



# Judicial Council Agenda

## November 14, 2019

### 9:00 a.m.

### Room 230, MN Judicial Center

The Judicial Council met on Thursday, November 14, 2019, in St. Paul, Minnesota. Fourth Judicial District Assistant Chief Judge Toddrick Barnette attended for Chief Judge Ivy Bernhardson.

#### **1. Approval of Draft October 17, 2019, Meeting Minutes**

A motion was made and seconded to approve the minute of the Judicial Council October 17, 2019, Meeting, with an amendment to page 8. The motion prevailed.

#### **2. Decision Item: Proposed Judicial Council Policy 605; Emergency Management**

Krysta Reuter, Judicial Branch Emergency Management Analyst, presented amendments to Judicial Council Policy 605; Emergency Management, as requested by the Judicial Council. In the Policy Statement, language was changed to state that the Judicial Branch Emergency Management Program will be in compliance with commonly accepted best practices of the United State Department of Homeland Security and, in particular, the Federal Emergency Management Agency. A definition of “emergency” was added. A motion was made and seconded to approve proposed Judicial Council Policy 605; Emergency Management. The motion prevailed.

#### **3. Decision Item: Approval of 2020 Payables Lists**

Chief Judge Kathryn Messerich, Chair, COPS Committee, reviewed the two comments received on the proposed Payables Lists during the public comment period. The typographical error was corrected and the COPS Committee disagreed with the suggestion that the recommended fine for an oversized vehicle to yield at a roundabout at \$200, should be reduced to \$100 to be in line with other similar violations.

A motion was made and seconded to approve the 2020 Traffic/Criminal Payables List. The motion prevailed.

#### **Council Action**

The Judicial Council approved the 2020 Traffic/Criminal Payables List.

A motion was made and seconded to approve the 2020 Natural Resources Payables List. The motion prevailed.

**Council Action**

The Judicial Council approved the 2020 Natural Resources Payables List.

A motion was made and seconded to approve the 2020 Trucks and Common Carriers Payables List. The motion prevailed.

**Council Action**

The Judicial Council approved the 2020 Trucks and Common Carriers Payables List.

**4. Discussion Item: Annual Review of Judicial Council Policy 221: Court Reporter Transcript Rates**

Jeff Shorba, State Court Administrator, reviewed the history of the policy, noting that it was first promulgated by the Conference of Chief Judges in 2004 and was subsequently adopted by the Judicial Council in 2006. He also noted that, at the request of the Judicial Council, additional information could be collected from stakeholders, justice partners, and other states.

Staff was directed to solicit input from stakeholders and justice partners. The decision on whether to amend the policy will be on the December Judicial Council agenda.

**5. Discussion Item: Update on MPA Remote with Documents Project**

Sarah Novak, Legal Counsel Division and Ann Peterson, Strategic Planning and Projects Office; State Court Administration, provided an update on the MPA Remote with Documents Project.

It was noted that the project scope included the creation of a new application that will:

- a. Replace the current MPA Remote;
- b. Add Public1 documents; and
- c. Charge for the purchase of Public1 documents.

In May 2019, the Judicial Council instructed staff to post a request for proposal (RFP) for potential remote access vendors; explore developing a new application with other jurisdictions; and explore the impact on current technology projects if the application were developed in-house.

The RFP was issued in July 2019 and one response was received. Staff concluded that the vendor did not pass Phase 1 or Phase 2 evaluations and recommends that development with the vendor should not be pursued.

Meetings and phone calls were conducted with other states that use the Tyler Technology case management application, Odyssey, about co-developing an application. It was noted that all states have different access rules, different expectations for remote access, and different information technology platforms, due to “customizations” done for each individual state. For example, South Dakota has no public access available at this time.

South Dakota's technology platform is older technology and different than Minnesota. Business rules and expectations are different. Code would need to be stripped out and re-developed for Minnesota to use. The South Dakota lead developer and IT manager stated "It will take twice as much time to change someone else's code than to develop your own."

In Indiana, the access system has been built in phases, based on current priorities. Public access is available for limited documents. Users are not charged a fee for documents. The business rules and expectations are much different than Minnesota. Indiana does not use Odyssey on a statewide basis.

The risks associated with co-development were discussed, including:

- a. Extending project time and cost;
- b. Quality might suffer when trying to accommodate differences;
- c. Application may not fully meet Minnesota's needs.

Staff recommends that co-development should not be pursued.

Information on internal development and its impact on current technology projects will be discussed at the December Judicial Council meeting.

A discussion ensued. It was noted that it is not possible to add the public to the MGA access portal. The result would be that the public gains access to information not permitted under current Rules of Access or government partner access to applicable court records and documents would be restricted. The MGA system cannot be programmed to handle multiple types of access.

Staff was instructed to keep co-development with other states as a potential option.

## **6. Discussion Item: Update on Efforts to Address Access and Fairness Survey Results**

Grant Hoheisel, Strategic Planning and Projects Office, State Court Administration, reported on efforts underway to address the results of the Access and Fairness Survey. The five targeted areas include:

- a. Waiting time - An in-depth analysis identified waiting time as a statewide issue, affecting all stakeholders. Waiting time has the largest impact in juvenile protection and criminal cases.
- b. Online services – The in-depth analysis identified a desire to do more court business on-line, with the largest need in the areas of civil/housing, traffic/parking, probate, and dissolution/custody/support.
- c. Public website – Several areas of improvement were identified, including the need for plain language; improved website navigation/search; clear instructions for how to conduct court business online; and an explanation of why case information is or is not on the website.
- d. Racial equality – It was noted that there is a lower overall access and fairness agreement percentages for respondents of color relative to white respondents;

specific racial groups have lower scores than others (Native American) and that there is some variation by district.

- e. Court Payment Center – The in-depth analysis identified three areas for improvement: information was not easily found; phone experiences (both automated and live); and the ability to complete business in a reasonable amount of time.

Mr. Hoheisel also reviewed possible proposals to address the identified areas in need of improvement. The Judicial Council requested that additional information on the proposals, including timelines and identification of pilot sites, be presented at the December Judicial Council meeting.

## **7. Discussion Item: Legislative Advisory Workgroup Recommendations on 2020 Judicial Branch Legislation**

Judge Lucinda Jesson, Chair, Legislative Advisory Workgroup, reviewed the six legislative proposals which the Workgroup recommends be discussed by the Judicial Council for possible introduction during the 2020 Session:

- a. Clarify that an employer has a duty to release the employee from his or her regular work schedule for the day the employee has jury duty regardless of when during the day the employee would have worked.
- b. Amend the definition of “qualified newspaper” in either 645 and/or 311A to permit court-generated notices to be served by publication by posting to the Minnesota Judicial Branch webpage. Alternatively: amending the harassment restraining order statute to permit published notice by “alternative means as determined by the Court.”
- c. Remove the statutory requirement for a civil commitment treatment facility to endorse receipt of an original warrant or acknowledge receipt of the commitment order and file the endorsed receipt or acknowledgement with the court of commitment.
- d. Clarify what the court should consider in determining whether a name change applicant has a criminal history or who is responsible for seeking and paying for a national records search.
- e. Clarify the rent escrow filing fee statute.
- f. Amend laws to recognize Court Record Workgroup recommendation, as approved by Judicial Council: “The Branch Should Not Require One Court Reporting Method.” Repeal obsolete language and statutes.

A discussion ensued on the “qualified newspaper” proposal. Concern was expressed that the proposal will not improve service by publication and that the proposal will be detrimental to small newspapers.

The Judicial Council also discussed three funding proposals. One would seek funds for the Judicial Branch cyber security efforts that were not funded in 2019. The second proposal would seek \$3 million for courthouse security grants. The third would request at least one trial court judge unit. It was noted that the funding proposals are contingent on a supplemental budget bill being introduced during the 2020 Session.

Three proposals brought forth by justice partners, for which Judicial Branch support is sought, were also discussed. The first would protect certain information on IV-D participants with safety concerns. The second would re-activate the \$2 Court Technology Fee and the third addresses veterans in the criminal justice system, providing for stays of adjudication for certain offenders who enter a plea of guilty and permitting the use of Veterans Treatment Courts to supervise these offenders.

Lastly, the Judicial Council discussed the recent action by the Sentencing Guidelines Commission to recommend that probation be capped at five years for certain offenders. A public hearing on the recommendation will occur in December. Council members were encouraged to contact the Judicial Branch Sentencing Guidelines Commission members to discuss concerns.

**8. Discussion Item: Other Business**

- a. March Council Meeting – It was noted that the March meeting will include a Special Topic Session on Judicial Resource Allocation.
- b. Marieta Johnson was recognized for her service on the Judicial Council.

**9. Executive Session: Cyber Security Matters**

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

**10. Executive Session: Personnel Matters**

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

A motion was made and seconded to approve the appointment of Sara Taylor as the Sixth Judicial District Administrator, upon the retirement of Marieta Johnson. The motion prevailed.

**Council Action**

The Judicial Council approved the appointment of Sara Taylor as the Sixth Judicial District Administrator, upon the retirement of Marieta Johnson.

There being no further business the meeting adjourned.