

## **Rutland County Bar Association**

**June 26, 2009**

Facilitator: Bob Paolini

Note Taker: Elise Milne

The manager of the county bar stood and introduced the Chief Justice. He said that the county has a long-standing tradition of being a state leader in innovation.

The Chief Justice addressed the group. He said that he understood that people's historic frame of reference was threatened, and furthermore their livelihoods. This led to the negative undercurrent that is meeting the Commission; the anxiety is understood and is reasonable. He stated that the goal of the Commission was to design a system which would allow the judiciary to better harmonize their resources against growing demand. Under the constitution of the state of Vermont the Supreme Court is granted the power to practice uniform control across the state, and this power must be put into practice. He emphasized that the system is currently in a state of crisis. Between job vacancies, half-day closings and furlough days the system has already made large cuts and must forecast more. The state is facing up to 20% cuts in the next fiscal year. VT is 7<sup>th</sup> on a list of states expecting to see cuts in the coming year. He warned that unless a radical restructuring is adopted and the Supreme Court is recognized as the solitary authority over the system measures may have to be taken which would not be the best. The courts which the state pays for may have to be closed. When the legislature cut the budget they did not correspondingly cut the rent we pay, and other expenses which are fixed by the state. Thus these discussions which are taking place are vital in order to guarantee that cuts are made where they should be. The bar needs to be aware of how critical the situation is and take heed.

Mr. Paolini opened the discussion by stating that the Commission had become more important than it was originally designed to be as the crisis had hit the system. He said that the group should imagine themselves to be the founding fathers of the state of Vermont, and envision what a just system would look like; would it look like what we have today?

It was suggested that we need to adopt an overall philosophy as a starting point. The individual thought that we should make cuts where they would affect the least amount of people. That would mean making cuts in the rural counties. It may not please everyone, but it's what has to be done.

It was felt by another individual that we have to create an ideal model and aspire towards it with all of our will, rather than simultaneously struggling with structure and budget. The humanitarian aspect of cutting staff should be handled separately. The judiciary should be in charge of its own branch, and thus be the sole overseer in the implementation and design of this ideal model.

The group seemed to agree that form should follow function. We should analyze functionality. The "nationalist" attitudes in some counties may have to be disintegrated. It was felt that if form is to follow function we need to pick out where the dispensation of justice most needs to be preserved. The scope of the judiciary has been dramatically expanded. Some of the things we spend a lot of time and money on are not really necessary.

It was suggested that we cannot control what goes on outside the courthouse. We shouldn't be looking at what it is that individuals are doing that puts them in the system, but how they are processed once they are.

There seemed to be a consensus that the two problems of budget and structure should not be addressed simultaneously. There was a concern that there may be a conflict of interests there. Furthermore, that once a bill addressing both concerns made it into a legislative committee it would be too cumbersome to deal with.

It was suggested that the branch should look at collecting all outstanding fines. This would add up to almost \$14 million. These outstanding dues have not been collected because the staff is stretched very thin, and puts their effort into filing rather than collecting.

The notion that the judiciary was being treated as a business was put forward. It was felt very strongly that this should not be the case. There is only so much that can be cut before justice is lost. This can't happen in the judiciary branch. Closing courts is not justice. We have to fight for appropriate resources.

The Chief said that we couldn't simply say no to budget cuts. We're better off going to the legislature with a proposed plan. If we draw hard lines we'll be met with hard opposition. The public really doesn't understand what the judiciary is going through, and how important this crisis is in the future of justice in the state. Lawyers must be involved in the education of the public.

The group was a bit fixated on the point that what the Chief Justice is advocating is constitutionally guaranteed and we need to stick this to the legislature. Some of the cuts we are being asked to take are unconstitutional. The constitutional mandate of the judiciary must be preserved above all.

The consensus across the group seemed to be that the Commission should look at where in the state the branch is not doing business efficiently and make cuts there. Duplication of Probate Judges in certain counties is unnecessary.

**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?**

It was suggested that each county should be studied as an individual system, and bureaucracy cuts should be made from there.

The group felt that it would not make sense to adopt a centralized filing system as they have in the environmental courts in say the Superior Court because the case load is too large.

The group did not disagree with the notion of the regionalization of Probate Courts.

**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?**

They agreed that moving to minimum use of paper would make sense.

They felt that a judge with the proper technology could hear a case from a separate locale to cut down on expenditure.

They agreed that one centralized calendar for the state would make sense.

They felt that a centralized filing system was a good idea. They were particularly keen on the notion that this would include audio-files.

It was agreed that jury questionnaires and the like could be operated out of a central office.

**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?**

It was suggested that there could be a panel of three lawyers which would hear a case and make a decision on a date which was assigned at the time of filing. If the decision was appealed it could go on. One member of the group said that when they practiced in a district that had utilized this system 95% of the cases stopped there. There was a low filing fee, the lawyers on the panel would be paid, and a decision would be reached immediately.

They agreed that only law-trained judges should hear contested matters.

They agreed that something must be done about backlog. In the Rutland Family Court a case filed now would not be heard until January.

The group seemed to reach a consensus that the ADR system could be applied more broadly. You could eliminate half of the judge's time.

The group felt that the issue with pro se's is that they are not institutionalized.

**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?**

They agreed that small claims jurisdiction could go up, though the issue of the middle-sized cases would have to be investigated. If we raise the jurisdiction on Small Claims we may have to implement a minimal discover allowance.

They felt that justice was not being served on cases that did not easily fit into a certain courts jurisdiction. A medium-sized case should not be addressed merely because of problems of economic viability.

One individual advocated for the continued autonomy of the Probate Court due to its unique character and also thought that although Probate cases may be expensive, they often deal with financially weighted cases.

### **Summation**

Appeal to fill out the survey and keep involved and educating.