



Judicial Council Minutes

December 14, 2023

9:00 a.m.

Room 230, MN Judicial Center and via Zoom

The Judicial Council met on Thursday, December 14, 2023, in St. Paul, Minnesota. Tenth Judicial District Assistant Chief Judge Elizabeth Strand attended for Chief Judge Hiljus. Fifth Judicial District Assistant Chief Judge Darci Bentz attended for Chief Judge Anderson. Fourth District Judge Jamie Anderson was not in attendance.

1. Decision Item: Approval of Draft November 16, 2023, Meeting Minutes

A motion was made and seconded to approve the draft November 16, 2023, Meeting Minutes, as amended. The motion prevailed.

Council Action

The Judicial Council Approved the November 16, 2023, Meeting Minutes, as amended.

2. Discussion Item: Special Topic – Psych Services

Presenters: Judge Kathryn Messerich; Jeff Shorba, State Court Administrator; Tanya Wenning, Psychological/Psychiatric Services Program Coordinator; Dr. Kathryn Cranbrook, Chief of Psychological Services, Fourth Judicial District; Dr. Jacqueline Buffington, Court Consultant, Associate Professor of Criminology, University of Minnesota-Duluth; Sarah Gonsalves, Fourth Judicial District Administrator; Dan Ostdiek, Director of Finance

The goals and objectives of the special topic were to learn about mandated psychological and psychiatric services provided by the Judicial Branch so the Judicial Council can confidently make policy and procedure-based decisions and collaboratively set strategic direction for a sustainable, efficient, and effective long-term approach to providing these services.

In 2008, the Judicial Council established the Psychological/Psychiatric Services program to provide ongoing management of exams statewide. The program provides policy and procedure guidance, supports day to day operations of mandated exams, maintains the Roster of Examiners, and has oversight of billing and invoice practices. The Minnesota

Judicial Branch is responsible for the cost of civil commitment and Rule 20 competency exams.

Dr. Cranbrook explained the differences between Rule 20.01 competency exams and Rule 20.02 criminal responsibility exams. It was noted that ordering 20.01 and 20.02 exams together is not recommended because the two exams are used for different purposes and ordering both is costly, unnecessary, and results in delay. Dr. Buffington explained the Rule 20 screening process in the Sixth Judicial District.

Sara Gonsalves, Tanya Wenning, and Dan Ostdiek discussed challenges and ideas for the Psych Services program. Presenters noted several challenges including increasing volume, increasing costs, variation in exam quality, examiner availability and inefficiencies due to administrative time, work structures, and record access. Several ideas were suggested to address the challenges, including creating a mental health advisory group with justice partners to address issues, examining different cost modeling, establishing standard performance measures related to quality and timeliness for exams and examiners, providing better access to Rule 20 and commitment examiner reports, requesting funding from the legislature to increase examiner pay, promoting remote exams and examiners, providing scheduling resources of examiners, and creating a central repository for Rule 20 exams.

Judge Messerich closed the presentation by explaining that the Psych Services program is 15 years old, there have been minor improvements over time, but noted that the program needs significant change due to challenges with costs and quality. Judicial Council must make decisions and lend support to legislative, rule, and policy changes.

It was proposed that the Council form a Mental Health Justice Initiative to bring in justice partners to help address the problems. No concerns were raised by Council members regarding the Council making a decision on this topic. A motion was made and seconded to create a Mental Health Justice Initiative. The motion prevailed.

Council Action

The Judicial Council created the Mental Health Justice Initiative.

3. Discussion Item: Competency Attainment Board

Ryan Flynn, the State Competency Attainment Board Chair, provided an update on the Competency Attainment Board. The State Competency Attainment Board was appointed after the 2023 Legislative Session. State Court Administration helped the Board get established and the Guardian ad Litem Board is temporarily assisting the Competency Attainment Board with technology and human resources. The program will start April 1, 2024, with approximately 10-15 forensic navigators for the entire state to help incompetent defendants navigate the court process. It was noted that competency programming necessary to restore defendant's competency is not available. Forensic navigators will assist defendants in finding stable housing, help with medication, and will assist defendants through the court process.

It was requested that Chief Judges in each district identify judicial officers and judicial staff to participate in focus groups to provide feedback on how the program is operating.

4. Discussion Item: Criminal Case Backlog Review

Grant Hoheisel provided an update on the Criminal Case Backlog. In November 2021, the Judicial Council implemented a long-term goal to eliminate the backlog by June 30, 2023. In the July 2023 update to Judicial Council, it was noted that three districts had eliminated their backlog. The backlog deadline was extended to June 30, 2024. As of December 2023, four districts have eliminated their backlog and statewide, 580 cases remain.

It was agreed that when statewide backlog reduction reaches 100%, the statewide backlog reduction goal will be complete.

5. Discussion Item: Proposed Revisions to Judicial Council Policy 221, Court Reporter Transcript Rates

Liz Halet presented proposed revisions to Judicial Council Policy 221, Court Reporter Transcript Rates. Judicial Council Policy 221 requires the Judicial Council to review the policy every odd-numbered year. In June 2021, transcript rates were increased by \$1, paper copies were eliminated, and a pilot project was created to bring IFP transcript production into the workday and eliminate IFP transcript rates (original and copy). In September and November 2022, the IFP Transcript Pilot was ended and a single IFP transcript rate was set.

Proposed revisions to Judicial Council Policy 221 were minor and included: updating reference to Supreme Court Order C1-84-2137; correcting paragraphs 1 and 2 to re-insert “per page” after the dollar amount; and modifying paragraph 4 to add references to court rules.

A discussion ensued. It was suggested that transcript rates should be evaluated before approving changes to the policy. Judicial Council Policy 221 will be revisited at the January 2024 Judicial Council meeting after additional information regarding transcript rates is obtained.

6. Decision Item: Proposed Revisions to Judicial Council Policy 523, Storage of Captured Records of Court Proceedings and Judicial Council Policy 523.1, Capturing the Record of Court Proceedings-Back Up of Recordings and Redundant Storage

Liz Halet presented amended revisions to Judicial Council Policy 523, Storage of Captured Records of Court Proceedings and Judicial Council Policy 523.1, Capturing the Record of Court Proceedings-Back Up of Recordings and Redundant Storage.

At the November 2023 Judicial Council meeting, Council members provided feedback on proposed revisions to Judicial Council policy 523 and 523.1. Following the meeting, the Legal Counsel Division received additional feedback from I.T. professionals, court reporters, district administrators, and a court administrative manager.

Amended revisions to Judicial Council Policies 523 and 523.1 included:

- Further clarification of the individual requirements for filing when the record of court proceedings taken in one county includes cases venued in other counties for stenographic court reporters, ECRs, and EREOS;
- The inclusion of the requirement for a No Filing submission in the event there is a calendar, but no record is taken;
- Changed “Log notes” to “Log notes/tags”;
- The elimination of the requirement that filings be monitored by court administrators or designees for audio and visible characters;
- Additional efforts to provide greater clarity on the frequency and scope of compliance monitoring.

Discussion ensued. Concern was expressed over eliminating the requirement that a stenographer be certified. It was noted that removing certified was done to allow flexibility in rare circumstances. It was suggested that additional policy clarifications be examined.

The Legal Counsel Division will return to the January 2024 Judicial Council meeting for a decision on proposed changes to Judicial Council Policies 523 and 523.1.

7. Decision Item: Treatment Court Cannabis Workgroup Budget Proposal

Cecilia Bliss, State Treatment Court Coordinator, and Shelley Ellefson, Third District Judicial Administrator returned for a decision on the Treatment Court Cannabis Workgroup Budget Proposal.

A motion was made and seconded to approve the Treatment Court Cannabis Workgroup budget proposal. The motion prevailed.

Council Action

The Judicial Council approved the Treatment Court Cannabis Workgroup budget proposal.

8. Decision Item: LAW Recommendations

Judge David Knutson, Chair of the Legislative Advisory Workgroup, returned for a decision on legislative recommendations.

A motion was made and seconded to seek legislation in 2024 for a \$500,000 one-time general fund appropriation to fund a competitive grant program for courthouse safety and security improvements. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 for a \$500,000 one-time general fund appropriation to fund a competitive grant program for courthouse safety and security improvements.

A motion was made and seconded to seek legislation in 2024 to increase examiner rates, address the current deficit, and allow out of state examiners to perform remote examines in Minnesota. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 to increase examiner rates, address the current deficit, and allow out of state examiners to perform remote examines in Minnesota.

A motion was made and seconded to seek legislation in 2024 to for additional funding each year to meet the increasing need for contract interpreters in court proceedings. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 for additional funding each year meet the increasing need for contract interpreters in court proceedings.

A motion was made and seconded to seek legislation in 2024 to increase juror per diem, increase the mileage rate, and provide vicarious trauma services to jurors. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 to increase juror per diem, increase the mileage rate, and provide vicarious trauma services to jurors.

A motion was made and seconded to seek legislation in 2024 for additional funding to bolster and enhance the cyber security program in the Minnesota Judicial Branch. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 for additional funding to bolster and enhance the cyber security program in the Minnesota Judicial Branch.

A motion was made and seconded to seek legislation in 2024 to permit service electronically or by first class mail for orders for protection and harassment restraining orders. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 to permit service electronically or by first class mail for orders for protection and harassment restraining orders.

A motion was made and seconded to seek legislation in 2024 to establish a minimum amount for interest-bearing trust accounts. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 to establish a minimum amount for interest-bearing trust accounts.

A motion was made and seconded to seek legislation in 2024 to remove the requirement that the Judicial Branch is subject to the notice requirement in the Revenue Recapture Act. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 to remove the requirement that the Judicial Branch is subject to the notice requirement in the Revenue Recapture Act.

A motion was made and seconded to seek legislation in 2024 to allow court administration to share necessary documents related to driver's license suspension due to unsatisfied civil judgements with the Department of Vehicle Services via a system-to-system integration rather than through certified mail or electronic certification through email. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 to allow court administration to share necessary documents related to driver's license suspension due to unsatisfied civil judgements with the Department of Vehicle Services via a system-to-system integration rather than through certified mail or electronic certification through email.

A motion was made and seconded to seek legislation in 2024 to protect the personal information of judges and judicial staff. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 to protect the personal information of judges and judicial staff.

A motion was made and seconded to seek legislation in 2024 to protect jurors with differential shifts. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 to protect jurors with differential shifts.

A motion was made and seconded to seek legislation in 2024 to amend the definition of "qualified newspaper" in either Minn. Stats. 645.11 and/or 331A.02 to permit court generated notices to be served by publication by posting to the Minnesota Judicial Branch webpage. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 to amend the definition of “qualified newspaper” in either Minn. Stats. 645.11 and/or 331A.02 to permit court generated notices to be served by publication by posting to the Minnesota Judicial Branch webpage.

A motion was made and seconded to seek legislation in 2024 to establish a Law Library Task Force. The motion prevailed.

Council Action

The Judicial Council will seek legislation in 2024 to establish a Law Library Task Force.

A discussion ensued regarding prioritization of the budget request proposals. There was general agreement that forensic examiner funding, cyber security funding, and jury funding should be the top three priorities for this coming legislative session followed by interpreter funding and safe and secure courthouse funding.

9. Discussion Item: Other Business

a. Judicial Council Meetings held at New or Remodeled Courthouses

Prior to the pandemic, the Judicial Council would visit Judicial Districts and hold Council meetings when there was a significant remodel to a courthouse or the development of a new courthouse. The last time this occurred was in September 2019 at the Sherburne County Judicial Services Building. Jeff Shorba proposed restarting this effort but noted that livestreaming capabilities may not be available when holding Judicial Council meetings in Judicial Districts.

A discussion ensued. There was general agreement from Council members to continue this effort and explore future dates.

b. Strategic Planning Committee Update

Chief Justice Hudson provided an update to Judicial Council that Judge Lawson was appointed as Chair of the Strategic Planning Committee. The Committee will begin meeting in January.

10. Executive Session

A motion was made and seconded to go into Executive Session to discuss security related matters. The motion prevailed.

Following the discussion, a motion was made and seconded to exit Executive Session. The motion prevailed.

There being no further business the meeting adjourned.