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## **STATE OF THE JUDICIARY**

### **January 10, 2024**

### **Chief Justice Marla Luckert**

Mr. Speaker, Mr. President, Governor Kelly, other elected officials, Legislators, honored guests, my judicial branch colleagues, and my fellow Kansans—Good afternoon.

Thank you, Speaker Hawkins for the opportunity to provide a report on the state of the Kansas judiciary. Thank you, President Masterson for agreeing to the scheduling. I am deeply honored to speak to this special joint session of the Legislature.

Before dawn on October 12, affiliates of a Russian-based ransomware group infiltrated the computer systems of the Kansas judicial branch. In doing so, they attacked one of the foundational institutions of our democratic society—one of the three branches of our government. These criminals acted against all Kansans, our state, and our democratic institutions.

Though the source and scope of the incident was not immediately clear, we would later learn the Kansas judicial branch had been struck by a ransomware attack. Sadly, we are far from alone in facing such attacks. According to a 2022 FBI Internet Crime report, government facilities are the third most-targeted infrastructure sector for such attacks. Multiple courts around the country have suffered similar incidents in recent years, including one just shortly before October 12.

On the morning of October 12, the information services team in our Office of Judicial Administration began to troubleshoot a network outage. They discovered critical servers housed in the Kansas Judicial Center were inaccessible. These servers support case processing and other key operations in our administrative offices, district courts, and appellate courts. The team quickly mitigated lateral movement of any potential malware by disconnecting systems from external access. This step meant electronic systems were turned off across the state.

The Office of Judicial Administration called on experts—essentially, cybersecurity emergency responders. It also collaborated with the executive branch's chief information technology officer and law enforcement.

As our recovery continued, we relied on these experts as we navigated the various phases of forensic work, system decontamination, restoration, and fortification. Though we'd initially hoped for a swift recovery, we learned from our experts that we could not just clean and restore our systems; we had to carefully fortify them because, once hacked, the likelihood of another attack increases.

The emergency responders' investigation revealed ransomware on the encrypted systems, but we had working backups and the tools and expertise of experts, making recovery of our data feasible. The forensic examination confirmed the cybercriminals' claim that they had exfiltrated some data. We are working hard to determine what and whose personal information has been compromised by the criminal actors so we can notify those individuals.

As these and other details emerged, it became clear we needed to implement alternative business practices to keep courts running. Courts across the state reverted to old school methods, including paper filings. We communicated to the public about how to use the paper environment.

We also maintained contact with the governor, legislative leaders, and law enforcement to keep them apprised of the situation, as well as to hear their concerns and advice. As I and my fellow justices said in a public statement after the attack:

"[T]hroughout this incident, our decisions have been guided by our foundational values. Chief among those is our dedication to upholding and abiding by the rule of law. By adhering to those values at this profoundly trying time, we [have sought] to demonstrate that no malicious element is more powerful than the rule of law and the institutions that abide by it."

Those values guided us to the decision that we would not pay a ransom.

As we worked through recovery and restoration, the Office of Judicial Administration and our court staff across the state have adopted an all-hands-on-deck approach. Many have sacrificed evenings, weekends, vacations, and holiday time, and otherwise given incredible service to bring back electronic services as quickly and safely as possible and to implement various workarounds so our courts could operate without key electronic resources.

Even with our staff's dedicated service, things have progressed more slowly than we would like, in part, because our top priority has been to protect Kansans. Experts have

repeatedly told us that no system is impenetrable, and constant vigilance is essential. They assisted in a full review of our system and made recommendations to better protect against sophisticated cyberattacks. We have implemented new protections as well as measures to limit damage and aid quicker recovery if another penetration does occur.

As of today, our centralized case management system has been restored, and with it the free public portal that allows quick access to electronic court records. As I speak, electronic filing is being restored in some districts. The remaining districts should have efilings restored over the next two weeks. We are optimistic that the full functionality of our systems, including appellate efilings, is on the near horizon.

I express my deepest appreciation to the Office of Judicial Administration and district and appellate court employees for their tireless work. I am also grateful to the Governor's Office, the Office of Information Technology Services, the Legislature, and legislative leadership for their partnership, understanding, and assistance. I express my deep sorrow that Kansans suffered because these criminals attacked our system of justice, and I thank my fellow Kansans for their patience and support.

The past several months have been an extraordinary education for our state. One lesson is that we are stronger when all three branches of government come together to work on issues that confront our state, including strengthening and protecting our electronic governmental infrastructure from cyberattacks. Our interconnections in the cybersecurity world were highlighted over 25 years ago by the United States Supreme Court as it addressed early efforts to apply laws intended for the physical world to cyberspace. At that time, Justice Sandra Day O'Connor noted the malleability of cyberspace and its "interconnection of electronic pathways" that allowed users to mask their identities. Still, she observed that "[c]yberspace undeniably reflects some form of geography."

We in the judicial branch have seen firsthand how that geography can show little reverence for our articulated boundaries, laws, and norms. Our experience highlighted our literal interconnectedness and shared vulnerabilities. Though we exist as separate branches of government, these are realities we must confront together. I am grateful for the steps we have already taken in that direction and for the ongoing discussions about future cybersecurity collaboration.

As Chief Justice, I appreciate—and seek to foster—interbranch collaboration and cooperation. I am convinced we have the biggest effect on the pressing needs of Kansans when we work together to find solutions. Recently, the three branches of government have joined forces to tackle significant problems that affect those involved with the judicial system—mental illness, our shortage of attorneys and other resources in rural Kansas, and issues surrounding our child welfare cases.

As I reported to you last year, the three branches came together for a Mental Health Summit the judicial branch organized in 2022. The energy from this summit continued in 2023. Local teams and a statewide team continue to collaborate. New mental health treatment courts have opened across the state, and we continue to expand assisted outpatient treatment programs. These evidence-based courts promote recovery and reduce harmful behavior, hospitalization, and emergency room use. Redirecting these individuals to long-term solutions also reduces costs by breaking the cycle of repeat interactions with the justice system.

Beyond the mental health courts, our specialty court efforts continue to grow. In 2023, three new veteran treatment courts were opened in Leavenworth, Sedgwick, and Shawnee counties. And we conducted many specialty court graduations to celebrate a participant's completion of all the requirements the specialty court asks of them.

Individuals involved in these courts are required to be in court weekly, submit to regular drug testing, answer to judges and their fellow participants about their progress, and work with a large team of judicial partners. The program is considerably more intensive than typical probation. The results demonstrate the value of the added effort as these courts are consistently effective in addressing mental health, behavioral health and addiction issues, and breaking the cycle of recidivism.

We have also started a new specialty court initiative. This grew out of a conversation I had last session with Senator Molly Baumgardner about concerns related to our state's approach to child welfare cases. From that conversation our newest three-branch collaboration was born and has already resulted in two initiatives led by Justice Melissa Standridge.

Establishing a family treatment specialty court is one of those initiatives. In 2024, in partnership with the Department for Children and Families, district courts in three counties—Miami, Lyon, and Cowley—will pilot family treatment courts. This unique specialty court focuses on child abuse or neglect cases in which parental substance use is a contributing factor. Like other specialty courts, a team of judges, court personnel, attorneys, treatment professionals, and other community partners will collaborate to develop plans for children to have a safe and permanent home and for parents to achieve a stable recovery. I look forward to these courts becoming operational and to seeing the benefits they will bring to our communities.

Before I leave the subject of specialty courts, I want to recognize the work of a committee you created by statute that is dedicated to ensuring the efficacy and viability of these courts. Senator Kellie Warren, Representative Stephen Owens, and House Minority Leader Vic Miller are members of this committee. I thank each of them for their willingness to serve.

Turning back to our collaboration about child welfare cases, we kicked off a second initiative last August. President Masterson, House Majority Leader Chris Croft, Secretary Laura Howard, Justice Standridge, and I addressed several hundred attendees at a judicial branch training on child welfare. We announced an upcoming two-day Child Welfare Summit scheduled for this April in Topeka.

Like the Mental Health Summit in 2022, the main goal of the Child Welfare Summit is to provide a space for collaboration between the branches of government and between government and our community partners. To facilitate this, we have invited multidisciplinary teams from each judicial district. Using strategies and best practices discussed at the summit, each team will be asked to design a local action plan with specific strategies and practices that will strengthen families and improve outcomes for children. Even at this early stage, post-summit plans are underway and will include technical assistance to support implementation of team action plans by each judicial district.

The planning committee has been working throughout 2023 to develop a powerful lineup of speakers and presentations. I personally thank Representative Susan Concannon, Representative Owens, and Senator Baumgardner for their participation and their input into the different topics and issues to be discussed.

The changes and discussions planned for the Child Welfare Summit, I believe, will help build a path for a better system for Kansas children and their parents.

Another collaborative effort has focused on addressing the lack of justice resources in rural Kansas. As many of you have experienced in your communities, rural Kansas is facing a severe shortage of attorneys and of other resources to assist those who become involved in the justice system.

In 2022, I signed an order creating the Rural Justice Initiative. This initiative, led by Justice K.J. Wall, includes interested parties from all three branches of state government, the legal and business communities, law schools, and nonprofit and community organizations.

The Rural Justice Initiative has met throughout 2023—including meeting in Great Bend on the invitation of Representative Tory Marie Blew, who serves on the initiative. During its Great Bend meeting, the group hosted a roundtable discussion to hear individuals from the area describe the impact the attorney shortage has on the business community. Members of the initiative also heard from a panel of young attorneys in Dodge City. The young attorneys discussed their challenges as well as their love for their communities and the richness of their lives in rural Kansas.

Along with Representative Blew, Senator Elaine Bowers has worked tirelessly for this committee and been an advocate for rural Kansas. We are incredibly grateful for Senator Bowers and Representative Blew's advocacy and commitment. The initiative will continue its work in 2024 and is starting to draft recommendations. I look forward to reading the final report and working with the Legislature and the governor's office to discuss how we can act on the committee's recommendations.

The final collaboration I want to highlight relates to the investment you have made in the Kansas judicial branch. I express my appreciation for your support in effecting historic, momentous change in judicial funding. In the last few years, you have improved employee salaries, removed the judicial branch reliance on fee funds, created additional administrative and district court positions that help strengthen the backbone of our system, and added cost of living increases to help offset inflationary costs. In 2023, you strengthened the judiciary through passing Senate Bill 229. As many of you have heard me say, increasing judicial pay to a competitive salary has been a long-time goal for the judicial branch. Through enacting SB 229, you and the governor's office helped us implement a formula linked to a percentage of a federal judge's salary; application of this formula will increase judge salaries to the average paid in our four surrounding states. If nothing else, you are probably incredibly grateful that I need not elaborate on judicial salaries today. Instead, I express enormous gratitude on behalf of judges across the state, and I move on.

As we turn to fiscal year 2025, as business owners, employers, and employees, you understand the market continues to impact salaries and wages. Our fiscal year 2025 budget asks for a cost-of-living increase for our non-judge employees. We continue to make this request to prevent erosion of our collective work in the past years to bring judicial branch employee pay to the current market rate. The last few months have reaffirmed that our judicial branch employees —our clerks, court services officers, court administrators, court reporters, and others—provide critical services to the people of Kansas.

As has also become even clearer recently, the Office of Judicial Administration has significant responsibilities helping our district courts. Our fiscal year 2025 budget request also focuses on positions to strengthen the Office of Judicial Administration's ability to meet these responsibilities. Our priority is new cybersecurity positions. But our budget request also asks for additional positions to continue to tighten financial controls and to audit those processes. Other requested positions would support district courts in meeting the needs of litigants, witnesses, jurors, and others. These employees would also develop resources to make it easier to successfully navigate the judicial system.

These employees are the engine of the judicial branch, and this budget request reflects their importance. We appreciate that you have recognized and understand our needs as we work diligently to address the justice concerns of Kansans. We are grateful.

As we begin 2024, I am immensely proud of my judicial branch colleagues. They have once again risen to meet unexpected challenges, and I thank them for pushing onward, through adversity, trepidation, and fatigue. I want you to know that it is clear from talking with staff that they press on not only because it is their job to do so, but because they deeply love their communities and know what it means when access to the court system is limited—even temporarily.

Earlier I mentioned Justice O'Connor and her efforts to address early legal challenges related to cyberspace. In closing, I want to share other remarks from Justice O'Connor. These remarks not only befit the overriding theme of interbranch collaboration and cooperation, but they also befit our nation's tribute to and mourning of the recent loss of Justice O'Connor, who worked tirelessly to promote the understanding of all three branches of government. In her retirement, she founded I-Civics an online resource for civics education, and she inspired others to do more to foster our fellow Americans understanding of our government.

In her career she was not just a trial court judge and the first woman justice on the United States Supreme Court, she also was the first female majority leader of any state legislative upper house. These experiences gave her a special understanding of the importance of the checks and balances between the three branches, as well as the powerful impact of interbranch collaborative efforts. She inspires us to protect our democratic institutions and the rule of law. She also inspires us to continue our service to each other, saying, "Whether acting in the legal, governmental, or private realm, one concerned and dedicated person can meaningfully affect what some consider an uncaring world. So give freely of yourself always to your family, your friends, your community, and your country. The world will pay you back many times over."

I, for one, know I have been paid back with countless blessings, including my family who supports me in my service. I thank my husband and my other family members for that support, including our oldest daughter and our oldest granddaughter who are sitting with my husband in the gallery. My family and the families of other judicial branch employees have made personal sacrifices over the past many weeks while our employees worked to bring operations back to normal. I want to publicly thank all those families for their support as well.

I feel privileged to serve this state and my fellow Kansans, and I suspect all in this room feel the same. Let us continue to give freely to our fellow Kansans and to our communities so that we all may succeed and better our great state.