

CAO & Supreme Court Staff Notes  
Focus Group in Montpelier, June 18, 2009, AM  
National Life, with John Douglas (JD)

JD asked the group to help in prioritizing the progress and approach to the anticipated change in response to how the Legislature will act on the recommendations of the Commission on Judicial Operation. He asked those present to provide their opinions. Each person around the room was asked for his/her comments and suggestions. The responses follow.

In looking over a lot of the things that will be suggested, it all makes sense. The difficulties will be with the human factor.

There has been a lot of discussion about duplication of services in court; we need to look at things we really need to do. There is a lot of duplication of services at the CAO.

Change management education. Court staff are in the middle – like when Linus' blanket is in the dryer. We should do anything we can do to help prepare them. With VCASE and reengineering of the courts there is a lot of change. I would advocate anything we could do to help staff through.

Floater – they could go through courts where needed and help train locally to help with Sustain training.

I have no burning issues.

Rotation schedules with judges, at least in superior courts. They lack standardization in protocol, frequency of rotation – it is currently too frequent.

Stop babying attorneys. There is a lot of technology that would make my life easier, but they are not used to technology. We do more handholding than we should.

I agree regarding fear and stress around the organization. People are getting more sluggish in their work; it is affecting productivity.

When we go through downsizing, it should be keyed to the jobs that are needed. Keep our finger on the pulse, take care of your people, but meet your mission, avoid warm body syndrome.

I agree regarding babying of attorneys. For computer technology the difficulty we have is county vs. state. There are systems on our network that create a security risk on the network. Consolidate and pull those courts into the state system. That will increase our security.

WordPerfect and other programs are used by some courts; some are using dialup to get them onto the state system. There is dialup in the Marlboro and Essex Probate Courts. The State is trying to do away with dialup. There

are counties with old Windows systems; Addison Probate equipment was bought by the county; in most probate courts, they don't update their equipment until the equipment dies.

I would reiterate the human problem. It will be hard and not everyone will come out on the other end. At some point you need to cut your loss rather than drag people along.

How will this be done with all the other things? We are not good at planning. We put out fires with a 70% fix and move to the next fire. Doing this over would be worse than doing it right.

There is a perception inside the branch that employees abuse sick leave. Regarding nepotism and conflict of interest policies, some courts have significant issues. Managers have not felt supported in addressing problems. Several individuals have been abusing sick leave for a long time. Would like to see a one-year moratorium on classification reviews. The docket clerks, mostly females, have no career ladder. I would like to create a series for docket clerks, like DOT uses – the entry level of the position with steps one through four and build a career skill set. I would like to see us start at a higher level to build into a series of skills that would be needed with VCASE. I am dismayed that the docket clerks are hired away by law offices. I would like to see it as a paralegal position with an automatic process at the highest level of which a person could go into any court and be competitive for the manager or business analyst positions. This would be an effort to keep our employees with us. They would need to be able to move around. We would need a system by which we can provide education for the ladder. Now is the perfect time to create this system. People will know they have a path to grow.

Re: rotation: I have been trying to work with court managers to have the judge help them in dealing with problems. In some rotations it would be good.

Some judges do things differently.

Rotation is a phase of change management.

JD – moves to the charges to the commission and asks for the opinions of those present on prioritization. Question 1: court services currently being performed – things that can be performed at county levels that maintain service.

There are some things done at superior court level that are county based, not Judiciary based. I suggest separation of judicial powers and county powers.

JD – the commission is entertaining legislative change – this opens things up for change. Everything is on the table. This is chance to restructure the Judiciary in major ways.

Why can't county elections be given back to a town clerk – dissolve the county clerk position in county management. Make it not part of our operation.

Give elections to the Secretary of State's office.

Abolish duties and divvy them up among the cities and towns – the League of Cities and Towns.

Why is probate court a separate entity from family court? Most things deal with families – put probate court duties back into family court. Roll all probate into family court.

Almost every state in New England has a probate court. In Maine it was divided off from the rest of the court system and not under the court administrator. Connecticut has done away with probate courts. New Hampshire has them within the court system. Part of our problem with structure is constitutional. We are looking at ways to effect change without changing the constitution. It says a unified court system.

JD – make everyone state employees, floaters, etc., are all recommendations made by employees.

Re: Vermont Judicial Bureau – a single statewide court that handles 150,000 cases a year. One office takes in filings, pleadings, money and does all scheduling.

Why does any court have to handle any money? Eliminate some or all local filings; schedule and file regionally.

We have regional arraignments now; go the next step – other than where required that hearing be held locally. Why does paper and money have to be handled locally?

Have a judge, security force and local facility to handle trial. Have traveling court officers.

When you are talking about money, my suggestion is to close all bank accounts. You will always have money taken at court.

Now GAL payments are handled at CAO Finance

If you centralize payments and close bank accounts you will have to rely on approvals at both ends; this would require a high level of communication. VCASE will play a big role.

I would like to take in payroll at Finance, juror payments. It would help on the budget. It would put watchdog monitoring on the budget. It would increase education and accountability up higher at CAO Finance. Do VCASE and the change right the first time. Re: grant management – we have been unable to give it the amount of time it should have. We have come a long way. I don't want to react; I want to respond.

I agree re: budget – be proactive vs. reactive in dealing with budgetary expense. Have a five-year plan. Now we fix things when they break – how can we fix it so things won't break? We need a five-year plan for budgeting, too.

You need to know the budget you will have.

During year end closing at CAO Finance, one computer went down; we were then down 20% in productivity – RIS stepped in with a temporary fix and totally fixed the problem within the day. We need to plan for the unexpected and the expected.

We need to create a preventive maintenance plan – succession planning; e.g., retirement – no one knows how this will impact us. We don't have an overall systemic HR plan.

With everything being driven by “we don't control our budget” there is dysfunction within the organization. We react to what comes from outside our organization.

We need more money up front so that equipment is replaced before it dies.

There are people in the organization who thrive on the nature of the job. There is praise for people who put out a fire they should have prevented.

It is resource planning.

We are too busy getting through today to have time to do proper planning.

This Judiciary has been under resourced for a long time. It's a leadership issue. We have the same problems over and over. No time is spent for planning. We don't have the skill level for planning.

Most managers were docket clerks with marginal other skills. We have to expect someone to have future thinking vs. what will happen next thinking.

It has to be systemic – planning can come from individual courts.

What kind of training does staff need, how would you plan it? How would you get this done in the overall plan? We need a strategic plan.

Short staff is an inhibitor.

Maybe we should consider something like closing court for a day a week for training only – VCASE, change management, reengineering the system.

Pat McDonald closed DMV for one half day a week to allow staff to have one half day a week for training and catch up. We now have one half day closings – maybe we should continue.

JD – some clerks would rather go to a four-day, ten hours a day work week.

We need to build in resources to support the training.

I received a memo from the Administrative Judge about docket creep.

In other sectors when things get like this, productivity goes down.

Morale is gone – productivity goes down.

We used to do one half day out of court – that's gone.

No, it isn't. It has dropped off a lot – there is too much work and fear of public perception that we are closing courts, yet we have time to do day out of court.

Re: furlough days – some managers worked when they shouldn't have.

Let's have true furloughs for everyone – one day a month.

The hit is only on managers – why not everyone?

There was no COLA, an increase in health costs, furlough days – this has an impact of loss of income.

Some staff make more than their manager. They are in the bargaining unit.

Look at us – managers in the middle not protected by the union, medical went up, retirement contribution went up – some people have experienced a 14% pay cut.

This group is getting squeezed.

Absent more money, what do you do?

Give people more than 3.5 hours per pay period. Give more time off to help with the squeeze.

One thing Massachusetts did was give people eight hours furlough to be off – or work and get twelve hours leave.

Everyone loves the time off, but the reason we are working furlough days is because the work needs to be done.

An untouchable leave accrual could be created.

What would help more is to get to certainty sooner rather than later, even if it is bad.

The weekly newsletter has helped. They need to continue. It helps people to feel included.

The budget freeze we got from the Legislature for the coming year is a big deal. It is an acknowledgment by both branches that we are in a big problem. This will help down the road with our interest in gaining more control over our budget. It isn't done for the bargaining unit yet. Next year's budget will be a problem. We will have to absorb \$1 million in cuts and in future years, any changes made by the Legislature – then we will have to implement them.

It will take a while for people to adjust. They don't know how to react to this new level of transparency. Once some of the things happen they will have more faith.

It is so obvious the consolidation should happen. The bigger issue is how to do it. It would change my ability to be able to do anything about complaints about superior courts.

The notion of isolating a period of time each week would create a bubble in the dockets. The rocket docket at the Supreme Court is a very sound idea. Are there things that we could do in courts with case flow management, changes in the law to help improve our ability in the transition and beyond?

I suggest five-year rotations.

How do you standardize when the judge is still the boss?

Day to day work should be run by court managers.

There will always be some internal politics related to who is running the ship.

The level of professionalism and skill of the court manager helps them to command respect – that depends on the individual court manager.

The docket clerk position needs standardization to enable switching from civil to criminal to family dockets.

Resource management -- the amount of time law clerks spend helping assistant judges with small claims – mostly in Caledonia and Bennington is about 20%.

The problem is the assistant judges don't have law training.

One principal that has been suggested is for judges to be law trained.

What about increasing the jurisdiction of the magistrates and probate judges?

I don't see why we need more different types of judge.

What about rolling the environmental court into the superior court? It is very similar to the Vermont Judicial Bureau. It addresses specialized environmental issues; not all judges are trained in this area of law.

I wouldn't support that.

We are supposed to have generalist judges. We have some judges who have to sit in all three courts.

What about consolidating motion practice in one place and with trials held elsewhere?

What about private arbitration – it is quicker – two-thirds of environmental cases are successfully mediated.

Regarding specialization – what if we had more regionally oriented courts, e.g., four quadrants, with centralized assignment and scheduling? Judges and staff would go where they are needed while maintaining local access. Each quadrant would have a trial courtroom that is well equipped.

That sounds good.

We would need a well equipped trial courtroom in each quadrant – perhaps four to six of them similar to federal court, with other courts available for motion practice.

We are losing civil staff – civil lawyers want trials and can't get trial times.

Are there stats on hearing times for probate judges? What if they could be used to assist with and hear other dockets?

Change the law to make probate judges full time to help catch up, as long as they are law trained. There are a number of probate courtrooms we could utilize.

JD – the weighted caseload study will help with design of a regional system – it will help to develop a good model. As we construct recommendations to the commission – HR and other areas have been discussed, but how do we prioritize?

Consolidate – bring county court into the system in some manner even if it's only that the Supreme Court has absolute jurisdiction over it.

Consolidate into one manager per county. There probably would be a deputy, but the question is at what level? We could have one manager for a region. Some sort of management would be needed at individual locations. The efficiency can't be quantified now, but it would allow managers to get away from docket operation.

When I say consolidate, you must eliminate; you have to eliminate people and facilities.

Is there something regarding structure that the court could do right now that would move us in the right direction?

We can't do anything with superior courts now.

Use the internet and RSS feeds that people sign up for. There is a rules proposal on RSS feeds automatically on the web.

This is one thing to eliminate handholding.

Get agreement from our bargaining reps to put a moratorium on the classification committee and create a career ladder.

There is an estimated savings of \$40,000 a year.

The military has a rewards based suggestion program to show cost savings. The reward could be time off or a monetary award. It could be administered as a merit bonus.

What are priorities?

Consolidate, eliminate, and automate

There are things we can consolidate – there are now two databases (county and state). There are things we can do.

Professional dress – courts could establish an actual dress code.

This might not be the right time to do this morale-wise.

Employees who are unproductive could be eliminated and the positions refilled. Managers are afraid of losing positions. We need to be able to replace them.

Right now Renny is working with all courts to help determine what staffing should be. We have to figure out how to staff courts in a way unlike we do it now.

JD – the weighted caseload study will help with this.

You need to have credibility with the people you are dealing with.

John Douglas provided his e-mail address – [jdouglas@ncsc.org](mailto:jdouglas@ncsc.org) . He asked people to send any other ideas, suggestions or comments to him.

The meeting adjourned at 11:31 a.m.