PERFORMANCE AUDIT REPORT

Judicial Districts in Kansas: Determining Whether Boundaries Could Be Redrawn To Increase Efficiency and Reduce Costs

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
January 2010
THE LEGISLATIVE POST Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about $13 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. Government Accountability Office. These standards pertain to the auditor’s professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

The Legislative PostAudit Committee is a bipartisan committee comprising five senators and five representatives. Of the Senate members, three are appointed by the President of the Senate and two are appointed by the Senate Minority Leader. Of the Representatives, three are appointed by the Speaker of the House and two are appointed by the Minority Leader.

Audits are performed at the direction of the Legislative Post Audit Committee. Legislators or committees should make their requests for performance audits through the Chairman or any other member of the Committee. Copies of all completed performance audits are available from the Division’s office.

DO YOU HAVE AN IDEA FOR IMPROVED GOVERNMENT EFFICIENCY OR COST SAVINGS?

The Legislative Post Audit Committee and the Legislative Division of Post Audit have launched an initiative to identify ways to help make State government more efficient. If you have an idea to share with us, send it to ideas@lpa.ks.gov, or write to us at the address above.

You won’t receive an individual response, but all ideas will be reviewed, and Legislative Post Audit will pass along the best ones to the Legislative Post Audit Committee.

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January 21, 2010

To: Members, Legislative Post Audit Committee

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This report contains the findings, conclusions, and recommendations from our completed performance audit, Judicial District in Kansas: Determining Whether Boundaries Could Be Redrawn To Increase Efficiency and Reduce Costs.

This report contains appendices showing data about district court staffing levels and cases filed for fiscal year 2008. One table compares district court data for fiscal years 1996 and 2008.

The report includes recommendations for the Legislature to provide funding for a judicial district workload study and to request the Chief Justice of the Supreme Court to appoint a judicial advisory committee to study the issues cited in this audit. Other recommendations are directed toward the Office of Judicial Administration and are intended to allow the courts to make better use of technology as a way of reducing operating costs and making the courts more efficient.

We would be happy to discuss the findings presented in this report with any legislative committees, individual legislators, or other State officials. These findings are supported by a wealth of data, not all of which could be included in this report because of space considerations. These data may allow us to answer additional questions about the audit findings or to further clarify the issues raised in the report.

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Legislative Post Auditor
This audit was conducted by Joe Lawhon, Justin Stowe, and Ivan Williams. Chris Clarke was the audit manager. If you need any additional information about the audit’s findings, please contact Joe Lawhon at the Division’s offices.

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Judicial Districts in Kansas:
Determining Whether Boundaries Could Be Redrawn To Increase Efficiency and Reduce Costs

During the 1970s, court unification significantly altered the structure of the Kansas court system. At that time, a new Court of Appeals was added and the remaining courts, except the municipal courts, were consolidated into district courts. All the courts were put under the management and jurisdiction of the Kansas Supreme Court. Under the unified system, the State provides funding for salary costs, and counties provide funding for other costs the courts incur.

Our 1979 performance audit of the unified court system found, among other things, that unification had little effect on the time it took to process cases, and that caseloads weren’t evenly distributed. It also found wide variations in cases per non-judicial employee and in the number of employees per judge.

A second audit, conducted in 1997, found that statutory constraints prevented the Supreme Court from permanently reallocating existing judgeships to equalize workloads. Because of that, the wide variance in judicial caseloads had changed little since unification. The audit found that judges in some districts had caseloads of less than 400 cases, while judges in other districts had caseloads as high as 2,300 cases.

Currently, Kansas has 31 judicial districts. Minnesota has only 10 districts, and Iowa and Utah have only eight. All three states are fairly similar in size and population to Kansas. Given that these states operate with so many fewer judicial districts, legislators have raised questions about whether the boundaries of judicial districts in the State could be redrawn to potentially reduce costs and even-out caseload discrepancies.

This performance audit answers the following question:

**What savings could be achieved by redrawing judicial districts in Kansas to better align resources with caseloads?**

To answer this question, we reviewed reports issued by the Judicial Council and our office to identify findings and recommendations related to the establishment of district boundaries, caseloads, and other efficiencies. We also reviewed State law and the Kansas
Constitution to look for legal requirements pertaining to the operation of district courts. We visited district courts in seven different districts—Dodge City, Emporia, Garden City, Hill City, Larned, Kansas City, and Ottawa—and spoke with judges and non-judicial staff to gain insights about staffing levels, workloads, and other factors affecting district courts’ operations. We also interviewed several former judges, staff from the Office of Judicial Administration, and representatives of the Federal District Court of Kansas about factors affecting Kansas district court operations.

To help us assess whether savings could be achieved, we created an economic model that examined the relationship between average cost per case and the number of cases handled by district courts.

A copy of the scope statement the Legislative Post Audit Committee approved for this audit is included in Appendix A. For reporting purposes, we decided to report our findings under two separate questions.

Generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, based on our audit objectives. In conducting this audit, we followed those standards with two exceptions. We didn’t test the reliability of district court expenditure information reported by local county governments to the Office of the Judicial Administration, nor did we test the staffing level information local governments provided to us. Judicial Administration staff told us that they think county governments aren’t consistent in how they report their costs, and that local costs may be understated. Our review of these records led us to the same conclusion, but they are the best records available at this time.

Also, in conducting this audit, we used fiscal year 2008 case data maintained by the Office of the Judicial Administration. These data are developed by the district courts and sent to the Office of Judicial Administration, which compiles the data and prepares various reports. We conducted limited testing of these data to ensure their reasonableness.

Taking these issues into account, we think it’s unlikely the data we used in this audit are so grossly or systematically wrong as to affect our findings and conclusions. Therefore, we think the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our findings begin on page 9, following an overview of the district court system.
Overview of the District Court System

Kansas Has Had A Unified District Court System Since 1977

Kansas’ judicial system was created in 1859 with the adoption of the Kansas Constitution. Over time, this system came to include a myriad of State and local courts, including district, probate, juvenile, county, and municipal courts.

From 1964 to 1978, a series of changes were made to unify the court system in Kansas:

- In 1964, the Citizens’ Conference on Modernization of the Kansas Courts was formed to study problems within the court system. The Conference dealt with problems in the area of judicial qualifications, compensation and disciplinary methods. It also sought to resolve the lack of central administration in the court system. The Conference found that each judicial district was administratively independent of the other districts. The lack of central administration meant that statistical information systems, personnel systems, and budget systems weren’t consistent. Also, the jurisdictions of the lower courts overlapped, often causing confusion as to the correct court in which to file a case.

- Acting on the Conference’s recommendations, the 1965 Legislature passed the Judicial Reform Act, which initiated a reorganization of the State’s judicial system. The Act created a judicial department and, for the first time, placed the district courts under the central administration of the Kansas Supreme Court.

- In 1968, the Legislature created the Citizen’s Committee on Constitutional Revision. The Committee’s major task was to draft a new judicial article for the Kansas Constitution. The draft article called for the judicial power of the State to be exclusively vested in one court of justice, which was to be divided into one Supreme Court, district courts, and such other courts as were provided by law. The article also gave the Supreme Court general administrative authority over all courts in the State.

- In 1972, Kansas voters approved the constitutional amendment mandating the development of a unified court system under the Kansas Supreme Court.

- In 1975, the Legislature created a new appellate court to expedite the appeal process, and in 1976 the Legislature abolished all lower courts except municipal courts and consolidated them into district courts. These two changes took effect in January 1977 and resulted in the establishment of three levels of State courts—the Supreme Court, the Kansas Court of Appeals, and 105 district courts (one in each county)—the system that remains in effect today. Municipal courts remain separate, and aren’t part of the district courts.

Under the new court system, each judicial district was to be headed by a chief judge. In addition to hearing cases, the chief judge was responsible for the clerical and administrative functions of the courts within the district, including the assignment of cases.
Fiscal responsibility for the unified district court system primarily rested with the State, but local governments also had to provide some support. In 1978, the Legislature specified that the funding of the district court system would be as follows:

- The State would pay for the salaries of all district court judicial and non-judicial personnel, except for certain personnel—such as those performing services in adult or juvenile detention facilities. The State also would pay travel expenses for district court personnel.

- County governments would be responsible for all expenses incurred for the operation of the district court in their counties. Operating expenses included rent, utilities, postage, equipment, and so on. Over time, some counties have chosen to hire and pay for additional staff with their own funding. According to Judicial Administration staff, counties did this because they saw a need for more staff than the State was willing to fund.

State law also establishes two types of district court judges—district judges and district magistrate judges. The differences between them are described below:

- **District judges** must be attorneys. They can hear all types of cases that come before the district court.

- **Magistrate judges** aren’t required to be attorneys. Any magistrate who is not an attorney, must within 18 months of taking office, pass an examination and become certified by the Supreme Court. Their jurisdiction is limited to cases such as traffic and tobacco infractions, criminal misdemeanors, and civil cases involving $10,000 or less.

As of December 2009, there were 167 district judge positions and 79 district magistrate judge positions, of which 33 (42%) were attorneys.

District courts also use senior judges and retired judges to help cover the workload. Senior judges are retirees who sign a contract to work 40% of the year for a stipend equal to 25% of the salary of a district judge.

**By law, district court judges may be elected or appointed to office.** According to Office of the Judicial Administration records, 14 districts (covering 53 counties) have chosen the partisan election process, and 17 districts (covering 52 counties) have chosen the appointment process. All appointed judges are subject to a retention vote every four years, whereas elected judges are subject to partisan election every four years. According to a 1999 report, Kansas is one of 12 states that allow district judges to be selected under different processes.
Kansas Currently Operates 31 Judicial Districts

When the court system was unified in 1978, the State had 29 judicial districts. Over the next five years, two more judicial districts were created:

- in 1982, the Legislature created a 30th district. Cowley County was removed from what is now known as the 30th judicial district.

- in 1983, the Legislature created a 31st district. Woodson and Allen Counties were removed from what is now known as the 4th judicial district and Wilson and Neosho Counties were removed from what is now known as the 11th judicial district. Those four counties became a new judicial district. In addition, several other judicial districts were reconfigured to include different counties.

Seven of the current 31 judicial districts are single-county districts, while seven judicial districts in western and north central Kansas cover at least six counties.

Figure OV-1 shows a map of the State's 31 judicial districts.

Figure OV-1
31 Current Judicial District Boundaries

Source: Office of Judicial Administration map of current judicial district boundaries.
Because State and county governments share responsibility for funding district court operations, we obtained both State and local cost information to try to identify the “total” cost of the district courts and the total number of staff involved.

The reader should be aware of several limitations or issues related to the expenditure and staffing information we obtained:

- For this audit, we focused on fiscal year 2008 because that year represented a more “normal” snapshot of district courts’ operations and costs before the current economic and State budgetary crisis. In addition, 2008 was the most recently completed year for local governments; unlike State costs, local court costs are on a calendar-year basis. The 2008 costs we report are a blend of the State’s fiscal year and the local courts’ calendar year.

- Although the Office of Judicial Administration has established a standard format for local district court staff to report local district court expenditures to the State, Office staff told us the expenditures counties report aren’t consistent and don’t include all local costs. Our review confirmed that fact. For example, most counties didn’t report expenses for items such as rent, utility costs, or building maintenance for local county courthouses or court facilities. As a result, the local cost of operating district courts reported by county governments and used in this report likely is understated.

- Counties reported spending about $26.6 million in calendar year 2008, but $13.2 million of that amount went towards the legal representation of people appearing before the courts—for example, indigent defense attorney fees, guardian ad litem fees, parent attorney fees, and other defense costs. Although counties paid these costs out of their local court budgets, these represent costs of the legal system, not just the court system. Only $13.4 million of the amount the counties reported represented direct district court operating costs. This figure includes more than $1 million for personnel costs, $2 million for commodities, and $8 million for such operating costs as computer services, equipment rental, and postage. It also included more than $1 million for capital outlay, which can include computer and equipment purchases.

With the limitations noted above, Figure OV-2 shows that the district courts’ operating costs were an estimated $114 million in fiscal year 2008.

<table>
<thead>
<tr>
<th>Type of Cost</th>
<th>State</th>
<th>Local (a)</th>
<th>Total</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary and Employee Benefits</td>
<td>$100.5</td>
<td>$1.2</td>
<td>$101.7</td>
<td>89%</td>
</tr>
<tr>
<td>Contractual Services (b)</td>
<td>$0.3</td>
<td>$8.5</td>
<td>$8.8</td>
<td>7.7%</td>
</tr>
<tr>
<td>Commodities</td>
<td>$0.0</td>
<td>$2.1</td>
<td>$2.1</td>
<td>1.8%</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>$0.0</td>
<td>$1.5</td>
<td>$1.5</td>
<td>1.3%</td>
</tr>
<tr>
<td>Transfers / Special Projects</td>
<td>$0.0</td>
<td>$0.1</td>
<td>$0.1</td>
<td>0.1%</td>
</tr>
<tr>
<td>Total</td>
<td>$100.8</td>
<td>$13.4</td>
<td>$114.2</td>
<td>100.0%</td>
</tr>
<tr>
<td>% of Total</td>
<td>88.3%</td>
<td>11.7%</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(a) Excludes $13.2 million that went towards the legal representation of people appearing before the courts.
(b) State contractual services expenditures are primarily employee travel expenses.
Source: LPA analysis of State and county district court funding.
State funding for district court personnel and travel totaled $101 million that year, or almost 90% of the reported operating costs for district courts.

*Figure OV-2* also shows that, overall, almost 90% of the $114 million in combined State and county-reported operating costs went for district court personnel salaries and benefits.

**District courts employed more than 1,800 full-time-equivalent staff in 2008 to process more than 540,000 total cases.** According to State payroll records, as of January 2008 the State was paying for 1,790 full-time-equivalent (FTE) district court personnel. According to information county staff provided to us, 16 counties paid for almost 40 additional FTE district court staff in calendar year 2008.

As shown in *Figure OV-3* on page 8, the combined State and county-funded staffing level for 2008 totaled 257 judges (magistrate and district) and 1,572 non-judicial staff. The figure also shows total staffing levels for each major position category.

*Appendix B* shows fiscal year 2008 staffing levels, by position type, for each district.

In fiscal year 2008, more than 540,000 cases were filed in district courts. Almost 200,000 of those cases were traffic cases. The remaining 342,249 non-traffic cases were criminal, civil, probate, domestic, and other cases. *Appendix C* provides a breakdown of cases filed, by type of case, for each district.

We used non-traffic cases for our analyses in this report because, as we understand, most of the work for traffic cases is performed by clerical staff (includes creating case documents and receiving fines paid) and only a small percentage of traffic cases come before a judge for a hearing. We also saw that several other studies, including reports previously issued by our office and one report issued by the National Center for State Courts, reported caseloads excluding traffic cases. As a result, throughout this report, when we refer to cases we are referring to non-traffic cases unless otherwise noted.
### Estimated State and Local District Court FTE Staff by Position Type

#### As of January 2008 (a)

<table>
<thead>
<tr>
<th>Position Type</th>
<th>Brief Position Description</th>
<th>FTE Staff</th>
<th>% of Position Category</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>JUDGES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>District Judge (b)</td>
<td>Required to be attorneys, and can hear all types of cases that come before the district court.</td>
<td>164.0</td>
<td>63.8%</td>
</tr>
<tr>
<td>Magistrate Judge</td>
<td>Aren’t required to be attorneys, but must be certified by the Supreme Court. Their jurisdiction is limited to specific types of cases such as traffic or tobacco infractions, criminal misdemeanors, juvenile cases and certain civil cases.</td>
<td>79.0</td>
<td>30.7%</td>
</tr>
<tr>
<td>Non-Permanent Part-Time Judges</td>
<td>These are part-time assigned and senior judges (often retired judges) who work on a contractual basis.</td>
<td>14.2</td>
<td>5.5%</td>
</tr>
<tr>
<td><strong>Non-JUDICIAL STAFF</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trial Court Clerks II, III, IV</td>
<td>Handle the technical clerical and supervisory work of the court such as collecting fines, processing marriage licenses, data entry, file management, appeal and docket scheduling, reviewing petitions, issuing subpoenas, and preparing judge docket and trial calendars. Higher-level positions assume additional supervisory responsibilities.</td>
<td>556.7</td>
<td>35.4%</td>
</tr>
<tr>
<td>Court Services Officer I, II</td>
<td>Supervise people on probation, or those being provided with other district court services. These staff also conduct pre-sentence investigations for juvenile and adult offenders, which includes a review of the offender's criminal and social history.</td>
<td>337.6</td>
<td>21.5%</td>
</tr>
<tr>
<td>Administrative Assistant</td>
<td>Most of these positions work for judges and perform administrative work such as scheduling cases, preparing documents, acting as a receptionist, and other courtroom support activities.</td>
<td>141.0</td>
<td>9.0%</td>
</tr>
<tr>
<td>Official Court Reporter</td>
<td>Take a verbatim record of court proceedings and later transcribe it, and also mark and enter evidence.</td>
<td>127.9</td>
<td>8.1%</td>
</tr>
<tr>
<td>Clerk Of District Court I, II, III</td>
<td>Handle the overall management of the civil, criminal, limited-action, probate, and juvenile functions of the court. Ultimately responsible for all money processed through the courts, often develop court budgets, and often supervise and evaluate court staff.</td>
<td>101.0</td>
<td>6.4%</td>
</tr>
<tr>
<td>Other Staff</td>
<td>Includes a number of miscellaneous staff positions such as higher level trial court clerks and court services officers, programmers, and district court administrators.</td>
<td>88.0</td>
<td>5.6%</td>
</tr>
<tr>
<td>Non-Permanent Part-Time Staff (c)</td>
<td>Largely part-time, temporary staff such as bailiffs, temporary trial court clerks, and law clerks.</td>
<td>85.4</td>
<td>5.4%</td>
</tr>
<tr>
<td>Secretary I, II</td>
<td>Perform basic routine types of work such as answering the phone, setting up calendars, compiling data for public reports, editing documents, and so on.</td>
<td>67.8</td>
<td>4.3%</td>
</tr>
<tr>
<td>Accounting and Records Clerk</td>
<td>Clerks who manage the courts’ accounting systems and create financial reports, and clerks who manage records.</td>
<td>66.9</td>
<td>4.3%</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td></td>
<td>257.2</td>
<td>100.0%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>1,572.3</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

(a) Staff totals include about 40 FTE staff positions funded by local governments in 2008.
(b) District judge totals exclude three positions that were vacant as of January 2008.
(c) This category also includes transcriptionists, which are permanent positions, but aren’t typically assigned to every court.

Source: Fiscal year 2008 SHaRP data, county reported staffing, and LPA review of district court staff position descriptions.
Question 1: How Have Caseloads Changed Since Court Unification?

**Answer in Brief:**
Since unification, the distribution of cases per judge has remained very uneven across judicial districts. In 2008, the average caseload per judge ranged from 356 cases to 2,392 cases. On average, caseloads are higher in districts that have a lot of cases—especially for judges. The disparity in cases per judge is caused primarily by the law requiring one judge per county. Previous studies have identified problems with the disparity in staffing levels and caseloads, and the Court’s inability to address them. These and other findings are described in the following sections.

**Since Unification, The Distribution of Cases Per Judge Has Remained Very Uneven Across Judicial Districts**

Historically, there’s been a wide variation in the number of cases per judge in the State’s judicial districts. For example:

- Our 1979 audit showed that average caseloads per judge in fiscal year 1978 ranged from 360 to 1,688, a difference of 469%. At the time, there were only 29 districts.

- Our 1997 audit showed that average caseloads per judge in fiscal year 1996 ranged from 350 to 2,322, a 663% difference. By that time, all 31 current judicial districts were in place.

- As shown in Figure 1-1 on page 11, in 2008 the average caseload per judge ranged from 356 cases (15th Judicial District, northwest Kansas), to 2,392 cases (3rd Judicial District, Shawnee County). That’s a difference of 672%.

**Appendix D** compares total population, the number of cases, total judges, and average cases per judge for each judicial district in 1996 and 2008. We excluded 1978 data from this table because there were only 29 districts that year, making comparisons less meaningful.

The readers should be aware of several limitations or issues related to these calculated caseloads. Caseloads in each judicial district were determined by dividing the number of cases filed by the number of judicial (and/or non-judicial) staff in each district. Issues the reader should be aware of include:

- In Kansas, cases haven’t been “weighted,” so a case is a case. However, we know there are differences in the type and complexity of cases being handled, and differences in such things as travel time. For example, a criminal misdemeanor case that takes three hours to hear doesn’t take the same amount of judicial or non-judicial staff effort as a felony trial that takes three days to hear, yet each case is counted as a single case. Although all cases aren’t equal, cases have never been “weighted” in Kansas, as they have in some states. According to the Judicial Administrator, that’s because of the time and cost of conducting weighted caseload studies.
Another factor affecting caseloads is that courts and district attorneys may have different practices for how they file and hear cases. For example, if someone is charged with robbery and reckless driving, in some instances a district attorney may file separate charges and treat each as a separate case, while in other instances those charges may be combined into a single case. Similarly, a judge when holding hearings on these charges, may decide to combine them or to hear them separately. As a result, there can be differences in the number of cases filed in a district simply because of differences in how cases are handled.

For this audit, our analyses focused on the total amount of work required to process the total number of cases filed in a district. As a result, we were more concerned about differences between districts in the average amount of work required to process all cases, rather than in differences in the amount of work required to process individual cases. While districts have different mixes of cases, to some extent, large differences in the total amount of work required to process all cases in a district are mitigated as caseloads increase. As a result, we are confident that our analyses provide a reasonable indicator of what is going on in individual districts.

- When calculating those ratios, in general, we included all permanent FTE staff, but we excluded certain temporary judge and non-judicial positions. We did that for the following reasons:
  - in some instances those positions don’t contribute directly to case completion (e.g. bailiffs)
  - those positions don’t exist in all judicial districts
  - we can’t know the number of cases they worked on and the extent of that work
  - the State’s payroll system doesn’t accurately reflect the actual hours worked for some contractual and part-time positions. For example, assigned judges working on contract with the State are shown as 0.1 FTE in the State’s payroll system, but that’s not necessarily an accurate reflection of the number of hours actually worked by those judges in a given year. The same is true for certain types of non-judicial staff positions.

We saw similar variations in cases per non-judicial staff and per total staff. Besides showing the average number of cases per judge in each judicial district for 2008, Figure 1-1 also shows the average number of cases per non-judicial FTE staff and per all FTE staff. As the figure shows:

- Cases per non-judicial FTE staff ranged from 114 (15th Judicial District, northwest Kansas) to 373 (19th Judicial District, Cowley County). That’s a difference of 327%.

- Cases per all FTE staff (judicial and non-judicial combined) ranged from 87 (15th Judicial District, northwest Kansas) to 314 (19th Judicial District, Cowley County). That’s a 361% difference.
## Table: Fiscal Year 2008 Total Non-Traffic Case Filings, State and Local Staffing Levels, and Caseload Ratios for 31 Current Judicial Districts

<table>
<thead>
<tr>
<th>District #</th>
<th>County Name / District Location (State region added for districts with &gt;2 counties)</th>
<th>Non-Traffic Cases</th>
<th>Judge</th>
<th>Non-Judicial Staff</th>
<th>All Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Total FTE (a)</td>
<td>Cases Per</td>
<td>Total FTE (b)</td>
<td>Cases Per</td>
</tr>
<tr>
<td>18</td>
<td>Sedgwick</td>
<td>57,008</td>
<td>26</td>
<td>2,193</td>
<td>220.0</td>
</tr>
<tr>
<td>10</td>
<td>Johnson</td>
<td>49,056</td>
<td>23</td>
<td>2,133</td>
<td>179.4</td>
</tr>
<tr>
<td>3</td>
<td>Shawnee</td>
<td>35,876</td>
<td>15</td>
<td>2,392</td>
<td>153.5</td>
</tr>
<tr>
<td>29</td>
<td>Wyandotte</td>
<td>26,594</td>
<td>16</td>
<td>1,662</td>
<td>139.5</td>
</tr>
<tr>
<td>8</td>
<td>Central: Dickinson</td>
<td>10,981</td>
<td>8</td>
<td>1,373</td>
<td>46.5</td>
</tr>
<tr>
<td>1</td>
<td>Athison &amp; Leavenworth</td>
<td>9,849</td>
<td>6</td>
<td>1,642</td>
<td>35.0</td>
</tr>
<tr>
<td>7</td>
<td>Douglas</td>
<td>9,619</td>
<td>6</td>
<td>1,603</td>
<td>42.1</td>
</tr>
<tr>
<td>25</td>
<td>West Central: Finney</td>
<td>9,308</td>
<td>11</td>
<td>846</td>
<td>37.5</td>
</tr>
<tr>
<td>16</td>
<td>Southwest: Clark</td>
<td>8,504</td>
<td>8</td>
<td>1,063</td>
<td>29.0</td>
</tr>
<tr>
<td>27</td>
<td>Reno</td>
<td>8,342</td>
<td>5</td>
<td>1,668</td>
<td>32.5</td>
</tr>
<tr>
<td>28</td>
<td>Ottawa &amp; Saline</td>
<td>8,098</td>
<td>5</td>
<td>1,620</td>
<td>36.0</td>
</tr>
<tr>
<td>11</td>
<td>Southeast: Cherokee</td>
<td>7,709</td>
<td>7</td>
<td>1,101</td>
<td>40.5</td>
</tr>
<tr>
<td>9</td>
<td>McPherson &amp; Harvey</td>
<td>7,630</td>
<td>4</td>
<td>1,908</td>
<td>28.0</td>
</tr>
<tr>
<td>20</td>
<td>Central: Barton</td>
<td>7,072</td>
<td>7</td>
<td>1,010</td>
<td>41.0</td>
</tr>
<tr>
<td>26</td>
<td>Southwest: Grant</td>
<td>6,833</td>
<td>8</td>
<td>854</td>
<td>29.0</td>
</tr>
<tr>
<td>4</td>
<td>East Central: Coffey</td>
<td>6,681</td>
<td>5</td>
<td>1,336</td>
<td>31.4</td>
</tr>
<tr>
<td>13</td>
<td>Southeast: Butler</td>
<td>6,662</td>
<td>6</td>
<td>1,110</td>
<td>33.5</td>
</tr>
<tr>
<td>21</td>
<td>Clay and Riley</td>
<td>6,506</td>
<td>5</td>
<td>1,301</td>
<td>27.5</td>
</tr>
<tr>
<td>6</td>
<td>East Central: Bourbon</td>
<td>6,099</td>
<td>5</td>
<td>1,220</td>
<td>25.0</td>
</tr>
<tr>
<td>19</td>
<td>Cowley</td>
<td>5,960</td>
<td>3</td>
<td>1,987</td>
<td>16.0</td>
</tr>
<tr>
<td>5</td>
<td>Chase &amp; Lyon</td>
<td>5,927</td>
<td>4</td>
<td>1,482</td>
<td>29.1</td>
</tr>
<tr>
<td>2</td>
<td>Northeast: Jackson</td>
<td>5,734</td>
<td>5</td>
<td>1,147</td>
<td>25.5</td>
</tr>
<tr>
<td>31</td>
<td>Southeast: Allen</td>
<td>5,701</td>
<td>5</td>
<td>1,140</td>
<td>29.5</td>
</tr>
<tr>
<td>30</td>
<td>South Central: Barber</td>
<td>5,645</td>
<td>7</td>
<td>806</td>
<td>34.0</td>
</tr>
<tr>
<td>14</td>
<td>Chautauqua &amp; Montgomery</td>
<td>5,588</td>
<td>4</td>
<td>1,397</td>
<td>21.0</td>
</tr>
<tr>
<td>23</td>
<td>Northwest: Ellis</td>
<td>4,317</td>
<td>5</td>
<td>863</td>
<td>18.0</td>
</tr>
<tr>
<td>22</td>
<td>Northeast: Brown</td>
<td>3,737</td>
<td>5</td>
<td>747</td>
<td>23.3</td>
</tr>
<tr>
<td>12</td>
<td>North Central: Cloud</td>
<td>2,902</td>
<td>7</td>
<td>415</td>
<td>19.0</td>
</tr>
<tr>
<td>15</td>
<td>Northwest: Cheyenne</td>
<td>2,850</td>
<td>8</td>
<td>356</td>
<td>24.9</td>
</tr>
<tr>
<td>24</td>
<td>West Central: Pawnee</td>
<td>2,732</td>
<td>7</td>
<td>390</td>
<td>20.5</td>
</tr>
<tr>
<td>17</td>
<td>Northwest: Decatur</td>
<td>2,729</td>
<td>7</td>
<td>390</td>
<td>19.5</td>
</tr>
<tr>
<td></td>
<td>Statewide Total</td>
<td>342,249</td>
<td>243</td>
<td>N/A</td>
<td>1,486.9</td>
</tr>
</tbody>
</table>

Source: Office of Judicial Administration caseload data, fiscal year 2008 SHaRP data, and county reported staffing.

(a) Excludes 14.2 FTE non-permanent part-time judge positions.
(b) Excludes 85.4 FTE non-permanent part-time non-judicial staff positions.

Figure 1-1: Fiscal Year 2008 Total Non-Traffic Case Filings, State and Local Staffing Levels, and Caseload Ratios for 31 Current Judicial Districts.
On Average, Caseloads Are Higher In Districts That Have a Lot of Cases—Especially For Judges

We categorized the 31 judicial districts into three groups—small, medium, and large, based on the number of cases filed—to help illustrate the differences in caseloads. Figure 1-2 shows that, as the number of cases filed increased, so too did the average number of cases per judge. That same pattern held true for cases per non-judicial staff and total staff, but the differences were less dramatic.

Because judges in the small- and medium-sized districts often have to travel to conduct hearings in other counties within their districts, you wouldn’t expect judges in those districts to have average caseloads equal to those of judges in large districts. However, on average in 2008, the caseloads for judges in the four largest districts were more than double the caseloads in the smaller districts.

![Figure 1-2](image)

We noted several other interesting things when we looked at caseloads by these small-, medium-, and large-district categorizations:

- On average, judges in larger judicial districts have significantly more full-time staff to help handle cases than judges in other districts. Here’s how they compare:
the 4 largest judicial districts have an average of 173 non-judicial full-time staff each, or 8.7 staff per full-time judge

- the medium-sized judicial districts have an average of 35 non-judicial full-time staff each, or 5.4 staff per full-time judge

- the smaller judicial districts have an average of 23.5 non-judicial full-time staff each, or 4.2 staff per full-time judge

As Figure 1-2 shows, when caseloads per total staff are considered, the differences between the three different sizes of districts are much smaller.

<table>
<thead>
<tr>
<th>The Disparity in Cases Per Judge Is Caused Primarily By the Law Requiring One Judge Per County</th>
</tr>
</thead>
<tbody>
<tr>
<td>K.S.A. 20-301b requires there to be one judge per county, regardless of the number of cases filed in that county. Passed in 1983, this law specifies there shall be at least one judge of the district court in each county who is a resident of, and has the judge’s principal office in, that county.</td>
</tr>
</tbody>
</table>

As a result, a county with only 98 cases filed in 2008 (Wallace County) must have at least one judge, as does a county with 1,100 cases (Grant County) or a county with 57,000 cases (Sedgwick County). According to Office of Judicial Administration staff and judges we interviewed, judges often travel within their judicial district to help handle cases in other counties, but they rarely travel outside their assigned judicial district to handle other cases.

Since 1996, no judicial district has lost any judicial positions, despite the continued disparity in caseloads per judge. Further:

- although 21 new judicial positions have been added overall, only 9 of those were in the four largest judicial districts (Johnson, Sedgwick, Shawnee, and Wyandotte Counties)

- at the same time, 89% of the increase in population and 58% of the increase in cases filed occurred in those four judicial districts.

- not surprisingly, the average number of cases per judge in those four judicial districts increased by an average of 427 cases per judge.

The map in Figure 1-3 on page 14 shows the number of non-traffic cases filed, number of full-time judges, and cases per judge for each judicial district in fiscal year 2008. The map in Appendix E shows the number of cases filed in each county in 2008.
Figure 1-3
Total Non-Traffic Case Filings, Full-Time Judges, and Cases Per Judge for 31 Judicial Districts
Fiscal Year 2008 (a)

(a) Based on 243 permanent full-time judicial positions filled as of January 2008.
Source: Office of Judicial Administration caseload data and fiscal year 2008 SHaRP data.
The bar charts in Figure 1-4 show the resulting disparity between the percent of judicial positions and cases for the three groups of judicial districts. As these graphs show, large districts had a much greater percentage of total cases than total judges in 2008, while the reverse was true for the smaller districts.

Since 1986, 10 bills in seven different legislative sessions have proposed amendments to repeal or modify the one-judge-per-county law and related parts of State law. None have passed.

Another contributing factor to the disparity is State law specifies where judges will be located, so the Supreme Court can’t reassign judges permanently without legislative approval. For example, K.S.A. 4-203 requires there to be two district judges in the second judicial district (Jackson, Jefferson, Pottawatomie, and Wabaunsee Counties) and K.S.A. 20-338 requires there to be one magistrate judge position in each of the counties of Jefferson, Pottawatomie, and Wabaunsee. A third district judge position was added in June 2008, bringing the total number of judicial positions in this district to six.

Kansas Has Almost 400 Municipal Courts

In addition to district courts, Kansas has 385 local municipal courts. These courts are authorized to hear cases involving violations of city ordinances. According to Office of Judicial Administration data, the 385 courts are staffed by 256 municipal court judges—many are part-time and may serve as a municipal judge in more than one jurisdiction. Furthermore, 37 of the local municipal judges also serve as a district magistrate judge in one of the State’s 31 judicial districts.

In calendar year 2008 about 486,000 cases were filed in municipal court. Of those 486,000 cases, 82% were traffic related. The five most populous counties—Johnson, Sedgwick, Shawnee, Wyandotte and Douglas—accounted for 74% of all the municipal court cases filed.
<table>
<thead>
<tr>
<th>Report Findings or Recommendations</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>One Judge per County Requirement</strong></td>
<td></td>
</tr>
<tr>
<td>It is an extravagant use of resources to require that there be a resident judge in every county, regardless of population or the number of cases to be adjudicated.</td>
<td>1999 Kansas Citizens Justice Initiative Report: <em>Draft Final Report of the Kansas Justice Commission</em></td>
</tr>
<tr>
<td>There is no need to require one judge to reside in each county for Kansas to have a properly functioning judicial system that provides all citizens, wherever located, adequate access to the courts and delivers justice of high quality. It is sufficient to require that every county have a judge assigned to the county and that specified services be available at the courthouse. Judges may be assigned so that they serve more than one county.</td>
<td></td>
</tr>
<tr>
<td>However, the Legislature may choose to retain the requirement of a resident judge in each county for political, social or other reasons. Such a choice should be made only if the Legislature provides funding for additional judges and non-judicial personnel.</td>
<td></td>
</tr>
<tr>
<td>Each county of Kansas should have a resident judge because there would most likely be a need to have an official in each county with limited judicial powers to receive filings and handle emergency matters.</td>
<td>1974 Kansas Judicial Study Advisory Committee Report: <em>Recommendations for Improving the Kansas Judicial System</em></td>
</tr>
<tr>
<td><strong>Staffing Levels and Caseloads</strong></td>
<td></td>
</tr>
<tr>
<td>It appears that substantial savings could be realized if judicial resources could be allocated to meet the demand, rather than being allocated under the mandates of current law.</td>
<td>1999 Kansas Citizens Justice Initiative Report: <em>Draft Final Report of the Kansas Justice Commission</em></td>
</tr>
<tr>
<td>It is the opinion of the committee that some judicial districts have more judges than are needed and other judicial districts have fewer than are needed.</td>
<td>1991 Kansas Judicial Council Report: Report of the Judicial Redistricting Advisory Committee as Amended and Approved by the Kansas Judicial Council</td>
</tr>
<tr>
<td>The assignment of judges should be done by the Supreme Court and its Office of Judicial Administration, rather than by legislation. The need for additional judges and judicial services develops unevenly across the State year by year. Legislative remedies are therefore always in arrears.</td>
<td>1999 Kansas Citizens Justice Initiative Report: <em>Draft Final Report of the Kansas Justice Commission</em></td>
</tr>
<tr>
<td>The present allocation of judges and nonjudicial personnel has resulted in an unequal and inefficient distribution of judicial personnel.</td>
<td>1991 Kansas Judicial Council Report: Report of the Judicial Redistricting Advisory Committee as Amended and Approved by the Kansas Judicial Council</td>
</tr>
<tr>
<td>In order to have efficient administration of the judicial system, the Supreme Court should be given broad discretion in the areas of assignment of judicial and nonjudicial personnel and the creation and elimination of judicial and nonjudicial positions. The specific statutes which limit such discretion are impediments to judicial efficiency and should be amended or repealed.</td>
<td>1991 Kansas Judicial Council Report: Report of the Judicial Redistricting Advisory Committee as Amended and Approved by the Kansas Judicial Council</td>
</tr>
<tr>
<td>The Supreme Court should develop guidelines for the number of non-judicial employees per judge and the number of cases per non-judicial employee.</td>
<td>1979 Legislative Post Audit Report: <em>Court Unification in Kansas</em></td>
</tr>
<tr>
<td>The Supreme Court should develop a staffing plan, based on the type of district and the overall caseloads of each county, and should attempt to ensure that all judges have approximately equal workloads.</td>
<td>1979 Legislative Post Audit Report: Court Unification in Kansas</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>Weighted Caseload Study</strong></td>
<td></td>
</tr>
<tr>
<td>Because all court cases are not equal, the Legislature should fund a weighted caseload study as suggested by the Legislative Post Audit report.</td>
<td>1999 Kansas Citizens Justice Initiative Report: Draft Final Report of the Kansas Justice Commission</td>
</tr>
<tr>
<td>There needs to be a study of the judicial and nonjudicial needs of the judicial districts.</td>
<td>1991 Kansas Judicial Council Report: Report of the Judicial Redistricting Advisory Committee as Amended and Approved by the Kansas Judicial Council</td>
</tr>
<tr>
<td>The Supreme Court should again request funding to develop a workload management information system. This will provide information so that informed decisions about the appropriate allocation of judicial and non-judicial staff resources can be made.</td>
<td>1997 Legislative Post Audit Report: Reviewing the Kansas Court System’s Allocation of Staff Resources To the District Courts</td>
</tr>
<tr>
<td>The Supreme Court should collect workload information for the district courts so that determinations can be made as to whether any changes are needed in the assignment of non-judicial personnel among the districts.</td>
<td>1979 Legislative Post Audit Report: Court Unification in Kansas</td>
</tr>
<tr>
<td><strong>Municipal Courts</strong></td>
<td></td>
</tr>
<tr>
<td>At the time the unified district court is established, municipal courts of cities of the second and third class should be eliminated and the jurisdiction of these courts should be vested in the district court. Three years after the creation of the unified district court, all remaining municipal courts should be abolished and jurisdiction should be vested in the unified district court.</td>
<td>1974 Kansas Judicial Study Advisory Committee Report: Recommendations for Improving the Kansas Judicial System</td>
</tr>
<tr>
<td>Fines and forfeitures arising from municipal ordinances processed in the district court system should pass to the cities, minus a service charge reflecting the cost of processing each case.</td>
<td>1974 Kansas Judicial Study Advisory Committee Report: Recommendations for Improving the Kansas Judicial System</td>
</tr>
<tr>
<td><strong>District Court Efficiency Ideas</strong></td>
<td></td>
</tr>
<tr>
<td>Funds should be appropriated to provide the courts modern technology required for them to function effectively. Systems should be compatible among counties in multiple county districts, and among districts to the extent possible.</td>
<td>1999 Kansas Citizens Justice Initiative Report: Draft Final Report of the Kansas Justice Commission</td>
</tr>
</tbody>
</table>
| Representatives of the Legislature, the Supreme Court and the Governor's office should review options for improving the efficiency of district courts, such as:  
- State funding for the court's computer technology  
- State funding to increase the availability of mediation or other alternative dispute resolution measures  
- Increasing the use of magistrate, retired, and senior judges when additional judicial resources are needed | 1997 Legislative Post Audit Report: Reviewing the Kansas Court System’s Allocation of Staff Resources To the District Courts |

Source: LPA review of studies pertaining to district court operations.
<table>
<thead>
<tr>
<th>Previous Studies Have Identified Problems With the Disparity in Staffing Levels and Caseloads, and the Court’s Inability to Address Them</th>
</tr>
</thead>
</table>
| We reviewed the findings and recommendations contained in seven reports issued either by the Judicial Council or our office since court unification was contemplated. They covered topic areas such as the one judge per county requirement, court staffing levels, municipal courts, and other district efficiency ideas. *Figure 1-5* on pages 16-17 summarizes some of the main findings and conclusions contained in those reports.  

As *Figure 1-5* shows, at least two reports have identified issues related to the one-judge-per-county law and corresponding staff levels.  

The conclusion and recommendations for this audit are presented beginning on page 38.
Question 2: What Savings Could Be Achieved by Redrawing Judicial Districts In Kansas To Better Align Resources With Caseloads?

Answer in Brief:

We used statistical analyses to help predict the Statewide cost of operating a newly structured district court system that better aligned resources with caseloads, and that wasn’t limited by current statutory requirements. We had to make several other assumptions in performing our analyses, including that court facilities would continue to exist in every county. The savings that could be achieved vary based on the assumptions and estimates used. Under one scenario: had the district courts operated in fiscal year 2008 with 13 judicial districts instead of 31, we estimated that court personnel and travel costs combined could have been $6.2 million (5.4%) less for State and local governments combined. Under another scenario: had the courts operated with only 7 districts in 2008, those costs could have been approximately $8.1 million (7.1%) less. Additional cost savings likely are possible with increased use of technology. Deciding whether and how to change district boundaries and district court operations would require considerable study to overcome existing statutory requirements. These and other findings are described in the following sections.

As With Court Unification, Many Factors Would Have To Be Resolved Before Kansas Could Operate With Fewer Judicial Districts

As described in the Overview, the process of unifying the court system in the 1960s and 1970s involved many people and took place over more than a decade of study and of legislative and constitutional changes. The issue of redrawing judicial boundaries is similarly complex, and like court unification would affect not only judges and staff within the court system, but also Kansans from all walks of life who use the court system.

For this audit we assumed that all court facilities that currently exist in the counties would continue to exist. This assumption limited the potential for savings.

In terms of the assignment of judges to judicial districts, three of the most important factors affecting the assignment of judges are listed below:

- the current one-judge-per-county law requires every county to have at least one resident judge, regardless of the number of cases in that county
- current law specifies how many judges each judicial district shall have
- districts have different methods for selecting judges; some districts hold elections, and others use an appointment process
To perform any meaningful analyses for this audit, we had to set aside these three factors. We redrew existing judicial district boundaries and considered different options for staffing them. However, we performed these analyses with the understanding that this report would be one of many resources the Legislature would draw on before making any decisions concerning restructuring judicial district boundaries. The accompanying box provides information on issues that would need to be considered before any final decisions were made.

**Decisions on How To Change District Boundaries and District Court Operations Would Require Considerable Study**

The year after voters approved a new Article 3 (Judicial) of the Kansas Constitution in November 1972, the Legislature—via a Joint Resolution—authorized and the Chief Justice appointed a large and diverse Judicial Advisory Committee to study how the existing judicial system might be modernized. The types of people that served on the 1972 advisory committee or subsequent judicial district reorganization committees included:

- Judges, including appellate judges, district judges, and magistrate judges
- County or District Attorneys
- Other attorneys, such as lawyers who routinely appear in court
- Legislators
- Non-judicial district court personnel
- Academia
- Law enforcement officials

A year later the Advisory Committee recommended several landmark changes to the basic structure of the judicial system that were later adopted. Those changes included unification of the courts, State funding of court personnel, and the creation of a State Court of Appeals.

Redrawing judicial district boundaries and increasing the courts’ use of modern technology could require major changes in how the courts operate. Among the types of issues that would have to be considered:

- How to provide adequate access to the courts in rural counties that don’t have large enough caseloads to justify having a full-time judge.
- How judges might be selected and retained—via appointment or election—if there are fewer, yet larger, judicial districts.
- How the physical location of district and magistrate judge chambers should be determined to efficiently disperse them across much larger judicial districts.
- How district courts should be staffed, based on the results of this audit, any workload studies, or other available information.
- How to increase and standardize the use of technology across all judicial districts, including the need for a centralized data system, increasing the use of videoconferencing, and taking advantage of other technology enhancements.
- Whether all or some municipal courts should be abolished and made a part of the district courts. Municipal courts in Kansas are the only courts that weren’t brought into the district court system under court unification. By contrast, both Iowa and Minnesota have included municipal courts as part of their unified court systems. While it may not be practical for municipal courts in larger cities, such as Kansas City, Wichita, and Topeka, to be abolished, it may be practical and cost effective to do so for many of the smaller municipal courts in the State.
Finally, this audit focused on the efficiency of district court operations and didn’t assess issues involving district court effectiveness, such as the timeliness of case processing. As a result, potential savings are based on improved efficiencies and not changes to court services.

The Analyses We Performed Involved Statistical Methods And Numerous Assumptions

In requesting this audit, legislators were aware that some other states operate district court systems with far fewer judicial districts than Kansas. For example, Minnesota has only 10 districts, and Iowa and Utah only have 8. As part of this audit, we obtained basic information about the court structures in each of those states and compared them to Kansas. That information is summarized in the profile box on the next page.

As described in Question 1, caseloads are very unequal across Kansas’ 31 judicial districts—ranging from 356 cases per judge in Judicial District #15 (northwest Kansas) to 2,392 cases in Judicial District #3 (Shawnee County) in 2008. Further, districts that had the fewest cases filed typically had much smaller caseloads for both judicial and non-judicial staff than districts with more cases filed.

We developed a regression model to estimate the Statewide cost of operating fewer judicial districts in a more equitable and efficient manner. Although judicial district caseload data have some limitations (as described in Question 1), Figure 2-1 shows there’s clearly a relationship between the number of cases filed in a district and the salary and travel costs per case—districts with fewer cases generally have higher costs per case, and vice versa. These data allow a trend line to be drawn which shows that, as the number of cases in a district increases, the cost per case decreases.

To quantify the relationship between cost per case and the number of cases filed (along with the impact of other district characteristics such as average poverty and caseload density) we built what is called a multiple regression model.

![Figure 2-1: Judicial District Average Fiscal Year 2008 Salary and Travel Cost per Case vs. Total Number of Non-Traffic Cases](source: LPA analysis of district court budget and caseload data.)
Iowa and Minnesota Operate With Fewer Judicial Districts, Without a Full-Time Judge in Each County, and Without Separate Municipal Courts

As shown in the table below, Kansas has more than three times the number of judicial districts as either Iowa, Minnesota, or Utah. All four states have had the same number of judicial districts for at least the last 20 years. Before they reached their current number of districts, each of the other states had fewer judicial districts than Kansas.

<table>
<thead>
<tr>
<th>Judicial Districts</th>
<th>Kansas</th>
<th>Iowa</th>
<th>Minnesota</th>
<th>Utah</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current # of judicial districts</td>
<td>31</td>
<td>8</td>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>Year current # of judicial districts established</td>
<td>1983</td>
<td>1973</td>
<td>1959</td>
<td>1988</td>
</tr>
<tr>
<td>Previous # of judicial districts</td>
<td>30</td>
<td>18</td>
<td>14</td>
<td>7</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Counties, Populations, and Land Area</th>
</tr>
</thead>
<tbody>
<tr>
<td># of counties</td>
</tr>
<tr>
<td>Land area in square miles</td>
</tr>
<tr>
<td>Federal owned lands - %</td>
</tr>
<tr>
<td>Estimated square miles of non-federal land</td>
</tr>
<tr>
<td>Estimated 2008 population</td>
</tr>
<tr>
<td>Persons per square mile of non-federal land</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Current State and Local Court Systems</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unified district court system (i.e. no limited-jurisdiction state trial courts)</td>
</tr>
<tr>
<td>District courts have at least 1 judge per county?</td>
</tr>
<tr>
<td>State has a separate locally funded court system?</td>
</tr>
<tr>
<td>State completely funds district courts (except buildings/facilities)</td>
</tr>
</tbody>
</table>

Source: State court publications and officials, and the U.S. Census Bureau.

Like Kansas, Iowa and Minnesota have about 100 counties and are roughly similar in terms of size. However, neither Iowa nor Minnesota have separate municipal courts, nor do they require a full-time judge for each county. Both states do provide funding for more types of district court expenditures than Kansas.

Utah is different than Kansas, Iowa, and Minnesota in a number of ways, including:
- Many fewer counties – Utah, with 29 counties, has only one-third as many counties as the other states.
- Federal land area – Well over half (57%) of Utah’s land area is federally owned, compared to just 1.2% in Kansas, 0.8% in Iowa and 5.6% in Minnesota.
- Unified Court System – Unlike the other three states, which only have general jurisdiction district courts, Utah also has juvenile courts.
Based on the relationship between cases and cost per case described above, and on our analysis of the current district court system, we identified three primary reasons why some districts are more efficient (defined as having a lower cost per case) than others. Those reasons are:

- **the current one-judge-per-county law**—because this law requires a judge in each county, regardless of the number of cases in that county, it creates excess judicial capacity and expense.

- **economies of scale**—because of specialization, shared resources, greater automation, proportionally smaller fixed costs, and the like, it's reasonable to expect districts with greater caseloads would be more cost efficient than districts with fewer cases.

- **mix of judicial staffing**—because district judges make about twice as much as district magistrate judges, it is more expensive for a district judge to handle a case than it is for a magistrate to handle a similar case.

Our analyses assumed that cost savings are achieved by making redrawn districts more efficient in these areas. All other things being equal, it assumed courts would generally provide the same level of services currently being provided.

**Our regression model recognizes that the current judicial districts typically are very different in terms of numbers of cases and geographic area than any configuration with significantly fewer districts.** As Figure 1-1 on page 11 shows, 27 of the current 31 districts had fewer than 11,000 cases filed in 2008, and the other four districts had more. However, reducing the number of judicial districts means that the newly formed districts will be larger geographically and have larger caseloads than most current districts. Trying to determine how these newly formed districts should be staffed—and thus how much they would cost—is difficult because few existing districts would have comparable characteristics.

To address this difficulty, we created a multiple regression model that used 2006, 2007 and 2008 data to predict how much it might have cost to operate the district court system in 2008 with fewer, yet much larger, judicial districts. That model is better able to predict costs for newly formed districts because it considers several factors that can affect district cost such as caseloads, caseload density, poverty rates, and so on.

Using results of the regression model, we looked at a variety of scenarios for reducing the number of judicial districts. For this
report, we settled on two scenarios: **Scenario A** divided the State into 13 judicial districts, and **Scenario B** divided the State into 7 judicial districts. To help assess the reasonableness of these two scenarios, we developed staffing plans to illustrate how the judicial districts could be staffed, based on the costs predicted by the regression model.

A brief summary of the actions we took is presented below.

- **First, we compared the predicted costs from the regression model under our two scenarios to actual fiscal year 2008 costs to estimate potential cost reductions.** In identifying the potential cost savings outlined in this report, we used 2008 as our base. That year reflected more normal court operating costs and staffing levels. Any subsequent changes the courts may have made to reduce staffing and spending levels in response to recent budget cuts would not be reflected in this report.

- **Second, we allocated funding to each of the new hypothetical judicial districts based on the results of the model.** To accomplish this, from the predicted Statewide cost, we:
  - allocated about $2.9 million for a Statewide pool of money to be used to fund all existing State non-permanent judicial and non-judicial positions. These positions include assigned judges, temporary trial court clerks, bailiffs, and so on. The $2.9 million is the amount districts actually spent on these types of positions in 2008. As mentioned earlier, we focused our analyses on full-time staff because there was no way to assess how much work these temporary and part-time positions performed, and no way to know precisely where they might be needed under a restructured court system. As designed, districts would draw down funding from this pot on an as needed basis.
  - allocated about $640,000 for travel expenditures. That’s almost double the amount court staff spent for travel in fiscal year 2008. We increased the amount available for travel because it’s likely that judges and other staff would have to travel more under almost any restructured system with significantly fewer judicial districts and judges. Because of fluctuations in case numbers and types, we can’t know exactly how much travel might increase. As designed, districts would draw down funding from this pot on an as needed basis.
  - the remaining funding amounts were allocated to hypothetical judicial districts based on the number of cases in each district. This amount became the “staffing budget” for each judicial district.

- **Third, we assigned staff to each hypothetical district and compared the resulting caseload ratios to those in fiscal year 2008.** As mentioned above, doing so helped us assess the reasonableness of the model’s predicted cost savings, and provided an illustration of how the new districts could be staffed. In making these assignments, we did the following:
developed and applied caseload ratios for judges and non-judicial staff. Although we searched the literature, we didn’t find anything suggesting what an “appropriate” caseload was for judges or non-judicial staff. We adopted a ratio of about 1,200 cases per judge for judges in the most rural areas—where more travel time could be involved—and up to about 1,900 cases per judge for judges in the four largest districts. We applied similar ratios for non-judicial staff. For example, we tried to keep the number of cases per clerk to fewer than 450.

devolved and applied other ratios to help guide us in our staffing decisions. For example, we developed general guidelines to help determine how many district judges and how many magistrate judges a district might need. We used the fiscal year 2008 existing staffing pattern as a starting point. Currently, rural districts operate with a somewhat higher proportion of magistrate judges than urban districts. We generally followed this pattern.

As with any type of study like this, other assumptions could have been made that may be equally reasonable or logical. Ours reflect just one of many options, and are intended to illustrate what might be possible. Appendix F provides detailed information on the regression model we used in this audit to predict district court costs, and the assumptions we made in conducting our analyses.

FINDINGS FOR SCENARIO A

If Only 13 Judicial Districts Had Existed in 2008, Costs Could Have Been About $6.2 Million Less Statewide

In this scenario, we left the judicial district boundaries for the four largest counties—Sedgwick, Johnson, Shawnee and Wyandotte—as they are and reorganized the remaining 101 counties into nine judicial districts. The savings that we estimate could have been achieved in fiscal year 2008 with those 13 districts are shown in Figure 2-2. It is important to note that a different configuration of 13 judicial districts would yield a different estimate of savings, although the amounts shouldn’t be vastly different.

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual 2008 for Existing 31 Districts</th>
<th>Prediction for Scenario A - 13 Districts</th>
<th>Prediction for Scenario B - 7 Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Actual or Predicted Cost per Non-Traffic Case</td>
<td>$334</td>
<td>$316</td>
<td>$310</td>
</tr>
<tr>
<td># Non-Traffic Cases</td>
<td>342,249</td>
<td>342,249</td>
<td>342,249</td>
</tr>
<tr>
<td>Actual or Predicted Total Cost</td>
<td>$114,247,465</td>
<td>$108,057,863</td>
<td>$106,117,905</td>
</tr>
<tr>
<td>Estimate of Reduced Cost (State and local savings combined)</td>
<td>$6,189,602</td>
<td>$8,129,560</td>
<td></td>
</tr>
<tr>
<td>% Decrease</td>
<td>5.4%</td>
<td>7.1%</td>
<td></td>
</tr>
</tbody>
</table>

Under Scenario A, the estimated Statewide cost of operating district courts would have been about $108 million in 2008.
That’s a reduction in the average cost per case of about $18. The $6.2 million in estimated savings would be shared by State and local governments, the distribution of which would depend on how Scenario A district court expenses were funded:

- If the State picked up the cost of all district court personnel, including those currently paid for by local governments, State savings would be reduced by $1.9 million–yielding a net of $4.3 million in cost savings for the State.

- If local governments continued to pay for additional court personnel (as they do now), the State's costs would have been reduced by the full $6.2 million.

The district boundaries and number of cases for each new hypothetical judicial district under Scenario A are illustrated in the bottom map shown in Figure 2-3 on the next page.

As the map shows, the largest restructured judicial district would encompass 17 counties (District A5, north-central Kansas).

Under Scenario A, district courts could have been staffed with 89 fewer FTE staff positions, and caseloads would have been much more equalized. In developing a staffing estimate for the four stand-alone, single-county districts in Scenario A, we adjusted only the number of district and magistrate judges and the two types of positions associated with them (court reporters and administrative assistants). We left other staffing levels unchanged because these districts generally already had low costs per case. We developed staffing estimates for the other nine districts based on the assumptions described on pages 24-25. Figure 2-4 on page 28 shows the results of our analyses.

As the figure shows, under Scenario A the 13 judicial districts could have operated in fiscal year 2008 with:

- **19 fewer judicial positions Statewide.** Under our assumptions and staffing conventions for this scenario, we assumed the newly formed judicial districts could have made greater use of magistrate judges. For example, we assumed that a small percentage of the district judges in Sedgwick, Shawnee, and Wyandotte Counties would have been converted to magistrate judge positions. This would make those districts more similar to Johnson County, which currently has four magistrate judge positions (17% of its total judges). Magistrate judges can handle cases such as traffic and criminal misdemeanor cases. We also assumed judges could handle caseloads ranging from 1,200 to
Figure 2-3
Comparison of Average Judicial Caseloads for 31 Existing Districts and 13 Hypothetical Districts

Judicial Caseloads for 31 Existing Districts in Fiscal Year 2008

Judicial Caseloads for 13 Hypothetical Districts in Fiscal Year 2008

All other district information is shown in the order to the right.

Judicial District: A1
Non-Traffic Cases Filed: 10,461
Permanent Full-Time Judges: 9
Cases Per Judge: 1,162

Source: Office of Judicial Administration caseload data and fiscal year 2008 SHaRP data.
1,900, depending on how urban or rural the district was. Overall, the number of magistrate judges would have increased by three, and the number of district judges would have decreased by 22.

- **70 fewer non-judicial FTE staff positions Statewide.** Under our assumptions and staffing conventions for this scenario, we developed staffing ratios to estimate the number of non-judicial staff each new district would have. These ratios considered how districts currently operate, and accounted for differences in geography and the total numbers of cases filed. We used this ratio as a guide for staffing these types of positions. Overall, the 70 fewer non-judicial positions include 45 trial court clerks, 21 court services officers, and 4 other positions.

This allocation of staff positions would have provided a more equitable distribution of work for judicial and non-judicial staff than currently exists. As Figure 2-4 and 2-5 show:
all 13 districts would have had at least 10,000 cases filed per district. The district with the greatest number of cases would have been District A10 (Sedgwick County) with 57,008 cases; the district with the lowest number of cases would have been District A1 in northwest Kansas with 10,461 cases.

the average number of cases per judge would have ranged from 1,162 to 1,900 cases. That's a difference of 738 cases per judge, compared with the current difference of 2,036 cases per judge. Similarly, the average number of cases per total staff would have ranged from 175 to 239. That's a difference of 64 cases per total staff, compared with the current difference of 227 cases per total staff.

Further, **Figure 2-5** illustrates how caseload variations for judges and total staff have been reduced through this staffing pattern.

---

**Figure 2-5**

Equalization of Non-Traffic Caseloads
Across Judicial Districts Achieved by Redrawing Boundaries Into 13 Districts

<table>
<thead>
<tr>
<th>CASES PER JUDGE</th>
<th>13 Hypothetical Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Range</strong> = 356 to 2,392</td>
<td><strong>Range</strong> = 1,162 to 1,900</td>
</tr>
<tr>
<td><strong>Cases per Judge</strong></td>
<td><strong>738 cases</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CASES PER ALL STAFF</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Range</strong> = 87 to 314</td>
</tr>
<tr>
<td><strong>Cases per All Staff</strong></td>
</tr>
</tbody>
</table>

Note: These caseloads exclude non-permanent judicial and non-judicial positions.
Source: LPA analysis of average caseloads for 31 existing districts and 13 hypothetical districts.
In this scenario, we reorganized all 105 counties into seven new judicial districts. To do this, we combined the four largest districts with surrounding counties. This resulted in three districts having total caseloads far greater than almost any existing judicial district currently handles. The savings that we estimate could have been achieved in fiscal year 2008 with those seven districts are shown in Figure 2-2 on page 25.

As with Scenario A, a different configuration of seven judicial districts would yield a different saving estimate, although the amounts should be similar.

In conducting our analyses for this scenario, we followed the same set of steps as in the previous scenario. Once again, we assumed the one judge per county law would no longer apply.

Under Scenario B, the estimated Statewide cost of operating district courts would have been about $106 million in 2008. That’s a reduction in the average cost per case of about $24. The $8.1 million in estimated savings would have been shared by State and local governments, the distribution of which would have depended on how Scenario B district court expenses were funded:

- If the State picked up all the district court personnel costs, including those currently paid for by local governments, State savings would be reduced by $1.9 million dollars—yielding a net of $6.2 million in cost savings for the State.

- If local governments continued to pay for additional court personnel (as they do now), the State’s costs would have been reduced by the full $8.1 million.

The district boundaries and number of cases filed for each new hypothetical judicial district under Scenario B are illustrated in the bottom map shown in Figure 2-6 on the next page.

As the map shows, the largest restructured judicial district would encompass 27 counties (District B1, northwest Kansas).

Under Scenario B, district courts could have been staffed with 142 fewer FTE staff positions, and caseloads would have been much more equalized. We developed staffing estimates for the seven districts based on our assumptions noted on pages 24-25. Figure 2-7 on page 32 shows the results of our analyses.
Figure 2-6
Comparision of Average Judicial Caseloads for 31 Existing Districts and 7 Hypothetical Districts

Judicial Caseloads for 31 Existing Districts in Fiscal Year 2008

All other district information is shown in the order below.

Judicial District: B1
Non-Traffic Cases Filed: 21,519
Permanant Full-Time Judges: 19
Cases Per Judge: 1,133

Judicial Caseloads for 7 Hypothetical Districts in Fiscal Year 2008

Source: Office of Judicial Administration caseload data and fiscal year 2008 SHaRP data.

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As the figure shows, under Scenario B the seven judicial districts could have operated in fiscal year 2008 with:

- **19 fewer judicial positions Statewide.** Under our assumptions and staffing conventions for this scenario, we assumed the newly formed judicial districts could have made greater use of magistrate judges. Magistrate judges can handle cases such as traffic and criminal misdemeanor cases. We also assumed judges could handle caseloads ranging from 1,133 to 1,696, depending on how urban or rural the district was. Overall, the number of magistrate judges would have increased by six, and the number of district judges would have decreased by 25.

- **123 fewer non-judicial FTE staff positions Statewide.** Under our assumptions and staffing conventions for this scenario, we developed staffing ratios to estimate the number of non-judicial staff each new district would have. These ratios considered how districts currently operate, and accounted for differences in geography and the total numbers of cases filed. We used this ratio as a guide for staffing these types of positions. Overall, the 123 fewer non-judicial positions include 28 trial court clerks, 37 court services officers, and 58 other positions.
This allocation of staff positions would have provided a more equitable distribution of work for judicial and non-judicial staff than currently exists. As Figure 2-7 and 2-8 show:

- all seven districts would have had at least 21,000 cases filed per district. The district with the greatest number of cases would have been District B6 (Kansas City Metropolitan area) with 90,629 cases; the district with the lowest number of cases would have been District B1 in northwest Kansas with 21,519 cases.

- the average number of cases per judge would have ranged from 1,133 to 1,696 cases. That’s a difference of 563 cases per judge, compared with the current difference of 2,036 cases per judge. Similarly, the average number of cases per total staff would have ranged from 194 to 222. That’s a difference of 28 cases per total staff, compared with the current difference of 227 cases per total staff.

Further, Figure 2-8 illustrates how caseload variations for judges and total staff have been reduced through this staffing pattern.

---

**Figure 2-8**

Equalization of Non-Traffic Caseloads

Across Judicial Districts Achieved by Redrawing Boundaries Into 7 Districts

**CASES PER JUDGE**

Existing 31 Districts

Range = 356 to 2,392

7 Hypothetical Districts

Range = 1,133 to 1,696

**CASES PER ALL STAFF**

Existing 31 Districts

Range = 87 to 314

7 Hypothetical Districts

Range = 194 to 222

Note: These caseloads exclude non-permanent judicial and non-judicial positions.

Source: LPA analysis of average caseloads for 31 existing districts and seven hypothetical districts.
OTHER AUDIT FINDINGS

A Workload Study Would Help the State Better Define the Staffing Needs of Judicial Districts

As shown in Question 1, the distribution of judicial and non-judicial staff across districts has been unequal for many years. Although in this Question we were able to identify how districts might be staffed if there were fewer districts, we weren’t able to say how districts should be staffed.

Determining the appropriate mix and number of staff in each district would require workload studies for both judicial and non-judicial staff. Such studies would assess the work required in districts based on differences in such factors as the types of cases filed (i.e. felony, misdemeanor, small claims, etc.), case complexity, the time it takes to handle cases, and the number of cases that go to trial. The result of these studies would be a “weighted” caseload system that takes into account the differences that exist between different types of cases. A weighted caseload would provide a much more accurate picture of judicial and non-judicial staff workloads.

We are aware that several states, including Minnesota and Iowa, have contracted with the National Center for State Courts to conduct workload studies. Those states have used the results to help determine district staffing levels. In our 1997 audit of the district courts’ allocation of staffing resources, we recommended that the Supreme Court request funding for such a study and that the Legislature should give strong consideration for funding that request. Office of Judicial Administration officials told us they are supportive of such a study, but funding has never been provided for it, and they don’t have the staff or resources to conduct it themselves.

Additional Cost Savings May Be Attainable With Increased Use of Technology

To identify other areas where savings may be attained, we explored the possibility of increased use of technology for reducing district courts operating costs.

Some district courts have redundant paper and electronic record-keeping systems. All but two of the 105 district courts use an electronic case management and document management system called “FullCourt.” Two of the most populous counties (Johnson and Shawnee) use other electronic case-management and document-management systems. Current procedures require all court documents to be scanned into a document management system.

During our conversations with district court staff, we learned that many district courts maintain entire case records in duplicate form—electronically via “FullCourt” and on paper. Judges and other court
staff we spoke with told us, at this point, district court judges tend to prefer paper records and may not be able to access the electronic record when they are on the bench.

**Despite the existence of electronic records, some district courts continue to create paper records they must then store, file, maintain, and eventually dispose of.** Official district court records must be maintained or disposed of in accordance with Supreme Court rules, including Rule 108, which deals with the reproduction and disposition of original court records. In general, the length of time a record must be maintained depends on the type of case and type of record.

To comply with the Supreme Court’s record-retention rules, one district court has resorted to storing court records in closets and other storage areas throughout the courthouse. In another courthouse, court personnel prepare older records for storage on microfiche on an ongoing basis in order to free up space for new case records. We also learned that some district courts store paper records in basements, attics or even off-site. District court officials told us they have established these systems to stay in compliance with the Supreme Court’s rules.

Maintaining paper records in addition to electronic records requires the court system to incur extra and potentially unnecessary costs for record storage, filing, conversion to microfiche, and management.

**The Kansas federal court system implemented a paperless system several years ago, and federal officials cited several benefits.** Benefits federal court officials cited include:

- **Fewer staff** are needed to process and maintain court documents and records
- **Smoother processing** of court documents than with a paper based system. For example, attorneys and others submit documents to the court in electronic form, and the computer system automatically forwards those documents to other pertinent parties involved in the case.
- **Savings** have occurred, although they can’t be quantified

As we understand, only two district courts—Johnson and Shawnee Counties—currently have the capability to accept court documents in electronic form, but neither district has the ability to accept all court documents electronically.
The Kansas Supreme Court established an electronic filing committee to look into the possibility of electronic filing of district court cases. This committee first met in June 2009 and expects to submit a report and recommendations to the Supreme Court by late 2010.

**Centralizing the districts courts’ data systems also could achieve some savings and benefits.** Although nearly all district courts use the same software to manage and access their electronic records, as we understand it, each one maintains these records on a computer that is owned or leased by a local unit of government. Office of Judicial Administration staff think the State could benefit by moving towards a more centralized system. Those benefits include:

- **More consistent collection of data for management purposes.** Currently the type and amount of case-specific information collected and entered into the system can vary from one county to another. With the collection of more uniform information, Office of Judicial Administration staff should be able to better analyze those data and generate information that would allow the Supreme Court to better manage district courts. However, its actions would be severely limited by existing laws, such as the current one-judge-per-county law.

- **Minimize redundant computer systems and data entry.** Instead of having every county manage its own data and the computers maintaining those data, a centralized system would allow a single entity take over those tasks. At the local level, this should reduce the need for computerized storage space and other costs associated with maintaining computer systems. While some costs might be transferred to the State, the net effect could be costs savings. In addition, each district court has staff performing data entry work. A centralized system could minimize that type of duplicative work. For example, if an individual is arrested in more than one county, that person’s basic demographic and other standard information must be entered in each county.

- **Facilitating use of other electronic processes.** Currently Minnesota has a centralized data system, which has facilitated additional automation such as regional generation of juror summons, regional processing of juror questionnaires, and regional processing of accounts payable.

Office of Judicial Administration staff told us they have not studied this issue in depth, because the development of such a system likely would require a substantial outlay of funds up front.

**Increased use of videoconferencing could reduce travel time for people participating in court proceedings.** According to a recent Office of Judicial Administration survey, district courts in 33 of the 105 counties (31%) currently use videoconferencing to some extent.
Based on our visits with district court officials, it appears the primary benefit of videoconferencing is the travel time those people appearing before the court would save. For example, an attorney may not have to travel to the county courthouse to appear before the court, or a sheriff may not have to transport a prisoner to appear before the judge.

Currently, county governments incur the expense to obtain and operate videoconferencing equipment. In addition, unless the equipment used on both ends is compatible, it may be difficult to achieve the desired result. To-date, district court concerns about cost, compatibility, maintenance, and technical skills of the users have limited the use of such equipment.

Without Redrawing Existing Judicial Boundaries, The State Could Save Money By Eliminating the One Judge Per County Law

As previously mentioned, K.S.A 20-301b requires that in each county of the State there shall be at least one judge of the district court who is a resident of and has the judge’s principal office in that county. As demonstrated in this report, that law causes some districts to have more judges than needed. To help illustrate this point, we analyzed data for judicial districts 12, 15, 17, and 24.

These four judicial districts differ from the other 27 districts in a variety of ways. For example:

- **They have the smallest average caseloads per judge in the State.** Of these four districts, district 12 has the highest average caseload at 415. That’s 332 fewer cases per judge than the next lowest district in the State. They also have the smallest caseload per non-judicial staff and per all staff.

- **They have a very high proportion of magistrate judges.** Each district has six magistrate judges, and three of the four districts have only one district judge (District 15 has two district judges).

If these four judicial districts had operated in fiscal year 2008 with 17 fewer magistrate judge positions—which would bring the average number of cases per judge in each district to about 930—approximately $1.4 million in salary and benefit costs would have been saved. At an average caseload of 930 cases per judge, the remaining 12 judges in these districts still would have had an average caseload that was lower than most judges in the State.

**Judges we interviewed had mixed views about the need for the one-judge-per-county law.** During this audit, we conducted detailed interviews with seven current and former judges concerning the operation of districts courts. One question we asked was their
Redrawing judicial district boundaries and making larger districts (and fewer of them) while at the same time better equalizing judicial workload, has the potential to save Kansas money. The primary savings would result from eliminating the statutory requirement for one judge per county, converting some judicial positions from district judges to magistrate judges, and achieving the economies of scale and greater flexibility that come from having districts with greater numbers of cases. Any actual savings would depend on a number of factors. Before proceeding with any such discussions, several issues would need resolution.

The desire to equalize judicial caseloads must be weighed against the statutory requirement of one judge per county. Those two items work against one another, and make it nearly impossible to achieve both. That’s because some rural counties have relatively few cases, yet have at least one full-time judge. As long as this requirement exists, caseloads will stay unequal.

We had to ignore the one-judge-per-county law in our analyses, but any debate about redrawing judicial district boundaries would have to address the statutory and constitutional requirements outlined in this report. The effort to unify the State’s court system in the 1960s and 1970s involved many people, a lot of study, and a systematic process for accomplishing that goal. Any real effort to better equalize caseloads and bring greater efficiencies to the current court system would require no less.
### Recommendations for Legislative Action:

1. To more fully explore the potential for better equalizing caseloads and creating a more streamlined and efficient court system, the Legislature should request the Chief Justice of the Supreme Court to appoint a judicial advisory committee to study the issues cited in our audit related to one judge per county, judicial redistricting, equalizing caseloads, and the like. This committee should prepare a report for the Legislature by the start of the 2011 legislative session that presents the advisory committee’s findings and recommendations.

2. To help determine the proper level of judicial and non-judicial staff needed to operate district courts, the Legislature should consider providing funding to allow the Office of Judicial Administration to contract for a workload study. Such a study would give the Legislature and the Supreme Court better information on staffing needs, and would enable both bodies to make informed decisions about the appropriate number and allocation of judicial and non-judicial staff resources. This recommendation is similar to recommendations we made in 1997, and should be considered regardless of whether the Legislature considers reducing the number of judicial districts.

### Recommendations for Executive Action:

1. To help streamline district court operations, potentially reduce their operating costs, and make the district courts more efficient, the Office of Judicial Administration should work with the Supreme Court to do the following:

   a. initiate a review of the Supreme Court’s records retention and maintenance rules, and how district courts interpret and apply those rules. Consideration should be given to findings ways to minimize the acceptance and retention of paper court documents and to encourage the use of electronic records.

   b. ensure that the electronic filing committee completes its task in a timely manner and that the committee’s recommendations are given due consideration. The results of this study should be shared with the Legislature, as well as any plans for implementing changes.

   c. establish a working group to study the benefits of a centralized district court data system. As part of its work, that group should develop estimates for the costs of implementing such a system.

   d. assess potential benefits of increasing the use of videoconferencing equipment as a means of conducting court hearings.
APPENDIX A

Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on August 28, 2009. The audit was requested by the Legislative Post Audit Committee.

Judicial Districts in Kansas: Determining Whether Boundaries Could Be Redrawn To Increase Efficiency and Reduce Costs

During the 1970s, court unification significantly altered the structure of the Kansas Court System. At that time, a new Court of Appeals was added and the remaining courts, except the municipal courts, were consolidated into district courts. All of the courts were put under the management and jurisdiction of the Supreme Court. Under the unified system, the State provides funding for salary costs, and counties provide funding for other costs the courts incur.

A 1979 performance audit conducted of the court system shortly after it was unified found, among other things, that unification had little effect on the time it took to process cases, and that caseloads were not evenly distributed. It also found there were wide variations in cases per non-judicial employee and in the number of employees per judge.

A second audit, conducted in 1997, found that statutory constraints prevented the Supreme Court from permanently reallocating existing judgeships to equalize workloads, and because of that, the wide variance in judicial caseloads had changed little since unification. The audit found that judges in some districts had caseloads of less than 400 cases, while judges in other districts had caseloads as high as 2,300 cases.

Currently, Kansas has 31 judicial districts, compared to only eight districts in Utah—a state with a nearly identical population and number of square miles. The state of Iowa, although somewhat smaller in land area, also has only eight judicial districts. Kansas has seven single-county districts that are primarily urban: Johnson, Wyandotte, Douglas, Shawnee, Cowley, Sedgwick and Reno. The remaining 24 districts are multi-county districts.

Recently, legislators have raised questions about whether the boundaries of judicial districts in the State should be redrawn to potentially reduce costs and even-out caseload discrepancies.

A performance audit of this topic would answer the following question.

1. What savings could be achieved by re-drawing judicial districts in Kansas to better align resources with caseloads? To answer this question, we would talk to officials in the Judicial Branch to determine what factors have resulted in boundaries being drawn the way they are, and what factors may need to be considered if boundaries were changed. We would review previous redistricting studies that have been conducted by the Judicial Council to determine issues they identified and what methodologies they used. We would look at the number and size of judicial districts in a sample of other states, and review the literature to determine whether any states recently have redrawn boundaries or reduced the number of judicial districts. We would contact officials from any states that may have changed boundaries to identify any problems they encountered and to find out what benefits or cost savings they might have achieved. We would review available information about the number of judges, non-judicial employees, and the number of cases handled in each Kansas judicial district. Using that information, we would determine where disparities in caseloads exist, and we would look for ways to reconfigure the districts to better match caseloads and resources. We would consider information about travel times and distances when looking at possible district configurations. We would likely come up with one or more scenarios for how the districts could be reconfigured and estimate cost savings that might be achieved by each scenario. In addition, we would look at what the State and the counties are contributing to funding the court system, and the potential implications for changing that system. We would conduct other work as needed.

Estimated time to complete: 15-18 weeks
# APPENDIX B

## January 2008 District Court Staff

This appendix shows total State and local staffing levels for the district court system as of January 2008, by district and position type.

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APPENDIX C

Number of Cases Filed in Each Judicial District in Fiscal Year 2008
By Case Type

This appendix shows the number of each case type filed in each judicial district in fiscal year 2008, along with Statewide totals.
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<th>Domestic (Divorce, Paternity, Stalking)</th>
<th>Juvenile (Offender, CINC, Truancy)</th>
<th>Felony (Murder, Battery, Theft)</th>
<th>Misdemeanor or Fish &amp; Game (Hunting &amp; Boat Violations)</th>
<th>Probate / Adoption / Treatment (Trusts, Drug Abuse)</th>
<th>All Others (Marriage Licenses, Tax Warrants, Liens)</th>
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<td>652</td>
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<td>293</td>
<td>325</td>
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<td>381</td>
<td>642</td>
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<td>432</td>
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<td>10,888</td>
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<td>1,941</td>
<td>604</td>
<td>435</td>
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<td>737</td>
<td>283</td>
<td>975</td>
<td>5,701</td>
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</tr>
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<td>Total</td>
<td>26,517</td>
<td>151,986</td>
<td>40,534</td>
<td>20,117</td>
<td>19,211</td>
<td>19,153</td>
<td>14,642</td>
<td>50,089</td>
<td>342,249</td>
<td>199,641</td>
<td></td>
</tr>
<tr>
<td>% of all cases</td>
<td>4.9%</td>
<td>28.0%</td>
<td>7.5%</td>
<td>3.7%</td>
<td>3.6%</td>
<td>3.5%</td>
<td>2.7%</td>
<td>9.2%</td>
<td>63.2%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>% of all non-traffic cases</td>
<td>7.7%</td>
<td>44.4%</td>
<td>11.8%</td>
<td>5.9%</td>
<td>5.6%</td>
<td>5.6%</td>
<td>4.3%</td>
<td>14.6%</td>
<td>100.0%</td>
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</tr>
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APPENDIX D

1996 to 2008 Judicial District Comparisons

This appendix compares total population, the number of non-traffic case filings, total judges, and average cases per judge in fiscal year 1996 to those in fiscal year 2008, by judicial district.
## APPENDIX D

Changes in Population, Non-Traffic Case Filings, Judges, and Cases Per Judge by District
From Fiscal Year 1996 to 2008
(arranged from high to low, based on non-traffic cases in 2008)

<table>
<thead>
<tr>
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<tr>
<td>18</td>
<td>432,779</td>
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<td>1,586</td>
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<td>57,008</td>
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<td>409,490</td>
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<td>2,133</td>
<td>124,603 30%</td>
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<td>1,662</td>
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<tr>
<td>8</td>
<td>66,003</td>
<td>10,823</td>
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<td>1,547</td>
<td>68,636</td>
<td>10,981</td>
<td>8</td>
<td>1,373</td>
<td>2,633 4%</td>
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<tr>
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<td>86,707</td>
<td>6,812</td>
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<td>1,362</td>
<td>90,757</td>
<td>9,849</td>
<td>6</td>
<td>1,642</td>
<td>4,050 5%</td>
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<td>1,603</td>
<td>22,053 24%</td>
</tr>
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<td>9</td>
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<td>55,779</td>
<td>9,308</td>
<td>11</td>
<td>846</td>
<td>4,356 8%</td>
</tr>
<tr>
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<td>6,483</td>
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<td>810</td>
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<td>6,512</td>
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<td>1,620</td>
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<td>1,358</td>
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<td>1,908</td>
<td>551 1%</td>
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<td>891</td>
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<td>7</td>
<td>1,010</td>
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<td>7</td>
<td>660</td>
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<td>6,833</td>
<td>8</td>
<td>854</td>
<td>2,072 5%</td>
</tr>
<tr>
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<td>4,741</td>
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<td>948</td>
<td>59,282</td>
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<td>5</td>
<td>1,136</td>
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<td>925</td>
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<td>1,110</td>
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<td>79,928</td>
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<td>1,301</td>
<td>4,598 6%</td>
</tr>
<tr>
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<td>1,171</td>
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<td>5,960</td>
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<td>(3,498) (9%)</td>
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<td>956</td>
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<td>637</td>
<td>51,277</td>
<td>5,645</td>
<td>7</td>
<td>806</td>
<td>(5,612) (10%)</td>
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<td>5</td>
<td>709</td>
<td>38,367</td>
<td>4,317</td>
<td>5</td>
<td>863</td>
<td>(279) (1%)</td>
</tr>
<tr>
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<td>517</td>
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<td>7,373</td>
<td>5</td>
<td>747</td>
<td>(2,213) (5%)</td>
</tr>
<tr>
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<td>7</td>
<td>356</td>
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<td>7</td>
<td>415</td>
<td>(4,835) (13%)</td>
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<td>8</td>
<td>350</td>
<td>25,042</td>
<td>2,850</td>
<td>8</td>
<td>356</td>
<td>(4,059) (14%)</td>
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<tr>
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<td>7</td>
<td>356</td>
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<td>2,732</td>
<td>7</td>
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<tr>
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<td>7</td>
<td>468</td>
<td>23,916</td>
<td>2,729</td>
<td>7</td>
<td>390</td>
<td>(3,432) (15%)</td>
</tr>
</tbody>
</table>

| Statewide Total / Avg | 2,598,266 | 256,091 | 225 | 1,138 | 2,802,134 | 342,249 | 246 | 1,391 | 203,868 | 8% | 86,158 | 34% | 21 | 9% | 253 | 22% |

| 4 Largest District | 1,164,536 | 118,878 | 73 | 1,628 | 1,345,952 | 168,534 | 82 | 2,055 | 181,416 | 16% | 49,656 | 42% | 9 | 12% | 427 | 26% |

(a) These reflect the total number of permanent full-time judicial positions that existed as of January 2008, regardless of whether they were filled or vacant.

APPENDIX E

Map With the Number of Non-Traffic Case Filings by County
Fiscal Year 2008

This appendix contains a map illustrating the number of fiscal year 2008 non-traffic case filings in each county. Darker shading means that more cases were filed in that county. As the map shows, 89 (85%) of the counties in the State had fewer than 5,000 non-traffic cases filed and 59 (56%) had less than 1,000 non-traffic cases filed.
Appendix E
Non-Traffic Case Filings by County
Fiscal Year 2008

Source: Office of Judicial Administration caseload data.
APPENDIX F

Audit Methodology and Assumptions

Purpose of the Analysis:
To redraw judicial district court boundaries in an effort to equalize staff workloads and achieve cost savings.

Steps and Assumptions
To conduct our analysis, we made a number of major assumptions, including:

- Kansas could operate with fewer judicial districts. That’s because other states—such as Iowa and Minnesota—currently do.
- The current one judge per county law didn’t apply, nor did other statutory requirements for where judges would be located.
- The issue of whether a judge was locally elected or appointed wasn’t relevant in re-drawing district boundaries.
- District courts would continue to operate in all counties and no district court facilities would be closed. Further we assumed no changes in the number of courtrooms, amount of office space, etc.
- We ignored political considerations that might allow some districts to acquire greater resources than others.
- There would be no reduction in district court services. However, we did assume hypothetical judicial districts with larger caseloads could achieve specific economies of scale such as staff specialization.
- Some district courts could make greater use of magistrate judges. That’s because some districts have very few or no magistrate judges.
- We assumed municipal courts and district courts operated separately – as they do now. It is important to note, however, that additional efficiencies may be achievable by eliminating all but the largest municipal courts and having their cases handled by district courts.
- We assumed no major changes in either the State’s or local governments’ practices for funding district courts.
- We assumed judge’s chambers and residences would be dispersed across districts in an efficient manner.
- We didn’t consider the potential impact, either positive or negative, of fewer judicial districts on other components of the justice system -- e.g. District and County Attorneys, Public Defenders, Appellate Courts, Law Enforcement, Correctional Facilities, etc.
- We didn’t evaluate or consider the quality, effectiveness or timeliness of the work of the current district courts.
- We didn’t evaluate the appropriateness of judicial or non-judicial salary schedules.

Our analysis reflects 2008 district court activities. For State caseload, staffing and expenditure data, we used State fiscal year 2008 data. For local staffing and expenditure data, we used calendar year 2008 data, because counties operate on a calendar year.

Identifying What District Boundaries Might Look Like
To come up with examples of how judicial district boundaries could be drawn if the number of districts was reduced, we adhered to the following rules and guidelines:

- Each judicial district must be entirely contiguous.
- Current judicial district boundaries wouldn’t impact the boundaries we drew. The exception to this was the four districts with the largest caseloads whose boundaries we left unchanged for the 13 district model.
Each district should contain one or more “population centers”, when possible.

We used county boundaries as the basis for hypothetical district boundaries.

Less populated, rural areas would have the geographically largest districts, while more populous areas would have geographically smaller districts.

Where it made sense, we considered metropolitan statistical areas (counties identified by the U.S. Office of Management and Budget as having strong social and economic ties) when deciding which counties to put together in a district. For example:

• The Wichita metropolitan statistical area includes Butler, Harvey, Sedgwick and Sumner counties as does hypothetical district B3.
• The Kansas portion of the Kansas City metropolitan statistical area includes Johnson, Wyandotte, Franklin, Leavenworth, Linn and Miami counties as does hypothetical district B6.

Also, we considered configuring the districts to follow the existing Judicial “Department” lines. We decided against that configuration because of their unusual shape.

Statistical Model of District Court Costs

To identify what cost savings might be possible by redrawing district boundaries, we created a multiple regression model. That model identified relationships between district court salary and travel costs and district characteristics such as total non-trafﬁc cases, average poverty rates, the average number of non-trafﬁc cases per county, and the daily vehicle miles traveled in a district. This model is based on data for three years, from all but the four largest districts (Johnson, Sedgwick, Shawnee and Wyandotte). These districts aren’t included in the model because they handle so many more cases than nearly all of the other districts. Furthermore, these districts had a disproportionate impact on our model. Because they have concentrated populations, they don’t accurately reﬂect how other districts might operate with much larger caseloads.

Dependent Variable

For all but the four districts with the most cases, the model predicts the average salary and travel costs per non-trafﬁc case using caseload and cost based on data from ﬁscal years 2006, 2007 and 2008. Costs we included were local salary costs, State salary costs, and State travel costs.

Independent Variables

The model takes into account the following independent variables to predict differences between districts in their average cost per non-trafﬁc case:

• **Average number of non-trafﬁc cases per county in a district** – This variable is a measure of average caseload concentration in a district, and is intended to identify general economies of scale and other operating efﬁciencies in the district court system.

• **Total non-trafﬁc cases in a district** – This variable is a measure of total caseload volume in a district, and is also intended to identify general economies of scale in the district court system.

• **Average poverty rates in a district** – This variable is intended to capture increased costs resulting from more serious crimes, and other costs that might be associated with high-poverty areas (e.g. a higher number of self-represented offenders).

• **Daily vehicle miles traveled in a district** – This variable is intended to capture costs resulting
from the number of traffic cases in a district. We didn’t include traffic cases in our model directly, because the large volume of these cases and their relatively low cost likely would distort the effect of caseloads on cost. However, we included this variable because it reflects the cost associated with processing traffic cases in each district.

- **Fiscal year variables** – We included variables for fiscal year 2006 and 2007 to control for other factors that might cause a district's cost to vary from year to year, such as salary increases.

**Model Considerations**

We faced several challenges in developing this model. Those issues and how we address them are described below:

- **Little academic guidance about how to develop a cost model for a district court system.** Although we didn’t conduct an extensive review, we aren’t aware of academic models that have quantitatively explored the relationship between district court characteristics and cost. Consequently, the variables we used in our model were selected based on economic theory and our knowledge of factors that might drive cost in the court system, not on prior research.

- **Unweighted caseload data.** One limitation of our statistical analysis is the number of cases judges and other court staff handle doesn’t necessarily reflect their workload because of differences in the type and complexity of cases being handled, and differences in such things as travel time. For example, a criminal misdemeanor case that takes three hours to hear doesn’t take the same amount of judicial effort as a felony trial that takes three days to hear, yet each case is counted as a single case. In other words, all cases are not equal.

However, our analyses focused on the total amount of work required to process the total number of cases filed in a district. Therefore, we were more concerned about differences between districts in the average amount of work required to process all cases, rather than in differences between the amount of work required to process individual cases. While districts have different mixes of cases, to some extent, large differences in the TOTAL amount of work required to process all cases in a district are mitigated as caseloads increase. Furthermore, given the timeframe and scope for this audit, we weren’t able to assess differences between districts in either judicial or non-judicial staff workloads. Regardless, we are confident that our analyses provide a reasonable indicator of what is going on in individual districts.

- **Testing the accuracy of our model.** We tested the accuracy of our model in two ways. First, we created multiple versions of our regression model and compared the results to ensure the independent variables we selected generally were stable and to ensure the cost savings the models predicted generally were consistent. Second, we selected two versions of our model and we created hypothetical staffing levels for each one. We then compared these new workload ratios to the current ratios to ensure the new ratios were reasonable. The next section provides more information about this work.

**Identifying How Fewer Judicial Districts Could Have Been Staffed**

To identify how re-drawn judicial districts might have been staffed we took the following steps:

- First, we allocated a Statewide pool of money to be used to fund non-permanent judicial and non-judicial positions. Those positions include assigned judges, temporary trial court clerks, bailiffs and so forth. We excluded temporary positions from our cost analysis for several reasons, including:
  - in most instances those positions don’t contribute directly to case completion (e.g. bailiffs)
► those positions don’t exist in all judicial districts
► we can’t know the number of cases they worked on and the extent of that work
► the FTE value assigned to them in the State’s payroll system doesn’t necessarily reflect how many hours that employee will work in a given period

We then added back in the same amount that districts actually spent on these types of positions in 2008, to keep them whole.

► We also allocated about $640,000 for travel expenditures. That’s double the amount court staff spent for travel in fiscal year 2008. We increased the amount available for travel because we think it’s likely that judges and other staff would have to travel more under our proposed models than they currently do. Because of fluctuations in case numbers and types, we can’t know exactly how much travel will increase.

With the remaining money, we staffed the hypothetical judicial districts with full-time personnel. We used Statewide weighted average salaries to estimate salary costs for each major position type. To determine the number of staff for each district, we:

► Developed and applied caseload or other staffing ratios for judges and non-judicial staff. To compare staffing levels across districts, we calculated the ratio of judicial and non-judicial FTE staff to the number of cases for each district. When calculating those ratios we included permanent FTE staff and excluded temporary positions.

► Judges: When estimating how many judges a district needs, we tried to keep the number of cases per judge generally equal among districts. However, because judges in rural areas would have more travel time than judges in urban areas, we decided that judges in rural areas couldn’t handle as many cases, on average, as could judges in urban areas. Overall, we settled on a ratio of about 1,200 non-traffic cases per judge for judges in the most rural areas and up to about 1,900 non-traffic cases per judge for judges in the four largest districts.

► Administrative Assistants and Court Reporters: because the work of these two positions is often directly related to the work of district judges, we primarily based the number of each of these staff on the number of district judges in a district.

► Other non-judicial staff: We estimated how many staff were needed based on current caseload ratios for all but the four largest and the four smallest districts. For example, we tried to keep the number of non-traffic cases per clerk to fewer than 450. We recognized that certain non-judicial staff in rural districts might have to travel more than judges in urban districts, so we assigned them smaller caseloads.

► Developed and applied other ratios to help guide us in our staffing decisions. For example, we developed general guidelines to help determine how many district judges and how many magistrate judges a district might need. We used the existing staffing pattern as a starting point. Currently, rural districts operate with a somewhat higher proportion of magistrate judges than urban districts. We followed this pattern.

Determining Our Final Estimate of Cost Savings

Because each of our hypothetical models and the resulting predictions were based on salary and travel costs, they excluded potential fringe benefit savings. To estimate those savings:

► We applied Division of Accounts and Reports budgeted fringe benefit and health insurance rates to positions no longer needed under our scenarios. Those rates—applied as a percent of
annual salary—were 32% for judges and 17% for non-judges. The rate for judges is greater because the KPERS employer contribution rate is greater for judges than for non-judicial staff.

- **Used fiscal year 2009 budgets to estimate the percent of staff that would require single health insurance versus family health insurance rates.** Overall, 67% of judges were budgeted for family health insurance in fiscal year 2009, compared to only 43% of non-judicial staff. We applied those same percentages when calculating savings.
APPENDIX G

Agency Response

On January 6, 2010 we provided copies of the draft audit report to the Office of Judicial Administration. Its response is included as this Appendix.

In its response, Office of Judicial Administration officials expressed several concerns pertaining to the assumptions and decisions we made in conducting our analyses. However, officials also agree with the report’s recommendations for legislative action and the recommendations for executive action. We made no changes or clarifications to the draft report as a result of the agency’s response.
Ms. Barbara J. Hinton
Legislative Post Auditor
800 SW Jackson Street, Suite 800
Topeka, KS  66612

Dear Ms. Hinton:

On behalf of the Kansas Judicial Branch, I appreciate the opportunity to review and comment on the draft performance audit report, Judicial Districts in Kansas: Determining Whether Boundaries Could Be Redrawn to Increase Efficiency and Reduce Costs. While there are many aspects of the report and its recommendations that need further discussion and others with which I disagree, I respect your attempt to address the complex issues involved.

Most importantly, I agree wholeheartedly with your ultimate conclusion that “[t]he effort to unify the State’s court system in the 1960s and 1970s involved many people, a lot of study, and a systematic process for accomplishing that goal. Any real effort to better equalize caseloads and bring better efficiencies to the current court system would require no less.” (Post Audit report 38.)

I also agree with the report’s recommendations for legislative action, which call for the Legislature to request that the Chief Justice appoint a judicial advisory committee to study the issues cited in the audit and to consider providing funding for workload and weighted caseload studies. The recommendation for a judicial advisory committee echoes the Court’s conclusion that an independent, blue-ribbon study commission should more fully address these issues. The Legislature currently has before it 2010 HCR 5026, which requests a study of this nature. The report notes that knowledgeable and experienced consultants, such as staff at the National Center for State Courts, have been used in other states. I would welcome assistance from consultants and studies, but emphasize that funding for them must be provided. It is essential that the workload and weighted caseload studies be completed prior to the work of the blue-ribbon study commission, so that study results are available to assist the commission. Clearly, the commission must have this information to make reasoned and fact-based recommendations.
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Given the nature and amount of study needed, the January 2011 timeframe suggested in the report does not appear realistic.

I was pleased to read that the audit does not suggest that the Kansas court system is somehow failing to deliver timely, effective, high-quality justice to the citizens of Kansas, nor does the audit appear to have been motivated by a belief that the system is broken. Indeed, I am happy to report Kansas courts are consistently recognized nationally for our case delay reduction program, effective jury management, uniform child support guidelines, and other key areas in the daily administration of justice in Kansas. The constitutional and statutory duty of the Kansas Judicial Branch is to administer justice in the most equitable manner possible, while maintaining a high degree of effectiveness and efficiency. Justice is effective when it is fairly administered without delay. This constitutional and statutory duty should be the guiding principle of any study of the Judicial Branch and any plan for reorganization.

This overriding issue of how best to meet the needs of Kansas citizens for an effective judicial system is not dealt with in this report, and that issue should be examined. Anticipating that a detailed review and analysis by an independent, blue-ribbon study commission would more fully address these issues, I will briefly note below some areas of concern, rather than providing an exhaustive analysis of all of the information presented and conclusions drawn by the report.

**Achieving Savings by Redrawing Judicial Districts.** Redistricting is a process that has occurred several times in Kansas history. It is a concept that is worth additional study. While the report focuses on Iowa, Minnesota, and Utah because those states have fewer judicial districts than Kansas, there are additional facts about those states that should be considered. For example, Iowa requires a resident judge in each county, which is a concept questioned in your report. Iowa has a total of 189 district and associate district judges, plus 152 part-time magistrate judges, serving its 99 counties. This can be compared with 167 district judges and 79 district magistrate judges serving 105 Kansas counties. Iowa’s 38 senior judges also serve the state in much the same way that Kansas provides services through 10 senior judge contracts.

The Minnesota Judicial Branch FY 2010 budget of $303,877,000 is almost three times that of the Kansas Judicial Branch. The Minnesota budget includes funding for the district court operating costs which are funded by the counties in Kansas. However, the Kansas county-funded operating costs noted as approximately $13.2 to $26.6 million would not increase the Kansas Judicial Branch budget to a level anywhere near that of Minnesota. (Post Audit report 6.) Innovations and ideas from other states are continually researched, considered, and adopted where appropriate, but it is not entirely helpful to isolate structural or organizational fragments from other state court systems without considering other relevant facts. The blue-ribbon commission would be better situated to more fully consider these issues.
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The report appears to equate fewer judicial districts with greater efficiency and reduced costs. What must be kept in mind, however, is that significant reductions in personnel, particularly in nonjudicial personnel, produce the estimated savings projected in the Post Audit report, rather than redistricting. For the reasons outlined below, I cannot agree that those personnel reductions are prudent, and I don’t read the report as claiming that the hypothetical reductions in the examples are advanced as a prudent approach to the administration of justice. Only proper studies will tell us that.

“Economies of Scale,” or Efficiencies of Volume and Specialization Regarding Clerk of the District Court Office Staffing. In my view, there is a disconnect in the report’s conclusions that a clerk of the district court office should continue to operate in each county, that employees in those counties with lower case filings should process more cases, and that fewer employees would be needed to perform this mission. The report notes, “[t]here would be no reduction in district court services. However, we did assume hypothetical judicial districts with larger caseloads could achieve specific economies of scale such as staff specialization.” (Post Audit report 50.) The report assumes that filings and services will remain on a county basis. It offers no recommendations regarding how clerks of the district court, who must remain in each county and are not centralized in some manner under the Post Audit report’s assumptions, can somehow achieve the economies of scale or staff specialization desired.

Spending time in a rural clerk of the district court office and an urban clerk of the district court office will lead to one conclusion: Although the same work is done by both offices, there are many differences in the way that work is done. In an urban court, the number of clerks and the volume of cases make specialization possible. For example, a trial court clerk who exclusively works traffic cases, with no interruptions from the public at the counter or from phone calls, and no need to interrupt that specialty traffic work to process other types of cases, can work more efficiently. In addition to being free from interruptions, the urban trial court clerk can also gain a level of expertise in a limited area that greatly enhances speed. In a more rural county, the clerk must answer the phone, provide counter service, and shift the work focus from traffic to criminal, civil, probate, juvenile, limited actions, small claims, and a variety of other cases as the need demands. That same clerk must also perform the banking, reconcile the accounts, docket the cases, issue process, and perform a variety of other duties. Forty percent of Kansas counties have clerk of the district court offices staffed with 1.5 or 2.0 FTE positions.

Clearly, there is an efficiency of volume or specialization that can be reached in high-caseload counties that cannot be reached in smaller caseload counties. I cannot ascertain any method suggested by the report that will help to achieve these efficiencies under the hypothetical redistrictings, which assume the clerks’ office remains open in each county.

Nonjudicial Staffing Issues. Closely related to the above discussion is the report’s hypothesis regarding a significant reduction in the number of nonjudicial staff. In response, I point to the 1997 Legislative Post Audit report, Reviewing the Kansas Court System’s Allocation
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of Staff Resources to the District Court. Among that report’s recommendations were to “[c]onsider ending the hiring freeze,” and to “[c]onsider increasing the number of non-judicial staff.” (1997 Post Audit report 19-20.) The 1997 report noted that, while there was a 40 percent increase in caseloads (without traffic) during the ten prior years, there was only an approximate 4 percent increase in the number of judges and a 7 percent increase in the number of nonjudicial personnel during the same time period. (1997 Post Audit report i, ii.) The disparity between the increase in case filings and staffing has only widened since Post Audit’s call for additional staffing in 1997.

The offices of the clerk of the district court in 40 percent of Kansas counties are staffed at a level below the minimum staffing level of 2.5 FTE required in Iowa. (1997 Post Audit report 23.) The current report reaches its conclusions regarding staffing by assigning a caseload number for judges and nonjudicial staff. It does not, however, address the reality of how an office must be staffed to keep the doors open, given time required for sick and vacation leave, staff training, and administrative responsibilities. It also does not address other time demands, such as the higher level of staffing needed for a jury trial.

Court Services Officer Staffing. The American Probation and Parole Association suggests a caseload of 50 probationers per probation officer for general (non-intensive) supervision of moderate and high-risk offenders and caseloads of 20 to 1 for intensive supervision. Kansas court services officers’ caseloads currently are significantly higher than those standards. The additional duties required of Kansas court services officers, such as presentence investigations, add to their workload and decrease the amount of time available for supervision. It is of concern that the report recommends caseloads higher than the already excessive caseloads carried by Kansas court services officers, and that it further recommends cutting court services officer staffing by approximately 15 percent. Moreover, higher caseloads are recommended for rural districts, in which court services officers must spend time traveling to meet with probationers.

Judge Travel. The report correctly notes that, without one judge per county, judges will need to travel more from county to county to hear cases. The report allocates additional funding for travel expenses. What the report does not provide, however, is any calculation of the amount of time needed for travel or any allowance for that time. One challenge the Judicial Branch faces in delivering judicial services throughout Kansas is the miles that must be traveled to provide those services, because of the existence of a conflict, illness or absence, or because a district judge, rather than a district magistrate judge, must preside. While Kansas ranks 33rd among the states in size of population, it ranks 15th in the number of square miles. For example, the 15th Judicial District in northwest Kansas is larger than Connecticut, Delaware, and Rhode Island in area. It is not much smaller than New Jersey. A number of other Kansas multi-county judicial districts approach the size of the 15th Judicial District.
The Post Audit report assumes that all judges statewide would carry a more equal caseload under its recommendations. However, it must be kept in mind that it is the *workload*, rather than the *caseload*, that should be equalized to the extent possible. To that end, travel is but one of many additional factors that must be considered in more detail. While judges in the urban areas will not travel at all, judges in other districts will spend a significant amount of time traveling from county to county. Many judges travel now, either to hear cases in more populous counties, to cover for other judges in cases of conflict or absence, or to hear cases that must be heard by a district judge. In the three six-county judicial districts that have only one district judge (the 12th, 17th, and 24th Judicial Districts), those district judges must travel to other counties as many as three to four days per week to hear the cases that cannot be heard by district magistrate judges. Reasonable allowances for travel time must be made, and caseloads must reflect that travel time.

**Report Assumptions.** The report is based on a number of assumptions, including that the one judge per county requirement of current law “didn’t apply, nor did other statutory requirements for where judges would be located.” (Post Audit report 50.) That assumption is significant, as are the assumptions that whether a judge is elected or appointed is not relevant in re-drawing judicial district boundaries and that judges’ chambers and residences would be dispersed across districts in an efficient manner. These assumptions need to be considered thoroughly by a blue-ribbon commission or other forum, as suggested in the report, as they have in virtually every preceding study of the Kansas courts.

**Recommendations for Executive Action.** The report includes recommendations for executive action that are related to court records and the use of technology.

In this regard, the Supreme Court Electronic Filing (or E-Filing) Committee already is studying electronic filing of court cases and documents in Kansas. While examining what might be involved in developing an electronic filing system that best meets the needs of Kansas courts, attorneys, and the public, the group has and will continue to discuss the issues of paper and electronic documents and centralized district court data. An interim committee report has been presented to the Supreme Court and is now posted on the Judicial Branch website (www.kscourts.org) for public comments that are due February 15, 2010.

The Court fully intends to share the committee's final recommendations with the Legislature, as the report recommends, and toward that end the Court has included two key legislators as members of the E-Filing Committee. As the report correctly notes, significant efficiencies and savings may be attained through such a system. In addition, a new version of the case management system used in 103 counties would provide additional capabilities and enhancements. The E-Filing Committee’s report will include a discussion of the funding needed to implement this system, which is again an issue.
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The final recommendation is to “assess the benefits of increasing the use of videoconferencing equipment as a means of conducting court hearings.” As the report notes, the purchase of this equipment is a county funding obligation, and some counties have systems in place. While the quality of those systems varies, they can be used to some extent for certain proceedings. The use of videoconferencing equipment presents many issues, including the quality and limitations of those systems and the judge’s need to see the entire courtroom, rather than just the person on camera, so that the judge can maintain order and decorum. While videoconferencing is not appropriate for all types of proceedings, it will continue to be used where available and when it is appropriate.

In conclusion, I thank you again for this opportunity to comment. While I question the amount of savings the report theorizes could be attained, at the same time I agree that every dollar of savings that can be achieved must be examined in these difficult fiscal times. But this examination must not sacrifice our mission of providing justice to the citizens of Kansas. Change of the magnitude addressed in this report should involve many people, much study, and a systematic process. Virtually every other study of the Kansas court system has recognized that need. This study suggests no less. In that, I concur.

Sincerely,

Howard Schwartz  
Judicial Administrator

HS:mr
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