



Additional Circuit Court Branch Discussion

February 21, 2019

Why the discussion about a second circuit court branch in Sawyer County?

Sawyer County can benefit from a second judgeship. Statistically, Sawyer County needs another judgeship. The state courts' weighted caseload study shows Sawyer has a 3-year average workload of 1.55 judicial officers through 2017. 2018 saw an increase in felony filings to over 400 in one calendar year. In 2019, there have already been 74 felonies filed. That puts the legal system on track for 519 felonies in 2019. Criminal filings have gone up over the past 3 years and require a great deal of court time.

It takes misdemeanors a full 35 days longer (a 45% increase) to adjudicate compared to just 5 years ago. Similarly, felony cases take an additional 24 days to adjudicate (a 14% increase). These are all according to 2017 stats, but we anticipate the trend to have continued upward in 2018. High rates are due to the heavy caseload and the limited court time available for pushing through said caseload.

Weighted Caseload Report (2015-2017) Judicial Workload

County	Judicial Need 3-year Average	Judges	Supplemental Need	Court Commissioners	Remaining Need	Workload Per Judicial Officer
Ashland	1.60	1	0.60	0.21	0.39	1.32
Barron	3.58	3	0.58	0.12	0.46	1.15
Bayfield	0.99	1	-0.01	0.10	-0.11	0.90
Burnett	1.55	1	0.55	0.30	0.25	1.19
Chippewa	4.17	3	1.17	0.44	0.73	1.21
Douglas	3.32	2	1.32	1.00	0.32	1.11
Dunn	3.23	2	1.23	0.12	1.12	1.53
Eau Claire	8.22	5	3.22	1.10	2.12	1.35
Polk	2.95	2	0.95	0.75	0.20	1.07
Rusk	1.03	1	0.03	0.03	0.00	1.00
St. Croix	4.43	4	0.43	0.80	-0.37	0.92
Sawyer	1.67	1	0.67	0.08	0.59	1.55
Washburn	1.26	1	0.26	0.07	0.19	1.18
District 10 Total	38.50	27	11.50	5.13	6.37	1.20

An increasing heavy caseload has a dramatic impact on public safety. Every defendant is entitled to due process. Due to increasing caseload, the court can no longer guarantee processing of serious cases which

will result in the release of criminal defendants with bond. We are perilously close to this happening. Judge Yackel asks on behalf of public safety, to provide relief before this occurs.

Additionally, given the opioid epidemic that has struck much of rural Wisconsin, the community could greatly benefit from treatment court programs such as a Drug Court. However, such initiatives require judicial time and leadership, which Judge Yackel cannot currently afford to dedicate alongside his heavy caseload.

How would Sawyer County acquire a second circuit court branch?

A second circuit court branch is not guaranteed. A bill has been drafted which will include 12 counties needing additional branches, including Sawyer County. We anticipate that bill will be introduced to the legislature by mid-March. Once introduced, it is in the hands of the legislature and may be amended. For instance, the total number of counties impacted by the bill could be reduced before the bill is passed, if it is passed.

Customarily, new judgeships are approved every ten years or so. The last judgeship bill was passed in 2007, so while it is due time, there has been turnover in the legislature that makes movement forward somewhat less predictable.

There are three elements considered for determining additional judicial resources. The first is a commitment from the county, which the County Board affirmed in its September 21, 2017 resolution. The second element is establishing judicial need, which is undeniable as documented in the 2015-2017 Weighted Caseload Report as noted above. The third element is providing adequate court facilities, which is explored further below.

Does Sawyer County need a second full courtroom?

It is the County's duty to provide a county courthouse. Wis. Stat. 59.54(14)(a) states that "[a] county shall provide a courthouse...and other necessary buildings at the county seat, and keep them in good repair."

Wisconsin Supreme Court Rules (SCR Chapter 68) states that each circuit court judge should be provided with a separate courtroom with permanent seating for 14 jurors, an adjacent jury deliberation room with adjacent private restrooms. Each judge should have private chambers at least 500 square feet in size, with a private restroom and located directly adjacent to support staff. Scott R. Needham, former Chief Judge of the Tenth Judicial District had stated that the current small "courtroom" is not an adequate space for a second judge and will not be approved as a second courtroom unless expanded.

Even if a second judgeship is not approved, the county would benefit from an additional courtroom because it would allow visiting and reserve judges to fully hear cases and hold trials at the same time as Judge Yackel. The 10th District is limited to what relief can be given to Sawyer County if there is not a second full functioning courtroom. The heavy caseload must still be processed with one fully functioning courtroom. According to Judge Yackel, a second courtroom would allow the 10th District to provide the needed assistance to handle the caseload in the event the state legislature does not act.

How much will an additional second circuit court branch cost the taxpayers of Sawyer County?

The judicial system is a function of the state performed at the county level. The state pays the salary of each circuit court judge, the court reporter, and a portion of the judge's judicial assistant. However, the county is responsible for the construction and operational costs of the court facilities within the county courthouse.

The annual operating costs are the responsibility of the county. Because counties are still under levy limits imposed by the state, each dollar added to the budget for operating the court system will mean a dollar-for-dollar reduction in services provided by other departments within the county.

Potential annual operating costs discussed in the December Public Safety Committee meeting include:

Additional Judge:					
	Additional Staff		<u>Personnel</u>	<u>Other</u>	<u>Total</u>
	Judicial Assistant		\$70,776	\$3,000	\$73,776
	Courtroom Security		\$86,010	\$10,000	\$96,010
	Clerk of Court Deput		\$69,538	\$3,000	\$72,538
	Bailiff		\$1,500		\$1,500
	Probate				\$0
	Custodial		\$18,691		\$18,691
Facility Operating Costs					
	Utilities			\$31,000	\$31,000
	Maintenance			\$5,000	\$5,000
	Supply			\$3,000	\$3,000
Subtotal Additional Judge Related Operations Costs					\$301,515
Less - Additional Support Payment From State of Wisconsin					\$32,275
Total Additional Judge Related Operations Costs					\$269,240

In addition to the annual operating costs, the county would incur the capital cost of the required facilities. Capital costs can be paid through debt service which falls outside of the levy limits. Although debt is not subject to levy limits, the repayment of debt will increase property taxes. For every million dollars of debt incurred, approximately \$70,000 would need to be added to the tax levy.

Loan Summary

Loan Amount:	\$1,000,000.00	Number of Payments:	20
Annual Interest Rate:	3.0000%	Periodic Payment:	\$67,215.71
Loan Date:	01/01/2019	1st Payment Due:	01/01/2020
Payment Frequency:	Annually	Last Payment Due:	01/01/2039
Total Interest Due:	\$344,314.15	Total All Payments:	\$1,344,314.15

How would getting additional Assistant District Attorney(s) affect the need for an additional circuit court branch?

In addition to the judge bill that may provide Sawyer County an additional judge, there is another potential bill being contemplated that would add over 60 additional assistant district attorneys (ADA) throughout the state including up to two more in Sawyer County. While the two ADA's would be funded by the state, the additional costs for their support staff falls on the county.

Potential annual operating costs discussed in the December Public Safety Committee meeting include:

2 Additional District Attorneys:						
	Additional Personnel Costs vvv					
		Support Staff (2)	\$139,000	\$14,000	\$153,000	

Unfortunately, adding additional ADAs would only worsen the bottleneck of cases if a second judge is not added. One fully functioning courtroom to accommodate the increasing caseload will not be dramatically effective unless a second judge and/or courtroom is added.

What are some alternatives to adding a second circuit court branch?

Some alternatives are available, but limited. As previously discussed, there are several things the county and court can do to help deflate the current caseload. These efforts should be undertaken regardless of the judgeship outcome. Notably, while the effectiveness of these alternatives is unpredictable, they could not possibly equate to the impact of having a 2nd judge in the county. Alternatives include:

- Further work with the county's CJCC. Some of the CJCC's Justice Point report includes recommendations that could not only reduce the local jail population, but also improve recidivism rates which mean a reduction in crime and therefore court cases. Diversion programs could have a like effect. However, these programs are not geared toward the increasing meth & heroin cases.
- Improved commissioner usage. A DAR system was installed in Sawyer County yesterday, February 5th, which opens the door for more commissioner hearings (since the record can be taken digitally). A brief analysis done by the 10th District office shows commissioners were only used for 47.5 hours of court time last year, or less than one hour each week. The District office can assist with facilitating commissioner usage. The county should strongly consider increasing its contracted commissioner hours to .3 - .38 hours of court time. Statistically, this could improve the judicial workload to 1.21 - 1.30. Even at this rate, Sawyer would still be in the top counties being considered for the judgeship bill. This is not a permanent solution; it is only a way to help manage the increasing caseload while waiting for relief.
- Out-of-county case assignments. The District Office will implement a practice for rerouting a portion of Sawyer's caseload to other judges within the district. This will require some scheduling

and collaboration due to the limited courthouse space available in Sawyer. Additionally, the district will continue its policy of not assigning out of county cases to Judge Yackel. Keeping his focus on the county's heavy caseload. As previously stated, this was tried in 2012 and was minimally effective. In order for the 10th District to be able to provide adequate relief, a fully functional second courtroom is necessary.

- Seek additional court office efficiencies. The Office of Court Operations is drafting a report with recommendations on how the court can improve its practices. We anticipate the report will be completed in the coming month. Another consideration would be to increase courthouse hours from 35 to 37.5 hours/weekly. These will have no impact whatsoever on the court's total caseload, but can help improve the time in which cases are adjudicated and will enhance public service. Note that the court already goes beyond 4 pm on a regular basis, especially during jury trials which typically go to 4:30-5:00 pm.

What are the next steps?

As provided in SCR 68.05, Judge Yackel, as the presiding judge, will appoint a security and facilities committee composed of the Judge, the Chair of the County Board, the County Administrator, Clerk of Circuit Court, County Sheriff, and others as outlined. In addition to coordinating and developing general court security and facilities policies, this committee will establish a design subcommittee for the contemplated construction of additional court facilities.

Having those most intimately affected by a planned project involved from the earliest stages is the single most effective step in assuring that the project will be both functional and cost-effective. The subcommittee should be created prior to and should participate in the selection of an architect and other consultants and should remain involved until the project's completion. The subcommittee should consult with the committee during the design phase.

The creation of a design subcommittee is consistent with Wisconsin Supreme Court Rules and reiterates the County Board's resolve to determine the court facility needs for Sawyer County.