



Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

MEMORANDUM

TO: The Honorable Justices of the Nevada Supreme Court
COPY: Ron Titus, Director
Robin Sweet, Deputy Director
FROM: John McCormick, Rural Courts Coordinator 
DATE: June 22, 2010
SUBJECT: Indigent Defense Commission Data Definitions

FILED

JUN 23 2010

TRACER/LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ADKT 411

At the Indigent Defense Commission (IDC) meeting on June 21, 2010, the Commission unanimously approved, on a motion by D.A. Dick Gammick, the attached draft of the Indigent Defense Data Definitions, specifically, the sections under the headings "Appointment," and "Unit of Count." I have attached the draft definitions and Data Subcommittee meeting summaries as presented to the IDC.

The IDC further instructed the Data Subcommittee to continue meeting and working on finalizing the remaining definitions in order to provide a common reference point for indigent defense data collection. After the final definitions are approved, the Subcommittee will move on to collection worksheets and methodology.

Minutes of the aforementioned IDC Meeting are forthcoming.

Please contact me with any questions.

Attachment

10-34215

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

MEMORANDUM

TO: Indigent Defense Commission

COPY:

FROM: Robin Sweet and John McCormick

DATE: June 14, 2010

SUBJECT: IDC Data Subcommittee

Attached you will find the June 14, 2010, version of the indigent defense data collection definitions that the IDC Data Subcommittee has been working on since the last IDC meeting.

The subcommittee has met, via teleconference, three times thus far and has discussed creating a multi-phase data collection project that will allow for an accurate look at the indigent defense situation in Nevada. The attached definitions reflect most of the information that Subcommittee has determined should be collected in Phase I of the project.

The Subcommittee has discussed the need to remember that the data are not being collected only from a court perspective, and that the goal is to capture data regarding indigent defense appointments, not cases although case is the common term used throughout.

A number of areas require further discussion for Phase I including how to count cases filed as felonies that plead out to misdemeanors while still in justice court.

Additional information for future phases would include how to count appointments with Specialty Courts, repeated appointments, and further breakdowns in the case types and dispositions.

The attached definitions, along with a summary of the meetings and discussions, will be submitted to the Supreme Court as a progress update pursuant to the ADKT 411 Order of December 2009, and the Subcommittee will continue to meet to further develop the data definitions and to work on a collection methodology.

Attachment

INDIGENT DEFENSE DATA DICTIONARY

Phase I, Version June 14, 2010

OBJECTIVE: To identify and define basic data elements for counting of cases assigned to appointed or indigent defense counsel. Phase I is expected to define those basic cases assigned and disposed categories necessary to begin understanding the caseload of appointed counsel. Future phases will expand data elements to be captured by counsel.

CASES APPOINTED

Appointment: Any time a lawyer is asked to act on behalf of a person in a criminal or juvenile matter by a court. An appointment ends when a lawyer is no longer involved in a case for whatever reason. There can be multiple appointments for 1 defendant/case during the duration of the case.

Unit of Count - For felony, gross misdemeanor, and misdemeanor criminal cases, the unit of count is a single defendant on a single charging document (i.e., one defendant on one complaint from one or more related incidents on one charging document is one case, regardless of the number of counts). For juvenile cases, the unit of count is a single juvenile defendant on a single petition.

For defendants in cases whereby multiple charges are involved, courts will utilize a hierarchy (described below) when classifying the case for statistical purposes. For example, if a defendant is charged on a single charging document with a felony and a gross misdemeanor, for statistical purposes, the case is counted as a felony. For traffic cases, the unit of count is a single case (by defendant) based on an original charging document from a single incident.

Felony and gross misdemeanor cases in Justice Court are counted when counsel is appointed to the case by the Court.

Misdemeanor and traffic cases in Justice and Municipal Courts are counted when counsel is appointed to the case by the Court.

Additional charges such as failure to appear or habitual criminal are not counted at this time because those are added after the initial charging document.

Felony Case: A subcategory of criminal cases in which a defendant is charged with the violation of a state law(s) that involves an offense punishable by death, or imprisonment in the state prison for more than 1 year.

Gross Misdemeanor Case: A subcategory of criminal cases in which a defendant is charged with the violation of state laws that involve offenses punishable by imprisonment for 1 year and(or) a fine of \$2,000.

Misdemeanor Non-Traffic Case: A criminal subcategory in which a defendant is charged with the violation of state laws and/or local ordinances that involve offenses punishable by fine or incarceration or both, the upper limits of which are prescribed by statute (NRS 193.120, generally set as no more than 6 months incarceration and/or \$1,000 fine).

Misdemeanor Traffic Case: A criminal subcategory for Justice and Municipal Courts in which a defendant is charged with the violation of traffic laws, local ordinances pertaining to traffic, or federal regulations pertaining to traffic.

Juvenile Case: A subcategory of juvenile cases that includes cases involving an act committed by a juvenile, which, if committed by an adult, would result in prosecution in criminal court and over which the juvenile court has been statutorily granted original or concurrent jurisdiction.

Failure to Appear Warrant: A warrant issued by the court when a defendant fails to appear for a criminal hearing. This inactivates a case. The case may be reactivated when the defendant is brought back before the court.

CASES ADJUDICATED/DISPOSED

Unit of Count - For felony, gross misdemeanor, and misdemeanor criminal cases, the unit of count is a single defendant on a single complaint (i.e., one defendant on one complaint from one or more related incidents is one case).

A criminal case is considered disposed when final adjudication for that defendant or case occurs. For statistical purposes, final adjudication is defined as the date of sentencing, date of adjudication, or date charges are otherwise disposed, whichever occurs last. A case may be considered closed for an appointed attorney when the appointment ends regardless of adjudicatory status.

Counsel should count the case adjudicated or disposed in the same category as it was counted in (felony in, felony out) except in the following circumstance:

1. A felony case that is resolved as a misdemeanor prior to, not at the time of, the preliminary hearing would be reclassified as a misdemeanor case. *Note: This area will require further discussion.*

CASELOAD INVENTORY

Unit of Count - For felony, gross misdemeanor, misdemeanor, and traffic criminal cases, the unit of count is a single defendant on a single case. The ending pending number for one month should be the beginning pending number for the next month.

Beginning Pending: A count of cases by defendant that, at the start of the reporting period, are awaiting disposition.

New Cases: A count of cases by defendant that have been assigned counsel for the first time of each new appointment.

Inactive: A count of cases in which a warrant for failure to appear has been issued, a diversion program has been ordered, or other similar incident that makes the case inactive.

Re-activated: A count of cases in which a defendant has been arrested on a failure to appear warrant and has appeared before the court, returned from diversion program, or other similar occurrence that makes the case active.

Adjudicated/Disposed/Closed Cases: A count of cases by defendant for which an original entry of adjudication has been entered or for which an appointment has ended.

Ending Pending: A count of cases by defendant that, at the end of the reporting period, are awaiting disposition.

ADDITIONAL STATISTICS

Death Penalty: The number of defendants for which the District Attorney's Office has filed the notice of intent to seek the death penalty, in accordance with Supreme Court Rule 250.

Probation Revocations: A type of post-adjudication criminal activity involving a motion to revoke probation due to an alleged violation of one or more conditions of probation (usually from the Department of Parole and Probation) or suspended sentence. The unit of count for revocation hearings is a single defendant, regardless of the number of charges involved. Revocation hearings are counted when the initiating document (e.g., violation report) is received by the court.

Informal Hearing (involving a judicial officer): Any hearing/event involving a juvenile in which no formal charge has been filed with the court. Only record an informal hearing if it is held on a matter that is not a part of an existing case. The court may impose a disposition as a result of the informal hearing.

Detention Hearing: Any hearing requesting a juvenile to be held in detention, or continued to be held in detention, pending further court action(s) within the same jurisdiction or another jurisdiction. Only record a detention hearing if it is held.

Habitual Criminal Hearings: A hearing held to determine if a defendant will be charged as a habitual criminal.

Conflicts: When a lawyer's appointment to case ends because of a conflict that necessitates the transfer of the case to another lawyer.

Indigent Defense Commission, Data Subcommittee
Telephonic Meeting
2:00 p.m., Thursday, April 15, 2010

Attendees

Robin Sweet, Co-Chair
John McCormick, Co-Chair
Nancy Becker
John Berkich
Jeremy Bosler
David Carroll
Drew Christensen
Howard Conyers
Diane Crow
Franny Forsman
Stephanie Heying
Judge Kevin Higgins
Bruce Hon
Hans Jessup
Sheldon Steele
Jeff Wells

Robin Sweet called the meeting to order at 2:01 p.m., and John McCormick took roll.

Ms. Sweet asked the group what data do we want to collect?

Nancy Becker provided a list of data elements she thinks should be tracked: filings, dispositions, case events (prelims, evidentiary hearings, etc.), trials, sentencing, and revocations. She also indicated that the type of charge should be tracked, e.g. misdemeanor, gross misdemeanor, or felony, and that the type of crime should be tracked, e.g. crime against a person, property crime, drug crime, etc. Ms. Becker further noted that additional information such as pleas, consolidated or severed cases, and inactive versus active cases should be considered. Juvenile case counts were mentioned, especially as they related to certification.

The group discussed various aspects of potential data collection measures, and how to count various aspects of criminal cases in which a public lawyer has been appointed.

Jeremy Bosler inquired as to if the courts, public defenders, and/or district attorneys would be keeping these stats. The group discussed various collection possibilities.

Ms. Sweet suggested that the group may want to start smaller, and collect only basic measures now, Franny Forsman agreed.

John McCormick proposed that this be viewed as a multi-phase project. The group consented to this idea.

Ms. Forsman said that first the court needs to be collecting appointment data.

Jeff Wells commented on the capacity of Clark County to collect certain data measures. They are already counting some measures and offered similar data might be helpful statewide.

Diane Crow indicated that the Legislature requires her to keep statistics on client contacts with clients with no charges. Discussions followed about how to count cases when the judges ask for counsel to stand by.

David Carroll said that during Phase I of the project it is essential to collect two data elements: number of cases assigned and number of cases disposed.

Judge Higgins said the group must remain cognizant of the limitations of the courts, particularly the rural courts, to collect additional statistical measures, especially considering the negative economic climate.

Howard Conyers said that the group needs to keep its short-term goals achievable.

The group discussed how a case should be defined and the available definitions of a case from the AOC and the National Center for State Courts. The group concluded to define a case as:

One incident/charging document and one defendant, equals one case.

The group then determined that assignments should be tracked by case type, and that case weighting type measures would need to be left for latter phases of the project.

Mr. McCormick proposed that case assignment be define as:

Any time a lawyer is asked/assigned to act on behalf of client before a court.

The group discussed various issues related to cases that go to warrant of are diverted to specialty court programs.

Ms. Sweet said she and Mr. McCormick would come up with some documentation and forward it to the group for the next meeting.

The group briefly discussed data collection across time or via time sample.

The next meeting will be set for the third week of May.

The meeting was adjourned at 3:35 p.m.

Indigent Defense Commission, Data Subcommittee
Telephonic Meeting
2:00 p.m., Thursday, May 20, 2010

Attendees

Robin Sweet, Co-Chair
John McCormick, Co-Chair
Nancy Becker
John Berkich
Jeremy Bosler
Drew Christensen
Diane Crow
Franny Forsman
John Helzer
Stephanie Heying
Judge Andrew Puccinelli
Jeff Wells

Robin Sweet called the meeting to order at 2:04 p.m., and John McCormick took roll.

The summary of the April 15, 2010, meeting was approved as presented.

The group discussed what constitutes an "appointment". Franny Forsman indicated that any time the court asks a lawyer to do anything on behalf of client that it constitutes an appointment. Judge Puccinelli and Nancy Becker agreed.

Jeff Wells indicated that he has an issue with this definition as a lawyer could receive an appointment and close a case on the same day, and this would not be reflected in the contemplated data collection scheme. Ms. Forman said that this is a case weighting issue. The group discussed the necessity of collecting more data elements in Phase I.

The group decided that it is important that courts be advised that when a judge asks a lawyer to advise a client without a formal appointment, that this situation is a formal appointment, and 'informal or friend of the court' appointments should be discouraged.

The group further discussed aspects of the concept of an appointment.

John Helzer suggested that the data kept by the courts and DA should match. The group discussed how courts are counting single charging documents with multiple defendants. Judge Puccinelli commented that in the 4th, 5th, 6th, and 7th judicial districts that this is not a big issue.

It was reported that the 2nd judicial district tracks each defendant separately by assigning a letter after the case number, group members reported that this is not the practice in 8th judicial district.

The agreed that they had arrived at a common definition of appointment.

Ms. Becker commented that the group needs to encourage system-wide definition uniformity.

The group decided to have one more teleconference before the June 21, 2010, IDC meeting and instructed Mr. McCormick to make the handle the logistics.

The meeting was adjourned at 3:34 p.m.

DRAFT

Indigent Defense Commission, Data Subcommittee
Telephonic Meeting
2:00 p.m., Friday, June 11, 2010

Attendees

Robin Sweet, Co-Chair
John McCormick, Co-Chair
Nancy Becker
John Berkich
Jeremy Bosler
Drew Christensen
Howard Conyers
Diane Crow
Franny Forsman
John Helzer
Stephanie Heying

Robin Sweet called the meeting to order at 2:05 p.m., and John McCormick took roll.

Ms. Sweet said pursuant to the last meeting that she followed up with the courts and that is about a 50/50 split as to how they count single charging documents with multiple defendants. She also indicated that 8th judicial district intends to begin counting these cases by individual defendant with their new case management system.

John Helzer said that the definitions need to offer a way to capture when cases become inactive due to the issuance of a failure to appear warrant being issued. The group decided to add inactive/re-activated to the caseload definitions, and to count a case as re-activated when a defendant is arrested and make an appearance in court.

The group discussed the use of the term adjudicated throughout the definitions and asked that it be made uniform.

The group discussed the difficulty of capturing accurate data on cases that are charged as felonies but in which a guilty plea is entered to a misdemeanor charge before prelim. Ms. Sweet said the courts count cases as 'felony in, felony out' but capture this type of plea on the disposition work sheet. Ms. Sweet said she would provide the group with copies of the current court reporting worksheets.

The group discussed the dynamics of capturing these cases, as well as the counties' concerns about accurately reflecting workload. Additionally, the group discussed the National Center for State Court's reporting standards for these cases, and if Nevada's current methodology complies with these standards.

The group decided to defer a decision on this issue until more research is conducted.

The group discussed capturing specialty court appointments and other additional statistics and it was decided to defer this until Phase II.

The group discussed that these data definitions are not confined to the courts and that the intent of this Subcommittee is come up with ways to collect indigent defense data, and thusly, counting appointments, and when appointments end (via conflict or otherwise) should be the focus. The group further acknowledged that this data will not be kept solely by the courts and must therefore allow for all aspects of indigent defense work.

The group requested that draft definitions and meeting summaries be provided to the IDC for approval to provide to the Supreme Court as a status report.

The meeting was adjourned at 3:37 p.m.

DRAFT