




Pacific Judicial Development Programme

TIME GOALS TOOLKIT

April 2015



PJDP is funded by the Government of New Zealand and managed by the Federal Court of Australia



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Toolkits are evolving and changes may be made in future versions. For the latest version of the Toolkits refer to the website - <http://www.fedcourt.gov.au/pjdp/pjdp-toolkits>.

Note: While every effort has been made to produce informative and educative tools, the applicability of these may vary depending on country and regional circumstances.

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PJDP TOOLKITS

Introduction

For over a decade, the Pacific Judicial Development Programme (PJDP) has supported a range of judicial and court development activities in partner courts across the Pacific. These activities have focused on regional judicial leadership meetings and networks, capacity-building and training, and pilot projects to address the local needs of courts in Pacific Island Countries (PICs).

Toolkits

Since mid-2013, PJDP has launched a collection of toolkits for the ongoing development of courts in the region. These toolkits aim to support partner courts to implement their development activities at the local level by providing information and practical guidance on what to do. These toolkits include:

- *Time Goals Toolkit*
- Judges' Orientation Toolkit
- Annual Court Reporting Toolkit
- Toolkit for Review of Guidance on Judicial Conduct
- National Judicial Development Committee Toolkit
- Family Violence and Youth Justice Project Workshop Toolkit
- Access to Justice Assessment Toolkit
- Trainer's Toolkit: Designing, Delivering and Evaluating Training Programs
- Judicial Decision-making Toolkit
- Reducing Backlog and Delay Toolkit
- Toolkit for Public Information Projects
- Toolkit for Handling Complaints about Judicial Conduct
- Enabling Rights & Unrepresented Litigants

These toolkits are designed to support change by promoting the local use, management, ownership and sustainability of judicial development in PICs across the region. By developing and making available these resources, PJDP aims to build local capacity to enable partner courts to address local needs and reduce reliance on external donor and adviser support.

Use and support

These toolkits are available on-line for the use of partner courts at: <http://www.fedcourt.gov.au/pjdp/pjdp-toolkits>. We hope that partner courts will use these toolkits as / when required. Should you need any additional assistance, please contact us at: pjdp@fedcourt.gov.au

Your feedback

We also invite partner courts to provide feedback and suggestions for continual improvement.

Dr. Livingston Armytage
Team Leader,
Pacific Judicial Development Programme

April 2015

FOREWORD

It is the obligation of courts to conduct a fair trial without undue delay. For this right to be effective and delay to be prevented, a common concept of what is a reasonable time for case disposition is required.

With this in mind, I am delighted to commend this Time Goals Toolkit to courts of the Pacific Region as an educational resource and guide for the development of goals for the timely completion of cases.

As lawyers play a pivotal role in preventing and reducing delay in the administration of justice, I encourage the participation of the legal profession in the development of time goals to ensure their early contribution and commitment is obtained to meeting the courts obligations to provide justice without undue delay.

It is my sincere hope that you use this toolkit to establish time standards for your courts, and for the ultimate benefit of citizens who deserve a system of timely justice.

Sir John Baptista Muria
Chief Justice of Kiribati
22 April 2015

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ABBREVIATIONS

IT	- Information Technology
JAA	- Judicial Administration Adviser
JAP	- Judicial Administration Project
MFAT	- New Zealand Ministry of Foreign Affairs and Trade
MSC	- Managing Services Contractor – Federal Court of Australia
NC	- National Coordinator
NJDC	- National Judicial Development Committee
PIC	- Pacific Island Country
PJDP	- Pacific Judicial Development Programme ('Programme')

1 INTRODUCTION

1.1 Objective

Citizens expect courts to deliver justice fairly and in a predictable, reasonable time.

Through the use of time goals, citizens will know what the court aims to accomplish because there are clearly foreseeable time frames from the filing of a case, through interim events, to final disposal.

Using time goals as a benchmark, managers are able to measure timeliness in case processing and of the age structure of the entire caseload. These benchmarks are a vital feature of court performance management systems to help identify and prevent unacceptable delay.

1.2 Purpose

This Toolkit is designed to assist your court meet obligations to ensure a fair trial is conducted in a reasonable time by guiding you through the process of developing and implementing time goals.

It provides practical assistance, a methodology and additional resources to help you conduct workshops to develop time goals and to assist in their implementation and monitoring.

By using the Toolkit you will create two key performance standards:

- First tier time goals for case events and for final case disposition
- Second tier median time goals that will guide and help you manage the age structure of the caseload.

As time goals are one of a range of measures that can be used to prevent delay, you may wish to use this Toolkit in conjunction with other case management measures to ensure quality and timely performance. Some of these measures are discussed in the companion Toolkit on *Reducing Backlog and Delay*.

- ✓ The court is obliged to conduct a fair trial in a reasonable time
 - ✓ The court should have immediate and continuous control of its cases
 - ✓ Parties need to know what to expect

1.3 The Importance of Delay Prevention

Citizens lose confidence in justice if they see that courts function too slowly. For example, in criminal law it is important that society sees that perpetrators are sentenced within a reasonable time and conversely, that innocent suspects have a speedy determination of their innocence. Failure to do so can undermine the confidence citizens have in the peaceful settlement of criminal acts, which can lead to social unrest and conflict.

To make financial investments, business people need to receive legal certainty within a reasonable period of time, or it can affect the willingness of business people to invest and for countries to prosper. In family law and land cases there is a great personal interest in a timely outcome of the proceedings because a lapse of time may sustain unjust, unsafe or hardship situations.

Courts and judges have a range of obligations to meet around timeliness. These can be pursuant to domestic laws or through international instruments and doctrines. Some of these are outlined in the table below.

Example 1: Obligations to Prevent Delay

International Covenant on Civil and Political Rights

Article 14 of the *International Covenant on Civil and Political Rights* establishes three important norms for the conduct of civil and criminal trialsⁱ:

1. the right to a fair trial
2. the right to trial without **undue delay**
3. the right to an independent and impartial tribunal.

Bangalore Principles of Judicial Conduct 2002

Value 6 Competence and Diligence

6.5 A judge shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with **reasonable promptness**.

Constitution of the Independent State of Samoa, 1960

Article 9. Right to a fair trial - (1) In the determination of his civil rights and obligations or of any charge against him for any offence, every person is entitled to a fair and public hearing **within a reasonable time** by an independent and impartial tribunal established under the law.

The Supreme Court of Samoa Rules of Civil Procedure:

Article 4. Construction - These rules shall be so construed as to secure the just, **speedy** and inexpensive determination of any proceedings.

The International Framework for Court Excellence

*The International Framework for Court Excellence*ⁱⁱ (IFCE) is emerging as an important authority in quality management. The IFCE places emphasis on timeliness in its excellence indicators for court proceedings:

"The standard operating procedures of an excellent court comprise important elements such as agreed upon time standards, establishment of case schedules in individual cases, the active role of the judge with respect to time management, limitations in the postponement of court sessions, effective scheduling methods for court sessions, and the use of differentiated case management and, if applicable, alternative dispute resolution techniques. iii"

In addition, there is an increasingly important link between timeliness and case management, being the way judges manage an individual case. For example, in the High Court of Australia *Aon* case^{iv}, the court stated that 'the concerns of case management' and delay are factors that the trial judge must take into account when considering pre-trial applications such as the amendment of pleadings. The *Aon* case highlights the requirement for litigants and judges to closely consider the balance between timeliness, case management and substantive justice in the context of the whole of the proceedings.

In a similar fashion, the effect of delay on individual pending cases has been recognized in another Australian High Court case^v:

"the conduct of litigation is not merely a matter for the parties but is also one for the court and the need to avoid disruptions in the court's lists with consequent inconvenience to the court and prejudice to the interests of other litigants waiting to be heard.vi"

1.4 Expected Outcomes

With time goals the court can:

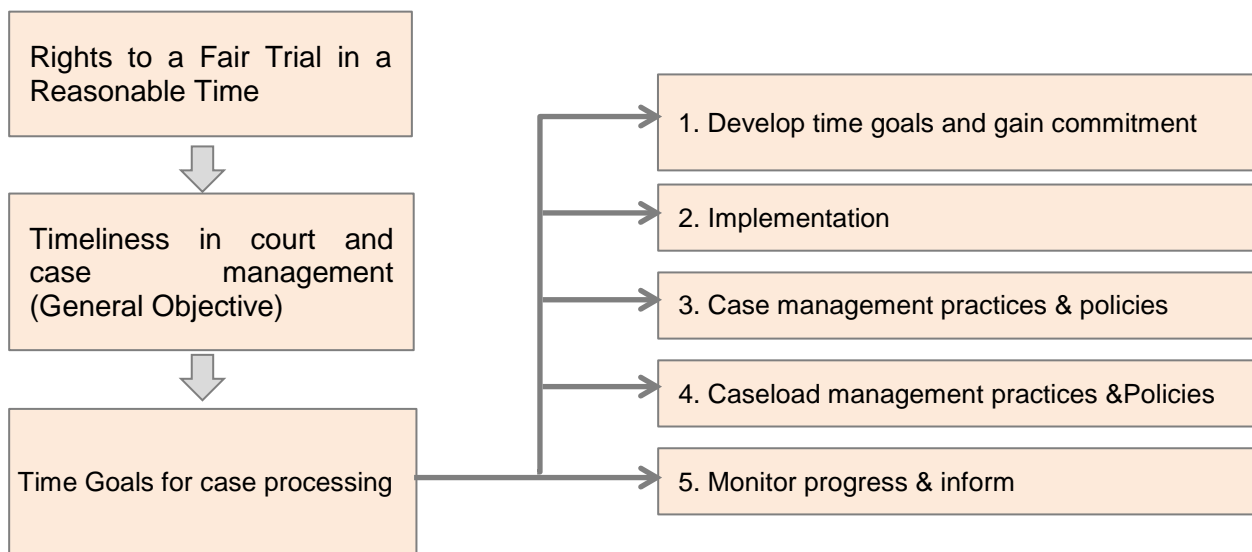
- Increase timeliness by defining an acceptable pace of litigation

- Define a consistent process and expectation
- Motivate quality and efficiency in case processing
- Produce performance reports
- Identify idle cases
- Stop cases getting "lost in the system"
- Build teamwork between judges and court personnel
- Demonstrate transparency and predictability
- Be accountable for its performance
- Support the meeting of obligations relating to timeliness.

1.5 Methodology and Approach

The overall methodology used in this Toolkit to achieve a fair trial in a reasonable time is reflected in Diagram 1 below. This diagram demonstrates the connectedness of time goals with other aspects of court and performance management.

Diagram 1 - Realising Timeliness Obligations through Time Goals



The approach used to arrive at time goals suitable for your court is to:

- Design - Design standards for your court.
- Build - Working together collaboratively to reach agreement about what is a reasonable time.
- Analysis - Review what happens in reality - does the time goal fit?
- Embed - When we have reviewed appropriateness we promulgate formal standards and goals.
- Impact - Ongoing monitoring of effects: have time goals led to improved time flow?

1.6 How to Use this Toolkit?

This Toolkit is designed specifically for PJDP PIC's after being piloted in the courts of Kiribati and may be used with or without international technical assistance.

The Toolkit contains:

- Introductory information about time goals
- Steps and guides to developing time goals
- Comparative international examples, including from the Pacific Region

- Samples of time lines
- Model rules and policies
- Checklists and Tips
- Places to acquire further information
- A facilitator package.

To assist you in the development and implementation of time goals, you may find it helpful to refer to companion Toolkits that the PJDP has on the [PJDP website](#).

- *Project Management Toolkit* - this Toolkit enables courts to plan and manage projects and initiatives toward successful completion.
- [Trainer's Toolkit: Designing, Delivering and Evaluating Training Programs](#) - this Toolkit could provide additional assistance in the preparation, facilitation and evaluation of a Time Goals Workshop.
- [Establishing and Running National Judicial Development Committees Toolkit](#) - this Toolkit provides support for the NJDC's professional development and may include controlling the timeliness of case disposals as a topic for the NJDC.
- *Writing Judgments Toolkit* - this Toolkit assists judicial officers in all aspects of judgment writing. This includes providing methods to support the timely production of judgements to avoid delay in the production of reserve judgements.
- [Annual Court Reporting](#) - Annual reports generally include data and information that relates to timeliness and efficiency. This Toolkit provides guidance on two related performance indicators: clearance rates and the average time to disposal of cases.
- [Enabling Rights and Unrepresented Litigants](#) – knowing the rights of litigants and enabling citizens to access meet their unmet legal rights in court, is the focus of this toolkit. These rights include the right to a fair hearing in a reasonable time.

1.7 Involvement and Roles

The development of time goals requires the contribution of various members of your court and its stakeholders. To start the process, a project leader is required to introduce and lead the process of developing time goals using this Toolkit, and to conduct related workshops.

It is suggested that a PJDP trained trainer carry out the role of organising and facilitating the workshops. A *Time Goals Facilitator Package* is annexed to this Toolkit to support the conduct of these workshops. The package provides a training plan, a session programme and introductory materials in PowerPoint form.

After you complete the workshops and have developed your time goals, the time goals will require implementation and monitoring. This will be an ongoing process that takes time to implement and streamline into caseload^{vii} management routines.

1.7.1 Roles Internal to the Court

- *Chief Justice* - to lead, guide, authorise, direct, delegate and otherwise oversee the development, institution and compliance with the goals. To report the results toward achieving time goals in the Annual Report and internally for court and individual performance management.
- *Deputy Chief Justice and other judiciary leaders* - to participate in promulgation, inform, train, monitor and report on progress toward goals.
- *Judiciary members (law trained and lay)* - to contribute to time goal development, to apply the goals consistently and encourage all involved in courts to achieve the goals. To report on the progress of individual dockets towards goals.

- *Registry managers and supervisors* - to develop and oversee systems that assure quality and accurate processing and data management. To efficiently produce reports and work proactively with the judiciary to achieve time goals.
- *Court staff* - to provide quality, accurate clerical data input and file management services that are orientated toward achieving time goals.

1.7.2 Roles external to the Court

Although the Toolkit targets court practices involving court personnel, stakeholders will be impacted by these practices and should be included in implementation processes. Stakeholders are:

- *Lawyers* - to contribute to the promulgation of time goals and commit to the achievement of time goals in the interests of justice.
- *Ministry personnel* - to contribute to the development of time goals and to use related information about progress as a tool to manage the allocation of resources.
- *Prosecutors* - to contribute to the promulgation of time goals and commit to the achievement of time goals in the interests of justice. To ensure early and thorough preparation of cases, to ensure minimal adjournments and carefully manage time periods in relation to persons in pre-trial custody and youth matters.
- *Prisons* - to work with the courts to help achieve time goals and reduce the length of time detainees spend in pre-trial detention.
- *Women and Children's / Youth groups* - to be aware of time goals, work with the courts to help achieve them and to raise appropriate concerns with the court about delay.
- *The public* - to be informed and raise appropriate concerns with the court about delay.
- *Court users* - to be informed, prepare matters early and thoroughly, and to raise appropriate concerns with the court about delay.
- *Other government agencies* - to assist the court in meeting goals and using resources efficiently, including third party actors such as surveyors and agencies e.g. those involved in the registration of land.
- *Other supporting bodies* - to assist the court in meeting goals, raising concerns and using resources efficiently e.g. Transparency International.

1.7.3 Leadership and Teamwork

Strong leadership and a shared vision for improvement are essential in ensuring the full and continuous commitment of judges, court staff, local lawyers and other stakeholders.

Court leadership consists not only of the Chief Justice. Leadership includes all judges who lead jurisdictions or divisions, registrars who lead court staff, and can include members of the Executive branch.

Good communication and broad consultation is essential for success. Successful leaders ensure accurate and timely information is available for managers, paying particular attention to ensuring the information is used in managing the caseload.

The Chief Justice should not do everything alone. Sharing responsibility and accountability through teamwork is the key. A core team to drive the initiative forward is recommended.

The involvement of court staff members at all levels, from the court administrator through to the secretaries and courtroom clerks who handle day-to-day administrative duties for the judges, is essential. Consequently, administrative staff should be directly involved.

1.7.4 Lawyers

The extent to which delay can be avoided is reliant upon both the activities of court and the relationships and attitudes of lawyers and disputants. This relationship is shaped primarily by legislations, rules, protocols and concepts of judicial independence.

It is important that this relationship also be shaped by shared goals, including timeframes for the length of judicial proceedings.^{viii}

Efficient court proceedings also benefit lawyers because the fair, timely and reliable attention of the court to their cases is important to attract business. This has a flow-on benefit of attracting private entrepreneurs who prefer to do business in a legal environment that is capable of easily and efficiently supporting the resolution of disputes. Therefore, lawyers should maintain a vested interest in quality justice and be continually involved and informed about case management developments such as time goals.

Participation of lawyers may take the form of being involved in the workshops to develop the time goals. Alternatively, you may prefer to develop time goals first and then present the draft goals for the review of the legal profession in a separate presentation. The draft goals may also be forwarded to the President of the Law Society for general circulation to members for feedback.

Tips About Lawyers

- Lawyers settle cases, not judges.
- Lawyers settle cases when prepared.
- Lawyers prepare for significant events.
- Give lawyers reasonable notice about new procedures by involving them in workshops or by providing a special information session on time goals and the negative impact of adjournments on timeliness.
- Lawyers need to know the probable action in response to lawyer non-compliance with deadlines or other requirements.
- Lawyers need to be treated consistently in their requests e.g. for adjournments. Here policy statements are helpful.
- Gear rules and procedures to require the full preparation of cases prior to filing.

1.7.5 What Investment is Needed?

- Judicial Commitment and Leadership - the Chief Justice sets the tone
- A committed implementation team
- Minimal initial financial costs or resourcing
- Investment of time
- Collaboration with the whole of the court
- Involvement and collaboration with stakeholders
- Training and communication
- Monitoring and evaluation
- A willingness to be accountable.

Tips About Resources

Improving timeliness does not necessarily require an increase in budgetary resources. It requires “working smart”. Here are some tips:

- We cannot improve systemic problems all at once. Chip away, by identifying discrete areas for improvement and targeting them one by one to the best of your ability.
- Creating the ideas and goals is the easiest part of delay reduction. Implementation and monitoring are the most challenging, require the most effort and provide the greatest results.
- By using teams we can unleash individual initiative and commitment beyond the norm.
- Limit the non-judicial tasks of judges as much as possible.
- Communication, sharing information and progress amongst stakeholders is a very powerful tool.
- Instilling in the judiciary that they have a right to actively monitor ‘reasonable time’ requirements in the judicial proceedings before them.

2 TIME GOALS

2.1 What are Time Goals?

Time Goals are effectively: 'Operational tools ... (as) ... targets to measure to what extent each court, and more generally the administration of justice, meets the timeliness of case processing, fulfilling the principle of fair trial within a reasonable time, endorsed by the European Convention on Human Rights.'

European Commission for the Efficiency of Justice

Time goals tell us:

- how long a case should take to complete
- how long should be allowed between major case events
- how many cases should be dealt with over a year.

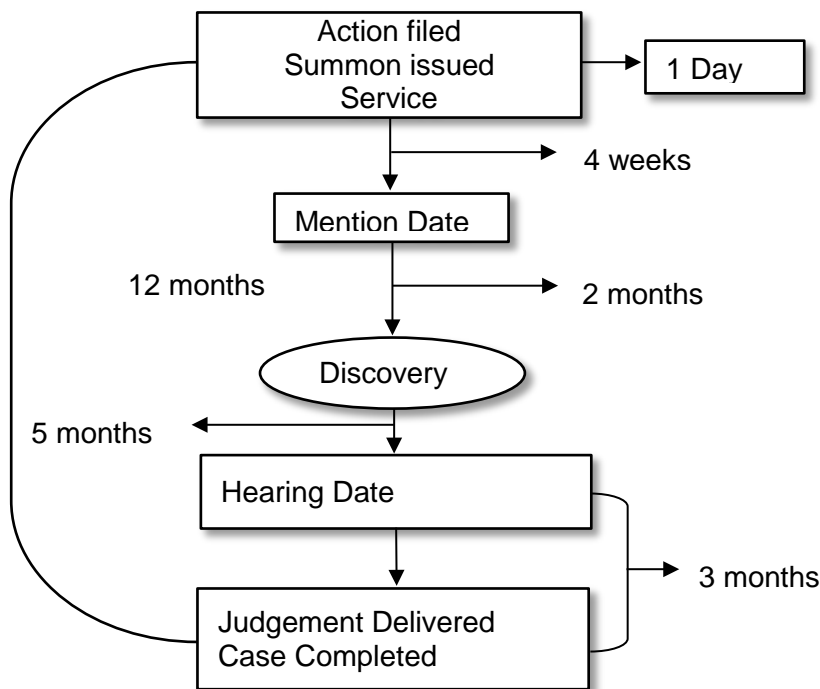
With reports on these goals the court can compare the flow of cases and plan, organize and allocate resources to help each case meet its goal.

Using these well-defined time limits, the court can ensure it is in control of the pace of the litigation and not lawyers. By committing to these measures, there will be increased certainty that events occur when scheduled. This in turn, helps ensure that cases are prepared.

- ⦿ The aim is for the court to deal with as many cases as it can in the time available, without over-scheduling.

We arrive at time goals by mapping out the procedures involved in each case type. Below is an example of how the Kiribati Magistrate Court mapped out a timeline to determine an appropriate goal for the processing of land cases..

Time Goal Map 1: Land Case – Kiribati



Time to Disposition Goal: 12 months

Case load time Goal: 80% in 12 months. 100% in 18 months

With these goals the court will be able to calculate what the delay is, and if individual cases or groups of cases are approaching or exceeding the point of delay. From here the resources of the court can be allocated and managed according to objective priorities.

It is important to acknowledge that there are many factors that impact upon the timely flow of cases and business before the court. The process of developing time goals is effective in helping define these issues and ensuring that where the controlling of delay is within the court's capacity, then action is taken to reduce it.

2.2 Time Goals or Standards?

You may see time goals referred to as 'time standards', 'timeframes' or 'benchmarks'. Generally, these terms refer to the same notion of setting a gauge from which expectations can be set and measured.

During the Time Goals pilot project in Kiribati, the team preferred the use of the term 'time goals' over, 'time standards' as it was felt that the word 'goal' was motivating and inspired teamwork.

In the State Court of Yap in the Federated States of Micronesia, the court has developed and uses the term "Advisory Time Standards".

You should discuss this issue in your workshop and select the terminology you are most comfortable using.

2.3 A Reasonable Time

There is a growing body of human rights and jurisprudence from around the world that sets some guiding principles about what a 'reasonable time' is. The commonality amongst these interpretations is that there is no set time and that the calculation of a 'reasonable time' must be consistent with the principles of fairness specific to *individual cases* and the specific rules and statutes that apply.

A 'reasonable time' is therefore case specific and determined by the amount of time needed to fairly, necessarily and conveniently complete a case or case event. This can be determined by factors such as the:

- complexity of the case
- behaviour of the application
- behaviour of authorities that may be involved
- existence of reasons for special diligence.

A 'reasonable time' starts running upon the institution of proceedings. In criminal matters this may be a point in time prior to the matter coming to court. For the purpose of time goals however, the time will start to be counted from the time of the initial filing in the court of the criminal charges.

A 'reasonable time' ends when, the matter is finally determined by the highest judicial authority. For the purpose of time goals however, there will be time goals for each court in the hierarchy and the time will start to run from the point of initial filing to final disposition in each particular court.

A 'reasonable time' principle also applies to interim court events. For example, European Community law requires the prompt determination of judicial proceedings (The Promptitude Principle) and has found that a judgment given 22 months after the close of the oral procedure was negated by the loss of any recollection of it on the part of the Judges^x. It is therefore important to monitor and avoid unreasonable delay in interim events, including reserved judgments.

It is important to distinguish here that not all delay is 'unreasonable' or 'unacceptable' delay. To ensure a just outcome, some delay can be considered acceptable e.g. as the court and parties await the outcomes of a related case.

One **definition of delay** that recognises acceptable delay and unacceptable delay is: “Any elapsed time between filing and disposition which is not reasonably necessary for pleadings, discovery and court events.”^{xi} ”

With respect to delay caused by systemic weaknesses, jurisprudence has clearly placed the burden on the courts themselves to overcome unacceptable delay, having stated that:

- Where there is delay, the court must show it has taken proper steps to expedite proceedings
- A State cannot shelter behind procedural or other defects in its judicial machinery to avoid responsibility for delays; and
- The fact that parties are responsible for the conduct of proceedings does not absolve judicial authorities from ensuring expeditious trials.^{xii}

2.4 International Approaches

Although you will be developing time goals that are specific to your jurisdiction, it is useful to know what time standards have been adopted in other jurisdictions.

ABA Standards

Perhaps the most well-known standards have emerged from the USA where the *American Bar Association* and Judiciary worked together to promulgate national standards for time to disposition and caseload disposal. Individual states in the USA have in turn, developed their own standards.^{xiii}

Table 1: American Bar Association Time Standards

Time Standard to Disposition & Caseload Model Standards USA		
Case Type	Time to Disposition Standard	Caseload Time Standards
Criminal**xiv		
Felony (Indictable Criminal Offence)	180 days	90% in 120 days 98% in 180 days 100% in 12 months
Misdemeanour (Summary Offences)	90 days	90% in 30 days 100% in 90 days
Civil***		
Jury trials	18 months	
Nonjury trials	12 months	
General civil		90% in 12 months 98% in 18 months 100% in 24 months
Summary proceedings: small claims, Landlord/tenant		100% in 30 days
Domestic relations***		
Uncontested	3 months	
Contested	6 months	
All Cases		90% in 3 months 98% in 6 months 100% in 12 months
Juvenile****		
Detention/shelter hearings	24 hours	24 hours
Adjudicatory/transfer hearings		
1. In a detention facility	15 days	15 days
2. Not in a detention facility	30 days	30 days
Disposition hearings	15 days	15 days

2.5 Time Goals in the Pacific Region Context

Many courts of the Pacific Region operate in environments that experience similar challenges due to limited resources, geographic expansiveness of island nations and their stage as developing nations. On the following pages are the time goals developed by the Pacific Island Country of Kiribati in October 2012. These goals take into careful consideration the unique local context and domestic legal frameworks. These time goals apply nationally and are adjusted for outer islands, taking into account such matters as the frequency of court circuits.

“The idea of setting time goals is good. Before, we relied on our own individual interpretation as to what was a reasonable time for a case. Now we all know what a reasonable time is.”

Tetiro M. Semilota
Chief Registrar, Republic of Kiribati
4th October 2012

Table 2: Time Goals – Kiribati

High Court Of Kiribati		
Case Type	Time Goal	Caseload Time Goal
Criminal Cases	6 mths	100% in 18ths ^{xv}
Civil	15mths	100% in 24mths ^{xvi}
Land Appeals	8 mths	100% in 18ths
Criminal Appeal	6mths	100% in 12mths
Judicial Review	6mths	100% in 12mths
Family Law	6mths	100% in 6mths
Matrimonial Property Claims	12mths	100% in 12mths
Magistrates Court Of Kiribati		
Case Type	Time Goal	Caseload Time Goal
Serious Crime - Adult not in custody	6mths	90% in 4mths 100% in 6mths
Serious Crime - Adult in custody	3mths	100% in 4mths
Summary Crimes - Adult in custody	2mths	100% in 2mth
Summary Crimes - Adult not in custody	4mths	10% in 4mths 90% in 3mths
Serious Crime - Children in custody	4 weeks	100% in 4 weeks
Summary Crime - Children in custody	3 weeks	100% in 3 weeks
Violence Against Women	2mths	100% in 2mth
Domestic Violence	2mths	100% in 2mths ^{xvii}
Civil	6mths	100% in 6mths
Paternity	4mths	20% in 5 weeks 90% in 4mths 100% in 5mths
Land	12mths	80% in 12mths 100% in 18mths
Boundary Determinations	8mths	80% in 8mths 100% in 14mths
Distribution of Monetary Estate	5 weeks	100% in 5 weeks

2.5.1 Your Baseline

To help your court manage timeliness and delay there is a checklist of timeliness indicators in the Additional Resources to this Toolkit. This checklist is designed to provide you with a list of required knowledge, processes, reports and information that is desirable to help you manage the timeliness of the case flow in your court.

Please complete these questions, individually or in a group, before you progress further. You should examine the framework and answers to determine where the strengths and weaknesses of your court are with respect to timeliness systems and processes.

This list should be reviewed as a yearly activity and action taken to implement or improve where identified.

3 DEVELOPMENT OF TIME GOALS

3.1 Setting Goals

Time goals should reflect what is reasonable for citizens to expect for the prompt and fair conclusion of most cases. For the courts, the goals should provide an achievable challenge and, at the same time, not be set at a level that can be easily accomplished.

Your time goals should firstly, take into account the mandatory procedural time periods required according to law. These time periods are generally for interim events such as the service of documents or the filing of a defence. Where there is no time period prescribed by law, you should use a time period that allows for due process and is generally reflective of an efficient service.

Time goals should not be based solely on what transpires in the most difficult and complex cases. Using two tiers of time goals will allow you to account for the small percentage of cases that are particularly complex or time consuming. Depending on the case type, the percentage of cases that courts estimate fall into this category is usually between 2% to 10%. In other words, between 90% to 98% flow through a normal track. Here, your first tier time goal can reflect what you believe should be the median time for the majority of cases.

3.2 How to Calculate Times?

The time for proceedings is the period that covers the whole of the proceedings with a separate time goal for appeal proceedings.

Courts in the Pacific are encouraged to start counting time from the point upon which the court has initial control of the case. This is usually from the point when the action is instituted or registered at the court. The calculation of time goals can also provide for the conclusion of preliminary events such as mediation.

Depending on your ability to record and manage data, you may wish to have the case starting time as from the point of service on the defendant in civil cases or from the first appearance of the defendant in court in criminal matters.

3.2.1 Intermediate Events

We need time goals for intermediate stages because it gives the court criteria for monitoring the progress of cases from the time of case initiation through to judgment and ultimately, the conclusion of all post-judgment work.

Using this information means we can identify cases where progress has stopped or is simply too slow. These are the cases that need more attention of the court to reach a fair outcome.

Whilst each country has unique laws with milestone events, there are some intermediate events that common: These are presented in list 1 below.

List 1 - Guide to Common "Milestone" Events

Guide To Common "Milestone" Events	
Jurisdiction	Intermediate Events
General Civil or Domestic Relations Cases	Time from filing to: <ol style="list-style-type: none"> a. Completion of pleadings b. Completion of discovery c. Trial start d. Non-trial disposition
Indictable (felony) Criminal Cases	From time of arrest to: <ol style="list-style-type: none"> a. Bail hearing b. Arraignment/plea c. Call-over d. Trial start e. Non-trial disposition
Children's Court Criminal Cases	From time of arrest to: <ol style="list-style-type: none"> a. Detention & preparatory hearing b. Adjudication hearing
Family Court	From time of filing to: <ol style="list-style-type: none"> a. Directions hearing b. Call-over c. Final hearing d. Decision

On the following pages are more examples of how time goals can be mapped for intermediate or 'milestone' events as developed by the Kiribati judiciary.

3.2.2 Suspension of Time

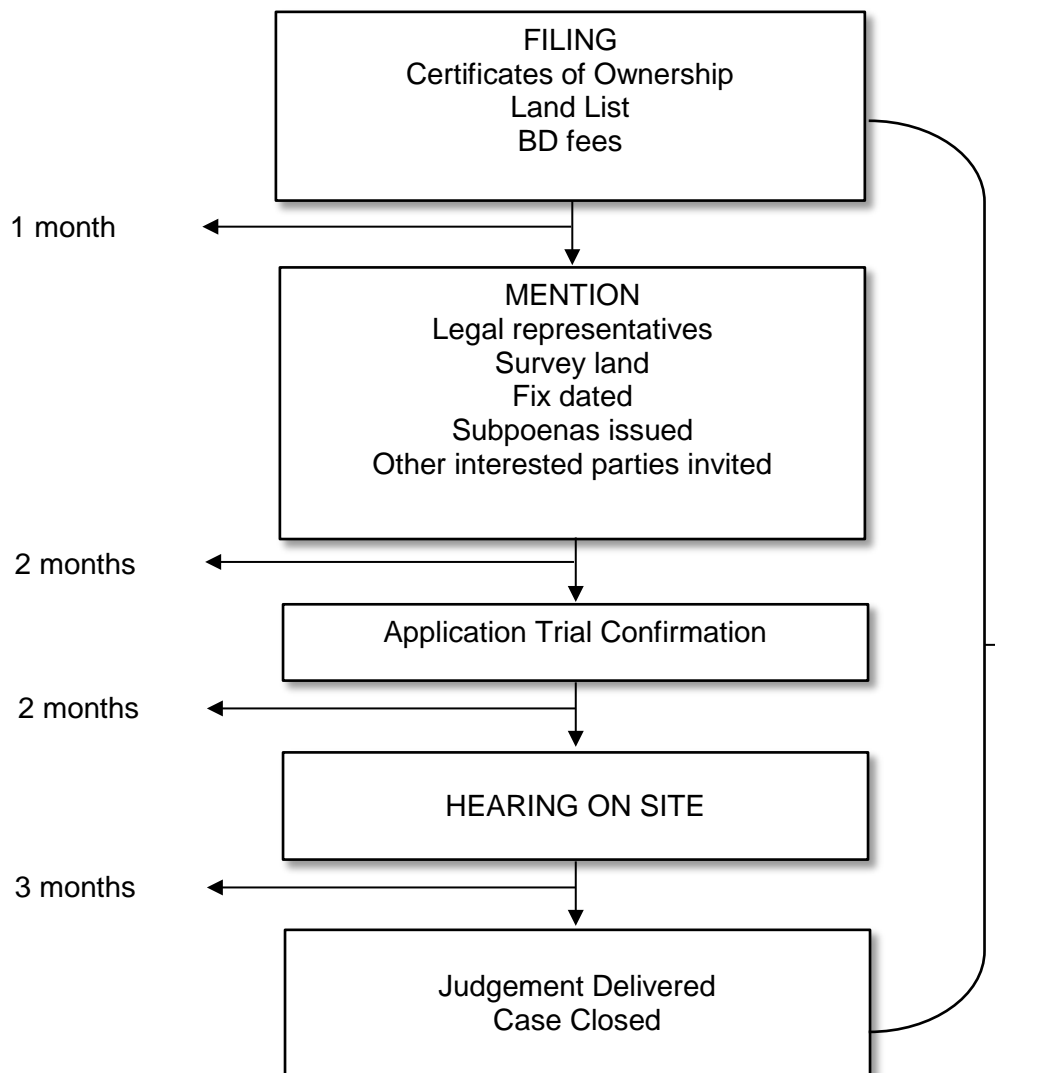
Case time should be suspended when certain events prohibit the case progressing in court. For example, in criminal matters, time should be suspended where a defendant has failed to appear and a bench warrant has issued, or there is a pre-sentencing diversion programme running.

In civil matters, case time should be suspended for interlocutory appeals, arbitration and bankruptcy. When these events are complete and the matter is once again "active", the time is restarted. For a *Caseflow Time Standards Calculation* schedule, please refer to the Additional Resources to this Toolkit.

Calculating the suspension of time with manual and Excel-based administrative systems is a very intensive activity. It is suggested that these courts transfer suspended cases to a list separate from the "current active pending caseload" list.

Courts that have an automated case management system should have the facility for automatic suspension and re-starting of time calculations.

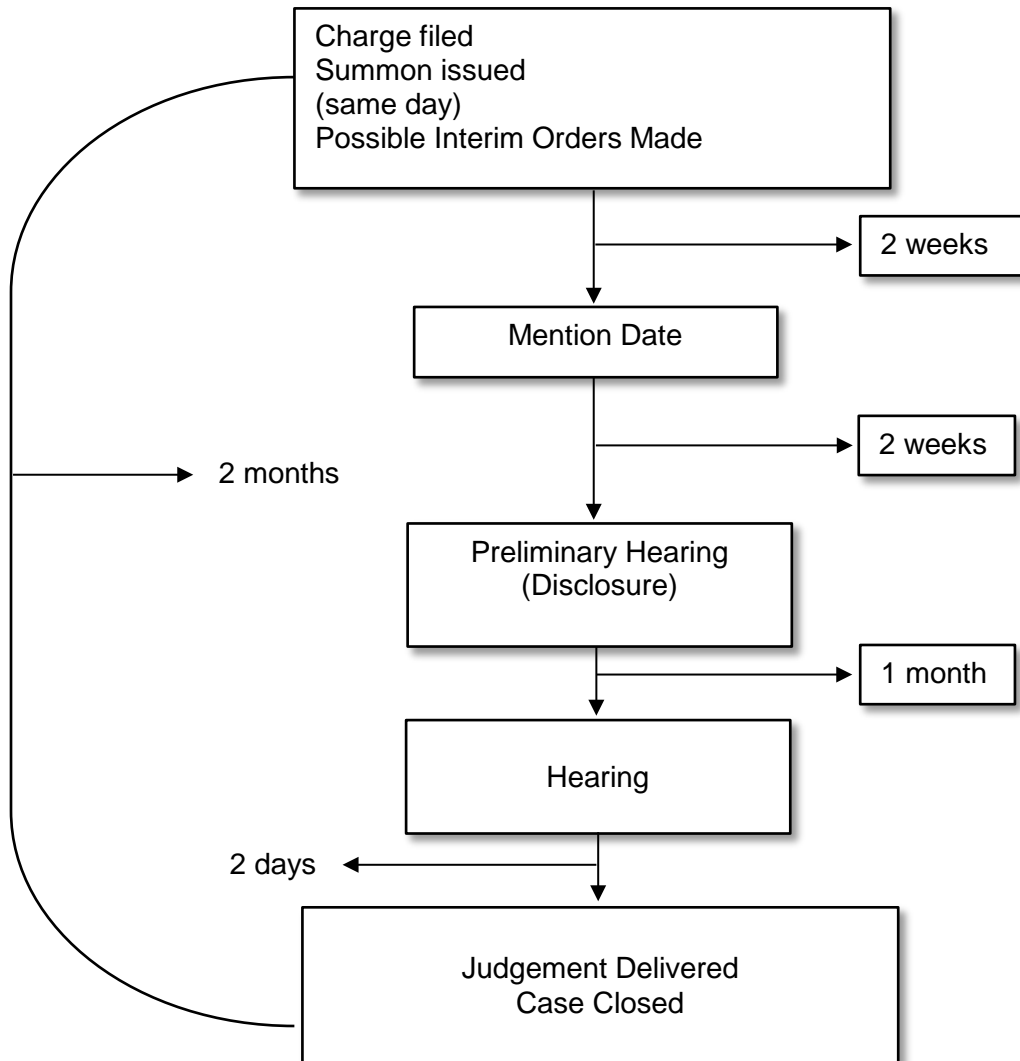
Time Goal Map 2: Example of Boundary Determination Case - Kiribati



Time to Disposition Goal: 8 months

Case load time Goal: 80% in 8 months, 100% in 14 months

Time Goal Map 3: Example Violence against Women Case - Kiribati



Time to Disposition Goal: 2 months
Case load time Goal: 100% in 2 months
Uncontested Cases: 2 weeks

3.3 Mapping Out Time Lines

As you start to map out your time goals you can use the checklist below to guide you through the process.

Checklist for Mapping out Time Lines

1. List out each jurisdiction your court administers.
2. For each jurisdiction, list out the principal case types.
3. Note the time provided by rule or directive for the period between key events.
4. Refer to the sample mapping in this Toolkit and prepare a procedure map indicating the key intermediate events for the flow of cases for the principal types you have selected.
5. Where there is no mandatory period you should agree on a challenging time goal for the completion of that procedure.
6. Factor in local conditions.
7. Compare International and Pacific examples.
8. Don't get "stuck" on these goals if agreement cannot be reached. Go on to the next map and complete what you can first.
9. Remember we may not get it perfect the first time and that the time goals will be reviewed annually and adjusted where necessary.
10. Set yourself a realistic goal and add a degree of "stretch" for the challenge.

3.3.1 Relationship to Case Tracking

All cases are not alike with respect to their individual characteristics. Some need prioritising in order to ensure the right cases are dealt with in the right order. This acceleration of cases needs to be **appropriate** and **transparent**.

This requires cases to be divided into categories dependent upon objective and subjective characteristics. That is, we need to determine the case typology. In most PICs a judge does this, however a Registrar or Master may also assume this responsibility.

In some jurisdictions this is known as placing the case on an appropriate "track". Below is a list of criteria that might be considered in the placement of cases in a simple "two track" system.

List 2: Potential Criteria for Prioritising Cases

Potential Criteria For Prioritising Cases	
<p>Track A: Fast Track</p> <ul style="list-style-type: none">• With predominately urgent features• National significance• Involving children• Involving a particular hardship• Denial of human rights• Significance to other cases e.g.: precedent value• Involving a high level interest for the community or notoriety• Significant public importance• There is a significant amount of money involved• The age of the case - a backlog of cases• As might be determined by the Case Manager'• Health of parties• As might be determined by a Judge	<p>Track B: Normal Track</p> <ul style="list-style-type: none">• There are no compelling reasons to accelerate the case• Where the interests of justice are served by proceeding normally• As might be determined by the Judge or Case Manger

A case on the fast track will be given a target time for processing which is earlier than those that are placed on the Normal Track. For example, if the case is a criminal children's court matter and the child is in custody, instead of a normal processing time of say 3 months, the Fast Track may require the matter to be disposed of in say, 1 month.

Criteria applied for the acceleration and prioritization of cases need to be consistent and transparent.

4 IMPLEMENTATION, MONITORING AND REPORTING

4.1 Administrative Support and Technology

Efficient case flow demands considerable discipline and transparency in the systems and processes that support it. These systems and processes need not be sophisticated or electronic. Depending upon the jurisdiction and number of cases to be handled, methods of tracking the age of cases and progress toward time goals can include:

- Scanning registers to create lists of cases each month from the oldest to the latest, that are approaching or exceeding the time standard
- Using a Microsoft Excel spread sheet that captures the date of registration of cases (and other data) and is programmed to calculate the reports (see the section ahead on Monitoring)
- Using cards for each case that are stored in order of case age, with each card recording case progress and activities
- Colour coding of case types using a marking pen along the file spine
- Inserting the goal date on the front file cover for all to see
- Use of time goals to help organise case flow management software and information management.

Clearly and accurately noting the date of commencement of the actions and other events is particularly important. This requires the registry and judiciary personnel to work closely as a team.

4.2 Formalizing Time Goals

Time goals should be formally instituted via rules, Chief Justices' directions, standing orders, practice notes, procedural guides, policy documents, forms and training instruments.

In the Additional Resources to this Toolkit, there is a sample of an *Interim Rule* to facilitate the introduction of time goals. You may modify this sample to suit your needs and adapt it for other jurisdictions.

4.3 Reporting

Good reporting routines are essential for courts to be accountable internally and externally. Court leaders should have available reports that provide an overview of the cases pending and workloads of courts and judges.

Ministries should have reports that give an overview of the workload and performance to be able to properly review funding and staffing levels.

Stakeholders should have ready access to certain types of information which can be provided in an Annual Report or on the court's website. Individual judges should have reports with which they can manage their dockets and priorities.

A framework of reports to monitor timeliness is recommended in the following section.

Tips for Reports

- Reports should be as uniform as possible between jurisdictions.
- Internal reports can be more frequent and informal to ensure court leaders have a sufficient overview of work, including an individual breakdown by judge.
- The Chief Justice should have a total oversight report. This provides an objective status assessment, which can help in discussions with judges, personnel and stakeholders.
- Data should be detailed to match the performance indicators for the annual report
- Reports should allow for a comparison of data to depict the percentage change in the number of cases on hand from one reporting period to the other. This helps indicate trends and if the court is regressing into backlog.
- There should be a clearance rate measure, which indicates the court's ability to cope with the inflow of cases. This is a simple calculation of the number of cases resolved within a certain period divided by the inflow of cases in that same period. A number higher than 100% indicates that the caseload is decreasing, whereas as a number lower than 100% indicates the caseload is increasing and could progress into backlog.
- The reports could include an analysis of: which types of cases are the ones that are disposed? How they were disposed of? Were they trials? Were they pleas or settled? In either case the effort and commitment of resources differ immensely. Capturing this type of information provides a vastly different picture of performance and ensures that comparisons are fairer.

4.4 Monitoring Framework

The following is a monitoring framework designed to provide managers with the basic information necessary to oversee the caseload and monitor progress toward time goals.

Table 3: Time Goal Monitoring Frameworks

Outcome	Indicator
Low level of aged cases in pending case profile	i. Clearance rate - the number of outgoing cases as a percentage of the number of incoming cases
	ii. Age distribution of the pending caseload -- the age of active cases that are pending before the court measured as the number of days from filing until the time of measurement (see annex) per case type.
Timely Judgments	iii. Number of reserve judgments outstanding, noting especially those over three months.
Prevention of delay in pending caseload	iv. Total list of cases exceeding time goals in pending caseload - for Chief Justice.
	v. List of cases exceeding time goals in pending caseload in the docket of each judge - for each judge only.
Delay prevention through monitoring of timely dispositions	vi. The number of disposed cases per case type.
	vii. Average age of disposed cases.
Achievement of Time Goals	viii. The percentage of cases disposed or otherwise resolved within established time frames.
	ix. Comparisons of above over time to provide a trend report.

Each month reports should be generated that list cases approaching the time goal or exceeding it. This report should have key information that provides a rapid oversight of the case, the reasons for delay and action being taken to remedy it.

The report is a useful tool for court leaders, judges and registry personnel to help draw attention to and give priority to these matters. The lists may be used in meetings to assist in making decisions about resources.

For examples and more details of reporting please see the [Additional Resources to this Toolkit](#) and the website [CourTools](#).¹

4.5 Adjournments

Adjournments (also called continuances) delay a case's resolution. Excessive numbers of adjournments can create delay and therefore minimising them is crucial in ensuring that courts reach their time goals. It is recommended that courts have a written adjournment policy to ensure that all judges and parties are aware of the presumptions upon which adjournments may be granted or refused.

One way to manage adjournments is to track the number of adjournments to see who adjourned and the reasons for the adjournment. With this information you can calculate adjournment ratios, rates and reasons. These measures are discussed in the Additional Documentation to this Toolkit.

¹ <http://www.courtools.org/Trial-Court-Performance-Measures.aspx>

5 CHECKLIST

This Toolkit has provided you with an overview of time goals and their development. Alongside this Toolkit the [Additional Resources](#) has provided you with resources and tools to use when implementing time goals and related information.

To summarise, you may find the following checklist a helpful guide for the tasks you need to undertake to develop and implement time goals.

Checklist

1. Put Time Goals on “PROJECT STATUS”
2. Delegate one person to lead and manage the Time Goals Project
3. Establish a team of judges and registry personnel
4. Consider including local lawyers, police and other stakeholders
5. Scope the terms of reference of the team i.e. set terms of reference, accountabilities, responsibilities and time frames and allocate resources
6. Continuously communicate the teams activities and progress
7. Conduct workshops to provide information on timeliness and to promulgate the time goals using the Workshop Facilitators Package in the Additional Resources to this Toolkit and:
 - i. Start the promulgation process by differentiating selected categories of cases
 - ii. Map out the intermediate steps
 - iii. Identify mandatory time periods
 - iv. Set time goals for events which have no time period
 - v. Consider case complexity and other factors affecting time and the percentage of these cases
 - vi. Determine optimum time frames for each case type
 - vii. Assess the percentage of cases that are normal flow cases and complex flow cases
 - viii. Reflect and discuss the sample time goals contained in this Toolkit
8. Decide upon the first tier goal for the ‘normal flow of case’ e.g. 90% in 12 months for general civil matters
9. Decide upon the second tier goal for the more complex or time intensive cases. Using the above example, this might be 98% in 2 years (i.e.: 90% in 12 months, 98% in 2 years)
10. Consult, train and inform stakeholders
11. Develop a Chief Justice practice direction or general order to implement
12. Promote and disseminate the practice direction and related information
13. Train and educate staff (using information from this Toolkit & other resources)
14. Create administrative systems to oversee the goals
15. Develop and implement the monitoring framework
16. Co-ordinate information technology system development
17. Disseminate and use the results of the monitoring framework to manage the caseload
18. Monitor and evaluate periodically and share selected results with stakeholders
19. Use the Timeliness Checklist annually to assess time related systems and processes
20. Celebrate successes.

5.1 Where to find more information

There are excellent resources available on the Internet with respect to timeliness and case management such as:

- [Australian Centre for Justice Innovation, Timeliness Project, http://www.law.monash.edu.au/centres/acji/research/timeliness/index.html](http://www.law.monash.edu.au/centres/acji/research/timeliness/index.html)
- [Australian Institute for Judicial Administration, http://www.aija.org.au/](http://www.aija.org.au/)
- [CourTools, Trial Court Performance Measures, http://www.courttools.org/Trial-Court-Performance-Measures.aspx](http://www.courttools.org/Trial-Court-Performance-Measures.aspx)
- [National Centre for State Courts USA, Model Time Standards for State Trial Courts, http://www.courttools.org/Trial-Court-Performance-Measures.aspx](http://www.courttools.org/Trial-Court-Performance-Measures.aspx)
- [European Commission for the Efficiency of Justice, http://www.coe.int/T/dghl/cooperation/cepej/default_en.asp](http://www.coe.int/T/dghl/cooperation/cepej/default_en.asp)
- [International Consortium for Court Excellence, http://www.courtexcellence.com/](http://www.courtexcellence.com/)
- [National Centre for State Courts, USA, http://www.ncsc.org/Information-and-Resources.aspx](http://www.ncsc.org/Information-and-Resources.aspx)
- [Pacific Judicial Development Programme Toolkits, http://www.paclii.org/pjdp/pjdp-toolkits.html](http://www.paclii.org/pjdp/pjdp-toolkits.html)
- [Saturn Guidelines for Judicial Time Management, www.coe.int/cepej, file](http://www.coe.int/cepej)

Otherwise, use your search engine using key words such as "court case management", "court time standards" "court delay reduction", "court caseload management".

5.2 References

- Ehmann, J. *Court Management and Administration Assessment Report*, Pacific Judicial Development Programme, Solomon Islands, Republic of Vanuatu, Kingdom of Tonga (2012).
- Federal Judicial Center, *The Elements of Case Management*, 1520 H Street, N.W Washington DC 2005.
- *International Framework for Court Excellence*, <http://www.courtexcellence.com> accessed 17 July, 2014.
- Steelman D, *Caseload Management - The Heart of Court Management in the New Millennium*, 2000, Court Management Library Series, National Center for State Courts, Williamsburg USA.

Endnotes

ⁱ Source: *International Covenant on Civil and Political Rights*, UN General Assembly resolution 2200A(XXI), December 16, 1966 entered into force March 23, 1976

ⁱⁱ <http://www.courtexcellence.com>

ⁱⁱⁱ www.ncsc.org/Resources/~media/.../Files/.../IFCE-Framework-v12.ashx

^{iv} *Aon Risk Services Australia Ltd v ANU* [2009] HCA 27; (2009) 239 CLR

^v *Sali v SPC Ltd* [1993] HCA 47; (1993) 67 ALJR 841

^{vi} *Sali v SPC Ltd* [1993] HCA 47; (1993) 67 ALJR 841 at 849, as cited in *Aon* at [93] per Gumow, Hayne, Crennan, Kiefel and Bell JJ.

^{vii} Caseflow is the coordination of court processes and resources so that cases can progress efficiently and on time, from filing to disposition.

^{viii} European Commission for the Efficiency of Justice, *Compendium of 'best practices' on time management of judicial proceedings* (Report has been adopted by the CEPEJ at its 8th plenary meeting, Strasbourg, 6-8 December 2006), available at [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2006\)13&Sector=secDGHL&Language=lanEnglish&Ver=original&BackColorInterne](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2006)13&Sector=secDGHL&Language=lanEnglish&Ver=original&BackColorInterne)

^{ix} European Commission for the Efficiency of Justice, *Compendium of 'best practices' on time management of judicial proceedings* (adopted by the CEPEJ at its 8th plenary meeting, Strasbourg, 6-8 December 2006), available at [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2006\)13&Sector=secDGHL&Language=lanEnglish&Ver=original&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2006)13&Sector=secDGHL&Language=lanEnglish&Ver=original&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6) (accessed 15 August, 2014).

^x *Baustahlgewebe v Commission* (Appeal against the judgment of the Court of First Instance of 6 April 1995) [1995] Case C-185/95 P, <http://curia.europa.eu/en/actu/communiqués/cp98/cp9881en.htm> accessed 20 July, 2014

^{xi} *ABA Standards Relating to Court Delay Reduction*, Standard 2.50 Caseflow Management and Delay Reduction, General Principle quoted in B. Mahoney, *Sources of Delay in Case Processing and How to Address Them*, 2008 Conference of the International Association for Court Administration, Dublin, Ireland.

^{xii} *Kurt Nielsen v. Denmark* (Application no. 33488/96) Strasbourg, 15 February 2000 [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-58590#{"itemid":\["001-58590"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-58590#{) accessed 20 July, 2014

^{xiii} <http://www.ncsc.org/Information-and-Resources/High-Performance-Courts/Case-Processing-Time-Standards/CPTS-States/Florida.aspx>

^{xiv} American Bar Association (ABA), *Standards Relating to Trial Courts*, 1992 Edition, Section 2.50,

** Criminal cases: time from arrest to trial or disposition.

*** Civil and domestic relations cases: time from filing to trial or disposition;

**** Juvenile detention and adjudication or transfer hearings: time from arrest to hearing; juvenile disposition hearings: time from adjudicatory hearing to disposition hearing.

^{xv} Serious Crime

² Time to trial goal is 12months

³ Uncontested final orders: 100% in 2 weeks





Pacific Judicial Development Programme

TIME GOALS TOOLKIT

PJDP toolkits are available on: <http://www.fedcourt.gov.au/pjdp/pjdp-toolkits>

