Sawyer County Clerk of Circuit Court

Technical Assistance Review

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Director of State Courts Office
Office of Court Operations

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Introduction and Background

Since the reorganization of the court system in 1978, the Director of State Courts Office (DSCO) has conducted several technical assistance reviews for clerk of circuit court offices. It has been several years since a clerk of circuit court has made a request for a formal review. Providing technical assistance to the circuit courts is part of the mission of the Office of Court Operations (OCO) and a daily part of the work performed by OCO staff.

District Court Administrator for the 10th Judicial District, Don Harper and Sawyer County Clerk of Circuit Court, Marge Kelsey, have asked the OCO to review the operations of the clerk of court office in Sawyer County and make recommendations that could improve case processing efficiencies.

Sawyer County Circuit Court Overview

Sawyer County is a small, rural county in northwestern Wisconsin with a population of 16,418 and a caseload of approximately 4,000 cases per year.[1] Their office hours are 8 a.m. to 4 p.m. Monday through Friday, excluding holidays. The court is located at 10610 Main Street in Hayward, Wisconsin.

Judge John M. Yackel is the sole circuit court judge and has served Sawyer County since his election in 2015. Many of Judge Yackel's judicial responsibilities are supplemented by limited, part-time court commissioner services. Commissioner services are detailed later in this report. The clerk of circuit court office experienced a great deal of change between 2009 and November 2018, including retirements and the sudden passing of one of the county's past Clerk's of Circuit Court in 2015. These changes have caused instability and concerns about record keeping and case management processes. The office employed several interim clerks of circuit court from 2015 until November 2018, when Marge Kelsey was elected to the office. Ms. Kelsey was appointed to the position immediately following her November election.

Clerk Kelsey was the former judicial assistant for the court and brings 11 years of court system experience and knowledge to her position. Based on interviews and observations, Clerk Kelsey appears to be hardworking, eager to learn, and has a good fundamental understanding of the office. In addition to the clerk, the Sawyer County Clerk's Office has four full-time and one part-time clerk staff, a full-time register in probate/juvenile clerk, one full-time judicial assistant, and one full-time stenographic court reporter.

The following tables provide additional information regarding caseload and activity: Table 1 is the court's case activity for CY2018 and Table 2 is an illustration of the court's five-year case filing trends (CY2013–CY2018).

[1] U.S. Census Bureau, Population Estimates Program (PEP), Updated annually. Population and Housing Unit Estimates

Table 1: 2018 Sawyer County Circuit Court Caseload

Case Type	Begin Pending	Opened	Disposed	End Pending
Felony	291	388	347	316
Misdemeanor	223	529	469	271
Criminal Traffic	163	162	201	126
TOTAL CRIMINAL	**677**	**1079**	**1017**	**713**
Traffic (Contested)	112	336	277	189
Traffic (Uncontested)		1070	1070	
Traffic (Uncontested w/Appearance)		12	12	
Forfeiture (Contested)	22	52	57	16
Forfeiture (Uncontested)		348	348	
Forfeiture (Uncontested w/Appearance)		1	1	
Juv.-Ordinance (Contested)	3	0	3	0
Juv.-Ordinance (Uncontested)		99	99	
Juv.-Ordinance (Uncontested w/Appearance)		0	0	
TOTAL FORFEITURE	**137**	**1918**	**1867**	**205**
Civil	68	153	147	71
Divorce	28	57	48	34
Paternity	2	12	13	2
Other Family	1	32	24	10
Small Claims (Contested)	13	49	59	10
Small Claims (Uncontested)		380	380	
Small Claims (Uncontested w/Appearance)		3	3	
TOTAL CIVIL	**112**	**686**	**674**	**127**
Estates	10	9	3	17
Informal	29	23	14	38
Trusts	0	4	3	1
Guardianships	3	18	13	2
Commitments	0	28	29	7
Adoptions	1	5	6	0
Other Probate	19	24	27	16
TOTAL PROBATE	**62**	**111**	**95**	**81**
Delinquency	6	18	25	2
CHIPS	1	13	9	4
TPR - Voluntary	0	2	2	0
TPR - Involuntary	0	0	0	0
Other Juvenile	0	15	12	1
TOTAL JUVENILE	**7**	**48**	**48**	**7**
GRAND TOTAL	995	3842	3701	1133

Table 2: Sawyer County Circuit Court Case Filings (CY2013-2018)

Case Type	2013	2014	2015	2016	2017	2018
Felony	192	262	268	271	354	388
Misdemeanor	437	466	503	444	466	529
Criminal Traffic	59	66	84	244	289	162
TOTAL CRIMINAL	**688**	**794**	**855**	**959**	**1109**	**1079**
Traffic (Contested)	344	292	375	390	300	336
Traffic (Uncontested)	1381	781	1096	966	1198	1070
Traffic (Uncontested w/Appearance)	23	4	5	5	8	12
Forfeiture (Contested)	78	61	54	57	70	52
Forfeiture (Uncontested)	289	290	351	384	417	348
Forfeiture (Uncontested w/Appearance)	4	5	1	3	1	1
Juv.-Ordinance (Contested)	5	6	8	0	12	0
Juv.-Ordinance (Uncontested)	145	114	118	165	136	99
Juv.-Ordinance (Uncontested w/Appearance)	3	2	2	0	0	0
TOTAL FORFEITURE	**2272**	**1555**	**2010**	**1970**	**2142**	**1918**
Civil	207	207	186	125	157	153
Divorce	48	51	45	49	39	57
Paternity	17	12	13	12	12	12
Other Family	47	61	40	37	29	32
Small Claims (Contested)	45	0	0	39	34	49
Small Claims (Uncontested)	324	337	337	287	386	380
Small Claims (Uncontested w/Appearance)	0	0	0	26	0	3
TOTAL CIVIL	**688**	**668**	**621**	**575**	**657**	**686**
Estates	10	9	13	7	4	9
Informal	33	30	29	26	17	23
Trusts	0	0	3	0	2	4
Guardianships	18	24	26	22	26	18
Commitments	36	35	43	21	20	28
Adoptions	8	1	6	4	4	5
Other Probate	19	21	26	15	13	24
TOTAL PROBATE	**124**	**120**	**146**	**95**	**86**	**111**
Delinquency	14	13	11	10	6	18
CHIPS	18	14	22	13	18	13
TPR - Voluntary	4	2	4	0	0	2
TPR - Involuntary	1	5	1	1	1	0
Other Juvenile	9	14	21	20	20	15
TOTAL JUVENILE	**46**	**48**	**59**	**44**	**45**	**48**
GRAND TOTAL	**3818**	**3185**	**3691**	**3643**	**4039**	**3842**

Methodology and Scope

The information in this report is based on staff interviews, observations, and statistical data analysis. The interviewers used a semi-structured open-ended question protocol to allow clerk staff to express concerns and provide feedback on areas where they feel improvement was possible, and to provide any other pertinent information. Observations of the court processes occurred during the OCO site visit and through the multiple visits of DCA Harper. Data relating to Sawyer County's caseload was drawn from year-end caseload summary reports. This report uses court record entries in the CCAP case management system to summate the number of cases filed, disposed, transferred, etc. Data relating to Sawyer County jury trials was pulled from the year-end disposition summary report. The disposition summary report relies on court record event entries in the case management system to categorize and count the disposition of a case.

The scope of this review includes a review of Sawyer County's caseflow management; from entering new cases through the eFiling queue and over the counter, scheduling hearings, and disposing of cases; financial management, including receipting, adjustments, day and month end processing, as well as collections; and jury management. The scope was pre-determined based on discussions with Clerk Kelsey and DCA Harper.

Findings and Recommendations

Finding #1: The time between scheduled appearances is quite extensive and causes difficulties for clerks to find open time to schedule other matters.

Most defendants waived the 20-day time limit for preliminary hearings during felony initial appearances. Defendants who waived the 20-day limitation were then scheduled for status conferences on April 9, 2019, 54 days after the initial appearance.

Recommendation(s)

1. Utilize court commissioner time to hear initial appearances and bond hearings one morning per week.

   As the team observed, initial appearances served primarily as a hearing to determine bond and notify defendants of their rights. A court commissioner could manage this process, which would free up valuable court time for other matters. The court should further review commissioner powers allowed by statute to expand the number of hearings in which they preside.

2. Use the judge's calendar to schedule motion hearings, preliminary hearings, arraignments, and sentencing hearings during the Tuesday time block.

By implementing Recommendation 1 of this finding, Judge Yackel will have several additional hours available on Tuesdays to handle other matters. For instance, while the court commissioner manages initial appearances in the smaller court room, Judge Yackel can schedule motion hearings, preliminary hearings, arraignments, plea hearings, and sentencing hearings.

3. Set up time blocks for specific hearing types so staff is properly prepared in the courtroom and ready to provide future hearing dates.

   The team observed that, at times, the court switched between case types or had criminal and civil matters calendared in the same time block. Because clerk staff specializes in particular case types, this results in frequent breaks to accommodate staff changes. The constant movement of staff results in lost time or having a clerk who is not appropriately prepared in the courtroom for the type of hearing. Cross training of court staff is encouraged, but still results in adjusting from criminal to civil case types for everyone in the court room. For better efficiency, strict scheduling blocks will promote better case flow.

Finding #2: Scheduling cases for status conference rather than the next scheduled event in the process automatically adds delay to the calendar.

At initial appearance, the court schedules most criminal cases for status conference. This practice was also observed in some criminal traffic matters. As reported by clerk staff, status conferences dominate the court's calendar, making it difficult to find time to schedule other cases. The practice of scheduling all cases for a status conference following initial appearance creates calendar congestion, additional notice work for clerk staff, and delays case disposition.

Recommendation(s)

1. Schedule criminal matters for the next step in the case process.

   By immediately scheduling the next date in the case process the court removes unnecessary hearings from the calendar which ultimately will open additional time blocks for other matters. Appendices A and B provide flow charts of basic case processing. General guidelines to follow when processing criminal matters include:

   a. Felony cases should be scheduled for preliminary hearing within 20 days of the initial appearance as required by statute, unless the preliminary hearing is waived. If the preliminary hearing is waived, the matter should be set for arraignment on the next possible calendar block.
   b. For non-felony criminal matters, either a plea should be entered at the initial appearance or the matter should be set for a plea/sentencing hearing within three weeks of the initial appearance.

c. Guilty and no contest pleas should be sentenced at the plea hearing. Felony matters may need to be adjourned for sentencing if a presentence investigation is requested.
d. Not guilty pleas could be scheduled for pretrial conference with the district attorney's office and removed from the judge's calendar.
    i. If cases are resolved at the first pretrial, the case should be set for sentencing, on the judge's calendar, no longer than three weeks out.
    ii. If the matter is not resolved, the case should be scheduled for both a jury trial date approximately six to eight weeks out, and a final pretrial hearing the week before the jury trial date.
e. If other motion hearings are requested, before the final pretrial date, they should be scheduled as soon as practicable.

Finding #3: Defendants ordered to sign bond forms at the clerk's office do not always appear at the clerk's window to sign their bond.

The team observed the court sending defendants to the clerk's office to sign signature bonds ordered in court. Per the clerk's staff, defendants do not always come to the clerk's window to sign the required paperwork for a signature bond. This results in extra work for clerk staff who must now follow-up with defendants. Some staff attempt to reach defendants by phone and ask them to come back to the courthouse, while others mail a copy of the bond paperwork to the defendant, hoping they will sign and return. Unsuccessful follow-up is addressed at the defendant's next court appearance, often several months after the bond was ordered.

Recommendation(s)

1. Utilize the security officer in the courtroom to assist in getting the defendant's signature on the bond.

   The clerk can print the bond form in the courtroom, which the security officer can then hand to the defendant and have them sign immediately. Having the defendant sign the bond paperwork immediately in the courtroom will remove any risk of the defendant leaving the courthouse without finishing the necessary paperwork.

2. Utilize the security officer to take the defendant down to the clerk's office to sign the bond paperwork.

   As an alternative to having the bond paperwork signed in the courtroom, the security officer could escort defendants down the hall to the clerk's window where they can sign their bond paperwork. This option removes the need to print bond paperwork in the courtroom, which can disturb courtroom flow. However, it does create new challenges because it removes the security officer from the courtroom for extended periods of time.

Finding #4: Determine the optimum number of cases scheduled to a jury trial date for the most efficient use of calendar time.

Staff expressed a concern about lost calendar time due to jury trials settling at the last minute. Despite reserving a great deal of the court's calendar for jury trials, the county averaged less than six jury trials per year for the last three years. Sawyer County should consider options to more efficiently manage their jury trials and prevent lost calendaring time.

Recommendation(s)

1. Create a monthly block of two consecutive days for jury trials.

   With an average of six jury trials per year, Sawyer County should create monthly jury trial blocks to manage the volume of jury trials they have. Creating regular blocks provide consistency for clerk staff when trying to schedule other activities.

2. Establish final pre-trial conferences.

   As recommended in Finding 2, Sawyer County should use final pre-trial conference dates, scheduled one week or less before the jury trial date. This will provide the parties one last opportunity to settle before going to jury trial.

3. Schedule more jury trials in a time block.

   As indicated by staff, Sawyer County attempts to schedule four to six jury trials in a day. However, given the limited number of jury trials required in Sawyer County it is appropriate for the court to schedule even more trials on a given day. Several counties schedule up to twenty jury trials in a day in order to ensure a fuller court calendar. This will require the clerk's office to monitor cases on the calendar for jury trial in order to avoid putting two cases that are more likely to proceed on the same day, such as serious felonies.

Finding #5: Bail jumping filings for Sawyer County are high and present a significant problem; they increase caseload, court time, and jail population all at a substantial cost to the county.

Table 3 illustrates the county's filing trends in criminal misdemeanor, felony, and bail jumping cases over a five year period. Bail jumping cases have increased not only in total filings, but as an overall percentage of new criminal filings. In 2017, bail jump filings accounted for 24% of new felony filings with a total of 84 felony bail jumping cases opened.

Table 3: Sawyer County Criminal Filings Detail (CY2013 – CY2017)

	Felony Bail Jumping Opened	Misd. Bail Jumping Opened	Total Felony Opened	Total Misd. Opened	Bail Jump as % of Felony	Bail Jump as % of Misd.
2017	84	111	354	754	24%	15%
2016	59	90	271	686	22%	13%
2015	49	87	267	589	18%	15%
2014	59	84	264	531	22%	16%
2013	22	48	193	496	11%	10%

Additionally, in 2018 Sawyer County received a report from JusticePoint, Inc. who reported 20% of the jail population was held for failure to appear. This report also found 60% of individuals in custody had prior failures to appear. The county has already taken action on one of the recommendations in this report by hiring a coordinator for their Criminal Justice Coordinating Council (CJCC). Other recommendations in this report include continued pretrial screening, implementation of a pretrial release program, reinstatement of citations for operating after revocation and the implementation of programs for education, employment, and social support. The CCAP case management system offers additional tools to reduce failure to appear and the number of bail jumping charges.

Recommendation(s)

Utilize the text message notice system in CCAP to reduce failures to appear. This recommendation will require the court to not only verify the defendant's current address, but also obtain a cell phone number at the initial appearance. Some counties use a form that is handed to the defendant and filled out before they leave the courtroom. This could be collected and/or made part of the bond paperwork. The court should also ensure that all defendants leave court with a notice of the next hearing date in-hand.

Finding #6: The court calendar is primarily filled with criminal cases. There is very little room to schedule family and small claims matters.

The most immediate concern expressed by staff is the lack of time on the calendar. The County uses a family court commissioner approximately 3 days per month to hear motions for change in placement/custody and stipulated divorces. Child Support and contested matters are scheduled in front of the Judge. Small claims matters are scheduled for a return date at the clerk's counter. Contested matters require a written answer and are scheduled before the Judge. Scheduling is approximately three months from the return date, unless there is a settlement on the calendar that can be used.

Recommendation(s)

1. Establish time blocks for family and contested small claims, alternating weeks.

   Given the small number of contested small claims and family cases, Sawyer County should adopt a biweekly time block that alternates contested small claims matters one week and contested family matters the next.

2. Mediation programs are a very effective tool for settling contested cases without the use of court time. In one neighboring county, an average 74% of referred cases were settled in mediation over a 15-year period. Similarly, Sawyer County could reduce the number of contested matters set before the judge by implementing some type of mediation program for both small claims money judgment cases and family cases involving contested property division or contested custody/placement issues.

   In family cases involving child custody or placement, mediation should be mandatory and the court should refer the parties to mediation before appointing a guardian ad litem or scheduling the case for a contested hearing. For other family issues, requesting mediation should remain an option for the parties involved. Remaining contested family cases should be scheduled in the alternating biweekly time block described above.

Finding #7: Additional training on CCAP financials is needed for staff; receipting, adjustments, day- and month- end processing, and collections.

While staff expressed a need for additional training on CCAP financials, overall management of the financials is good; there is appropriate separation between the staff who receipt payments, those who do day-end and adjustments, and those who do month-end processing. Balancing the financial accounts occurs in the morning for the previous day. Once the day is balanced, the same clerk goes to the bank with the deposit. There is a separate clerk who provides back-up to the day-end process. This clerk also issues checks, does adjustments, and is primarily responsible for turning delinquent accounts over for collections. A third individual is responsible for month-end processing. All of the staff in the office take turns receipting at the counter. Other than receipting, the two staff responsible for day- and month- end processing are new to these responsibilities. They had many questions, especially as it relates to month-end and adjustments.

Recommendation(s)

We recommend Sawyer County work with CCAP staff to evaluate current financial processes and do individual training as needed. If appropriate, assign the adjustment process to the month-end processing clerk.

Finding #8: Utilize resources to increase collections, reduce outstanding receivables, and improve revenue for clerk's budget.

As of December 31, 2018, the outstanding balance on active receivables is $7,239,273, with approximately $2,400,000 in debt over five years old. The clerk's office has just begun using State Debt Collection (SDC) to collect their outstanding receivables. The collection clerk expressed concern about the process of turning over a debt. The Department of Revenue (DOR) has a policy that they only take debts that are more than 90 days past due with no active negotiations or payment plans in place. There is also a requirement that the clerk send each defendant a Notice of Certification and Intent to send the amount to DOR. The clerk has sent out the first batch of notices and is now waiting 30 days to turn over the first batch of debts.

Recommendation(s)

1. Track and review the success of SDC and prepare additional debt for SDC certification.

   After 90 days of using SDC, review the success from those collections and determine the next set of cases to send to SDC for collection. Given the large amount of debt that is over five years old, the clerk may wish to start using the oldest debt first, which is often the most difficult to collect. Passing the difficult debt to SDC will free up time to work on the easier, newer debt.

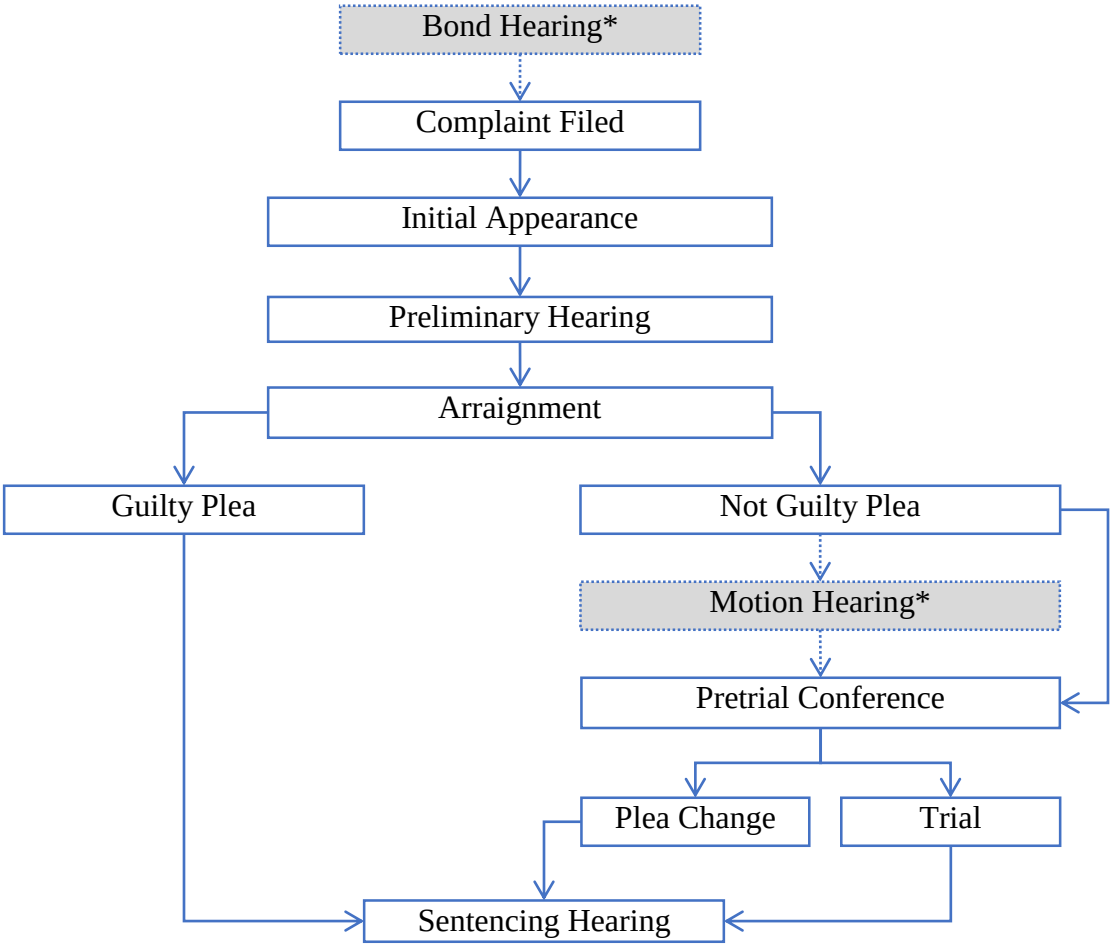
2. Have staff review the *Clerk of Circuit Court Collections Handbook*, which was created by the Wisconsin Clerks of Court Association in conjunction with OCO.

   The *Clerk of Circuit Court Collections Handbook* is a good resource of information on how to use the financial system and methods of collection for debt. Having staff review this manual will provide a way to improve Sawyer County's collection practices.

Conclusion

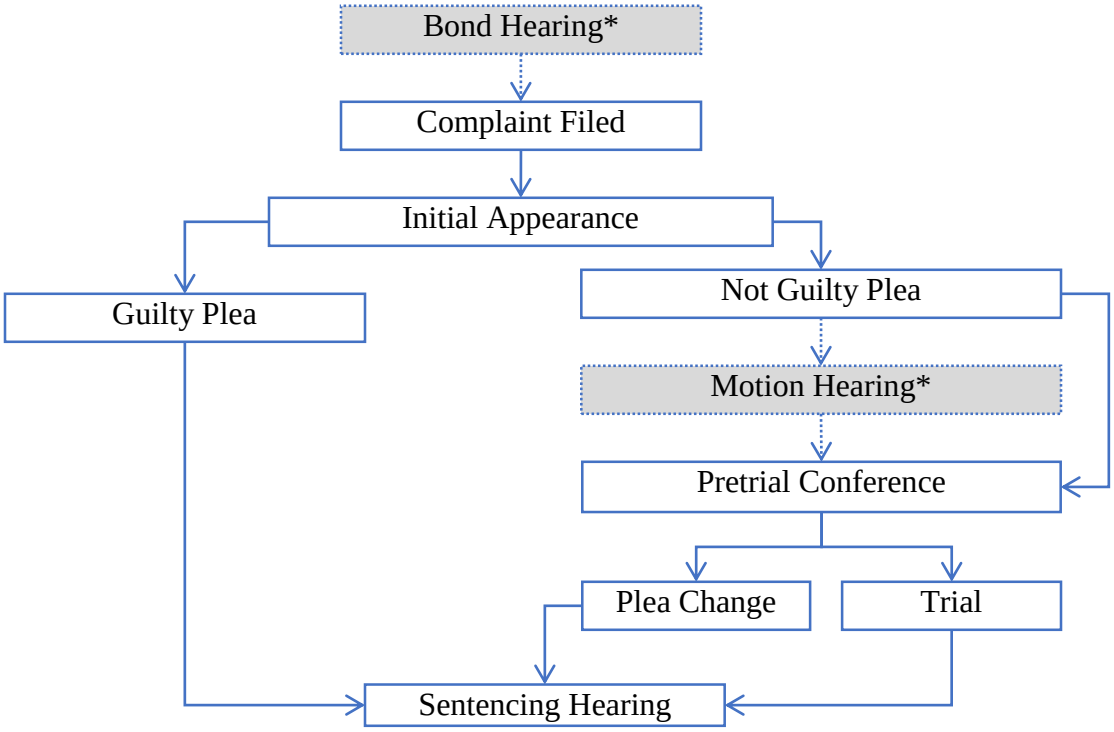
The Office of Court Operations thanks Judge John Yackel, Clerk of Circuit Court Marge Kelsey, and the staff of the Sawyer County Clerk of Courts Office for their time and assistance on this project. This report identifies several ways to improve court practices and case processing. The county should discuss these recommendations and consider adopting changes as soon as practicable.

Appendix A: Felony Caseflow Chart



*Bond hearings and motion hearings are common events in counties but only occur when they are required.

Appendix B: Misdemeanor Caseflow Chart



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