

Vermont Commission on Judicial Operation

June 12, 2009

Franklin, Lamoille and Grand Isle County Bar Associations Meeting

Facilitator: Bob Paolini

Note Taker: Elise Milne

Mr. Paolini opened the session by acknowledging the presence of various legislators at the meeting and addressing the order of the day to be discussion on the five questions which were circulated in the survey. However, he did note that everything is open to discussion.

Chief Justice Reiber further opened the discussion by stating that the commission has no hidden agenda. That the choices the court system is facing are to be answered politically. He further pointed out that the crisis currently being faced is one of historical proportions. Vermont is number seven on a list of states expected to see the largest percentage cuts. Thus the commission is aiming to put out fires; to address not just fiscal, but structural deficiencies. He was surprised by the criticism of non-engagement on behalf of the Supreme Court brought forward by those present.

The sentiment from the group overall was that the Commission was already headed towards a foregone conclusion”.

Question 1: Are there court services or administrative activities currently performed at the county level that could be performed regionally, centrally, or electronically, to improve the efficiency or cost-effectiveness of court operations?

The response across the group was to question what the effects of the above stated question translated into action would be.

The Commission team present made it known that there is a centralized e-filing system being investigated, and is to be implemented over the next three to four years. However, even once this plan has been implemented access to justice issues will be addressed; it will be still be possible for individuals who are incapable of computer access to access the files on paper.

It was generally agreed that the system of filing from one court to the next is not uniform and that this creates issues.

The consensus was not that there are many functions that could be performed more centrally than they currently are which might add to efficiency or cost-effectiveness.

It was said that in Franklin County there were 200 probate cases in April alone, whereas in 2008 there were 700 cases all year; it was felt that now is not the time for consolidation.

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?

This topic was discussed mainly with regards to the centralized filing system mentioned above.

The possibility of consolidating all of the courts into one courthouse per-county was considered and generally disqualified by the group. They asked where the funding for building a structure to house such courts would come from.

It was agreed that teleconferencing makes sense, particularly with regards to short meetings.

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 consensus across the group was that the judicial systems in their respective counties were already running a very lean and mean operation; that there was nothing to cut back on.

One suggestion was made that the courts close from the 23rd of December to the 2nd of January. It was stated that in Franklin County when one court is closed for its weekly half-day the other supplements.

It was stated that there will always be two levels of management (state and county) in the courts system, and that discussion on cooperation between these two levels is needed.

The consensus across the group seemed to be that the purpose of the Commission was a power struggle, not a fiscal restructuring. It was stated that the Superior Courts account for 1.7% of the

Judicial Budget, which is 3.2% of the state budget. The group was unconvinced of the Commission's intentions.

It was stated that the improvements seen to be put forth by the Commission require investment which should be put forward in a time of surplus, not now, when the courts are more strained than ever.

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?

The notion was put forward that the threshold for Small Claims Court. The way that the system currently is lawyers are motivated to go to the Superior Court in order to avoid the user-friendly Small Claims Courts.

It was agreed that de novo cases in Probate Court should be eliminated.

There was a suggestion the more things be handled administratively, for example, undisputed divorce cases do not need to be brought before a judge. Many landlord-tenant cases might be handled administratively. This was balanced by the argument that this could lead to administrative clogging and a disservice to justice.

It was stated that the question is based upon assumption. There are steps that could be taken towards efficiency, but this would not necessarily lead to greater effectiveness. More cases being passed would not necessarily signify a more healthy courts system.

The consensus was that it makes sense to assign a judge to a court and leave him or her there.

When a judge leaves a court all of the affairs are not necessarily in order, the next judge wastes time playing catch-up and the lawyers must go through redundancies with the new judge.

Question 5: Please suggest other ideas that would enhance the efficient and effective delivery of judicial services to Vermonters.

It was agreed that more bite must be put behind procedural rules violations.

Budget cuts across the board were agreed to be inappropriate in a time of strain on the courts.

More funding was seen to be needed from the state budget.

It was suggested that court managers be involved to an extent that the speaker was unaware of.

Summation:

The Chief Justice concluded by reassuring the group that the judicial branch was not bowing down to the other two, but that on the contrary, he felt that the branch has a constitutional duty to balance the other two and assert itself. Furthermore, that an “us versus them” mentality is destructive in dealing with the legislature. The Commission and the Supreme Court has made no

decisions, and these meetings are constructive. The decision-making process is not top-down and the bar meetings reflect this.

There was a schism in the group between those believing that the process has been made open and accessible, whether one agrees with it or not, and those who believed the process to be riddled in secrecy. Concern was made over the availability of the minutes of the Commission's meetings. This concern was not consistent across the group.