



**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE**

**2009 YEAR-END SUMMARY REPORT SUBMITTED
TO THE SIXTH CIRCUIT JUDICIAL CONFERENCE**

Submitted by

**Jon P. McCalla
Chief Judge**

In 2009 the court continued to focus on technology in both case management and finance and accounting. By developing improved systems in both areas and by implementing continuous training, the court staff has increased both employee productivity and competence despite constantly changing work demands. Our goal as a court remains to be a dynamic and exciting workplace looking for solutions to the systemic legal and management problems the court faces.

This year the court has begun the process of setting up a re-entry court to address the issue of recidivism with part of our supervised release population, has undertaken a major revision of the local rules, is undertaking a review of the CJA panel evaluative process, has participated in numerous CLE programs, and has expanded the role of the court's Judicial Retreat as a major way to obtain in-depth review of numerous topics important to the district and magistrate judges.

An important continuing challenge for the court remains the large number of trials conducted in the district and the impact of that fact on the overall work of the court.

ACTIVITIES OF THE UNITED STATES DISTRICT COURT

CASELOAD STATISTICS

The following annual statistics demonstrate the large number of trials per judge and the effect on the Western District case disposition rates. For 2005 the court averaged 23 completed trials per judge, which ranked 23rd nationally and 3rd in the Circuit. For 2006 the court averaged 31 completed trials per judge, which ranked 11th nationally and 1st in the Circuit. By 2007 the court averaged 49 completed trials per judge, which ranked 3rd nationally and 1st in the Circuit. For 2008 the court averaged 42 completed trials per judge, which ranked 5th nationally and 1st in the Circuit. The overall effect of the large number of trials over a long period of time has been to consistently adversely effect both the criminal and civil case disposition rates in the Western District of Tennessee. For example in 2008 the Western District was 87th nationally and 9th in the Circuit as to length of time between filing and disposition of criminal cases and 84th nationally and 9th in the Circuit as to civil cases.

The court therefore has implemented changes in case management in response to court congestion and is considering additional changes. The following is a brief summary of the changes that have been made:

(1) Using magistrate judges as presiding judges in civil cases

For the last two years the court has included magistrate judges on the civil case assignment wheel as presiding judges. The court has also worked with the magistrate judge division of the AO to implement this plan. Based on the experience of other districts, this process should gradually reduce the number of trials per district judge.

(2) Improved focus on civil case disposition

During 2009 the Western District completed the appointment process for a fourth full-time magistrate judge. The availability of an additional judicial officer should help address time demands created by three categories of civil cases in the Western District: (1) prisoner *pro se* civil cases from the four prisons located in the district; (2) civil non-prisoner *pro se* filings; and (3) complex civil litigation. Large patent cases are particularly demanding of judicial resources on a case-by-case basis. Since these three categories of cases create significant time demands on judicial resources, the presence of a third magistrate judge in Memphis should begin to improve the disposition rate in each of these case categories.

(3) Administrative changes in case management

Under a newly adopted procedure, the clerk will handle review of all prisoner and non-prisoner *pro se* complaints in terms of technical and time compliance and draft proposed orders for review by the assigned judicial officers. The court anticipates this shift in duties will reduce the processing time for the preliminary stages of new *pro se* filings, which in turn will reduce the median time to disposition for those cases. The responsibilities related to the duties of employment dispute resolution coordinator and mediator are also being shifted to the clerks of the district and bankruptcy courts to provide more magistrate judge time to focus on reduction of civil case congestion.

EMERGENCY RESPONSE AND DISASTER RECOVERY (COOP) SYSTEMS

The court completed final drafts, table-top exercises, and field tests, as well as the actual implementation of its emergency response systems. These systems include the Building and Court Occupant Evacuation Plans, the Shelter-in-Place Plan, the Pandemic Outbreak Response Plan, the Mail Incident Response Plan, the Chambers and Courtroom Incident Response Plan, the COOP Plan, and the Emergency Notification Systems Plan. Implementation included, among other preparations, installation of replication servers at the divisional and home offices that maintain mirrored data within a four-hour time-frame. The court has authorized the equipping of all COOP initial responders and most of the clerk's staff with virtual private network access to the data communications network which allows for remote operation in the event that our buildings are unusable.

The clerk has completed acquisition of two mobile response units using surplus military vehicles with on-board diesel generators that allow an alternative court site to be fully functional

within four hours of arrival at any recovery site. The combined effect of these efforts allows the creation of a fully functioning federal court operation located within either division of the court within 72 hours of a COOP event.

TECHNOLOGY AND TELECOMMUNICATIONS ACTIVITIES

The court completed its cyclical upgrade of all desktop and laptop computers ahead of the required replacement cycle. Teleworkers, COOP responders, and most of the clerk's staff now have virtual private network access to the court's local servers and judiciary data communications network. A customer service project using public access kiosks in both divisional offices is nearing completion. These kiosks allow the public to gain free and easy access to case-related data as well as basic information about the federal court, the clerk's office, the probation and pretrial services offices, and the GSA operation. The court has completed the renovation of an additional courtroom and chambers in the eastern division, which included the installation of a completely electronic courtroom for future criminal and civil trials. All district courtrooms are now equipped with new digital recording equipment as a back-up to live court reporting, which will be particularly useful in proceedings where the use of external contract court reporters is required. These enhanced electronic courtroom and administrative operations are mandated by the court's 2006 strategic plan. The court also designed, produced, and is now maintaining entirely new external (<http://tnwd.uscourts.gov>) and internal (<http://156.125.31.199>) websites.

FINANCIAL OPERATIONS

The court has been through four external audits, including two cyclical audits, during the last four fiscal years. The court has successfully reorganized its entire financial operation and now maintains a completely electronic financial recordkeeping and reporting system built and managed by in-house staff. This electronic system allows for real-time access to all financial transactions and ledgers and is web-enabled for remote access by authorized staff. The last external cyclical audit was completed in July 2009 and resulted in zero findings, which is the first no-findings audit in a number of years. Members of the clerk's staff were active throughout the year in lecturing, presenting seminars, and drafting written materials on behalf of the Judiciary and the FJC in the areas of financial management, financial audit preparation and correction, leadership and general management, CCAM conversion processing, and local court mentorship. The restructure of the court's financial operation, its conversion to an all-electronic processing format, and its growing role as a resource for others in the areas of financial management are part of the court's 2006 strategic plan.

SPACE PLANNING, TENANT ALTERATION, AND MAJOR HOUSING PROJECTS

During 2009 the court completed more than fifteen tenant alteration and major remodeling projects through GSA contracting. These projects included the relocation and remodeling of several judicial chambers in both divisions; the construction of offices for the clerk's finance, records, intake and procurement units; completion of a second jury assembly area to ease congestion in the primary assembly location; complete remodeling of a district judge chambers and courtroom in the eastern division; and construction of a new chambers for the district's fourth magistrate judge. The court was also successful in applying for funding from the

Sixth Circuit's Space and Facilities Committee and the Judicial Conference for the construction of a new courtroom and chambers designed to accommodate the housing needs of the newly-appointed magistrate judge. The court continues to experience problems concerning adequate space within the existing court buildings in Memphis and Jackson. The court is scheduled to participate in the strategic planning process through the AO's Asset Management Planning (AMP) program. That process will begin in July 2010.

OUTREACH AND ADMINISTRATIVE ACTIVITIES

The court continued its support of a variety of bar association and outreach programs including numerous CLE seminars for the Federal Bar Association and the Annual Federal Practice Seminar, which attracted over 150 members of the federal bar in 2009. Judicial officers and the clerk served on key committees of the Memphis Bar Association; presented seminars in conjunction with the University of Memphis Law School, including the Annual Law School for Journalists program; hosted foreign delegations of judges, prosecutors, and court officials from several countries under the auspices of the U.S. Patent and Trademark Office; and continued an active speakers bureau from the clerk's office for schools located within the City of Memphis and Shelby County.

The court also conducted a successful training and business retreat for all judicial officers, key members of the clerk's staff, and chiefs from probation and pretrial. This annual business meeting allows the court to focus on pressing matters that cannot be adequately addressed during routine monthly meeting of the court, including technology reviews, local rule changes, in-depth unit executive reports, overall court fiscal reports and planning, CJA administration, strategic space and facilities planning, and review of major security concerns.

ACTIVITIES OF THE UNITED STATES PROBATION OFFICE

For calendar year 2009, the probation office prepared 635 presentence reports for the court. At the end of the year, there were 1,245 offenders under supervision of a United States probation officer in the Western District of Tennessee. The changes in the offender population over the last several years have brought unique challenges. The probation office has met these challenges by increasing funding for substance abuse treatment; mental health treatment, including psychotropic medication; and sex offender treatment programs.

This year more emphasis has been placed on workforce development and offender preparation to become actively employed. By the end of 2009, approximately 65% of our offender population was actively employed, 15% were excused from employment due to factors such as disability and retirement, and approximately 20% of the offenders were unemployed. To aid the offender population, the court is in the process of implementing a re-entry court.

Advances in automation continue to change the landscape of the probation office's work, but the core mission of preparing high quality presentence reports and sufficient but not greater than necessary supervision of offenders remains constant.

ACTIVITIES OF THE UNITED STATES PRETRIAL SERVICES OFFICE

The pretrial services office experienced significant staff changes during the 2009 calendar year. Impacting the office most was the retirement of long-time Chief Officer Ford B. Cornett on July 31, 2009. Carolyn W. Moore was appointed as the new chief on August 3, 2009. Additionally, Senior Officer Valerie D. Pugh retired on May 31, 2009. Cathy Tovornik was promoted and assumed Senior Officer Pugh's role as Substance Abuse/Treatment and Location Monitoring Specialist. Four new officers, an automation support staff member, and a clerk were also appointed during 2009. Each filled positions vacated due to promotion, temporary detail assignment, or resignation.

Important 2009 changes included an upgrade to PACTS 5.6.3, the implementation of a revised interview document (PS-2), a new policy in which officers assist defendants with the completion of CJA 23 financial affidavits, and an increase in the number of bail reports submitted prior to initial appearances.

During this calendar year, 769 cases were activated from the filing of an indictment or information, 321 defendants were released on bond with pretrial supervision, 448 defendants were ordered detained, and 126 violations of conditions of release were filed with the court.