



Judicial Council Minutes March 18, 2021

The Judicial Council met on Thursday, March 18, 2021 via WebEx.

1. Approval of Draft February 18, 2021 Meeting Minutes

Two amendments were suggested to the draft February Meeting Minutes:

1. Agenda item #2, Page 1, the first sentence of the second paragraph – correct the spelling of Judge Lawson’s name: Judge ~~Larkin~~ Lawson
2. Agenda item #3, at the bottom of page 2:
Amend the first sentence to clarify that the HR/EOD committee did not “create” a judicial benchmark policy and survey. The first sentence should read:

“ HR/EOD Committee recommended a revised and updated judicial development policy and procedures, now called a Judicial Benchmark Policy 221 and surveys.”

A motion was made and seconded to approve the February 18, 2021, Meeting Minutes, as amended. The motion prevailed.

Council Action

The Judicial Council approved the February 18, 2021, Meeting Minutes, as amended.

2. Discussion Item: Minnesota Housing Agency Eviction Relief Efforts

Ms. Anne M. Smetak, Minnesota Housing Agency, presented information on Minnesota’s COVID-19 Emergency Rental Assistance program.

The COVID-19 Emergency Rental Assistance Program (CERA) will provide assistance to benefit renter households that have experienced or are at risk of financial hardship due to the COVID-19 pandemic.

Ms. Smetak noted that the available funds can be used for rent, utilities, and other housing administration costs, e.g. late fees. She also noted that the application forms will be printed in English, Spanish, Hmong, and Somali.

A discussion ensued on the need to widely distribute information on this program to judges, court staff, and the Judicial Branch’s self-help web site and public web site.

3. Decision Item: Cass County Pretrial Risk Assessment Validation Study

It was noted that Judicial Council Policy 524; Pretrial Release Evaluation, provides that the Judicial Council, in consultation with the Department of Corrections, must approve the pretrial evaluation form and risk-assessment tool to be used in each county. In addition, the policy provides that if a county opts not to use the statewide approved pretrial evaluation form and/or risk-assessment tool, the county must request and obtain approval from the Judicial Council to use an alternative form and/or tool.

Dr. Elizabeth Kujava, Greg Herzog, Senior Grant Administrator, MN Department of Public Safety, Office of Justice Programs, Jim Schneider, Director, Cass County Probation Department, and Travis Fisher, Cass County Probation Department, presented the Cass County form and tool, and the validation study performed in relation to the development of the form and tool.

It was noted that Cass County originally presented a proposed pretrial evaluation form and risk-assessment tool to the Judicial Council in January 2020. Dr. Elizabeth Kujava, the proposal's author, was asked to work with State Court Administration staff to resolve questions about the evaluation tool.

Dr. Kujava noted that the new model before the Council is stronger and reduces measurement bias and the time it takes to complete the tool. In addition, the risk tool is better aligned to other risk tools.

A motion was made and seconded to approve the Cass County pretrial evaluation form and risk-assessment tool. The motion carried.

Council Action

The Judicial Council approved the Cass County pretrial evaluation form and risk assessment tool.

4. Discussion Item: Other Side Workgroup Report

Judge Michelle Lawson, Workgroup Chair, Krysta Reuter, Emergency Management Analyst, and Grant Hoheisel, Court Services Division, provided the monthly update. Information on the current COVID-19 indicators, criminal clearance rates, remote hearings, and the litigant and attorney survey were presented.

Judge Lawson also reported on the remote civil jury trial pilot, noting that Hennepin and Ramsey Counties have scheduled mock civil jury trials and that State Court Administration staff will collect feedback and document best practices from the remote civil jury pilots.

The Workgroup recommendations for future court case processing were presented:

- Change timeline from April 30 to June 13.
- Criminal Jury Trials – no change.

- Civil Jury Trials – exception process should continue; District Chief Judge, after consultation with Chief Justice, to determine whether the exception criteria is met for a particular trial.
- No Change in public service counter services.
- Sentencing Hearings – conducted-in person for presumptive commitment cases without requiring an exception request. It was noted that this recommendation is not suggesting that defendants appearing remotely from jail and prison need to appear in person.
- Expand in-person hearings through exception process to include contested hearings in other case types, as of April 30.

A discussion ensued. Concern was expressed with conducting in-person sentencing hearings unless the county is adhering to COVID-19 restrictions. It was suggested that the Chief Judge exception process continue or that strict parameters be put in place to limit the number of persons permitted in a courtroom. It was agreed that, as long as safety protocols are adhered with, there can be in-person presumptive commitment sentencing hearings.

A discussion ensued on the feasibility of on-site pre-trial activities with a streamlined approval process. It was suggested that the Other Side Workgroup explore this concept.

Other aspects of the Chief Justice Order were discussed. It was suggested that the timeline be changed from June 13 to June 14 because the 14th is a Monday. It was suggested that no changes be made to restrictions on Grand Juries. It was suggested that criminal juries trials will be held unless, after consultation with the chief judge, a determination is made that safety concerns prevent the trial from going forward.

It was noted that, with the latest opening of jury trials on March 15, the Judicial Branch would be in Stage 4 of the Pandemic Policy.

The Other Side Workgroup was requested to begin exploring how the Branch will process cases “on the other side” and to come back to the Judicial Council with recommendations. The issues of conducting in-person treatment court hearings, and the re-instatement of clearance rate goals or another measure should also be discussed.

A motion was made and seconded to recommend:

- Change timeline from April 30 to June 14.
- Criminal Jury Trials – no change.
- Civil Jury Trials – exception process should continue; District Chief Judge, after consultation with Chief Justice, to determine whether the exception criteria is met for a particular trial.
- No Change in public service counter services.
- Sentencing Hearings – conducted-in person for presumptive commitment cases without requiring an exception request. It was noted that this recommendation is not suggesting that defendants appearing remotely from jail and prison need to appear in person.

- Expand in-person hearings through exception process to include contested hearings in other case types, as of April 30.

The motion prevailed.

Council Action

The Judicial Council recommended the following changes in the Chief Justice Order:

- Change timeline from April 30 to June 14.
- Criminal Jury Trials – no change
- Civil Jury Trials – exception process should continue; District Chief Judge, after consultation with Chief Justice, to determine whether the exception criteria is met for a particular trial.
- No Change in public service counter services.
- Sentencing Hearings – conducted-in person for presumptive commitment cases without requiring an exception request. It was noted that this recommendation is not suggesting that defendants appearing remotely from jail and prison need to appear in person.
- Expand in-person hearings through exception process to include contested hearings in other case types, as of April 30.

5. Discussion Item: Performance Measures Reports

Jennifer Ogunleye, Court Services Division, presented a statewide summary of performance measures highlights. Each judicial district and the appellate courts also reported on local efforts.

6. Decision Item: Proposed Judicial Council Judicial Benchmark Policy and Survey

Judge Williamson presented the final proposed Judicial Council Policy 402 and the accompanying surveys. It was noted that training for mentors will occur in June.

A motion was made and seconded to approve proposed Judicial Council Policy 402; Judicial Benchmark Survey Policy, and accompanying surveys. The motion prevailed.

Council Action

The Judicial Council approved proposed Judicial Council Policy 402; Judicial Benchmark Survey Policy, and accompanying surveys.

7. Discussion Item: Internal Audit Report - State Court Administration

Jamie Majerus, Internal Audit Manager, presented the results of an internal audit of the State Court Administrators Office (SCAO) internal control structure.

8. Decision Item: February Forecast and FY22-23 Legislative Budget Request Impact

The Judicial Council discussed the supplemental budget request, submitted earlier in the week. It was noted that time was of the essence and that the proposal was discussed with the Judicial Council Executive Committee. The Executive Committee concurred that the request should focus on one-time expenditures. The request included Cyber Security Program improvements - \$750,000, Courthouse Security Grants - \$1M, and Phase 3 of the Court Records Online Initiative - \$850,000.

A discussion ensued on the request. Concern was expressed that the current state of the state's budget does not permit the Branch to also request funding for salary increases for the first year of the biennium.

9. Discussion Item: Other Business

A motion was made and seconded to go into Executive Session to discuss personnel matters. 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.