

State of the Judiciary
Chief Justice John Dan Kemp, Arkansas Supreme Court
Message to the Bar and Judicial Council
June 2022, at Hot Springs Convention Center, Hot Springs, Arkansas

President Estes, President Elect Kolb, Fellow Justices and Judges, Honorable Members of the Bar and Guests.

It is good to get back together at the Annual Meeting and meet in person. During the pandemic, we have all had to adjust and find various ways to make it through the changes that it has brought about. For me, I had to develop a routine which was similar to my normal routine that I had before COVID hit. I did have to make a concession to having some comfort food, which in my case was a cup of ice cream almost every night. And I'm proud to report that I only gained three pounds during the pandemic. Of course I haven't weighed myself since April, 2020.

I also used fantasy baseball and fantasy football as a distraction during the pandemic. My wife, Susan, was okay with my use of fantasy sports. She said fantasy baseball and football were better than Victoria's Secret fantasy. But the important thing is that I have made it thus far. And hopefully, you have done the same in making it thus far.

The Supreme Court has placed an emphasis on lawyer and judge well-being even before COVID started. I hope you have been availing yourself of the JLAP CLE's on wellness. If you are interested, their recent JourneyWELL CLE's are available on the JLAP Foundation Facebook page through June 30th.

I commend Jennifer Donaldson, the executive director of JLAP, and Colin Jorgensen, chairman of JLAP, in developing these wellness programs to help lawyers and judges adapt to the stresses of the pandemic and beyond.

In changes to our Supreme Court Committees and Boards, Lisa Ballard is now the executive director of the Office of Professional Conduct. Stark Ligon, who served as director of the OPC for 20 years, is now the director of the Office of Ethics Council. This office was created by the Court to provide advice to Arkansas attorneys regarding legal ethics issues and interpretations of the Arkansas Rules of Professional Conduct. We wanted to use Stark's years of experience in dealing with violations of the Rules of Professional Conduct to advise attorneys how to avoid such violations. Advice from the OEC is confidential, and there is a firewall from OPC to prevent any disclosures of the ethics opinions to OPC.

The OEC has multiple purposes including to aid attorneys who voluntarily seek to maintain the highest ethical standards in their provision of legal services; to protect the interest of clients, litigants, and the courts, who might be harmed by unethical conduct; and to foster public confidence in the Arkansas Bar's provision of ethical legal services. The per curiam establishing the OEC was issued on September 21, 2021, and can be found on the court website.

On August 1st will mark 45 years that I have served as a judge in this great state. These 45 years have given me the opportunity to develop a unique perspective of our court system. I served as

judge of the Mountain View Municipal Court, now known as District Court, for almost nine-and-a-half years. Those years gave me a deep appreciation for the workload of district judges and their staff. They do an exceptional job managing high caseload dockets. Persons who appear in district courts are often upset because they have received a traffic ticket, and their frustrations are usually handled with courtesy and respect by the district court clerks and judges. Their interaction with the local court staff helps shape the image of the judiciary in our state. Fortunately, the great majority of these interactions are positive. I am grateful to the district court clerks and judges for their professionalism and patience.

After my time as a municipal judge, I was fortunate enough to be elected as a circuit judge in the 16th Judicial District, where I served for 30 years. I am well aware of the challenges facing circuit judges and their staffs. These judges make difficult decisions on a daily basis solving problems people face in their circuit court cases. The Supreme Court ordered that all courts remain open during the pandemic. The circuit judges often put their own health at risk to ensure that courts in our state remained open as safely as possible. In spite of these obstacles, the caseload clearance rate for all circuit court cases in 2021 was 93%. That rate illustrates the perseverance and diligence of the judiciary in our state, and we should all be proud of their work.

I would now like to briefly review the progress that has been made in some of the goals that I established in my first State of the Judiciary address 5 years ago.

1. Strategic Planning Committee

First, I identified the need to establish a strategic planning initiative for the judicial branch. This project became critical for us to establish a focused, unified direction and identify a specific set of priorities. The Supreme Court authorized me to form a committee of judges and court personnel who worked for a year-and-a-half to draft our plan.

This plan outlined six core goals: fostering judicial independence, improving access to justice, communicating effectively with the public, improving educational opportunities for the judiciary, embracing technology, and enhancing security. Last fall, we published a 2021 Progress Report, which is available on the Arkansas Judiciary website. I urge you to take a look at this document. I believe you will be impressed with the results we have accomplished.

I thank the members of the Strategic Planning Committee for their vision of what the Arkansas courts must become. It is my hope that the court system will improve the services it provides to the public, attorneys, and other branches of government while simultaneously protecting the judiciary's vital independent role.

2. Improve Court Technology

Second, I outlined my desire to improve court technology. I expressed my goal of having E-filing available statewide by 2025. With the advances made by the IT Department of the Administrative Office of the Courts during the pandemic, we now have 85% of the counties on the E-filing system. We are well on our way to achieving our goal by 2025, and we may reach this goal in 2023.

E-filing eliminates the conventional method of paper filing, reduces copying and postage costs, and reduces trips to the Clark's office. This is not only a time saver but also saves clients money. This also greatly benefits the public by granting access to documents in a timely and accurate manner. Arkansas has become a national leader when it comes to transparency of court records.

Even more importantly, progress has been made towards the development of our new case management system. I am not a fan of the current Context system of case management. It is outdated and is not user friendly. We have committed to building our own system.

The Arkansas Supreme Court has requested \$40 million from the American Rescue Plan Act (ARPA) funds. This money will significantly advance our progress and will speed up our development and delivery of our new case management system. We hope to receive these funds in August. These funds will allow us to hire 55 contract programmers for three years. By building our own system, we will save the state millions of dollars by not having to buy and modify an off-the-shelf operating system. After all, we know and care about our court system and its users better than any out-of-state vendor ever could.

This summer, the AOC will provide an upgrade to the eFlex application. This upgrade is expected to improve performance, increase security and stability, and will eventually offer additional features. We will announce when the upgrade will be applied as soon as a date is established, so stay tuned.

The Supreme Court also adopted a new Rule 88 of the Arkansas Rules of Civil Procedure. This gives discretion to our courts to continue virtual and blended hearings and trials. Responding to the pandemic has helped our courts become more resourceful in using technology to deliver justice. I expect this trend to continue.

If court technology interests you, don't miss the annual ACAP Systems Conference, which will be held both in-person and streamed live virtually on July 21 and 22 in Little Rock.

3. Promote Judicial Independence

In my first State of the Judiciary address, I noted that the salaries of trial court administrators and court reporters are funded through the Administration of Justice Fund, which is based off the collection of court costs and fees. Essentially, court employee salaries were dependent on the fees their judge imposed. This is not good public policy, and I urged the General Assembly to make a change and pay these employees from general revenue funds, like all other state employees.

This spring, during the legislative fiscal session, that policy change was made, thanks to the work of Representative Carol Dalby, Representative Lane Jean, Senate President Pro Tem Jimmy Hickey, and House Speaker Matthew Shephard. As of July 1st, of this year, trial court administrators and court reporters will be paid from general revenue funds. This is probably the biggest policy change involving the judicial branch in the last 25 years. I thank these legislators for their willingness to change this situation.

Next, the global pandemic caused unforeseen financial and logistical challenges in courts across the state. To ensure safe access to the courts during the COVID-19 pandemic, the Supreme Court, through the Administrative Office of the Courts, facilitated the distribution of hundreds of thousands of items of personal protective equipment for use in circuit and district courts, thereby alleviating the financial strain local governments have in providing proper protection. Furthering the effort to ensure meaningful access to the courts, the Administrative Office of the Courts purchased Zoom licenses for use by the courts and by court personnel across the state. These acquisitions have been funded by grants from the CARES Act, the Coronavirus Emergency Supplemental Funding Program, and other grants. I want to personally thank all those who served on the Arkansas CARES Act Steering Committee. They worked diligently and swiftly to help the Arkansas Court system during an extremely challenging period.

Finally, on the subject of how courts are funded, I'd like to share with you my thoughts on the time pay installment fee. Many of you may have never heard of the time pay installment fee, so let me explain to you how it works. Let's say you get pulled over for speeding. You go to court, plead guilty, and are ordered to pay a fine of \$300. If you don't have \$300, which sadly, many Arkansans don't have, the law will allow you to pay that fine off monthly, so you get set up to pay \$30 a month. In order to pay a monthly payment, you must pay the time pay installment fee of \$10 per payment. Half of that money goes to the city or county, and the other half, \$5, goes to the Administrative Office of the Courts to pay for court technology, most notably our case management system.

The AOC gets approximately \$3.5 million each year from the time pay installment fee. So, you see there are many installments payments across the state each year. This money is critical to our technology infrastructure, and I don't believe it's fair to continue to ask the poorest Arkansans to fund our critical infrastructure because they can't pay for their traffic ticket in full. I now call on the legislature to fully fund our court technology needs from state general revenue and to cut the time pay installment fee in half. This would be another huge step in ensuring an independent judiciary and would be a big help for the poorest Arkansans.

Only by working collaboratively with our partners in the legislature to slowly shift the sources of funding will the judiciary truly become independent and free from influence.

4. Improve Outreach

In April, after a two year pause because of the pandemic, the Arkansas Supreme Court was honored, and grateful, to restart our "Appeals on Wheels" program. We traveled to Paragould High School to hear a live oral argument. After the argument, we met with student groups to answer questions about how courts work and the role of the judicial branch of government. I want to extend my thanks again to the students, teachers, administrators, and principals that made the event a success. It was good for us to get out again; the Court loves traveling around Arkansas. It's one of the more unique and fulfilling things we do.

We will continue to support our "Appeals on Wheels" initiative to familiarize Arkansas students with the purpose, roles, and responsibilities of the judicial branch of government. We are

committed to holding oral arguments at a high school or college across the state twice per year, so that students can observe a court proceeding. The audience usually includes students and teachers from the host school, as well as students from several other schools in the area. Government officials and leadership groups may also attend. If you are interested in us coming to your town, please let me know.

Since last year, the Arkansas Supreme Court has broken ground to construct two new additions to the existing Justice Building, which houses the Supreme Court Library, the Court of Appeals, and the Administrative Office of the Courts. This effort will allow the AOC to have all staff under one roof, instead of having personnel in three separate buildings around the city. In addition, the expansion will allow for over 10,000 square feet of meeting space, and an additional 7,500 square feet which will serve as a Capitol Grounds Visitor and Civics Education Center. It was not economically feasible five years ago when first approved by the Court, but with lower interest rates, and an existing bond revenue stream, which paid for the addition that was completed back in 2001, we are on schedule on the project which should be complete this coming November.

This new expansion will be a distinctive attraction to the Capitol complex, featuring a mock courtroom, and a Civics Education Center, where Arkansans of all ages can go to learn about the three branches of government, the importance of civility, and how our state judiciary works. The Center will be an important facility for all three branches to gather, learn from each other, and illustrate why our republic is so special. I look forward to holding the grand opening this November, and I hope each of you will visit the Civics Education Center with your family.

For Arkansans who are not able to travel to the Justice Building for an in-person tour, the judiciary has created a video tour that takes the public through the building and explains the functions of the court system. After watching the video, teachers are invited to contact the public education coordinator to arrange a virtual question-and-answer session with a justice or judge.

The judiciary also regularly posts information to its social media channels. Content includes educational videos, court opinions, announcements of oral arguments, and announcements of public outreach events and initiatives. Please check out our website and our social media accounts.

Conclusion

We are living in unparalleled times, and I'm proud of the perseverance of the judges and their court staff. Both the Bench and Bar have done an exceptional job adapting to new technologies that helped ensure the administration of justice continued during the pandemic. You all are to be commended for your efforts.

I also want to thank my colleagues on the Supreme Court. I appreciate their professionalism and their support. Their willingness to embrace technology has been very encouraging. I'm sure many of these newly adopted technologies will stick around to help make our lives easier for many years to come.

I want to acknowledge the staff of the Administrative Office of the Courts and the Supreme Court Clerk's Office. They do an exceptional job serving all courts in our state. I thank you for your attention today, and I appreciate the opportunity to serve as the Chief Justice for the great state of Arkansas.

Thank you.