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ADVANCED REVIEW AND CONSOLIDATION

A.R.C.

Objective

Case delay could be reduced by scheduling open Common Pleas Court and Municipal Court cases with Common Pleas Court probation/parole hearings or other open cases for those defendants who have matters on the arraignment list. The defendants would thereby have an opportunity to consolidate their open cases and dispose of their matters at one time. The success of these listings could greatly reduce defendants' time to trial in many cases and would decrease the cases on many trial and pre-trial lists thereby allowing the trial judge to focus more on trial matters. This would also centralize the defendant's probation/parole cases with fewer if not one judge.

Assessment

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Active Criminal Records (ACR) has explored several means to accomplish the above objective. We are encouraged by the statistics of other major metropolitan judicial districts regarding plea agreements. According to the National Association of State Courts, jurisdictions in Delaware achieve an 88% disposition rate via non-trial dispositions (Felony Defendants in Large Urban Counties, 2002). Non-trial disposition rates in jurisdictions in New York City are often reported to be over 90%. A cursory review of dispositions in the Common Pleas Court of the First Judicial District during the week of January 5, 2009 through January 9, 2009 revealed a non-trial disposition rate of 73%. Making plea offers to defendants earlier may increase our non-trial disposition rate.

Process

During the preparation for arraignment, Common Pleas Court trial commissioners review each defendant's criminal history to determine possible candidacy for Intermediate Punishment, to determine if the defendant is in state custody or to see if the defendant has prior 'strikes' that would

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need to be factored into evaluating the case for a possible listing in the Section Calendar/Major program. In all these instances, the commissioners are looking at defendants' prior record to make a decision about where the case should go. Trial commissioners will now incorporate into their review the defendants' other open matters and current probation/parole status.

An advanced case review and disposition program of open matters is needed. The review will examine the cases on the formal arraignment list five (5) days before the arraignment instead of the normal review process of two (2) days before the arraignment. Trial commissioners will examine the Court Summary in CPCMS for each defendant scheduled for formal arraignment to detect defendants with other open criminal matters or possible violations of probation.

If the defendant has an open criminal matter other than the case scheduled for formal arraignment, the commissioner would list for status all the matters in a newly designed Common Pleas Court "bucket" for CR 888. These matters would be reviewed by the District Attorney's Office, the Public Defenders' Office and the private bar. The District Attorney's Office would make a plea offer to defense counsel for consideration prior to formal arraignment. If the offer is accepted, one of several listings could ensue:

- I. If the case on the formal arraignment is a Common Pleas Court matter in the Waivers/List Program and the open matters are in the Waivers/ List Program, all matters would be listed in the Track Room 15 days hence for disposition

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2. If the case on the formal arraignment is a Common Pleas Court matter in the Waivers/List Program and one of the open matters is in the Section Calendar/Majors Program, all matters will be scheduled in the Section Calendar Pre-Trial Courtroom 15 days hence for disposition
3. If the case on the formal arraignment is a Common Pleas Court matter in the Section Calendar/Majors Program and the open matters are in the Waivers/ List Program, all matters would be listed in the Section Calendar Pre-Trial Courtroom 15 days hence for disposition
4. If the case on the formal arraignment is a Common Pleas Court matter in the Section Calendar/Majors Program and the open matters are in the Section Calendar/Majors, all matters would be listed in the Section Calendar Pre-Trial Courtroom 15 days hence for disposition

Any matters involving Gun Court will be excluded from this process initially.

Municipal Court cases will be included in ARC based on Municipal Court protocols and policies.

If the defendant rejects the offer of the District Attorney's Office, any trial or pre-trial dates scheduled will remain. Any other pre-trial or trial dates will be provided at the ARC hearing.

If it is determined that the defendant is currently on probation/parole of a judge currently sitting in Common Pleas Court and has a case on the arraignment list, the commissioner conducting

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the review would then investigate whether the defendant has a violation of probation/parole (VOP) hearing scheduled. If the defendant does, the commissioner may list the open case with the VOP hearing for possible disposition. Before doing this, the commissioner would have to determine the likelihood of disposition at this listing. If the VOP case is before a List/Waiver Program judge and the case on the arraignment is a Section Calendar/Major Program or Homicide Program case, it may not be practical to list the open case with the VOP. However, if the VOP case and the open matter are compatible, the benefits of consolidation could be realized. The commissioner would follow the following protocol:

1. If the arraignment case is a List/Waiver Program case and the probation/parole judge is in the List/Waiver Program, the cases would be listed together, if possible, at the Gagnon 2 hearing before the probation/parole judge.
2. If the arraignment case is a List/Waiver Program case and the probation/parole judge is in the Section Calendar/Major Program, the cases would be listed together, if possible, at the Gagnon 2 hearing before the probation/parole judge.
3. If the arraignment case is a Gun Court Program case and the probation/parole judge is in the Gun Court Program, the cases would be listed together, if possible, at the Gagnon 2 hearing before the probation/parole judge.
4. If the arraignment case is a List/Waiver Program or a Section Calendar/Major Program case and the probation/parole judge is in the Gun Court Program, the cases would not be listed together.
5. If the arraignment case is a Section Calendar/Major Program case and the probation/parole

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judge is in the List/Waiver Program, the cases would not be listed together.

If the defendant has a case on the arraignment and is on the probation/parole of judge who was formerly sitting in Common Pleas Court but is no longer, the commissioner will evaluate the defendant's criminal history to identify if he/she is on any other Common Pleas Court judge probation/parole. If the defendant is on another Common Pleas Court judge's probation/parole, the commissioner will transfer the probation/parole case of the defendant on the arraignment to the other probation/parole judge. The commissioner would then follow the protocol described above and notify the judge receiving the probation/parole case of the action taken.

Once the judge to whom the probation case is being sent is identified, that judge, the defense attorney and the District Attorney will be notified by correspondence of the circumstances of the case.

Should the defendant reject the opportunity to consolidate his open matter with the VOP, the probation judge will act on the VOP and the open matter will keep its next listing date in the appropriate Pre-trial conference room for assignment to a trial room or directly to a trial room. The defendant should be made aware of the possibility that the sentence resulting from a conviction on the open matter may run consecutive to his VOP sentence. The defendant should also be made aware that this opportunity to consolidate his open matter with his VOP may not present itself again.