

COMMISSION SURVEY ANALYSIS FOR CRIMINAL LAW SECTION
N=7

- 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?**

Responses:

- 1 All District Court and Superior Court opinions should be on-line and searchable.
- 2 Yes, if the system had a protected computer system, docketing could be handled from a central location, rather than at each court. There could be duty days rather than individual cases.
- 3 Scheduling should be centralized.
- 4 No.
- 5 1) We spend too much time correcting scheduling conflicts among the various courts. This consumes attorney time and staff time and generates enormous amounts of paperwork. The statewide computer system already contains all court scheduling information for all attorneys, so it already contains the requisite data to prevent court conflicts. It might take only a little additional programming to allow attorneys to enter non-court scheduling data (depositions, administrative and vacation days, etc.) This would save considerable headaches for court staff and attorneys would improve court operations and reduce inconvenience to the public. It will also save printing and postage costs. I serve three counties; juvenile and adult cases are separately calendared; I also service two prisons; coordinating the calendars of 7 institutions is nearly impossible without centralized scheduling. 2) If centralized scheduling is implemented. It should take into account standard travel times.
- 6 Yes, all county courts should have a uniform system regarding small claims procedure. As it is now, each county has its own methods and "quirks" which make practice in more than one county more difficult than it needs to be.
- 7 Yes. Certain District Courts, such as Grand Isle and Essex could be entirely regionalized given the low number of cases they process.

- 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?**

Responses:

- 1 The State Courts should have the same electronic capabilities as the Federal Courts, e.g. access to databases, ability to show exhibits to jurors.
- 2 Technology costs money no matter what, so, I don't understand the question.
- 3 A state-wide schedule conflict catcher. We get scheduled to be in 2 places at one time with alarming frequency.
- 4 Yes. Status conferences could be done by stipulation of the parties in criminal court to avoid expensive (on both the state and the defendant) sitting around in a courtroom to say that nothing has changed or that we are on track in this case or that we need more time. All of which could be done via stipulation. Then only those cases that needed judicial intervention would actually require appearances. The Court should check with counsel on trial readiness, including witness availability, before asking counsel to be ready for 5 trials on the same day. WiFi in the courthouse would assist with efficient reporting to the Court.
- 5 Yes, plus, we need a standardized court IT infrastructure that is available to attorneys at all court locations. In particular, we need: a, in-court broadband access to make up for the lack of law libraries in our courts (judges have access to research materials, no one else does; b. Digital audio-visual equipment for in-court use (teleconferencing among courts and correctional facilities; in-court presentations; in-court projection of documents and other exhibits; in-court use of deposition and other remote testimony. etc.) This will save travel time and expense, improve security by reducing transportation of prisoners, and vastly improve the quality of court proceedings when individuals cannot attend in person. C. attorney on-line access to all court calendars and docket materials relating to cases in which they are attorneys of record this specifically includes juvenile cases, where the current system hides useful information from participants. This will reduce the need for in-courthouse queries, telephone queries, copying costs and staff record retrieval time. Last year I put 20,000 miles on my car traveling between courts and correctional facilities in Lamoille, Caledonia and Orleans counties.
- 6 Yes, using a scanner to email decisions, etc. would be quicker and save money. Also being able to file pleadings via fax or email would be more cost efficient and save time.
- 7 Remote arraignments from the correctional facility are worth attempting, since that would eliminate the need to transport a defendant. Providing a secure internet connection for attorneys in the courtroom may also save resources because it would allow access to information when paper files cannot be found.

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?

Responses:

1 Amend the constitution to dispense with Assistant Judges. End county control of the Superior Courts. Stop the featherbedding of security personnel in our courtrooms. We don't need as many police officers as are currently used, particularly in the Bennington District and Family Courts. Frankly, this has become a racket.

2 Public defenders' and GALs court-appearances, i.e., duty days, could be grouped by computers by days. If it is a shielded computer system, docketing appearances could be confirmed by business computers. Vermont lawyers are cut much too much slack by judges.

3 Assigned counsel needs more resources, and easier access to expert and investigative services. A modified payment scheme based on a base pay, with adjustments for volume would be a huge help.

4 The State does not need to bring a charge every time the police are called. Many affidavits of probable cause contain precious little evidence of actual crimes against the people but cases wind their way through the system until they are eventually dismissed having cost the state unnecessary money. Speaking solely from the position of Conflict counsel whose work is mostly pro bono. When the Public Defender has a conflict, it would speed the assignment of new counsel if the conflict counsel could know what the conflict is, so that if they have the same conflict, the case does not meander through 2 or 3 offices before a defendant gets effective counsel. It is a common occurrence that when the discovery has traveled through more than one office, a piece of something gets lost and the new counsel does not know it's gone until they get to trial. There is precious little funding for Conflict Counsel and it would seem only equitable to be as efficient with the use of their time as possible. Part of the expense is sitting around waiting for a case to be called when both private and public counsel is paid for their time and we are not.

5 It is not clear that caseloads are increasing statewide. What is clear is that they are increasing in some courts, but not in others. What is also clear is that historically-selected shire towns are not always the current centers of population in their respective jurisdictions. Consideration should be given to: 1. "adaptive reuse" and shared public use of historical court buildings 2. Retrofitting of historical buildings for energy efficiency and current Information Technology (both retrofits would be cost-effective as in question 2, and federal funds are likely to be available from green building and homeland security initiatives) 3. Use of rented facilities to match services with population, staff location, and workloads

6 Increase the use of electronic mail, etc.

7 The judiciary could save an enormous amount of money by eliminating side judges, whose function is murky at best. The resources spent on side judges could be more efficiently utilized.

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?

Responses:

1 Merge all courts into one Trial Court Department.

2 Yes, Vermont could do open adoptions so that birth parents are not required to fight simply to know what their children look like. Make it the birth parents obligations to keep the court informed with a current address. Once a year, adoptive parents file a picture and a simple report. Once a year, the report and child photos, sans name and addresses, are sent to birth parents.

3 Look at Maine's criminal procedure. All misdemeanors originate on district court, which is a bench trial. Superior court handles jury trials. misd. defendants can request a jury trial in superior ct. but do not have to. Felonies all are in superior ct. and superior ct. acts as an intermediate appellate court from district court.

4 Yes, on relatively minor misdemeanors, the Judge would be refusing public defense if there will be no challenge to liberty. E.G., vandalism or disorderly conduct, or trespass = a fine and restitution (if appropriate) regardless of the plea at arraignment. Thus, the public defender system would not need to open a new case, and the State could close the case obtaining justice fairly quickly. The defendant would not have to waive his/her right to trial and could hire counsel if they choose.

5 The courts need to schedule cases in adjacent jurisdictions so that attorneys serving more than one court are not confronted with large numbers of caseloads; clerks offices should have more flexibility in rescheduling cases so that it is not necessary to clog court and attorney offices with unnecessary motions. Judge time is being unproductively spent processing routine scheduling motions (either reviewing them in detail or approving them without serious review). Clerks should have authority to make the decisions with judicially defined guidelines to guide their decision-making.

6 Using acting judges (attorneys) instead of assistant judges to hear small claims matters would be more effective and more likely to promote justice and improve court efficiency. Assistant judges, although they have some training, in most counties are not lawyers and do not have the legal training necessary to preside over these matters.

7 There is no reason why the District Courts should ever process fish and game tickets or traffic offenses, aside from purely legal appeals from the judicial bureau.

Eliminating the right to a jury trial in these cases would save money and resources better spent on truly criminal matters.

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

Responses:

1 Expand the Vermont Supreme Court to seven Justices. It takes the Supreme Court too long to issue decisions, which is probably a function of workload. Consider expanding the number of trial court judges.

2 Make sure that any sheriff transportation is done well before court appearance times so that court time is not wasted while public defender and GAL speak with client. I spend numerous hours waiting for the client to arrive at the courthouse before I can even think of speaking with them. If clients' arrival was consistent, I would simply back up time to get to court.

3 Mandatory sabbaticals for judges after a given period of time, say 6 years. Some judges have become SO cranky and disagreeable, especially towards defense attorneys. There are at least 2 judges who come to mind who seem to function as second prosecutors.

4 On serious felonies, the Court should have the authority to dismiss a case if the complaining witness refuses to come forth and testify, absent obstruction of justice. This would eliminate the State's interest in getting convictions regardless of the victim's desire to proceed or who has recanted.

5 Historic court buildings should be preserved, maintained and upgraded as necessary to preserve the dignity, sense of place and historical traditions of Vermont. IT services should be upgraded and designed to serve the people who work in the courts (specifically including attorneys) Attorneys are officers of the court; they should not clog up entrance security with routine inspections. Other jurisdictions allow attorneys with current bar cards to enter courthouses without standing in line with the public. This is not a "privilege" and need not cause resentment to other court users. Current practice does not improve security; it does slow up access to the court house for the public and the attorneys, especially on jury draw days and other "special purpose days" (e.g., support hearings). Specially assign judges as early as possible for complex cases that will require special assignment. Having multiple judges hear motions and other preliminary matters produces inconsistent results and requires judges to spend inordinate amounts of precious time mastering the details of complicated cases (details that have already been mastered by other judges).

6 1) Eliminate side judges 2) Regionalize smaller counties 3) Eliminate right to jury trial in traffic offenses and fish and game.