

**BRC Recommendations Summarized in the January, 2013, State of the Judiciary Report
Updates as of June, 2013 Are Highlighted Below**

I. Structural Changes

For fiscal year 2014, the Supreme Court proposed that rather than eliminating statutory restrictions on judge locations (as requested but not passed in FY 2013), the Legislature instead can create and fund 22 new judicial positions and accompanying staff needed to meet judicial needs in the underserved areas identified by the weighted caseload study.

June 2013 Update: Because the legislature chose to do neither, the Court may need to determine additional ways to provide needed services in underserved areas. Judge need tables have been developed using 2012 case filings, the latest data available. Clerk staff need for 2012 case filings at both the district and county levels have been developed.

II. District Magistrate Judges

The Supreme Court is currently taking no action on any of the commission recommendations concerning district magistrate judges (primarily because many of those actions could be affected by changes in the statutory restrictions on placement of judges as discussed in Section I). The Court continues to consider the recommendations and may later form a committee, with magistrate judge representation, to explore options in detail. The recommendations were:

Increase DMJ/DJ ratio (raise number of DMJs/decrease # of DJs).

Require future DMJs be lawyers (grandfather current DMJs in their current positions).

Expand subject matter jurisdiction of DMJs (uncontested & less complicated matters/more complex matters only w/ consent of parties).

No automatic de novo appeal to DJ from final order/decision on record by lawyer-DMJ; such cases should instead follow the normal appeals route.

All final orders and decisions by any DMJ must be on the record.

Do not allow counties to hire their own DMJs.

Counties continue to be able to hire/pay lawyers to serve as pro tem judges.

Counties continue to be able to supplement pay of DMJs.

June 2013 Update: In February, 2013, a Benefit/Effort analysis was conducted of the recommendations made by the BRC on this topic, and concluded that while the Benefit would be MEDIUM, the Effort would be HIGH, with legislation required.

III. Electronic Filing and Enhanced Use of Computer Capabilities

Development and implementation of the first **statewide EFS** for cases are underway in several locations. Current funding (through FY 2013 legislative appropriations and nonrenewable federal grants) will cover the pilot projects (Douglas, Leavenworth, and Sedgwick counties) and Shawnee County in the district courts, as well as the appellate courts. Additional legislative funding (State General Funds—SGF) is being sought for fiscal year 2014 to allow full statewide implementation of EFS by the end of calendar year 2015.

June 2013 Update: EFS: district court EFS testing is underway in all 3 pilot districts. For the appellate system, it is underway at the COA and Clerk’s Office for 2 districts (SG & JO), but with only minimal testing (manipulation of test ROAs/transcripts only) by Supreme Court staff.

The proposed FY 2014 budget was substantially cut; legislation that would allow additional fees to be taken on all case filings with those fees dedicated to technology (initially primarily for the EFS) did not pass.

OJA submitted [and recently received] a JAG grant application to cover the implementation of e-filing (to include batch filing) in six additional counties since funds were not provided in the Judicial Branch budget passed by the legislature. Batch filing is an important component for Shawnee County in particular (and eventually the rest of the state).

The Supreme Court ultimately intends to develop and implement a complete centralized statewide e-courts environment - an assessment by the Gartner Group of our technology infrastructure and operations in support of an e-courts environment was completed in late 2012 with the results presented to OJA and other interested persons in January 2013.

June 2013 Update: No further actions have been taken and likely will not be in the near future absent some funding source.

IV. Increased Use of Other Technology

The Kansas Court of Appeals is currently developing a pilot project to use video conferencing, instead of personal appearances, for certain activities in the appellate courts.

June 2013 Update: The COA videoconferencing committee has thoroughly discussed underlying possibilities, and viewed what some Kansas state agencies have been doing in the way of videoconferencing. The COA has the basic infrastructure to initiate a program but needs some “tweaking” to get it going.

A project concerning the use of video conferencing in the district courts statewide is being developed by OJA. A committee to study that subject has been formed and will address both procedural standards and technical requirements.

June 2013 Update: The first Judicial Branch Videoconferencing Committee meeting was held January 9. Two subcommittees have been formed (rules/procedural and technology). The rules/procedural subcommittee met on April 29 and has produced a draft report. The technology subcommittee met on June 24, at which it viewed equipment demonstrations.

With increased use of technology comes an increased need for guidelines concerning its use by legal participants and visitors in our state's courtrooms. With the assistance of Kansas journalists, the Supreme Court has developed a rule for use of technology, *i.e.*, electronic devices, by the media in our courtrooms.

June 2013 Update: A proposed rule 1002 addressing the use of electronic devices by nonmedia was approved by the Supreme Court.

V. Docket Fees

Possibilities exist to increase Judicial Branch funding through fee revenues. Recently some legislators have recommended that statutes requiring splitting of court filing docket fees among various entities should be revised to provide that all docket fees should go to the Judicial Branch.

June 2013 Update: By proviso, effective for two years, the percentage split mechanism where docket fees had been credited to various (including some non-Judicial Branch) fee funds was altered – now 99% of all docket fees will come to the Judicial Branch. But the Judicial Branch SGF was reduced by the amount of this anticipated revenue, thus making the Judicial Branch more dependent on a variable income source.

Other legislative proposals considered by the Court include the further increase of all current docket fees, and/or the assessment of higher docket fees in civil cases requiring large amounts of court time and resources, but no decisions were reached by the Court to pursue those now.

June 2013 Update: No statutory changes were pursued or passed during the 2013 legislative session.

VI. District Court Functions and Procedures

Many of the blue ribbon commission's recommendations regarding the district courts are to develop more uniformity—and thus increased efficiencies—among the district courts and their cases in our 105 counties. Associated activities include the following:

1. OJA is examining the collecting of court costs, fees, and fines, with the development of best practices and standardization of collection methods. OJA obtained funding—again, at no cost to the Kansas taxpayer—from the State Justice Institute allowing the National Center to provide technical assistance in reviewing the processes for collecting monies ordered by the courts. The National Center's report with recommendations for improvements is currently under review by OJA and the Kansas Collections Review Committee.

June 2013 Update: The final consultant report has been shared with committee members. A committee meeting was held on May 29. The committee reviewed all 33 of the consultants' recommendations and prioritized which recommendations should be implemented. It also offered additional proposals and comments regarding implementation efforts. A draft report to the Court is being prepared; it is anticipated that the report will be completed in early fall, 2013.

2. Re-examining the case types entitled to district court priority and expedited disposition, with accompanying time standards, may be addressed in the near future.

June 2013 Update: A Benefit/Effort analysis on this recommendation was conducted, which concluded that this would be a MEDIUM-HIGH Effort and MEDIUM-HIGH Benefit project. No further actions have yet been taken to set up a committee or study group to begin implementation.

3. Specialty courts, sometimes called problem-solving courts such as drug courts and truancy courts, are active in several locations around the state. In late 2012 the Supreme Court created a commission which will begin examining the current and future operations of these courts to develop standards for uniformity. As resources allow, this commission will also examine the possibility of creating courts to serve the unique needs of Kansas veterans.

June 2013 Update: COA J. Leben is chairing (C.J. Fleetwood vice-chairing) a commission to examine specialty courts. Contact has been made with chief judges. 2013 SC 14 was issued appointing commission members. OJA is summarizing Kansas current programs and collecting guidelines used by other states (including info from the National Association of Drug Court Professionals and the State Drug Court Coordinator) to assist the commission. The first meeting was held on May 29, with a general discussion of what has been happening in Kansas to date, existing problems, topics that need research before more constructive discussion can occur, and how to approach the rest of the commission's work. Additional meetings are scheduled for August 21, and October 23, tentatively, in Topeka, with work occurring between meetings. The commission is to report findings to the Kansas Supreme Court before the end of 2013.

4. Statewide best practices with uniform court processes and procedures in all district courts will be considered during and after statewide implementation of the EFS because that system alone will likely modify some existing court practices and procedures.

June 2013 Update: A Benefit/Effort analysis on this recommendation was conducted, and concluded that both the Effort and Benefit of such a project would be the HIGHEST of all recommendations examined. No further actions have yet been taken to set up a committee or study group to begin implementation, and this project should probably not be undertaken until the EFS project is nearly complete.

5. OJA has been working on the nationwide issue of language access to the state courts. Its activities include working with the National Center and the Interpreters Subcommittee of the Access to Justice Committee.

June 2013 Update: A plan on the order of topics to be addressed has been completed and shared with the Limited English Proficiency Subcommittee (LEPS) of the Access to Justice Committee.

OJA staff attended the first annual COSCA language access meeting in late April. Highlights were: the NCSC is building a national database of interpretation providers; in Vermont, the judicial and executive branches are cooperatively working on interpretation services with a 24 hour call center through United Way and with training provided; in Florida, two counties will be using video to eliminate the need for extensive travel except for felony trials - private discussions are available with the system that was demonstrated.

The Nebraska Court Administrator, Janice Walker, and staff presented their language access program and systems to two Kansas judges and OJA staff. Ms. Walker noted that their efforts were “a long on-going journey” and felt the cycle was nearly 20 years in the making and completion.

OJA’s first-ever language access survey has provided some useful data, including that state-wide spending by counties for interpreter services for the most recent year was \$635,900.

VII. Functions and Procedures Applicable to both District and Appellate Courts

In 2011 OJA began emphasizing the resolution of civil and criminal cases that have been pending in the district courts for long periods of time. Lists of these cases are compiled and forwarded to the chief judges of the 31 judicial districts for explanation. This emphasis has resulted in the majority of those cases being resolved. It has also reinforced the need for timely decisions of all pending cases. This process is now being conducted annually.

June 2013 Update: OJA will conduct its annual review later this year.

Current internal efforts are underway in the Supreme Court and the Court of Appeals to assure completion and more timely release of their judicial decisions to the people of Kansas.

June 2013 Update: These efforts will continue.

Both the Supreme Court and the Court of Appeals are improving their prioritization of cases and expediting the resolution of several types on appeal, *e.g.*, adoptions. A committee may further examine cases entitled to high priority appellate review and develop specific time standards for such review and disposition.

June 2013 Update: Discussions have been held on possibly setting up a committee, but no implementing action has been taken.

VIII. Appellate Court Functions and Procedures

The Court of Appeals, assisted by OJA, is developing a pilot project for the possible mediation of cases already on appeal.

June 2013 Update: The appellate mediation committee has drafted a set of proposed procedures and forms. 60 volunteer lawyer/mediators have been recruited and 20 suitable cases have been identified that appear to be good subjects for mediation. Orientation will be available to those who think they need it. Evaluations will be done by the participants after all the mediations. The parties will have the option whether to accept mediation at no cost.

IX. Office of Judicial Administration (OJA)

In addition to managing the numerous projects mentioned in this report, and conducting its day-to-day work, this past year OJA began conducting day-long strategic and project planning sessions to increase its efficiency and effectiveness. OJA will also host a 2013 visit from the president of the NCSC. Discussion topics may include OJA obtaining an operations review and accompanying management guidance from the National Center professionals.

June 2013 Update: Mary McQueen, NCSC president, visited OJA and the Court June 17-18.

X. Lawyers

The Supreme Court is considering ways to expand programs that permit lawyers to provide self-represented litigants and other users of the court system with limited advice and assistance.

June 2013 Update: A Supreme Court Rule change to allow retired attorneys to assist with pro-bono efforts of the local law schools or Kansas Legal Services was presented for a 30-day public comment period, and has been adopted by the Court. Operating details need to be developed.

XI. Legislation and Court Rules

Legislation has been requested, and rules made, to implement various blue ribbon commission recommendations. As work progresses on each item, further legislation and rules needed for effective implementation will be considered.