



EFFECTIVE COURTS

The Pew Charitable Trusts

How Targeted Case Management Can Improve Fairness in Case Outcomes

Steps for making civil courts more effective

Overview

Prioritizing the needs of individual users in case management practices and approaches can help courts deliver fair and just outcomes and reduce costs and delays. Courts have a responsibility to actively manage cases to ensure that legal issues are being resolved.¹ User-centered (also called “differentiated”) case management involves tailoring resources, required steps, and level of court personnel involvement to the complexity of each case and to litigants’ specific needs.²

Courts can adopt a user-centered case management approach by implementing three key practices:

- Triage cases based on court and user needs.
- Ensure that court users understand and are prepared for what will happen next at every point in their case.
- Support court personnel in using case information and other data to determine steps needed to effectively adjudicate a case.

After extensive research, The Pew Charitable Trusts has developed a framework outlining how and why courts should modernize.³ These steps arise from that work and can help programmatic and operational court staff, along with court leadership, assess how their state or jurisdiction currently manages cases; identify opportunities to improve; and decide—with input from relevant stakeholders—which of those opportunities to pursue and how.

Step 1: Bring together relevant court staff and external stakeholders

These groups can contribute important perspectives and insights about how courts can streamline case processing based on user needs and case complexity.

Court users can provide feedback on whether they received the right amount of attention on their case, how they were treated by the court, which experiences and interactions encouraged their participation in their case, and what challenges and barriers they faced in the court system.

Leadership/administrative officers can outline the purpose and goals for user-centered case management and support studies or efforts to improve how cases are managed.

Judges can take an active role in engaging with users and managing cases; they can partner with bailiffs, assistants, and clerks to ensure that cases proceed smoothly.

Clerks can support case management teams and judges to ensure that processes go smoothly and provide feedback on how changes are affecting court users.

IT staff can develop and implement systems and tools to improve and enable court users' participation and work with the case management system vendor (if applicable) to support tracking and monitoring of case data.

Access to justice staff can ensure that case management changes are consistent throughout jurisdictions and that court users understand what they need to do, and can work with relevant personnel to identify sticking points for court users.

Research staff can measure whether cases are meeting deadlines, conduct user testing, and evaluate whether reforms are having the intended impact.

Self-help staff (including court navigators) can inform leadership, access to justice staff, and other relevant personnel about the challenges that court users face and the changes that would be most helpful.

Community partners (e.g., schools, food banks, housing advocacy organizations) can give feedback about legal needs and information gaps in their communities.

External researchers can conduct accessibility audits, translate resources, conduct user testing, and provide guidance on how to incorporate third-party technologies (e.g., text reminders) into court processes.

Legal stakeholders (e.g., civil legal aid, law firms) can provide insight into how they would be affected by new rules—such as those related to proportional discovery and scheduling changes—and what guidance they would need to effectively navigate a new case management pathway.

Step 2: Assess current practices and set next steps

The following set of key metrics can enable courts to assess their progress toward user-focused case management. (See Tables 1-3.)

For each metric, determine whether the answer to the initial question is yes or no using the suggested measure. When the answer is no, the court should pursue the suggested next steps in collaboration with staff and stakeholders. The suggested steps are not prescriptive; instead, they provide ideas and options for getting started. The included state examples can help courts determine what actions are feasible given available resources.

Table 1

Cases Should Receive the Amount of Attention Appropriate for Users' Needs

Metrics, suggested steps, and state examples and resources

Metric	If not, suggested next steps	Examples and resources						
<p>Does the court use differentiated case management rather than a one-size-fits-all approach?</p> <p><i>How to measure it:</i></p> <p>Review court guidelines and case management training provided to judges.</p>	<ul style="list-style-type: none"> Gather stakeholder feedback on how cases move through the court system and develop recommendations for improvements, such as high-level pathways a case might take and related rules for each (e.g., a less complex case should have lower discovery limits than a very complex and contentious one). Early in each case, engage with the court users by scheduling a hearing, triaging cases to ensure that they receive the right level of court involvement, or connecting the court users with legal aid or community organizations that can support them in navigating their legal issue. Work with staff and judges to effectively triage cases based on complexity and other relevant variables. <p>Who's involved:</p> <table border="1" data-bbox="500 1381 924 1518"> <tr> <td>Access to justice</td> <td>Clerks</td> <td>Judges</td> </tr> <tr> <td>Leadership</td> <td>Legal stakeholders</td> <td></td> </tr> </table>	Access to justice	Clerks	Judges	Leadership	Legal stakeholders		<ul style="list-style-type: none"> The Institute for the Advancement of the American Legal System (IAALS) has 10 guidelines for differentiated or right-sized case management, including that management activities should begin early and continue through the lifecycle of the case and that judges can use conferences and ensure that discovery is proportional to the case. The Civil Justice Improvements Committee provided recommendations to the Conference of Chief Justices about case management, including how courts should triage cases into three pathways: streamlined (least complex), complex (potentially contentious or involving numerous witnesses), and general (between streamlined and complex).
Access to justice	Clerks	Judges						
Leadership	Legal stakeholders							

Metric	If not, suggested next steps	Examples and resources						
<p>Has the court clearly defined the roles for all court personnel related to managing cases (e.g., do personnel know the questions they should be asking, how to triage cases, and their specific roles and responsibilities)?</p> <p><i>How to measure it:</i></p> <p>Review whether the court has published guidance for differentiated case management.</p>	<ul style="list-style-type: none"> • Create a process map detailing responsibilities and actions for each step in the case process and review it with judges and court staff. • Spread the workload to share responsibility for case management among all court personnel (e.g., a judge should make legal rulings but does not need to conduct case intake or determine initial pathway assignment). <p>Who's involved:</p> <table border="1" data-bbox="500 682 924 749"> <tr> <td>Clerks</td> <td>Judges</td> <td>Leadership</td> </tr> </table>	Clerks	Judges	Leadership	<ul style="list-style-type: none"> • The National Center for State Courts (NCSC) developed a Guide to Building Civil Case Management Teams, which includes a checklist with questions that courts can use to assess existing resources, including technology and staff. • NCSC evaluated a Florida pilot program that included case management teams—made up of a judge, case manager, judicial assistant, and bailiff, each with assigned distinct roles—and found that cases assigned under the pilot model were resolved more quickly than those without a management team and that attorneys and judges reported greater satisfaction with the processes. 			
Clerks	Judges	Leadership						
<p>Do the processes court users must follow to resolve their legal issues involve the minimum possible steps?</p> <p><i>How to measure it:</i></p> <p>Use process mapping to document all the steps that a court user must take in each type of case, such as filing documents, notifying other parties when those documents are filed, and providing evidence to the court.</p>	<ul style="list-style-type: none"> • Have court personnel role-play as self-represented litigants navigating a court case to better understand the experience and potential barriers. • Gather feedback and obtain buy-in from law firms, civil legal aid, and court personnel on potential rule changes to streamline processes. <p>Who's involved:</p> <table border="1" data-bbox="500 1249 924 1381"> <tr> <td>Access to justice</td> <td>Judges</td> <td>Leadership</td> </tr> <tr> <td>Self-help</td> <td>Legal stakeholders</td> <td></td> </tr> </table>	Access to justice	Judges	Leadership	Self-help	Legal stakeholders		<ul style="list-style-type: none"> • NCSC has a process simplification toolkit that identifies areas where courts can streamline case processes. • IAALS' and NCSC's Performance Measures for Civil Justice provides a description of common metrics and methods for assessing the effectiveness of civil justice rules and business practices. • The Arizona Supreme Court launched the Committee on Civil Justice Reform, developed recommendations for improving case management, and, in 2018, changed its rules to lower the discovery limits for less complex cases and expedite discovery procedures and disclosure disputes.
Access to justice	Judges	Leadership						
Self-help	Legal stakeholders							

■ Internal ■ External

Sources: Institute for the Advancement of the American Legal System, “Redefining Case Management” (2018); National Center for State Courts, “Call to Action: Achieving Civil Justice for All” (2016); National Center for State Courts, “Civil Justice Initiative: A Guide to Building Civil Case Management Teams” (2017); National Center for State Courts and Institute for the Advancement of the American Legal System, “Civil Justice Initiative: Evaluation of the Civil Justice Initiative Pilot Project (CJIPP)” (2019); National Center for State Courts, “Process Simplification: A State Court Toolkit” (2022); National Center for State Courts and Institute for the Advancement of the American Legal System, “Civil Justice Initiative: Performance Measures for Civil Justice” (2017); Supreme Court of Arizona, “Order: Amending the Arizona Rules of Civil Procedure and Related Provisions, No. R-17-0010” (2017)

Table 2

Courts Should Provide Clear, Understandable Information to Help Users Prepare for Each Step in Their Case

Metrics, suggested steps, and state examples and resources

Metric	If not, suggested next steps	Examples and resources						
<p>Are all jurisdictions adhering to procedures?</p> <p><i>How to measure it:</i></p> <p>Analyze docket data to determine whether courts are submitting required information (e.g., attaching documentation); obtain feedback from legal stakeholders and court staff to gauge whether court personnel are consistently following rules and processes.</p>	<ul style="list-style-type: none"> Provide guidance on interpretation of rules or enact new, clearer rules, and train judges and court staff on case management. Adopt uniform forms and checklists throughout all jurisdictions. <p>Who's involved:</p> <table border="1" data-bbox="505 766 924 900"> <tr> <td>Clerks</td> <td>Leadership</td> <td>Researchers</td> </tr> <tr> <td>Self-help</td> <td>Legal stakeholders</td> <td></td> </tr> </table>	Clerks	Leadership	Researchers	Self-help	Legal stakeholders		<ul style="list-style-type: none"> Partly in response to a 2009 survey in which more than half of lawyers and judges reported that the court “occasionally or almost never” enforced disclosure rules, Arizona courts revamped their case management processes and standards, including implementing proportional discovery. The La Crosse County Circuit Court in Wisconsin has a sufficiency of complaint checklist that the clerk uses to review documentation provided with debt filings, which helps ensure consistency across cases.
Clerks	Leadership	Researchers						
Self-help	Legal stakeholders							
<p>When users have multiple related cases, does the same court (e.g., probate versus family court) or judge handle all of the cases unless a user requests otherwise?</p> <p><i>How to measure it:</i></p> <p>Conduct process mapping for management of separate-but-related cases to assess whether the cases vary in where they are filed, what forms are required, and how scheduling is handled.</p>	<ul style="list-style-type: none"> Identify case types that typically involve the same user or family and have overlapping legal issues (e.g., minor guardianship and child welfare), and determine whether those cases are heard in different courts. Obtain feedback from local stakeholders and community organizations about what measures must be in place to protect against the introduction of bias in decision-making when court personnel have access to information beyond that for the case in front of them. Ensure that courts provide an opt-out provision for users who do not feel comfortable having multiple cases heard by the same judge or in circumstances where having the same judge could raise due process concerns. Update rules about which courts hear intersecting cases to simplify processes, forms, and judicial assignments. <p>Who's involved:</p> <table border="1" data-bbox="505 1610 924 1745"> <tr> <td>Access to justice</td> <td>Judges</td> <td>Leadership</td> </tr> <tr> <td>Community partners</td> <td>Legal stakeholders</td> <td>Researchers</td> </tr> </table>	Access to justice	Judges	Leadership	Community partners	Legal stakeholders	Researchers	<ul style="list-style-type: none"> Maine partnered with an external researcher to identify best practices and reform its minor guardianship case process so that families with multiple open family cases would have all related matters heard in the same jurisdiction rather than having to engage with multiple courts with different rules. Several states, including Florida, Utah, and Michigan, have “one child, one judge” or “one family, one judge” protocols that provide families with a continuous, single point of contact throughout the lifecycle of all cases related to the same child. New York has integrated domestic violence courts, which combine civil, criminal, and family courts to simplify users’ experiences and improve communication among courtrooms.
Access to justice	Judges	Leadership						
Community partners	Legal stakeholders	Researchers						

Metric	If not, suggested next steps	Examples and resources									
<p>Are court users aware of the status of their cases, next steps, and estimated resolution dates?</p> <p><i>How to measure it:</i></p> <p>Survey defendants who did and did not respond to a lawsuit against them; use contact information pulled from the summons or other relevant court documents.</p>	<ul style="list-style-type: none"> Send text, email, and mail reminders to court users to communicate deadlines and next steps. Embed outreach in clerks' roles or program the case management system to send automatic notifications to individual court users; this can be time-intensive, so work with case managers or court administrators to assess workloads and capacity. Develop and publish materials to make the process transparent and navigable for court users. When communicating timelines and tasks, use litigants' preferred communication method and primary language. <p>Who's involved:</p> <table border="1" data-bbox="505 751 924 957"> <tr> <td data-bbox="505 751 643 821">Access to justice</td> <td data-bbox="643 751 781 821">Clerks</td> <td data-bbox="781 751 924 821">IT staff</td> </tr> <tr> <td data-bbox="505 821 643 890">Judges</td> <td data-bbox="643 821 781 890">Researchers</td> <td data-bbox="781 821 924 890">Researchers</td> </tr> <tr> <td data-bbox="505 890 643 957">Court users</td> <td></td> <td></td> </tr> </table>	Access to justice	Clerks	IT staff	Judges	Researchers	Researchers	Court users			<ul style="list-style-type: none"> Stanford University's Legal Design Lab developed an open-source text messaging tool for courts. The Maryland Justice Passport, a digital information portfolio designed to assist Marylanders seeking legal help, allows court users to store documents, track their applications for services, and keep their case information organized. IAALS identified five best practices to help judges communicate timelines to court users and expedite resolution of cases, including convening an initial case management conference, being explicit about how parties should participate in the case and communicate among themselves and with the court, and exploring settlement options early in the process.
Access to justice	Clerks	IT staff									
Judges	Researchers	Researchers									
Court users											

■ Internal
 ■ External
 ■ Court users

Sources: Institute for the Advancement of the American Legal System, "Survey of the Arizona Bench and Bar on the Arizona Rules of Civil Procedure" (2010); Arizona Supreme Court and Administrative Office of the Courts, "Arizona Supreme Court Approves Civil Justice Reforms," (Sept. 26, 2017); State of Wisconsin Circuit Court - La Crosse County, "Sufficiency of Consumer Credit Complaint Checklist"; Pine Tree Legal Assistance, "Guardianship of a Minor"; Florida Courts, "One Family One Judge"; Utah Courts, "Family Department Organization and Operations"; Steven D. Capps, "Updated: Family Division Case Inventory Form," (Sept. 25, 2019); E. Blonder, "The 'One Family, One Judge' Court Model: Instituting Integrated Domestic Violence Courts in the United States"; Stanford Legal Design Lab, "Wise Messenger"; Civil Justice Inc., "Maryland Justice Passport"; Institute for the Advancement of the American Legal System, "Working Smarter Not Harder: How Excellent Judges Manage Cases" (2014)

Table 3

Court Personnel Should Be Able to Reference User Data to Determine Needed Case Steps

Metrics, suggested steps, and state examples and resources

Metric	If not, suggested next steps	Examples and resources						
<p>Do court staff connect users to noncourt resources based on their needs?</p> <p><i>How to measure it:</i></p> <p>Analyze court data to identify whether the court regularly refers users to appropriate external resources, or partner with external organizations to evaluate their intake and outcome data.</p>	<ul style="list-style-type: none"> • Create a centralized list of available court user resources, referrals, and other assistance, and develop a referral protocol. • Provide guidance to judges, clerks, and other staff about how and when to connect court users with outside resources. • Ensure that the case management system includes a field to capture court user referrals. <p>Who's involved:</p> <table border="1" data-bbox="500 804 922 940"> <tr> <td>Access to justice</td> <td>Clerks</td> <td>IT staff</td> </tr> <tr> <td>Judges</td> <td>Self-help</td> <td>Community partners</td> </tr> </table>	Access to justice	Clerks	IT staff	Judges	Self-help	Community partners	<ul style="list-style-type: none"> • The Judicial Council of California developed a human trafficking toolkit and several bench cards for judges, including details to help judges recognize trafficking and contact information for victim services organizations throughout the state. • The Western Division of the Massachusetts Housing Court has a long-standing practice of having representatives from veterans' services, mental health services, and fuel assistance programs present for both in-person and virtual eviction hearings.
Access to justice	Clerks	IT staff						
Judges	Self-help	Community partners						
<p>Can judges and clerks securely access information about litigants' interactions with the judiciary and with other government agencies or governments (e.g., Tribal courts)?</p> <p><i>How to measure it:</i></p> <p>Audit the case management system's linkages with external sources, or survey judges about whether and how they access and use such information.</p>	<ul style="list-style-type: none"> • Set up secure, automated data-exchange processes with relevant government agencies to formally share systems data, such as information about child support or government benefits, that can inform case management. • Train judges and court staff on how to routinely access and use this information. • To support connections with external systems, work with the case management system vendor to link cases with individual litigants and to incorporate a unique identifier data field for all plaintiffs and defendants. • Require plaintiffs to use their identifiers when filing, similar to how attorneys list their bar number on court documents. <p>Who's involved:</p> <table border="1" data-bbox="500 1507 922 1644"> <tr> <td>Access to justice</td> <td>Clerks</td> <td>IT staff</td> </tr> <tr> <td>Leadership</td> <td>Researchers</td> <td></td> </tr> </table>	Access to justice	Clerks	IT staff	Leadership	Researchers		<ul style="list-style-type: none"> • The Joint Technology Committee, a national collaboration among court managers, administrators, and judges, has a report outlining cybersecurity basics, which can help courts ensure that users' personal information is stored and shared securely. • The Michigan Justice for All Commission's Technology and Data Sharing Committee recommends assigning unique identifiers to all parties at the outset of a case to help track how litigants engage in court. • Standpoint, a domestic violence advocacy organization in Minnesota, has observed that when courts know about existing protective orders across counties, courts are better able to mutually enforce those orders, prevent conflicting orders, and avoid family court decisions that contradict existing orders.
Access to justice	Clerks	IT staff						
Leadership	Researchers							

■ Internal ■ External

Sources: Judicial Council of California, "Human Trafficking in California: Toolkit for Judicial Officers" (2017); Massachusetts Trial Court, "The Housing Court Department Civil Informational Sheet"; Joint Technology Committee, "JTC Resource Bulletin: Cybersecurity Basics for Courts" (2021); R. Alexander, (July 14, 2023); Michigan Justice for All Commission Technology and Data Sharing Committee, "Re: Input on Data Types and Elements Which Should Be Captured by Courts and Submitted to the JDW" (April 18, 2022)

The work in action: Maine puts children and families first in guardianship reform

Adults caring for children who are not their own often have difficulty navigating the courts when seeking a minor guardianship order—in which a court grants a nonparent the legal rights and responsibility to care for a child.⁴ As in many states, Maine designed its guardianship statute two centuries ago to provide for the care of orphaned children, and the outdated provisions often failed to account for instances when living parents were temporarily or permanently unable to care for their children. Recognizing this challenge, the Maine Legislature enacted two significant reforms.

First, in 2016, it passed the Home Court Act to help children and families resolve guardianship cases promptly and fairly by ensuring that all matters involving a child are heard in the same court.⁵ Previously, all guardianship matters had to be heard in county probate courts, and if a child was also the subject of a case in the state court's Family Division, such as a dependency or custody proceeding, families had to attend hearings in various courthouses and adhere to differing sets of rules across jurisdictions.

Second, that same year, the Legislature directed the Family Law Advisory Commission to study the state's minor guardianship statute and propose policies that better reflect the needs of courts, children, and families.⁶ The commission, aided by Deirdre M. Smith, a professor at the University of Maine School of Law, conducted research and interviews with families and other stakeholders and found an outdated and inflexible system with a patchwork of informal workarounds that courts had implemented in an attempt to tailor solutions to families. Based on those findings, in 2018 the Legislature enacted an overhauled guardianship statute that replaces the old one-size-fits-all approach with a system focused on family needs and individualized solutions.

"By enacting these important reforms, our state lawmakers have ensured that our policies reflect the way that most families use minor guardianship today—namely, when a family member steps in to provide care for a child because a parent is unable to do so because of their incarceration, substance use, youth, illness, or housing instability," Smith explains. "Perhaps most significantly, the new statute gives judges the tools they need to manage the court process and to craft guardianship orders that meet the specific needs of the child, their parents, and the person providing care for the child."⁷

Endnotes

- 1 National Center for State Courts, "Call to Action: Achieving Civil Justice for All" (2016), https://www.ncsc.org/__data/assets/pdf_file/0021/25581/ncsc-cji-report-web.pdf.
- 2 Institute for the Advancement of the American Legal System, "Redefining Case Management" (2018), https://iaals.du.edu/sites/default/files/documents/publications/redefining_case_management.pdf; National Association for Court Management, "Competency: Purposes and Responsibilities," accessed Aug. 23, 2023, <https://nacmcore.org/competency/purposes-and-responsibilities/>; The Pew Charitable Trusts, "How to Make Civil Courts More Open, Effective, and Equitable" (2023), <https://www.pewtrusts.org/research-and-analysis/reports/2023/09/how-to-make-civil-courts-more-open-effective-and-equitable>.
- 3 The Pew Charitable Trusts, "How to Make Civil Courts More Open, Effective, and Equitable."
- 4 The Pew Charitable Trusts, "Outdated Court Policies Can Leave Children Without a Legal Guardian" (2023), <https://www.pewtrusts.org/en/research-and-analysis/reports/2023/09/outdated-court-policies-can-leave-children-without-a-legal-guardian>.
- 5 Pine Tree Legal Assistance, "Adoption, Guardianship of a Minor, Child Name Change, and Maine's Home Court Act: When, Where, and How to File the Jurisdictional Affidavit," accessed Aug. 25, 2023, <https://www.ptla.org/adoption-guardianship-minor-child-name-change-and-maines-home-court-act-when-where-and-how-file#>.
- 6 D.M. Smith, "From Orphans to Families in Crisis: Parental Rights Matters in Maine Probate Courts," *Maine Law Review* 68, no. 1 (2016): 46-118, <https://digitalcommons.minelaw.maine.edu/mlr/vol68/iss1/11/>.
- 7 D.M. Smith, Professor of Law and Director of the Public Interest and Social Justice Certificate Program, University of Maine School of Law, Email to Sarah Godfrey, officer, The Pew Charitable Trusts, Oct. 6, 2023.

For more information, please visit: pewtrusts.org/modernlegal

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