

VBA Board of Bar Managers Focus Group
Red Clover Inn, Killington
June 19, 2009

Facilitator: John Douglas
Note taker: Arlene Hanson

John Douglas asked people to introduce themselves and offer any topics that they hoped would be addressed during this discussion.

Topics:

- Preserve the character of Probate Court in all the changes
 - Open conversations and access to justice
 - Timing of input from this board will have an effect on the outcome
 - Maintain or return control of the judiciary to the Supreme Court while maintaining county services
 - Maybe restructure the courts in the counties
 - Use technology in the courts and in the administration of the courts.
 - Concerned with the level of involvement of the lawyers in the state in this process. Only 3% responded to this survey.
 - Role of VBA to help commission; we'd rather be part of the process.
 - Delivery of justice to the less well off
1. **Are there court services or administrative activities currently performed at the county level that could be performed either regionally, centrally, or electronically to improve the efficiency or cost-effectiveness of court operations?**
 - a. **Can small claims, magistrate and/or traffic court matters be heard centrally or regionally and improve the efficiency of court operations?**
 - b. **Can all Judiciary services be centralized into one court location per county and maintain or improve court operations?**

Centralized jury pool is fine with everyone as long as the questionnaires are available to courts. This action should save time. The draws should be local; the administration process should be centralized.

Regional arraignments – Infrastructure is needed to support this activity. There is a need for a lawyer to talk to his/her client confidentially, to, in effect, have some control over what that client is saying.

Video arraignments – Better to technology is needed to make this work.

Several felt that the delivery of judicial services is best done at the local level. However, these same people agreed that it was only logical to have one courthouse per county. All courts would be located at this one courthouse. It would make sense to have a single staff to serve this one courthouse and possibly an electronic system like the pacer system.

On disregarding the county line as basis for venue, this group was not sure how well this would work. They were concerned about where the new divisions would be made; how far people would have to travel. One person suggested that a rule be made that civil cases over \$75,000 have no venue, so could be tried regionally.

They suggested that bigger cases (business dispute, town sued on unemployment) might be regionalized. Also, they thought possibly a specialty judge for these types of cases, like Environmental Court.

Also, one person felt that the county courthouses need to be open everyday. The number of staff needed could be based upon caseload.

Change of venue to a court without a backlog by Judge – Change of venue is already available to parties. Most were okay with a change of venue as long as at least one of the parties wants the change and the change of venue was within a reasonable distance. One person didn't like the idea at all because the price that a lawyer quotes for the case is based upon one location then if it is changed and the lawyer must travel, it costs more. Also, it might be difficult to have the people travel to new venue. It might make sense in certain cases but it would depend upon the type of case. There was a suggestion that cases with complex issues and commercial cases might benefit from a change of venue.

One judge one case – again they mentioned specialized judges for certain areas. They also thought judges could do more to move cases and make the system more efficient by using the powers that they already have like adhering to the discovery rules.

Increasing rotation time for Judges – Most agreed that a 2 year rotation rather than 1 year would work better. One person made the case for no rotation. Also, it was suggested that the rotation statute be eliminated, so that you are not restricted by it and can initiate a rotation that meets the needs of the Court. Eliminate mandatory and make it administrative.

They liked the idea of a regional team.

Someone suggested an increase in small claims court jurisdiction because it doesn't make sense below a certain amount to have a full litigation.

- 2. Is there technology that could be introduced into the court system that would make judicial operations more cost-effective or improve access to the court system, while at the same time maintaining the quality of justice services?**
 - a. If the Judiciary invests in the equipment so that notices/informations, divorce complaints, parentage complaints, juvenile petitions, etc. are filed electronically will that, in your opinion, improve access and make the courts more efficient?**
 - b. Will easier access to the Judicial computer system allow working from other locations (home/another court) improve judicial operations?**

E-filing – Most thought that e-filing was a good idea, but warned that not everyone has access to a computer, nor will they be able to use one if they did have access. A suggestion was offered that as part of the pro bono services, lawyers could train librarians to help pro se clients with e-filing for the courts. Also, it was recommended that a push be made to provide pro bono services at Family Court. They were not so sure that a kiosk would be helpful without staffing. Also, they thought that e-filing should not be mandatory. Another concern was for security of information, especially on financial statements that include social security numbers and date of birth.

One person offered that various data sources need to be able to talk to the Judiciary's computer system, like trooper's entry or state's attorney's entry. It would eliminate duplication of data entry.

On-line access to case information was deemed a good idea given that safe guards exist to protect information. The access would be limited to parties on a case.

Video deposition should be possible at any courtroom.

Most agreed that digital recording statewide would be helpful. Also, if they could have a copy immediately that would be a big help.

- 3. What can be done to allow more flexibility in the use of judicial resources (people, facilities, dollars), particularly as workloads and funding levels increase and decrease?**
 - a. What would be the effect of making all Court Managers and Court Staff all state employees?**
 - b. What would be the effect of eliminating side judges and hiring law trained judges with the savings?**
 - c. How much of an impact would the cross training of all staff have on workloads, etc.?**
 - d. Can and should we "float" judges along with staff to handle peak workloads as they occur?**

If you increase small claims, would you need law trained judges? Most agreed that you would. One person suggested that side judges are the closest thing

Vermont has to County Commissioners in other states – maybe there should be an incentive for side judges to move away from judicial duties to participate more fully in county duties.

- 4. Are there ways in which the types of cases heard in our various courts (superior, district, family, environmental, probate, judicial bureau) could be reallocated in a way that would increase the effectiveness of judicial operations or improve court efficiency?**
 - a. What would be the impact of uniting Probate into Family Court?**
 - b. Could the Environmental Court be absorbed into the Superior Court?**
 - c. Would it be feasible/cost effective to: Have Magistrates hear child support contempt cases; move civil suspensions to Judicial Bureau; and eliminate de novo appeals hearings in Superior Court?**

They did not like the idea of moving guardianships and adoptions from Probate Court to Family Court. Probate Court has a large number of pro se clients and they deal with these clients well. It will be tricky for Family Court staff to be able to provide the same type of service.

They questioned whether or not it was necessary to guarantee everyone's right to a full 12-man jury over a traffic ticket. They were not sure about doing away with jury trials for anything. They thought that maybe there should be a cost. If you are doing a post judgment child support, loser will pay for proceedings. There was disagreement over charging a fee – what if person lost their job and they can not pay child support or anything else – should they be charged? We don't want a justified case to not be brought because of cost.

It would be better if the judge, who is controlling case, enforces the rules he/she already has (like limiting discovery) and assesses fees based upon these rules.

They raised the question about whether the Probate Court should become a court of record to offset cost.

The group agreed that the judge should have the discretionary right to send cases to diversion.

Mediation was thought to be beneficial but there was some mixed opinions about when it should be offered (like at the beginning of a divorce – some thought this would be good, others thought people were likely to be more belligerent at start). Also, they noted that there is a difference between the types of mediation required for family cases vs. small claims. The model for mediation that they believed should be resurrected was **CVPS(?)**. They thought that a mediator could either be a lawyer or not. They thought that there were areas where lawyers might be better and others, like family cases, where it might be better to have a non-lawyer.

Wrap Up – Summation

Chief Justice Reiber and John Douglas were invited to a forum being held by the VBA on September 25th.

The Chief responded to the request for a role for the VBA in this process and suggested that members of the VBA might talk to various public groups, like Rotary, using the video that explains the role of an independent judiciary and bar and talk about the problems facing VT courts. There was no response to this suggestion.

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