

NOTES, COURT MANAGER COLLEGE FOCUS GROUP, APRIL 27, 2009  
SHELBURNE ROOM

Notes from facilitator:

1. Services.

Problem: If centralized, impact to litigants in Small Claims and Judicial Bureau is high.

Solutions: Judicial Bureau

- Return cases to District Courts?
- Administrative – include Tax Department as receiving agency
- Return to law-trained hearing officers? Efficiency, quality of decisions and service would go up

Solutions: Small Claims

- Centralized filing?
- Hearings by telephone?
- Is human element lost/compromised?
- Return to law-trained judges?
- Eliminate or reduce assistant judges?
- 1 judge/1 case?
- Magistrates hear traffic on day 5?
- Bureau – trade vacant staff positions for judicial officer?
- Regional trial courts – better use of resources, e.g., technology, complex trials, impact on services, litigants
- **Jury** – 6-person panel?

- Regional jury system?
- Centralized, automated (annual)? Statewide panel creation
- Qualification questionnaires
- Supplemental questionnaires
- Summons to jurors
- Requests for excuses
- Bulk purchasing/state contracts?
- Buy local if cost effective
- Foreclosures – Centrally?
- Statistics – Centrally?
- Financial Reporting – Centrally?
- Video arraignments – Centrally?
- Eliminate redundancies – judge
- E-mail notification
- Contract counsel – centralized?
- Expungements, record checks – centralized?
- Regional legal clinics – or local?
- Electronic training for pro se litigants (some dockets, not all)
- E-filing may not be appropriate for pro ses in civil cases
- Court services centers in courthouse

## 2. Technology.

- Would e-mails with recipients be read by staff, blocked as spam?

- E-mail with litigants ripe for ex parte communications?
- How do we prove notice if sent electronically? (Presumption of service?)
- Originating agency needs to be responsible for electronic copies to parties
- Should staff be responsible for faxes and/or e-mail communication?
- Combination of electronic and paper files makes access of files from differing locations challenging for staff
- Is traveling task force/triage unit more cost effective? No, but other advantages
- Uniformity of training important
- Sharing of information (e.g., justusnet, bulletin boards, group e-mails)  
current bulletin board is clunky; need well functioning board
- *Transition period between systems needs to be short or immediate (conversion strategy)*
- *Preparation of staff “change management” essential*
- All courts – same case management system
- VCIC/DMV electronic reports
- Local libraries – electronic access for users

### 3. Judicial Resources.

- Fear over job loss – may look different, have different responsibilities
- Revenue streams would have to change if unified; we need to show a cost benefit
- Eliminate assistant judges; all judges should be law trained

### 4. Reallocation of Cases Heard in Various Courts

- Staff need to accompany reallocation of cases
- Probate matters into Family and Superior Courts
- Environmental Court into Superior Court

Priority List to Report Back to Full Group

- 1) All judges are law trained [and there is no redundancy of service on the bench (one case – one judge)]
- 2) Probate cases reallocated to Family and Superior Courts
- 3) Centralized administrative services such as juries, expungements, record checks, localized customer service
- 4) One manager per county (Chittenden District/Family model)

Note taker's Notes from Court Manager College, April 27, 2009

1. Services. If small claims, magistrate cases and traffic matters were handled centrally or regionally, would it work?

In traffic, all clerical work is done at White River Jct. There could be four judicial officers, four court officers, law enforcement officers and up to 40 people in each court. The Judicial Bureau (JB) coordinates with local courts for use of facilities; some telephone hearings are done; phone hearings are permitted upon motion/request.

For the entire JB there are 14 judicial officers, four court officers, on different days. Judicial officers used to be law trained; now there is 1 full time, law trained hearing officer and one part time law trained hearing officer. Under age alcohol and tobacco cases have to be heard by a law trained judicial officer. Staff members travel to hearing locations from their homes. As to the effect on litigants and law enforcement officers, the place of hearing for JB matters for Grand Isle cases was moved to St. Albans in Franklin County. Litigants/law enforcement officers fought the change at first, but now it is just what they do.

If these become centralized, participants would have to travel. Vermont State Police (VSP), local law enforcement officers and sheriffs' departments all have different budgets/funding sources. Grand Isle matters are brought mostly by the sheriff and VSP. The impact of making people travel would be high. There was a proposal to absorb traffic matters back into the local district courts. This would mean more staff would be needed locally. There had been a suggestion to file tickets with the Tax Department, administratively treating them as revenue.

Under that proposal the Tax Department would scan and transmit the ticket information to the court. The Tax Department would serve as a lockbox. There would need to be conversion and software to bring data in from tickets. That data, once gathered, would go to the appropriate court. In the past the error rate has been very, very high with use of a lockbox for court transactions, especially when not applied accurately. The human element has to track down where the money goes. Don't lose sight of all the money that comes in and that it has to be applied correctly. Three or four law trained hearing officers could handle the volume. They seldom use attorney acting judicial officers. If there are scheduling difficulties, some attorneys would serve pro bono at one half day per month. Efficiency, quality and service are better with law trained hearing officers vs. assistant judges. With assistant judges, there is an uneven application of the law. Could small claims hearings be done by telephone? Centrally? Would centralized filing be okay?

For JB centralized filing and having three law trained hearing officers to travel to local courts would work. There are/would be standardized forms, procedures, and consistent performance by the judicial officers.

Most people at counters for superior court are for small claims. Small claims needs the human element; there are often walk ins.

A person's driver's license is at issue with the JB.

Small claims could be any type of case. With tickets, the state is represented by a trained law enforcement officer. It is better to use law-trained judges. Get rid of assistant judges.

One judge-one case. Should only pay one judge.

In their defense, they are trying.

Assistant judges are paid about \$250,000 per year statewide.

Magistrates sit four days and have one day a week for findings; have magistrates do traffic on fifth day. Would this dilute federal funding? Would there be more pressure on the general fund budget?

Regarding small claims, there has been a tremendous increase in collections cases filed. If left to their proof, in many cases, they would be unable to prove their case.

The JB has a voice mail box that receives voice messages from callers. These calls are all to be returned within 24 hours. The JB would trade its vacant positions for another hearing officer.

The impact of technology on complex trials means having technology to handle evidence taking as is done in federal courts. There are no pro se litigants in federal courts.

Are there some types of proceedings that could be done this way? For complex trials it would be okay. There could be a regional jury system, e.g., with four or five trial centers. Courts would not have to do annual jury pool determination. With a centralized jury system, qualification and supplemental questionnaires could be handled in one location; there could be a central database with capacity to pick the random draw. With centralized juror notices and excuse handling, there would be consistency. Some courts do combined draws where courts are in one building. Coordination of schedules between administrative

staffs is necessary. With a shared judge in a courthouse with two, or all three, trial courts, superior court never got trial time.

Bulk buying of supplies would be helpful – we would need clear delineation of payments by whom. We do have contracts but sometimes local prices are better, so freedom to purchase the lower price would be important.

A 6-juror panel was suggested. Past research has shown there was a bar to this in the constitution.

Foreclosures could be done centrally, there are a lot of defaults, few attorneys practice in this case type, and hearings could be done by phone.

Statistics could be compiled centrally – do there have to be quarterly and monthly reports? Currently, we don't have a central database. They are separated by county. Regarding financial reports, the statute requires the clerk to do financial reports; it is also a financial control; clerks are still the ones who have to pay attention to financial matters in the court. In the future, this will be less labor intensive.

*Break for lunch*

Resumed, following lunch, on the topic of regionalization of services.

Centralized arraignments are difficult for state's attorneys; they would be easier for staff than regional arraignments.

There is so much redundancy in the services we do that there would have to be a tremendous opportunity for cost savings. This is a challenge; there is some fear regarding consolidation of courts in one building.

Electronic notices would require a rule change. Law enforcement officers have requested electronic notices of hearings, as have some defendants.

Centralization of contract counsel, expungement of records, and record checks would be helpful. The Court Administrator's Office should be better organized for some functions of court managers.

It would be good to have regional legal clinics for pro ses; clerks' offices get a lot of requests for help filling out forms. It would be good to not have court staff having to hold people's hands through the process. It would reduce traffic at the clerk's office counter.

The subject matter at superior court can be complex. There are 15 affirmative defenses. It would not lend itself to electronic filing.

People come in with Law Line forms -- they don't know understand what they have filled out. Seventy percent of the dockets are landlord/tenant cases, foreclosures and collections. It would be good to have a legal clinic to help people fill out forms.

We tried legal clinics but people stopped coming. The need for a legal clinic has changed. Pro ses seem unable to articulate their cases.

Legal clinic/customer services cannot be regional; it has to be local. There should be a staff person available to help pro ses complete forms.

Question 2. Technology. If the Judiciary invests in equipment to accept documents electronically, what would be the impact on court operations, and to litigant access to court services?

This would involve/need e-filing, e-noticing and access to attorney schedules.

DCF is to fax/e-mail disposition reports to courts rather than mailing them to parties – how does the disposition report get to parties? Would incoming e-mail be determined to be spam?

E-mail communication with parties is a direction I don't want to go in.

These would have to go through a specialized system to prevent ongoing e-mail contact. How would you prove receipt of an e-mail message? Would a rule change be required? If an attorney or litigant provides an e-mail address, could/would it be presumed as service?

Use a certificate of service.

You can't assure that everyone has a computer.

Question of equal access; lacking financially to have access to internet.

The JB has an e-mail address – to which things come in to the JB – questions, etc. Law enforcement departments want e-mail notification from the JB.

e-ticketing.

Court reporters provide DVD—courts don't have capability to read DVDs.

Would ability of court staff to be able to remotely access the system electronically, be helpful for case processing? Yes, if documents could be scanned in – paper filings at one location would cause difficulties for case processing from a remote location if documents could not be scanned.

Shifting workloads as needed – paper filings would have to be a thing of the past.

It would be helpful to have a task force for triage to go in and help overwhelmed courts. You would have to check your ego at the door if you think it's a reflection on the way you do your work.

Cross training. Now this happens on a volunteer basis.

Each court has come up with different ways to handle tasks more efficiently; these ideas should be shared.

Global e-mails are used (vs. discussion/message boards) because e-mail is faster. A heavy load of responses clogs up the message board. A well functioning message board would probably work.

Statewide arraignments.

Regional arraignments are bad; video arraignments are better; the quality of equipment is an issue; defenders should be consulted as to how best they can use this process.

A conversion strategy needs to be developed. The preparation for conversion as well as time to convert staff without “losing” them are important issues.

Require superior courts to be part of VTADS and citrix – is this an issue? It is a public access issue. Chittenden and Franklin had already developed their own systems before VTADS. It is anticipated that all courts will be on VCASE.

Develop a good plan for conversion.

Electronic reporting to VCIC and DMV.

Pro ses having access – the Bradford library inquired at one time about having computer access to the courts. People need help with forms, library staff could help?

Use SMART Board technology.

Question 3. Flexibility in use of judiciary resources. If all court managers, clerks and staff were state employees under the supervision of the Court Administrator's office, what would be the impact on court services and operations?

One court, one county, one judge

Consolidation

What happens to the other manager when consolidation occurs? This is causing stress. Some places need multiple managers. How will decisions be made?

The biggest amount of money in the Judiciary is spent on people. Savings would have to come from some kind of attrition, voluntary, or otherwise. This is a big concern.

It is one of the secrets why we are keeping vacancies – to create flexibility. The Judiciary is not interested in hurting people.

Without knowing what will happen, it is hard to figure out how to meet changes and construct a new design.

There is a need to get people's values – litigants and employees.

The weighted caseload study will help determine how many FTEs are required to handle the caseload. It will provide more data.

The former director of trial court operations suggested having three main deputies.

If employees would be cut, one of three managers per county, one person could go to main office – experience is valuable to operation.

The state/county idea is arcane; it was needed when it was created, but it doesn't work now.

There is a fear of job loss among employees. Staff positions will probably be needed.

If all positions become state paid, where will the money come from?

Small claims, facilities rental, revenue streams would change.

We might gain other efficiencies from combining. The hope is to create wins for the state, the county, the taxpayer and the public.

A lot of things to be determined . . . details. Have to show a cost savings.

If all employees are in one place – the scale would allow for filling gaps for a day.

County benefits are arbitrary.

Eliminate assistant judges.

All judges should be law trained.

What about probate judge positions? Family court judges could do adoptions. There is a uniform probate code.

What if probate court resources are reallocated to family and superior court? What if environmental court resources were to be reallocated to superior court? The judges are more specialized.

The administration wants questions to come in, the elephant in the room, what are fears?

Vacancy savings – the reason behind it is more than saving money. It allows for more flexibility.

At this point the list to be reported back to the full group was developed. It is as follows:

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Below are the priority lists of each group:

First group:

Continuity, consistency, standardization; support of each other

Accountability

Restructuring, consolidation, trickle down effects; evaluation/review of probate courts

Accountability of elected officials

Evaluation of assistant judges

Second group:

All judges law trained; no redundancy of services; one case -- one judge

Reallocation of probate to family and superior courts

One manager per county

Third group:

Appropriate technology

Full staffing after clear assessment of what needs are

Centralized services

Unified state and county.

John Douglas discussed the weighted caseload assessment project, how information collection will occur. There will be time study data collection – case types – to determine the time it takes to process a case. It is to identify and measure the work of the court staff process of handling cases; to track everything it takes to process a case; everything that can be tied back to moving a case

through court. This will help to determine how much time, how many clerks are needed. It will take into account the complexity of cases. There is a process of converting measures of caseload into workload to identify the typical amount of time needed to process the caseload. This is not an individual performance review. The data collected will not be attributed to an individual clerk. Individual times will not be shared. Reporting will be made under an ID number. Time recorded by clerks will be tracked in case specific activities by case type, and in the category of non case specific activities. There will be a calculation of the weighted caseload formula to develop a clerk year value as related to new cases filed.

There will be an adequacy of time survey. All judicial officers will be participating. Data collection will begin May 4 and end May 29.