



**MINNESOTA
JUDICIAL
BRANCH**

First Judicial District

Mission: To provide justice through a system that assures equal access for the fair and timely resolution of cases and controversies.

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The First Judicial District has 36 judges and more than 250 staff that handle nearly 200,000 cases annually in the counties of Carver, Dakota, Goodhue, Le Sueur, McLeod, Scott and Sibley.

The First Edition

A Newsletter about the First Judicial District of the State of Minnesota

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Funding the Courts

By Edward Lynch, First Judicial District Chief Judge

“HELP ME PLEASE” was the plea that concluded the letter from the pre-teen girl who was involved in a child protection proceeding because of physical and emotional abuse inflicted by her mother. The letter described the beatings she endured and said that the whipping with the extension cord “hurt the most!” The elderly man who lost a leg in an accident was unable to obtain recommended medical treatment because the two companies that insured him could not agree which was primarily responsible for payment of the expenses. The mother and wife came to court for an order for protection after discovering her husband’s journal that described his detailed plans and preparations to kill her and their children. These three people are among the hundreds of thousands each year who need the services of the court at critical times in their lives. This is why funding for the courts is so important.

In January the Legislature begins a new, challenging session and faces the difficult work of passing a biennial budget in a harsh economic environment that includes a projected deficit of \$6.2 billion. The Legislature will be forced to establish priorities to guide the allocation of scarce resources based upon the need for and value of the services provided to the people of Minnesota. Funding the courts deserves to be a legislative priority.

The judiciary is a separate, co-equal branch of government that provides essential services to the people of Minnesota and has constitutional responsibilities and statutory mandates to ensure timely access, fair hearings and impartial decisions in over 1.6 million cases filed with the courts of Minnesota each year. The Minnesota Constitution provides that every person is entitled 'to obtain justice freely and without purchase, completely and without denial, promptly and without

(Continued on page 2)

Inside

1-3 Funding the Courts

3-4 The Struggle to Do the Job Properly

5 Collection of Fines, Fees and Restitution

6 Dakota County’s Early Neutral Evaluation Pilot Program

7 State Guardian Ad Litem Board and Administrator Announced

Funding the Courts (Continued from page 1)

delay.” The courts in Minnesota discharge this constitutional responsibility and perform this core government function by providing judicial services that promote public safety, economic stability and social order while protecting each individual’s freedom, security, family and property.

In addition, the Judicial Branch deserves to be a funding priority because the judiciary has been a responsible steward of the public resources provided to it in the past. The Judicial Branch has been aggressive in its efforts to provide effective services in a cost efficient manner. Technology has been leveraged to create efficiencies not only for the courts but also for other justice system participants. Law enforcement agencies, lawyers and litigants can electronically file documents with the court and access court documents, calendars and information from their homes and offices. The process of collecting fines and fees has been streamlined by consolidating the separate efforts of staff in 87 counties to a central location resulting in reduced staff need, more payment options, increased collections and greater accountability. Increased use of interactive video technology for court hearings, interpreter services, conferences and training has reduced travel time and costs while en-



hancing access to the courts.

In addition to efficiency initiatives, the Judicial Branch had worked with justice system participants to improve the effectiveness of judicial services. Problem solving courts have been created to address the mental health, alcohol and substance abuse issues that frequently drive criminal behavior and cause family dysfunction. Courts throughout Minnesota have implemented new approaches to the often difficult process of dissolving a marriage. Early intervention by the court in these proceedings has reduced the time it takes the parties to resolve the difficult issues involved in ending a marriage, minimized the conflict between the parties and decreased the cost of the proceedings for everyone. The Judicial Branch has created forms and informational brochures, developed a Self Help website and other initiatives to assist the increasing number of people who cannot afford to hire an attorney or choose to represent themselves in court proceedings.

The Judicial Branch has done a good job with the resources provided. Minnesota courts enjoy a national reputation for excellence, innovation, fairness and impartiality. The National Chamber of Commerce consistently ranks Minnesota Courts in the top

ten in the nation for fair, timely, impartial service. In a 2005 state wide public opinion poll 80% of the respondents expressed confidence in the Minnesota courts. The funding provided to the Judicial Branch has been well spent.

Because of state budget shortfalls, funding for the Judicial Branch has been cut in recent years resulting in reduced staff and resources. This has caused delays in scheduling hearings and trials, has forced some counties to reduce court hours and has, in all counties, diminished the level and timeliness of service provided. Any additional cuts this session will further erode the ability of the Judicial Branch to discharge its constitutional responsibilities and jeopardize the right of the people of Minnesota to have timely, meaningful access to justice. Cost cutting measures that reduce staff and court hours do not affect the overall workload. Cases will continue to be filed at the rate of over 1.6 million every year and remaining staff will be asked to do more with less. The court cannot close its doors one day per week and reduce its workload by 320,000 cases each year. The work does not go away, it merely piles up. Improved technology, better management, implementation of best practices and the willingness of judges and staff to take on more and more responsibility have been

(Continued on page 3)



Funding the Courts (Continued from page 2)

used in the past in response to cuts and to improve efficiency but the ability of these measures to absorb additional cuts is limited. When funding priorities are established, timely access to justice should be at least as important to the people of Minnesota as reduced class sizes and shorter commutes.

The Judicial Branch budget submitted to the Legislature for consideration this session recognizes the fiscal reality of the projected deficit and despite increased

demands for judicial services, the budget requests new funding only to pay unavoidable increases for employee health care and statutorily mandated pension costs. The budget does not request funding for any new judges or employees, it does not request any increased compensation, and it does not request funding to restore the level of service previously provided. The Judicial Council in approving this budget request determined that from a policy standpoint the Judicial Branch of govern-

ment should be sensitive to the difficulty the Legislative Branch and the Executive Branch face in their efforts to address this historic deficit. The budget merely requests funding to maintain the status quo so the abused girl in need of a safe home, the elderly man in need of treatment and the terrified woman in need of protection will not be turned away. The constitution requires no less, the people of Minnesota deserve no less and the Legislature should fund no less.

The Struggle to Do the Job Properly

By Steve Holmgren, Chief Public Defender, First Judicial District



Perhaps it's related to advancing age, or the fact that another major statewide budget deficit is looming, but I have to admit that thoughts of 'the good old days' have been entering my head lately – and it bothers me. The problem is that I used to view people who spoke fondly of the 'good old days' with

a certain amount of skepticism. My thinking was that they must certainly be glamorizing the bygone era at the expense of the current one, and that things couldn't possibly have been as good as they recall. I still believe that to be mostly true, but yet I have become one of them – at least when it comes to public defense. I have been a public defender in the First Judicial District for more than 25 years and I am proud to say that my office and colleagues have done a remarkable job over the years of providing effective, efficient and prompt assistance to our clients. However the recent string of budget cuts has

seriously impacted our ability to do our job *properly*. And while I can't officially speak for my criminal justice partner colleagues, I can tell you that I am hearing the same thing from most of them – that resources issues have also left them struggling to do the job right.

From the perspective of the public defender, doing the job properly means providing *effective* assistance of counsel. People charged in our criminal justice system have a constitutional right to "effective assistance of counsel" and it's our job to provide it if they can't afford to hire counsel on their own. It's an

(Continued on page 4)



The Struggle (Continued from page 3)

important job. Studies have shown that regardless of the eventual outcome of a case, a large part of a defendant's trust and confidence in the judicial system is dependent on their relationship with their attorney and their belief that they had effective representation.

As officers of the court we take an oath to uphold the Constitution, and we take that obligation seriously. However recent budget cuts have made it increasingly difficult to abide by our oath. Since 2008 my office has lost approximately 20% of its attorney positions. During the same period caseloads have grown so that individual attorney caseloads are nearly double the American Bar Association and Minnesota State Board of Public Defense weighted caseload standards. As a result we now only have 54% of the lawyers needed. To make matters worse, many of our current attorney positions are being paid by one-time federal grants and a temporary \$75 attorney registration surcharge, both of which are soon to expire.

It's not just high caseloads and staffing shortages that make the job more difficult today than it was a few years ago. The trend toward increased criminal penalties, lessened judicial discretion, non-waivable mandatory minimum sentences, and limits on a judge's ability to participate in plea negotiations have all made it much more difficult to resolve



cases efficiently and effectively. Similarly, now that criminal convictions are readily available on the internet and that background checks have become commonplace, the impact of criminal convictions on our client's lives outside of the criminal justice process, particularly those involving, employment, housing and immigration status have become major impediments to efficient case resolution. As a local prosecutor recently put it "it wasn't that long ago that we would negotiate about how much jail time a person had to do. Today we negotiate primarily about whether the conviction will go on their record and if so what it will be." Advances in forensic science, particularly the expansion of DNA typing, have also increased our burden because we need to understand the new sciences to properly assess their impact on our cases. Similarly, new law enforcement techniques

like the practice of activating personal audio or video recorders upon the arrival at a police call and recording the entire contact from start to finish has dramatically increased the amount of time needed to review a client's file. I could go on with other examples but I'll spare you.

What all of this means is that we are seriously struggling to do our job properly, and it's taking its toll. Today even the most seasoned and stoic public defenders are expressing their frustration and begging for relief. This is not only impacting us and our clients, but also the court system as well. And you don't have to take my word on this. Last year the Minnesota Office of the Legislative Auditor studied public defense in Minnesota and reached a similar conclusion stating that "[p]ublic defender workloads are too high resulting in public defenders spending limited time with clients, difficulties preparing cases, and scheduling problems that hinder the efficient operation of criminal courts" *Public Defender System*, Office of the Legislative Auditor, Major Finding 1, (February 2010).

The Auditor makes a good point. It is important, not only to us and our clients, but also to general efficiency and wellbeing of the criminal justice system that we have the resources to do our job properly.

Collection of Fines, Fees and Restitution

By Carol Renn, Dakota County Court Administrator

The Minnesota Judicial Branch has established uniform guidelines to collect, process, and distribute all fines, fees, and restitution pursuant to statute or resulting from court orders. All revenue that is collected by the Judicial Branch is collected on behalf of our justice partners and other local government agencies. With the exception of guardian ad litem (GAL) reimbursements the First Judicial District does not retain any of the revenue that that it collects.

In fiscal year 2010 Minnesota Trial Courts collected \$196 million dollars on behalf of state and local government agencies. Over \$27 million of that was collected in the seven counties of the First Judicial District and were disbursed to the following governmental entities and agencies:

State General Fund	\$20,099,539
State Patrol	734,027
Department of Natural Resources	29,827
State GAL Program	141,602
Local Counties	2,138,475
Municipalities	3,990,397
TOTAL	\$27,133,867

In addition to collecting fines and fees, the First Judicial District collected and paid out over \$1.7 million in restitution to victims in criminal cases during FY10.

In an effort to improve the collection of delinquent court debt and to optimize staff efficiencies statewide, the judicial branch established a Court Payment Center (CPC) in 2010. Through the use of technology, customers can now pay their fine and other costs by phone using Interactive Voice Response (IVR), or on the web through Interactive Web Response (IWR) software. Using this technology, customers will no longer be required to go to a specific courthouse to pay their fines.

A new process will also automate the distribution of fines, which we expect will

improve the efficient handling and accuracy of payments to municipalities, counties, the state general fund, and other designated recipients. This software will virtually eliminate the laborious, manual process of dividing single payments amounts between all the



prescribed recipients.

Finally, an improved automated referral process for delinquent debt has been put in place. It will automatically refer delinquent debt to the Minnesota Department of Revenue for collections. The Department of Revenue will have the full palate of collection options available to it including revenue recapture. When implemented statewide, it is expected to; increase revenue collections to the state general fund and other governmental agencies, improve efficiency by abandoning manual processes, and standardize collection efforts statewide.

Court Payment Center:

<https://webpay.courts.state.mn.us/CourtWebPay/default.aspx>

Dakota County’s Early Neutral Evaluation Pilot Program

By David L. Knutson, First Judicial District Judge

The Dakota County District Courts began the implementation of a new pilot program for family law cases. This [Early Neutral Evaluation \(ENE\)](#) program is designed for all dissolution cases with children. The program began on June 11, 2010 with six judges on the rotation. The ENE program is attempting to divert divorcing parents to neutral evaluators early in the court process to provide the opportunity to resolve the issues surrounding their dissolution through mediation. The parties can choose a Financial ENE to help resolve financial disputes, or a Social ENE to help resolve custody and parenting time disputes, or both.

When a divorce petition is filed with the court, the parties receive a notice to attend an Initial Case Management Conference (ICMC) where the process of ENE is discussed. The parties meet with the assigned judge to learn about various ways the divorce can proceed, either through traditional litigation, or through the Early Neutral Evaluation process. If the

parties choose the ENE process, the parties will select neutrals they will meet with to help resolve the issues in the dissolution. The neutrals are chosen from a pre-approved list of experienced family law practitioners. The neutrals evaluate the case and encourage the parties to find common ground to reach agreements dissolving their marriage.

The ICMC proceedings are informal and are often not on the record. It is a chance for judges to speak candidly with the parties to persuade them to conclude their divorce through a more amicable and less contentious process. ENE provides a less adversarial approach to assist the parties in collaborating to reach a final agreement. This mediation process is faster, less expensive and leads to lasting agreements when compared to traditional litigation. The ENE process also allows the parties to focus on the best interests of the children and attempts to preserve a relationship between the parents. It further allows the parties to stay in control of the

decisions, which leads to more satisfaction in their final resolution and fewer post-decree court appearances.

Since the inception of the ENE process in Dakota County, 89 of 144 total cases have been removed from the court’s family calendar. Of those 89 cases, 57 have pursued the ENE process, 25 cases have completely settled at the ICMC, and 7 cases have completely settled prior to the ICMC. The 89 cases represent a 62% success rate of removing cases from the court system. The program results relieve the pressure from the court’s calendar as parties meet with chosen neutrals out of the courthouse and off the court’s calendar.

The parties and their attorneys have reported being very satisfied with this new process and they are extremely supportive of it. The pilot is expanding throughout the First Judicial District and the courts expect it to be part of a tremendous culture shift in how family law cases are handled.

Highlighting Counties / Justice Centers of the First Judicial District



Dakota County Judges:

- | | | | |
|-----------------------------------|--------------------------------------|------------------------------------|---------------------------------------|
| Karen J. Asphaug | Edward I. Lynch | Shawn M. Moynihan | Rex D. Stacey |
| Robert F. Carolan | Erica H. MacDonald | Thomas B. Poch | Patrice K. Sutherland |
| Joseph T. Carter | Michael J. Mayer | Martha M. Simonett | Mary J. Theisen |
| Robert R. King | Timothy J. McManus | Michael V. Sovis | Tim D. Wermager |
| David L. Knutson | Kathryn D. Messerich | Richard G. Spicer | |

State Guardian Ad Litem Board and Administrator Announced

By Brian E. Jones, Assistant District Administrator

A Child's Advocate In Court



In 2010, the Minnesota Legislature established a State Guardian Ad Litem Board to create and administrator a

statewide independent Guardian Ad Litem program to:

- *advocate for the best interests of children, minor parents and incompetent adults in juvenile and family court cases;*
- *approve and recommend a budget for the board and the guardian ad litem program to the Legislature;*
- *establish procedures for distribution of funding to the guardian ad litem program; and*
- *establish guardian ad litem standards, administrative policies, procedures, and rules.*

The State Guardian Ad Litem Program has operated as part of the court system for the past eight years. The new Board will not be subject to the administrative control of the judiciary.

The Guardian Ad Litem Board consists of seven members – three appointed by the Minnesota Supreme Court and four appointed by the governor. The Supreme Court appoints the chair of the board for a

two-year term.

In September 2010, Governor Pawlenty appointed the following individuals to the Board:

- *Leslie M. Metzen, for a term ending Jan. 6, 2014. She was subsequently appointed to the position of chair by the Supreme Court for a term ending Sept. 20, 2012. Metzen is Senior Director of Violence Prevention for 360 Communities and a retired district court judge. She lives in Sunfish Lake.*
- *Barbara J. Fabre, for a term ending Jan. 2, 2012. Fabre is a child care director for the White Earth Indian Reservation. Fabre lives in Ogema.*
- *Robert Quinn Sawyer, for a term ending Jan. 3, 2011 (reappointment or new appointment pending). Sawyer is Senior Child Welfare Fellow with the American Humane Association and former director of child and family services for Olmsted County. Sawyer lives in Rochester.*
- *Wright S. Walling, to a term ending Jan. 7, 2013. Walling is an attorney in private practice in Minneapolis. Walling lives in St. Louis Park.*

That same month, the Supreme Court appointed the following individuals to the Board:

- *Richard T. Jessen, for a term ending Jan. 3, 2013. Jessen is a retired district court judge and a former member of the Supreme Court's Children's Justice Advisory Committee. Jessen lives in Foley.*
- *Cyrenthia Shaw, for a term ending Jan. 3, 2012. Shaw is a practicing lawyer, a lawyer volunteer and member of the Board of the Children's Law Center. Shaw lives in Brooklyn Park.*

- *Mark Toogood, for a term ending Jan. 3, 2011 (reappointed to a term ending Jan. 5, 2015.). Toogood is Director of the Transition to Economic Stability Division for the Minnesota Department of Human Services. He previously served as State Guardian Ad Litem Program Manager for State Court Administration. Toogood lives in Minneapolis.*

Recently, in December 2010 the State Guardian Ad Litem Board hired Suzanne Alliegro as the State Guardian Ad Litem Program Administrator. Since 2008, Sue has served as Executive Director of the Minnesota Sentencing Guidelines Commission. From 2000-2008, she was Deputy County Manager for Justice Systems in Fulton County, Georgia, where she worked with child advocacy and served as secretary to the Fulton County Child Advocate Board. Prior to that, she worked at the Second Judicial District, Minnesota Judicial Branch from 1978-2000, where she held a number of leadership positions including Second Judicial District Administrator from 1987-2000. Sue possesses a Master's Degree in Administration of Justice from American University, Washington D.C. and a Bachelor's Degree in Political Science from the University of Minnesota.

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