



# Judicial Council Minutes

## April 16, 2020

The Judicial Council met on Thursday, April 16, 2020, via WebEx.

### 1. Approval of Draft March 19, 2020, Meeting Minutes

A technical amendment was offered to the draft minutes.

A motion was made and seconded to approve the draft March 19, 2020, Meeting Minutes, as amended. The motion prevailed.

#### Council Action

The Judicial Council approved the March 19, 2020, Meeting Minutes, as amended.

### 2. Discussion Item: Remote Interpreting Implementation Plan

Tim Ostby, Seventh and Eighth Judicial Districts Judicial District Administrator and Polly Ryan, Court Services Division, State Court Administration, presented recommendations on moving forward with remote interpreting,

The recommendations encompass three areas:

Target Area #1: Expand Use of Remote Interpreting Statewide

- Develop action plans –*District and SCAO*
- Develop communication plan for Judicial Branch, justice partners and interpreters
- Increase the use of remote interpreting statewide
  - 10% to 20% of interpreter events in each District will be conducted with the interpreter appearing remotely

Target Area #2: Technology and Training

- Continue to assess and upgrade technology
- Training – Develop and execute training for court staff, justice partners, and interpreters
- Develop user instructions

Target Area #3: Use of Staff Interpreters

- Develop uniform process for sharing staff interpreter resources
- Establish one year pilot project to share staff interpreters

It was suggested that the topic of remote interpreting be added to performance measures reporting.

The recommendations will be a Decision Item at the May Judicial Council meeting.

### **3. Discussion Item: Performance Measures Reports**

Jennifer Ogunleye, Court Services Division, State Court Administration, provided a statewide overview of the performance measures:

- Statewide results for 2019 Time to Disposition are similar to those in 2018 for Major Civil and Family cases.
- Minor Criminal cases disposed beyond the 99th percentile improve, moving from yellow in 2018 to green in 2019.
- Major Criminal and Juvenile Delinquency cases disposed beyond the 99th percentile worsen in 2019 compared to 2018, but still remain in the yellow.
- Statewide Clearance Rates declined in 2019 compared to 2018 in all case categories except Major Civil. While there is only slight improvement in the Major Civil Clearance Rate from 2018 to 2019, Major Civil and Juvenile cases maintain Clearance Rates of 100% in 2019.
- Statewide results for Age of Pending cases are similar in 2019 compared to 2018, with a slight increase to the percentage of Family cases pending beyond the 99th percentile in 2019 while still remaining in the green. Results remain flat in all other case categories.
- The percentage of cases reaching permanency by 18 months declined to 80% (red) in 2019 compared to 81% (red) in 2018 (goal is 99% in 18 months). The Time to Adoption improved statewide, at 50% (goal is 60% in 24 months) compared to 46% in 2018.
- Filings in CHIPS and Permanency cases increased by 7% from 2015 to 2019, but are 4% lower in 2019 than in 2018.

Each judicial district and the appellate courts reported on performance measures in their courts.

### **4. Discussion Item: Psychological Services Workgroup Report Recommendations**

Judge Kathryn Messerich reviewed the purpose of and recommendations of the Psychological Services Judicial Workgroup. It was noted that the Workgroup originally presented recommendations to the Judicial Council in January and that the Council requested specific recommendations for implementation.

Judge Messerich presented the recommendations:

- A. Continue with SJI Assessment to review psychological services as related to court processes.
  - a. Stakeholder interviews in progress
  - b. Implementation Plan will be presented to Judicial Council in 90 days.
- B. Incorporate learning from Branch's COVID-19 operations

- 1) Remote examinations and testimony
  - 2) Use of electronic medical record
- C. Work with HRED Judicial Education Committee to develop and continue Rule 20 curriculum
- 1) Medications review
  - 2) Online materials (On Demand)
- D. Conduct examiner report assessment to inform examiner continuing education and develop report criteria
- E. Draft adult Rule 20 order template
- 1) 20.01
  - 2) 20.02
  - 3) 20.04
- F. Monitor work of Criminal Rules Committee for revisions or suggestions to adult Rule 20 changes

The recommendations will be a Decision Item at the May Judicial Council meeting.

#### **5. Discussion Item: FY22-23 Biennial Budget Request Process**

Dan Ostdiek, Director, Finance Division, State Court Administration, reviewed the current Judicial Branch biennial budget, potential COVID-19 impacts on the state's budget, historical Judicial Branch funding, and the timeline for development of the FY22-23 Biennial Budget request, which must be approved by the Judicial Council in September.

The impact of COVID-19 on the state's budget was discussed. It was noted that the Executive Branch has instituted a hiring freeze and that state budget officials have made it clear that the state should be prepared for difficult budget challenges.

Proposed Judicial Branch Budget Principles and Guidelines were discussed. It was noted that a lesson learned during the last recent recession is that the uncertainty of the fiscal health of the state requires the Branch to plan for a possible budget shortfall, rather than waiting to react to a budget reduction.

A discussion ensued on the proposed Principles and Guidelines and on measures that could be taken to reduce budget reduction impacts on the Judicial Branch budget. It was noted that the proposal is similar to actions taken during the last recession.

A discussion ensued on a Judicial Branch hiring freeze and its impact on both current operations and post COVID-19. It was noted that an exception process would be included in a hiring freeze.

Proposed Budget Principle #3; Consolidation, reinvention, specialization of functions within the Branch where it makes most sense, was discussed. It was agreed that, if adopted, the principle should be amended as follows: Explore consolidation, reinvention, and specialization of functions within the Branch where it makes most sense.

Proposed Budget Guideline #9, Training Restriction. All trainings will be done remotely unless given an exception/waiver from Chief Judge for respective District/Court and State Court Administrator, was discussed. It was noted that the restriction would be in place for 60 days from promulgation.

A motion was made and seconded to approve the proposed Budget Principles, as amended, and proposed Budget Guidelines 3-12, effective for 60 days.

A discussion ensued on the distribution of the proposed Budget Principles and Guidelines and Judicial Council Bylaws, Article VI, Section 12 which provides:

**Section 12. Meeting Materials.** Meeting materials to be considered at a meeting of the Judicial Council shall be provided to all Judicial Council members via mail or email not less than one (1) calendar week prior to the meeting at which the materials will be considered.

A motion was made and seconded to suspend Judicial Council Bylaws, Article VI, section 12, to allow immediate consideration of the proposed Budget Principles and Guidelines. The motion prevailed.

The original motion to approve the proposed Budget Principles, as amended, and proposed Budget Guidelines 3-12, effective for 60 days, was renewed. The motion prevailed.

**Council Action**

The Judicial Council approved proposed Budget Principles and Guidelines, effective for 60 days:

**Principles:**

1. MJB will employ strategies to minimize impacts to staffing. This can be accomplished by reducing duplicative/unneeded activities and ensuring flexibility within the budget and organization.
2. JAD working together and moving funds where funds are needed on a continuous basis. Funding includes all parts such as DIS District/CPC, Central Accounts, Mandated Services, and Treatment Courts. Court of Appeals and the Supreme Court will work within their budget committees to maximize funding alternatives.
3. Explore consolidation, reinvention, and specialization of functions within the Branch where it makes most sense. Examples include: Consolidation of similar functions (Finance, HR, IT, Training, Business Process)
  - a. Sharing/Pooling of Judicial Resources (Court Reporters, Law Clerks)
  - b. Elimination of duplicative/unneeded activities.

- c. Transfer work where work is needed. Work sharing opportunities should be utilized to maximize courthouse resources being open to the public.

**Budget Guidelines:**

1. Voluntary Separation Incentive Program (VSIP) should be considered.
2. Voluntary Unpaid Salary Savings Leave (VUSSL) should be considered.
3. Out of State - Travel Restriction. All Out of State travel must have approval of Chief Judge for respective District/Court and the State Court Administrator.
4. Restrict In-Person Meetings. Meetings should be done remotely as much as possible.
5. Training Restriction. All trainings will be done remotely unless given an exception/waiver from Chief Judge for respective District/Court and State Court Administrator.
6. Other Discretionary spending should be avoided. This includes updating furniture, reconfiguring work spaces, equipment purchases should be evaluated (refresh schedule possibly lengthened/delayed). Technology expenses that could promote work efficiencies through remote operations should be prioritized.
7. Reduction of Contractors. Only use Contractors when absolutely necessary. Exception process is approval of District Administrator/Division Director and the State Court Administrator.
8. Review space rental for possible reductions.

It was agreed that the topics of a hiring freeze with an exception process, and consideration of reinstatement of a judge four month open vacancy requirement will be discussed by the Judicial Council Executive Committee and will be discussed by the Judicial Council at an Emergency meeting to be scheduled in the near future.

**6. Discussion Item: Draft FY21 Operational Plan**

Katie Schurrer, Strategic Planning and Projects Office, State Court Administration, presented the proposed FY21 Strategic Plan Operational Plan, noting that several of the initiatives to be undertaken are in response to COVID-19.

**7. Discussion Item: Other Side Workgroup Report**

Judge Krista Martin, Chair, reviewed the purpose of the Other Side Workgroup, which is to lead the Branch's planning for court case processing post COVID-19.

The Workgroup identified the following challenges and opportunities:

- Leveraging the increased use of technology during COVID-19 to make the Judicial Branch more effective in the future.
- Implementing solutions with minimized fiscal tails.
- Recognizing differences in resources or access to technology across the state.

- Swift and nimble decision-making will enable quick transition.
- Opportunity for better outcomes through collaboration/feedback from partners, public, employees, and judges’
- Learn what may be similar or different from the Great Recession (e.g. predict what filings may increase, decrease, etc.).

Tentative Workgroup recommendations include:

- Addressing solutions by line of business
- Continue support for existing work advancing remote technology and process simplification
- Statewide outreach to key partners to seek feedback and collaboration

A discussion ensued on the tentative recommendations. It was noted that the recommendations are presented as strategies for immediate implementation and strategies for implementation during the transition when the “Stay at Home” Order is lifted. Strategies for case processing post COVID-19 are currently under development. It was also noted that recommendations for Probate/Mental Health cases will be developed in the future.

A discussion ensued on the possibility of implementing pilot projects to conduct criminal trials and jury trials during the month of May. The Branch can partner with the Department of Health to develop protocols for maintaining social distancing. Courts need to determine the seating of prospective jurors during voir dire and during the trial. It was noted that if a courthouse is too small to conduct jury trials in accordance with social distancing, the court could explore holding the trial in other local venues. It was also suggested that courts explore a pilot for conducting a grand jury session. Courts are asked to contact Chief Justice Gildea if interested in implementing a trial or jury trial pilot project.

A discussion ensued on civil and family case processing. It was noted that paper review of documents and remote hearings should be conducted as much as possible.

The Workgroup will bring future recommendations to the Executive and Judicial Council in the future.

It was noted that meetings with justice partners, to discuss the strategies, will be scheduled in the near future.

**8. Discussion Item: Other Business**

- a. Chief Justice Gildea announced that the MPA Remote with Documents Steering Committee has been appointed and that the group will begin monthly reports to the Council in May. Members include:
  - Judge Pete Cahill, Fourth Judicial District, Chair
  - Jeff Shorba, State Court Administrator
  - Judge David Knutson, First Judicial District
  - Sonja Kruger, Deputy District Administrator, Fifth Judicial District
  - Judge Thomas Van Hon, Eighth Judicial District
  - Paula Lang, Deputy District Administrator, Ninth Judicial District
- b. Chief Judge Edward Cleary, Court of Appeals, was recognized for his service on the Judicial Council.
- c. Executive Session – A motion was made and seconded to go into Executive Session to discuss a personnel matter. The motion prevailed.

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

There being no further business the meeting adjourned.