



Judicial Council Minutes

September 14, 2023

9:00 a.m.

Room 230, MN Judicial Center and via Zoom

The Judicial Council met in St. Paul, Minnesota, and via Zoom on Thursday September 14, 2023. Chief Judge Susan Segal, Court of Appeals, was not in attendance.

1. Approval of Draft August 17, 2023, Meeting Minutes

Several technical amendments to the August 17, 2023, Meeting Minute were suggested.

A motion was made and seconded to approve the Minutes, as amended. The motion prevailed.

Council Action:

The Judicial Council approved the July 20, 2023, Meeting Minutes, as amended.

- a. **August 17, 2023, Meeting Minutes, as approved.**

2. Governance Follow Up – Judge Michelle Lawson

At the August 17, 2023, Judicial Council meeting, Judge Lawson and Judge Conroy provided an update on discussions between MDJA members and Council Representatives. As a result of the discussions, it was requested that MDJA would come back with a two-fold commitment: (1) to govern with one voice, meaning that MDJA would not take positions that are contrary to, inconsistent with, or undermine what the Judicial Council has determined in terms of administering the Judicial Branch, and (2) to respect the separation of powers principle. MDJA asked for commitments from the Judicial Council that there would be no threats or sanctions on the table so long as MDJA commits to those basic principles.

The Judicial Council did not receive the requested commitments from MDJA. Judge Lawson recommended continuing the discussion at the next Judicial Council meeting once new MDJA leadership is elected. This matter will carry over to the next council meeting.

2. Discussion Item: oneCourtMN Hearings Initiative (OHI) Update – Kirsten Maiko, OHI Evaluation and Organizational Learning Team Lead and Heather Kendall, Second Judicial District Administrator

a. Presentation

b. Hearing Participant Survey Report

Kirsten Maiko, OHI Evaluation and Organizational Learning Team Lead, and Heather Kendall, Second Judicial District Administrator, provided an update on the oneCourtMN Hearings Initiative (OHI) progress regarding the Flexible Courtroom Concept (FCC) pilot and Hearing Participant Survey results.

Flexible Courtroom Concept

The Flexible Courtroom Concept launched in December 2022 in Becker County, Ramsey County, and Meeker County. Since January 2023, over 3,400 adult criminal and juvenile delinquency hearings have been held using the FCC. OHI is excited to see how the pilot develops throughout the rest of the year.

Hearing Participant Survey

The Hearing Participant Survey wrapped up earlier this summer. This was a short, targeted survey for hearing participants attending remotely and in-person. There were close to 3,500 responses to the survey and OHI is confident these numbers provide a representative sample of Minnesota as a whole. Overall, the survey found that hearing participants perceive remote hearings to be just as accessible, timely, and effective as attending in person, and in some cases more so. The main take-aways from the survey were 1) positive remote and in-person hearings experiences; 2) remote hearing attendance reduces barriers to promote access; and 3) most hearing participants preferred attending remotely.

On the Horizon

OHI completed a Resources and Practices Time Study, and the results will be used to assist OHI in developing recommendations to make hearings as accessible, effective, and timely as possible.

This fall, OHI will continue to gather and analyze data from judicial officer and staff engagement focus groups, litigant interviews, and outcome indicators.

The Department of Corrections Scheduling Pilot launches on September 25, 2023, for all districts.

A discussion ensued. It was suggested that fewer hearings are scheduled for remote sessions than in person sessions, and a question was raised if fewer hearings are contributing to the results of the survey. It was noted that OHI plans to analyze data on time-certain hearing practices in different counties. Concern was expressed that there is no data on staff and judicial officer wellness for the FCC model. It was noted that OHI is evaluating the impact to resources.

3. Discussion Item: Performance Measures Report

a. Presentation

b. Performance Measures 2023 Annual Report

Jennifer Ogunleye, Judicial Research Analyst, Strategic Planning Office, provided a statewide overview of the annual Performance Measures Report. Ms. Ogunleye noted positive results as well as areas to show improvement.

Positive results include:

- Clearance Rates: nearly all case types have maintained Clearance Rates at or above 100%.
- Active Pending Caseload: the number of Major Criminal cases actively pending statewide has declined since the implementation of the backlog goal.
- Time to Disposition: Statewide Time to Disposition results in FY23 met the timing objectives for dissolution.

Areas to show improvements include:

- Age of Pending Cases: Statewide, timing objectives for Age of Pending cases were not met at the end of FY23 for any case groups.
- Length of Time to Permanency and Adoption: Statewide, the goals of having 99% of children reach permanency by 18 months and 60% of children reach adoption by 24 months were not met in FY23 and have not been met since the Branch began reporting this information.
- Race Data Collection Rates: Race data collection rates have declined in all case types.
- Juror Representativeness: Statewide, Asian, Black, and Hispanic jurors in the FY2023 jury pool were under-represented compared to their share in the Minnesota adult population.
- Separation Rates: the statewide Separation Rate declined from the previous year, however, rates over the past two years were the highest reported. The rise was driven by increases in the resignation rate.

A discussion ensued. It was noted that the race data collection rates have declined due to the pandemic and its more difficult to collect this data in remote hearings. It was suggested that this data could be collected as part of the electronic check-in process. A question was raised as to how the juror representativeness compares to prior years. It was noted that the juror representativeness was similar to last year.

Each Judicial District, the Court of Appeals, and the Supreme Court reported on their individual results including new initiatives, processes, or programs implemented that made a positive difference in performance and strategies to meet their district's backlog goal.

Discussion ensued as to whether an increase in Rule 20 cases were causing backlog issues. There was general agreement that districts are seeing an increase in Rule 20 cases, that Rule

20 cases take longer, and that there is limited availability for evaluators; however, this is not necessarily contributing to the backlog in all districts. It was noted that the Judicial Council will be addressing the examiner issue at a later Council date.

4. Discussion Item: EP312: Advancement of Vulnerable Care Data Collection
a. Presentation

Jamie Majerus, Branch Audit Manager, State Court Administration and Heather Scheuerman, Court Operations Analyst II, State Court Administration presented EP312: Advancement and Vulnerable Care Data Collection. The goal of this proposal is to ensure people subject to guardianship and conservatorship are adequately taken care of. The project team requested that the Judicial Council approve collecting race data and primary language data to better serve individuals subject to guardianship or conservatorship.

A discussion ensued about the data collection. A question was raised as to how this data will be collected. It was noted the project team is looking at different avenues to collect this data including self-reporting, having the Court Visitor collect it, through electronic check-in and/or self-reported in our MMC/MMG Systems.

There being no objection to acting on the proposal at the current meeting, a motion was made and seconded approve the collection of data.

Council Action:

The Judicial Council approved the collection of race and primary language data for EP312: Advancement of Vulnerable Care Data Collection.

5. Discussion Item: Statewide Court Records Audit –
a. Court Record Final Audit Report
b. Statewide Court Record Audit

Jamie Majerus, Internal Audit Manager, State Court Administration presented the Statewide Court Records Audit. The Statewide Court Records Audit found that the Judicial Branch internal controls were not adequate to ensure that they safeguarded assets, produced reliable information, and complied with legal requirements and judicial policies. The State Court Administrator noted that SCAO and the districts will be making the necessary changes to comply with the audit results. These changes include updating Judicial Council policies and local Court Record Management Plans, and working with IT to make technology enhancements where possible to ensure proper storage and uploads to the repository. Judicial Districts will review their Court Record Management Plans and provide training on the revised policies and Management Plans.

SCAO will provide an audit update to the Judicial Council in the summer of 2024.

6. Discussion Item: HR/EOD Committee Update on Law Clerk Hiring –

a. Presentation

Chief Judge Greg Anderson, HR/EOD Committee Chair, and Dana Bartocci, Human Resources and Development Director, State Court Administration, presented the HR/EOD Committee Update on Law Clerk Hiring. There has been a 15% average increase in wages for current district court law clerks. Law clerks have been moved to a pay for performance model which will support equitable performance management practices and help retain law clerks through pay increases. HRD will monitor application data, retention rates, and merit scores.

7. Discussion Item: FY2022/23 MJB Financial Closing Report

a. Presentation

Dan Ostdiek, Finance Director, State Court Administration, presented the FY2023 Financial Closing Report.

The Judicial Branch effectively utilized the FY2022/23 budget, returning only \$0.05 to the General Fund. \$8.1 million of projected future spending is encumbered as of close and this is \$1 million less than the previous biennium which illustrates that the Branch utilized resources and managed budgets well.

Mr. Ostdiek noted concern with the FY 2024/25 mandate services budget. The mandated services budget is calculated using a three-year rolling average. The three-year rolling average used for the FY2024/25 allocation included pandemic years and thus the mandated services budget is artificially low for this biennium (pandemic years were low in expenses and events). The Branch is seeing a significant increase in mandated services post-pandemic. in both expenses and number of events.

The unfunded needs budget ended the biennium with \$20.374 million and could have been \$32 million if not for the 6% lump sum (approximately \$12 million) that was distributed early in FY23.

8. Discussion/Decision Item: Draft Payables List Out for Public Comment

a. Memorandum

b. Requested Changes to Traffic/Criminal Payables List

c. Requested Changes to Natural Resources Payables List

Chief Judge Stoney Hiljus, COPS Committee Chair, presented the proposed recommendations to the 2024 Payables List.

Chief Justice Gildea reviewed the Payables List process found in Judicial Council Policy 506.1: Statewide Payable Offense Policy, section 1, D. Once the Judicial Council approves

the proposed recommendations, the Payables List will go out for public comment and return to the Judicial Council in November for final approval.

A motion was made and seconded to give preliminary approval to the proposed 2024 Payables List and to publish the Payables List for public comment. The motion prevailed.

Council Action

The Judicial Council gave preliminary approval to the proposed 2024 Payables List for purposes of seeking public comment.

9. Discussion Item: Other Business

Judge Lois Conroy, Minnesota District Judges Association President, was recognized for her service on the Judicial Council.

Chief Justice Gildea was recognized for her outstanding leadership of the Minnesota Judicial Branch throughout her term as Chief.

The October 2023 Judicial Council Meeting was cancelled.

There being no further business the meeting adjourned.