

Public Input and Information Sharing Work Group

Report to the Vermont Commission on Judicial Operation

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Process

A Public Input and Information Sharing work group was created to manage the process of obtaining stakeholder input about the judicial system and possible reforms to make the judicial system more governable and efficient while improving service to the public.

A process was created that began with a questionnaire that addressed the areas of study identified by the Legislature. The questionnaire was provided to various identified groups, and each group's written survey responses were summarized. A focus group session was then held with each of the identified groups, starting with the survey questionnaires and answers, but branching out to cover a broad range of possible judicial reforms. Commission members and Supreme Court Justices attended each group meeting.

The first phase of information-gathering surveyed groups that are part of the court system, including court clerks and managers, trial court judges, judicial bureau hearing officers, magistrates, the judges of probate, and the assistant judges. Court staff at all levels, as well as representatives of the Court Administrator's Office, were also canvassed.

The work group next focused on a second identified group: participants/stakeholders in the justice system, including State's Attorneys, Assistant Attorneys General, Legal Aid attorneys, public defenders, and county bar associations. A third round of meetings occurred with identified constituencies we labeled "court partners," and included the Office of Child Support, Department for Children and Families, Departments of Health, Department of Corrections, Council on Domestic Violence, Human Rights Commission, law enforcement, and numerous other agencies and service providers.

In total there have been 41 focus group meetings [See appendix A] involving 77 different agencies/entities [see Appendix B], with over 600 people participating. Two more focus groups are planned for early September, one for legislators and one for governmental and non-governmental court partners.

There were over 530 people who participated in the survey questionnaire. The number of people responding to the questionnaire varied widely among the groups. For example, twenty-two attorneys responded to the questionnaire from Washington and Orange counties combined, while only five responses were received from Caledonia, Orleans and Essex Counties combined. The questions posed in the survey provided the springboards

for discussion that occurred when each focus group or regional forum convened.¹ Meetings were held at various locations. For example, court managers, public defenders and state's attorneys had focus groups incorporated as part of their annual training days in April and in June. At these meetings, discussions were facilitated by a mixture of consultants from the National Center for State Courts and professional mediators.

Meetings with each Vermont county bar association were held in most counties, with some counties combined for efficiency, and were moderated by Robert Paolini, Executive Director of the Vermont Bar Association.

The Questionnaires asked each group the following four questions:

1. Are there court services or administrative activities currently performed at the county level that could be performed either regionally, centrally, or electronically to improve the efficiency or cost-effectiveness of court operations?
2. Is there technology that could be introduced into the court system that would make judicial operations more cost-effective or improve access to the court system, while at the same time maintaining the quality of justice services?
3. What can be done to allow more flexibility in the use of judicial resources (people facilities, dollars), particularly as workloads and funding levels increase and decrease?
4. Are there ways in which the types of cases heard in our various courts (superior, district, family, environmental, probate, judicial bureau) could be reallocated in a way that would increase the effectiveness of judicial operations or improve court efficiency?

At each focus group meeting, notes were taken of comments and suggestions made without attribution to the speaker.²

Themes and Proposals

We received more than 360 ideas, suggestions, and proposals via the surveys and focus groups with various court stakeholders. Proposals covered a broad range, sometimes moving beyond the scope of the Commission. Ideas not directly related to the work of the Commission will be duly noted and saved for future consideration by the Judiciary in the context of other court improvement projects.

The suggestions received reflected several themes that recurred across the various stakeholder focus groups. Some of these themes are relevant to the immediate budget problem and others look more to the future.

¹ The survey response summaries are posted on the Commissions webpage, which can be reached through the Judiciary website: www.vermontjudiciary.org.

² Notes from the focus groups are posted on the Commission webpage, which can be reached through the Judiciary website: www.vermontjudiciary.org.

Theme: Consolidate court structure. Many suggestions were made about combining court types in various ways within counties and across county lines. Similar proposals were put forward to consolidate local court administration, clerical personnel, and court staff. Stakeholders made a several specific suggestions about combining certain case types within one court, such as consolidating the Probate courts and cases within the family court or the superior court systems in order to gain synergies and improve efficiency for the court and/or its litigants. Finally, numerous stakeholders proposed closing the courts in the smallest counties. Many commenters emphasized that while court administration and some services could be consolidated, it was important to ensure local physical access to courts, particularly in those courts most used by pro se litigants. A number of comments were received that questioned the impact of change on the local legal culture of communities and the environment of probate court.

Theme: Consolidate court management. Many comments were received concerning the inefficiencies caused by a disjointed management system between the county and the state. It was suggested that all the courts should be managed by a central authority to ensure adequate and consistent division and control of resources.

Theme: Professionalize entire court system. The proposals here are all the same and simple in concept. Stakeholders propose that all judicial officers be lawyers, regardless of the trial court type in which they serve or the types of cases heard.

Theme: Increase assistance to self-represented litigants. A number of stakeholders felt strongly that the Vermont courts need to provide additional services to self-represented litigants. Participants felt that this idea also had the potential to improve court efficiency by helping litigants to be better prepared to represent themselves and comply with resulting court orders. Although a broad range of suggestions were made, many stakeholders suggested simpler forms, self-help centers at the courts, and software that helps litigants assemble the forms they need for particular case types.

Theme: Redistribute existing resources to increase efficiencies. The comments on this theme reflected two kinds of redistributions. First, some courts are much busier than others, suggesting that a reallocation of staff or of the work could create a greater workload capacity across the court system even without additional staff. In addition to rethinking staff allocation, providing a new approach to small and mid-sized civil matters through streamlined discovery and process could enable greater access to the courts. Second, many stakeholders observed that the probate courts were significantly less busy than the superior, district and family courts. Again, a reallocation of judicial and administrative staff might yield efficiencies.

Theme: Utilize technology as much as possible to increase efficiencies. Even in the short-run, stakeholders saw potential opportunities to better use technology in the courts. Some fairly straightforward ideas included an improved phone system, a statewide self-help 800 number, and better use of videoconferencing. Several other ideas in this same vein involved incrementally using existing technology in a more comprehensive way or with improved service levels, including simple approaches such as using email to set

hearing dates. These stakeholders did not feel that the courts needed to wait for the larger technology projects to be completed before realizing some of these gains in efficiency. At the same time, many of the lawyer groups were enthusiastic about the possibilities offered over the long-term by technology, such as statewide scheduling and electronic filing.

Theme: Regionalize some cases and trials. This more fundamental change was proposed in a number of focus groups. One aspect of this proposal would group the current counties into regions, and one court in each region would provide a higher level of services and courtrooms appropriate in which to hear more complex cases. These regional trial courts might each have a high technology courtroom and judges and staff who were assigned to handle complex or specialized litigation. Higher levels of special expertise and capital investment in the regional trial courts would be offset by a lesser need for these scarce and expensive resources in the trial courts in the other parts of the state. Another aspect of this proposal would regionalize both the administration and judicial presence of superior and probate courts, maintaining a pool of judges in each region who could then be assigned to and move around to particular locations to ensure a physical judicial presence in each county.

Theme: Standardize court business processes to an appropriate degree. A somewhat surprising number of stakeholders commented on the variability of court business processes in different counties or in different trial courts within the same county. Stakeholders felt that additional standardization would enable the courts to be more efficient and provide litigants with a more consistent experience. Some stakeholders suggested that standardized business processes would enable the courts to make better use of new technology and new services like self-help centers.

Theme: Centralize some basic services using technology. Stakeholders from several focus groups realized that as new technology is implemented, it will be possible to centralize the provision of some services to gain efficiencies and even improve service. Suggested examples of such services include statewide scheduling of lawyers, centralizing jury pool management, the provision of interpretation, video testimony by expert witnesses, website capabilities like online payments, and collections. Of course, much of the basic technical infrastructure is already centralized to a certain extent, so some of these stakeholder suggestions just carry out that logic to its fullest extent.

Theme: Transform court staff into a virtual clerk's office. A number of stakeholders foresaw that several years from now, the existence of a centralized and standardized case management system, electronic filing system, and electronic case file will enable both court staff to access and work on any case in the state. Rather than moving court staff to the work, it will be possible to move the work to the staff. To a lesser extent, the same kind of thing will be possible for judicial officers. These capabilities will help smaller local courts to retain their presence in rural areas while simultaneously improving court efficiency as staff are better utilized and workloads are leveled out.

Theme: Redirect staff from basic clerical duties to tasks that economize judicial officer time. Only a few stakeholders looked further out and commented on the kind of work court staff might be doing if technology and other improvements provided some much-needed efficiencies and staff were free to work on other tasks. Several stakeholders proposed that staff could spend more time on case management, thereby making case processing more efficient and, in effect, freeing up the court system's scarcest resource—the judges. It was noted that many states have a more streamlined probate process for estate administration that does not require judicial time in the absence of a dispute. Stakeholders suggested a second reorientation of staff toward more help for self-represented litigants, which is another idea that could save time for judges.

Proposals and Criteria for Evaluation

The Mission and Principles for Administration of the Vermont Judiciary adopted by the Commission [see Appendix C] establish the threshold criteria against which all suggestions are being reviewed. Suggestions that are consistent with the mission and principles would then be evaluated based on: cost, timeliness, feasibility, and service impact. Given that the court needs to reduce its budget significantly in the short-term [and probably also beyond that], suggestions that do not yield cost savings or efficiencies are less useful for Commission purposes. Ideas that add to costs are only beneficial if they help the Judicial Branch achieve the other Commission goals of Supreme Court management and control of a unified court system and maintenance or improvement of access to justice for all Vermonters.

Timeliness is important, since the Court must achieve major budget reductions in FY 2011. The Court anticipates the possibility of additional budget cuts beyond 2011, so planning for several waves of cost savings is prudent. Therefore, even proposals taking longer to implement or deliver cost savings are important. Ideally, there should be proposals that deliver fairly immediate cost savings and other suggestions that start to yield savings over the next three or four years beyond the initial period.

Feasibility is also critical, since a proposal that cannot be practically achieved is of little help to the Court. Barriers to feasibility come in many forms. Some suggestions may cost too much to implement or require staff resources that simply are not available. Some ideas may not be possible because facilities cannot support them or the necessary technological capabilities are not yet in place. Finally, political opposition may render some proposals less practical if key stakeholders will not support them. This latter concern is a difficult one, since the Commission is by definition considering changes that would probably be politically challenging to implement during normal times. Judging the art of the possible in a crisis is not easy to do.

Service impacts are very important when suggestions are being considered. The Court would like to see services improved or at least not degraded. The sheer size of the budget cuts, however, may force the Court to consider proposals that involve changes in service levels. In those cases, the goal would be to try to mitigate those impacts as much as possible. In many cases, suggestions change the ways that current services are provided

or add new ways to deliver the same services. In other cases, the proposals add new services that will improve the Judiciary’s ability to service the public. No less important are internal services that enable the court system to operate more efficiently and maintain its public services in the face of budget reductions.

Recommendations

1. Any recommendations made by the Commission should take account of these themes suggested by the various court stakeholders.
2. The themes contain a mix of proposals that can be implemented along different time horizons, so the Commission should separate the ideas into several “waves” of improvements.
3. The Commission should prioritize a small number of recommendations, based on these themes, so that the court system is not overwhelmed by too much change at one time.

Respectfully submitted to the Commission on Judicial Operation

By: _____
Marilyn S. Skoglund, Associate Justice

Appendix A

1. Assistant Attorneys General
2. Assistant Judges
3. Court Administrator's Office & Supreme Court Staff
4. Court Clerks and Managers Shelburne Room,
5. Court Clerks and Managers 4th Floor Library
6. Court Clerks and Managers Essex Room
7. Court Partners – Disability Advocacy Grouping
8. Court Partners – District Court Grouping
9. Court Partners – Domestic Violence Grouping
10. Court Partners – Family Court Grouping
11. Court Partners – Juvenile Justice Grouping
12. Court Partners – Law Enforcement Grouping
13. Court Staff June 16 (Rutland AM 1)
14. Court Staff June 16 (Rutland AM 2)
15. Court Staff June 16 (White River Junction PM 1)
16. Court Staff June 16 (White River Junction PM 2)
17. Court Staff June 17 (National Life, Montpelier AM)
18. Court Staff June 17 (National Life, Montpelier PM)
19. Court Staff June 17 (National Life, Montpelier AM)
20. Court Staff June 17 (National Life, Montpelier AM)
21. Legal Aid, Law Line and Legal Clinic
22. Probate Judges
23. Public Defenders
24. State's Attorneys
25. Trial Court Judges, hearing Officers and Magistrates (Blue Parlor)
26. Trial Court Judges, hearing Officers and Magistrates (1st Floor Library)
27. Trial Court Judges, hearing Officers and Magistrates (2nd Floor Library)
28. Vermont Association for Justice
29. Vermont Bar Association Board of Managers
30. VBA Regional Forums – Addison
31. VBA Regional Forums – Bennington
32. VBA Regional Forums – Caledonia, Orleans and Essex
33. VBA Regional Forums – Chittenden
34. VBA Regional Forums – Franklin, Grand Isle, Lamoille
35. VBA Regional Forums – Rutland
36. VBA Regional Forums – Washington and Orange
37. VBA Regional Forums – Windham
38. VBA Regional Forums – Windsor
39. VBA Regional Forums – Probate & Trust Law Section
40. VBA Regional Forums – Family Law Section
41. VBA Regional Forums – Criminal Law Section

Appendix B

1. Vermont Protection & Advocacy
2. Human Rights Commission
3. Disability Law Project – Vermont Legal Aid
4. Cognitive Interpreters
5. Language/Deaf interpreters
6. Other language/immigration issues
7. Vermont Law School – Family Law Clinic
8. Vermont Legal Clinic
9. Department of Health
10. Division of Alcohol and Drug Abuse
11. Mental Health, including both state and local mental health workers, Department of Corrections/Probation
12. Commissioner of Corrections
13. Court Diversion
14. Vermont Criminal Justice Training Council
15. Agency of Human Services Field Directors
16. Restitution Unit
17. Center for Crime Victims Services
18. Domestic Violence Network Against Domestic and Sexual
19. Council on Domestic Violence
20. Vermont Criminal Justice Training Council
21. Have Justice Will Travel
22. Victims' Advocates in the States' Attorneys and Attorney General's offices
23. Batterer's Intervention Program
24. Domestic Violence Programs with Burlington police
25. Office of Child Support
26. Department for Children and Families
27. Children's Mental Health
28. Local contractors
29. Education
30. Rural education workers
31. Guardians ad litem
32. Juvenile Defender
33. Agency of Human Services Juvenile Justice Unit
34. Children's Mental Health Adolescent Unit
35. Court Diversion
36. Contract Attorney – Justice for Children
37. Secretary of the Agency of Human Services
38. Department of Public Safety
39. State Police
40. Sheriffs
41. Investigator for Attorney General
42. Vermont Criminal Justice Training Council
43. Police Chief's Association

44. Assistant Attorneys General
45. Assistant Judges
46. Court Administrator's Office
47. Supreme Court Staff
48. Court Clerks and Managers
49. Court Staff
50. Legal Aid
51. Law Line
52. Legal Clinic
53. Probate Judges
54. Public Defenders
55. State's Attorneys
56. Trial Court Judges
57. Hearing Officers
58. Magistrates
59. Vermont Association for Justice
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61. VBA Regional Forums – Addison
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67. VBA Regional Forums – Franklin
68. VBA Regional Forums – Grand Isle
69. VBA Regional Forums – Lamoille
70. VBA Regional Forums – Rutland
71. VBA Regional Forums – Washington
72. VBA Regional Forums – Orange
73. VBA Regional Forums – Windham
74. VBA Regional Forums – Windsor
75. VBA Regional Forums – Probate & Trust Law Section
76. VBA Regional Forums – Family Law Section
77. VBA Regional Forums – Criminal Law Section

Appendix C

Vermont Judicial Branch Mission Statement

The Vermont Judicial Branch of state government was established under the Vermont Constitution to protect the rights of all Vermonters by providing equal access to justice and to the courts, and to provide an opportunity for the merits of every legal dispute to be impartially heard and timely decided. The Judiciary, as a co-equal branch of government, is an important element in the constitutional balance of power between the Executive, the Legislative, and the Judicial Branches. The courts provide a forum for resolution of disputes involving the range of human conflict, including cases that address the protection of individual rights, public safety, and business and commercial concerns. The purpose of the Courts is identified in our constitution and is essential to the maintenance of an orderly society.

It is the mission of the Vermont Judicial Branch to provide a justice system that engenders public trust and confidence through impartial decision-making and accountability for the use of public resources. The general public and those who use the court system will refer to it as accessible, fair, consistent, responsive, free of discrimination, independent and well-managed.

Principles for Administration of the Vermont Judiciary

--The Judicial Branch is an independent, co-equal branch of government; its judges are fair, impartial and competent, and it is composed of people of integrity who will interpret and apply the law that governs our society.

--The Supreme Court operates the state court system as a unified system, in accordance with the Vermont Constitution, Ch. II, Sec. 4, which provides that “the judicial power of the State shall be vested in a unified judicial system....”

--The Supreme Court manages, controls and is accountable for all resources and buildings that support state judicial services in Vermont in accordance with the Vermont Constitution, Ch. II, Sec. 30, which provides that “the Supreme Court shall have administrative control of all the courts of the state....”

--The Supreme Court deploys resources in a manner that is cost-efficient for the taxpayer while providing access to court services that is cost effective to litigants.

--Court services are provided in a system that is open, affordable, understandable, and with a level of service that is appropriate to the characteristics of the case.

--Court services are provided in a system that ensures access to justice and respect for all litigants and members of the bar.

--Case decisions are made by appropriately educated and well-trained judicial officers; trial court judges are capable of working in any court, hearing any case that needs to be heard on a particular day.

--Judicial officers issue timely decisions that do justice for the litigants, establish clear and ascertainable law, and apply the law correctly to the facts.

--The Judicial Branch is organized to minimize redundancies in court structure, procedures and personnel, and to provide an efficient balance of workload among courts.

--Funding authorities provide resources that are appropriate to the structure and provide long-term stability in the budgeting, funding and operations of the Judicial Branch.