

section three

Case processing

❖ A key finding in this System Assessment is the need to improve case processing efficiency in Placer County. Timely and streamlined case processing is a centerpiece of effective systems. Timeliness in case processing underpins other system reforms.

An efficient system can significantly reduce system costs, reduce crime (by expediting offenders' entry onto supervision and into treatment), and greatly reduce the impact on the jail. Across criminal justice systems, factors associated with systems that have achieved effective case processing include:

- Clarity of case processing goals and time standards
- Equilibrium between prosecutors and defense attorneys
- Involvement of the Court in exercising control over case movement
- Assessment driven Pretrial release practices

This section presents findings from the Placer County Case Processing study that tracked 1,000 defendants through the local system from booking into jail to case disposition. This data was collected to provide baseline system data and to highlight areas that would benefit from local attention.

Recommendation: Review high 'no-file' rates

Very high no file rates A full 33% of felony arrests and 21% of misdemeanor arrests booked into jail were **not** filed. This is an inexplicably high number. Another 25% of felony cases were reduced to a misdemeanor charge.

Extremely high no file rates for felony person offense 54% of felony person crime bookings were not filed.

Recommendation: Notify the court of the decision to not file

When a defendant is arrested on a felony the case should always be presented to the district attorney. And, if the case is not filed, the court should be notified. In the Placer County case processing study, in only a handful of cases was the court notified when the DA made a no file decision.

Recommendation: Expedite filing practices

Filing delays contribute to case processing delays and inefficiencies The delays begin with the district attorney's filing decision, with an average 28 days from booking to filing; and an average 129 days from filing to the Preliminary Hearing, for felony cases. We recommend that steps be taken to improve timely filing practices in the District Attorney's Office that includes timely law enforcement presentation of the cases.

Recommendation: Establish a local drug testing lab for quick test results

In some cases the wait for drug test results contributes to filing delays. If so, this could be solved by funding a county/regional-testing lab. Given the high costs of system delay, financial support for a local lab that could provide immediate turn-around on drug tests is a good investment and consideration should be a high priority. And, cases should be filed based upon the presumptive field test.

Recommendation: Minimize investigation-pending 'own recognizance' releases

Delays in case filing can have unintended consequences. In Placer County, Pretrial cases pending a district attorney investigation or filing decision are released by the court, not based on an assessment of risk, but on their own recognizance due to the case not being filed.

28% of felony Pretrial defendants who exit the jail are released on their 'own recognizance' pending district attorney investigation and a filing decision

Irrespective of the Pretrial services assessment of risk, if a case is determined to be pending district attorney investigation, and not yet filed, the defendant is released on their 'own recognizance' (without supervision) – even if the Pretrial assessment suggests that the defendant is not a good candidate for release.

In fact, in most cases in which a Pretrial defendant exited the jail on this kind of release (due to a pending district attorney investigation) Pretrial staff had either recommended 'no release' or a more stringent release, due to the defendants assessed risk level.

Almost 60% of Pretrial defendants who were released from jail unsupervised due to a 'pending district attorney investigation' and filing decision, failed to appear in court at least once.

High failure rates can be lowered by expedited investigation and filing practices. To avoid unsupervised releases consideration could be given to filing cases that 'pending investigation' to allow release on Pretrial supervision. And, in all cases, where there is a delay in coming to a filing decision there should at least be a

quick return date. Observations in the local courts showed that the next court date can be set out a month or more. This only sets defendants up for failure. We recommend that this process be tightened.

Of felony cases released on an unsupervised ‘own recognizance’ release pending district attorney investigation or filing, 56% were ultimately never filed by the district attorney: 55% of misdemeanors released in this manner also had cases that were never filed. These cases, with high No-File rates, exact a cost on the system in terms of non-appearances in court and other processing costs.

Recommendation: Address high case attrition

In Placer County, only 32% of felony bookings resulted in a felony conviction. High case attrition rates reflect two facts: 1) A significant ‘No File’ rate, and 2) A high ‘Felony Reduction’ rate: the percentage of felony cases that are reduced to misdemeanors.

How does this compare to national data? According to national felony defendant case processing data (sampled from 75 major jurisdictions) for every 100 felony arrests, 54 are ultimately convicted on a felony charge. In Placer County, for every 100-felony bookings only 32 result in a felony conviction. Moreover, the Placer County felony reduction rate (percent of felony charges reduced to misdemeanors) is almost 2x the national average.

Felony Prosecution Placer County vs. National Average		
	Placer County	National Average
Felony charges result in felony conviction	32%	54%
Felony charges reduced to misdemeanor charges	20%	12%

The steep attrition and reduction to misdemeanor rates beg explanation. This should involve a look at District Attorney practices and include a conversation about the very front-end: cases brought to jail by law enforcement.

The review of attrition rates will require a look at prosecution charging practices. While there will always be instances where the district attorney chooses not to file a case presented or determine that a charge should be reduced, these numbers are too high. Law enforcement and the district attorney should be closer on the filing charge, and cases filed as a felony should be more likely to be resolved as a felony.

High case attrition rates for person crimes Only 30% of person crime bookings and 40% of narcotic bookings resulted in a court disposition.

There is no question that person crimes pose special challenges for prosecution. However, steep case attrition rates calls for a review of possible methods for improvement: determination of arrest charge by law enforcement, evidence collection, victim engagement, and timely prosecution are but a few issues to review.

Very high case attrition for felony domestic violence cases Only 15% of felony domestic violence bookings resulted in a felony conviction. This is a problem. It sends the wrong message to alleged perpetrators. When a suspect is booked on a domestic violence offense — and then the case is dropped, this can play into the distorted thinking of an abuser and empower them. “See, I told you this wasn’t serious,” they can say to the victim. It can encourage them to act with impunity.

Of course, not every suspect is guilty. But when we see attrition rates this high it usually indicates one of several things: either there is over-charging on the front-end (law enforcement officers are hedging their bet and attaching an inflated charge); the district attorney is undercharging; or, the process does not support good adjudication practices (evidence collection is incomplete or delayed, victims and witnesses are not quickly engaged, etc.).

We do not know the answer. These data do not reveal an explanation. As a starting point, we encourage discussions between the district attorney and law enforcement to establish (or review) charging standards.

Recommendation: Address high level of charge reductions

Relatively high charge reduction Of those cases filed as a felony 20% were reduced to a misdemeanor at adjudication. Given the magnitude of the reductions at filing we wouldn’t expect to see another 20 percent reduction to misdemeanors.

Recommendation: Expedite case resolution

In Placer County only 14% of felony cases were resolved within 30 days. The majority of felony cases in Placer County (67%) took longer than 90 days to resolve. For misdemeanor case processing, 51% of cases took longer than 90 days to disposition.

Recommendation: Reduce number of court appearances

High number of court appearances Felony defendants have an average 8.7 court hearings; misdemeanor defendants have an average 5.3 hearings.

Number of Court Hearings		
Court Hearings	Misdemeanor	Felony
1	2%	14%
2 - 3	19%	35%
4 - 5	20%	21%
6 - 7	15%	8%
8 - 10	18%	10%
11+	26%	12%

More than a quarter of felony defendants (26%) have 11 or more hearings. 44 Percent of felony defendants and 22% of misdemeanants have 8 or more hearings

Recommendation: Review and discuss factors driving low trial rates

The right to a jury trial is enshrined in our criminal justice system. Extremely low trial rates raise questions about system functioning. Nationally, 4 percent of felony offenders are convicted as a result of a jury trial ¹. The rates in Placer are not only low, but they occur in a system that has an average 8 court hearings to reach disposition raising the question: If the vast majority of cases are settled by plea then why does it take so many hearings and so many months, on average, to case disposition?

Recommendation: Develop an early case resolution program

An Early Case Resolution (ECR) program should be a centerpiece of local reform. The case processing data speaks for itself. Case processing delays and redundancies are a source of inefficiency and unnecessary costs. It is imperative that the adjudication process be streamlined in support of the principle of ‘Same Justice Sooner.’

A successful, tested model for streamlining case processing exists: the Early Case Resolution (ECR) program. The results can be dramatic. We have seen this program significantly reduce process times, improve access to alternatives, and reduce the impact on the jail: one jurisdiction went from having Fedcap releases to being able to close a wing of their Jail after the ECR program was fully operational. The rewards are many.

Significant case processing time to felony case resolution: The average time from booking to disposition for defendants charged with a felony offense (and released from jail prior to disposition) is approximately 7 months (209 days).

¹ “Convictions versus Conviction Rates: The Prosecutor’s Choice,” The American Law and Economics Review, 11 (1): 47-78, Spring, 2009

Swift justice though an Early Case Resolution (ECR) program supports the goal of a more efficient system and serves to reduce the overall impact on the jail. At the same time, the ‘Same Justice Sooner’ model supports improved offender outcomes. Quick entry into treatment, which occurs when cases are adjudicated sooner, has been shown to be associated with better long-term recidivism reduction.

The goal of the ECR program is to streamline case processing (by expediting the decision-making process and reducing the number of court hearings) thereby shortening the time to disposition.

There are multiple benefits to swift processing, including improved outcomes for offenders and a reduced impact on jail – thereby making more jail space available. However, the over-riding issue of concern is offender accountability.

When defendants are arrested and there is a high chance that the case will not be filed, a damaging message is delivered: Justice is haphazard. Take your chance. Break the law and you might be held accountable – or not.

This breakdown in accountability, coupled with a loss of System Integrity (the offender is sentenced but released before completing their time, due to overcrowding) can erode respect and confidence in the justice system, and in the worst case it can compromise public safety.

None of this is to suggest that prosecutors should be pressured to file charges after every arrest. Just the opposite: in a well-ordered system the filing decision is based on careful considerations and not all cases are filed. But when high ‘No File’ rates are coupled with high felony reduction rates, the result is an overall case attrition rate that begs review: In Placer County only 32% of felony bookings result in a felony conviction).

Significant case processing time to misdemeanor case resolution: The average time from booking to disposition for defendants charged with a misdemeanor offense (and released from jail prior to disposition) is approximately 5.5 months (164 days). The delays begin with the district attorney’s filing decision, with an average 39.5 days from booking to filing.

ECR reduces the length of time to resolve the case and expedites the defendant’s entry into appropriate treatment and supervision. The traditional system has the defendant remaining in custody or out on the street continuing with the same behavior. An ECR program gets the defendant into the appropriate program and level of supervision at an earlier point and holds them immediately accountable for their behavior. Another benefit is seen in significant reductions in police overtime, which allows more time on the street rather than officers sitting in court for hearings that are repeatedly continued. A prompt resolution and sentencing benefits everyone.

Recommendation: Ensure strong role for Pretrial services in expedited case processing

Expediting case processing is predicated on the early collection of comprehensive defendant information.

Jurisdictions with front-end screening protocols are in a position to make early and informed decisions about cases that result in increased diversion and expedited disposition. Examples of success include one jurisdiction, which achieved a 40% disposition of felony cases within 72 hours, with early screening and expedited case processing protocols. It all begins with a comprehensive Pretrial program.

In addition to expediting case processing, national data makes clear another benefit:

Jurisdictions with Pretrial services programs which interview defendants *prior* to the initial court appearance are less likely to have a jail that exceeds its capacity².

Pretrial programs should assist in collecting financial information needed to determine indigent status. This up-front documentation of a defendant's assets and liabilities allows early assignment of a public defender, thereby accelerating case processing. It also can significantly reduce the instances where a defendant is inappropriately appointed counsel, as when courts automatically appoint counsel based solely on a defendant's indication of need. Gathering Pretrial release information at the same time as indigent status is assessed results in more accurate information.

Delays in case processing have many system repercussions.

- **Public safety** Filing delays result in defendant's being released without the benefit of Pretrial supervision
- **Jail impact** Disposition delays result in detaining individuals whose cases are later dismissed
- **Defendant harm** Detention without resolution disrupts lives and employment
- **System integrity** Citizens can lose confidence in a process that is slow to complete and often unable to deliver — as when an overcrowded jail results in Fedcap releases

² *ibid*

Post-trial Jail Release Type		
	Felony	Misdemeanor
Time Served	43%	60%
Dismissed	35%	31%
Sent to Prison (CDCR)	20%	2%
Sent to Other Agency	2%	7%

Profile of cases adjudicated

The sample of cases analyzed in the Case Processing study has the following characteristics:

Compared to national data, the felony population booked in to the local jail has a lower level of prior felony convictions than the national felony population, measured by having at least one prior felony conviction: Placer (46%), National (60%).

Placer County - Prior Felony Convictions		
	Felony	Misdemeanor
None	56%	73%
One	19%	16%
2 - 3	16%	7%
4 - 10	10%	4%
11+	1%	1%

Relatively high percentage of Intoxicated at booking 19% of felony defendants were intoxicated at booking into jail; as were 31% of misdemeanants

A high percentage of female offenders 26% of felony defendants in the case-processing sample were female offenders; this is significantly higher than the national figure of 17%. (22% of misdemeanor defendants in the case-processing sample were females. No national data exists for this cohort.)

A high percentage of defendants reside outside Placer County 45% of felony defendants and 42% of misdemeanor defendants in the case-processing sample lived outside Placer County.

The Roseville Police Department was responsible for most of the felony arrests in this sample (48%) followed by the Sheriff (31%). The arrest and booking of

misdemeanor defendants was evenly divided between the Sheriff (23%), California Highway Patrol (22%) and the Roseville Police Department (19%).

Substantial felony unemployment rate 48% of felony defendants (29% of misdemeanor defendants) in the case-processing sample reported being unemployed at booking — the actual unemployment percentage is probably higher.

Relatively low minority population 75% of felony defendants and 79% of misdemeanor defendants in the case-processing sample were Caucasian. 11% of felony defendants and 13% of misdemeanor defendants were Hispanic — the second largest racial group after Caucasian.

68% of felony defendants were appointed an attorney

Placer County - Attorney Type		
	Felony Defendant	Misdemeanor Defendant
Retained	15%	23%
Appointed	68%	61%
Conflict Attorney	16%	3%
No Attorney	—	13%

Relatively high percentage of first time offenders at booking 62% of felony and 72% of misdemeanor defendants had, at the time of booking, no prior bookings into the local jail.