

Vermont Commission on Judicial Operation

Date: December 16, 2008

Present: Hon. Paul Reiber, Hon. Denise Johnson, Eileen Blackwood, Esq., Stephen Dale, Stephen Dardeck, Esq., Joan Gamble, Linda McIntire, Hon. M. Kathleen Manley, Deborah Markowitz, Esq., Richard Marron, Stephan Morse, Representative Donna Sweaney, Patricia Gabel, Esq., Robert Greemore, Lenny Swyer, Esq.

Chief Justice Reiber's Opening Remarks:

Chief Justice Reiber opened the meeting by talking about the announcement of more rescissions. He went on to discuss the important role of the Judiciary and the impact these cuts are having on its role in our democracy.

He offered that the Commission needs to do a lot of work in a short amount of time. While we need to look for ways to be more cost effective, we also want to improve the system while maintaining its integrity – to maintain equal access to justice for all.

Bob Greemore on the recent rescission requests:

Bob Greemore began by saying that the rescission request to the Judiciary is \$930,000, and that the Supreme Court hopes to address this request as part of the Budget Adjustment Act.

Discussion about proposed legislation:

Justice Johnson introduced a draft of proposed legislation to address the authority the Court would need to implement sudden and drastic cuts to the budget. The draft legislation would give authority to the Supreme Court to make the cuts needed, to address the system as a whole, to put resources where it makes the most sense to put them, and to put resources where the demand is greatest.

Justice Johnson introduced staff attorney Lenny Swyer who helped draft this proposed legislation and was invited to the Commission meeting to talk about it.

Lenny Swyer began by saying that the legislation is an attempt to extend the authority of the Court along the lines of other legislation; it is based, in part, on the Executive Reorganization Act and similar acts from other states. This proposed legislation would allow the Court to open a dialogue with the legislature.

Many Commission members thought that the legislation offered the flexibility to accomplish what was needed. However, most members had a concern that the legislature might view the offer of this legislation negatively.

There was further discussion about the legislation, including whether a proposal date (a date by which the Judiciary version of an executive order had to be done) should be added and whether this legislation would help with the current rescission request.

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Members recommended that the legislation should be accompanied by an explanation of how convoluted and inefficient the current system is to help legislators understand why there is a need for this legislation.

Some discussion arose about what actions could be taken that did not require general assembly approval.

Next, the discussion covered how to include stakeholders in the process. Many members thought that there needs to be some language in the legislation about conferring with stakeholders. Some more discussion ensued about the pluses, like showing the legislature that the Court was seeking input from stakeholders, and the negatives, like the cost and time-consuming nature of this kind of inclusion. It was agreed that communication within the system is important. It was suggested that some “confer” language be added to the proposed legislation.

A motion was made to accept the proposed legislation with the added “confer” language.

The motion passed.

Informal Working Groups:

Justice Johnson said that the next step was a work plan, and at least, two informal working groups are needed. The first group would look at infrastructure. For this group, the Court asked Stephan Morse, Richard Marron and Representative Sweaney to participate. The second group would look at work force development and new configuration. The Court has asked Joan Gamble, Linda McIntire and Charles Smith to be on this work group.

Patricia Gabel added that Bob Greemore and Christine Boraker were available as internal resources for these work groups.

Justice Johnson asked about other informal work groups. She suggested a third group be formed for consensus-building and public outreach. This work group would communicate, plan and gather support. The Court asked Eileen Blackwood, Stephen Dardeck and Deborah Markowitz to be on this work group.

Other Issues:

There was some discussion about whether we should review the magistrate system. It was pointed out that this system provides federal monies to the court system and that magistrates are judicial officers through legislation. Justice Johnson suggested that the 2nd work group might be able to explore this issue.

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Next, Patricia Gabel stated that we have received a grant from the State Justice Institute to pay for consulting services from the National Center for State Courts. While we have been awarded the grant, the actual payment of the money has been delayed due to the change of administration in Washington, DC. The National Center is a good resource for bench-marking and creative innovation.

There was talk about the process and how Vermont has made many of the changes that other states are putting on the table now, like doing away with live steno and using digital recording. A greater level of change is needed in Vermont.

Next, there was a discussion about measurements and criteria. The National Center might be able to help with these types of measurements and criteria.

Patricia Gabel referred to a national evaluation system called "CourTools". It is a unified way to do measurement of both structure and people.

Bob Greemore added that CourTools have 10 areas of focus. He said with the new case management system, we are incorporating CourTools, so we can compare ourselves internally and externally.

Members suggested looking at past Commission reports. Patricia Gabel indicated that many past materials had been reviewed, and she has copies of summaries of past reports. One of the earliest was from 1897. Many of the same issues that we're discussing now were identified a long time ago.

The next meeting of the Commission will be on January 14th.