



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date

October 19, 2022

To

Members of the Court Executives Advisory
Committee

From

Jake Chatters, Chair
Judicial Branch Statistical Information
System Subcommittee

Subject

Repeal of Standard 2.2(m)

Action Requested

Consider Recommending Repeal of
Subdivision (m) of Standard 2.2

Deadline

October 26, 2022

Contact

Jackie Henke, Senior Analyst
Office of Court Research
jackie.henke@jud.ca.gov
415-865-8963

Issue

Standard 2.2 of the California Standards of Judicial Administration provides guidance on trial court case disposition time goals. Subdivisions of this section establish time standards for unlimited civil, limited civil, small claims, unlawful detainer, felony, and misdemeanor cases. For example, subdivisions (f), (j), and (k) recommend that courts establish case management practices to dispose all civil cases within two years, all felony cases within one year, and all misdemeanor cases within 120 days, respectively. Other subdivisions of Standard 2.2 advise courts to track the aging of different case types. This tracking can then be used to evaluate adherence to the established time standards.

Subdivision (m) of Standard 2.2 recommends that courts track the age of exceptional criminal cases, stating:

An exceptional criminal case is not exempt from the time goal in (j), but case progress should be separately reported under the Judicial Branch Statistical Information System (JBSIS) regulations.

(Cal. Stds. Jud. Admin., std. 2.2(m).)

This subdivision references the time goal in subdivision (j), which recommends that all felony cases be disposed within one year of arraignment. Subdivision (m) affirms that exceptional criminal cases should also be disposed within one year of arraignment. It asserts, though, that the age of exceptional and nonexceptional criminal cases should be tracked separately.

Subdivision (m) also requires that the age of exceptional criminal cases be tracked in JBSIS. This subdivision is the only subdivision of Standard 2.2 that explicitly asks courts to track a type of case aging in JBSIS. Other subdivisions do not mention JBSIS reporting. Despite this advisement, exceptional criminal case aging has not been reportable in any version of JBSIS—including its current version, JBSIS 3.0. Although the subdivision was adopted in 2004, no case type has been designated to specifically record exceptional criminal cases. Additionally, no data rows have been created to track exceptional criminal case aging within existing case types. Currently and historically, the judicial branch does not and has not fulfilled the JBSIS reporting requirements of subdivision (m).

Analysis

Subdivision (m) of Standard 2.2 requires trial courts to track and report exceptional criminal case aging in JBSIS. The subdivision appears to mirror subdivision (g) of Standard 2.2, which asks courts to monitor exceptional civil case aging. These two subdivisions differ in four important ways.

First, subdivision (m) explicitly states that exceptional cases must be tracked in the Judicial Branch Statistical Information System; subdivision (g) does not. Subdivision (g) advises courts to “monitor” the age of exceptional civil cases. Subdivision (m) asks courts to report the age of exceptional criminal cases in JBSIS.

Second, subdivision (g) cases are currently reportable in JBSIS; subdivision (m) cases are not. Although subdivision (g) does not explicitly require courts to report the age of exceptional civil cases in JBSIS, data rows are available for courts to provide this information. No equivalent rows are present for exceptional criminal cases. JBSIS 3.0 is structured to allow for the reporting of exceptional civil case aging, but not exceptional criminal case aging.

Third, subdivision (g) clearly defines what cases are “exceptional,” whereas subdivision (m) does not. Subdivision (g) references the definitions of an exceptional civil case found in rules 3.715 and 3.400. Subdivision (m) does not explain how exceptional criminal cases are defined and does not reference a definition of an exceptional criminal case.

Fourth, subdivision (g) establishes a purpose for reporting exceptional case aging, whereas subdivision (m) does not. Subdivision (g) advises courts to track exceptional civil case aging to ensure that exceptional civil cases are disposed within three years. The time standard for an exceptional civil case is one year greater than the time standard for a nonexceptional civil case. Subdivision (m) does not explain the utility of tracking exceptional criminal case aging. This subdivision states that the time goals of exceptional and nonexceptional criminal cases do not differ.

These four differences suggest that subdivision (m) borrows the premise of subdivision (g) without establishing necessary compliance procedures. Exceptional criminal cases, unlike exceptional civil cases, are not clearly defined. They have no explicit definition in the California Standards of Judicial Administration or Title 4 (Criminal Rules). Moreover, even if a definition of an exceptional criminal case was developed, the Judicial Branch Statistical Information System would need to be revised to allow for the reporting of exceptional criminal case aging. Even if these cases were reported separately, they would still be subject to the same time standards as nonexceptional criminal cases.

The JBSIS Subcommittee has discussed the necessary steps for ensuring that subdivision (m) is fulfilled. The Judicial Council would need to develop the definition of an exceptional criminal case. Judicial Council staff would need to update the JBSIS data infrastructure and JBSIS manual. So too, trial courts would need to review criminal cases and apply exceptional criminal case designations within their case management systems, databases, and/or statistical tools. The completion of these steps would require that the Judicial Council allocate staff time to update JBSIS, all trial courts allocate staff time to update their business and reporting procedures, and at least some trial courts pay for case management system vendor updates. Because subdivision (m) provides no stated purpose, it is unclear how the expenditure of these resources would benefit the judicial branch. No separate time standard for exceptional criminal cases exists that this statistic would help assess. No reason for reporting exceptional criminal case aging is stated, beyond saying that “progress should be separately reported” for exceptional criminal cases.

Recommendation

The JBSIS Subcommittee recommends that the Court Executives Advisory Committee review and consider recommending to the Judicial Council the repeal of Standard 2.2(m). The resources required to ensure compliance with subdivision (m) are substantial and potential gains of implementing compliance efforts appear to be limited.

Summary

Standard 2.2(m) of the California Standards of Judicial Administration requires trial courts to report exceptional criminal case aging in JBSIS. Currently, the judicial branch does not comply with this subdivision. No clear definition of an “exceptional criminal case” is given in the California Rules of the Court. Additionally, JBSIS criminal reports are not structured to receive exceptional criminal case aging data. Ensuring compliance with subdivision (m) would require Judicial Council and trial court resources. The benefits of expending these resources appear to be minimal. Subdivision (m) does not provide a reason for why exceptional criminal cases should be tracked separately from nonexceptional criminal cases or how exceptional criminal case aging statistics would be used for assessment or performance evaluation. For these reasons, the JBSIS Subcommittee recommends that the Court Executives Advisory Committee review and consider recommending the repeal of Standard 2.2(m).

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ITC prefix as assigned]-__

Title

Rules and Forms: Exceptional Criminal Case Reporting

Action Requested

Review and submit comments by January 20, 2023

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Stds. Jud. Admin., standard 2.2

Proposed Effective Date

September 1, 2023

Proposed by

Court Executives Advisory Committee
Rebecca Fleming, Chair
Judicial Branch Statistical Information System Subcommittee
Jake Chatters, Chair

Contact

Jackie Henke, 415-865-8963
jackie.henke@jud.ca.gov

Executive Summary and Origin

The Court Executives Advisory Committee recommends that the Judicial Council amend standard 2.2 of the California Standards of Judicial Administration to repeal subdivision (m). Standard 2.2(m) requires trial courts to report exceptional criminal case aging in the Judicial Branch Statistical Information System (JBSIS). Currently, the judicial branch does not comply with this subdivision. The resources required to ensure compliance with subdivision (m) are substantial, and potential gains of implementing compliance efforts appear to be limited.

The Proposal

Standard 2.2(m) of the California Standards of Judicial Administration requires trial courts to report exceptional criminal case aging in JBSIS. At present, the judicial branch does not comply with this subdivision. Moreover, the components necessary to ensure compliance with the subdivision do not exist. No clear definition of an “exceptional criminal case” is given in the California Rules of the Court. Additionally, JBSIS criminal reports are not structured to receive exceptional criminal case aging data. Ensuring compliance with subdivision (m) would require Judicial Council and trial court resources. The benefits of expending these resources, though, appear to be minimal. Subdivision (m) does not provide a reason for why exceptional criminal cases should be tracked separately from nonexceptional criminal cases or how exceptional criminal case aging statistics would be used for assessment or performance evaluation. For these

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

reasons, the Court Executives Advisory Committee recommends amending standard 2.2 to repeal subdivision (m).

Standard 2.2: Case disposition time goals

Standard 2.2 of the California Standards of Judicial Administration provides guidance on trial court case disposition time goals. Subdivisions of this section establish time standards for unlimited civil, limited civil, small claims, unlawful detainer, felony, and misdemeanor cases. For example, subdivisions (f), (j), and (k) recommend that courts establish case management practices to dispose of all civil cases within two years, all felony cases within one year, and all misdemeanor cases within 120 days, respectively. Other subdivisions of standard 2.2 advise courts to track the aging of different case types. This tracking can then be used to evaluate adherence to the established time standards.

Subdivision (m) of standard 2.2 recommends that courts track the age of exceptional criminal cases, stating:

An exceptional criminal case is not exempt from the time goal in (j), but case progress should be separately reported under the Judicial Branch Statistical Information System (JBSIS) regulations.

(Cal. Stds. Jud. Admin., std. 2.2(m).)

This subdivision references the time goal in subdivision (j), which recommends that all felony cases be disposed of within one year of arraignment. Subdivision (m) affirms that exceptional criminal cases should also be disposed of within one year of arraignment. It asserts, though, that the age of exceptional and nonexceptional criminal cases should be tracked separately.

Subdivision (m) also requires that the age of exceptional criminal cases be tracked in JBSIS. This subdivision is the only subdivision of standard 2.2 that explicitly asks courts to track a type of case aging in JBSIS. Other subdivisions do not mention JBSIS reporting. Despite this advisement, exceptional criminal case aging has not been reportable in any version of JBSIS—and is not reportable in its current version, JBSIS 3.0. Although the subdivision was adopted in 2004, no case type has been designated in JBSIS to specifically record exceptional criminal cases. Additionally, no data rows have been created to track exceptional criminal case aging within existing case types.

Currently and historically, the judicial branch does not fulfill and has not fulfilled the JBSIS reporting requirements of subdivision (m).

Comparing standard 2.2(m) to standard 2.2(g)

Subdivision (m) of standard 2.2 appears to mirror subdivision (g), which asks courts to monitor exceptional civil case aging. These two subdivisions differ in four important ways.

First, subdivision (m) explicitly states that exceptional cases must be tracked in the Judicial Branch Statistical Information System; subdivision (g) does not. Subdivision (g) advises courts

to “monitor” the age of exceptional civil cases. Subdivision (m) asks courts to report the age of exceptional criminal cases in JBSIS.

Second, subdivision (g) cases are currently reportable in JBSIS; subdivision (m) cases are not. Although subdivision (g) does not explicitly require courts to report the age of exceptional civil cases in JBSIS, data rows are available for courts to provide this information. No equivalent rows are present for exceptional criminal cases. JBSIS 3.0 is structured to allow for the reporting of exceptional civil case aging but not exceptional criminal case aging.

Third, subdivision (g) clearly defines what cases are “exceptional,” whereas subdivision (m) does not. Subdivision (g) references the definitions of an exceptional civil case found in rules 3.715 and 3.400. Subdivision (m) does not explain how exceptional criminal cases are defined and does not reference a definition of an exceptional criminal case.

Fourth, subdivision (g) establishes a purpose for reporting exceptional case aging, whereas subdivision (m) does not. Subdivision (g) advises courts to track exceptional civil case aging to ensure that exceptional civil cases are disposed of within three years. The time standard for an exceptional civil case is one year greater than the time standard for a nonexceptional civil case. Subdivision (m) does not explain the utility of tracking exceptional criminal case aging. This subdivision states that the time goals of exceptional and nonexceptional criminal cases do not differ.

These four differences suggest that subdivision (m) borrows the premise of subdivision (g) without establishing necessary compliance procedures. Exceptional criminal cases, unlike exceptional civil cases, have no explicit definition in the California Standards of Judicial Administration or title 4 (Criminal Rules) of the California Rules of Court. Moreover, even if a definition of an exceptional criminal case was developed, JBSIS would need to be revised to allow for the reporting of exceptional criminal case aging. Even if these cases were reported separately, they would still be subject to the same time standards as nonexceptional criminal cases are.

Alternatives Considered

The JBSIS Subcommittee of the Court Executives Advisory Committee has considered the necessary steps for ensuring that subdivision (m) is fulfilled. The Judicial Council would need to develop the definition of an exceptional criminal case. Judicial Council staff would need to update the JBSIS data infrastructure and JBSIS manual. Trial courts would need to review criminal cases and apply exceptional criminal case designations within their case management systems, databases, and/or statistical tools. The completion of these steps would require that the Judicial Council allocate staff time to update JBSIS, all trial courts allocate staff time to update their business and reporting procedures, and at least some trial courts pay for case management system vendor updates. Because subdivision (m) provides no stated purpose, it is unclear how the expenditure of these resources would benefit the judicial branch. No separate time standard for exceptional criminal cases exists that this statistic would help assess. No reason for reporting

exceptional criminal case aging is stated, beyond saying that “progress should be separately reported” for exceptional criminal cases.

Fiscal and Operational Impacts

The judicial branch currently does not comply with standard 2.2(m) of the California Standards of Judicial Administration. Amending standard 2.2 to repeal subdivision (m) would have no fiscal or operational impacts.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Ensuring compliance with standard 2.2(m) would require significant expenditure of branch and court resources. Under what circumstances would the expenditure of these resources be warranted?
- Are courts already collecting exceptional criminal case data? If so, how are courts defining “exceptional criminal cases”?

Attachments and Links

1. Cal. Stds. Jud. Admin., std. 2.2, at page 5

Standard 2.2 of the California Standards of Judicial Administration would be amended, effective September 1, 2023, to read:

1 **Standard 2.2. Trial court case disposition time goals**

2

3 ~~(a)-(l)~~ * * *

4

5 ~~(m)~~ **Exceptional criminal cases**

6

7 An exceptional criminal case is not exempt from the time goal in (j), but case progress
8 should be separately reported under the Judicial Branch Statistical Information System
9 (JBSIS) regulations.

10

11 ~~(n)(m)~~ * * *

12

13 ~~(o)(n)~~ * * *

DRAFT