

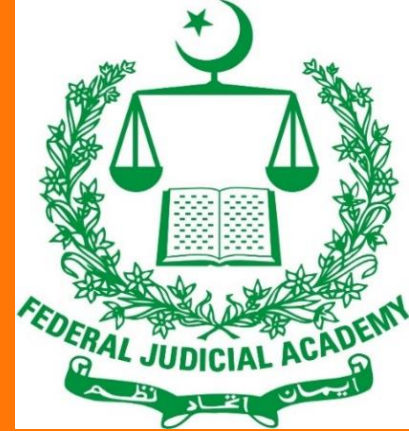
# FEDERAL JUDICIAL ACADEMY

## EXPEDITIOUS JUSTICE INITIATIVE-III

ESTABLISHMENT OF  
MODEL TRIAL MAGISTRATE COURTS  
(MTMC)

**ACTION DOCUMENT**

JUNE, 2019



### CONTACT

-  +92 51 9269669-70
-  CONTACT@FJA.GOV.PK
-  WWW.FJA.GOV.PK

## TABLE OF CONTENTS

\_Toc13471779

<b>1</b>	<b>EXECUTIVE SUMMARY .....</b>	<b>4</b>
<b>2</b>	<b>GOALS AND OBJECTIVES.....</b>	<b>5</b>
2.1	DURATION .....	5
2.2	SCOPE AND EXPECTATIONS .....	5
2.3	ASSUMPTIONS .....	6
<b>3</b>	<b>APPROVAL AND OWNERSHIP .....</b>	<b>7</b>
3.1	APPROVAL PROCESS .....	7
3.2	OPERATIONAL SET-UP .....	8
<b>4</b>	<b>MANAGEMENT APPROACH .....</b>	<b>8</b>
4.1	MILESTONES AND TIMELINE .....	9
4.2	ROLES AND RESPONSIBILITIES .....	9
4.3	ISSUES MANAGEMENT.....	10
<b>5</b>	<b>MONITORING AND EVALUATION .....</b>	<b>10</b>
<b>6</b>	<b>STANDARD OPERATING PROCEDURES .....</b>	<b>10</b>
6.1	BIFURCATION OF PRE-TRIAL AND TRIAL MAGISTRATES.....	10
6.2	MODEL TRIAL MAGISTRATE COURTS (MTMC).....	11
6.3	HUMAN RESOURCE ALLOCATION .....	12
6.4	WORKLOAD ALLOCATION .....	12
6.5	TRIAL MANAGEMENT REGIME.....	13
6.6	AUXILIARY MANAGEMENT .....	15
<b>7</b>	<b>STAKEHOLDERS' ENGAGEMENT .....</b>	<b>17</b>
7.1	SENSITIZATION DIALOGUE AND DISSEMINATION .....	17
7.2	CAPACITY ENHANCEMENT .....	17

LIST OF ABBREVIATIONS		
S#	ABBREVIATION	EXPLANATION
1.	CrPC	Code of Criminal Procedure,1898
2.	D&SJ	District and Sessions Judge
3.	DGMC	Director General Monitoring & Coordination
4.	DPR	Daily Progress Report
5.	ICC	Implementation Coordination Committee
6.	ICT	Islamabad Capital Territory
7.	IHC	Islamabad High Court
8.	M&EC	Monitoring & Evaluation Cell
9.	MCTC	Model Criminal Trial Court
10.	MTMC	Model Trial Magistrate Court
11.	NJPMC	National Judicial(Policy Making) Committee
12.	PLD	Pakistan Legal Decisions
13.	PLT	Provincial Lead Team
14.	PPC	Pakistan Penal Code, 1860
15.	SHO	Station House Officer
16.	SOPs	Standard Operating Procedures
17.	SP	Superintendent of Police
18.	SWO	Summons Warrant Officer

## 1 EXECUTIVE SUMMARY

---

With the execution of Expeditious Justice Initiative (EJI), effort was made to address management issues associated with trial of criminal cases by the court of sessions. The “Model Criminal Trial Courts” established in the first phase, followed time-bound criminal trial regime and showed encouraging results in two months. The parameters of the regime improved with every passing day as new ideas were put into practice. All this was done while utilizing the available resources within the existing legal frame work.

Expanding scope of the Initiative, civil cases handled by the court of first appeal at the district level were focused in “Expeditious Justice Initiative-II” so as to extend the benefits of the Initiative to a large number of population facing civil litigation. This document outlines the third phase of the Initiative, which has emphasis on trial of cases before Magistrates. It conceptualizes bifurcation of Pre-trial and Trial Magistrates and provides strategy for establishment of Model Trial Magistrate Courts (MTMC) in each district. The Initiative is expected to deliver in terms of compensating the victims and relieving the accused of unnecessary prosecution conducted at State expense.

## 2 GOALS AND OBJECTIVES

---

The initiative focuses on the following goals and core objectives:

- To improve service delivery of criminal justice system by introducing the plea of 'nolo contendere', 'sentence indication' and time-bound criminal trial regime;
- To reduce the shelf life of criminal cases through efficient trial management;
- To fix timeframe for conduct of criminal trials by introducing trial scheduling;
- To improve working of the Magistrates' courts by bifurcating Pre-trial and Trial Magistrates;
- To make trial management a coordinated effort by key players;

### 2.1 DURATION

---

The initiative is to perpetuate as per vision of the Hon'ble Chairman, NJPMC. It is to run in cycles of three months each for the purpose of targets and review.

### 2.2 SCOPE AND EXPECTATIONS

---

The initiative will introduce plea of nolo contendere, sentence indication, case management and scheduling by operationalization of Model Trial Magistrate Courts in all districts. Its scope is outlined and is expected to include;

- Conceptual backup of the action document followed by its approval by the NJPMC.
- Execution of the action document by Monitoring and Evaluation Cell (M&EC) under direct supervision of the Chairman, NJPMC.
- Establishment of MTMC in each district of all the four Provinces and ICT.
- Development of Standard Operating Procedures (SOPs) for case management regime, human resource allocation, workload allocation and auxiliary management.
- Postulating milestones and timeline there for.
- Sensitization of participants through stakeholders' dialogue.
- Capacity enhancement of human resource where necessary.

### 2.3 ASSUMPTIONS

---

The following assumptions were made in preparing the action document:

- Judicial leadership is committed to roll out the initiative for improved service delivery;
- All the High Courts are willing to own the initiative for achieving the ultimate goal of expeditious and inexpensive justice.
- The intervention by the High Courts is supplemental to the success of the initiative.

- The District Judiciary is sensitized and conscious of its pivotal role in the initiative.
- All participants will abide by the guidelines identified in this document;
- The M&EC will strictly go by its communication plan and periodic review mechanism,

### 3 APPROVAL AND OWNERSHIP

---

The action document translates the vision of the Hon'ble Chief Justice of Pakistan/ Chairman, NJPMC. Once approved by the NJPMC, its ownership shall rest with the High Courts.

#### 3.1 APPROVAL PROCESS

---

The action document requires intervention by the Islamabad High Court, the Lahore High Court, the High Court of Sindh, the Peshawar High Court and the High Court of Balochistan. All the High Courts are to implement it as policy guideline approved by the NJPMC. The draft action document would, therefore, be submitted to the Chairman, NJPMC/ the Hon'ble Chief Justice of Pakistan for placement before the Committee for consideration and approval. After approval, it shall be the mandate of the operational setup to execute it as per timeline and SOPs.

### 3.2 OPERATIONAL SET-UP

---

The operational setup for execution of the initiative shall remain the same as is already in place for Model Criminal Trial Courts (MCTCs) established in the first phase. It shall be four tier, comprising Implementation Coordination Committee (ICC), Monitoring and Evaluation Cell (M&EC), Provincial Lead Teams (PLT) and Model Civil Appellate Courts (MTMC).

## 4 MANAGEMENT APPROACH

---

The action document has a coordinated management approach. It requires intervention by all the High Courts through District and Sessions Judges, Provincial Bar Councils, District Bar Association through District Bench-Bar Liaison Committees, Provincial Health departments, Punjab Forensic Science Agency, Heads of all provincial Forensic Science Laboratories, Provincial Directorates General of the Prosecution, the District Police Officers and Provincial Inspectorates General of Prisons. The M&EC shall be responsible for ensuring this coordinated management approach.



#### 4.1 MILESTONES AND TIMELINE

---

The following represent key milestones with timeline;

S#	MILESTONE	TIMELINE	ACTION BY
1.	Submission of draft action document to HCJP	Within one week	DG FJA
2.	Approval of draft action document by NJPMC	Within a fortnight	LJCP
3.	Bifurcation of Pre-trial and trial Magistrates and nomination of presiding officers of MTMC	Within a week of approval by NJPMC	DGMC/D&SJ/PLT
4.	Allocation of Work to MTMC	Within a week of Nomination of Presiding Officers	D&SJ/ Lead Teams
5.	Issuance of first DPR by MTMC	Within a week of allocation of work to MTMC	M&EC/ MTMC

#### 4.2 ROLES AND RESPONSIBILITIES

---

The action document assigns responsibilities to various roles as per table below. Some of the responsibilities are only one time while some shall be perpetuating throughout.

S#	ROLE	RESPONSIBILITIES	ACTION BY
1.	NJPMC	Consideration and approval of action document	LJCP
2.	High Courts	Order for bifurcation of Pre-trial and trial Magistrates and nomination of presiding officers of MTMC by D&SJ	Registrars of HCs/D&SJ
3.	D&SJ	Bifurcation of Pre-trial and trial Magistrates and nomination of presiding officers of MTMC	D&SJ

4.	D&SJ	Allocation of Work to MTMC	M&EC/D&SJ
5.	MTMC	First Daily Progress Report (DPR) from MTMC	M&EC/MTMC

### 4.3 ISSUES MANAGEMENT

---

The issues management regime already in place for Model Criminal Trial Courts (MCTCs) established in the first phase shall be applied for this initiative so far as practicable.

## 5 MONITORING AND EVALUATION

---

The M&EC shall be responsible for reporting as per its communication plan with customized data collection regime. The M&EC shall report directly to the Chairman, NJPMC as per the communication plan.

## 6 STANDARD OPERATING PROCEDURES

---

The SOPs shall be observed by all while undertaking activities associated with this Initiative. These provide for broad activity parameters and are not exhaustive in any manner. The D&SJs may supplement with local customization for optimum output.

### 6.1 BIFURCATION OF PRE-TRIAL AND TRIAL MAGISTRATES

---

- There shall be two types of Magistrates in each district. Their number shall be determined by the D&SJ keeping in view the work load.

- The “Pre-trial Magistrates” shall conduct all pre-trial proceedings including preventive measures, proceedings for removal of nuisance, proceedings pertaining to disputes as to immovable property and all proceedings during investigation and before commencement of trial.
- The “Trial Magistrates” shall conduct trial of cases within their jurisdiction, which are assigned to them by D&SJ.
- The subject of this Initiative shall be the “Trial Magistrates” presiding over Model Trial Magistrate Courts (MTMCs).

## 6.2 MODEL TRIAL MAGISTRATE COURTS (MTMC)

---

- The High Court shall issue administrative order directing all D&SJs to bifurcate pre-trial and trial magistrates within their districts.
- It shall also direct nomination of one or more MTMCs in each district/sub division in consultation with D&SJ concerned, keeping in view the workload.
- Each MTMC shall be presided over by Magistrate of the 1<sup>st</sup> class or Magistrate empowered under section 30 of the CrPC where available.
- In districts where there is only one Magistrate posted, the court of that magistrate may be notified without formal bifurcation.

### 6.3 HUMAN RESOURCE ALLOCATION

---

- Dedicated, proactive, and hardworking Judges with considerable experience in magistracy shall be nominated to preside over MTMC.
- Support staff provided to MTMC shall be sufficiently qualified, dedicated and zealous. Additional staff may be provided where needed.
- In the event of leave of any staff member, the District & Sessions Judge shall provide replacement.

### 6.4 WORKLOAD ALLOCATION

---

- The D&SJ shall allocate manageable workload to the MTMC, which shall not exceed 100 cases at time. The D&SJ shall ensure that docket of MTMC is capped at 100 cases at a time.
- In the first instance, only 'hurt' cases falling under chapter XVI of the Pakistan Penal Code, 1860 (PPC) shall be entrusted to MTMC. However where the number of hurt cases is less, the D&SJ may allocate any other category of cases to MTMC.
- Only old cases shall be entrusted to MTMC in the first instance in case total number of cases pending in a district exceed the number determined by M&EC for a MTMC.
- The MTMC shall be exempt from all other assignments except matters which are ancillary and incidental to the cases already assigned.

## 6.5 TRIAL MANAGEMENT REGIME

---

- The trial management regime already in place for MCTC shall form integral part of trial management regime for MTMC.
- The trial management regime shall include trial scheduling.
- The trial before MTMC shall proceed invariably on daily basis and shall be continuous.
- After framing of Charge, the entire trial schedule shall be issued.
- The trial schedule shall specify dates for each stage of trial.
- Once commenced, the trial before MCTC shall be continuous and shall proceed on day to day basis till its conclusion.
- Both the defence lawyer and the prosecutor shall be taken on board while scheduling a trial.
- Both the defence lawyer and the prosecutor/private counsel shall provide detail of their juniors at the time of scheduling a trial, who must be present and must proceed the trial in absence of senior counsel.
- In cases which are scheduled for trial, the MTMC shall appoint a defence counsel on State expense, who shall represent the accused and shall proceed with the trial on his behalf in case of non-availability of counsel for the accused.

- For convenience, days may be earmarked for busy lawyers while scheduling the trials.
- The MTMC shall issue a trial scheduling certificate on a specified format to be supplied by M&EC.
- While placing original on the case file, copies of trial scheduling certificate shall be supplied to the Defence lawyer, the Prosecutor and the M&EC at once.
- Such trial scheduling certificate shall entitle the counsel to seek adjournment in any other court including the High Court and Supreme Court.
- There shall be no amendment or adjournment in the trial schedule in any case. In exceptional circumstances, however, trial before MTMC may be adjourned by MTMC on written application, reasons thereof to be reported to M&EC at once.
- The Prosecutor shall confirm to the MTMC the availability of all the witnesses, case property and the expert reports three days before scheduled date of trial.
- While managing its diary, the MTMC shall prioritize a case for trial according to its age.

- The shelf life of any case entrusted to MCTC shall not go beyond Three months in any case.
- No other work shall be entrusted to MTMC except the cases entrusted for trial and miscellaneous matters arising there from.
- It is to be ensured that false testimony before MCTC shall not go unaccounted for. Any false witness shall invariably be tried for perjury as per law.

## 6.6 AUXILIARY MANAGEMENT

---

The following interventions are required to be undertaken for auxiliary management of the Model Civil appellate Courts in the first instance;

<b>INTERVENTION BY HIGH COURT</b>	
<b>S#</b>	<b>SPECIFIC ACTIONS</b>
1.	Expeditious retrieval of record of cases requisitioned in Criminal Miscellaneous applications
2.	The High Court may ask for copy of the judicial file for disposal of miscellaneous petitions instead of asking for the record
3.	Bar members may be asked to appear before MCTC and get cases adjourned before the High Court on production of trial scheduling certificate
4.	The High Court may fix days for busy lawyers for convenience
5.	The High Courts shall formally take respective Provincial Bar Councils on board on the initiative

<b>INTERVENTION BY DISTRICT AND SESSION JUDGE</b>	
<b>S#</b>	<b>SPECIFIC ACTIONS</b>
1.	Directions to the 'Process Cell' for execution of processes of MTMC
2.	SWO shall receive all processes of MCTC from Ahlmad/Moharrir and shall ensure communication to SHO concerned the same day.
3.	Directions to the focal person of health department for liaison and execution of processes for appearance of medico-legal officers before MTMC.
4.	The SP (Investigation) of each district shall have liaison with incharge Process Cell and shall act as focal person of Police Department at district level. The incharge of investigation of each police station shall be responsible for production of all witnesses except medical officers for evidence.
5.	The in charge investigation of each police station shall be responsible for production of case property and expert reports as well
6.	Senior Civil Judge (Admn) shall be over all responsible for output of the Process Cell and shall report any laxity to the D&SJ for taking up with quarter concerned
7.	Meeting with Bar for taking them on board on the initiative
8.	Coordination meetings with all stakeholders for sensitization and causing compliance of instructions for execution of the initiative
9.	Posting of qualified support staff in MTMC
<b>INTERVENTION BY DISTRICT PUBLIC PROSECUTOR</b>	
<b>S#</b>	<b>SPECIFIC ACTIONS</b>
1.	Posting of dedicated and well reputed Prosecutor in MTMC
2.	No other assignment shall be given to Prosecutor of MTMC
3.	Issuance of duty roster indicating replacement in case of leave of Prosecutor
4.	On receipt of Challan, scrutiny shall be completed within statutory period
5.	If the case is approved for trial, it shall be sent to MTMC the same day
6.	If deficiencies are recorded, it shall be sent to SHO for rectification the same day



7.	The SHO shall be bound to rectify the deficiencies and to resubmit challan to Prosecution branch within three days
----	--

## 7 STAKEHOLDERS' ENGAGEMENT

---

The initiative requires active involvement of various stakeholders at different occasions. Their engagement in the process of execution is, therefore, extremely important. It would not only sensitize key players about the objectives but is also expected to create a sense of ownership. The stakeholders' engagement could be ensured in the following manner;

### 7.1 SENSITIZATION DIALOGUE AND DISSEMINATION

---

Sensitization dialogues shall be conducted at the district level by the District and Sessions Judges. Details of the initiative may be shared with key players of justice system for letting them know their roles. It would be a sort of coordination endeavor that would pay back in terms of improved service delivery. Besides, the FJA shall disseminate details of the initiative for public awareness.

### 7.2 CAPACITY ENHANCEMENT

---

Federal Judicial Academy would remain on standby for rolling out capacity enhancement activity for officers and staff of MTMC on recommendation of M&EC.