



CIVIL JUSTICE INITIATIVE

Assessing Areas for Impact in Civil Justice Reform: A Questionnaire for State Courts

To ensure that state courts adopt policies and procedures appropriate for and responsive to the state's unique circumstances and issues, [Transforming Our Civil Justice System for the 21st Century: A Roadmap for Implementation](#) recommends that state courts begin their civil justice improvement efforts with an assessment. One key aspect of this assessment is for states to undertake their own *Landscape of Civil Litigation* study, similar to the NCSC *Landscape of Civil Litigation in State Courts*. That study examined the case characteristics and outcomes for civil cases through a docket study of non-domestic general civil and small claims cases. While an individual study will help to diagnose the volume and characteristics of the state's civil case docket, it also is important for the state court to analyze relevant issues that may not be highlighted through a docket study.

The following Impact Questionnaire is intended to help fill this gap. The Questionnaire provides concrete questions intended to highlight needed areas for reform, as well as potential barriers. The questions parallel the [Recommendations from the Conference of Chief Justices Civil Justice Improvements Committee](#) to ensure courts consider the full scope of the Recommendations. In addition, the following chart calls on courts to gauge how close or far the court is from compliance with the Recommendations, highlighting the investment of time and resources that would be needed to achieve compliance and the payoff from that investment. While the Questionnaire is intended to be comprehensive, the questions are meant as a starting point, not as an end point. In defining the issues to be addressed through reform, the court should consider the culture, case management, technology, process and procedure, and enforcement—both internal to the court and more broadly within the community.

In terms of timing, it is recommended that this analysis occur at the beginning of the civil justice reform efforts as part of the assessment step in the Roadmap for Implementation. Considering these questions from the beginning will naturally lead to the next step, which is to define the issues facing the court. The following questions also will help to identify the stakeholders that should be included in the working group, be it a “task force” or “committee.” That said, this Questionnaire should be revisited with the working group, to get broader input and encourage discussion once that group is formed. The completed Questionnaire will also be an important tool at the point that the group develops its own tailored recommendations.

Exercise Ultimate Responsibility (Recommendations 1-2)

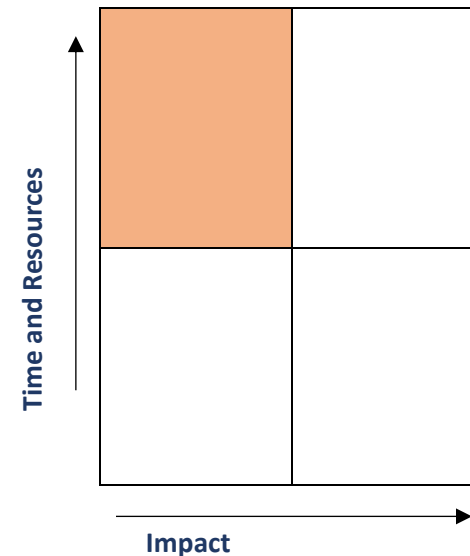
Does the court leadership (e.g. chief justice, judicial council, and/or civil rules committee) agree that the court¹ should exercise ultimate responsibility over the management of its cases?

Does the trial bench agree that the court should exercise ultimate responsibility over the management of its cases?

Does the practicing civil bar agree that the court should exercise ultimate responsibility over the management of its cases?

Is there disagreement within and among the above groups?

Identify areas for improvement	How would you achieve change?
a.	
b.	
c.	



*Mark the areas for improvement (a., b., c.) on the grid above, reflecting extent of time and resources and extent of impact.

¹ As in *Call to Action: Achieving Civil Justice for All, Recommendations to the Conference of Chief Justices from the Civil Justice Improvements Committee*, when we say “court,” we mean judges, court managers, and indeed the whole judicial branch.

Exercise Ultimate Responsibility (Recommendations 1-2) continued

Who currently controls the pace of litigation?

- The Court The Lawyers The Litigants

Is this consistent across:

- All jurisdictions? All case types? All judges?

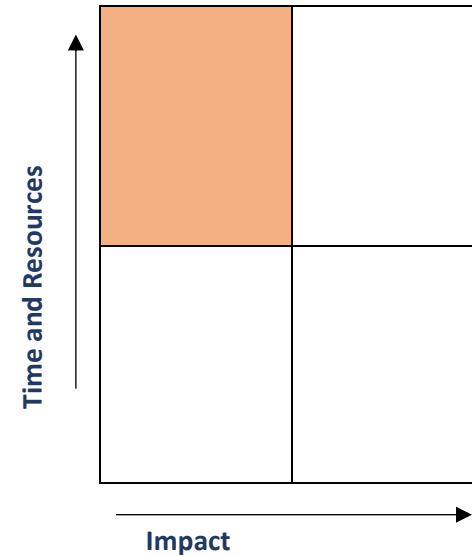
Does the court establish firm deadlines?

Are these deadlines communicated to the parties?

Do lawyers consistently request continuances of the deadlines?

Are continuances consistently granted?

Identify areas for improvement	How would you achieve change?
a.	
b.	
c.	



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Exercise Ultimate Responsibility (Recommendations 1-2) continued

Does the court have established time standards?

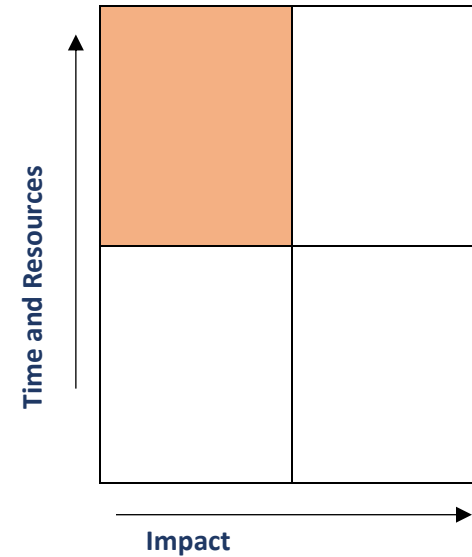
How well does the court comply with those standards?

Does the court consistently enforce its own rules?

Is this response consistent across all perspectives?

- The Trial Bench The Lawyers The Litigants

Identify areas for improvement	How would you achieve change?
a.	
b.	
c.	



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Triage Case Filings with Mandatory Pathway Assignments (Recommendations 3-6)

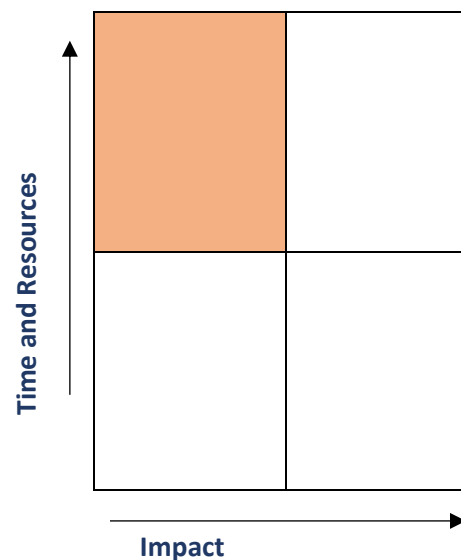
Has the court adopted a differentiated case management (DCM) approach to managing civil cases?

If yes,

- Does this approach triage all cases into an appropriate pathway, or are there specialized procedures for certain categories of cases (e.g., expedited trial processes, complex cases)?
- Is this approach transparent to the legal community, versus a process that is internal to the court?
- Are cases assigned to a pathway immediately upon filing?

Is the allocation of cases across pathways consistent with your landscape data (i.e. if 85% of your cases could use a streamlined process, do 85% go through your version of a streamlined process)?

Identify areas for improvement	How would you achieve change?
a.	
b.	
c.	



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Triage Case Filings with Mandatory Pathway Assignments (Recommendations 3-6) continued

Are mandatory disclosures required for civil cases?

Are there defined or presumptive timeframes for the completion of fact discovery?

Are there proportional limits on discovery right-sized to the needs of the case?

Are discovery disputes rare?

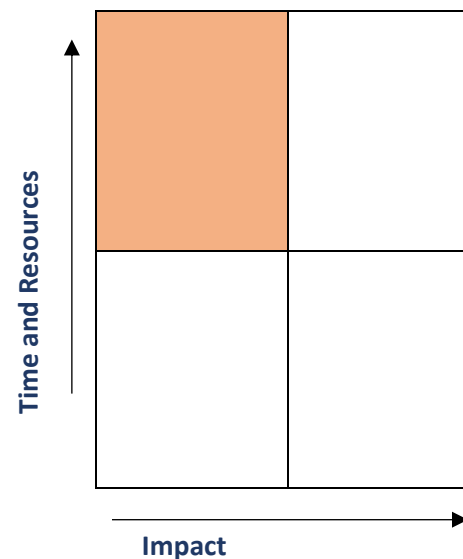
Are expedited procedures used to resolve them?

Is the court available to resolve discovery disputes when they arise?

Are the above responses consistent across:

- All jurisdictions?
- All case types?
- All judges?

Identify areas for improvement	How would you achieve change?
a.	
b.	
c.	



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Strategically Deploy Court Personnel and Resources (Recommendations 7-9)

Do you have resource challenges as a court related to:

- Judges?
- Staffing?
- Technology?
- Litigant Resources?

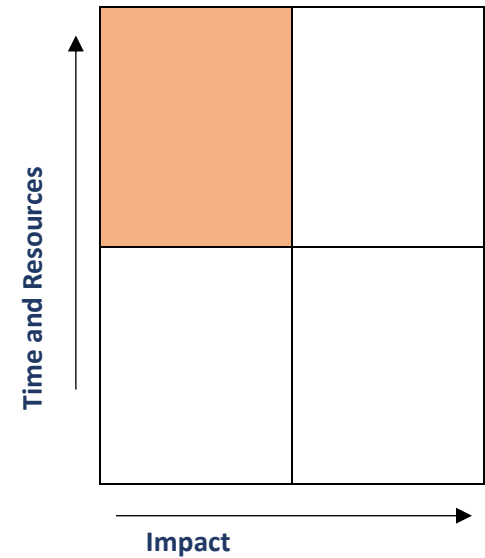
Does the court automatically calendar core case processes?

Do you have established business rules in place to facilitate efficient case management?

Does staff work in conjunction with the judge in a team approach to case management?

Does judicial assignment and rotation support the effective and efficient management of civil cases?

Identify areas for improvement	How would you achieve change?
a.	
b.	
c.	



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Use Technology Wisely (Recommendation 10)

Is technology being used to achieve the court’s vision and goals?

Has your court implemented e-filing, case management software, and other supportive technology?

Is technology being utilized to support case management?

- At the case level At the docket level

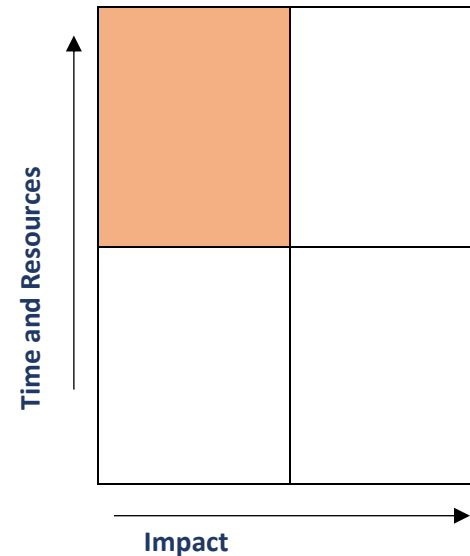
Are triage and business rules and processes defined and automated?

Is court information and data used to inform court processes and docket management?

With whom is court information and data shared?

- Judges Staff The public

Identify areas for improvement	How would you achieve change?
a.	
b.	
c.	



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Focus Attention on High-Volume and Uncontested Cases (Recommendations 11-12)

Has the court put in place policies and procedures to address the special needs of high-volume cases?

Does the court provide accurate and understandable information for litigants in high-volume cases?

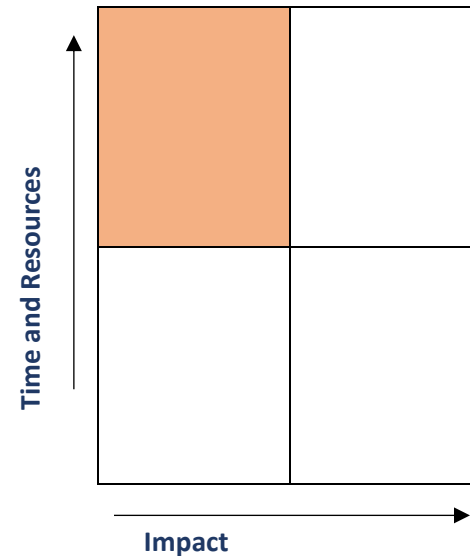
Does the court follow best practices for verifying compliance with procedural due process (service, notice of hearings, adequacy of evidence supporting judgments)?

Is this consistent across:

- Jurisdictions?
- Judges?

Has the court developed a process to ensure that uncontested cases don't sit unresolved on the court's docket?

Identify areas for improvement	How would you achieve change?
a.	
b.	
c.	



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Provide Superior Access for Litigants (Recommendation 13)

Is justice accessible to members of the public?

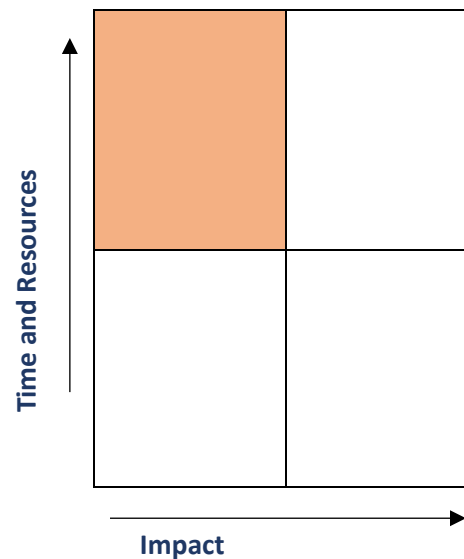
If not, what are the barriers to access to justice?

Does the court provide or facilitate access to appropriate and adequate legal information and/or advice?

Are judges trained on procedural justice principles and on effective engagement with self-represented litigants?

Does the court utilize technology to provide information and simplify the court-litigant interface?

Identify areas for improvement	How would you achieve change?
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b.	
c.	



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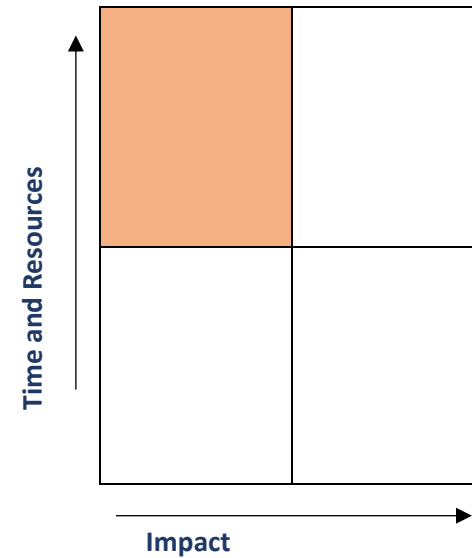
Undertaking Reform

What civil justice reform initiatives have been undertaken in the past?

Are there current efforts that overlap or relate to implementation of the CCJ CJI Committee's recommendations?

Is there interest in and excitement for reform, or has your jurisdiction experienced reform fatigue?

Identify areas for improvement	How would you achieve change?
a.	
b.	
c.	



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Background and Acknowledgements

With generous support by the State Justice Institute, the National Center for State Courts and IAALS, the Institute for the Advancement of the American Legal System, are partnering on a three-year project to implement the CJI Recommendations. The CJI Implementation Plan is a multipronged effort that includes assistance in strategic planning for state judicial leadership; education and technical assistance for state and local courts; evaluation of demonstration pilot projects to document the impact of best practices; and the development of practical tools and instructions on effective implementation efforts.

For more information about the CJI Implementation Plan, visit www.ncsc.org/civil.

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