

Illinois Judicial Conference
Strategic Initiative
Court Data & Performance Measures

Phase One Final Report

October - 2020

Committee Members:

The committee membership included Judges, Elected Circuit Clerks, Deputy Circuit Clerks, and Court Administrators, representing the diversity of Illinois courts in volume of filings, court resources and geography.

Andrea Chasteen Will County
Kim Foxx Cook County
Tom Jakeway Winnebago County
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Jacque Huddleston AOIC
Don O'Brien Cook County
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Nathan Jensen AOIC
Michael Chmiel McHenry County
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Kathy Keefe McHenry County
Ann Jorgensen Second District.

We also have enjoyed the tremendous assistance of AOIC Staff Members Jacque Huddleston, Cindy Braden, Amy Patterson, and Stephanie Wells -- without whom this report and proposed *Amended Manual on Recordkeeping* would not have been completed.

Our Process:

The Committee on Court Data and Performance Measures was assigned a comprehensive dual task from the 2019-2020 Strategic Initiatives. First, strengthen and standardize court data across courts in Illinois by adopting statewide definitions of terms for current data collected and identifying new data points that need to be captured in the future. Uniform data requires a firm definition of when a case is open and when it is statistically closed. Case categories must assist in refining raw data into usable information. Such relevant data will allow the Court to anticipate trends and plan for, rather than react to change.

The second phase, which is reserved for year two, is to study, analyze and recommend court performance measures including time standards for all case categories in Illinois and to review court performance measures adopted in other states and national best practices which have refined time to disposition standards, case management practices and standardization.

Specifically, our first task was to create a clear, standardized, and uniform dictionary of terms for current data collection which, when applied statewide, will produce accurate data on, the number of new filed cases, number of open cases, closed cases, and reinstated cases; the number of cases on inactive status, warrant status and the number of closed cases with current activity or litigation, “Closed Case Litigation.”

The ultimate goal is to measure all cases in every circuit with the same yardstick; that is, a statewide, uniform, standardized definition of each case category with a clear demarcation of when the case is open and when it is statistically closed. Proper and uniform use of inactive status for open cases to identify time periods when advancing the case is beyond the control of the court must be identified and standardized. This will not only allow more accurate reports on caseloads and workloads, it will also clarify the time periods upon which the age of a case is calculated.

Data currently being collected, and additional data deemed important to the future task of recommending fair judicial performance standards must be identified, defined, and standardized. If uniformity is to be achieved statewide, any data collection process must be mandatory and implemented in every circuit and county in Illinois.

We appreciate that individual circuits may have independent needs or goals. Thus, each circuit remains free to collect any *additional* data they wish to track but *must* submit all required data in the format prescribed without deviation from the MRK. We also acknowledge that circuits have been processing their cases in a particular way for some time. The amendments recommended here will be significant changes for many. We appreciate the difficulty in changing

“the way we have always done it” but the ultimate goal of uniformity will require that everyone compromise.

We anticipate that the overriding goals for phase two will be to recommend judicial performance standards that will accurately evaluate judicial performance both on an individual judge level and circuit wide basis, by developing timelines & disposition expectations that are reasonable, that can be attained, maintained, and adjusted as future data may dictate, and will allow courts to effectively allocate judicial resources to their best application.

During the Strategic Planning phase of the Illinois Judicial Conference the need for statewide uniform court data was an integral part of many strategic goals and initiatives. Accountability in court performance became one of our Core Values. While the committee appreciated the importance of the task, the magnitude was not fully realized until we began the work of defining statewide uniform data collection.

Early in the process, Advisors from the National Center for State Courts gave us sound advice; work with what you have, keep directives clear, meaningful, and attainable, and undertake the most important changes first. We have heeded that advice.

We started with what we had, the existing Manual on Recordkeeping. This is a compilation of directives from the Illinois Supreme Court to each Clerk of the Circuit Court which includes standards for the collection and reporting of court data to the Illinois Supreme Court and Administrative Office of the Illinois Courts.

Our recommended amendments are clear, meaningful and we submit attainable. If adopted and mandatory, the amended Manual on Recordkeeping will produce statewide, uniform, standardized data collection and reporting. Looking ahead, revision to the existing Manual rather than creation of something new, will be less disruptive for the Circuit Clerks and courts

While the final report submitted today is limited to phase one, throughout our work we remained mindful of our next task. The recommended amendments were designed to give this committee standardized data to assist in completing our second task, recommending fair judicial performance measures.

Final Report - Phase One:

The *Amended* Manual on Recordkeeping, together with recommendations for amendments to Illinois Supreme Court Rule 281, 552, and 589 and adoption of proposed new Rule 14 is our Final Report for phase one.

The Manual on Recordkeeping is the guide for collection and reporting of court data in every circuit. Although the Circuit Court of Cook County has been allowed to collect data differently, they must transfer that data into the terms and format required by the Manual. Thus, the Manual is the Court's only instruction for collection of requested data.

If the recommendations and amendments are adopted, we suggest that an effective date of 1-1-22 is reasonable and attainable. This allows a full year for training on the application, purpose, and benefits of using the amended Manual.

As we began, it became apparent that the manual was dated and although there had been piecemeal amendments over the years, there had not been a comprehensive revision. Thus, we recommend general revisions to align common topics and update presentation of content into more readable, understandable, and user-friendly language.

In drafting recommendations to strengthen and standardize statewide data collection, our primary objective was to give users clear, understandable, and specific direction. Without such clarity, we cannot expect uniform execution. Thus, throughout we have made our direction specific and without discretion for deviation. The committee, well represented with Circuit Clerks and court administrators, have suggested amendments beyond the sections devoted to data collection and statistical reporting. However, for today's purpose, we confine this report to:

The Preface,

Part 1 Section A, B, C; and L

Part 2 Introduction, Sections A, B, C, D, E, H, I, K, M, and N.

Recommended Amendments:

Preface:

The amended MRK contains a new preface with this additional language,

“This order and the instructions contained in the manual supersede any local court rule, general administrative order, or procedure which may be in conflict”.

This language is recommended to make our goal clear; data collection must be standardized and the MRK instruction is mandatory regardless of local rule or administrative order. As noted below, this does not prevent any circuit from collection *additional* data, it simply means that the MRK is to be followed without exception or deviation.

Part 1 – Instructions Relating to Records of Cases

Section A: Document Maintenance

The only change in Section A is the addition of color coding for paper files.

Section B: Case Number Assignment

1.Format:

All case categories shall have a two-letter designation. Thus, some case categories have changed *only* by the addition of a second letter.

We recommend the addition of multiple case categories that will create new data, enhance the relevance of current data, and assist in assessing performance standards and allocating resources. We are mindful that electronic filing has eased the process for creating new case categories and the additional programming may be required

2.When Assigned:

This section is unchanged and directs that a case number is assigned at the time the first document in a case is filed in the clerk’s office. This will be the event that creates an **open** case, for all case categories.

General Recommendations for Instructions for Case Categories:

We recommend expansion of Section B Instruction for Case Categories to create a separate Instructions for Family and Juvenile Case Categories. This acknowledges the significant growth in Family cases, which in addition to Dissolution cases, now encompasses paternity, child support, and Juvenile cases, which include delinquent and abuse and neglect filings. Further, the procedures inherent in Family and Juvenile cases differ from traditional Civil cases. The ability to refine data points for Family and Juvenile cases will assist

in formulating performance measures for these cases which often remain open for extended periods of time and are more likely to generate closed case litigation.

3.Instructions for Civil Case Categories:

We recognized that a civil case may contain two or more counts that may fall under more than one case category. We recommend the introduction of a specific hierarchy to resolve any question that may arise as to which case category takes precedence. The hierarchy is: CH, MR, FC, EV, LA, LM, AR, SC. Further, the following case categories, ED, MH, PR, TX, GR, AND GC, shall be filed independently regardless. [This assumes that Family and Juvenile Case Categories have been removed from instructions for Civil Case Categories]

A clear hierarchy will ensure that every circuit is filing a similar matter under the same case category, enhancing our statewide ability to compare similar matters under the same case categories in multiple circuits.

In addition, we recommend the designation of additional civil case categories.

EV applies to residential and commercial evictions

FC applies to residential and commercial foreclosures.

Both EV and FC case categories were carved from larger case categories. Separating them from LM and CH respectfully, allows us to identify cases with similar characteristics which impact the time and resources dedicated to their resolution.

For example, generally, evictions are of short duration, with fewer court appearances and thus should be monitored differently than the typical LM case. Foreclosure cases generally remain open for longer periods of time and are far more likely to involve (post judgement) closed case litigation, including motions to vacate. Sequestering these cases also enhances our ability to readily monitor any increase or decrease in new filings and volume of cases, which is particularly important due to the high incidence of an SRL on one or both sides. The prevalence of SRLs can impact judicial performance measures.

GC, We recommend changes here to simplify and streamline the filing and tracking of these matters previously filed as Municipal Corporation MC. While each governmental corporation shall continue to have one permanent case number for matters such as organization, appointment of officers, approval of bonds and other routine matters, a new GC case number shall be assigned to each petition seeking consideration on new matters. This streamlines these municipal corporation matters. Further by providing new case numbers in the case category for each new matter, the court can more effectively quantify the judicial resources expended.

GR applies to Guardianship involving a minor, person with a disability, or an estate of any living person under the probate Act. These cases were separated

from Probate. The rationale is that these cases remain open and require periodic review for many years; they should be separately identified as cases that we *expect* to remain open for years.

TX in this case category we recommend a significant change. We propose eliminating the complicated process of assigning “sub-case numbers” to certain TX case subcategories and streamlining the process by assigning each Tax case filed a separate TX case number, consistent with assignment of case numbers in all other case categories. We recommended the inclusion of an electronic copy of the related Annual Tax Sale, or creating an electronic cross-reference relationship, as a replacement for the cross-reference formerly provided by assigning “sub-numbers” to the cases related to the Annual Tax Sale in a paper file.

The “sub-number” process worked well with manual, paper files, but has proven cumbersome and ineffective with electronic records. The streamlining of this process will standardize how TX cases are counted and will also display the actual number of TX related petitions being heard by the courts. This work is not currently reflected in today’s statistical reports which ignores the “sub-number” cases.

SC, we recommend deleting tax collection cases under \$10,000 from the SC case category and placing them into the TX case category. This would place all tax collections under one case category and reiterate the benefits of displaying all the tax petitions filed and heard under a single case category. The SC case category would have *only* contract and tort damages less than \$10,000.

There is only minor revision in the Probate case designation, the former P cases are now PR.

4. Instructions for Family and Juvenile Case Categories:

This heading is new. Substantively, we recommend only one case category change, the deletion of D case category and the division of those cases into two new case categories DC and DN.

DC applies to a case when at the time of the filing of the petition there is one or more minor child involved.

DN applies to a case when at the time of the filing of the petition there are no minor children involved.

These new designations divided the former D cases into cases with and without minor children. The rationale is that *generally* D cases involving minor children necessarily involve more child related issues, remain open longer and typically consume more judicial and court resources. They also are far more likely to involve (post decree) closed case litigation. Dividing these cases will give a more detailed status of the workload in a Domestic Relations / Family division and an individual judge’s call. This will also assist in assessing appropriate judicial

performance standards. In circuits with multiple judges hearing Dissolution cases, identification of cases with and without children, may also be used to even workloads.

There is only minor revision is the Juvenile case designation, the former cases are now JA.

5.Instructions for Contempt of Court, Miscellaneous Criminal, Order of Protection and Civil Law Case Categories:

CC is assigned for a contempt proceeding initiated only against a person who is not a party to the action in which the contemptuous conduct allegedly occurred; this would exclude an empaneled juror. We recommend that CC case category apply civil, family, juvenile, and criminal cases involving a contempt proceeding against a non-party. We further recommend that for purposes of a C case category, “a party” is defined as plaintiff, defendant, petitioner, respondent, third-party plaintiff or respondent interpleader and attorney(s) of record. Contempt proceedings involving a party would continue to be filed in the case in which the conduct occurred.

CL applies to civil law violations as defined in Supreme Court Rule 585.

MX applies to miscellaneous matters that are criminal in nature. This case category separates the criminal matters from MR thus leaving that case category for civil miscellaneous remedies.

OP applies to orders of protection, petition for stalking no contact order, firearms restraining order and civil no contact order. The number of OP petitions filed and the disposition of each is of great interest to the Court and other entities. Yet the way they are filed, and the case category assigned varies from circuit to circuit. There must be uniformity if we are to achieve reliable statewide data on these petitions. We recommend that every qualifying petition be assigned an OP case number. There is no direction as to what division or judge may hear an OP. However, every petition shall be separately filed as an OP case category and the ultimate disposition of the case shall be collected and statistically reported in Part 2 Section H for the period covering the report.

6.Instructions for Criminal Felony, Criminal Misdemeanor, DUI, Major Traffic, Traffic, Ordinance Quasi, Criminal, and Conservation Case Categories:

We recognized that a criminal case may contain two or more counts that may fall under more than one case category. We recommend the introduction of a specific hierarchy to resolve any question that may arise as to which case category takes precedence. The hierarchy is CF. DV. DT, CM, MT, TR, CV, QC, and OV. As with the hierarchy in civil case categories, this will ensure that similar matters are filed using the same case categories statewide.

We recommend the addition of two case categories MT, Major Traffic and QC Quasi Criminal.

MT- applies to case defined by Supreme Court Rule 501(f)(i) and local ordinance violations under rule 501. This case category is separated from TR cases based on the seriousness of the charge, the severity of the penalty and the likelihood that it will remain open longer, and use more resources than moving violations which generally involve one court appearance or may be resolved without an in-court appearance.

TR applies to any case defined under Supreme Court Rule 501 (f)(ii) and similar local ordinances.

Some offenses are, by definition, excluded under Rule 501, including CF, CM, OV and CV; we recommend adding DV and QC to that exclusion.

QC- applies to any offense classified as a Petty or Business which is not otherwise defined as a DT, MT, TR, or CV.

CM – applies to a case category that limits the assignment of a CM case number to cases in which the most serious charge carries a penalty of less than one-year imprisonment, to Class A, B, or C offenses *which are not otherwise defined as a CV, DT, OV, and TR emphasis added*). We recommend adding DV, QC, and MT to the cases excluded for a CM case category. Again, this will ensure that the same types of offense are given the same case category assignments which will allow for accurate statewide data.

DT We recommend that DT case category now include violations involving Snowmobile Registration and Safety Act and Boat Registration and Safety Act.

7. Instructions for Selected Documents and Case Categories:

We recommend as noted above, that case number TX 00000001 be assigned to the annual tax sale case. Objections and Petitions would be assigned a new TX number for each new petition.

Indictments- We recommend the following: If a superseding Indictment is returned charging a felony arising out of the same event identified in a previously filed complaint or information the new indictments shall be filed in the CF case currently on file.

If an indictment is returned charging a felony arising out of the same course of conduct for which a DV other case lower in the hierarchy than DV, the indictment shall be assigned a new CF case number. [The misdemeanor charges shall be consolidated into the new CF case as additional counts for further proceedings.]

Where there is no previously filed case, the indictment charging a felony shall be assigned a new CF case number.

The purpose here is to ensure that charges arising out of the same course of conduct are assigned case numbers and treated uniformly in every circuit.

We also recommend various clarifications to assignment of an MX case numbers to criminal matters formerly assigned MR case numbers.

Section C: Case Code Letter and Category Outline

Section C lists the new case categories as outlined above. It enumerates the types of matters under each new case category and notes the addition of a second letter to the previously listed single letter designations.

Section L: Impounding, Sealing and Expunging

One of the worst offenders of misuse and interchangeable use of terms is with the terms Impounded, Sealed and Expunged. We strongly recommend uniformity and the adoption of simplified definitions.

1. Definitions:

We recommend the addition of a new topic under Section L, “Definitions” which would include an introductory paragraph setting forth the presumption that all cases and documents are presumed to be accessible to the court and the Clerk and that the Clerk shall limit access to cases and documents which are not identified as public. Further that remote access to court records is governed by the *Illinois Supreme Court Remote Access Policy*.

We recommend specific definitions for the terms Public, Impounded, Sealed and Expunged. “Unless otherwise specified by Rule, statute or order of court, access to cases and documents maintained by the clerk are defined as follows:”

PUBLIC -accessible to any person who asks *[though a fee may be charged for copies]*.

CONFIDENTIAL – accessible only to the party who tendered the document. *[For example, this may apply to a new filed petition for order of protection, or submission of disputed documents for en camera inspection.]*

IMPOUNDED – accessible only to the parties of record

SEALED – accessible only upon order of the court.

EXPUNGED – accessible only upon order of the court under 20 ILCS 2630/5.2(E)

There are several recommended clarifications for Case Categories required by statute, rules, or order to be impounded, sealed, or expunged. There are also several clarifications on how the imposition of these regulations would impact the Basic record, both a paper record and electronic record. Our recommendation to the task force is that there be uniformity in how these obligations are performed and checked. However, with due respect to the Task

Force, we recommend that this section be reviewed by the Circuit Clerks for comments on *how* best to accomplish the goal of compliance and uniformity.

Section N: Exhibits

We recommend amendments regarding the custody, with-drawl maintenance, storage, and release of exhibits which have been admitted during a trial hearing or other proceeding. While this is does not impact data collection is it of great importance to the Clerks of the Circuit Courts and is something for which there should be uniformity. The integrity of exhibits must be protected purposes of appeal and other post trial proceedings.

Part 2 – Statistical Reports

Instructions relating to Statistical Reports:

Consistent application of terminology is the keystone for uniform data collection. Currently there is great disparity in the way circuits apply various terms to designate when is case was statistically closed. As committee members explained what their circuits counted as a closed case, the extent of the diversity became apparent. Understand there is no fault here, each circuit developed their own methodology for benign reasons, However, if we are to achieve uniformity there must be a single term for a “closed” case and specific definition of the event or order(s) that will statistically close every case category.

There was also great disparity in how criminal charges were filed. The same charges against three co-defendants could produce very different case disposition statistics. For example, in a circuit where all counts and all co-defendants were charged under a single case number, the statistics would show one case ultimately closed. In a circuit where each defendant is assigned a case number for counts arising from a single event or course of conduct the statistics would show three cases ultimately closed. The point is the same charges and the same judicial work, resolving all counts against three co-defendants, would produce very different statistics, making the application of statewide judicial performance standards ineffective at best and deceptive at worst. We strongly recommend that there be uniformity imposed and urge that the more accurate way to measure caseloads and judicial performance standards is that each defendant is assigned a separate case number.

The recommended amendments clarify that for purposes of the statistical reports, there are only five operative terms. Every case reported in the period covered by a Part 2 report shall be designated as Open, New Filed, Reinstated, Inactive or Closed. Alternative designations have been eliminated and only these terms will appear on statistical reporting forms.

Introduction:

We recommend adding to the Introduction that an annual audit of **end open** cases be conducted to ensure accuracy of the statistical information reported.

We recommend specific definitions for the following terms and that no other terms be used in the MRK or on statistical reports to describe these stages in the progress of a case.

1. **New Filed** applies to a case which was assigned a case number, (for example, upon the filing of the first pleading,) during the period covered by the report regardless of whether the case was also closed during that same reporting period.

2. **Reinstated** applies to two types of case; 1. A case which had been closed by a final order and in which the prior final order has been vacated as to at least to one party and one count. [The closure of the case by entry final order is counted in the reporting period in which the final order was entered and the reinstatement of the case shall be counted in the reporting period in which the prior final order was vacated even if they are in the same reporting period]. 2. A case which is removed from Inactive status and remains open.

3. **Inactive** applies to cases which are open and beyond the control of the court to advance the case. Specifically inactive can apply to an open case: 1 which is on appeal, [Interlocutory appeal], 2. in which a notice of stay in bankruptcy is filed, 3. in which warrant is outstanding for more than 60 days, 4. in which the defendant has been admitted into a specialty court and the case remains open. [This would apply only to pre-sentence programs].

4. **Closed** applies to a case in which a final order as to all parties and all counts is entered during the designated reporting period.

5. **Open** applies to a case which has been assigned a case number *and* a final order as to all parties and all counts has *not* been entered during the period covered by the report.

Reporting statistics require the following calculation:

Open cases [End open from the prior reporting period]
+New filed cases for current period
+Reinstated cases for the current period
-Closed cases for the current period
= **Open** cases for the current reporting period and becomes the **Open** cases starting point for the next reporting period.

We recognize that at the end of any reporting period case may not all be accounted for – especially with the introduction of new data collection. Any case which cannot be accounted for in any other categories may be reported in the “adjustment category” However, we recommend that any adjustment greater

than 2% of the total for that case category must be accompanied with a written explanation for each deviation.

Sections A, B, C, and D: Caseload Statistics

Sections A, B, C, and D respectively relate to additional instructions for civil cases, criminal and quasi criminal, family and juvenile cases, and all other cases. These instructions define the event or order which closes a case for statistical reporting purposes. These orders were selected because they are clear, firm and easily recognized events or orders. Again, individual circuits are free to collect any *additional* data they may wish to capture for their own planning and allocation of resources, but for purposes of uniformity and standardization these orders will be the event that statistically closes each case category.

Section E: Additional Instruction for Report E Time Lapse of all cases in which there was a Jury Verdict.

We recommend only an amendment to clarify that there is only a single date that a jury verdict is returned

[Note that a jury verdict does not close a case]

Section H: Additional Instructions for Report H Orders of Protection Issued or Granted

We recommend adding the additional types of protections under OP case categories.

Section I: Additional Instruction for Report I Age of Open Cases

We recommend no substantive changes.

Section K: Additional Instruction for Report K Self Represented Litigants Data Collection

We recommend no changes at this time.

Section L: Additional Instruction for Report L Closed Case Litigation

We recommend this new report to identify the number of closed cases in which there is litigation and the number of times a closed case appears in court during the reporting period.

CLOSED CASE LITIGATION:

Evaluation of caseloads and judicial workloads currently considers only open cases, yet anecdotally we know that a substantial amount of judicial time is spent on closed cases. Identifying and collecting accurate and uniform data on activity in closed cases would provide a more fair and complete evaluation of caseloads and judicial performance. This is particularly true for judges who hear divorce and (criminal) probation compliance

Identifying and quantifying work in closed cases will be an important factor in establishing appropriate performance standards for judges and the court, as a whole. We recommend using a single term such as “Closed Case Litigation.” Litigation for this purpose is defined as the filing of any pleading, the appearance of any existing party, new party, or officer of the court regardless whether a written appearance is filed. Thus Closed Case Litigation identifies litigation a statistically closed case; new activity which may be initiated by the appearance in court of a party or officer of the court [such as a probation officer] regardless whether a written appearance is filed or by the filing of a new pleading. We submit that simply reporting this litigation will begin to quantify the time and judicial resources spent on closed cases.

Section M: Additional Instruction for Report M Time Lapse Between Case Number Assignment and Entry of Order Closing the Case

We recommend a calculation, for cases which were never put on any inactive status, which counts the time between the date the case was assigned a case number and the date it is statistically closed.

Section N: Additional Instruction for Report M Time Lapse Between Case Number Assignment and Entry of Order Closing the Case in Cases which were on Inactive Status for any period of time

We recommend a calculation, for cases which were put on any inactive status for any period of time, which counts the time between the date the case was assigned a case number and the date it is statistically closed and subtracts the time the case was on inactive status.