

NOTES, FOCUS GROUP IN RUTLAND, JUNE 16, 2009
JURY ROOM, WITH NEAL RODAR

SHOULD MAGISTRATE SERVICES BE PROVIDED CENTRALLY?

No, people who are looking for money can't afford to travel; it would be the same for small claims. Small claims are sometimes set in Manchester and litigants complain about that.

WHAT ABOUT APPEARING BY VIDEOCONFERENCE FROM A LOCAL SITE?

I agree that hearings should be held locally; with even 10 miles travel for small claims, or for child support, it is difficult for litigants.

IS TRAVEL THE PROBLEM?

Travel is the problem, and more distance makes the problem worse. You have kids, let's get stressed. I am a single parent – check engine light on my car is on. I can't come without a ride.

WHAT ABOUT LOCAL VIDEO AND SCANNING OF DOCUMENTS?

I think that with a schedule like small claims there is a lot of flexibility. A lot of attorneys participate by phone. The small claims clerk has a lot of running around to fax documents, etc.; having an agreement requires a signature on documents.

If the hearing is in person, litigants can see the exhibits.

The cost of technology would be an issue.

Video arraignments, in my opinion, are a catastrophe. People at the lockup are never in the right place.

Something is lost when you are not in the same room; there is so much wasted time, postage to swap papers for signature.

One idea is a shuttle bus; how long will you have to wait for a hearing?

Chittenden has a high volume of hearings – adding on would be difficult.

Distance would be a barrier – winter travel is difficult – people would be reluctant to seek remedies. People who use court often have limited money and don't want to miss a day's work.

ONE IDEA IS DOING AWAY WITH VENUE. THERE IS SOME TALK OF ERASING COUNTY LINES TO BE ABLE TO GO TO A COURT CLOSER TO HOME. SUCH THINGS ARE OPEN TO DISCUSSION.

I believe a hearing officer should have a grasp of local culture. It is important to have an understanding of local subcultures.

Child support cases are paper intensive – more so than in small claims.

In traffic court there are dockets that get dismissed. This is usually because the officer doesn't show up for the hearing. Increasing the travel distance might enhance this effect.

HOW MANY TIMES DO YOU HAVE TO GO TO COURT BEFORE A FINAL HEARING?

The system is wrong; you go for the conference and he doesn't show, so it has to be reset. Defendants elude certified mail. It is a fight everyday. Doing a magistrate hearing this way would be very difficult. I have three kids; one is going to college in two years.

BLB -- Is there a way to reduce the number of times you have to go to court? You have a difficult case.

She is waiting for enforcement.

An idea I have had – in divorce cases – why couldn't we do service by publication? A section in the newspaper that states the hearing list.

Inconsistency between courts in the way service is effected. If she goes back to court, she has to sign a pro se form. If one time when he's served, obtain a sworn statement acknowledging all future service will be by first class mail.

At the case manager hearing, if all parties are required to attend the pro se education class. I spend a lot of time explaining things in the conferences.

Proof of service is needed.

You can file a motion with the court asking to attend pro se education in another court.

WHAT ABOUT A CENTRAL/REGIONAL JURY SYSTEM? WOULD IT IMPROVE EFFICIENCY?

Yes, with one office rather than 14 courts handling it.

The federal courts handle it that way.

Will you lose more than you gain? There is a cultural difference. In the Islands, if you go from south to north, it is different.

With a regional pool run from one place, jurors would be traveling more.

Franklin County gets jurors from Franklin Superior. Superior court's computer system is separate from the State court's automation system. Criminal court gets potential jurors from superior courts.

How much travel time would there be for jurors?

This is an easy one if cost efficiencies are to come from regional administration of the jury pool. Attorneys adapt to culture issues.

The biggest complaint of jurors is they sit and wait too long. It is not that way in federal court. They are not settling many cases at federal court as in state courts where some settle on draw day.

There may be room for ADR in criminal court.

WHAT IF THE JUDICIARY INVESTS IN EQUIPMENT SO THAT DIVORCE AND OTHER CASES ARE FILED ELECTRONICALLY?

If the video technology stuff works, good.

The sheriff's officers complain about bringing a number of defendants to court to wait for a five-minute hearing.

For filing, some litigants don't have a computer.

Probate courts don't have technology.

THE VCASE PLAN – THEORETICALLY – THERE WILL BE A DAY WHEN ALL COURTS WILL HAVE E-FILING. IF YOU HAVE E-FILING STATEWIDE, IS IT NECESSARY TO HAVE THINGS FILED BY VENUE? IS VENUE NECESSARY? YOU MIGHT HAVE FOUR OR FIVE HIGH TECH COURTS AND FILTER SPECIFIC CASE TYPES TO THOSE COURTS. THINK ABOUT THINGS THAT MIGHT BE. ASSUME TECHNOLOGY WORKS.

Will there be a courthouse in all counties?

A lot of litigants are illiterate – we see them at the counter at a difficult time in their lives. We are turning into a subset of family court. People are very needy; these interactions need to be in person to help people through some of the difficult times in their lives.

We would love to have technology.

Back to venue – when you pick and choose about what is where, it is very confusing – you have to be very creative setting up this type of system.

I sometimes wonder if human beings are ready for a venue-less world.

I think that some people need rules, boundaries, structure – it's what we stood for. In doing this we have to be very careful in the way we go about doing that.

We don't want people to lose the respect for the position we hold. Don't lose sight of that.

We work on the inside; we know if this is going on, you do this.

BLB -- Getting assistance/guidance from computer – could we set up computers with staff people to help?

A lot of people don't have money to get to court.

Literacy levels are a concern, probably in 5% of long term cases.

But you have to be careful because those kinds of people prey on user friendly courts; you have to be careful how you assist them.

With the new ADA burden, there will be more on the service provider to determine if this person needs additional assistance in a dignified manner.

With reference to recent training by Christine Boraker, we were told you can write what the person says and state it was dictated by the person.

Probate court is getting more complicated like family court.

BLB -- I am on a committee called diversity committee; we are working on training for assisting litigants. All must keep in mind that it's a very fine line between helping and giving advice; words must be chosen carefully.

I feel bombarded with all the stuff we need to do.

When we have a jury trial, a court staff person has to sit in court all day to monitor the recording.

This is handled differently in different courts with different cases.

I heard some superior court judge had to deal with a case that had stenographic paper tape notes from a now deceased court report years later.

Addison County has talked to Adult Learning which is willing to have people come to them for help.

WHAT WOULD BE THE EFFECT OF MAKING EVERYONE A STATE EMPLOYEE?

This would reduce the number of managers and make managers more accountable.

It would be really helpful if we all knew how to do others' jobs; this would be a sensible use of staff if all are working for the State of Vermont Judiciary.

In our court you have to know all the dockets.

WHAT WOULD BE THE EFFECT OF ELIMINATING THE SIDE JUDGES AND HIRING LAW TRAINED JUDGES?

That would be walking on tradition.

We are unique; the side judges would not like that.

WHAT ABOUT A PRINCIPLE OF THE VERMONT SUPREME COURT SUPREME COURT THAT ONE CASE GETS ONE JUDGE AND THAT JUDGES WOULD BE LEGALLY TRAINED?

I am concerned about small claims – a \$5000 claim can be as complicated as at \$500,000 claim.

If it was my case, I would rather have a lawyer deciding it.

They are administrators of the county and its buildings.

Finders of fact in family law.

Time spent in chambers discussing with assistant could be deciding a case. There is efficiency there.

There is some redundancy in the assistant judge system – there could be cost savings.

They cannot make legal decisions; they can decide facts. In a family case they can sit with a law trained judge. If they do not agree on the facts, it's a

stalemate with one overruled by two. Practically speaking there are usually no disputes.

Do they help the parties? I don't think so.

Some of us don't think it makes sense to pay for multiple judges in one case.

How do judges feel about assistant judges?

One judge feels they have no knowledge of law.

They sometimes bring a benefit and they were helpful.

If they were trained in law, it would be better.

Some do traffic, uncontested divorces, small claims.

Some choose to; some don't.

They are really in charge of themselves.

Have they thought about expanding the cases that the magistrate can hear?

What about having side judges if they were only paid by the county?

With no findings day for the magistrate – the magistrate could handle traffic and RFA when not doing child support.

The impact of cross training on staff is huge; in every other industry people are cross trained. It improves effectiveness.

It is a cost up front, but it would be a good investment.

There would be a lot of reluctance; in past it didn't go well.

What impediments would there be? Territorial, reluctance on both sides. People might feel threatened or that their job is threatened.

The court manager needs to be held accountable.

You have to designate a person to some docket.

Don't let a cross trained person be stuck in the middle having to do both district and family court assignments.

Some days you can't get your own work done.

When you are cross trained, you do what you have to do that day based on prioritizing.

How many district and family courts in one county are in different offices?

We have a working court manager in Bennington who does everything.

Whether it is in your job description or not, if it needs to be done, take the initiative.

How many take their lunches when they should?

IFP's are my biggest gripe. This process is abused. They file IFP and don't show up for the motion hearing. There should be a set price.

The filing fee goes into the general fund.

Post-judgment motions should all cost something for everyone.

We referred that to Family Court Rules Committee.

Submit a proposal to Family Court Oversight Committee for rules changes.

Re: assistant judges. They are talking about making all court employees state employees. I feel safe in my job, but if the assistant judges are gone, I am worried about losing my job if it is decided to make all court employees state employees. So, if necessary, I would support the assistant judges' position.

We have people leave court after their hearings without their order. Because they won't wait, we spend 78¢ to mail it to them.

Superior court clerks are paid more than state employees. The state docket clerks would like to have all employees state employees.

WAYS IN WHICH VARIOUS CASE TYPES COULD BE REALLOCATED
WHAT WOULD BE THE IMPACT OF UNITING PROBATE COURT WITH FAMILY COURT?

We work closely; we have a lot of cases that intersect. I can see it all happening. What will it look like? How will individuals be affected?

It could work. Sometimes cases should be in family court, e.g., guardianship.

Estates don't fit in family court as much.

It's a good idea – we don't know about wills and estates.

SHOULD THE ENVIRONMENTAL COURT BE ABSORBED INTO THE SUPERIOR COURT?

There is a big difference in pay grades.

You would have to re-look at how individuals are compensated.

Some county employees have better pay and better benefits. The retirement plans are better in some county courts.

You would integrate staff and duties, but what if one court's staff gets paid more?

If all employees are state employees, the union would cover them.

If no performance based increases, I wouldn't agree with that.

Environmental court hearings are long; the decisions are long; what about courtroom spaces?

There are eight people in rental space for environmental court now. The goal is to get them back into Montpelier.

As a single mother, I think that people are human. When you are thinking about putting someone on the chopping block – there are changes we can do – take into consideration they are humans with families.

When I first worked in the court, divorce was in superior; tickets were in district, etc. It looks like we are going back to the way it was. The way things are now is expensive and burdensome. It might not be such a bad thing. Keep the human factor in mind – the workers, the litigants and technology.

We must keep the mission in mind. VCASE will be a helpful thing about the future for our children and grandchildren.

Just as evaluating a business and the human aspect, don't compromise the integrity of what the court does, and don't lose that (within or without). Keep in mind the human element – staff and those we serve.

Attorney Dardek gave his thanks to everyone for offering suggestions. He is one of two practicing attorneys on the Commission. The human aspect is important to him. He stated he would be happy to hear from people on that in the future and he provided his phone no: 775-7525; e-mail sdardeck@tdlg.law.com. He stated he would be happy to speak to anyone who has a perspective.

I like my job; I know there will be changes, but I'll be happy to be there in the future; keep in mind that people like their jobs.

I am proud to work for the Judiciary. There are high standards. We are accountable for our actions. We need to put a lot of effort into litigant education. We owe people as public servants; that they as we need to be accountable for information they receive by coming to court.

Steer them away from bothering staff.

There are some volunteer lawyers who receive CLE's.

More focus on pro se resources – being too user friendly is not great. There should be pro se litigant outreach. People working in the system who have to use the system.

Please keep in mind that with this whole process staff would have rather have been involved sooner rather than later than others.

It is affecting morale – speedy decisions are needed

It is putting wedges between employees.

The sooner people know, the better.

Some think the decision is already made, that this is a feel good effort.

Employees are feeling uncertainty about their jobs.

People need to know the direction we are going in.

Decrease the inconsistency between similar courts and increase the accountability of management. There should a more uniform approach.

BLB -- I wish I could alleviate some insecurities. It should not be a secret we are looking at probate courts. Remember till 18 months ago we were ignorant that the bottom would fall out. We have made an effort to avoid layoffs. No one is anxious for layoffs. The Chief asked the legislature give us a reprieve on

budget cuts. We cannot contract or expand, we can't shift people to tasks as they contract and expand. Money is tight.

Regarding probate court, I have not heard anything bad about probate court. It's a neighborhood court. One thing we have learned is that in counties with two probate courts in the county as the terms of the extra districts expire, they will be consolidated. Probate court statewide will be looked at. In Chittenden County there is one judge with three staff that handle the caseload. Other districts around the state will be looked at and compared. Is there a possibility of reducing the number of districts? This is unknown.

Will it be absorbed into family court? I have my doubts. What it does is so unique. There are only a few appeals that go to de novo trials. A lot of stuff is in flux – concern about putting big fights into superior court; make probate court a trial court, elected or appointed judges in probate? Nothing has been decided. We all agree government can wax and wane. The core functions of the courts must be preserved. We are cognizant of the court functions. Do not give up heart. We are all trying.