

## **Minutes of the Kansas Judicial Branch Blue Ribbon Commission**

**Wednesday, March 9, 2011**

**The Chairman of the Commission, Judge Patrick D. McAnany of the Kansas Court of Appeals** welcomed the Commission members.

**Chief Justice Lawton Nuss of the Kansas Supreme Court** made opening remarks to the Commission (these remarks are available by [clicking here](#)).

**Judge McAnany** then reviewed the Commission's charge. The Commission is to examine the operation and structure of the courts to evaluate the best way to be optimum stewards of taxpayer resources. The Commission is to find ways for the court system to function as efficiently as possible so as to assure Kansans justice that is compassionate, swift, and accurate. The study may include, but need not be limited to, the number of court locations, services to be provided in each court location, the hours of operation, the appropriate use of technology, cost containment or reductions, and flexibility in use of human and other resources. The Commission is to think beyond business as usual to find ways to refine the system and make it more efficient.

In making its study the Commission is to keep in mind that the goal is to ensure open affordable and understandable court services appropriate to the characteristics of each case, ensuring equitable access to justice and the timely disposition of disputes. The Commission will review the operations of Kansas state courts including: technology, organization and restructuring of the courts, court record retention, administrative supervision of the courts, workload of judicial and non-judicial personnel, financing of the court system, centralized court data network, use of video conferencing and other methods for court hearings, and jurisdiction, qualifications and compensation of district magistrate judges. The Commission must consider, within the principles governing the study, various constraints on the courts, including the balancing of constitutional requirements, access to justice, and available finances.

**Patricia Henshall, Acting Judicial Administrator**, then addressed the commission regarding the structure of the Kansas Court, including departmental and district court and county structure. Kansas has 31 Judicial Districts with 105 counties and 110 courthouses. The Supreme Court is responsible for developing and managing the Judicial Branch Budget, establishing and maintaining the Judicial Branch classification and personnel system, providing for licensure of attorneys, providing for the certification of district magistrate judges and official court reporters, and administering the discipline of attorneys and judges. The 31 judicial districts are divided into six judicial departments for administrative and judicial administration. Departments are made up of one to seven counties. Each county has one courthouse, and five counties have two courthouses, four of those by statute. Each justice other than the Chief Justice is the liaison for one of the six particular judicial departments.

A district judge or magistrate judge may hear cases in any county in their district. Judges frequently travel.

One judge is appointed chief judge of the district by the Supreme Court. Each district has a district court administrator or a chief clerk. Each county also has a clerk of the district court. The clerk's office has staff as well. In districts without a district court administrator, one of the clerks is appointed as the chief clerk.

Each judicial district has court services officers who prepare adult and juvenile offender reports, supervise adult and juvenile offenders, and also supervise children in need of care not in the custody of SRS. Each district has a chief court services officer.

Administrative assistants work for judges or for district court administrators. A district judge may have a secretary instead of an administrative assistant. Staffing is not evenly distributed across the districts.

Ms Henshall stated that it is difficult to find official court reporters. If none is available, an electronic recording of the proceedings is made.

The Supreme Court is authorized by statute to establish a personnel classification and pay system for Judicial Branch employees. Salaries of almost all judicial branch employees are paid by the State. At the district level, administrative and operational fees are paid by the counties.

There are 167 district court judges, 79 district magistrate judges, and 1,589.3 FTEs of nonjudicial employees. There are also some non-State paid employees who work in the courts. Court trustee employees are paid through the county, and some counties have county or grant-funded employees.

The Clerk of the Supreme Court and the Reporter of the Supreme Court are constitutional officers.

The Office of Judicial Administration is the centralized administrative office for the Supreme Court and the Judicial Branch.

**Kim Fowler, Office of Judicial Administration Budget and Fiscal Administrator**, then presented an overview of the Judicial Branch budget. Approximately 81% of the budget comes from state general funds. This is in contrast to 95% previously. To help relieve underfunding, the legislature authorized a surcharge and other funds for nonjudicial salaries.

Of the State General Fund appropriations, 98% goes to Salaries and Wages. 2% are other operating expenditures not picked up by counties. Nonjudicial salaries are 62.4%, and judges' salaries are 37.6%. Budget is around 101 million dollars. There is very little to cut in operating costs. Any cuts have to come almost entirely from nonjudicial salaries, because judicial salaries are prohibited from being cut except in limited circumstances.

Most of the money is spent in Shawnee, Sedgwick, Johnson and Wyandotte counties for services.

One response to cuts in the judicial budget is hiring delays and hiring freezes. Furloughs have also been implemented. 68% of the districts have 5% or more of FTE positions vacant, and most of the filings are in that district.

The FTE vacancies are not distributed equally. It was noted that Riley County's clerk's office had at one point last year a 49% FTE vacancy rate. It was also stated that judges don't have the authority and ability to move people from office to office. This issue might be something for the Commission to examine.

Money collected by the district courts totals almost \$55 million across the state. Of that \$26 million goes to the state general fund. The rest is distributed to other funds in different state agencies, only some of which are in the Judicial Branch.

**Mark Gleeson, in charge of Children and Family unit in the Office of Judicial Administration**, advised the Commission on Children and Family Unit programs. The Children and Family Unit works with domestic violence review programs, alternative dispute resolution programs, Court Appointed Special Advocates (CASAs), child support services, specialty courts, court services, Citizen Review Boards (CRBs), and security and emergency Preparedness.

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The Children and Family Unit is also in charge of the Court Improvement Program Project. This project is federally funded, with a 25% match provided by judges' time.

The Unit also administers the Access to Justice Program, which works with pro se litigants, interpreter services, ADA compliance, forms, guidance for judges and clerks, and attorneys authorized to offer limited representation.

Court Appointed Special Advocates are trained, screened volunteers. They are funded through the Supreme Court and private contributions. An account administered by OJA provides 20% of funding.

Citizen Review Boards are only available in ten judicial districts. They are panels of citizen volunteers that hear review and permanency hearings in children in need of care and juvenile offender cases. They are funded through the Supreme Court and county in-kind contributions, and are prohibited from fund-raising.

The security and emergency preparedness program has conducted vulnerability assessments and continuity of operations planning for all Judicial Branch entities.

The Children and Family Unit answers general questions and public inquiry regarding child support enforcement, provides technical assistance to court clerks establishing orders through the Kansas Payment Center, a centralized child support payment processing center, and coordinates the review of the Kansas Child Support Guidelines, a federally required 18-month project that occurs at least every four years.

Fourteen districts have a court trustee program establishing modifying and enforcing child support orders. Some collect court debt. They are paid for out of fees collected.

The dispute resolution programs are involved in child custody and visitation mediation, civil mediation, employer/employee dispute resolution, and mediator training.

Specialty courts include adult and juvenile drug courts. There is no funding yet. The State Justice Institute is funding a drug court feasibility study which was recently completed by the National Center for State Courts.

**Kelly O'Brien, Director of Information Services**, presented a report on the Information Technology (IT) environment of the Kansas Judicial Branch. With the introduction of a unified case management system, document management system, and the ability for electronic payments, the stage is actually set to have e-filing capability. Operations are not unified at the district court level; the individual counties have to finance district court operations such as purchase of computers and other technology. This makes rolling out any system difficult. The Court has a technology fund for maintenance and support of IT.

Every court has a server. Each server contains that court's information. A large amount of information is pulled into a centralized database. However, to go with a totally electronic system, the infrastructure is simply not there. There are no dedicated lines from courts to the central location. A secured statewide network would be much better. Better use can be made of video for some things. E-citation can make a big difference, but there needs to be an infrastructure for it.

**Justice Marla Luckert** presented the report on E-filing. Support has been received to take initial steps on the appellate court system. The ultimate goal is for the court to receive all filings electronically, and every transaction will be entered only one time. Most transactions will be completely electronic. Information will be available in a standard format.

Justice Luckert noted that future personnel savings and efficiency are hard to quantify. Hopefully, e-filing will improve efficiencies for attorneys in litigation costs, court house delivery

and storage. Having an e-filing system should also allow districts to share personnel and improve the transfer of information between courts, and improve other efficiencies.

Shawnee and Johnson Counties have had their own advanced electronic case management systems. Shawnee County is now working to adapt to the standard system used in all other counties. However, there is still a portal that will adapt to both systems. There will not be an extra fee to file electronically. The Court is working on grant funding and is also attempting to get 1.9 million dollars from the Legislature.

So far, a recommendation has been made for a vendor, and contract negotiations should begin soon.

The Appellate Courts and some large volume counties will be part of the pilot project.

**Dan Hall and Lee Suskin of the National Center for State Courts** presented a report on other projects that states are doing. They emphasized that there are no magic bullets, but that they will bring some expertise to the project. They are conducting a weighted-case study that measures the time it takes judges and staff to process court cases. The study also examines the adequacy of time to do the work, and a study to identify the most efficient business procedures and the functions that may be impacted by e-filing and other changes. NCSC can also help with the sequencing of recommendations and the ways to implement them.

The big work that other states are doing is centralizing efficiencies and making structural changes that include redistricting and consolidating. Also, there is a push to increase access to services.

Courts have not gotten into civil case reform. Case management and the way the court does business is an area that is ripe for reform.

**Dr. Keith Chauvin** spoke regarding economic concerns. Of the total costs incurred in the Kansas System, Sedgwick County accounts for 15%, Johnson County accounts for 9.8%, and Wyandotte and Shawnee counties account for approximately 22% . All together these four counties represent 47% total court system expenditures. Costs are highly concentrated in a few areas. The place to save lots of cost quickly would be the things that help each transaction in the concentrated counties.

Dr. Chauvin looked at the distribution of population and court costs across Kansas counties. He noted that business activity, domestic issues and crime are highly correlated with population and population density. Thus, demand for court services is higher.

In Kansas, growth is mainly concentrated in high population areas. Overall, growth is negative across much of the state.

The operating budget for the district courts is approximately \$105 million, and the total judiciary budget is approximately \$124 million. Compensation accounts for 98% of this. Travel costs are less than 3/10ths of one percent of the budget.

Expenditures are concentrated in a few select eastern counties and Sedgwick. The 32 smallest counties make up 5% of the budget. The 52 smallest account for only 10%. Sedgwick, Johnson, Shawnee, Wyandotte, Douglas and Saline Counties' costs are about half the entire budget.

Dr. Chauvin noted that county costs are not uniform. Sedgwick County's costs are 45% greater than those in Johnson County. Sedgwick County has one judge for 18,000 people, while Johnson County has one judge for every 23,000 people.

Dr. Chauvin stated that, in looking for savings, he would look to counties in Kansas that function well, and also to other states. However, those states which are usually identified as benchmarks, such as Utah, Minnesota and Iowa, are actually not good prospects. In Kansas the cost of Justice is \$41.60, compared to \$47.80 in Utah \$53.20 in Minnesota and \$54.30 for Iowa. This means that the benchmark should be other states.

While it is true that costs per capita are higher in smaller counties, the overall cost is very small. As a result, small counties may not be the best place to look for cost savings. However, the costs in the five biggest counties are higher than would be expected. Changes there would have a much greater impact on the judicial budget.

**Judge McAnany** then talked about operation of the Commission going forward. The plan is to break up into groups that go out into the various communities, gather information and then reconvene. The Commission approved this idea. A timeline was distributed and approved.

These groups will conduct public town hall meetings. Different groups of stakeholders will be specifically invited, including county attorneys, the chief judge, court clerks and administrators, and bar representatives. Items for discussion will be distributed in advance. Organizations that represent diverse groups will also be involved.

A list of preliminary visiting groups and sites was submitted. Some commission members recommended replacing certain locations with others, and that was done. Another panel was added to go to Salina. Legislators were also added to the invitation list.

A suggested stakeholder letter invitation was suggested. It will be revised and reconfigured.

A suggested format was provided. The format was clarified to show that the function of the town hall meetings would be to listen to concerns. A proposed format with corrections will be circulated by email. A suggestion was made to have interpreters. A suggestion was made to have two meetings: One for stakeholders and one for the general public. The idea was approved.

Tentative study teams were suggested: One team to address structure, one for finance, and one for technology. Members will email their thoughts regarding which study team they would like to be appointed to.

The meeting then adjourned.

Submitted by: Jeffrey D. Jackson