

REPORT OF THE BLUE RIBBON COMMISSION ON THE JUDICIARY

January 3, 2012

Introduction and Executive Summary

The various courts that formerly made up the Kansas Judicial Branch were unified in the 1970s. They are now under the administrative supervision of the Kansas Supreme Court. Unification brought many benefits to the Kansas Judicial System, but there remain impediments to the Supreme Court's efficient management.

Management of Judicial Personnel

A recent comprehensive study of the workload in our district courts, the 2011 Weighted Caseload Study, shows that statewide the total number of judges is appropriate. But in some instances, our statutes require that judges be located in places where the volume of court business does not warrant a judge being permanently assigned, while other areas of the state have workloads that justify additional judges. The solution does not lie in consolidation or redistricting of the state's judicial districts. Rather, the requirement of one resident judge per county and related statutory impediments to the efficient placement of judges should be eliminated, and the management of the judicial system should be left to the Supreme Court as provided in Article 3, § 1, of the Kansas Constitution.

District Magistrate Judges

District magistrate judges are an important component of the Kansas Judicial System. They add to the efficiency of our courts. Accordingly, the number of district magistrate judges should increase in relation to the number of district court judges. Further, the authority of our district magistrate judges should be expanded. They should be appointed or elected from the ranks of our licensed Kansas lawyers, rather than coming to the bench without the training of a lawyer. They should be employees of the Kansas Judicial System, and not employees of a county where they hold court. With their expanded authority and lawyer background,

when a district magistrate judge decides a case on the record and the decision is appealed, the appeal should be heard by our appellate courts rather than by a district court judge.

Technology

Our courts should adopt new technologies that will make the courts not only more efficient but also more accessible to the public.

The Supreme Court has undertaken a project for electronic filing of documents in our district courts. This project should lead to mandatory statewide electronic filing in all our district courts within three years. In order to help meet the cost of establishing and maintaining the system, the Supreme Court should impose a reasonable fee for filing and examining documents. The Court should adopt rules that deal with confidentiality and related security issues that arise when court documents can be examined from any internet-connected computer.

Our district courts should expand the use of audio recordings to preserve the record of court proceedings. Both our trial and appellate courts should use video conferencing as an efficient method of conducting hearings in appropriate cases. In time, as technology advances, the Supreme Court should consider the use of new technology rather than court reporters to preserve a record of court proceedings.

There is a growing need for language translators for those non-English speakers who use our courts. Our Supreme Court should seek additional funds from the Legislature to fund translator services. The Court should consider regionalizing available translator services. Further, the Court should consider new technologies that enable our district courts to obtain the services of language translators when none is available locally.

In the dual-funding system of our courts, counties are responsible for deciding what computers, audio and video equipment, and other technologies they will provide for the use of the district courts. The Supreme Court's Office of Judicial Administration should help the counties identify equipment that will be

compatible with the rest of the courts around the state, and help identify proceedings where the use of new technology will be appropriate.

Funding

Our district courts are funded in part by the state and in part by the counties where they are located. The state has the primary responsibility to provide adequate funds for the operation of our courts. But it is appropriate to require those who use our state judicial system to contribute to the financing of our courts through user fees that go to the state judicial system. The Supreme Court should examine the fee structure of our courts and seek to increase them where appropriate. The Court should adopt uniform standards for waiving or deferring fees for those who need access to the courts but do not have the necessary financial resources. But when fines, fees, and restitution have been ordered by the district court, the court should undertake vigorous efforts to collect these outstanding receivables.

Procedural Changes

Our district courts have used mediation and settlement conferences to efficiently resolve disputes short of a trial. Our appellate courts should use these same tools early in the appeal process to bring the parties to an acceptable resolution, saving the litigants time and money and enabling the appellate courts to resolve more quickly the remaining appeals.

The Supreme Court should examine the lists of case types that require priority handling in the district courts and in the appellate courts to determine if the lists should be expanded or shortened.

The Supreme Court should seek to make local district court rules uniform where possible, and should promote forums where judges and clerks can exchange ideas on best practices for handling various cases. The Court should expand training programs and take advantage of new technologies for conducting meetings and training sessions.

The Supreme Court should examine the efficiency of its Office of Judicial Administration and its Information Technology Department.

Finally, the Supreme Court should promote programs that enable lawyers to engage in a limited representation of pro se litigants. Lawyers should be encouraged to voluntarily devote a suggested number of hours to pro bono service.