

## Bennington County Bar Association Focus Group

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**Note Taker: Elise Milne**

This bar chose to gather one hour early to cover what the Commission has been doing and its goals and aims.

The Chief Justice opened by explaining that the goal of the Commission is to establish a central authority to make rational choices for the courts system. There is a need for the ability to efficiently administer state assets for judicial services. Vermont is 7<sup>th</sup> in the nation of states expecting to see cuts in the next fiscal year. We need to restructure the system itself.

An individual asked if instead of analyzing the pieces of the courts system if the Commission had looked at redesigning the system from the top-down, the Chief Justice responded that that notion is what gave rise to the Commission.

**Question 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?**

Nobody thought that a centralized jury questionnaire and administrative function system based in Montpelier would be a bad idea.

They thought that specialized judges based regionally would make sense. It is frustrating for clients, lawyers, and judges alike when the judge is not familiar with the type of case they are called to. The regional specialized judges would not have to be rotated.

The Chief Justice pointed out that other states look to our judges as an example; as nimble.

A further issue pointed out was that we don't have large courthouses that might suit specialized judges as they might in a more urban setting.

The question was raised if regionalization might compound issues of the accessibility to justice, especially in rural settings. They thought a regionalization of information rather than a physical regionalization might make more sense.

The group felt that the Environmental Court model, while proven efficient, would not work in other courts because the case load is simply too great.

It was stated that consolidation into, say, one courthouse in every county, would not necessarily make the most sense. For example, in Bennington they have a long standing tradition of north shire and south shire which they felt was important to protect.

**Question 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?**

We need a better phone system. One that includes conferencing for shorter hearings that really don't require a lawyer physically driving to court.

We need a uniform standard of technology across the counties. The group was very adamant that a uniformity of technology across counties is critical. However, they were weary about the up front cost of supplying the counties with an updated and uniform technology system.

There is an issue with who pays for technology, and subsequently varied hardware, etc., from county to county.

The group agreed that although their county is equipped with a video arraignment system it is very difficult to work, and not very useful.

The group agreed that it would make sense for lawyers to receive notifications via email.

They felt that only 2 or 3 courts technologically outfitted to deliver the type of trial you could receive in a federal court are necessary.

The group felt that a "push" on technology was a beneficial thing for the courts system, but that it must be utilized in the right way. Face time with the judges, for example, was seen to be important to their clients and something which should be maintained.

**Question 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?**

The group agreed that there should be more generous designation of complex cases among Superior Court judges.

They thought that it doesn't make any sense to generalize judges like is currently done in VT. This system not only founders where a judge is not well qualified to sit on all the courts, but also in that it discourages some well-qualified applicants from putting their names forth.

They pointed out that the issue with rotation is that as soon as it is announced lawyers start looking to the next judge, and how they will handle a case. They thought the rotation period should be extended to at least two years. A longer rotation would also be beneficial to the clerks. They felt that rotating the judges on a case-by-case basis could make sense.

They thought that in rural cases a judge rotating with a neighboring courthouse could make sense. Although, this does vary by county; some courthouses are more isolated than others.

The group recognized the flooding of cases through the District Court. The judges are thus more prone to dismiss or decriminalize. They questioned the justness of this.

The group felt that the legislative momentum was towards criminalizing more and more, when the movement should be in the other direction. They felt that the legislature, while continuing to criminalize more and more, failed to realize the consequences of this on the judicial system.

They wondered if one District Court judge was stationed in the county and was on a complex case for a number of weeks that was to deal with other cases.

It was posed that another judge, possibly a magistrate, could be brought in to deal with the other cases.

The consensus seemed to be that it made more sense to bring another judge in to do trials than calendar call days and have the sitting judge deal with the daily business.

They thought that the Environmental Court model made sense and could be applied to other courts.

They felt that the idea of “specialized masters” to deal with some cases, possibly 6 or 7 in each county would be beneficial.

It does not make sense for a landlord who’s already pored a ton of money into a case to continue at a certain point.

The group felt that assistant judges residing in certain courts could be unpredictable, and the consequent dispensations of justice heterogeneous. They might be best used on traffic tickets and big game.

It was recognized that there is an issue in the courts system with the division between what the county and what the state pays for. This division was seen to create problems of inflexibility and add to the awkward and cumbersome structure.

An individual felt that putting time limits on cases was the absolute wrong way to go about guaranteeing greater efficiency in the courts. They felt that a case should be allowed as much time as it should require; limitations on time are not what justice is about.

**Question 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?**

It was stated that the Commission should examine volume and what is contemporaneously in demand. For example, at the moment foreclosures require particular attention.

The group disagreed on whether or not separating preliminary from trial parts would be for the better. Disagreement between the judges leads to deficiency.

They suggested that side-judges are not useful in the family courts and could be better utilized in the judicial bureau.

They had no problem with mandatory discovery disclosures.

They didn't seem to agree with the movement of adoption to family court.

**Summation**

The priority of the Commission is to make systematic changes, but they can't do everything. The notion that the Commission has already made judgments and decisions is false.