Report of Recommendations for the Adoption, Implementation and Integration of a Court Management Tools System for the Montana District Courts

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Prepared by the District Court Management Advisory Committee (DCMAC)

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EXECUTIVE SUMMARY

Report of Recommendations for the Adoption, Implementation and Integration of a Court Management Tools System for the Montana District Courts

For accountability, transparency and continued improvement in administration of the state-funded district court program, the District Court Council (DCC) initiated in July 2007 an effort to increase the capability of Montana's District Courts for monitoring, analyzing, and managing results (outcomes or accomplishments) on a regular basis. For these purposes, the District Court Management Advisory Committee (DCMAC), created to develop a system of court management tools for the District Courts, began its work in February 2008.

The DCMAC has met on 15 occasions since February 2008 to identify the appropriate court management tools for the District Courts using model approaches and processes developed by the National Center for State Courts (NCSC). In addition, subcommittees have met on numerous occasions to work on specific items. This Executive Summary lists the DCMAC's recommendations. The attached full report contains the background, findings, and conclusions that support the recommendations.

Principal Recommendation

The principal recommendation is that the DCC adopt and endorse a system of court management tools anchored by the four core tools listed below.

Tool 1: *Public Trust and Confidence (Court User) Survey* – A user survey to identify a District Court's accessibility, timeliness and the ability to treat users with dignity, respect and equality and to instill trust and confidence.

Tool 2: On-Time Case Processing – A compilation by case type of the percentage of cases disposed or otherwise resolved (closed) within a specified time period (e.g., 365 days).

Tool 3: *Case Clearance Rate* – A compilation by major case type or category of the number of outgoing (closed) cases as a percentage of incoming (opened) cases over a specified time period (e.g., month, quarter or year).

Tool 4: Age of Active Cases (Current Case Inventory) – A compilation by major case type of the age of active cases before the court, expressed as the percentage of cases that do not exceed the DCC designated time reference points.

At this writing, these four tools are in various stages of development. Tool 1 was successfully tested and demonstrated in several "pilot courts." Tools 2 through 4 are in the stage of testing and demonstration to ensure the FullCourt case management system can support the tools.¹

Details for implementation are contained in the *District Court Case Management Tools: Concept of Operation* attached as Appendix B. Information about time reference points and case types are detailed in *Definitions of Montana District Court Case Types, Case Opening and Closing, and Time Reference Points* attached as Appendix C.

Four Supporting Recommendations

The DCMAC makes four additional recommendations for development, implementation and eventual integration of court tools and management in the District Courts.

Frequency of measurement. The Committee endorses a consistent and regular compilation of data for Tools 2, 3, and 4 with a gradual phase in for all Judicial Districts. All District Courts are encouraged to monitor, analyze and manage Tools 2, 3, and 4 as data is compiled and distributed. All District Courts – on a voluntary basis and with the assistance of the Office of Court Administrator (OCA) – are encouraged to implement Tool 1 on a biennial basis.

A management dashboard. The Committee endorses efforts to design and build an automated delivery and distribution system for the recommended court management tools.

Ensuring the proper use of court management information. The Committee supports efforts to adopt, implement, and integrate the proposed court management tools with key management processes and operations, including but not limited to budgeting and finance, resource and workload allocation, strategic planning, organizational management, and staff development. The Committee further supports training and support for judges interested in making changes within a Judicial District based upon court management data.

Extend the tenure of the DCMAC. To ensure the further development and use of the court management tools, the DCC should extend the tenure of the Committee.

¹ These three tools will be tested in seven pilot Judicial Districts. Testing will take place in the 9th, 11th, 13th, 16th, 17th, 18th and 21st Judicial Districts.

1. INTRODUCTION

This is a report of the recommendations of the DCMAC for the adoption, implementation and integration of a court management tool system for the Montana District Courts.

This Introduction includes the principal recommendations of the DCMAC, an overview of the contents of this report, a brief description of the background of the DCMAC and its efforts to date, as well as the assumptions made by the DCMAC in its development of the recommended management tools.

1.1 Principal Recommendation

The DCMAC recommends that the DCC adopt and endorse the implementation and institutionalization of a court management tool system anchored by the four core management tools listed below.

Court Management Tool 1: *Public Trust and Confidence (Court User) Survey* -- A user survey to identify a District Court's accessibility, timeliness and the ability to treat users with dignity, respect and equality and to instill trust and confidence.

Court Management Tool 2: *On-Time Case Processing* – A compilation by case type of the percentage of cases disposed or otherwise resolved (closed) within a specified time period (e.g., 365 days).

Court Management Tool 3: *Case Clearance Rate --* A compilation by major case type or category of the number of outgoing (closed) cases as a percentage of incoming (opened) cases over a specified time period (e.g., month, quarter or year).

Court Management Tool 4: Age of Active Cases (*Current Case Inventory*) – A compilation by major case type of the age of active cases before the court, expressed as the percentage of cases that do not exceed the DCC designated time reference points.

1.2 Background

Under the leadership of the DCC, Montana's District Courts increasingly have turned to state-of-the-art techniques to deliver effective administration of justice. For example, in January 2006, the DCC implemented the Uniform Caseload Filing Standards to facilitate the classification and assessment of cases. Also, in 2007, the DCC assessed each District Court's workload using a weighted caseload model to determine whether judicial resources are being allocated and used appropriately and to assess the number of judges required to handle current and future caseloads.

In July 2007, pursuant to its administrative role under 3-1-1601, MCA and in response to general demands for increased accountability and transparency, the DCC decided to explore the District Courts' capacity for developing and implementing court management tools. The Supreme Court initiated and has since implemented a similar project.

The DCC began by reviewing a model of management tools developed by the NCSC. The *CourTools,* published by the NCSC in 2005, is a set of ten trial court performance measures that offers court managers a balanced perspective of court performance.

In the fall of 2007, the DCC appointed a nine-member committee to spearhead the development of a court management system for the District Courts. The committee, called DCMAC, was chaired by the Hon. Kitty Curtis of the 11th Judicial District,. This project, as well as the Supreme Court project, was supported by grants from the State Justice Institute.

In addition to the chair, the DCMAC members include the following:

Hon. James A. Haynes 21st District Court

Hon. John C. McKeon 17th District Court

Hon. Michael Salvagni 18th District Court Hon. Joe L. Hegel 16th District Court

Hon. Laurie McKinnon 9th District Court

Hon. Gregory R. Todd

13th District Court

Clerk of Court Lori Maloney 2nd District Court

Court Admin. Bonnie Olson 11th District Court

Committee Staff: Beth McLaughlin OCA Director of Court Services Consultant: Ingo Keilitz National Center for State Courts

1.3 DCMAC Methods

Meeting for the first time February 25-26, 2008, the DCMAC began its efforts by educating itself about the process of court management. The committee's consultant, Ingo Keilitz, presented a thorough study of model approaches to court management and a design process.

Over the course of the two years, the DCMAC and subcommittees worked to identify appropriate court management tools using the NCSC model and design process. The design process includes these six somewhat overlapping steps:

Step 1 - Inventory of measures currently used or available for use by the District Courts: Cataloguing currently used tools and indicators, including those used by justice system partners; classifying the tools; and assessing their completeness.

Step 2 - Identification and definition of the desired tools: Identifying key success factors (e.g., timeliness, efficiency, fairness); determining types of tools; determining core tools; and defining desired tools in operational terms.

Step 3 – Development of hierarchies or families of tools: Identifying breakouts; identifying other subordinate tools; and constructing hierarchies.

Step 4 -Testing, demonstrating, and developing tools: planning tests and/or demonstrations of tools; and developing and refining tools.

Step 5 - Creating data collection and distribution methods that ensure timeliness and utility: Determining ideal timeframes and adjusting timeframes.

Step 6 - Designing useful management dashboards.

A major part of the DCMAC's work in Step 2 involved identifying the operational definitions and rules for the utilization of Tools 2 - 4. This process required a close review of the January 2006 *Montana Judicial Branch District Court Uniform Caseload Filing Standards*. (Necessary changes are noted in Appendix C.) These definitions and rules, in turn, are currently being applied to the FullCourt case management system as part of the testing and demonstrations of the measures in Step 4 to evaluate whether FullCourt would support the identified performance measures.

Step 4 included the "Court User Survey Pilot Projects" in which five Judicial Districts successfully demonstrated recommended Tool 1, *Public (Court User)*

*Trust and Confidence Survey.*² These pilot projects spawned positive media coverage in several districts.³

From the beginning, the DCMAC made efforts to keep District Court judges, clerks, managers and staff, as well as other members of the Montana Judicial Branch, apprised of its efforts. The DCMAC recognized that it needed to reach out to colleagues, not only to report the progress and status of its work, but to engage them in an educational effort similar to one that the members of the DCMAC undertook themselves.

In October 2008, the DCMAC and its consultant made a panel presentation to the Montana Judges' Association (MJA). During a lively and candid session, MJA members posed questions and expressed concerns about specific management tools being considered, as well as the rationale for the overall initiative. DCMAC members noted the concerns and have attempted to keep MJA informed throughout the continued analysis.

As a Committee and as individual members, both informally and formally, the DCMAC has made -- and will continue to make in the future -- outreach and educational efforts to keep judges and other Judicial Branch stakeholders apprised of its work.

1.4 Assumptions

In its work, the DCMAC recognized these eight assumptions as fundamental to the development of proper court management:

First, the willingness of the District Court to conduct an organizational selfanalysis on a regular and continuous basis is essential to effective management of that court.

Second, the DCMAC should practice what it preaches. Full and open disclosure of the status and progress of efforts are critical to the success of the project.

Third, the development of a set of court management tools can have major positive effects on Montana's court system only when implemented through a statewide system.

Fourth, any statewide court management system must, as recognized in 3-1-1602, MCA, acknowledge that each District Court retains the inherent power to direct the performance of the assistant and employees assigned to that court. The DCMAC cannot force courts to examine the court management data and

 $^{^{2}}$ The five districts were the 9th, 10th, 11th, 13th and 21st.

³ See, for example, see Nicholas Ledden, "Court Survey Gets Positive Response," *The Daily Inter Lake,* October 12, 2008.

make adjustments based on that data but the DCMAC can encourage and provide support should a District Court choose to make changes.

Fifth, court management tools must align with the following:

- Fairness, Quality, Perception of Justice, Dignity, Respect, Neutrality, Understanding, Clear Communication, Rational Decision-Making, Timeliness and Efficiency
- □ Consistency, Uniformity, Effectiveness, Integrity
- Community Welfare, Safety, Serving the Community Professionalism, Ethics, Judicial Independence and Accountability

Sixth, effective court management tools must be set out in clear, focused and actionable statements that support a District Court's fundamental obligations to provide access to justice, to treat the public respectfully, to produce quality and timely work and to prudently manage resources.

Seventh, whenever possible, court management tools should be based on established standards and models of court management.

Finally, court management issues are systemic problems, not people problems. Court management tools define *organizational court management*, not the performance of *individual judges or staff members*.

2. RECOMMENDATIONS

Recommendation 1. Four Core Court Management Tools

The DCMAC recommends that the DCC adopt and endorse the implementation and institutionalization of a court management tool system anchored by the four core court management tools listed below. Implementation of Tools 2, 3 and 4 must be phased in to account for data clean-up and training that must happen in each county District Clerk of Court office. Appendix B provides details about implementation.

Court Management Tool 1: *Public Trust and Confidence (Court User) Survey* -- A user survey to identify a District Court's accessibility, timeliness and the ability to treat users with dignity, respect and equality and to instill trust and confidence.

Court Management Tool 2: *On-Time Case Processing* – A compilation by case type of the percentage of cases disposed or otherwise resolved (closed) within a specified time period (e.g., 365 days).

Court Management Tool 3: *Case Clearance Rate --* A compilation by major case type or category of the number of outgoing (closed) cases as a percentage of incoming (opened) cases over a specified time period (e.g., month, quarter or year).

Court Management Tool 4: Age of Active Cases (*Current Case Inventory*) – A compilation by major case type of the age of active cases before the court, expressed as the percentage of cases that do not exceed the DCC designated time reference points.

These core measures are currently in various stages of development. As mentioned above, Measure 1 was successfully tested and demonstrated in several "pilot courts." Measures 2 through 4 are detailed in Appendix B.

Recommendation 2. Frequency of Measurement

The DCC should determine how often data is produced and distributed but cannot require District Courts to review and use the data. However, the DCC should urge all District Courts, with the assistance of the OCA, to implement Tool 1 on a biennial basis and to monitor, analyze and manage the data generated through the application of Tools 2, 3 and 4 with data produced by the OCA on a quarterly basis.

Recommendation 3. A Management Dashboard

The DCC should encourage and support efforts to design and build an automated delivery and distribution system for court management data – a performance dashboard. The DCMAC recommends that the DCC give its full support to the inclusion of a dashboard in the strategic plans for information technology in the Montana court system. The design and development of the system should be overseen by the DCMAC.

DCMAC recognizes that the District Courts will need to engage in two major additional efforts beyond those already made by DCMAC: (1) making sure that the data is actually made available to those who could benefit from its use; and (2) educating and training users to optimize the incorporation of court management tools into the culture of the District Courts.

The fundamental goal of building a dashboard is to provide the right information to users, so they can make better decisions. An effective performance dashboard is one that users can access effortlessly.

Recommendation 4. Ensuring the Proper Use of Court Management Tools

The DCC should support efforts to adopt, implement, and integrate the proposed court management tools with key management processes and operations, including budgeting and finance, resource and workload allocation, strategic planning, organizational management, and staff development.

The *right use* of court management tools will not happen unless Montana's court leaders and individual courts assign new responsibilities, institute specific policies, create governance structures, and start new processes, procedures and practices to ensure the adoption, implementation and integration of the court management tools with general court management.

In a separate paper, Ingo Keilitz, the NCSC consultant, outlined ten strategies designed to ensure that Montana's management tools drive success. These strategies are supported by the DCMAC. Courts are encouraged to:

- 1) make specific job assignments and assign specific responsibilities for court management tools;
- 2) create an organizational infrastructure to support court management tools;
- 3) emphasize both the internal and external uses of court management tools;
- 4) create "open book" management;
- 5) drive court management;
- 6) own court management tools;
- 7) conduct extensive training on using the tools for court management;
- 8) institutionalize review meetings and dialogues;
- 9) prove the trustworthiness of the data; and
- 10) integrate court management tools with court governance and key management processes.

Recommendation 5. Continuation of DCMAC

Extend the tenure of the District Court Management Advisory Committee (DCMAC) to ensure the further development of the appropriate court management tools and the proper delivery, distribution and use of the court management tools and data.

The DCMAC recommends that the DCC extend its tenure to help ensure that these requirements are met and that the efforts in development and use of district court management tools are well-coordinated with parallel efforts in the Montana Supreme Court. In addition, the DCMAC should identify and design strategies to respond to requests and needs for usage by individual districts. The DCMAC should focus on:

- Evaluating and monitoring the tools and their usage in an ongoing effort to refine the tools. The DCMAC would, with approval of the DCC, maintain control over and supervise the specific data collection methods used to report the information, including the development of the dashboard described in Recommendation 3.
- 2) Evaluating the need for additional court management tools and making recommendations for additional tools to the DCC. An effective system is not static. Existing tools should be continuously reviewed and improved. For example, Measure 4, Age of Active Caseload (Current Inventory), and Measure 3, Case Clearance Rate, might be seen together and exploited to produce a measure of Congestion Rate, a measure that estimates the

amount of time (e.g., six months) it would take a court to dispose of its pending caseload given its current clearance rate.

- 3) Evaluating and developing strategies for improving court management as indicated by the implementation and results of the court management tools. The DCMAC would assume responsibility for identifying effective strategies and ensuring this information is shared with judges and others involved in district court case management.
- 4) Reporting on a regular basis to the DCC its efforts in the foregoing areas and seeking input and implementation authority from the DCC where advisable and appropriate.

PART 3. BRIEF SUMMARIES OF PROPOSED DISTRICT COURT MANAGEMENT TOOLS

3.1 Tool 1. Public (Court User) Trust and Confidence Survey

3.1.1 Definition

The percent of District Court users who believe that the Court provides accessible, fair, accurate, timely, knowledgeable, and courteous services.

3.1.2 Purpose

It is often assumed that "winning" and "losing" is what matters most to those who have encounters with courts. However, research consistently shows that what counts most in shaping the public's trust and confidence in the courts is people's personal perceptions of how they were treated by the court and whether the court makes its decisions fairly, including such factors as accessibility to the court, procedural fairness, expeditious resolution of cases, absence of undue influence and equal and courteous treatment of all users.

The perceptions and opinions of citizens who receive services increasingly are used as a major source of performance feedback by public agencies including courts. This measure gauges critical areas of performance including access to justice, timeliness, procedural fairness, and the overall effectiveness of the District Courts as seen from the perspectives of those "using" the courts on a typical day.

3.1.3 Methodology

Everyone who exits the court on average or a typical day or days -- all litigants and their families and friends, victims, witnesses, attorneys, law enforcement, representatives of social service agencies, individuals conducting records searches, members of the media, the general public, and others who enter court facilities for any other purpose — is asked to fill out a brief self-administered questionnaire. (See Appendix A for survey.)The methodology of this measure is a close adaptation of the corresponding measures described in the NCSC's *CourTools*⁴ and closely follow the methodology prescribed therein.

⁴ A full description of the *CourTools* is available online at <u>http://www.ncsconline.org/D_Research/CourTools/tcmp_courttools.htm</u>.

Box 1. Formula for the Calculation of Court User Survey Results

% Trust and Confidence = ((A + B)/(A + B + C + D – E)) X 100 A = Strongly Agree B = Agree C = Disagree D = Strongly Disagree E = Undecided or Unknown

These simple computations facilitate the powerful functions of this management tool: establishing a baseline for current user satisfaction, indicating whether it is within determined boundaries or tolerances (controls), identifying and diagnosing problems, determining trends, and planning.

This tool should be utilized and analyzed on a regular and continuous basis. By tracking the ratings in one or more areas identified in the survey over time, court managers are able to ascertain trends or changes associated with improvement initiatives.

3.2 Tool 2 - On-Time Case Processing

3.2.1 Definition

The percentage of cases disposed or otherwise resolved within established time frames⁵ disaggregated by court location, case type, and progress through various processing milestones.

3.2.2 Purpose

How long does it take a District Court to make its decisions? Is the elapsed time longer for certain types of cases? How does the elapsed time compare with accepted reference points for timely case processing? By resolving cases within established time frames, the court enhances trust and confidence in the judicial process.

This tool, used in conjunction with Age of Active Cases (Case Inventory Index) (Measure 4) and Clearance Rates (Measure 3), is a fundamental management tool to assess the length of time it takes a court to process cases. It compares a

⁵ Time reference points are detailed in the Table Definitions attached as Appendix C. These are intended to act as reference points only and are based on a number of variables including statutory timelines. Time reference points vary by case type or category.

court's performance against reference points of timely case processing recommended by the DCMAC and approved by the DCC.

3.2.3 Methodology

Box 2. Formula for the Calculation of On-Time Case Processing in the Montana District Courts

% On-Time = ((A + B)/C) * 100

A = Closed cases within the reporting period that do not exceed the time reference points (e.g., 365 days)

B = Cases suspended within the reporting period that do not exceed the time reference points

C = All cases closed or suspended within the reporting period

On-Time Case Processing is calculated (to one decimal point) and expressed as percentages as follows: (1) a single percentage overall across all case types; and (2) a percentage for each of the case types.

3.3 Tool 3 - Case Clearance

3.3.1 Definition

The number of outgoing cases as a percentage of the number of incoming cases, disaggregated by case type and court location.

3.3.2 Purpose

Clearance Rate measures whether the court is keeping up with its incoming caseload. If cases are not disposed of in a timely manner, a backlog of cases awaiting disposition will grow. This tool is a single number that can be compared within the court for any and all case types, on a monthly or yearly basis. Knowledge of clearance rates by case type can help a court pinpoint emerging trends and problems, resource limitations and potential improvements

A court should regularly monitor whether it is keeping up with its incoming caseload. At least in the short term, it is quite possible for a court to dispose of cases in a timely manner, as indicated by Tool 2, *On-Time Case Processing*, and yet fail to keep up with the number of incoming cases. If a court is disposing of fewer cases than are filed, a growing inventory and backlog are inevitable.

The initial results from taking this measure can serve as a baseline, answering the question, "Where are we today?" Successive measures can show how the case clearance ratio is changing over time and answer the question, "How have we been doing in our efforts to manage the caseload over the last 12 months or several years?"

3.3.3 Methodology

This tool requires information about the number of incoming and outgoing cases disaggregated by case type during a given period of time. The overall clearance ratio is calculated by dividing the total number of incoming cases by the number of outgoing cases. To obtain the clearance ratio for individual case types, the number of incoming cases is divided by the number of outgoing cases within each case type or category.

Case clearance is a close adaptation of the corresponding tool described in the *CourTools* and closely follows the methodology prescribed therein. Box 3 below defines the data elements and required calculations for this tool that are unique to the court management tools in the Montana District Courts.

Box 3. Formula for the Calculation of Case Clearance in the Montana District Courts

% Clearance = (A + B + C) / (D + E) * 100
A = Cases closed within time period B = Dispositions of reopened cases within time period C = Cases placed in suspended status in time period D = Cases opened within time period E = Cases reopened within time period
<i>Case Clearance</i> is calculated (to one decimal point) and expressed as percentages as follows: (1) a single percentage overall across all case types; and (2) a percentage for each of the case types.

3.4 Tool 4 - Age of Active Cases (Case Inventory)

3.4.1 Definition

The age of pending cases by case type expressed in terms of the number of elapsed calendar days between the date of filing or start of processing of the case and the current date. This tool is expressed in the formula as the percentage of cases that are current; i.e., do not exceed the time reference points. Time reference points are described in detail in Appendix C.

3.4.2 Purpose

Knowing the age of the active cases pending before the court is most useful for addressing three related questions: Does a backlog exist? Which types of cases are a problem? What is expected in the future?

Cases filed but not yet disposed make up a court's pending caseload. A complete and accurate inventory of active pending cases as well as the number and age of the cases provide a quantitative assessment of the overall performance of a court in meeting its established time frames for case disposition. Once the age spectrum of cases in various categories is determined, the court can identify and focus its attention on what is required to ensure that cases are brought to completion within reasonable time frames.

3.4.3 Methodology

Required data elements for this tool include: (1) the number of cases in the inventory of active cases; (2) the number of elapsed days each case in the inventory has been pending; and (3) the point of reference, benchmark or standard for on-time case processing of major case types or categories.

Box 4. Formula for the Calculation of Current Inventory in the Montana District Courts

% Current = $((A + B)/C) \times 100$

A = Cases in an open status on the measure date that do not exceed the time reference point

B = Cases in a reopened status on the measure date that do not exceed the time reference point

C = All cases in an open and reopen status on the measure date

The age of active pending cases by case type expressed in terms of the number of elapsed calendar days between the date of filing or start of processing of the case and the current date. This tool is expressed in the formula simply as the percentage of pending cases that are current or not yet "backlogged" – i.e., that exceed the on-time case processing time reference points.

Appendix A – Public Trust and Confidence Survey

Montana Judicial Branch District Court User Survey

"Montana's District Courts are open to every person and are committed to the fair, impartial, competent and courteous administration of justice, without denial or delay."

Thank you for taking the time to complete this survey. Your opinion counts and is confidential.

SECTION 1: Court User Satisfaction

Please select only one answer. SA= Strongly Agree A=Agree D=Disagree SD=Strongly Disagree U=Undecided or Unknown

	SA	А	D	SD	U
 It was easy to find where I needed to go in the Court					
10. I was treated fairly					
SECTION 2: Background Information					

11. How often are you in this court building? (choose the closest one)
First time Once a year or less Several times a year Monthly Once a week
or more Other
12. Who did you see today (check all that apply)?
Probation Officer Other:

13. I am a (check only one)?
Plaintiff or Petitioner Defendant or Respondent Witness Juror or Potential Juror
Mediator Lawyer Representing a Party
Law Enforcement Social Services Staff/Guardian Ad Litem Adult Probation Officer
Family Member or Friend
Victim Other:
14. What kind of case or business brought you to the courthouse today (check all that apply)? Child Abuse/Neglect Criminal Divorce, child custody, support or adoption Juvenile matter Probate (wills, guardianship) e Order of Protection Civil matter (i.e. personal injury, insurance, contract dispute, tort claim, etc.) Other:
 15. What did you do at the court today? (check all that apply) Search court records File papers Make a payment Get information Attend a hearing, trial or settlement conference Attend a mediation Other: 16. What is your gender? Male Female
17. How do you identify yourself?
American Indian or Alaska Native Asian Black or African American Hispanic or Latino Native Hawaiian or Other Pacific Islander White Mixed Race Other: