

2024-25 CRITICAL ISSUES REPORT

PLANNING PRIORITIES FOR THE
WISCONSIN COURT SYSTEM

**Wisconsin Supreme Court
Planning and Policy
Advisory Committee**

January 2024



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Critical Issues:
Planning Priorities for the Wisconsin Court System
2024 – 2025

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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. The Supreme Court and Director of State Courts use this information to explore initiatives or actions, such as pilot projects, rule petitions, or study committees. The Critical Issues Report may also be used as the basis for future budget proposals or administrative recommendations.

PPAC recommends that the Supreme Court and Director of State Courts prioritize three critical issues during the 2024-2025 period:

- Mental health;
- Making the record; and
- Court system integrity.

Mental health has consistently ranked as a top issue among court system stakeholders who participate in the critical issues survey. The action steps in this issue area focus on fostering productive collaboration at the state and local level, identifying potential legislative changes, and providing training and resources to judges who are interested in leveraging court system resources as part of a broader systems-based effort to address mental health at the county level.

A second issue, capturing and producing accurate records of court proceedings, continues to pose challenges for the long-term functioning of the court system. The changing characteristics of the court reporter workforce, the implementation of digital audio recording (DAR) technology, and the continued use of remote hearing technology all require thoughtful approaches that will support the court system's current, and future, court reporting needs.

Finally, survey respondents identified court system integrity as an issue of importance. Because public trust and confidence are essential components of a well-functioning court system, recommendations in this area focus on exploring options to gather feedback, supporting training for court officials, and examining mechanisms for judicial selection and tenure in other states.

PPAC PLANNING SUBCOMMITTEE

PPAC was created through Supreme Court Rule Ch. 70.14 in 1990 to advise the Supreme Court and the Director of State Courts and to provide a forum for the exchange of ideas between judges and justice partners. The smaller, more focused Planning Subcommittee was created in 2001 to provide input regarding the court system's strategic planning efforts. To this end, the Planning Subcommittee developed and has issued a *Critical Issues* report since 2002. The Director of State Courts and PPAC have responded to the report's recommendations in a variety of ways, including creating standing and *ad hoc* subcommittees, directing the work of staff in the Office of Court Operations, and developing biennial budget proposals for consideration by the Supreme Court.

REPORT METHODOLOGY

The planning process for the 2024-2025 critical issues cycle began by identifying issues for inclusion on a statewide survey of court stakeholders and justice partners. In July 2023, an online survey collected feedback from internal and external stakeholders. A breakdown of survey participants is included in Appendix A. The survey asked respondents to rate the importance of twelve topics on a scale of 1-5, with 5 being the most important:

- Use of technology
- Substance abuse/treatment courts
- Mental health
- Court security
- Indigent criminal defendant representation
- Wellness
- Self-represented litigants/ access to justice
- Reducing racial disparities
- Making the record
- Rights of crime victims
- Pretrial services and bail reform
- Court system integrity

Each of the 12 topic areas also included several subtopics under each heading with the same 1-5 ranking scale.

The 2023 survey received 742 responses, which represents a slight increase over 2021, when 722 people responded. In 2023, there were 370 "court" respondents (judges, court commissioners, district court administrators, clerks of circuit court, and other court staff) and 372 "non-court" respondents (private-sector attorneys, non-profit or certain government attorneys, district attorneys, public defenders, county staff, treatment court or pretrial personnel, corporation counsel, elected officials, and others).

The Planning Subcommittee reviewed the survey results and selected three issues as priorities for the 2024-2025 cycle, as well as several other issues of importance. In drafting recommendations for action steps to address the three critical issue topics, the Planning Subcommittee focused on how the court system could address each issue by establishing goals and, where possible, proposed timelines for each goal.

CRITICAL ISSUES AND PLANNING PRIORITIES***Critical Issue 1: Mental Health*****Issue**

Mental health has been highlighted in several past Critical Issues Reports, and it remains a top concern for judges. As part of the *National Judicial Task Force to Examine State Courts' Response to Mental Illness*, a joint effort of the Conference of Chief Justices and Conference of State Court Administrators (CCS/COSCA), Wisconsin participated in a regional summit to learn more about promising practices in other states. Following this event, two teams of Wisconsin judges attended workshops on *The Miami Model*, a mental health court program in Miami-Dade County, Florida in 2022 and 2023.

In order examine this issue more closely at the state level, Chief Justice Annette Kingsland Ziegler hosted a Mental Health Summit in April 2023. The event brought together state and national experts and stakeholders across several disciplines to highlight current challenges and describe innovative practices, such as mental health crisis stabilization facilities, specialized law enforcement teams with behavioral health officers, and mobile mental health crisis response units.

The action steps in this area focus on improving how mental health is addressed at the local level by increasing collaboration between courts and local law enforcement, behavioral health, peer services, corrections, and human services partners. Action steps also focus on identifying potential legislative and policy changes that may be needed to increase access to mental health treatment and crisis intervention services.

Action Steps

PPAC, through the Effective Justice Strategies Subcommittee, will review the final report and recommendations of the *National Judicial Task Force* and develop a draft implementation plan by August 2024.

PPAC, through the Effective Justice Strategies Subcommittee, will convene a workgroup to discuss potential amendments to Wis. Stat. Ch. 51 and § 971.14 to improve access to mental health treatment and crisis services, and to update treatment to competency guidelines by August 2024.

The Office of Court Operations will disseminate information regarding state and federal mental health-related grant opportunities, and will support a grant application to the State Justice Institute to implement a pilot program on Sequential Intercept Model (SIM) mapping in during 2024. The pilot project will help train facilitators to support counties as they identify local resources and gaps in service, with a goal of training all interested counties by 2028.

PPAC will support the development and dissemination of resources focused on reducing justice system involvement of individuals with mental illness, behavioral health screening tools, improved treatment and crisis response options, and information about the *Stepping Up initiative* and the *Crisis Now* model by December 2024.

Critical Issue 2: Making the Court Record

Issue

Generating an accurate record of court proceedings is of the utmost importance for the court system. Court reporter transcripts not only ensure due process for cases that proceed through appellate review, but also allow members of the public, attorneys, litigants and judges to review court proceedings.

Stenographic court reporter training programs are decreasing in number and do not generate enough graduates to meet current demand. At the same time, training for court reporters who utilize digital audio recording (DAR) technology has increased. As of May 2023, digital court reporters represent just under 30 percent of state's court reporter workforce.

A portion of the digital court reporter workforce is deployed as a statewide pool of digital court reporters who take the record remotely from court system offices throughout the state. While this approach has helped provide court reporter coverage across several counties, the continued availability of this resource requires examination of what level of funding is needed to provide office space and equipment, as well as what additional staff may be needed to recruit, train, and supervise court reporters in the statewide pool.

Despite increased compensation for all court reporters implemented by the Director of State Courts in May 2023, and the ongoing expansion of the statewide pool, significant challenges remain. Long-term strategic planning is needed to ensure the court system's ability to generate transcripts, and to protect the integrity of the record after court reporters leave service.

Action Steps

PPAC will work in coordination with the 2023 Chief Judge Subcommittee on Making the Record to implement the recommendations outlined in the 2022-23 Making the Record Committee's report regarding (1) court reporter supervision, (2) remote options for court reporting, and (3) long-term retention of backup audio files from stenographic court reporters by July 2024.

The PPAC Planning Subcommittee, through the Office of Court Operations, will examine trends such as court reporter recruitment, retention, compensation, and retirement to identify what short- and long-term approaches are needed to ensure courtroom coverage by qualified court reporters. A summary of findings will be completed by July 2024.

The Office of Court Operations will review administrative, supervisory, and funding models used in other states to identify successful practices that could be implemented in Wisconsin. Topics may also include consideration of a regional approach to managing court reporter resources, the need for additional recruitment, training, and supervision capacity, physical space needs, and continued integration of the statewide digital court reporter pool into the state's blended court reporting system. A summary of findings will be completed by July 2024.

Critical Issue 3: Court System Integrity

Issue

Court system integrity was rated as one of the top issues on the 2023 Critical Issues Survey. Comments from survey respondents focused on a decline in civility and decorum in the courtroom as well as on the growing role of partisanship in judicial elections. Comments also stressed the importance of maintaining independence and neutrality across all levels of the judiciary in order to preserve public trust and confidence in the court system.

Given the complex and multi-faceted nature of this issue, it is difficult to identify how best to address it. The action steps outlined below focus on gathering additional information and identifying long-term, system-wide solutions. Action steps also focus on ensuring that court officials have the training and resources they need to operate effectively.

The first action step in this area is to explore a possible survey of circuit court litigants. This approach, currently utilized by several state court systems, is recommended by the National Center for State Courts (NCSC) as part of its performance measurement system. The survey questionnaire, developed by NCSC, focuses specifically on aspects of *access* and *fairness*. Feedback gathered through the survey can help identify areas of success and potential training needs.

The second action step focuses on ensuring that court officials have the training and resources they need to create and maintain a courtroom environment that promotes decorum, civility, and dignity. The focus of training in this area will apply to both in-person and remote proceedings.

The final recommendation is to convene a subcommittee or workgroup to examine judicial selection practices and, if deemed necessary, present a range of recommendations for state-level changes.

Action Steps

The Planning Subcommittee will examine the National Center for State Courts' guidance regarding data collection on measures of *access* and *fairness* and review court system surveys from other states. This may result in a statewide survey of litigants in Fall 2024, with survey results and related recommendations presented to PPAC by June 2025.

The Planning Subcommittee will coordinate with the Office of Judicial Education to ensure that court official training includes a focus on establishing a courtroom environment that preserves the fairness, dignity, and solemnity of court proceedings. The Director of the Office of Judicial Education will provide an update on this topic to the Planning Subcommittee by April 2024.

PPAC will convene an *ad hoc* subcommittee or workgroup focused on judicial independence and court system integrity. The group may examine such topics as judicial selection and term length at all levels of the judiciary, as well as various system-wide administrative practices. The subcommittee will present a report and recommendations by December 2024.

OTHER ISSUES OF IMPORTANCE

In addition to the action steps outlined above, this report also highlights ongoing efforts focused on important topics that were not selected as critical issues for the 2024-2025 cycle. These include indigent criminal defense and court safety and security.

Indigent Criminal Defense

The lack of attorneys available to represent indigent criminal defendants continues to pose significant challenges across the entire justice system. Due to this shortage of available attorneys, courts are often unable to hold proceedings as scheduled.

Recent increases to State Public Defender (SPD) staff attorney compensation, as well as an increase in the appointment rate for private attorneys who take SPD cases, mark positive developments toward securing qualified, experienced attorneys to represent indigent criminal defendants. Although attorney compensation adjustments have provided some short-term improvement, a Chief Judge Subcommittee on SPD Coordination has been formed to further explore this issue. In coordination with the SPD and other justice partners, the subcommittee is currently examining what challenges remain and how the court system can support the swift and efficient handling of these cases.

Although the felony case backlog caused by the Covid-19 pandemic has eased in some areas of the state, many counties continue to have difficulty moving cases forward, in part due to delays in SPD attorney appointment. This issue is compounded by high workloads among public defenders, prosecutors, and State Crime Lab/State Hygiene Lab analysts. In addition to work of the Chief Judge Subcommittee on SPD Coordination, two other groups - The Chief Judge Subcommittee on Use of Technology and the PPAC Videoconferencing Subcommittee - are collaborating to identify potential statutory changes that would allow increased use of remote technology, including for some Crime Lab testimony.

Courthouse Safety and Security

Court security has been identified as a top issue in several of the previous Critical Issues Reports. Supreme Court Rule Chapter 68, regarding Court Security, Facilities, and Staffing, has been in place since its adoption in 2012. Since that time, the PPAC Court Security Subcommittee has supported implementation of Ch. 68, which outlines specific requirements for security-related activities, such as creation of local court security committees and regular staff training, as well as procedures for reporting security threats and incidents. In 2021, the Subcommittee finalized proposed amendments to SCR. Ch. 68, and a rule petition was filed with the Supreme Court in October. This petition was adopted by the Court in August 2022 (Petition 21-06). Changes to the rule include language reflecting national trends for courthouse construction and renovation, and updated provisions related to courtroom technology and

personal security considerations. The updated rule also clarified certain data collection and reporting requirements for the Director of State Courts Office.

The need for a continued focus on court safety and security is underscored by state and national incidents involving threats and violence against court officials, including murders of judges and family members at their private homes. Beyond the increase in incidents targeting court officials, the volume of threats needing investigation and tracking has risen sharply in recent years, and has extended to judicial officers on all levels of the court system, including Wisconsin Supreme Court justices. The Office of Court Operations is working in partnership with the Supreme Court Marshal to improve threat and incident report tracking and data collection so that accurate information is available to state and national stakeholders, and to enable more rapid collaboration with law enforcement agencies when needed.

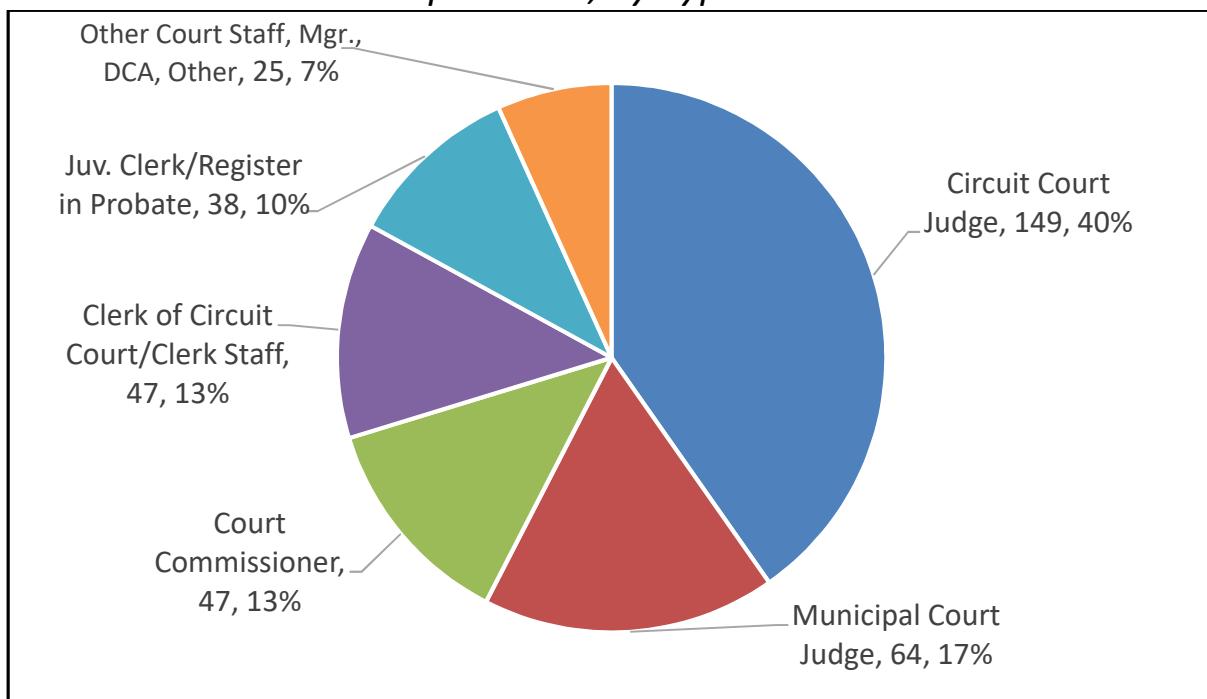
Finally, in order to support ongoing training needs related to court security and personal safety, the PPAC Court Security Subcommittee will reconvene in 2024 to develop standardized content for court officials and court staff that can be utilized at various state and district education events and judicial training conferences. Members of the PPAC Court Security Subcommittee also participate in the planning process for the annual Court Safety and Security Conference, which is hosted by the National Criminal Justice Training Center at Fox Valley Technical College. The conference, which has been held regularly since 2009, brings together a broad base of participants, including court security officers and other law enforcement representatives, court officials, clerks and county court staff, district court administrators, and tribal judges and tribal court staff from across the country. The conference focuses on best practices for security screening, how to handle high-profile court cases, victims' rights, and a range of other topics.

Conclusion

This report identifies mental health, making the record, and court system integrity as critical issues for the court system to address during 2024-2025. It also highlights the topics of indigent criminal defendant representation and court safety and security as issues of continued importance. The Planning and Policy Advisory Committee will monitor the objectives and goals outlined in this report and will update the Wisconsin Supreme Court and the Director of State Courts on progress toward achieving these goals.

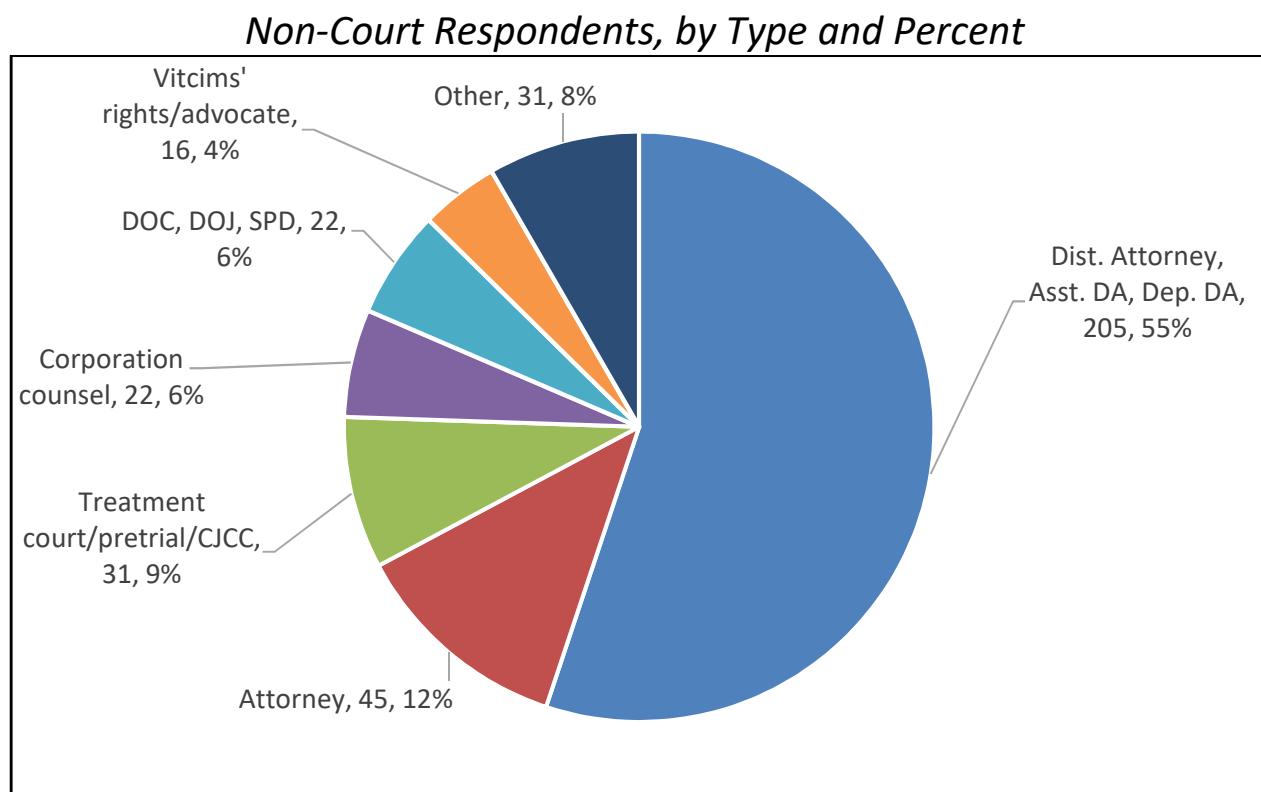
Appendix A: Summary of 2023 Critical Issues Survey Responses**1. General Response Information: Court**

Court Respondents	
Circuit Court Judge	149
Municipal Court Judge	64
Court Commissioner	47
Clerk of Circuit Court or Clerk Staff	47
Juvenile Clerk/Register in Probate	38
Other Court Staff, Manager, or DCA	25
Total	370

Court Respondents, by Type and Percent

2. General Response Information: Non-Court

Non-Court Respondents	
District Atty., Deputy DA, Assistant DA	205
Attorney	45
Treatment court or pretrial program staff/CJCC	31
Corporation counsel	22
Dept. of Corrections, Dept. of Justice, SPD	22
Victims' rights/advocate	16
Other	31
Total	372



3. 2023 Critical Issue Topic Ranking (1-5, with 5 being most important)

Court Respondents	Average Score (1-5)
1. Mental Health	4.32
2. Court System Integrity	4.31
3. Court Security	4.29
4. Making the Record	4.11
5. Indigent Criminal Defendant Representation	4.10
6. Use of Technology	3.98
7. Substance Abuse/Treatment Courts	3.89
8. Wellness	3.76
9. Self-Rep. Litig./Access to Justice	3.61
10. Rights of Crime Victims	3.51
11. Reducing Racial Disparities	3.46
12. Pretrial Services/Bail Reform	3.33

Non-Court Respondents	Average Score (1-5)
1. Mental Health	4.48
2. Court System Integrity	4.19
3. Indigent Criminal Defendant Representation	4.16
4. Substance Abuse/Treatment Courts	4.13
5. Making the Record	4.10
6. Rights of Crime Victims	4.05
7. Use of Technology	3.98
8. Reducing Racial Disparities	3.86
9. Court Security	3.83
10. Wellness	3.82
11. Self-Rep. Litig./Access to Justice	3.47
12. Pretrial Services/Bail Reform	3.41

All Respondents	Average Score (1-5)
1. Mental Health	4.40
2. Court System Integrity	4.25
3. Indigent Criminal Defendant Representation	4.13
4. Making the Record	4.11
5. Court Security	4.06
6. Substance Abuse/Treatment Courts	4.01
7. Use of Technology	3.98
8. Wellness	3.79
9. Rights of Crime Victims	3.78
10. Reducing Racial Disparities	3.66
11. Self-Rep. Litig./Access to Justice	3.54
12. Pretrial Services/Bail Reform	3.37