

Casenote Considerations

by Alan Herman* and Shoshanna Ehrlich

Legal Hotlines are constantly looking for ways to cut operating costs and increase productivity. One of the major innovations of legal hotlines was the elimination of paper client files.

The original senior hotline model provided for case management software where all client information, casenotes and case activities could be recorded, stored and instantly retrieved. The amount and quality of casenotes is one cost/productivity variable most easily within the hotline staff's control.

Balancing Casenotes vs. Costs

The functions of Casenotes include:

(1) providing the quality control reviewer with sufficient information to evaluate the propriety and completeness of the advice;

(2) providing an adequate record to respond to malpractice claims or client complaints;

(3) informing subsequent callhandlers and referral attorneys of the facts and activities in the case;

(4) supporting the time reports some hotlines must send to their funding agencies.

The threat of malpractice claims, though an important concern, is minimal. There is no known instance of a claim being filed against any of the senior legal hotlines in the 12 years since they began operating. Complaints from clients do occur from time to time and it is necessary for the supervisor to be able to respond to them knowledgeably.

Those programs which use the casenotes as an intake or referral sheet for a full-service program will usually need to have more extensive notes in those specific cases to satisfy the full service attorneys, whether in-house or referral, who receive them.

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To achieve optimal casenote efficiency, the casenote functions must be balanced against the increased cost-per-case and decreased productivity each additional line of casenotes creates.

Most hotline managers have experience with callhandlers whose casenotes include almost every word of the phone call. Attorneys sometimes add irrelevant narratives of the client's history, impressions of the client's motives, tangential issues, and elements of humor in the call. These casenotes may make for a most interesting read, but they may not be worth the cost of the attorney's time, and the resulting decrease in the number of calls he can handle. On the other hand, notes where the facts and advice are sketchy may create future problems for successor attorneys.

Excessive or irrelevant casenotes may indicate to the quality control reviewer that the casehandler is spending too much time on a particular case. Not only do unnecessary casenotes decrease the productivity of the hotline attorney, they also take more of the quality control reviewer's time and slow down productivity of subsequent callhandlers who must wade through the notes again before advising the client.

Al Herman reviewed 119 cases opened during a random three weeks period. Only casenotes from first-time calls were included in his review. He found that the average number of lines per case was 10.4 and the median number of lines was 8.7, with about 10% of the cases having more than 23 lines.. While Al did not find a large problem with overly lengthy or too short casenotes, he did find some room for improvement in both directions.

A cursory review by Project Staff of random casenotes at two other hotlines showed that the 10.4 line average at LCE was the shortest casenote average. Even though the problem may not be pervasive, a saving of five minutes per case can easily result in an increase in productivity of 500 cases per year per Full-Time-Equivalent. Alternatively, if the attorney hours are not needed to handle call volume, the hotline can save \$4000

per year per Full-Time-Equivalent in hourly attorney costs. *(Please contact the Project for a detailed calculation)*

Recommendations and Examples

Create Casenote Criteria

The Quality Control Reviewer is in the best position to effect the length, quality, and costs related to casenotes. Toward this end, he should develop clear goals and parameters for what essential elements he requires the casenotes to contain, and which information is extraneous and wasteful. The criteria should reflect the hotline's goals and result from the management's decisions as to the depth of service the program will render.

Examples of the kinds of casenote criteria a program may choose to set:

a. casenotes should include the statute of limitations for any cause of action or administrative procedure discussed with the client;

b. casenotes should include an evaluation of the merits of client's position;

c. casenotes should include the procedural steps the client needs to take to resolve his problem.

d. Casenotes may refer to a specific FAQ in a the hotline's manual, after relevant facts have been input.

e. Casenotes should reference a specific statute if it controls the client's situation.

f. Casenotes should exclude irrelevant facts, but the attorney's assessment that a client is disoriented or intoxicated should be noted.

(These examples are meant to demonstrate the types of information the casenotes should address. A particular program might determine, for instance, that statutes need not be mentioned, or that reference to FAQ's are not sufficient advice summaries.)

Compose Content Formula

Adequate, but not excessive, casenotes can

usually consist of **(a)** 1-3 sentence recitation of relevant facts; **(b)** a 1-3 sentence statement of the law applicable to the facts, as told to the client, and **(c)** a concise summary sentence containing the advice given the client.

Example: (a) Client called to find out how to get visitation for a grandchild living with both parents who are still married. (b) I told client that pursuant to our state's law, a grandparent has no legal right to ask a court for visitation in that situation. (c) I suggested that a family member, family counselor, clergyman, etc. help the family to work out the matter and gave the number to Family Counseling Services.

Promote Casenote Clarity

Casenotes should clearly identify what the advisor told the client.

Example 1: Client would have to check to see if the judgment was recorded.

This example leaves the reader wondering if the callhandler gave the information to the client or just entered his thoughts in the casenotes. The same advice is more clearly noted:

Example 2: I told the client to call the Clerk of Court's office and ask if the judgment against him had been recorded.

If your hotline has software which generates client letters directly from the casenotes, the same information can easily be entered:

Example 3: I advised you to call the Clerk of the Court at 555-5555 and ask if the judgment against you was recorded.

Eliminate Extraneous Facts

Most excessive casenotes result from the casehandler's inclusion of the caller's recitation of his story. While clients cannot be expected to limit themselves to relevant facts, attorneys are trained to do so.

Here are some typical examples from routine casenotes and their suggested remedies:

(Casenotes continued)

Communicate Casenote Criteria

Example 1: Client and his wife moved here from out of state. They had a will drafted about ten years ago leaving everything to their daughter and son equally. They have a home and about \$100,000 in savings and bonds. Their son passed away and they do not want to leave anything to his daughter because she is on drugs, but his son, their grandson, is a nice boy and they want to include him in the will. I made an appointment for client with a referral attorney.

Time could be saved and quality preserved:

Example 1: Client and spouse need to change their will provisions since one child passed away and another has a drug problem. I arranged an appointment with a referral attorney.

A typical example from landlord/tenant:

Example 2: Client has lived in her apartment for many years. At first it was a nice building but many of her friends have died or moved and she doesn't know whether she wants to stay there anymore. Now her landlord has told her he will raise her rent by \$100.00 per month when her lease ends in the summer. She has been looking around but doesn't feel like moving although she thinks she may be able to get a better place for that price. Client thinks there may be a special rent control law that keeps the landlord from raising the rent more than a certain percentage.

There is no such law. The client must decide whether she will pay the increase or move.

Efficiency can be achieved by limiting narrative to relevant facts:

Example 3: Client has a written lease which is expiring. Landlord intends to raise the rent from \$700 to \$800. Client wants to know if landlord may do that. I told client there is no rent control law and the landlord may raise the rent any amount after the lease ends. I suggested she negotiate with the landlord for a smaller increase. Failing that, I told her she will have to choose whether to pay the increase or move.

Train new hotline attorneys to adhere to your hotline's casenote parameters from the beginning to avoid the difficult task of breaking bad habits later on. It may be useful to have the "casenote criteria" in writing, plus some good examples, for new attorneys to study during their training period.

The quality control reviewer should be able to maximize quality and minimize costs by routinely communicating with the casehandlers. For most effective results, the quality control reviewer should give feedback not only when the casenotes are deficient or excessive, but also, when they conform well to the casenote criteria.