review should be done every two years. If the court actively controls the case from the beginning (See Fundamental Element 3: Court Supervision of Case Progress) this process is relatively easy.

10. Systems Approach and Vision

Comment: This fundamental simply says that whatever the court does in the way of case flow management for one case type it should do it for all case types. The overall performance of a court can not be judged by the way it handles civil and not criminal. The "Vision" should be provided by the Presiding Judge or the Supreme Court. Where is the court going in the next five years? What is the status of the court's calendar in the next three years? Will the court establish Standards and Goals? What are the performance measures for the judges and court?

Someone has to be thinking and planning for the future of the court system. If no one in the court system is providing the vision, someone outside the court system will do it for them. If it is done by the prosecutor or the Minister of Justice, is the court independent?

11. Attention to Detail

Comment: Of all the eleven fundamentals for case flow management this fundamental can not be ignored. Yet, courts set up systems and procedures without someone paying attention to the details of the system or procedure. Things go wrong or not as planned and no one knows why. The problem more times than not is in the details. Everyone in the system, prosecutors, judges, attorneys, and court staff has a role to play. With each function there should be a responsible person to monitor the details.

IV CASE MANAGEMENT IN OTHER COUNTRIES

The use of time standards or goals to measure the performance of the judges and courts in many countries is non-existent. Many countries that were reviewed as a part of this project do use some measures to determine performance by the courts. However, many of the measures are subjective, like “quality” of decisions. This factor when used as a performance measure by some countries is determined by how many times the judge is reversed on appeal. While this can be reduced to a statistical number it may not truly get at the issue of quality of decision making by the judge in all cases. For example, not all cases are appealed. So the quality factor is only applied to the appealed cases and not all cases heard by a judge.

Below is a review of some countries in Europe, Latin America and the Caribbean. While it can be argued that the culture and judicial procedures are different in each country, all the courts in this research have the same mission, which is to dispose of cases. Using the universal criteria that courts are created to dispose of cases we can look at different cultures and practices and see what judges in many countries use to determine their performance.

Caribbean Countries

A. Trinidad and Tobago⁹

Trinidad and Tobago is undergoing a total revamping of its civil code. This reform is requiring the “registries” to adjust and all the systems and processes are being dealt with on a time and motion study and standards. There are no time standards for cases as such in the Commonwealth Caribbean jurisdiction. However, they do have “time for service” rules. For example: time to reply, time for filing of certain applications, time for filing certain documents and time for the court to give the litigants dates for case management conferences. In criminal matters, by common law, a murder conviction must be had within a few years in order for the death penalty to apply. Kidnapping must be disposed within one year of arrest or the accused must be admitted to bail.

⁹ Christie-Anne Alleyne, Master, Caribbean Court of Justice, 2006

Latin America¹⁰

A. Puerto Rico

Unlike all other countries in Latin America, Puerto Rico is a common law country and basically follows the U.S. model in their courts. They have time standards, good information systems and make decisions to ensure effective case flow to measure performance of their courts.

B. Costa Rica

Costa Rica has made some good advances. In the Supreme Court they have time standards and even set up an office to keep track of the amount of time cases take. The Chief Justice is a strong leader and the democratic traditions in Costa Rica allow advances to be made.

C. Peru

Peru has introduced objectives, performances indicators, training for their judges and process upgrades. According to their reports, case processing time in the Peruvian Commercial Courts was reduced by 70%.

D. El Salvador

In accordance with the law, El Salvador has time standards to which the judges in the lower courts must conform. However, in practice, continuances and many other factors make it very difficult to adhere to the standards. Another hindrance that the courts in El Salvador must contend with is the lack of judges and new court facilities, together these only add to the problem of complying with the standards.

Europe¹¹

A. Finland

Since 1995, the judicial system in Finland has used a system of management by results. The measure is the number of decisions or judgments made by the court divided by the number of personnel working for the court. Operational efficiency is measured by dividing the money expended by the number of judicial decisions the court made. Time targets are set for cases like civil or criminal. The process includes discussions about improving court performance and then the appropriations to cover the court operations are determined through negotiations. Parliament sets specific results targets for each government entity including the courts. The Ministry of Justice takes these "target results" and works with the courts to propose a budget for the courts.

Quality of court proceedings is determined by how well the court conforms to the procedural rules and does not conflict with the norms of the European Convention on Human Rights. In addition, quality of court decisions is measured by their conformity to laws and statutes, guided by doctrine on sources of law and case law. Finally, there is a

¹⁰ Carla Zacapa, El Salvador Supreme Court, 2006

¹¹ Eugene J. Murret; Measurement and Evaluation of Judicial Performance Project Plan, Jan 2005

quality measurement dealing with organization and quality of customer service, including the active development of information services and monitoring work flow and work volumes.

B. Italy

In Italy there are no quality assessments of judicial performance. Present monitoring of judicial performance is limited due to the unavailability of statistics. The Ministry of Justice and the administrative staff of the courts collect statistics manually. The statistics are mainly the number of cases filed, pending and disposed for each six month period. The Prosecutor General of the Court of Cassation gives the average duration (days) in civil and criminal cases using the following formula:

$$\begin{array}{c} \text{Number of cases pending at the beginning of the year} \\ \textbf{Plus} \\ \text{Number of cases pending at the end of the year} \\ \textbf{Divided by} \\ \text{Number of newly registered cases} \\ \textbf{Plus} \\ \text{Number of resolved cases} \end{array}$$

C. Czech Republic

The Czech Republic determines the quality of judicial performance by the success of appeals from the various judges. Twice a year the Minister of Justice meets with the chairpersons of regional courts and discusses the performance of the courts. One of the factors under review would be the length of the proceedings. It is during these reviews that a non-productive judge can be determined and thus subject to disciplinary proceedings.

D. Slovenia

A Judicial Council in Slovenia supervises the assessment of the quality of judicial activity of every judge and every court in the country. The factors used to determine a court's effectiveness is number of disposed cases, structure of resolved cases, and number of cases where appeal is lodged and judgments are confirmed, annulled or changed at the appellate level. Also, the Council collects data on the absences of the judges, which impacts in the effectiveness of the judge's work. There are no central registers so the collection of average duration of a case is not possible to gather. Therefore, some courts use the quotient of workload (number of solved cases divided by the number of workload cases) and the quotient of unsolved cases (number of unsolved cases divided by the number of solved cases). Since there is no central register the average duration will vary from court to court. This is a problem when allocating resources to the courts.

E. Croatia

All courts in Croatia produce reports on a monthly, quarterly and annual basis. These reports include qualitative indicators as well as quantitative data. The qualitative indicator is expressed as a percentage of decisions by each judge that has been quashed

by the higher court. An “unwritten rule,” but one that is accepted by the judges, is that they should not have more than 25% of their cases quashed on appeal. Production of cases is also monitored by the Chief/President Judge of each court. Here again there is no written rule but the Minister of Justice expects the judges to dispose of a certain number of cases each year. That number is determined by the Minister of Justice on the basis of what it deems to be the number of judges needed for each court.

Promotions are based on a judge keeping up with and exceeding this number fixed by the Minister. The Minister also monitors what it calls the “promptness of the court.” In determining the promptness, a formula similar to a “Clearance Rate” is used. For example the total number of cases in a calendar year added to the total number of new cases filed during the calendar year and divided by the number of cases disposed during the year.

F. Serbia

In 2002, the Supreme Court established what it called the *Parameters for Evaluation of Minimum Successful Performance of Judicial Duty*. These parameters are:

- Number of active cases per judge
- The type and complexity of the cases
- Number of cases that the judge should resolve monthly
- The number of suspended, confirmed and reversed decisions
- The time required to draft decisions
- Timely and prompt proceedings in cases
- The attitude towards the participants in the procedure

The promptness factor is determined by dividing the number of pending cases by the number of cases assigned to the judge each month. Another factor used to evaluate the judge is his/her conscientiousness in handling their cases. This is determined by reviewing the duration of the cases, timely scheduling of events and hearings, moving the cases along, attitude towards the participants in the procedures and the time it takes to draft their decisions. The time to draft decisions is set by law, for all by complex cases the draft must be complete within 30 days.

G. Bosnia

The High Judicial and Prosecutorial Council (HJPC) called for the implementation of time lines for case processing. For criminal cases the standards are

Indictment Filed to Decision on Confirmation of Indictment (8) days
Service of Indictment (which is the event after Confirmation of Indictment) to Plea Hearing (15) days

The above time lines occur in the Preliminary Procedure of the First Instance Criminal Court. If the case progresses past the preliminary stage it goes onto the First Instance Criminal docket. At this stage the time lines are:

Plea Hearing to Main Hearing (60) days
Main Hearing to Announcement of Verdict (3) days
Decision to Accepting Guilty Plea to Decision on Sentence (3) days

Announcement of Verdict to Written Verdict/Sentence (15-30) days
Delivery of Written Verdict/Sentence to Appeal (15) days
Receipt of Appeal to Response of Appeal (8) days

The steps are considered the major events in the case. They act as milestone points to alert the judge if the case is delayed or fails to meet the time frames. These time lines are spelled out by statute.

H. Other Countries

In Estonia, Bulgaria and Poland there are no comprehensive system to evaluate or monitor the performance of judges. However, court filings are monitored and analyzed by the Minister of Justice on a summary basis. Statistics on the number of cases filed, disposed and pending is being collected. Attempts are being made to determine the duration or length of time it takes to process a case by judge. However, without an automated information system supporting the data gathering, it is difficult to break down the data into problem solving elements.

V. OTHER ISSUES TO CONSIDER IN CASE MANAGEMENT

There are other issues to consider when implementing a case management system. Case processing is not only about time lines and major events it is also about the organization and the work ethic of the judges. Two important administration issues need to be considered when putting together a Case Management Plan. Those issues are:

A. Judge Days

How many days the judges work per year or are expected to work each year should be addressed at the highest level and policies should be established to allow judges time off. When figuring out the appropriate number of days the judges are expected to work you must subtract weekends and all the days allowed for vacation, education leave, sick leave and holidays from a normal work year. An average work year in days for judges in the U.S. is usually around 200 to 220 days depending on the vacation and holiday schedule for the state. This is a fairly easy number to arrive at and with proper monitoring by the Presiding or Chief Judge in each District each judge should be responsible for being at work that number of days each year.

B. Time Available to Process Cases

It is not enough to establish the number of judge days per year. The next step is to establish the average amount of time each day a judge should be available to work on cases. Questions like:

What time does the courthouse open?
When does the morning calendar begin?
How many cases are scheduled per day?
What time is the last case scheduled for the day?
How long are lunch and breaks each day?

While you do not want to have the judges punching a clock each day, there should be an Administrative Order setting out the expectations for the activity of the court. There is a specific formula that determines the number of cases each court should be expected to process and the average time it should take to dispose of those cases. The formula is based on the number of judges available and the types of cases the court is processing. The formula is arrived at through a process known as a Weighted Caseload Study. This will vary for each court depending on volume of cases and staff available to support the court. But the public has a right to expect the court is attending to the business of the court without undue delay and loss of time.