

Windham County Bar Association

July 10, 2009

Facilitator: Bob Paolini

Note Taker: Elise Milne

Mr. Paolini opened the discussion by introducing the Commission members present, and stating that the charge of the Commission is to look at how the Judiciary does its work; mainly big picture stuff. He asked the group to think about how they would design a courts system for the state given a clean slate. Mr. Paolini emphasized that anything was on the table for discussion.

The Chief Justice told the group that they had a unique perspective on the business of the Judiciary. However, he also asked them to consider that his understanding of how the system worked had changed drastically since coming into office, and that their point of view could be a bit one sided. He asked them to understand that it has gotten to the point of keeping court doors open in the face of economic turmoil. As it is the Supreme Court does not have the power that it is constitutionally provided. He told the group that he doesn't believe that the branch can just say no to budget cuts as has been suggested. The Judiciary is a co-equal branch, and in his eyes shares the responsibility for budget cuts.

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?

The group felt that a uniform system of filing and notices would be very beneficial. They thought it would contribute to efficiency and in the long run would probably be cheaper. They were concerned about the up front cost of such a system. A representative from the Court Administrators' office explained the funding behind the project, which is already being undertaken, and what the project will entail. The group seemed to believe this could only lead to good things.

The group was asked to consider the Environmental Court model. A consensus was not reached on whether or not a centralized filings system, with the cases being held in the counties from

which they originated, and a large portion of business being conducted on the phone, would make sense.

The group didn't seem to think it would make a difference in the way they conduct their day-to-day business if there was a centralized filing system for the Superior Court, for example.

The group did not oppose the posed notion of filing small claims like traffic tickets.

The group did not oppose the posed notion of a centralized jury qualification system.

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?

The group felt that notification via email would be efficient and make sense, so long as there was a confirmation system in place. Although, there was some scrutiny over whether or not email notifications could save the kind of money needed.

The group felt that wifi in courts would be very beneficial.

The group felt that uniform technology availability across the courts must be improved.

There was concern over dehumanizing the process of justice as more and more technology is introduced. A member of the group was met with agreement when they said the bottom line was that we're in a people business, and it must be kept that way.

A member of the group found video arraignments to be dehumanizing and inefficient; they thought that video arraignments would result in more hearings rather than fewer in order to give clients valuable face time with the judge.

The group seemed to think that better utilizing fax and email, in a similar fashion to the environmental court, would be a good idea.

They thought that an audio filing system which could be appropriately accessed would be very helpful.

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 Probate Courts could charge a fee.

A member of the group suggested that court staff members must be properly qualified. If we were equipped with properly trained and educated people they could efficiently go about their work without being micro managed. However, the courts cannot expect, as they do now, to pay someone with a high school education ten dollars an hour to do administrative work efficiently. A leaner, meaner, but more qualified staff could be more efficient and cheaper.

The group felt that a consolidated staff, leaving a skeleton staff behind in courthouses could make sense.

There was concern over the unpredictability of budgeting for side-judges. A county cannot predict how many cases a side-judge will chose to sit on, or in what fashion they will chose to spend the county's money.

It was also suggested that a discussion on getting rid of the side-judges was a waste of time. They are constitutionally provided for, as is a unified courts system. We should be proactive about focusing on the latter rather than ragging on the former.

The group felt that a filtration system, particularly in the Family and District courts, which could weed out what should actually go to trial, would be helpful; lower level case managers could do this. An effective triage system would lead to a more effective courts system. It was suggested, however, that this would not necessarily lead to an overall cost savings, though it might be more efficient.

There was disagreement on the benefits of utilizing masters.

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 suggested that Family and District Court might be consolidated into one.

It was suggested that the people who utilize the Probate Courts would be willing to pay for that service. In cases concerning estates worth millions of dollars there is currently no fee. This was felt to be an opportunity for revenue.

There was also a sentiment, however, that linking the judicial budget with fees could be dangerous and could result in “putting a price tag on justice.”

It was suggested that Probate Court would adopt a threshold and not deal with, say, cases less than twenty-five thousand dollars.

It was suggested that the Superior Courts might be consolidated into four or five across the state. Having a number of cross-trained judges in one building who could work in the various courts and balance one another was felt to be a good idea.

The group repeatedly expressed the sentiment that the judiciary cannot be held accountable for all of the responsibilities being Dumped on it. A failing mental health system and increasing criminalization in particular were raised as issues.

There was concern over the Family Court’s ability to deal with all of its current responsibilities. The possibility of a lower level triage system in District and Family Courts was felt to be a good idea. Lower level case managers could decide which cases made it through to court.

When the facilitator posed the notion of four or six courthouses around the state, with the Supreme Court managing everything and everyone as a state employee, some members of the group were concerned with the ability of the average Vermonter to access such a system. It was

also suggested that this would be an impractical solution to the problem in the face of the financial crisis.

It was suggested that there could be fewer Probate Judges who would be full time.

The group repeatedly expressed concern for an over-burdened judiciary. They felt that the legislature asked too much. They also felt that the mental health system in VT is failing and the judiciary is carrying the burden. They felt that particularly in Family Courts the system is being asked to deal with problems it is not equipped to. It was also suggested that VT should be the first state to not prosecute minor marijuana cases.

The Chief Justice concluded by thanking everyone for their time and participation.