

Vermont Commission on Judicial Operation

Date: January 14, 2009

Present: Hon. Paul Reiber, Hon. Denise Johnson, Hon. John Dooley, Stephen Dardeck, Esq., Joan Gamble, Hon. Brian Grearson, Hon. M. Kathleen Manley, Deborah Markowitz, Esq., Richard Marron, Charles Smith, Thomas Clarke, Patricia Gabel, Esq., Robert Greemore, Daniel Hall, Senator John Campbell

Opening Remarks:

Chief Justice Reiber opened the meeting by introducing Judge Grearson, who will be taking the place of Judge Pearson as a member of the Commission.

Next, the Chief introduced Dan Hall and Tom Clarke from the National Center for State Courts. He explained that the National Center for State Courts provides support for all state courts. The headquarters for the non-profit is located at William and Mary College Law School in Williamsburg, VA. The organization was started by former Chief Justice Warren Burger.

Next, he introduced Senator John Campbell, a member of the Senate Judiciary Committee, as a guest.

Justice Johnson added that some things have changed since our last meeting, and we have been advised that now is not a good time for Executive Reorganization legislation to be introduced. We decided to address the specific issues posed to the Commission for an interim report. Justice Johnson added that Justice Dooley will join us and will update you on the newly proposed legislation.

She then turned the floor over to the two representatives from the National Center for State Courts.

Consultants Role:

Dan Hall said that he brings experience and a way to assist with what the Commission is trying to accomplish. The National Center for State Courts is similar to the National Governors Association or the National Conference of State Legislatures. It helps state courts to improve the delivery of justice. Dan stated that he works out of the Denver office and has 20+ years in the Colorado courts. He was a legislative liaison for the Judicial Branch, so he brings the inter branch perspective and understands collaboration. Dan stated that Tom Clarke is part of Research & Technology division. Tom was the CIO of the Washington State Court system. He is one of the leading authorities on court technology.

Continuing, Dan pointed out that Tom and he bring a national perspective. States are finding that this recession is different from the last recession, with little room to do short term fixes. We're at a point where, if you cut positions, it affects services to the people. The little fixes we can make like stopping out-of-state travel, hiring freezes, and the like,

Vermont Commission on Judicial Operation

Date: January 14, 2009

have been done and they are no longer feasible to provide budget relief. Managing judicial services under duress is not for the faint-hearted.

In this process, everything needs to be put on the table. Only by putting everything on the table can you see the array of options. Then you should do a cost benefit analysis (timing, impact, cost, who served). There will be a criteria developed to filter alternatives. All of this analysis allows you to move toward your vision. It is important to develop your vision. You need to recognize that the problem is not going to go away.

Our role is assisting you by providing information & resources. The pressure may ease up, but it is not going away.

The Chief asked the committee if they had any questions. There were no questions.

Workgroup updates:

Justice Johnson began with the Service Delivery and Infrastructure Workgroup update. She stated that work group members had met and reviewed statistics and figures. They discussed streamlining the system to reduce redundancy. They looked at costs in each venue. They were trying to get a sense of where we need to go. Unification options were explored. The workgroup determined that we need to have some general principles to guide the process. They decided organizing principles would be what services should be offered locally, regionally and centrally. They discussed various options and the role technology might play.

Having ended her report on the workgroup's status, Justice Johnson turned the floor over to Justice Dooley.

Justice Dooley on the newly proposed legislation:

Justice Dooley began by talking about the history of the development of the Judiciary's structure. To change the structure would require amendments to those statutes. One of the statutes that the Supreme Court is considering altering has to do with the issue of authorization to combine clerks of 2 or more courts, allowing for one mid-management position instead of 4, where appropriate.

There was much discussion about this legislation and the strategy. While this legislation only addresses a small piece of the problem, it will allow us to lay the groundwork for more progressive measures. Concern was expressed about this two track approach: putting energy into smaller issues while the greater issues loom large. Will the Court have the authority to do everything it needs to do? Another recommendation was made to step through the functions, lay out the mechanics, and determine what statutory authority is needed to meet these budgetary demands.

Vermont Commission on Judicial Operation

Date: January 14, 2009

Another suggestion was that the legislature be educated to the complexity of the courts' structure; how the Court is hamstrung in its ability to serve the people. While some legislators are aware of this complexity, not every legislator is. There is a mix of people serving in the legislature from all different backgrounds. You will need someone to take a lead role for any legislation to get through the legislature.

Also, the timing for this legislation was discussed.

Workgroup updates continued:

Joan Gamble reported to the members about the work done in the Workforce Analysis and Development work group. The group believed that they needed to present a clear business case showing where we are now and where we're headed. The group had talked about approaching this work in phases similar to what Dan Hall had described earlier. Phase 1 is to make clear what cost efficiency gains were possible. Phase 2 is to tie some statistics and technology changes to further efficiencies. Phase 3 is looking at demographics. We explored ways to approach changes and talked about various options.

Next, Deb Markowitz reported on the Consensus Building and Public Outreach work group. She stated that her group had talked about when to start public outreach. They began by brainstorming a list of groups who might be involved in this outreach and the possible design of the sessions.

Dan Hall emphasized the importance of structure for any public outreach, to keep the discussion from getting sidetracked. Focus can be on what should be done locally, regionally, and centrally. You might provide a list of functions and ask people where these functions should be done. Open ended discussions are hard to focus.

There was more discussion about the how to do public outreach (polls, focus groups, etc) and when to do the public outreach.

Justice Johnson thanked the work groups for their work thus far.

Visioning Principles:

Next, Justice Johnson spoke about the need for general visioning principles. In a meeting with Tom Clarke and Dan Hall, they encouraged the Court and the Commission to establish the vision quickly.

In our discussion, we identified some guiding principles:

1. The Judiciary is a single entity. All staff need to be hired and fired by the Court. The Court has responsibility for the budget, so we can expand and contract it as needed (elasticity). Then, we can match resource and priority. When cutting the budget, we make those decisions based upon established priorities.

Vermont Commission on Judicial Operation

Date: January 14, 2009

2. We need to be mindful of the cost. We have fewer dollars than in the past. We cannot recommend a new system that does not have cost efficiencies.
3. Access to Justice. We need to approach this from the point of view of what services need to be delivered locally, regionally and centrally.

Justice Johnson then threw the meeting open to discussion.

Justice Johnson had some questions for the group in regard to access to justice – what do you see as being included in local services? Regional services? Central services? Do we need a court in every county?

Another suggestion was that instead of talking constraints like county lines, maybe we should look at where the demand is. After looking at the structure without constraints, we can then address those factors that might cause constraints with the changes proposed.

It was also noted that part of the reality is the concern about access to justice and a comfort with localism. We need to address these concerns. If we can demonstrate that we're improving service, we offer a proactive vision.

Eliminating venue requirements was suggested.

Another recommendation was that the message that we need to give the legislature is that we need time to do this properly. We need to emphasize the long term benefits.

There is a distinction between the branches of government. In communications about this process, we need to remind people that the Judiciary is a separate branch of government because people easily lose sight of this distinction and the Judiciary's distinctive responsibilities. We need to establish and reinforce this idea. Collegiality is important but we also need to show how we're different.

Some further ideas about access to justice were explored. The kinds of cases that should be done locally are not always easy to identify. It was also pointed out that there may be cultural challenges with these changes. A courthouse often provides a sense of place. With the talk about local, regional and central, there was concern expressed about the timeframe for these changes taking place, because while the technology is coming, it is not here yet.

Again, the question was raised about the timing of outreach. Some members believe there is a time crunch on public outreach. Shared values and shared outcomes are important.

Chief Justice Reiber closed the meeting with his thanks to everyone.