

Blue Ribbon Commission  
Chanute Community Meetings, May 4, 2011  
Attendance: by-invitation meeting, 13; public meeting, 6.  
Feedback based on the 4 questions asked at the meetings

**1. Are there things the courts do locally that could be performed regionally or at one central statewide location to improve their efficiency?**

**a. Regionalize**

**b. Keep at local level**

1. Probation services need to be at a local level; those on probation are the least able to travel on a regional level.

2. Probationers are doing good to hold down a job, let alone travel to meet with a probation officer in another county. They've got to survive; forcing them to travel backs them into a corner where they would do things they wouldn't ordinarily do. You're not dealing with robots, you're dealing with people. If a guy can't get to the hearing, he gets put in jail; then his family goes on welfare, and on and on.

3. Judges are good at working with attorneys in planning which of the two courthouses certain hearings will be held in; they take into consideration the needs of the clients/defendants.

4. Rural areas need consideration for their people, just like urban areas.

5. If we went to regional courts, CASA would have a harder time recruiting local advocates because of travel.

6. We're pretty lucky here in the 31st because of accessibility to the judges. If there is delay here, it's not the fault of the courts. Usually when the parties are ready, the courts are ready. We wouldn't want to lose that.

7. There are very few caseloads that can be dealt with regionally; most need to be kept within their own counties.

8. Not much more consolidation that can be done in the court system.

## **2. How could the courts use technology to make their operations more cost-effective or improve access to the courts?**

### **a. A/V Technology**

1. Videoconferencing: some judges don't use it much; some judges use it.
2. It is used for 1st appearances, juveniles, mental illness cases.
3. County attorney uses it quite a bit wherever the opportunity can work; it was very helpful when one judge was in a multi-month jury trial.
  4. It's a local issue; helps cut down on transportation time and costs. Saves local money, but not state general fund money. One attorney files 40-45 care/treatment cases/year; transportation costs would be significant; use of videoconferencing may cut down transportation needs from 4 trips to 1-2 trips/case.
  5. It is good for some hearings, but not a fix-all for everything. Sometimes a judge just plain needs to hear and see the hearing in person.
  6. Use of technology is making a good difference. All documents are being scanned. Court documents can be searched at Kansas.gov for a fee.

### **b. E-everything**

1. The federal system requires e-filing. Federal courts have used e-filing and document search/retrieval for years. It worked just fine.
2. The state's plan for e-filing is pending budget decisions in the legislature.
3. E-filing would be a good thing.
4. Use of paypal would help simplify the process of filing for the clerks. Not all counties accept credit cards.

### **c. Anti-technology**

1. Lack of computers could limit access to justice if e-filing is mandated.

## **3. How can the court become more flexible in the use of people and facilities as workloads and funding fluctuate?**

**a. Consolidate/share**

1. Other judges call and can be called to cover cases; the Supreme Court has given them standing orders to allow this. Same with clerks; personnel is shared within the district.

**b. District Magistrate Judges (DMJs) & District court Judges (DJs)**

1. Retention should be the way to select judges -- not elective. An elected judiciary depends on politics and pandering to the public.

2. Retention districts are better; elective judges are punished for unpopular decisions and can be less willing to administer justice in a fair and impartial way, especially in an election year.

3. There is a way to get rid of bad judges.

4. Senate confirmation of judicial nominees was roundly shot down. The confirmation system is already in place in the form of the local nomination committee; nominations committees are made up of trusted, respected, impressively credentialed members of the communities; don't take it to Topeka where it would be politicized.

5. Judicial selection shouldn't be politicized.

6. The biggest problem is the legislature taking away judicial discretion/local input in these districts. DMJs make 1/2 the salary of DJs.

7. It's been heard that elected districts are hesitant to use magistrates because having magistrates in an elected district is like training your competition.

8. It doesn't make sense that judges have to ask for campaign contributions from folks who will appear in front of them; politics should play as minimal a part as possible in the courts. How could campaign contributions not influence a sitting judge. Standing for retention is scary enough; standing for election, when you probably took a salary cut to take the position in the first place, is really scary.

9. We use DMJs here; some have law degrees, some don't. We have very good DMJs in this district. Other districts that don't use DMJs should consider using them.

10. He has practiced in both types of districts: elected and retention. The retention system is better. Montgomery Co. has elected judges. He charges clients more for cases in Montgomery Co. because it will be harder to try cases there. You get "home-towned" there; judges make preferential decisions for the home town attorneys. The bar there is much less

civil than in the retention districts. It is harder to get continuity in elected districts because the judges change frequently; it creates bad experiences and bad law.

11. The bar will usually say that they favor retention; the public will usually say that they prefer elections.

12. Public outcry for public interviews for judges; but no one came. It's similar to this meeting tonight.

13. Kansas Commission on Judicial Performance sends out questionnaires to those who have used the court system. Results are put on the website.

**c. Other**

1. One area has only one court reporter for the district (due to not being able to get one; they don't make enough money). There are no court reporter training schools in the state.

2. The district court clerk keeps a list of interpreters; they pay a daily amount. Not generally a big issue here. Staff vacancies have generally been filled without an inordinate wait time.

3. There is no one resolution that will work in all 105 counties. "Broad" solutions may not work across this state; we have unique situations in our localities. We need to look at the unique requirements of our local situations. The caution is that every system has a point of no return – pushing/cutting too far/much will have repercussions, *i.e.*, increased crime.

4. Poverty in this area is a predominant issue, a real consideration: not having a car to get to hearings, no public transportation. One attorney has clients who walk to Chanute to make meetings. He has clients who remain married, although completely out of touch, because they don't have the money for a divorce.

5. After 3 years, a person can have his/her record expunged. The \$115 filing fee is often prohibitive. Filing fee must be paid for each case. Poverty affidavit can be filed in the 31st. 11th has a local rule that no attorney fees will be paid before court costs are paid; this tends to limit the filing of poverty affidavits.

6. They used to have a staff member sit in on court hearing to make sure the recorder was working, but they don't have enough staff to do that now.

**4. What other ideas, issues, or concerns do you want the BRC to consider?**

**a. Access to justice/timeliness**

1. Increased docket fees can limit the access to justice; if filing a case becomes too expensive, justice can become inaccessible. If fewer cases are filed, the court system gets less money. Increasing the docket fees will increase the number of poverty affidavits that will be filed. The local rule in the 11th district regarding poverty affidavits will increase the number of pro se filed divorces.

2. Docket fees are too high and some people can't afford it.

3. Increasing docket fees would increase the filing of poverty affidavits.

4. We must have access to justice for protection from abuse orders – many of these clients have no cars, walk to the courthouse, they end up in a shelter. He anticipates 20 of these cases on next Tuesday's docket. It's not just one trip to the courthouse; most of the cases require multiple trips to the courthouse. Transportation, babysitting costs also have to be considered.

5. Parties can file a poverty affidavit and then be able to file their divorce.

6. Some child support goes uncollected because some people don't know the enforcement services are available; some suffer from the "this is the way it's been done for generations" mentality. These kinds of services should be covered in a required high school class.

7. CASA is funded by the courts. CASA advocates are lay help from the communities. They have to access court documents. If we went to regional courts, it would be harder to recruit local advocates because of travel. She also reports back to courts in other districts for foster kids placed in her district.

8. We're pretty lucky here in the 31st because of accessibility to the judges. If there is delay here, it's not the fault of the courts. Usually when the parties are ready, the courts are ready. We wouldn't want to lose that.

**b. Process changes**

**c. Money/vacancies**

1. Understands the need for the surcharge, but would like to see a stable budget.

2. The use it or lose it policy in state financing is problematic.

3. The judicial branch is a separate branch of government; legislature needs to treat the courts as the stable feature they are. He mentioned the school finance decision: instead of

trying to get back against the courts, the legislature should get its own house in order; they are making our budget predictability even harder.

4. Five counties in southeast Kansas have two courthouses per county: change for change sake is not better. Change for the better is good. Closing one of the courthouses in a county doesn't save the state any money; counties pay for the courthouses (physical facilities); the state pays for personnel. The number of clerks is determined by the number of filings, not the number of courthouses. These courthouses only have 1 courtroom in each courthouse. Chanute courthouse is quite small; doesn't have enough space to combine all offices/services in one courthouse.

5. Counties can decide whether to close a courthouse. Three local counties have built new jail facilities, based on their own decisions.

6. DMJs make 1/2 the salary of DJs.

7. There has to be a bottom line amount to fund the judiciary; they are a third branch of government – not an agency; the court needs to stand up to the legislature.

8. The state never followed through with funding the full judicial system as indicated in the '70s.

9. To save money, the state would have to merge counties, not just courthouses.

10. All of the judges in this district travel – they have two counties each. for judges is state paid; mileage for CSOs is county paid.

11. Certain district courts use an income tax refund setoff to collect unpaid fines, etc. This could be done better. It's not cost effective to throw someone in jail for an unpaid court fine.

#### **d. Legislature**

1. Has heard the judicial branch referred to as an agency by a legislative auditor.

2. There has to be a bottom line amount to fund the judiciary; they are a third branch of government – not an agency; the court needs to stand up to the legislature.

3. When the politics gets involved in the judiciary, you've got problems.

4. There is a difference when there aren't as many legislators who don't have a legal background.

5. Judiciary's problem is figuring out how to demonstrate to the legislature that it is operating as efficiently as it can, that we need a certain amount of money; let the courts decide where the money is to be spent.

6. Requesting the legislature allow the courts to determine "where the money is to be spent" would require being presented in a persuasive way with facts to back it up.

7. If the BRC was the legislature's idea, they would accept recommendations more readily. One wonders if the legislature will see the BRC as a function of the court, and then dismiss its report.

8. Legislative influence of western KS is diminishing, but he doesn't see it ever being done away with.

**e. One judge per county**

1. Seems like more of a western Kansas issue.

2. The court system is a vital part of a small community, like a hospital.

3. If there is a change in how judges are distributed, it should be the sole discretion of the Supreme Court, not the legislature.

4. If we were starting today, we probably wouldn't make 105 counties, but we do have 105 counties; so, we have to deal with it as it is.

5. Redistricting could end up costing more in new building.

6. Closing courts adds one more vacant building to a community.  
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7. There are very few caseloads that can be dealt with regionally; most need to be kept within their own counties.

**f. BRC**

**g. Furloughs**

1. Could we have stable funding for the judicial branch so that we don't have to worry every year about furloughs?

**h. Other**