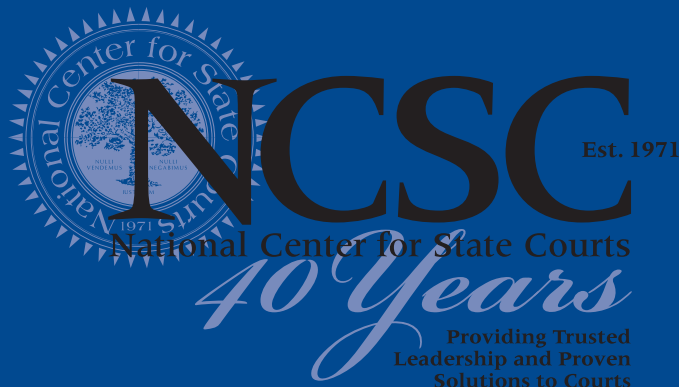


# FUTURE TRENDS IN STATE COURTS

## 2011

*Special Focus on Access to Justice*



*Strengthening Rural  
Courts: Challenges and  
Progress*

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## STRENGTHENING RURAL COURTS: CHALLENGES AND PROGRESS

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*Rural courts face unique challenges posed by their locations in sparsely populated areas, often with limited resources for themselves and for court users. In many places, however, the challenges are being overcome through effective use of modern technology and support from state administrative offices of courts.*

### Challenges Facing Rural Courts

Most of the documented innovation and experimentation aimed at court system improvement during the past 30 years has taken place in urban settings or in relatively populous suburban counties. However, the programs and methods developed for large courts are sometimes inappropriate for rural jurisdictions. Large geographic distances, sparse populations, small staff sizes in courts and justice agencies, and limited resources (including legal, social, and health services) constitute a core set of challenges for rural courts. These are magnified by lack of specialization among justice system practitioners and service providers, professional isolation of practitioners, and the often close interrelationships between community members and justice system personnel.

Seminars with rural court judges and court managers conducted by the Justice Management Institute have identified six key areas of need for rural courts:

1. *Enhanced technology*, including hardware, software, and information and communications infrastructure and technical support;

### Rural Courts Improvement Network

The Rural Courts Improvement Network is an initiative of the Justice Management Institute (JMI) and the Bureau of Justice Assistance (BJA), U.S. Department of Justice that began in early 2008. The goal of the initiative is to strengthen the ability of state court systems and rural court leaders to improve court operations in rural areas by emphasizing the sharing of information and ideas about promising approaches and practices, and fostering peer-to-peer learning among court system leaders at the state and local levels.

2. *Improved procedures and practices to assist self-represented litigants*, including effective use of technology, easily understandable forms and instructions, and training for court staff on providing information and appropriate assistance;
3. *Overcoming language barriers*, including improved court interpreter services and creative uses of technology to allow for greater access to qualified interpreters;
4. *Greater availability of substance-abuse and mental-health treatment services*, including more ways to provide access to these services by dispersed populations who often face transportation barriers;
5. *Modernization of antiquated court facilities*, including upgrades to enable adequate security and use of modern information technology; and
6. *Upgrading of indigent defense services*, including development of performance standards, mechanisms for supervising appointed attorneys, and adequate levels of compensation and support for public defenders and assigned counsel.

Since 2008, a federally funded initiative to strengthen rural courts has brought together judges and court managers from over 30 states in a series of seminars to discuss challenges and exchange information and ideas about how to address those challenges effectively.<sup>1</sup> Practitioners in these seminars have identified a number of innovative and promising approaches to the challenges facing rural courts, often utilizing imaginative applications of modern information and communications technology. Examples of such approaches are outlined in this article.

## Harnessing Modern Technology

The dominant trend in addressing the challenges faced by rural courts has been the ever-increasing utilization of modern information and communications technology. The trend began in the 1990s and accelerated during the first decade of the 21st century.

Courts in many states, including Nebraska, Utah, Minnesota, and Wisconsin, now rely on *videoconferencing* to reduce the costs of inmate transport, judicial travel, and attorney travel. In some Utah judicial districts, an Internet-based videoconference system has been set up in jails for defendants to “appear” at various pretrial hearings. Judges, clerks, prosecutors, and defense counsel can access the system remotely from their chambers, offices, or other locations. Split screens enable participants in the hearing to see and interact with one another. In Wisconsin, the videoconference proceedings take place on the record in a courtroom with a 42-inch screen for the public to see the defendant. Cameras must be able to “pan” the courtroom so that the defendant can see people at the hearing.

Several states use Web-based distance education to ensure that court personnel across the state receive standard, consistent training in core subject areas while reducing dramatically the costs associated with travel to traditional classroom courses. In Missouri, for example, the state court administrator’s office implemented an expansive training model incorporating Web-based training. In 2009 roughly 60 percent of court-related training in Missouri was offered online through Webinars and Web-based courses. The Nebraska Judicial Branch also offers Web-based distance learning.

Technology makes it easier for both individuals and court personnel in rural areas to accomplish certain routine activities. For example, residents in Nebraska and in Clayton County, Georgia, can pay their traffic tickets online. Court personnel in the 10th Judicial District of Nebraska rely on a district-wide, online shared calendar to set dates for trials and other court hearings. Linked computers and call forwarding in Nebraska also allow clerk magistrates in “one-person” courts to cover for one another when the courts are closed or they are out of the office for any reason. This technology enables residents to access court services even when the courts are not physically staffed.

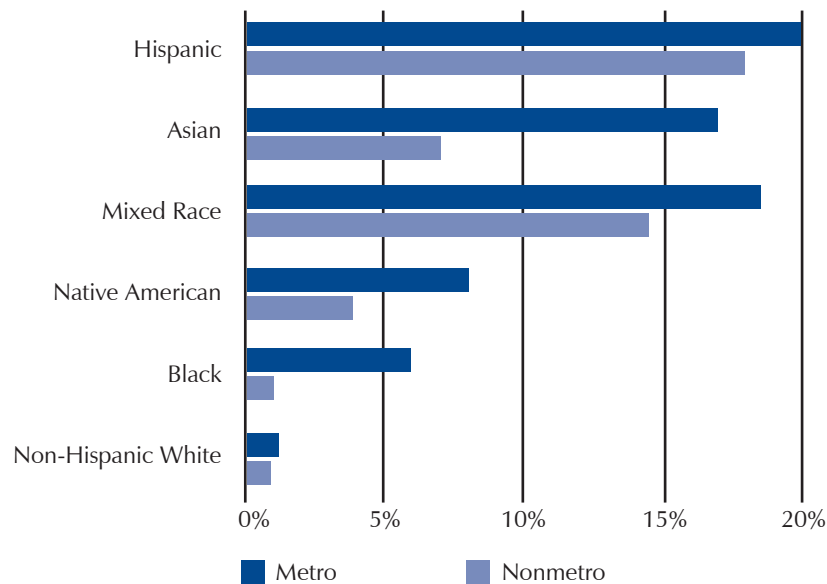
## Enhancing Access to Justice for Self-Represented Litigants

State court administrators’ offices in some states have made considerable progress toward improving access to justice for rural residents, including those who choose to represent themselves in court proceedings. These efforts tend to involve technological approaches. Web-based resources provide general information about the court system, various forms for certain types of cases, status and docket information, and specific guidance for pro se litigants.

Courts in Idaho and Alaska operate self-help centers through Web sites. In Clayton County, Georgia, the superior court and the state court administrators’ office partnered with the Clayton County Public Library System to place specially programmed computers in libraries throughout the county. In the western part of upstate New York, the courts, in cooperation with Legal Assistance of Western New York, turned to a low-cost software package described as “Turbo Tax for legal papers.” A2J Author® provides templates and instructions for common forms that can easily be customized by court staff and nontechnical authors to meet local needs. Litigants who use A2J complete the forms with guidance from simple, straightforward text and voice instruction, learning about the law and their rights as they go along. In New York, the system is widely used for small estates, landlord and tenant matters, custody/visitation, name-change petitions, child support modifications, and family offenses (with assistance from domestic-violence-service providers).<sup>2</sup> Court leaders in Wisconsin are pilot testing a software program to assist self-represented litigants in rural areas by providing a user-friendly Web portal that will host a pool of pro bono attorneys who can answer their questions.

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**Nonmetro and Metro Population Growth by Race and Ethnicity  
2000-2005**



Source: Estimates from USDA, ERS using U.S. Census Bureau Data

Technology is not always the only—or even the best—solution for access issues. Rural courts continue to explore and implement nontechnological approaches to providing access to the courts, sometimes to complement or supplement the technology. Personal assistance, through court staff, a nonprofit organization providing assistance, or pro bono services of bar members, can be critically important alternatives or supplements to Web-based tools.<sup>3</sup> For example, in addition to its Internet-based Family Law Self-Help Center, Alaska offers a “Helpline” service through a toll-free telephone number for litigants who have questions about court procedures and the filing of court papers. In Idaho, court assistance officers in all seven judicial districts assist self-represented litigants in person, providing them with educational materials, court-approved forms, limited assistance in completing the forms, information about court procedures, and referrals to legal, community, and social services organizations.

*Litigants who use A2J Author [“Turbo Tax for legal papers”] complete forms with guidance from simple, straightforward text and voice instruction, learning about the law and their rights as they go along.*

### Overcoming Language Barriers and Meeting the Need for Court Interpreters

Significant growth in immigrant populations in rural areas has become an increasingly important challenge for rural courts.<sup>4</sup> Court administrators’ offices in several states have found innovative ways to ensure that qualified interpreters are available in rural courts for individuals involved in court cases who do not have a good command of the English language. The Idaho Supreme Court has implemented a three-tiered program designed by the National Center for State Courts to certify interpreters in eleven languages. The Georgia Commission on Interpreters, located within the Georgia Administrative Office of the Courts, has implemented significant outreach initiatives to recruit potential interpreters across the state and provides training to interpreter candidates in rural locations via Webinars.

Technology offers additional avenues for ensuring that qualified interpreters are available to rural courts. In Nebraska, courts rely on computers equipped with free Skype™ software and video cameras to provide interpreter services from remote locations when qualified interpreters cannot physically be in the courtroom. The Office of the State Court Administrator in Montana worked with the Montana Legal Services Association to survey district court judges and clerks to obtain an estimate of the number of individuals coming into the courts with limited English proficiency, the resources available for interpreter services, and the need for translated forms. The Nebraska Administrative Office of the Courts initiated a remote interpreter program, through which on-call interpreters are available to courts and probation offices from 9:00 to 11:00 am and 2:00 to 4:00 pm daily.

### Strengthening Substance-Abuse and Mental-Health Treatment Services

Nearly all of the states represented at JMI's rural court seminars have established drug courts in some predominantly rural areas, and some have also established mental health courts. Judges and court managers in rural courts note, however, that these courts face some challenges not faced by their urban counterparts—in particular, a paucity of qualified treatment providers and problems of transportation faced by persons eligible for the programs. Despite such challenges, enterprising court systems are finding ways to adapt the principles and services of problem-solving courts in rural locales. For example, the probate court in Richland County, South Carolina, established a mental health court as a voluntary court diversion program to address the inappropriate involvement of mentally ill individuals (with or without substance-abuse issues) in the criminal justice system. Case managers maintain weekly contact with participants in the program, including making home visits and traveling to rural areas of the county to provide services.

### Upgrading Antiquated Court Facilities

The courts in many rural communities are housed in their original buildings, often constructed more than a century ago. In Nevada, a Commission on Rural Courts empaneled by the state's judicial council identified old and outmoded facilities as a major problem in most rural courts. The commission, which included legislators, sheriffs, prosecutors, judges, and court clerks, recommended provision of basic security, including metal detectors and security cameras, as a basic need (Judicial Council of the State of Nevada, 2003: 6-8).

Upgrading decades-old court buildings can be a significant challenge. Court leaders in Harris County, Georgia, tapped into the Rural Development Housing

and Community Facilities Programs of the U.S. Department of Agriculture (USDA) to expand the size and enhance the security of their courthouse. Courthouses are included in the list of essential community facilities that may be improved through grants and loans under these USDA programs.<sup>5</sup>

### The Key Role of State AOCs

One of the clear conclusions from seminars conducted by the Rural Courts Information Network is that state administrative offices of courts can and should have major roles in improving rural courts and rural justice. A number of state AOCs have already risen to this challenge, and some of their efforts have been discussed above. Additional examples include the following:

- In predominantly rural South Dakota, the state court administrator's office has recently initiated a newsletter, a guidebook, an improved Web site, a descriptive brochure, and orientation materials to better inform court personnel and the public about the work of the state's court system. The office has also worked to strengthen its relationships with the seven circuits through frequent visits, in-service training, orientation programs, and a recognition program. The AOC sponsors annual retreats and leadership institutes to encourage networking and interactions toward rural court improvements.
- AOCs in South Dakota, Nebraska, and Kansas have started sending some types of computer-focused clerical work from larger counties to less-busy smaller ones via the Web, thus allowing smaller courthouses to retain staff and remain open.
- In New York, the AOC has undertaken a major effort to upgrade the state's deeply entrenched town and village justice courts, which predate the 1962 creation of the state's unified court system by nearly 300 years (see New York State Unified Courts System, 2006). This will be a multiyear, multifaceted initiative that includes strong emphasis on integrating the justice courts into the state judiciary's technology system, upgrading court facilities and recordkeeping capabilities, strengthening education and skills training for court personnel, and ensuring availability of indigent-defense services in criminal cases.

*One of the clear conclusions from seminars conducted by the Rural Courts Information Network is that state administrative offices of courts can and should have major roles in improving rural courts and rural justice...a number of state AOCs have already risen to this challenge.*

- Missouri, Idaho, Georgia, and New York are among the states in which the state AOCs have had major roles in establishing and supporting problem-solving courts in rural areas, including courts addressing drug and alcohol abuse, mental illness, domestic violence, and in some instances the special problems of returning war veterans.
- The Minnesota AOC has taken an “e-everything” approach to business processing in the courts, including initiating a statewide case management system and sponsoring process-reengineering efforts in multicounty judicial districts (see Griller et al., 2010).

### Looking Ahead

Two trends stand out in our review of the challenges and progress in rural courts. First, it is obvious that thoughtful applications of modern information and communications technology are increasingly helping to enhance access to courts and are improving the effectiveness of court and justice system operations. Court and court-system Web pages, videoconferencing, interactive Web-based educational programs, electronic filing and recordkeeping, use of e-mail, online payment of traffic tickets and other court-imposed financial obligations, automated case management systems, sharing of court calendars and pending case information, and a host of other applications have already produced major cost savings and improved overall effectiveness. These modern technologies are especially important for rural courts, because they provide mechanisms for overcoming the problems of distance and professional isolation.

*Rural courts can meet the challenges they face with confidence through effective use of modern technology and effective collaboration between state court system leaders and rural-court leaders.*

The second key trend is the increasingly prominent role played by many state administrative offices of courts in addressing rural court issues. State AOCs have had major roles in enabling the installation and use of computer-based technologies in rural courts. They have also led the way in using technology to provide

or coordinate educational programs for court personnel, interpreter services, and assistance for self-represented litigants. In many states, technological innovations have been reinforced through AOC-initiated statewide and regional conferences that bring together judicial officers and court managers—a recognition that interpersonal relationships and peer networks remain important in enabling courts to capitalize on the potential of modern technology.

While progress has been made in addressing the challenges facing rural courts, it is clear that much remains to be done on some fronts. In many states, indigent-defense services in criminal and juvenile cases remain a major issue, with relatively few states meeting American Bar Association standards for the provision of these services.<sup>6</sup> Providing a full range of court services in sparsely populated areas will continue to be a challenge, especially in view of the current budget problems in most states.

Rural courts have, however, demonstrated remarkable ability to survive and thrive in the face of budget cutbacks and population movements to urban areas. Court staff members and judicial officers in these courts are necessarily generalists—they must handle a wide variety of case types and adapt to changing circumstances, and they often respond in innovative ways to new challenges. These courts remain important to the life of rural communities and to society’s capacity to provide meaningful access to justice for residents of rural areas. Two of the key trends of recent years—effective use of modern technology and effective collaboration of state court system leaders with rural-court leaders—indicate that rural courts can meet the challenges they face with confidence in their capacity to function as important institutions in their communities.

## ENDNOTES

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<sup>1</sup> The initiative, funded by grants from the Bureau of Justice Assistance, U.S. Department of Justice to the Justice Management Institute (JMI), has been undertaken in collaboration with the National Association for Court Management (NACM). A key goal of the initiative, known as the Rural Courts Improvement Network, has been to enable peer-to-peer learning and strengthen communications and networking capabilities among rural practitioners.

<sup>2</sup> A2J Author is being used in 22 states, the U.S. Virgin Islands, and Ontario, Canada.

<sup>3</sup> Notably, a 2002 study of programs providing assistance to self-represented litigants in rural areas emphasized the importance of direct assistance in making the court experience fair and meaningful for self-represented litigants (see Henschen, 2002: 57).

<sup>4</sup> There is ample evidence of relatively high inflows of recently arrived immigrants to some rural areas, particularly areas where there are employment opportunities in certain industries, including tourist services, agriculture, food processing, and light manufacturing. Even when not numerically large, these migration patterns often impact rural areas that have little or no history of assimilating to immigrants—especially when the immigrants' English-language capabilities are limited (see Jensen, 2006).

<sup>5</sup> Only cities, towns, or unincorporated areas with less than 20,000 population are eligible for these funds.

<sup>6</sup> Provision of indigent-defense services is fundamentally a legislative responsibility, but courts can have important roles in articulating the need for high-quality defense services. The needs are often especially acute in rural areas, where there is a limited pool of attorneys available to serve as defense counsel. For a critique of the current state of indigent-defense services, see American Bar Association Standing Committee on Legal Aid and Indigent Defendants, 2004.

## RESOURCES

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