

The Judicial Branch

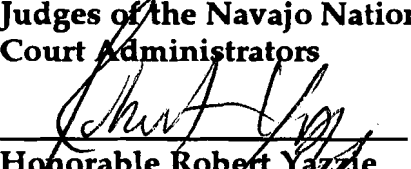
CHAMBERS OF
ROBERT YAZZIE
CHIEF JUSTICE
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of the Navajo Nation

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MEMORANDUM

TO: Judges of the Navajo Nation
Court Administrators

FROM: 
Honorable Robert Yazzie
Chief Justice of the Navajo Nation

DATE: August 18, 1999

SUBJECT: Corrected Case Management Policy

The Judicial Conference in July, 1999 adopted the proposed Case Management Policy subject to changes in section V. ssD & E. The language has been revised to meet the concerns expressed by the judges.

Also deleted is the word "Proposed" from the title as it is now official policy. Your attention to this matter is very appreciated. A training to the district staff will be conducted presently.

ATTACHMENT: Case Management dated August 18, 1999
DISTRIBUTION

UNIFORM CASE MANAGEMENT POLICY

I. INTRODUCTION: WHAT IS CASE MANAGEMENT?

- A. Case Management is a system of tracking and monitoring court cases to assure they are completed in a timely manner for speedy justice.

II. PURPOSES

A. The purpose of a uniform case management policy is to provide guidelines which enable the courts to process cases promptly and fairly, with all possible efficiency and economy. The guidelines assist judges and court staff in the management of cases from filing through final disposition. In other words, from beginning to end. The goal is to establish and implement case processing guidelines and standards using tickling and tracking methods.

1. This policy is designed to address the process of case management by giving flexible guidelines for the management of cases to meet the purposes of the policy.

B. What objectives or what purposes of the law do the guidelines help the courts fulfill? The following are the most important:

1. To provide every party a day in court and to render a fair judgment.
2. To demonstrate to the public that the courts respond to the public's expectations of justice.
3. To protect individual litigants and the public from the arbitrary exercise of governmental power and to avoid unnecessary delays in issuing decisions.
4. To strengthen the family and clans as the basic units of a well-ordered society.
5. To address criminal behavior in ways that will encourage

rehabilitation, deter and prevent crime, and protect the victims of crime.

6. To provide uniform standards of judgment and uniform standards of measuring case progress to meet deadlines required by law or policy.

7. To keep accurate court records for reference.

8. To promote better teamwork through information on case management and as provided by case management.

9. To lay the foundation for a case management computer system to more efficiently undertake case management, using the Judicial Branch Computer System.

10. To require counsel to attend to their cases promptly and to cooperate with the implementation of this policy professionally and in good faith.

III. CASE TIMELINES

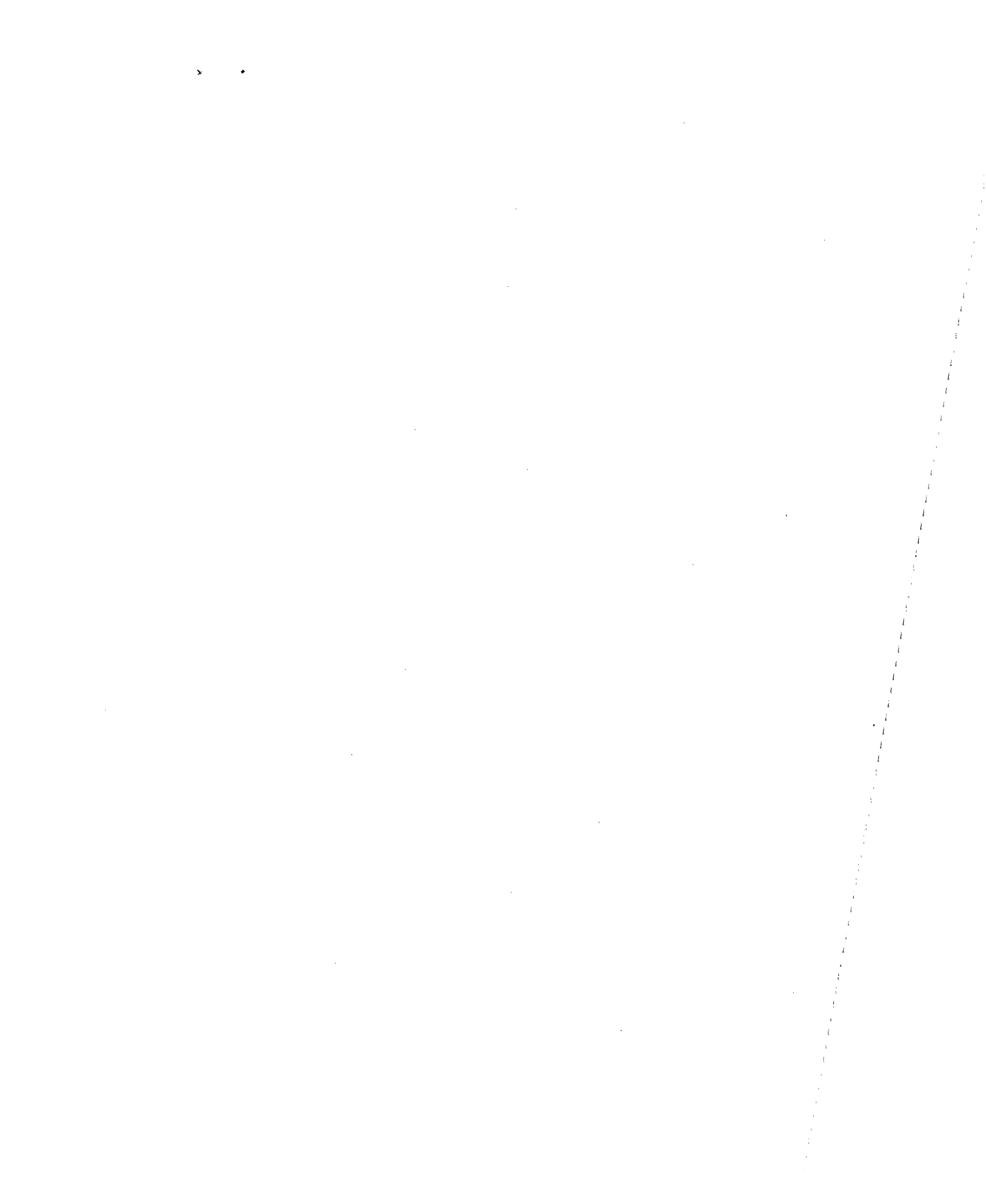
A. A case begins when parties come to court, one requesting relief, and the other opposing it. Court cases and peacemaking or probation cases must be completed in a timely and efficient manner. Except where litigation is complex or protracted, the following timelines apply:

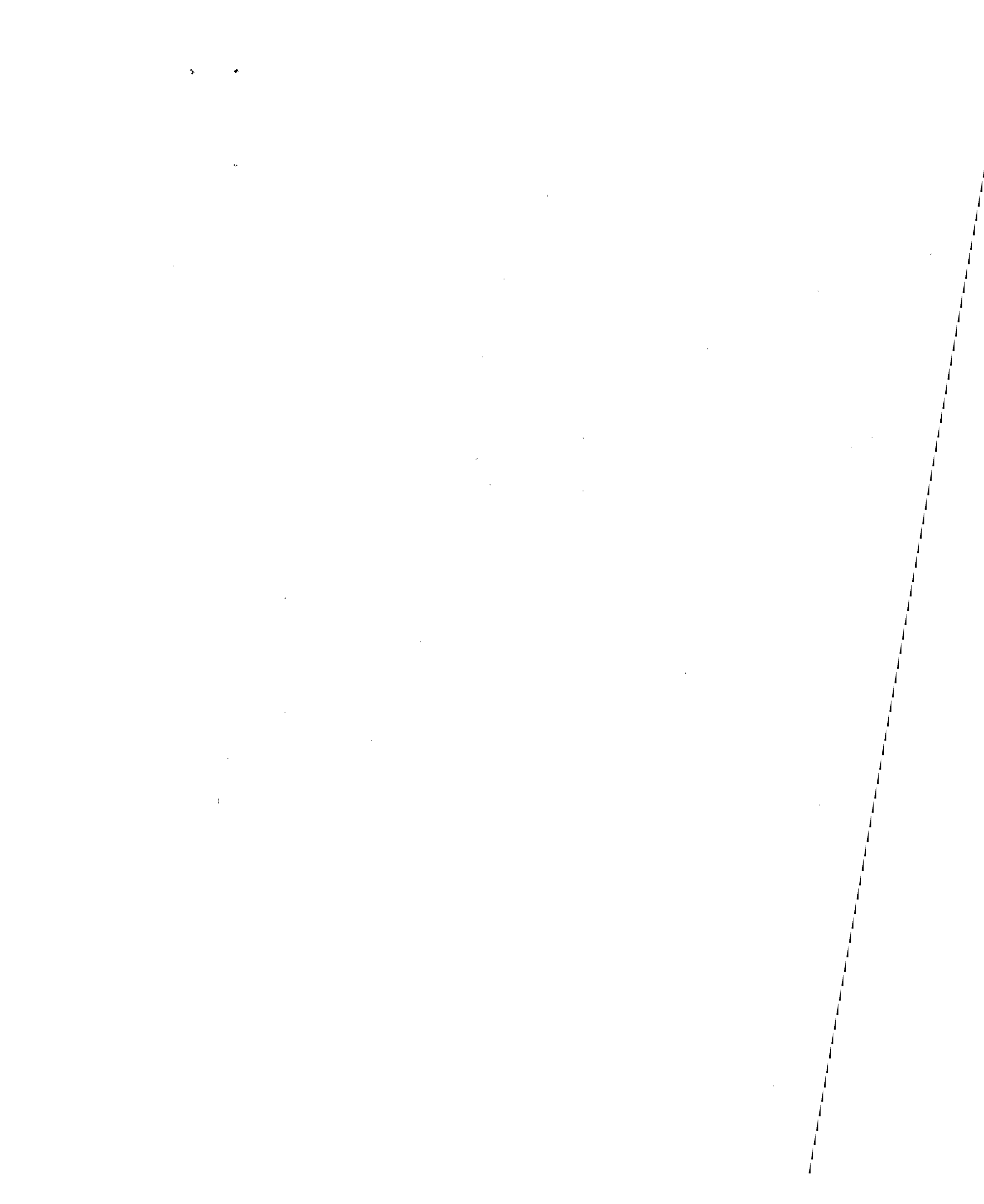
1. Criminal Cases

a. The final judgment and mittimus in a criminal case must enter within 30 days from the date of a guilty plea or plea of no contest.

b. A defendant who enters a not guilty plea must be tried within 180 days from the date of arrest or date of arraignment. Otherwise, absent good cause, complex cases, jury trials or severed cases, the case shall be dismissed for a lack of prosecution.

c. Where the complexity of the case requires more than 180 days for trial and there is no problem with speedy trial rights, the court





must indicate reasons for delay in the record and set deadlines for the parties to assure completion within a reasonable period of time.

d. The court should use the computer data base on criminal histories for sentencing (where available) in most instances and reserve the use of presentence reports for only the most serious offenses or complex or protracted offenses where the defendant's particular circumstances warrant an in-depth presentence report.

2. Delinquency (under the age of 18)

a. When a child admits or does not contest the allegations of a delinquency petition, the court must enter the final disposition within 60 days from the date of the filing of the petition.

b. A contested delinquency petition must be tried within 90 days of the filing of the petition. Otherwise, absent good cause, the petition shall be dismissed for a lack of prosecution.

c. A child in need of supervision (CHIN) case must be completed, with a final decree, within 180 days from the filing of the petition.

d. A dependent or neglect case must be completed, with a final decree, within 365 days from the filing of the petition.

3. Civil and Family Litigation

a. The court must conduct a status review to set deadlines for discovery, the submission of motions, pretrial conference and trial, or review the case to see when a conference is needed.

b. The final judgment or decree in a civil or family case should be entered within 180 days of the filing of a complaint or petition.

c. Where the complexity of a case requires more than 180

days, the record should show reasons for the delay, and the court should set deadlines for the parties to assure completion within a 90-day period.

d. Domestic relations cases, including name changes, domestic violence cases, divorces, and other domestic relations matters should be completed within 45 days.

B. Other Statutory or Rule of Court Deadlines

1. The court must meet any deadline set by statute or rule of court for a given case.

C. Peacemaking

1. A peacemaking session must be conducted within 30 days of the filing of a peacemaking petition or a court referral, unless there is good cause for a longer period of time.

2. The final disposition of a peacemaking case or decision that peacemaking cannot be achieved must be entered within 60 days of the filing of a request for peacemaking or referral by the court.

3. When peacemaking will go beyond these deadlines for good cause, the reasons for delay must be entered in the record and the peacemaker must set new deadlines for disposition.

D. Pretrial Diversions

1. The general guideline is that diversions for misdemeanors should be a maximum of 18 months. The court may extend the period of diversion based on the circumstances of the case and the period of time needed by treatment providers.

E. Probation

1. Probationary supervision pursuant to a plea or finding of guilt shall be that entered in the judgment and mittimus. The court may diminish the

sentence for good cause shown.

F. Suspended Imposition of Sentence

1. Suspended impositions of sentence shall be for the period of time set by the court. The suspended imposition of sentence is a finding of guilt by a plea or trial where the court withholds sentencing pending a period of supervised treatment or rehabilitation, where the final sentence will depend on the defendant's cooperation and compliance with the treatment program.

G. Post Disposition and Review Hearings

1. Where follow up after a judgment or decision is required, there must be fixed dates for the review, normally 90 days following judgment, with prior instructions on what will be reviewed. The periods of time for reviews must be specific and reasonable.

H. Continuances

1. The courts should strictly, but reasonably limit continuances to assure the timely completion of cases, except for genuine good cause. The courts should work with counsel when scheduling cases to avoid the need for continuance. The court should use scheduling orders or pretrial orders, in consultation with counsel, to more firmly set deadlines and court dates.

I. Motions

1. Except for motions for continuance or motions requiring immediate action, the adverse party has fifteen (15) days to respond to a motion and the moving party has five (5) days to reply. The motion is then deemed submitted for decision. Any extension of time by motion should be limited to ten (10) days.

IV. ACTIVE SUPERVISION

A. A judge is responsible for the timely disposition of all cases assigned to the judge, using case aging and tickler systems for that purpose including those before

commissioners. The court administrator shall track and monitor all cases, using aging and tickler systems and shall make periodic reports to the assigned judges and the Administrative Office of the Courts on the status of pending cases. In all instances where a case is not completed within the times set in this policy, the court administrator shall report the reasons for delay to the assigned judge and Administrative Office of the Courts. When a judge requests assistance, such as staff attorney support or the appointment of a circuit or retired judge, the court administrator will forward the request to the Administrative Office of the Courts.

B. The court administrator shall be responsible for, but not limited to, case management, maintaining statistics, monitoring case inventory and processing cases in a timely and economic manner. A court administrator may delegate case monitoring duties to an assigned clerk or to a designated case coordinator.

C. Court clerks, under the supervision of the court administrator or designee, shall process open cases at every procedural stage, including but not limited to entry/intake, pre-hearing, hearing, post-hearing, final disposition, and post dispositional matters.

D. The court administrator may delegate responsibility to monitor certain cases to a clerk of court, subject to the court administrator's responsibilities described above.

E. The peacemaker and probation divisions shall age and track assigned cases by the deadlines set by the court or by this policy. A case aging and tickler system will be established to assist the active supervision process. The court administrator will oversee tracking and monitoring of the progress of all cases. There will be immediate reports to the judge if a given case will go beyond the guidelines in this policy so that the judge may either complete the case or, for good cause, extend it. Court administrators will report on case progress to the Administrative Office of the

Courts at the time of the quarterly report. When a case is not completed within the times set in this policy, the court administrator will report the reason(s) for delay to the assigned judge and to the Administrative Office of the Courts. When a judge requests assistance or the appointment of a circuit or retired judge, the court administrator will immediately forward the request to the Administrative Office of the Courts. Requests for staff attorney assistance on the request of a judge will be made to the assigned staff attorney or to the solicitor.

V. OPEN/CLOSED CASE POLICY

A. A case is "opened" when it is filed and given a docket number by a Navajo Nation trial court, the Peacemaking Division, Probation Services, or the Navajo Nation Supreme Court. There are separate filing and docketing systems for the trial courts, Supreme Court, and the Peacemaker and Probation divisions.

B. A case is "closed" when a final disposition is entered by the court or transferred to another division. For purposes of peacemaking or probation a case is closed when the court's referral terms are satisfied or the case is complete under the procedures for the program.

C. A case refiled with the district court for non-compliance with a final disposition shall be deemed as a new case with separate docket number from the original. A case will be closed only after the time for appeal has expired, which is 30 calendar days from the date of entry of a final judgment or order.

D. A case will be closed upon completion of pretrial diversion or consent decree in criminal or delinquency cases. "Diversion" is an order of the court to send a defendant into a treatment or counseling program or into peacemaking to address the offense by alternative means, subject to the success of the diversion.

E. A case in which pretrial diversion or consent decree is not successfully completed, the court will reinstate the case under the same docket number.

VI. RETENTION AND DESTRUCTION OF CASES

A. Closed case files shall be physically retained at each judicial district for a period of five years before being destroyed. Judges shall then authorize destruction. All closed cases shall be microfilmed. Children's cases may be destroyed in accordance with the Children's Code. Tape recordings may be erased and reused sixty (60) days following the expiration of the time to appeal.

B. When erasing and reusing tapes, the court should consider federal precedent which holds that if a convicted criminal defendant brings a writ of habeas corpus and there is no record or an incomplete record (e.g. a tape recording), the writ will be automatically granted.

VII. TRAINING

A. All Judicial Branch staff and judges/justices shall be trained on case management in accordance with the Navajo Nation Judicial Branch Training Policy.

VIII. CASE INFORMATION

A. A court administrator is responsible to collect case information in accordance with this policy. The relevant case data includes:

1. Person-related data

a. The correct name and alias of all parties, date of birth, case number, race or ethnicity, clan, gender, social security number, census number, chapter affiliation and other identifying information.

2. Time data

a. At the time of filing, all cases shall be assigned deadlines for arraignment, or scheduling pretrial conference, preliminary orders, with calendars and reminders.

3. Case data

a. Case data includes the procedural history of the case, with

the dates of motions, orders, hearings or trials. Case data also include the date of final dispositions and briefly explain what the court did.

4. Financial data

a. The court shall maintain records of all financial transactions, including fees or payments set by the court, the method of payment, the dates of required payments, and the facts of payment or nonpayment. Financial data will be maintained in accordance with uniform accounting standards, subject to audit.

IX. CONCLUSION

A. This policy establishes minimum standards for case management. Willful or negligent violations of this policy which show a pattern of the inability of judges to manage and process cases in a timely and efficient manner are a violation of the Navajo Nation Code of Judicial Conduct and may subject a judge to disciplinary action. Will or negligent violations of this policy which contribute to the inability of the court to process cases in a timely and efficient manner by court administrators or clerks assigned to case management duties may subject such employees to disciplinary action. Adherence to this policy will prompt its purposes and assure the public that their needs are addressed as consumers of justice.

**RESOLUTION OF THE
JUDICIAL CONFERENCE OF THE NAVAJO NATION**

Approving and Adopting the Judicial Branch Case Management Policy and
Recommending that the Chief Justice of the Navajo Nation Promulgate the
Policy.

WHEREAS:

1. The Judicial Conference of the Navajo Nation is composed of the justices and judges of the Courts of the Navajo Nation, and among its goals is the adoption of policies for the Courts of the Navajo Nation in collegiality; and

2. The justices and judges of the Courts of the Navajo Nation have heavy caseloads and both civil and criminal cases are becoming more serious; and

3. An extensive comment period has been provided. A proposed Case Management Policy was provided to the Navajo Nation Bar Association members and some private law firms for review and comment in August, 1997. In addition, all court administrators and judges were provided a copy at the Annual Judicial Conference in Albuquerque, New Mexico in 1998. Finally, comments and decisions were made at the January 15-16, 1998 special Navajo Nation Judicial Conference regarding the final draft; and

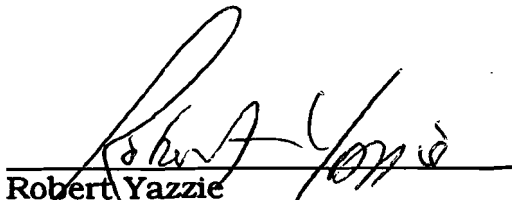
4. Taking all comments into consideration and addressing the concerns, the Judicial Conference has before it a draft of a case management policy for the Judicial Branch of the Navajo Nation, a copy of which is attached hereto and incorporated herein by reference.

NOW THEREFORE BE IT RESOLVED THAT:

The Judicial Conference of the Navajo Nation hereby approves and adopts the Case Management Policy of the Judicial Branch of the Navajo Nation and recommends that the Chief Justice of the Navajo Nation promulgate the same by administrative order.

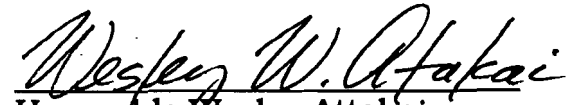
CERTIFICATION

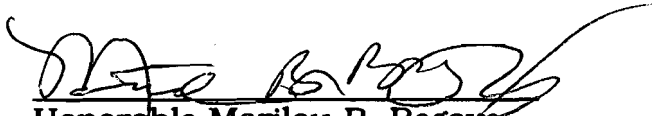
We hereby certify that the foregoing resolution was duly considered by the Judicial Conference of the Supreme Court Justices, District Court Judges and Family Court Judges at a duly called meeting in Window Rock, Arizona, at which a quorum was present and that the same was passed by a vote of 12 in favor, -0- opposed, and -0- absent or abstaining, this 16th day of July, 1999.


Robert Yazzie
Chief Justice of the Navajo Nation

Raymond D. Austin
Associate Justice

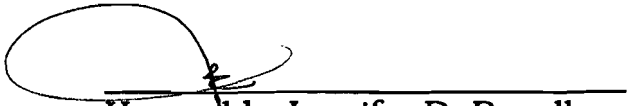
Wayne A. Cadman
Associate Justice


Honorable Wesley Attakai

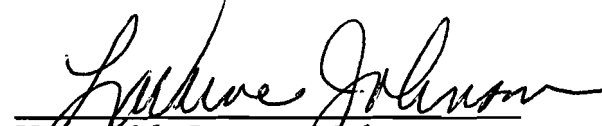

Honorable Marilou B. Begaye

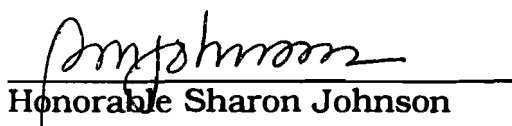

Honorable Raymond A. Begaye

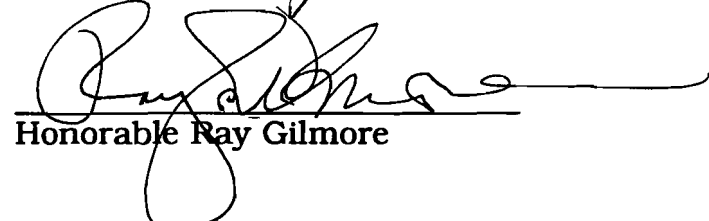

Honorable Leroy S. Bedonie


Honorable Jennifer D. Benally

Honorable Lorene Ferguson


Honorable Laverne Johnson


Honorable Sharon Johnson



Honorable Ray Gilmore


Honorable Thomas J. Holgate

Honorable Loretta Morris


Honorable Allen Sloan

Honorable Irene M. Toledo


Honorable Manuel Watchman

Motion: Honorable Thomas J. Holgate
Second: Honorable Wesley Attakai