

NOTES, ASSISTANT JUDGE FOCUS GROUP, APRIL 28, P.M.,
WATERBURY

Comments in response to Dan and John's introduction

Around the table comments as to what one thing each person would like to get on the table for today's discussion:

No comment

Be sure commission discusses videoconference and training for use of it

I'll wait for comments

I listen to the Bloomberg Report; I used to be a police officer. There is no consistency in revenue forecasting. Take the worst case scenario and work up to create a response.

I would hate to see us come up short and not be able to provide quality services

I'll wait to comment

I am a trained lawyer, practiced 30 years, and concerned about the future of county government and to what extent decisions are/will be made for county government

We can levy taxes

We have judicial, administrative and legislative functions

To pick up on what the Chief said that we are all in this together – in looking at Appendix I Court Personnel, I didn't find assistant judges on the list of judicial officers or court personnel. It highlights that if we start from the premise we all have abilities, backgrounds, different experience and backgrounds, we can enrich the quality of our decisions. But if we

start from the premise of I am an attorney and you are not We can bring a lot to the bench. I am leery of sentences that start, “Maybe we can’t afford . . .”

There is a value in diversified funding, using county funding, cutting down caseloads, use of the unified mediation act to close floodgates of pro se appearances.

I will reserve comment except to say that in (Bennington) we use mediation in small claims.

We are government for the people and by the people; that includes the judiciary. We need to keep people in the forefront. We are fortunate to have an excellent judiciary; ours is pretty efficient; there is room to make improvements, but we are quite efficient, and whatever decisions are made should not shortchange that.

Comments by commission members: Linda McIntire: We want to keep people in the forefront. Stephan Morse: we want to hear and learn what you have to add. Justice Denise Johnson: I echo what people from the National Center said; we expect this downturn will be long term – it is the driving force for unification; we need to do it in a rational way; no decisions have been made. Everything is on the table including operations. Justice Marilyn Skoglund noted that she was present as chair of a committee on the public and other stake holders in the discussion.

Dan reviewed the principles listed on the handout. Comments followed.

#2 goes at county government. County court is responsible for the building. Is this a goal or principle? It’s listed more like goals . . . I

worked in business . . . goals are set . . . If these are goals, they have been decided.

Dan asked those present if anything in the listed principles brought about changes, what would be the impact of the changes?

There are substantial properties housing courts that are not required to house them. We are also landlords and have rented out an unused portion of a county building. Each county may be different.

In terms of how the public might perceive changes, county government is invisible and almost nonexistent. \$20,000,000 worth of facilities is made available by counties; without that you would have to go to the legislature for that money; where will the money come from?

Money always winds up in the general fund; never where the legislature intends it to. I have been visiting town managers – it's not as easy to collect from the towns; it's more a matter of when they can pay as people have trouble paying their taxes to their town.

It is notable that [that in my county] since 1981 there has never been any objection from the taxpayers to the county tax.

I echo that there has never been a complaint and never been a late payment. The tax is .08 percent on the dollar. People feel they own the courthouse and they have access to it. It is a principle that must be preserved.

This looks like a tremendous number of goals to be achieved – the last one should be achieved before taking on other things – it’s like Obama taking on so many things at once. You must ensure base funding. Until that’s done if there is a shortfall the judiciary will be dangling. Don’t try to bite off too much at once.

There is pride of the citizens’ ownership in the building. There are things that the state pays for; they pay for the some of the stuff. It began as a county-based system; as things have evolved, it is a patchwork; if kept as county, buildings and grounds would not have to be paid for. Diversity of funding is a good thing. If we could tax five cents on the dollar, we could contribute multi-million dollars (note from Vicki: the assistant judge did state a numeric figure as to how many million dollars they could contribute, but I didn’t capture it in my notes).

The question was asked as to what taxpayers would say to that level of taxation by the county. The response was that there has never been a complaint in (the assistant judge’s) county.

Every county either reduced or level funded their budget this year. We may have authority but that doesn’t mean we take advantage of our taxing authority. We can probably work with the judiciary. We may have to have some conversations very soon.

I spoke to a member of the Judiciary Committee. One problem is that the judiciary doesn’t have a lobbyist to represent it.

All counties have a county meeting every year to discuss the budget; very seldom do citizens show up. It would still be miniscule compared to the town tax – it doesn't get a lot of notice.

One of the reasons I asked if these were goals or principles – it looks like we are on a short term track to long terms decisions. If you are out gathering information, you usually have 1 or 2 purposes – to gather information to create a plan or to justify a predetermined plan – it appears to be the latter.

Stephan Morse interjected that some citizen members of the commission are impatient to get moving – it was the judiciary who slowed the process down to get input from everyone. Chief Justice Reiber added the state's financial circumstances are driving him. He said he loves the idea of a guaranteed funding level. The other two branches do not want to hear that. They keep coming back for an increasing percentage of our budget. We are trying to get a process through that will result in a framework to get things done.

It's not a good way to go about this.

Justice Reiber stated we are not living in a state where the other 2 branches will buy into this. Justice Johnson added that when we are thinking about this reorganization, we are looking out quite a ways. The current budget is not driving this any more than the long term funding level projections.

You have 28 assistant judges who will work within their counties; you have an opportunity to employ some people to help express and influence on achieving your goal of funding.

(Those in attendance were reminded that the purpose today is to get things on the table).

I can assure you at our first meeting of assistant judges we asked what can we do to help. We are sitting here now willing to help speak to legislators. You may want to give consideration to this.

I second that. I worry about doing things in haste with unintended consequences. If we destroy some things in haste, what will it look like when things turn around?

Regarding the first principle – operation of a unified system. I am not sure if unified means total control of functions; I am not sure how specific. (Dan asked, “What would it mean to you?”). I am not sure what the goal is you want to achieve. I think we are unified now. Does it mean they want tighter control?

(Charlie Smith, commission member, asked, “Does it make sense to you in principle that the court system has in its budget items over which the Supreme Court has no control?”)

I understand where you are going; county clerks are hired by the county but paid by the state. I guess it doesn’t make sense. How do you fix it if you have someone working for 2 entities, how do you pay the cost?

I agree there are some areas that need work.

The principles were developed by the commission – I'd love to hear what that means.

(Chief Justice Reiber said – “a centralized management structure”).

Are you basically talking about superior court clerks? Why haven't we gotten together to discuss this before?

Regarding consistency, there is a way of saying here is the funding; you have part and you have part and some is localized. We centralize things but at some point, local differences are valuable.

I would add that the concept of a unified court system is doing away with county government. My fear is that in rural areas access to justice would suffer.

(Justice Johnson asked do you think that local differences would support multiple clerks in one location?)

No

The first thing we have to acknowledge is that each county is unique. In (my county) we get limited funds from the state. The state pays no rent for district and family courts. How much money comes into the courthouse? What positions can we alter or shift? The county has extended its hand often with no response. The support we get from the state is our county clerk and some help with office supplies.

Each county is so different.

(Charles Smith asked, “To the extent that is going on, does it make sense for 14 different negotiations to be going on around the state to work toward a solution to the budget?)

But each county is so different, it has to be one on one. There are ways we help now – serving as hearing officers – we’ll talk with you, but it has to be county by county.

Across the system there are some generic principles that apply to all offices. In 10 counties State Buildings has taken on staffing where there are family and district courts, aside from generic stuff that goes on (Lamoille) gets nothing. Operating expenses and capital costs are paid by the state in 10 counties. Heating and building maintenance are borne by the county and 51% to 52% is borne by Stowe, we hear about it.

Different counties are treated differently; all counties’ capital and operating expenses should be borne by the state.

I don’t know how this has turned out this way. When (my county) County built its addition 12 years ago, they declined state security. The county now pays for court security, including the security equipment and maintenance. We don’t get state assistance.

We need a dialogue of what can I give and what do you have to offer. We are 1 hour and 20 minutes into this and it’s still them and us.

Where are areas we can cooperate?

(Dan directed discussion to question 4 in the charge).

Technologies are different in different courts. Our court has come up with scanning documents to save paper and mailing. More ideas need to be shared by others.

If Montpelier does the jury work, where would you pay the clerk less, where would the savings be?

(Dan stated the idea is to do brainstorming.)

What are some ideas to use technology to help?

(Justice Skoglund asked what if the commission recommends that county clerks be hired and paid by the State?)

If we were able to off load some task, we might be able to convert a clerk to another administrative position, but there would be no savings.

What if counties took back paying the clerk? It's hard to justify a \$70,000 clerk job in (my town). We are working on a salary schedule. I wish I was paying my own clerk. I support that.

We set and manage the county budget, the office of the sheriff and in counties where the county owns the courthouse . . . we have judicial and executive responsibilities.

We need consistent training for clerks on the county level. There is no consistent statewide training for small claims. I learned from another court that the Vision program has a window to calculate interest – I have been doing that myself. How do we get all small claims and chief clerks staff trained? It would cut down on my bench time. I am implementing forms from another county.

There is a need for training for all county judges, especially new ones – a welcome to new judges with diverse amounts of training.

We need more training in how to better manage the people's money.

Maybe the state could help us with that. We need efficiencies of scale.

Provide the Judicial Bureau with scanners so it can provide hearing officers with copies of complaints. All we get are docket sheets.

(Justice Skoglund added that Vermont State Police just asked for funding for a converter to DVD rather than a hand held instrument that would allow them to key in the details of complaints rather than hand writing the complaints.)

Court hearings held remotely with the defendant in jail dehumanizes the process.

Are attorneys allowed to file cases by fax?

When we submit our time sheets, we have to mail them; we used to be able to fax them, why can't we fax or do them online?

Regarding question 3, mileage is expensive, why don't we use video conference training?

(Pat responded that her division does do calculations as to what training will cost; they use webinars now where they can. One factor is if we do a webinar or use a phone conference, can we keep people engaged? We are learning and trying different procedures to minimize cost but not minimize the experience of the training. There are programs where you cannot use those applications.

Use assistant judges as hearing officers in multiple counties (response from another assistant judge: “we do”).

The mediation act should be employed – mediation doesn’t cost anything. Mediators from Vermont Law School are utilized in (Caledonia) county. I think we could use mediators from VLS and Woodbury College.

Regarding question 4 there is some mediation going on now with an experiment between district and family court in (Bennington) – the DV court.

Addison has one presiding judge who takes all cases – mixed up. It’s the ability of the judge to switch from one docket to another.

We could utilize more acting judges for misdemeanors and many felony arraignments.

In some counties where I sit for the Judicial Bureau I would have a full day of, probably 50, cases scheduled but only had 1 hearing at 3:30, how can that be fixed?

In some counties there is a practice of resolving traffic cases.

I have been in 8 counties – that’s an example of local practice, but sometimes every case on the list is heard.

(Dan asked if they received case flow training).

A lot of tickets can be amended by the police officer at the roadside.

A lot has changed with assistant judges in the past 10 years. A lot of training for those of us who do this.

We have come a long way – training has changed a lot since we became aligned with Vermont Law School. A lot has been done; a lot could be done, for example, a manual for new assistant judges, especially to save money and become more efficient.

My understanding is that there was a change with Vermont State Police that if they had tickets scheduled on their day off, they aren't paid and don't come in. That is lots of dollars dismissed. The message it sends out is terrible. It is on the street – contest your ticket, the officer probably won't show up.

Thank you to the commission for giving us this chance.

It is worth saying again that there is a difference in our duties, county duties, when we get judicial duties. What is worth being preserved? If you give the courts and sheriffs to the state how will you pay?

Adjourned at 2:55 p.m.