

Steering Committee on Arizona Appellate Case Processing Standards

December 9, 2015

9:30 a.m. to 11:30 a.m.

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 230

APPROVED on 01/20/2016

Committee Members Present: Justice Ann A. Scott Timmer (Chair), Ms. Janet Johnson, Judge Michael J. Brown, Dr. William Mangold, Ms. Kimberly Demarchi, Ms. Patsy Lestikow representing Ms. Ruth Willingham, and **Appearing Telephonically:** Judge Peter J. Eckerstrom, Mr. Jeffrey Handler

Administrative Office of the Courts Staff Present: Ms. Summer Dalton, Ms. Jerri Medina

A. Welcome and Opening Remarks

The Chair called the first meeting of this Committee to order at 9:30 a.m. Following roll call and introductions the Chair welcomed the members and thanked them for their participation. She noted that the Committee would be reviewing the Model Time Standards for Appellate Courts developed by the National Center for State Courts (NCSC) in tandem with the Arizona Appellate CourTools measures that are currently in place. The Committee is required to submit a report by early March 2016 recommending whether to adopt the national standards or other standards. Any standards adopted will make our appellate courts more transparent to the public and allow for comparison to each other and with other appellate courts across the nation. This is part of an ongoing effort to implement case processing standards across Arizona.

B. Overview of Appellate CourTools

The Chair provided an overview of CourTools and how they are currently used by the appellate courts. Currently, the appellate courts utilize the following measures: Case Clearance, Age of Pending Case Load, Time to Disposition, and biennial surveys to superior court judges, appellate attorneys, and court employees. A definition of the statistical measures was provided and discussed.

C. What is Occurring Nationally?

The Chair provided a brief overview of appellate time standards from a national perspective. The Conference of Supreme Court Chief Justices (CCJ) and the Council of State Court of Administrators (COSCA) formed a committee in 2013/2014 to establish national standards for appellate courts. The committee established model time standards for civil and criminal case types in appellate courts. The appellate model time standards recognize the differences between intermediate appellate courts and the courts of last resort by setting separate standards for each.

The model time standards provide a foundation from which states can define standards. This Committee was directed by Chief Justice Scott Bales to use the model guidelines as a starting point to recommend standards for Arizona.

D. Where Does Arizona fit in?

Ms. Summer Dalton presented to the committee statistical information regarding how the Arizona Appellate Courts fare under the national model time standards. She discussed some of the measurement differences between CourTools versus the model time standards. Ms. Dalton also pointed out that Arizona CourTools draw upon stages of a case which were not contemplated in the model time standards. The committee discussed the interplay of CourTools with any standards adopted.

E. Discuss Plan for Arizona

The Chair explained that Chief Justice Bales anticipates final recommendations by March 1, 2016. The constraints of the court's electronic case management systems should be taken into account when recommending standards and implementation plans. The ability to derive accurate information from the case management system will be imperative in measuring performance under any adopted standards.

The Committee's work is viewed to be achievable in three stages; 1) determine standards, 2) test the recommended standards to verify that technology can support the reporting requirements, and 3) create the final report for the Chief Justice.

Discussion ensued regarding the common stages of a case and where the delays may be occurring. An exploratory discussion included the need to determine if standards should be set at stages rather than solely from initial filing to disposition. The Committee discussed whether criminal and civil case standards were sufficient or if other case types such as family and juvenile should have separate standards. There was general support to separate family and juvenile cases from civil cases, but committee members will discuss this topic further at the next meeting.

F. Future Meeting Dates

January 14, 2016 at 9:30am (*amended following the meeting to January 20th due to scheduling conflicts*)

February 11, 2016 at 9:30am

G. Future Tasks

Ms. Summer Dalton will put together information to outline where delays are currently occurring in the case flow processes and also identify areas over which the court has control.

Committee members be prepared before the next meeting to discuss whether and to what extent the national standards should be adopted and whether any standards should be set for different stages in a case.

Discussion suggested that an additional member from the criminal bar might be advantageous to the committee. Justice Timmer will address that issue with the Chief Justice.

Requests for comments will be sent out to various legal employers and groups across the state. The committee was shown the website where public comments can be provided. The Website is: <http://www.azcourts.gov/cscommittees/Committee-on-Arizona-Appellate-Case-Processing-Standards/comments>.

H. Call to the Public/ Adjournment

There was no response to a call to the public and the meeting adjourned at 11:28am at the State Courts Building, 1501 West Washington, Room 230.

Steering Committee on Arizona Appellate Case Processing Standards

January 20, 2016

9:30 a.m. to 11:30 a.m.

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 412

APPROVED on 02/11/2016

Committee Members Present: Justice Ann A. Scott Timmer (Chair), Chief Judge Michael J. Brown, Ms. Kimberly Demarchi, Ms. Janet Johnson, Ms. Alice Jones, Ms. Ruth Willingham, and **Appearing Telephonically:** Chief Judge Peter J. Eckerstrom, Mr. David Euchner, Mr. Jeffrey Handler and Dr. William Mangold

Administrative Office of the Courts Staff Present: Ms. Summer Dalton, Ms. Jerri Medina

A. Welcome and Opening Remarks

The Chair called the Committee meeting to order at 9:32 a.m. and followed with roll call and introductions of new members, Ms. Alice Jones, Arizona Assistant Attorney General, Criminal Appeals Section, and Mr. David Euchner, Assistant Pima County Public Defender, Appellate Unit.

The draft minutes from the December 9, 2015 meeting of the Steering Committee on Arizona Appellate Case Processing Standards were presented for approval. The chair called for any omissions or corrections to the minutes. There were none.

- Motion was made by Chief Judge Peter Eckerstrom to approve the December 9, 2015 meeting minutes of the Steering Committee on Arizona Appellate Time Standards. Seconded by Ms. Janet Johnson. The motion passed unanimously.

B. Review Comments Received

The chair informed members that comments were solicited from the attorney community regarding implementation of Appellate Time Standards and a copy of all comments received to date was presented for committee review.

C. What Should be Measured?

Ms. Summer Dalton reviewed the National Model Time Standards and the CourTools reference points, which are currently tracked by the courts. She then presented current data for specific stages of a case such as; *filing to discretionary review*, *at issue to disposition* and *oral argument to disposition*, and *filing to disposition*.

The different stages of a case were further discussed. Committee members noted the importance of measuring the time in which the appellate bench has control of the case separately from the total time from filing to disposition. Members discussed the “gathering of the record” stage. This includes preparation of the transcripts which is a statutory responsibility of the Superior Court. A key point of the discussion was the fact that the courts may find benefit in measuring specific

stages of a case. This method would support the identification of specific problem areas. Data presented in this manner would also provide information regarding resources and may be of interest to other stakeholders such as funding authorities and litigants.

The chair asked for discussion on what should be measured. Discussion occurred to measure areas relevant to all stakeholders. The chair called for a preliminary vote to items discussed.

- Motion was made by Mr. David Euchner to measure standards from beginning to end (initiating event or petition for review to disposition). Seconded by Ms. Kimberly Demarchi. Motion passed with majority; Chief Judge Michael Brown opposed.
- Motion was made by Ms. Kimberly Demarchi to also measure standards in stages: 1) Preparation of Record, 2) Briefing, and 3) Decision Making. Discussion ensued. Ms. Demarchi amended the motion to setting a standard for the decision-making stage only (at issue to disposition - chambers control). Amended Motion seconded by Ms. Janet Johnson. Discussion of amended motion ensued. Motion passed unanimously.

The chair asked for discussion on which case types should be measured. Discussion involved the reasons to include or exclude the following case types: Criminal, Industrial Commission, Special Action, Juvenile, Civil and to separate Family Law from Civil.

- Motion was made by Ms. Kimberly Demarchi to measure the following case types: Civil, Criminal, Family, Juvenile, Industrial Commission and Special Actions. Seconded by Chief Judge Michael Brown. Motion passed unanimously.

D. Discuss Preliminary Standards

The national model approaches measurement with two distinct points of measure; one for 75% of cases and another for 95%. This approach was appealing to the committee. Discussion ensued regarding the pros and cons of using the current CourTools 75% reference point as one of these points of measure. The Committee noted that existing reports could be used to satisfy the requirements being discussed. Some members raised concerns about two separate reporting requirements if the standards were adopted while continuing the use of CourTools.

E. Future Planning

Data will be gathered to determine the number of days by which 75% of the cases have been disposed as well as the number of days by which 95% of the cases have been disposed. Court of Appeals data will consist of 1) filing to disposition and 2) assignment to disposition information for the last three fiscal years. Supreme Court data will consist of 1) filing of petition to review to discretionary review decision and 2) assignment to disposition. Information will be compiled and shared with Committee members prior to the next meeting.

F. Call to the Public/ Adjournment

Next meeting is on February 11, 2016 at 9:30am at the State Courts Building.

There was no response to a call to the public and the meeting adjourned at 11:37am.

Steering Committee on Arizona Appellate Case Processing Standards

February 11, 2016

9:30 a.m. to 12:00 p.m.

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 345A

Meeting Minutes – APPROVED 02-26-2016

Committee Members Present: Justice Ann A. Scott Timmer (Chair), Chief Judge Michael J. Brown, Ms. Kimberly Demarchi, Ms. Janet Johnson, Ms. Alice Jones, Ms. Ruth Willingham, and **Appearing Telephonically:** Chief Judge Peter J. Eckerstrom, Mr. David Euchner, Mr. Jeffrey Handler and Dr. William Mangold

Administrative Office of the Courts Staff Present: Ms. Summer Dalton, Ms. Amy Wood, Ms. Jerri Medina

A. Welcome and Opening Remarks

The Chair called the Committee meeting to order at 9:33 a.m. and followed with roll call.

The draft minutes from the January 20, 2016 meeting of the Steering Committee on Arizona Appellate Case Processing Standards were presented for approval. The chair called for any omissions or corrections to the minutes, discussion ensued regarding that the motion made by Ms. Demarchi on which stages of a case to measure, specifically was it intended to be at the time of judge assignment or at the time the briefing period was over and the case became “at issue”. Committee decided the draft minutes required no changes.

- Motion was made by Mr. David Euchner to approve the January 20, 2016 meeting minutes of the Steering Committee on Arizona Appellate Time Standards. Seconded by Ms. Kimberly Demarchi. The motion passed unanimously.

B. Review Comments Received

The Committee reviewed a comment received from the Maricopa County Public Defender’s Office (MCPD). MCPD expressed concerns with the national model standard for the Court of Appeals, specifically the possibility of eliminating measuring by the different stages of a case. MCPD feels that without timeframes by stage of case, attorneys will be held to unrealistic standards.

C. Statistical Review

The Chair reviewed the statistical approach of using the 75th percentile and the 95th percentile standards for the Appellate Courts. The chair asked for information to be presented for the following: 1) The entire case from start to finish and 2) Assignment/Judicial Review to Disposition along with any constraints with respect to obtaining the data.

Discussion ensued regarding starting from "at issue" vs. "judge assignment". The goal is to differentiate the work of the judges vs. the work of the court as a whole (which is counted in the filing to disposition measure). Discussion continued regarding distinguishing what the court controls, not only the judges, and to the track what is in the courts' control instead of tracking from judicial assignment. Arguably the presiding judge has control of the entire court in terms of being able to direct existing resources (staff attorneys, clerk's office).

The chair asked the committee if it wants to procedurally make a motion to reconsider their decision and vote for something different.

- Motion was made by Ms. Kimberly Demarchi to track "filing to the ultimate disposition" and "at issue to ultimate disposition" within court of appeals. Seconded by Mr. David Euchner. Majority in favor, Chief Judge Michael Brown and Ruth Willingham opposed. The motion passed with majority.

The committee decided previously to have two standards of measure, the "at issue" to disposition and the filing to disposition. But the statistical data compiled were for "judge assignment to disposition" not "at issue to disposition" based on discussions at the last meeting.

Each court provided information to Ms. Dalton which was compiled into a table for comparative reference. Ms. Summer Dalton shared the data findings and the applicable national standard recommendations for reference with the committee. Ms. Dalton explained that she met with respective information technology (IT) and court representatives for the Court of Appeals Division One and the Supreme Court. The information required to be able to track, monitor and report on the standards is available through the current case management system. Existing reports can be used to extract the raw data. However, without minor modifications to the case management system some manual analysis is required to be able to track the standards as proposed. The frequency with which reports will be run would determine whether the manual analysis is reasonable. The modification referenced pertain to changes to accommodate the 95th percentile and it was reported this would require minimal programming effort.

It was noted that Court of Appeals Division Two does not currently track family cases separately but would be able to begin doing so on a day-forward basis.

Discussion was held regarding cases with dissenting opinions and additional time these cases take. The committee agreed that this likely occurs in only 1-2% of the cases and that these situations would be outliers falling within the 5% of cases rather than the 95% which would be expected to meet the standards.

The committee discussed fall-out rates in juvenile Court of Appeal cases. Many cases are dismissed or abandoned early in the case and are never assigned to a judge or panel. If this pattern changes over time, it will impact the court's ability to meet the standards.

D. Determine Standards

Below are the provisional standard recommendations.

Court of Appeals

Juvenile	Filing to Disposition		"At Issue" to Disposition	
	75%	95%	75%	95%
	200	250	100	125
Ind. Commission	Filing to Disposition		"At Issue" to Disposition	
	75%	95%	75%	95%
	275	365	125	150
Family	Filing to Disposition		"At Issue" to Disposition	
	75%	95%	75%	95%
	365	450	120	180
Civil	Filing to Disposition		"At Issue" to Disposition	
	75%	95%	75%	95%
	390	500	175	240
Criminal	Filing to Disposition		"At Issue" to Disposition	
	75%	95%	75%	95%
	450	600	100	160
Special Action	Filing to Disposition		"At Issue" to Disposition	
	75%	95%	75%	95%
	40	80	NA	NA

- Motion was made by Mr. David Euchner to approve the above Court of Appeals standards for now (with the understanding that the numbers could be adjusted at the next meeting depending on what the additional performance data shows for the at issue to disposition standard). Seconded by Ms. Alice Jones. The motion passed.

Supreme Court

Juvenile	Filing to Discretionary Review		Review Accepted to Disposition	
	75%	95%	75%	95%
	125	150	120	180
Ind. Commission	Filing to Discretionary Review		Review Accepted to Disposition	
	75%	95%	75%	95%
	150	180	180	240
Family	Filing to Discretionary Review		Review Accepted to Disposition	
	75%	95%	75%	95%
	125	150	120	180
Civil	Filing to Discretionary Review		Review Accepted to Disposition	
	75%	95%	75%	95%
	150	180	180	240
Criminal	Filing to Discretionary Review		Review Accepted to Disposition	
	75%	95%	75%	95%
	150	180	180	240
Special Action	Filing to Discretionary Review		Review Accepted to Disposition	
	75%	95%	75%	95%

	70	120	40	80
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Discussion on judge assignment verses at issue, the previous motion was for the COA only. Measuring the time that it is actually assigned to chambers. It was felt that the measurements should be as consistent as possible.

- Motion was made by Ms. Janet Johnson to approve the above Supreme Court standards. Seconded by Ms. Alice Jones. The motion passed unanimously.

E. CourTools Recommendation

The committee has had several discussions in past meetings on whether to continue with the CourTools time to disposition measure in in addition to time standards reporting with members raising concerns that it is somewhat duplicative.

- Motion was made by Ms. Ruth Willingham to keep the CourTools time to disposition measure only as an optional internal self-management tool. Seconded by Chief Judge Michael Brown. The motion passed unanimously.

F. Future Planning

The next meeting will be on February 26, 2016. Before the next meeting the Court of Appeals and the Supreme Court will evaluate data based on the current recommendations. The results of the evaluation should be provided to either the Committee Chair or Ms. Summer Dalton for review. At the next meeting, the committee will review the recommendations one last time and the vote on the final report that will be submitted to Chief Justice Scott Bales.

G. Call to the Public/ Adjournment

Next meeting will be a teleconference and on February 26, 2016 at 9:00am. There was no response to a call to the public and the meeting adjourned at 12:22pm.

Steering Committee on Arizona Appellate Case Processing Standards

February 26, 2016

9:00 a.m. to 10:00 a.m.

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 412 and Teleconference

Meeting Minutes – Approved 03-24-2016

Committee Members Present: Justice Ann A. Scott Timmer (Chair), Chief Judge Michael J. Brown, Ms. Kimberly Demarchi, Ms. Janet Johnson, Ms. Ruth Willingham, and **Appearing Telephonically:** Chief Judge Peter J. Eckerstrom, Mr. David Euchner, Mr. Jeffrey Handler, Ms. Alice Jones, and Dr. William Mangold

Administrative Office of the Courts Staff Present: Ms. Summer Dalton, Ms. Jerri Medina

A. Welcome and Opening Remarks

The Chair called the Committee meeting to order at 9:00 a.m. and followed with roll call.

The draft minutes from the February 11, 2016 meeting of the Steering Committee on Arizona Appellate Case Processing Standards were presented for approval.

- Motion was made by Ms. Janet Johnson to approve the February 11, 2016 meeting minutes of the Steering Committee on Arizona Appellate Time Standards. Seconded by Ms. Ruth Willingham. The motion passed unanimously.

B. Review Final Report Draft

The Committee reviewed the memo submitted by Chief Judge Brown along with the suggested changes for the Court of Appeals Time Standards. Judge Brown discussed the statistical data for the measure of *At issue to Disposition*. This data was available for the Committee to review in a memo prepared by Judge Brown. Previously the Committee had been reviewing data from a different measure, which was for *Assigned to Panel to Disposition* stage of a case.

Mr. David Euchner discussed concerns with this proposal explaining that there is a perception that the court is holding court reporters and attorneys to a higher standard than the court. One example relates to the overall time allotted for case processing and the amount of time associated with judicial processing versus processing prior to judicial review. There is a concern that time added to *At Issue to Disposition* (judicial time) is being taken away from the record preparation and briefing time in the *Filing to Disposition* measure (overall case). Mr. Euchner proposed that the Committee preserve the standards as proposed in the draft final report.

After much debate concerning appropriate standards for the stages of an appeal, Justice Timmer asked whether it would be beneficial to adopt only the overall standard of *Filing to Disposition* for the Court of Appeals while internally tracking the stages which make up that standard. This would be in-line with the national model. Mr. Euchner opposes having only one standard, stating when you have three pieces to the puzzle “judges, attorney, and court reporters”, judges have the power to influence the speed in which

a case goes through the court. By having a standard that measures judicial work, judges are held accountable to productivity standards.

Discussion ensued on acceptability of having only the *Filing to Disposition* standard coupled with a recommendation from the court to regularly publish information regarding how much time it takes on each of the four stages of the case; 1) Filing to Record Preparation, 2) Record Preparation to Conclusion of Briefing, 3) Conclusion of Briefing to Assigned to Panel, and 4) Assigned to Panel to Decision.

- Chief Judge Brown made a motion to remove the *At Issue to Disposition* standard, allowing for one standard of *Filing to Disposition* only for the Court of Appeals. Along with the annual publishing of the court's performance against the standard each court will also publish data showing the performance of each stage listed below. However, if technology does not allow us to adequately capture the completion of record stages 1 and 2 will be combined.
 1. Notice of Filing to Completion of Record
 2. Notice of Completion to At Issue
 3. At Issue to Assign to Panel
 4. Assign to Panel to Disposition

Seconded by Chief Judge Peter Eckerstrom. Mr. David Euchner opposed. Passed with majority.

Chief Judge Brown discussed information discovered from current data and recommended adding 10 days to the Industrial Commission on the *Filing to Disposition* standard.

- Motion to move the *Filing to Disposition* standard for Industrial Commission from 275 days to 285 days made by Chief Judge Brown. Second by Mr. David Euchner. Passed unanimously.

C. Future Planning

Chair will discuss extending the Committee with Chief Justice Bales to allow further discussion on the proposed standards. A meeting will be set to vote on final report.

Mr. David Euchner will be writing a dissenting opinion for the final report.

D. Call to the Public/ Adjournment

There was no response to a call to the public and the meeting adjourned at 10:37am.

Steering Committee on Arizona Appellate Case Processing Standards

March 24, 2016

1:30 p.m. to 3:30 p.m.

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 345B and Teleconference

Meeting Minutes – **APPROVED**

Committee Members Present: Justice Ann A. Scott Timmer (Chair), Chief Judge Michael J. Brown, Ms. Janet Johnson, Ms. Alice Jones, Ms. Ruth Willingham, and **Appearing Telephonically:** Ms. Kimberly Demarchi, Mr. David Euchner, Mr. Jeffrey Handler, and Dr. William Mangold

Administrative Office of the Courts Staff Present: Ms. Summer Dalton, Ms. Jerri Medina

Absent: Chief Judge Peter J. Eckerstrom

A. Welcome and Opening Remarks

The Chair called the Committee meeting to order at 1:30 p.m. and followed with roll call.

The draft minutes from the February 26, 2016 meeting of the Steering Committee on Arizona Appellate Case Processing Standards were presented for approval. Minutes were corrected to reflect that the increase of time for Filing to Disposition of Industrial Commission cases was for an additional 10 days, as opposed to 15 days reflected in the draft minutes.

- Motion was made by Mr. David Euchner to approve the February 26, 2016 meeting minutes of the Steering Committee on Arizona Appellate Time Standards with correction. Seconded by Ms. Alice Jones. The motion passed unanimously.

B. Define Starting Point for Court of Appeals Filing to Disposition Measure

Justice Timmer held discussion to clarify the starting event used for the Filing to Disposition standard for the Court of Appeals. The National Standards start from the notice of actual filing whether it be in the lower court or the appellate court. The statistics provided to the Committee were from the point of filing in the Court of Appeals. After discussion, it was determined that the Committee's intent was to use the date of the notice of filing into the Court of Appeals, modifications were made to the final report to reflect this decision.

C. Review Final Report Draft

The Committee reviewed and discussed the updated final report which included the dissent and responses to the dissent. The Committee discussed the addition of the "Dissent" paragraph which was added to the report, the Committee agreed that it was appropriate to include in the final version. The Committee continued to work through all comments and edits included in the red-lined version of the final report draft with the Committee reaching a consensus on all items to produce a final report. The

Chair asked the membership to identify any additional omissions or changes they found necessary for the final report. There were none.

D. Call to Public

A call to the public went out to those present as well as any attending via the telephone. There was no response.

E. Adoption of Final Report

- Motion was made by Ms. Janet Johnson to approve the Final Report of the Steering Committee on Arizona Appellate Case Processing Standards. Seconded by Ms. Ruth Willingham. The motion passed unanimously.
- Motion was made by Chief Judge Michael Brown to give Justice Timmer authority to make the final approval of the March 24, 2016 meeting minutes after the Committee members have had the opportunity to review a draft. Seconded by Mr. David Euchner. The motion passed unanimously.

Justice Timmer thanked the committee for their service and hard work. Justice Timmer will present the committee's findings to the Supreme Court in April and, depending on what the Supreme Court decides, it may be presented to AJC in June. The goal at this time is to have the standards in place by July 1, 2016.

F. Adjournment

- Motion was made by Ms. Janet Johnson to adjourn meeting. Seconded by Mr. David Euchner. The motion passed unanimously. The meeting adjourned at 2:10 p.m.