Steering Committee on Arizona Case Processing

Wednesday, October 14, 2015
1:30 p.m. to 3:30 p.m.
State Courts Building
1501 W. Washington, Phoenix, AZ 85007
Conference Room 230

APPROVED
4/13/16

Present: Justice Robert Brutinel; Judge Jill Davis; Judge Eric Jeffery; Mr. John W. Rogers; Mr. Bill Verdini.

Telephonic: Mr. Kent Batty; Judge Kimberly Corsaro; Judge Charles Gurtler; Judge Richard Fields; Mr. Don Jacobson; Judge Andrew Klein; Ms. Donna McQuality; Judge Mark Moran; Ms. Jane Nicoletti-Jones; Judge Antonio Riojas; and Judge Sally Simmons.

Absent/Excused: Judge Pamela Frasher-Gates; Mr. James Haas; Ms. Michelle Matiski; and Judge Steven McMurry; and Judge John Rea.

Presenters/Guests: None

Administrative Office of the Courts: Amy Wood, Michelle Dunivan, and Kelly Gray.

I. Regular Business

A. Welcome and Opening Remarks

The October 14, 2015 meeting of the Steering Committee on Arizona Case Processing Standards was called to order by the Chair, Honorable Robert Brutinel, at 1:30 p.m.

B. Roll Call and Introductions

For the purposes of attendance and establishing a quorum, the Chair took roll call and introduced newly appointed member Steering Committee on Arizona Case Processing Standards. He welcomed Judge Kimberly Corsaro, who is the Presiding Juvenile Court Judge in Santa Cruz County.

C. Approval of April 2015 Minutes

The draft minutes from the April 2015 meeting of the Steering Committee on Arizona Case Processing Standards were presented for approval. The Chair called for any omissions or corrections to the minutes from the April 16, 2015 meeting. There were none.

- Motion was made by Judge Eric Jeffery to approve the draft meeting minutes of the April 16, 2015 meeting of this committee. Seconded by Mr. Bill Verdini. Motion passed unanimously.

II. Report Development and Updates

A. Phase 3

The group discussed the Arizona Judicial Council (AJC) approval of the time standards for Phase 3 on June 15, 2015 and the issuance of Administrative Order 2015-60 on June 24, 2015.

The order adopted final case processing time standards for the following case types:

- Probate Administration of Estates
- Probate Guardianship/Conservatorship
- Probate Mental Health
- Justice Court Civil
- Misdemeanor (the 180 day standard only)

Additionally, Arizona Case Processing Time Standards Statewide Memo #9 was sent to the General Jurisdiction and Limited Jurisdiction Presiding Judges, Court Administrators, and Clerks of Court. The memorandum made the first deadline for report submission July 31, 2016 for the reporting period of April 1, 2016 – June 30, 2016.

B. Phase 4

The committee discussed the Time to Disposition Summary and Detail Reports, as well as the Age of Active Pending Summary and Detail Reports, which were developed for the case types listed below.

i. Limited Jurisdiction Courts: Misdemeanor

In one of the last meetings of this body, more information was requested for the 90 and 60 day limited jurisdiction court standards for misdemeanors in order to determine the viability of 60 and 90 day proposed standards.

Approved Standard:
98% within 180 days (see Administrative Order 2015-60)

Proposed Additional Standards:
75% within 60 days
90% within 90 days

Statistics from a sampling of 31 Arizona courts from Fiscal Years (FY) 2014 and 2015 were presented to the group, as shown below.

FY 2014:
52% within 60 days
66% within 90 days
83% within 180 days

FY 2015:
57% within 60 days
70% within 90 days
86% within 180 days

- For the 60 day standard:
  - Five courts met the standard, and six courts were within 10% of the standard.

- For the 90 day standard
  - Three courts met the standard, and four courts were within 10% of the standard.

- For the 180 day standard:
  - Three courts met the standard and eleven courts were within 10% of the standard

Several issues were discussed related to the feasibility of the 60 and 90 day standard as so few courts met the proposed standard. It was pointed out that there may be many factors contributing to the negative performance of courts for the 60 and 90 day standards including prosecutor availability in rural courts, processing and volume issues related to resources, and other data maintenance issues. It was argued that approving the standard now may prompt action from the courts which could lead to better data and performance by courts. In counterpoint, it was argued that the statistics presented indicate underlying issues that need to be identified and addressed prior to approving the standard. It was suggested that the 60 and 90 day standards go back to the Criminal Misdemeanor Workgroup for further analysis before approving the standard. In rebuttal, it was pointed out that the committee could approve the 60 and 90 day standards as proposed and review them later after the courts have had an opportunity to address possible data quality and other issues that are contributing to the current performance deficiencies.

- Motion was made by Judge Antonio Riojas to recommend the adoption of the 75% within 60 days and 90% within 90 days standards, with a commitment from this body to review the adopted standard one year after implementation. Seconded by Mr. Don Jacobson. Motion passed. 14 yay; 1 nay

It was noted that most of the Limited Jurisdiction courts have not had an opportunity to review any data related to misdemeanors yet, so providing it to the courts may be helpful in explaining the desire for the standards. A member requested that the chart presented in the meeting materials, which includes data from individual courts anonymously, be distributed to the Limited Jurisdiction courts as part of any statewide memo adopting these standards.

ii. General Jurisdiction Courts: Criminal Post-Conviction Relief

In July 2015, an Arizona Case Processing Time Standards Statewide Memo was sent to the Presiding Judges, Court Administrators, and Clerks of Court informing them that the reports for Criminal Post-Conviction Relief and Family Law Temporary Orders case types were available. The time standards for these case types were still provisional.

Proposed Standard:
94% within 180 days

Statistics from a sampling of 15 Arizona courts for Fiscal Year (FY) 2015 were presented to the group, as shown below.

<u>FY 2015</u>
50% within 180 days

- No courts sampled met the provisional standard, but one court was within 10% of the provisional standard.

- Four courts did not have any Post-Conviction Relief cases adjudicated in fiscal year 2015

Discussion centered on possible explanations as to why no courts met the provisional standard. It was pointed out that the time to adjudication for this case type is determined by statute. Some members ventured that there may resource issues, data irregularities, attorney diligence in filing documents, and process/court culture issues that are contributing to the performance deficiencies for this case type.

- Motion was made by Judge Charles Gurtler to recommend the adoption of the standard of 94% within 180 days. Seconded by Judge Sally Simmons. Motion passed unanimously.

iii. General Jurisdiction Courts: Family Law Temporary Orders

In July 2015, an Arizona Case Processing Time Standards Statewide Memo was sent to the Presiding Judges, Court Administrators, and Clerks of Court informing them that the reports for Criminal Post-Conviction Relief and

Family Law Temporary Orders case types were available. The time standards for these case types were still provisional.

Proposed Standard:
90% within 60 days
98% within 120 days

Statistics from a sampling of 13 Arizona courts for Fiscal Year (FY) 2015 were presented to the group, as shown below.

<u>FY 2015</u>
80% within 60 days
90% within 120 days

- For the 60 day standard:
  - Three courts met the standard, and four courts were within 10% of the standard.

- For the 120 day standard
  - Four courts met the standard, and four courts were within 10% of the standard.

The Chair requested commentary from the group and the consensus was that the proposed standard was reasonable. Questions were raised about the data provided in handouts for this meeting. It was determined that there were some minor issues with row/column calculation in a few charts/tables provided. Ms. Dunivan committed to providing the group revised data after the meeting.

- Motion was made by Mr. Kent Batty to recommend the adoption of the standards of 90% within 60 days and 98% within 120 days with a commitment from this body to review the adopted standard one (1) year after implementation. Seconded by Judge Charles Gurtler. Motion passed unanimously.

iv. Limited Jurisdiction Courts: Small Claims

In previous meetings of this body, the group decided to postpone adoption of all the provisional standards for the Justice Court Small Claims case type pending investigation and data clean up by the courts.

In September 2015 the Civil Small Claims and Local Ordinances Workgroup met to discuss the issues with case types. As part of the meeting, the AOC evaluated additional data and provided the results to the group. The data indicated that from a sample of 20 courts, 39% of the Small Claims cases in FY2015 were dismissed by the court. Furthermore, cases dismissed by the court had an average of 721 days to disposition, whereas cases that were not dismissed by the court had an average of 126 days to disposition. Inactive cases may be dismissed after 120 days according to Just. Ct. R.

Civ. P. 113(i). If the assumption is made that most cases dismissed by the court are due to inactivity, then approximately 40% of cases need at least 120 days to disposition. With this new data and information about the rule, Ms. Dunivan asked the committee if it wanted to reevaluate the proposed standard.

Proposed Standard:
75% within 90 days
90% within 120 days
98% within 180 days

Statistics from a sampling of 54 Arizona courts for Fiscal Year (FY) 2015 were presented to the group, as shown below.

<u>FY 2015</u>
35% within 90 days
47% within 120 days
67% within 180 days

- For the 90 day standard:
  - Two courts met the standard, and one court was within 10% of the standard.

- For the 120 day standard
  - One court met the standard, and two courts were within 10% of the standard.

- For the 180 day standard
  - One court met the standard, and five courts were within 10% of the standard.

The committee learned that the Civil Small Claims and Local Ordinances Workgroup discussed possible issues with the data, case processing, and other procedural factors that may be affecting the disposition of these cases. The Civil Small Claims and Local Ordinances Workgroup also discussed best practices.

The committee discussed additional factors that may be contributing to the courts performance issues including the fact that many litigants opt for mediation, most litigants are pro se in small claims cases, and many cases move to the “inactive” calendar. It was suggested that the Civil Small Claims and Local Ordinances Workgroup meet again to formulate a new recommendation for this standard.

- Motion was made by Judge Eric Jeffery to postpone adoption the provisional standards for the Small Claims case type pending further investigation of court data and reevaluation of the proposed standard by the Civil Small Claims and

Local Ordinances Workgroup. Seconded by Judge Jill Davis. Motion passed unanimously.

v. Limited Jurisdiction Courts: Eviction Action

The committee briefly discussed and voted on the Eviction Action case type.

Proposed Standard:
98% within 10 days

Statistics from a sampling of 52 Arizona courts for Fiscal Year (FY) 2015 were presented to the group, as shown below.

FY 2015:
96% within 10 days

- Five courts met the standard
- Eight courts in addition to the Maricopa County Justice Courts were within 10% of the standard.

- Motion was made by Judge Jill Davis to recommend the adoption of the 98% within 10 days standard. Seconded by Judge Eric Jeffery. Motion passed unanimously.

vi. Limited Jurisdiction Courts: Civil Local Ordinance

The committee discussed the Civil Local Ordinance case type. It was noted that Civil Local Ordinances are not in every case management database. Courts that do not use the AZTEC, or standardized code tables, will be required to develop/provide their own report when the standard becomes effective.

Proposed Standard:
75% within 60 days
90% within 90 days
98% within 180 days

Statistics from a sampling of 42 Arizona courts for Fiscal Year (FY) 2015 were presented to the group, as shown below.

FY 2015:
81% within 60 days
92% within 90 days
98% within 180 days

- For the 60 day standard:

- Eleven courts in addition to the Maricopa County Justice Courts met the standard, and three courts were within 10% of the standard.

- For the 90 day standard
  - Eleven courts in addition to the Maricopa County Justice Courts met the standard and one court was within 10% of the standard.

- For the 180 day standard
  - Eleven courts in addition to the Maricopa County Justice Courts met the standard and two courts were within 10% of the standard.

- Motion was made by Judge Jill Davis to recommend adoption of the standards of 75% within 60 days, 90% within 90 days, and 98% within 180 days. Seconded by Mr. Bill Verdini and Judge Eric Jeffery. Motion passed unanimously.

C. Civil Traffic Case Type

i. Servicemember's Civil Relief Act

In the last meeting of this body, a question was raised about the applicability of the Servicemember's Civil Relief Act (SCRA) related to the approved Civil Traffic Standards (Administrative Order 2014-108). Ms. Dunivan researched the issue and discovered that 50 U.S.C. § 521-522 (2008) states that protection of service members against default judgments applies to any civil action or proceeding in which the defendant does not make an appearance. Additionally, the Civil Traffic Procedures Manual, Ariz., Chapter 9, Section 9.3 (p. 94, Ariz. Dec. 2011) specifically discusses the application of SCRA to traffic cases.

ii. Modification of Approved Standard: Civil Traffic

In the last meeting of the committee, concerns were raised about the 30 day standard of the Civil Traffic case type. In the April 2015 meeting, it was mentioned that a few committee members had received some objections from court staff regarding the achievability of the first approved standard, 65% within 30 days, which became effective July 1, 2015.

The Civil Traffic Workgroup met to discuss the viability of the 30 day standard in September of 2015. The workgroup identified several issues which may be causing the overwhelming majority of courts not to meet the 30 day standard. These issues include problems with timely filing of citations by law enforcement, too short of a time frame for Defensive Driving School processing, and too short of a time frame for citizens to show just cause for extenuating circumstances before the case is defaulted. It was also pointed out that the courts have very little control over these type issues and there is very little courts can do to speed the case along as these processes often take more than two weeks.

- Motion was made by Judge Antonio Riojas to recommend the elimination of the 65% within 30 day standard and retain the standards of 80% within 60 days and 98% within 90 days. Seconded by Judge Eric Jeffery. Motion passed unanimously.

D. Phase 1

i. General Jurisdiction Courts: Felony

In August 2014, Administrative Order 2014-81 made the Felony case type standards of 65% within 90 days, 85% within 180 days, and 96% within 365 days final. In August 2014, Arizona Case Processing Time Standards Statewide Memo #1 was issued making the first submission date for the summary time to disposition reports July 31, 2015, for the reporting period of March 1, 2015 - June 30, 2015.

Statistics from January 2013 – December 2013 (unknown number of courts) and April 2015 – June 2015 (for 12 courts) were presented and compared.

January 2013 – December 2013:	April 2015 – June 2015:
46% within 90 days	42% within 90 days
72% within 180 days	70% within 180 days
91% within 365 days	90% within 365 days

- For the 90 day standard:
  - In 2013, no courts met the standard, and three courts were within 10% of the standard.
  - In 2015, two courts met the standard, and two courts were within 10% of the standard.
- For the 180 day standard
  - In 2013, no courts met the standard, and five courts were within 10% of the standard.
  - In 2015, three courts met the standard, and two courts were within 10% of the standard.
- For the 365 day standard
  - In 2013, one court met the standard, and twelve courts were within 10% of the standard.
  - In 2015, three courts met the standard, and nine courts were within 10% of the standard.

A committee member commented that there is typically seasonal changes in case processing volume during certain parts of the year. For example, there may be a pick up during the summer months and slow down during the last few months of the year. The Chair commented that it will be interesting to see the fluctuations between quarters in the coming years.

ii. General Jurisdiction Courts: Civil

In August 2014, Administrative Order 2014-81 made the Civil Case Type standards of 60% within 180 days, 90% within 365 days, and 96% within 540 days final. In August 2014, Arizona Case Processing Time Standards Statewide Memo #1 was issued making the first submission date for the summary time to disposition reports July 31, 2015, for the reporting period of March 1, 2015 - June 30, 2015.

Statistics from January 2013 – December 2013 (unknown number of courts) and April 2015 – June 2015 (for 12 courts) were presented and compared.

January 2013 – December 2013:	April 2015 – June 2015:
73% within 180 days	50% within 180 days
88% within 365 days	64% within 365 days
93% within 540 days	72% within 540 days

- For the 180 day standard:
  - In 2013, fourteen courts met the standard, and one court was within 10% of the standard.
  - In 2015, eight courts met the standard, and three courts were within 10% of the standard.
- For the 365 day standard
  - In 2013, six courts met the standard, and six courts were within 10% of the standard.
  - In 2015, seven courts met the standard, and four courts were within 10% of the standard.
- For the 540 day standard
  - In 2013, five court met the standard, and eight courts were within 10% of the standard.
  - In 2015, two courts met the standard, and six courts were within 10% of the standard.

Comments were made about the dramatic difference between data from 2013 and 2015. Ms. Dunivan explained the upcoming judicial leadership

conference has a best practices session that will focus on the processing of civil cases and hopefully address the issues that are contributing to the disparity between the data samples.

iii. Limited Jurisdiction Courts: Misdemeanor DUI

In August 2014, Administrative Order 2014-81 made the Criminal Misdemeanor DUI Case Type standards of 85% within 120 days and 93% within 180 days final. In August 2014, Arizona Case Processing Time Standards Statewide Memo #1 was issued making the first submission date for the summary time to disposition reports July 31, 2015, for the reporting period of March 1, 2015 - June 30, 2015.

Statistics from January 2013 – December 2013 (unknown number of courts) and April 2015 – June 2015 (for 129 courts) were presented and compared.

January 2013 – December 2013:	April 2015 – June 2015:
61% within 120 days	64% within 120 days
79% within 180 days	81% within 180 days

- For the 120 day standard:
  - In 2013, twenty-four courts met the standard, and five courts were within 10% of the standard.
  - In 2015, twenty-five courts met the standard, and twenty-four courts were within 10% of the standard.
- For the 180 day standard
  - In 2013, twenty courts met the standard, and ten courts were within 10% of the standard.
  - In 2015, thirty-six courts met the standard, and thirty-five courts were within 10% of the standard.

iv. General Jurisdiction Courts: Juvenile Neglect and Abuse (Dependency) Permanency Hearing

In August 2014, Administrative Order 2014-81 made final the Juvenile Neglect and Abuse (Dependency) Permanency Hearing Case Type standards of 98% of children under 3 years of age within 180 days of removal, and 98% of all other cases within 365 days of removal. In August 2014, Arizona Case Processing Time Standards Statewide Memo #1 was issued making the first submission date for the summary time to disposition reports July 31, 2015, for the reporting period of March 1, 2015 - June 30, 2015.

Statistics from January 2013 – December 2013 (unknown number of courts) and April 2015 – June 2015 (for 9 courts) were presented and compared.

January 2013 – December 2013:	April 2015 – June 2015:
95% within 180 days	96% within 180 days
85% within 365 days	91% within 365 days

- For the 180 day standard:
  - In 2013, three courts met the standard, and two courts were within 10% of the standard.
  - In 2015, three courts met the standard, and one court was within 10% of the standard.
- For the 365 day standard
  - In 2013, six courts met the standard, and four courts were within 10% of the standard.
  - In 2015, four courts met the standard, and two courts were within 10% of the standard.

v. General Jurisdiction Courts: Juvenile Termination of Parental Rights

In August 2014, Administrative Order 2014-81 made the Juvenile Termination of Parental Rights Case Type standards of 90% within 120 days and 98% within 180 days final. In August 2014, Arizona Case Processing Time Standards Statewide Memo #1 was issued making the first submission date for the summary time to disposition reports July 31, 2015, for the reporting period of March 1, 2015 - June 30, 2015.

Statistics from January 2013 – December 2013 (unknown number of courts) and April 2015 – June 2015 (for nine courts) were presented and compared.

January 2013 – December 2013:	April 2015 – June 2015:
24% within 120 days	52% within 120 days
32% within 180 days	72% within 180 days

- For the 120 day standard:
  - In 2013, no courts met the standard, and one court was within 10% of the standard.
  - In 2015, two courts met the standard, and one court was within 10% of the standard.
- For the 180 day standard

- In 2013, one court met the standard, and no courts were within 10% of the standard.

- In 2015, five courts met the standard, and no courts were within 10% of the standard.

Questions were raised about the data provided for all case types presented in Phase 1. It was determined that additional research and clarification was needed for the data sample size provided for 2013. Ms. Dunivan committed to providing the committee improved and additional information on the data sample provided for the 2013 statistics after the meeting.

vi. General Jurisdiction Courts: Juvenile Delinquency and Status Offense

In August 2014, Administrative Order 2014-81 made final the Juvenile Delinquency and Status Offense case type standards of Youth in Detention, 75% within 30 days, 90% within 45 days, and 98% within 75 days, as well as Youth not in Detention, 75% within 60 days, 90% within 90 days, and 98% within 135 days. In August 2014, Arizona Case Processing Time Standards Statewide Memo #1 was issued making the first submission date for the summary time to disposition reports July 31, 2015, for the reporting period of March 1, 2015 - June 30, 2015.

Ms. Amy Wood articulated the issues hindering the generation of reports by the courts and provided background information about the case management systems involved. She explained that each case management system is structured differently and that data captured in each may vary. She went on to say that differing data entry practices between courts is also affecting the courts ability to generate accurate reports easily.

It was recommended that the Juvenile Delinquency and Status Offense Workgroup reconvene in order to reevaluate the feasibility of the approved standard based on the data available to extract from the various case management systems. A committee member requested that the AOC attend the workgroup meeting(s) to provide guidance on the functionality and data available through each case management system currently. It was suggested that an effort be made to standardize how each court and probation department enters data in order to generate meaningful and accurate data not only for time standard reports, but for other court and probation department purposes. A committee member suggested that this body should connect with the Committee on Juvenile Courts, Committee on Probation Education, and other relevant committees in order develop a comprehensive solution to the issues related to inaccurate and/or inaccessible data in the case management systems.

E. Phase 5

Ms. Dunivan indicated that reports are being developed for the Family Law Post-Judgment Motions, Protection Orders Ex Parte Hearings, and Protection Orders Contested Hearings case types and will be discussed in the next meeting of this body.

III. New Business

A. Rules of Civil Procedure

The Task Force on the Arizona Rules of Civil Procedure was established by Administrative Order 2014-116. The task force's directive is to identify possible changes that conform the rules to modern usage, that clarify and simplify language, and that avoid unintended variation from language in corresponding federal rules. A draft version is available on the Task Force on the Arizona Rules of Civil Procedure website for comment and the Chair invited the group to review it. A committee member asked how the changes will affect time standards project. It was determined that it will have little effect on this committee's work.

B. 2016 Committee Dates

Ms. Dunivan suggested two dates for the next committee meeting: Wednesday, April 13, 2016 or Wednesday, April 27, 2016. Some committee members indicated conflicts, so it was determined that Ms. Dunivan will email the group to find the best date.

IV. Call to Public

The Chair made a call to the public. There were no members of the public present.

V. Adjournment

The meeting was adjourned at 2:49 p.m.

VI. Next Committee Meeting Date:

The next meeting is to be determined.