

**Critical Issues:
Planning Priorities for the Wisconsin Court System
2014 - 2016**

Submitted to the Wisconsin Supreme Court by the
Planning and Policy Advisory Committee
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Ms. Bonnie MacRitchie
Policy Analyst

Mission of the Wisconsin Court System:

The mission of the Wisconsin Court System is to protect individuals' rights, privileges and liberties, to maintain the rule of law, and to provide a forum for the resolution of disputes that is fair, accessible, independent, and effective.

EXECUTIVE SUMMARY

The Planning and Policy Advisory Committee (PPAC) of the Wisconsin Supreme Court develops the biennial *Critical Issues Report* to identify key matters affecting the court system and set priorities for the court system to focus on during the biennium. The Supreme Court and Director of State Courts use the information to develop budget recommendations, priorities, and other initiatives. This report includes recommended action steps that the PPAC Planning Subcommittee suggests PPAC consider when determining how to address each critical issue. It also identifies activities and initiatives already in progress that address priorities identified both in this report and prior reports. PPAC is responsible for monitoring the progress of each critical issue.

The action steps in this report are divided into three classifications: **Promising goals, Reach goals and Training goals.**

- **Promising goals** acknowledge initiatives that are already taking place in the system which PPAC should support.
- **Reach goals** are long-term objectives that require more immediate short-term groundwork to achieve.
- **Training goals** recognize existing effective training efforts, such as the Court Safety and Security Conference, and encourage the development of new important training topics.

Critical Issues and Priorities:

PPAC recommends that the Supreme Court and Director of State Courts give the following critical issues and actions top priority in the 2014-2016 biennium.

Critical Issue	Action Step
<i>Judicial Independence, Selection and Ethics</i>	
Promising Goal	PPAC should explore ways to encourage judicial participation in established outreach programs such as the “Our Courts” program of the Wisconsin State Bar Association and the “Courts Connecting with Communities” toolkit of the Office of the Chief Justice to help educate the public on the role of the third branch.
Promising Goal	PPAC should review trial court judicial selection methods in other states and determine whether a committee should be convened to explore judicial selection in Wisconsin.
Promising Goal	PPAC should monitor and respond to legislation concerning judicial independence, selection and ethics as it relates to circuit court judges.

<i>Court Security and Facilities</i>	
Training Goal	PPAC should continue to support the annual Court Safety and Security Conference and encourage county court security and facilities teams to attend.
Promising Goal	PPAC should reconvene the Court Security Subcommittee to update the court security manual, being sure to address the different needs of small, medium and large counties, and include a self-assessment checklist to help determine security needs.
Reach Goal	PPAC should consider whether legislation or court rules are needed to establish required minimum court security standards.
<i>Use of Technology</i>	
Training Goal	PPAC should support and promote training for judges, attorneys, and court staff on available technology in the court system.
Promising Goal	PPAC should create guidelines for videoconferencing technology to be included in the update of the "Bridging the Distance" videoconferencing manual.
Reach Goal	PPAC should research the experiences of states that have implemented mandatory eFiling to determine how such a change might affect the Wisconsin Court System and coordinate the committee's research with the work of the Chief Judge eFiling Implementation Subcommittee.
<i>Evidence-Based Practices</i>	
Training Goal	The Effective Justice Strategies Subcommittee of PPAC will continue to provide training on best practices standards in order to assist in the implementation of evidence-based initiatives in the criminal justice system, utilizing treatment court performance measures developed by the Wisconsin Association of Treatment Court Professionals.
Promising Goal	PPAC, through the Effective Justice Strategies Subcommittee, will encourage implementation and expansion of state and local evidence-based practices and programs.
Reach Goal	PPAC, through the Effective Justice Strategies Subcommittee, will conduct an evaluation of Wisconsin treatment courts.

PPAC PLANNING BACKGROUND

The Planning and Policy Advisory Committee (PPAC) was created to advise the Supreme Court and the Director of State Courts, in the Director's capacity as the judicial system's planner and policy advisor.¹ PPAC developed the first court system strategic plan in 1994, entitled *Framework for Action*.

¹ Supreme Court Rule 70.14

In order to strengthen the committee's overall planning function, PPAC established the Planning Subcommittee and in February, 2001, the subcommittee held its first meeting.

Beginning in 2002, the Planning Subcommittee has issued the *Critical Issues* report every other year. PPAC and the Director of State Courts have responded to the report's recommendations in a variety of ways, including creating subject matter subcommittees, adjusting staff workload, and developing internal operating procedures, and submitting biennial budget requests to the Governor and the Legislature.

REPORT METHODOLOGY

The planning process for the 2014-2016 biennium began by reviewing articles and reports by the National Center for State Courts as well as studying strategic plans from other states. An electronic survey was used to collect information from internal and external stakeholders. The survey was distributed to supreme court justices, court of appeals judges, chief judges, circuit court judges, circuit court commissioners, clerks of court, registers in probate, juvenile court clerks, district court administrators, PPAC members, legislators, elected county officials, district attorneys, public defenders, corporation counsel, Wisconsin Bar Association members, department of corrections and the Department of Justice staff members.

The survey included a broad range of topics. Respondents were asked to consider the court system's mission statement and prioritize the five most important topics beginning with the highest priority, then the second highest and so on. The respondents were then asked to come up with two specific ways the court system could address each of their priorities.

Judicial respondents were then asked additional questions that sought feedback on how the Supreme Court and Director of State Courts Office collect input on court system initiatives, and how they provide opportunities to participate in and solicit feedback on initiatives.

Other court system stakeholders were asked four questions beyond the prioritizing exercise. They were asked: 1.) Which current themes or trends should the Wisconsin Court System work to change or support? 2.) What emerging trends should the Wisconsin Court System anticipate and plan for? 3.) How can the Wisconsin Court System better serve your constituents/clients? 4.) Are there ways for the Wisconsin Court System to do a better job of communicating its successes, priorities and needs?

Five hundred and thirty-six (536) survey responses were received. The Planning Subcommittee reviewed the survey results at the subcommittee's meeting in September. In November, Planning Subcommittee chair, Judge Michael Rosborough and subcommittee member, Judge Kathryn Foster, presented the four (4) selected critical issues and twelve (12) actions steps

during the PPAC plenary session at the 2013 Judicial Conference. During this session, additional questions were asked of the attendees to further guide the priority planning process (see results in Appendix A).

Two broad themes emerged in the analysis of the survey data: funding and training. With regard to funding, PPAC recognizes that courts struggle to obtain enough resources to meet existing goals. PPAC's recommendations acknowledge that basic operations cannot be neglected in favor of new initiatives and that changes depending on increased funding require strong justification.

With these limitations in mind, PPAC has developed different categories for the recommended action steps, two of which are: promising goals and reach goals. Promising goals acknowledge initiatives that are already taking place in the system which PPAC should support. Reach goals are long-term objectives that require more immediate short-term groundwork to achieve. PPAC also recognizes the critical role that training plays in continually improving the quality of service the court system provides, which is why some of the action steps also include a training goal. Judicial Education, the Judicial College and other conferences hosted throughout the year, such as the Court Safety and Security Conference, offer quality training opportunities. PPAC will continue to support these efforts and pass along suggestions for training sessions based on the feedback received via the Critical Issues survey.

CRITICAL ISSUES AND PLANNING PRIORITIES OF THE WISCONSIN COURT SYSTEM

PPAC recommends the Supreme Court and Director of State Courts office focus on four critical issues over the next biennium.

Critical Issue 1: Judicial Independence, Selection and Ethics

Issue

Judicial independence, selection and ethics was a critical issue in the 2008-2010 planning cycle and has once again been identified as a key challenge facing the court system.

Wisconsin’s judicial branch is an independent, separate, and co-equal branch of state government charged with preserving the rule of law, upholding Wisconsin’s constitutional rights, and ensuring fair and impartial courts. While carrying out these important constitutional responsibilities, the branch must maintain its independence and resist pressures that would compromise the independence of judicial decisionmaking.

These responsibilities and challenges must be met with strong branch leadership and effective strategies for preserving the status of the judicial branch as an independent, separate, and co-equal branch of government.

The following three action steps focus on the need to provide the necessary services while working with the resources we have to build a better judiciary and a more informed public.

Action Steps

Promising Goal

PPAC should explore ways to encourage judicial participation in established outreach programs such as the “Our Courts” program of the Wisconsin State Bar Association and the “Courts Connecting with Communities” toolkit of the Office of the Chief Justice to help educate the public on the role of the third branch.

Promising Goal

PPAC should review trial court judicial selection methods in other states and determine whether a committee should be convened to explore judicial selection in Wisconsin.

Promising Goal

PPAC should monitor and respond to legislation concerning judicial independence, selection and ethics as it relates to circuit court judges.

Critical Issue 2: Court Security and Facilities

Issue

A safe courthouse is essential to the administration of justice as it serves as the center of many governmental, legal, and community activities. Courts must have proper court security procedures, technology, personnel, and architectural features, to not only protect the safety of the people and property within and around the courts, but also the integrity of the judicial process. While there is no one solution to issues concerning court security, proper planning must involve collaboration with law enforcement offices, emergency agencies, and governing bodies.

In 2012, the Supreme Court voted to repeal Supreme Court Rule 70.38-70.39 and create Supreme Court Rule 68 on Court Security, Facilities, and Staffing. Supreme Court Rule 68 was created with the intention to assist counties and courts in making sound decisions about the court facilities that serve the citizens of their Wisconsin communities.

PPAC and the Director of State Courts continue to work on implementing Chapter 68, in addition to other recommendations made by the PPAC Subcommittee on Court Security. The following action steps will continue to strengthen the court system's commitment to provide a safe court experience for clients and staff alike.

Action Steps

Training Goal

PPAC should continue to support the annual Court Safety and Security Conference and encourage county court security and facilities teams to attend.

Promising Goal

PPAC should reconvene the Court Security Subcommittee to update the court security manual, being sure to address the different needs of small, medium and large counties, and include a self-assessment checklist to help determine security needs.

Reach Goal

PPAC should consider whether legislation or court rules are needed to establish required minimum court security standards.

Critical Issue 3: Use of Technology

Issue

PPAC recognizes the critical role that technology plays in fulfilling the court’s mission and addressing critical issues. Technology is an essential component in operating the court system and is also used to assist in implementing and measuring the planning priorities of the court system. Court facilities must support efficient operations and command respect for the independence and importance of the judicial branch in preserving a stable community. Modern technology must be employed to achieve administrative efficiencies and enhance the public’s access to court information and services.

Now more than ever, there is an increased demand to integrate technology into much of the business of the court. Public demand for online access to court information and services continues to grow, as people become accustomed to seeking information and obtaining services at a time and in a manner that works best for them. Technology helps the court system reinvent how it provides services and information to the public in an “on demand” world. The following action steps acknowledge this new reality while recognizing the binds of funding constraints.

Action Steps

Training Goal

PPAC should support and promote training for judges, attorneys, and court staff on available technology in the court system.

Promising Goal

PPAC should create guidelines for videoconferencing technology to be included in the update of the "Bridging the Distance" videoconferencing manual.

Reach Goal

PPAC should research the experiences of states that have implemented mandatory eFiling to determine how such a change might affect the Wisconsin Court System and coordinate the committee’s research with the work of the Chief Judge eFiling Implementation Subcommittee.

Critical Issue 4: Evidence-Based Practices*

Issue

For the past four planning cycles, stakeholders have identified “sentencing reforms and alternatives” and “alcohol and drug dependency” as critical issues facing the courts. The court system will continue to address these issues through evidence-based practices. Since its creation in 2004, the Effective Justice Strategies Subcommittee has made great strides in providing information about promising practices in regard to effective justice strategies in Wisconsin.

In the Fall of 2013, members of EJS traveled to all judicial districts to facilitate a training focused on how to utilize evidence-based practices and concepts in pre-trial and sentencing decisions. Also in 2013, the legislature increased TAD (Treatment Alternatives and Diversion) funding by 1.5 million dollars, which will allow 10-12 more counties to start drug and OWI courts and other jail or prison diversion programs.

In the 2014-2016 biennium, EJS is committed to continuing to explore and assess the effectiveness of policies and programs, including drug and other specialty courts, designed to improve public safety continuing to increase public safety and reduce incarceration.

Action Steps

Training Goal

The Effective Justice Strategies Subcommittee of PPAC will continue to provide training on best practices standards in order to assist in the implementation of evidence-based initiatives in the criminal justice system, utilizing treatment court performance measures developed by the Wisconsin Association of Treatment Court Professionals.

Promising Goal

PPAC, through the Effective Justice Strategies Subcommittee, will encourage implementation and expansion of state and local evidence-based practices and programs.

Reach Goal

PPAC, through the Effective Justice Strategies Subcommittee, will conduct an evaluation of Wisconsin problem-solving courts.

***Evidence-Based Practice:** The partnership between research and practice. Research is used to determine how effective a practice is at achieving positive measurable outcomes, including reduction of recidivism and increasing public safety (Wisconsin Statewide Criminal Justice Collaborating Council, Evidence-Based Practice Subcommittee 2013).

OTHER ISSUES OF IMPORTANCE

Described below, these topics were not defined as critical issues, but are, and will continue to be, areas impacting the courts.

Access to Justice

Limited Scope Representation Subcommittee

PPAC has consistently identified self-represented litigants as a critical issue and the court system has reacted by developing initiatives to increase litigants' access to justice. PPAC created the Limited Scope Representation Subcommittee in 2010, to research existing limited scope representation programs both nationally and locally and make recommendations. The subcommittee divided their work into two phases. The first phase was a feasibility study. Members researched limited scope representation programming across the country, paying particular attention to: 1.) Judicial and court administrator commitment and support, 2.) Court rules that facilitate limited scope representation, 3.) Practical and ethical training programs for lawyers, 4.) Strong bar association and private bar support, and 5.) Self-represented litigant education and informed consent.

The Limited Scope Representation Subcommittee submitted its final report and recommendations to PPAC in August, 2011. PPAC recommended moving on to the second phase of subcommittee work. Phase II of the subcommittee began meeting in May, 2012. On July 16, 2013 subcommittee filed Rule Petition Number 13-10. A public hearing date has been set for March 21, 2014.

The proposed amendments contained in the rule petition address issues that include:

- Defining the scope of representation;
- Requiring a client's informed consent to limited scope representation in writing;
- Clarifying communications between counsel and parties;
- Creating parameters for the lawyer's role in document preparation, including disclosure of the lawyer's assistance;
- Governing the entry of appearances and withdrawals for limited representation; and
- Excusing conflicts checks for limited services programs.

Access to Justice Commission

The Wisconsin Access to Justice Commission was created by Supreme Court Rule in 2009. The commission aids the courts in improving the administration of justice by supporting civil legal services for those who cannot afford them.

More information on the structure and activities of the access to justice commission can be found here: <http://wisatj.org/>

Enhancing Self-Help Online Information Center

The self-help online law center has been redesigned and reorganized to better assist self-represented litigants and provide access to information. It assists the public in finding forms, learning about Wisconsin law and Wisconsin court procedures, and how to represent themselves in court matters.

The self-help law center can be found here:

<http://wicourts.gov/services/public/selfhelp/index.htm>

Public Library Partnership Initiative

In April 2007, the Wisconsin Court System launched a public library initiative project to further assist people who are representing themselves in court proceedings. The project's goal was to foster communication between local courts and public libraries in an effort to better meet the legal service needs of self-represented litigants.

The project ran through April 2011 and served 10 sites in eight out of the ten judicial districts. The Director of State Courts Office and the Wisconsin State Law Library have plans to revive the successful program in 2014.

Mental Health

Criminal Justice Mental Health Leadership Initiative

The Chief Justice's Task Force on Criminal Justice and Mental Health partnered with the Wisconsin Court System's Office of Judicial Education in 2012 to provide training to help judges understand how mental illness and co-occurring substance abuse disorders may be affecting individuals and their interactions with the criminal justice system. The American Psychiatric Foundation and the Council of State Governments developed this new training module for judges entitled "Judicial Work at the Interface of Mental Health and Criminal Justice." The session in Wisconsin was only the program's second presentation.

The program arose from the Task Force report issued in 2010 documenting existing programs and initiatives throughout the state, detailing gaps in the criminal justice and mental health systems, and making recommendations for improving our responses to persons with mental illnesses in the criminal justice system.

The Speaker's Task Force on Mental Health

In February 2013, Speaker Robin Vos announced the formation of a Speaker's Task Force on Mental Health. The Speaker charged the committee with recommending improvements in the following areas:

- Eliminating barriers to treatment, and promoting early and voluntary intervention for juveniles and adults in need of mental health services;
- Improving coordination of care among those who treat people with mental illness;
- Increasing awareness and reducing the stigma that often accompanies mental health diagnoses;
- Identifying and promoting best practices for addressing the link between mental illness and substance dependence and abuse; and
- Addressing mental illness in the prison population.

The Taskforce made many recommendations including expanding the Treatment Alternatives and Diversion (TAD) program to allow counties to create TAD programs specifically tailored to people with a mental health diagnosis in order to provide treatment.

The 2013-2015 biennial state budget included \$1 million annually in new state funding for TAD grants and \$500,000 in new state funding for the creation of new county drug courts. The budget also includes \$1.038 million in continued funding for the seven existing TAD sites.

Appendix A: 2013 Judicial Conference PPAC Session Feedback

Judicial Independence, Selection and Ethics

- 1.) Would you be interested in participating in a court outreach program, such as “Our Courts”?

Overall result: 62% Yes

Court Security

- 1.) Are the scholarships to the court security conference a useful tool to encourage teams to attend?

Overall result: 76% Yes

- 2.) Would a self-assessment tool be helpful in communicating court security needs to your county boards?

Overall result: 88% Yes

Use of Technology

- 1.) What do you feel is the most effective way to receive training on available technology in the court system?

Overall result:

Training by CCAP: = 41%

Judicial Education = 35%

Webinar = 24%

- 2.) Do you feel that e-filing would improve court system efficiency in your county?

Overall result: 62% Yes

Evidence-Based Practices

- 1.) Would a summary of current research findings assist you in your sentencing decision making?

Overall result: 86% Yes

- 2.) Should local jurisdictions continue to have the flexibility to develop programs that meet their individual needs or should the state do more to provide consistent program models?

Overall result: 66% Both Local Authority and State Program Models

Access to Justice

- 1.) Would it be helpful for the court system to develop short 5 minute videos to walk pro-se litigants through commonly used forms?

Overall result: 76% Yes

Mental Health

- 1.) Would you like more training and/or information about how mental illness and co-occurring substance use disorders may be affecting individuals and the criminal justice system?

Overall result: 74% Both Training and Information