

COMMISSION SURVEY ANALYSIS FOR WASHINGTON/ORANGE COUNTY
N=22

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 If the State is unable to provide each courtroom with wireless broadband, several regional courts should be equipped with wireless broadband and video screens. Then if a proceeding requires video testimony or other high-tech maneuvers, that hearing could be held in one of the regional "21st Century" courtrooms.

2 Virtually all administrative and financial functions that do not involve adjudication, education, or explanation could be handled electronically. A number of education and explanation functions could also be handled electronically, with local support provided as a supplement for those who are not able, for whatever reason, to effectively access and use electronic services.

3 Electronic filings would be helpful.

4 Yes, probably. Electronic access to court records (e.g., docket sheets), decisions and calendars could be improved.

5 Yes. There should be a centralized court scheduling system in place, so that when a clerk in one court enters a notice of hearing involving an attorney of record, and that attorney has a conflict in another county/court, then the system will move the date to the next available date that does not involve an attorney conflict. Otherwise, counsel has to file motions to continue, (sometimes in two courts), phone opposing counsel (sometimes in two cases), and obtain consent (sometimes from two attorneys, or a pro se litigant), etc. all to the detriment and expense of the client.

6 All probate matters except hearings. A central filing depository should be able to accommodate all filing, with documents available to judges as needed for hearings. Probate judges to a lesser degree and registers to a greater degree seem obsolete. Adoption of UPC would also facilitate the process and make it less expensive.

7 Yes. Some of the county courts with little activity could be closed and cases moved to courts with higher activity level.

8 Educational information regarding process, rules, etc. for pro se litigants can be expanded and provided electronically.

9 Regional consolidation of administrative services for the clerk's offices is worth considering. In Barre-Montpelier, there are three clerks' offices open most days: the Supreme Court, Washington superior, and the District/Family court in Barre. Could those be consolidated? It would add some inconvenience but save costs. Introducing an electronic filing system like Pacer would greatly reduce any inconvenience. It must have its own serious budget issues, but in the end, wouldn't it be a cost-saver? In general, unifying the court system seems like it has to happen to save administrative costs. And an electronic docket would allow for many more functions to be centralized.

10 Yes, personnel, facilities and technology, to name three.

11 I think activities such as status conferences could and should be held telephonically whenever possible, to save money through lost time for driving, for mileage, etc. Such an approach will require more effective telephone systems in some of the courts, so that the discussions can be heard by all and recorded.

12 Court calendar consolidation with consideration given to blocking each attorney's caseload.

13 Not that I am aware of. This is a question properly put to the Court Managers and Clerks.

14 Within the family courts, the cope class, pro se class and entire pro se packet could be taught in a downloadable class or be available on DVD or even VHS.

15 The county probate courts function very well. They are easy to use for both attorneys and pro se individuals. They provide appropriate supervision and accountability to ensure funds are handled properly in guardianships, estates and trusts. The courts have a great deal of expertise in dealing with the family issues which often arise in guardianships and estate settlement matters. The courts are well run and efficient. Hearings are scheduled within a very short period of time and the probate courts are very responsive to the needs of the parties. The probate courts should not be changed.

16 I think county responsibility for the superior court causes redundant structures and inefficiencies. I'd like to see the county level eliminated in favor of state-wide governance of the courts.

17 No.

18 Almost all filings could be performed electronically. Perhaps economic stimulus money is available for this. If not, while there would be some initial outlay, I would imagine that the labor cost savings over time would more than be recouped and then some. Side judges could either be eliminated entirely or spread out over a greater geographic area. Standard forms (e.g. TRO, etc...) could be standardized throughout the state for greater efficiency.

19 See Question #2, answer #18.

20 Electronic filing and docketing in Superior Court would free court staff from many mundane and time consuming tasks and allow them to focus on higher level functions. This would permit regionalization of Superior Courts, so long as sufficient hearing locations within reasonable driving distance remained available. Electronic filing with credit card billing would also increase the courts' efficiency.

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 All courts should have broadband wireless internet in the courtroom. Courts should encourage the filing of pleadings in electronic format as Word documents. This would allow for "hyperlinks" to be inserted within the document, so that court staff could click on citations and open an electronic copy of the source material, saving much time.

2 I understand that the court system is working on the development of a case management system and electronic filing system to meet the goals in this question. I personally am not aware of other systems.

3 Electronic filings and record keeping for public access would be helpful.

4 There may be technology that would help judges write decisions and staff schedule the Court's time better. I haven't worked in the Court system since they used VTADS2, and that seemed to be a pretty solid case management system. Not sure what they use now, but it's probably improved. A SharePoint-based system might help us all.

5 Yes. Also, video conferencing should be established for status conferences or other short appearances. The telephones/speakerphones in some counties on the bench need to be improved because it is difficult, if not impossible to hear when calling in to the court for such a conference.

6 The ability to receive scanned documents in a manner similar to the bankruptcy court would seem to make the courts much more efficient.

7 No.

8 The ability to use video-conferencing could improve access to the courts for status conferences and scheduling matters and perhaps for certain motions.

9 1) Electronic filing and dockets, akin to the federal courts' CM-ECF and Pacer systems. I know this is expensive but it would allow for centralization of many more clerks' office functions -- the function would no longer be geographically tied to the location of the court records. (A side note on this -- why isn't the Supreme Court docket available electronically) 2) In superior court, routine scheduling of non-evidentiary hearings by conference call. It would be great to start moving the courts toward interactive video conferencing too. VIT has a lot of facilities around the state that attorneys could use, if the courts were equipped properly. One possibility is that low-traffic courts could be staffed by judges who come in-person only 1 or 2 days a week, or when otherwise needed for jury trials, etc. The judges could preside over other matters by distance conferencing.

10 Yes, electronic filing, remote access to case documents, greater use of teleconferencing for non-dispositive proceedings, and use of videoconferencing for non-dispositive proceedings.

11 Conference telephones or video conferencing devices.

12 More electronic transmission of filings and appearances by telephone or video conference.

13 I cannot answer this. My experience with technology is not positive. However, I do fully support access to all decisions from State Courts, from Small Claims to Supreme, be provided on line.

14 It would be wonderful if attorneys could check family court filings online and to get more information about family court cases online. In Orange County, I would caution against using technology for too many things. Most/many of the litigants, particularly in family court do not have access to technology. Transportation is also a major issue in Orange County. Many of my clients are unable to access the family court because they do not have safe transportation. The police will not transport victims of domestic violence so that they can secure a Relief From Abuse Order. There are virtually no public transportation options and private cab companies are both scarce and cost-prohibitive. Outposts or satellite offices for emergency relief or court filings would be extremely helpful and go a long way to serve rural Vermonters.

15 Within the family courts, the cope class, pro se class and entire pro se packet could be taught in a downloadable class or be available on DVD or even VHS.

16 Not until the community members have access to computers. It could actually hurt the quality of services to all, because those that are without electronics become further isolated.

17 E-filing makes sense for most, if not all, pleadings. The federal court folks would be a great source of information regarding specific technology. Certainly a good share of lawyers would use this system, and perhaps even other non-represented litigants.

18 Convert to requiring all attorneys to file all documents only through electronic filing and thus create a paperless clerks office. Court personnel scan written documents filed by the general public. Many documents can be eliminated, becoming "e-consents" and other computer entries made by attorneys without filing documents. The bankruptcy courts have done this and experienced a boost in productivity, greater worker satisfaction, the ability to be open 24/365, and much happier attorneys. Clerks telecommute several days a week, cases are processed much more quickly, and the number of calls to Court clerks to learn "what is happening" went to zero.

19 An electronic filing, scheduling and billing system, such as the one currently in place in bankruptcy court would allow parties immediate notice of everything that is happening in their case and relieve court staff of the burden and expense of sending out mailings. Also, fax filings and fax signatures should be permitted, especially from pro se litigants. More telephone hearings and the use of Vermont Interactive Television should be explored. Physical presence of litigants in the courthouse should not be required for routine matters.

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 Under the Constitution, the Supreme Court has the responsibility to administer the judicial branch. Any legislation or executive orders that are inconsistent with this constitutional responsibility should be eliminated.

2 I believe the current judicial system is overly taxed with the limited resources. The state needs to invest in personnel and technology to insure that the judiciary is properly functioning. The furloughs are creating havoc in getting court time in smaller counties. On a related topic, arraignment by teleconferencing should be discontinued. I believe it unduly interferes with the attorney-client relationship and interferes with a defendant's 6th Amendment rights.

3 All I can think of is better training for court staff on new technology, etc., and even better supervision and accountability to increase productivity. Judges are already buried, as far as I can tell.

4 I don't understand this question. Flexibility in the use of judicial resources? The judiciary needs to be adequately funded so that one judge isn't performing in three separate courts (district, superior and family court) in certain counties. There needs to be more judges added to the system, paid law clerks to help them, and sufficient support

staff to do the job of serving the public and providing them access to justice. Closing courts, sending out mail days later than decisions are dated, and the idea of demanding more for less should stop when it comes to matters of the judiciary. It is unacceptable to decrease or level fund a budget that is already inadequate to meet the needs of the people of this state seeking redress or being brought into the system. The fund to pay ad-hoc conflict counsel in juvenile or criminal cases should be increased to continue to retain and recruit attorneys to provide vital representation to clients with Constitutional issues at stake.

5 For the most part, I think people are stretched as it is. One idea is to look at the coordination of monies, etc. between the superior courts and the other parts of the court system.

6 1) In superior court, I suggest changing the annual assignment system. Changing the presiding judge every year in ongoing civil matters adds costs/resources. Perhaps a system of "platooning" judges could be developed, where several judges jointly preside in adjoining counties. Perhaps one judge could be designated as the "local" judge, to be available in-person on an emergency basis. But otherwise, the regular caseload could be divided among the group of judges and each judge would retain the same cases for a longer period -- say three years. Most of the pretrial proceedings could be handled through distance conferencing, either phone or video, so not increase travel much. I think the continuity would make the civil docket move more efficiently and ultimately use fewer resources. 2) If enough savings could be gleaned elsewhere to fund them, a few well-placed and experienced staff attorneys could really benefit the busy trial courts. Not law clerks -- these would have to be people with relevant litigation experience who could help judges move the docket.

7 Fewer, larger court facilities, producing economies of scale.

8 Permitting "participation in place," through video conferencing, teleconferencing, etc.

9 Allow experienced attorney's to manage their caseload through pre-trial conference, with judicial involvement when requested or appearing necessary.

10 Judges could be more consistent in their handling of matters, such as landlord tenant. Individual judges handle certain matters differently and lawyers must educate themselves to each individual judge and in some cases rewrite pleadings, such as proposed orders, to satisfy an individual judge even though the existing pleading form is effective and has been uniformly used otherwise.

11 Streamline the Case manager's conferences in family court. Determine whether there is even a potential for settlement before scheduling. If there is a restraining order, then sometimes a case manager's conference is not appropriate.

12 A. Eliminate sides judges or reduce them in number and have them cover a greater geographic area. B. While I haven't had recent experience in family court as a practitioner, I have received anecdotal reports from lawyer-friends who are currently getting divorced. My sense is that family court continues to be bogged down and top heavy in terms of resources expended. A couple of thoughts on that: 1. we should appoint family court judges who want to be there. Early in my career, when I did family law work, it became painfully apparent whenever a "superior court" judge arrived in family court and didn't want to be there, that the docket often suffered as a result. 2. Require mediation immediately upon filing of a divorce/PR&R petition. While most standard orders include that provision, at the inception it can often take months to get any action on a case. While some parties may opt into this, most should be ordered to do it. Surely most couples can come out of such a mediation with at least one or two terms agreed to. C. Have a standard requirement of status conferences for all civil cases on a routine basis in each court (say every 3 months). Judges differ wildly in their hands-on "management" of civil cases.

13 Question #2, answer #18.

14 I believe a shift to electronic self scheduling of motions hearings would help. The court make a list of hearing dates, times and places available and allow the moving party to select the location most convenient to the litigants and schedule the hearings. The number of available hearing dates and locations could vary depending on depending on caseloads and available judicial resources.

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 I understand that, as a part of the Commission on Judicial Operation, the Judicial Branch is currently undergoing a weighted workload analysis. I understand that the weighted workload analysis will inform the recommendations of the Commission on Judicial Operation. The Court should then adopt modern business processes to streamline the functioning of the court system. Silos should be avoided; but, at the same time, all adjudications should be undertaken by appropriately educated and trained judicial officers who understand the federal and state constitutions, as well as the law that is relevant to the cases adjudicated.

2 It seems there are potential cross-over issues between the probate and family courts that might be worth looking at on a holistic level to determine whether efficiencies could be achieved. However, I am not aware of particular issues where such a merger could result in savings. It seems that leaving judges in a two year rotation, instead of two, would help as well. This insures continuity during the litigation cycle that will assist both litigants and the courts.

3 Maybe. I'm sure that the CAO has reviewed caseload and turnaround statistics repeatedly to try to find a way to get even more out of our overtaxed courts. That's where I would start. But nothing obvious stands out.

4 The courts seem to be set up in a way that makes logical sense. The biggest problem is that the judiciary has been inadequately funded for many years, and if there were sufficient people doing the jobs that need to be done, things would run more "efficiently". This is just my humble opinion. I do not profess to be a "systems" expert of any kind whatsoever.

5 I am not sure about reallocation. Perhaps, there is more of a need for masters or acting judges to deal with pre-hearing motions, especially the structuring of discovery.

6 Some points come quickly to mind: do we need a probate court in every county? Couldn't savings be achieved by consolidating the clerk functions for superior and district/family court? Why does E-Court seem to have so many resources compared to other busy courts? In general, there seem to be good reasons to discard the presumption of county-by-county provision of services of each court and find ways to centralize the functions. My guess is that probate court could be centralized to be a statewide court with a team of probate judges providing rotating services as needed geographically. I'm not sure if specialized probate judges should be retained (and if so, should be elected) or if regular judges should rotate through probate court. Maybe small claims cases could be handled the same way -- perhaps even by the same team of judges? -along the same lines but even broader, there could be a centralized state system designed specifically to handle matters that are typically uncomplicated and handled pro se: simple probate, judicial bureau, small claims, even uncontested divorces.

7 Fewer specialty courts per se. Continuing attention to wise allocation of particular judges to particular dockets. This can be accomplished through the efforts of the chief administrative trial judge. Keep judicial bureau and environmental court as is for now. Eliminate de novo appeals from probate court, and perhaps other, proceedings.

8 What about consolidating family and probate courts (which would be by subject matter), or probate and superior courts (county jurisdiction) to consolidate space and staff? Moving more of these courts back into the same space would also save money, in rent and security personnel fees if nothing else. I would include district courts in the consolidation.

9 The juvenile court, which is currently a part of the family court, has quasi-criminal cases which might be more efficiently heard in a closed setting of the district court.

10 Increase the jurisdictional amount of Small Claims to \$10,000, but soon or that amount too will be behind its time. Solicit more lawyers to act as small claims judges and provide them with some training.

11 I don't think so. Hiring additional staff would help, but my understanding is that this is not possible. However, it is clear that a lack of staff appears to be the primary reason that cases take such a long time to move forward.

12 Many types of disputes could be handled by regional mediation centers like the community justice centers. Environmental, business, family disputes of all kind including probate could be referred to regional mediation centers and this would hugely increase access to justice, reduce the judicial workload, and increase peace and harmony.

13 The probate court is very efficient. The fact that there is a de novo appeal from probate court creates the ability for attorneys to try contested matters in probate court quickly and efficiently. The probate judges are skilled at recognizing the issues and finding solutions which are not only legally correct but often are very practical. Most contested matters are resolved by the probate judges without need for appeal. The probate system works well and should not be changed.

14 Family and District courts should be able to communicate about cases. Drug court seems to not communicate very well with family court when parties are in both avenues.

15 The electronic filing system could be state wide, with one intake office for all courts. Non-attorneys could deliver papers to local clerk's offices for scanning, or mail them to a centralized scanning center. Once scanned, they would instantly be available to judges and all parties in the case. The "paperwork shuffle" could be completely removed from the individual clerk's offices which could then focus on case administration and serving their constituent judges, attorneys, and general public.

16 I don't believe so. Each of these courts performs a distinct function and requires particular expertise from the judges and court staff.

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

Responses:

1 The opinion database on the judiciary website, at least for the Environmental Court decisions, is organized by year, but within each year the opinions are organized alphabetically. It would be much more helpful if the opinions were organized by filing date, so that the most recent decisions appear at the top.

2 The state should provide proper resources and funding to the judiciary to insure its proper functioning.

3 More legal services to those who cannot afford them. More judges and law clerks/staff attorneys to research and draft decisions.

- 4 Amend the constitution (I recognize no easy task) to eliminate Assistant Judges and to create "county commissioners." Use more acting judges for small claims matters. Increase outreach and training for more members of the bar to serve as acting judges in such cases. Create incentives to use arbitration more in small claims matters.
- 5 Eliminate side judges.
- 6 The unbundling of legal services. There is a need to get pro se litigants more information and help. Limited representation may make the pro se litigant more effective using the court system.
- 7 Establish a statewide simplified system for civil cases with demands between \$5,001 and \$75,000.
- 8 I do not think court's administrative office should be closed during state business hours. The public cannot be expected to recall when courts are open and when they are not; to save money reduce court time or judge time instead.
- 9 Allow clerks to take changes of plea in district court for later signature by a judge.
- 10 Close down the courts that do not have full time judges. Move the docket to operating courts. For instance, getting any kind of expeditious action in Windsor Superior is impossible even when statutorily required and/or needed, e.g. landlord/tenant matters, foreclosures.
- 11 I suggest the use of more mediation programs, like those used in small claims. But volunteer non-attorney mediators should NOT be working with pro se parties --even in small claims-- without some sort of basic training. We require environmental court and family court mediators to take some training before they are allowed to mediate cases from those courts. Especially in this economic crisis, small claim judgments (or mediated settlements) can have a devastating effect on people's lives. It makes no sense to have the mediations facilitated by mediators with NO awareness of the merit or otherwise of the underlying claims.
- 12 We must find funding to re-open the courts on Friday mornings and to get rid of the once-a-month furlough days.
- 13 There should be a mediation coordinator for the entire judiciary to ensure statewide access to mediation services. All cases should presumptively go to mediation centers (Community Justice Centers) first, and then go to court only if they cannot be resolved at the mediation center. Many types of disputes could be handled by regional mediation centers like the community justice centers. Environmental, business, family disputes of all kind including probate could be referred to regional mediation centers and this would hugely increase access to justice, reduce the judicial workload, and increase peace and harmony.

14 In Family Court when a pro se has a PRR or PCC form that can help in making sure they are prepared to testify on all of the issues. Similar to the child support deviation cases, the litigants need to know what they need to tell the Court before they go to court or they need a form to help make sure they create a sound stipulation.

15 I think e-filing and elimination/reduction of side judges would be an excellent approach and would result in substantially more efficient/cost reduced services.

16 I believe that default notice procedures should be adopted in superior court for most motions. Instead of routine hearings on uncontested motions, the respondent would be given an opportunity to object by a certain time, and if no objection was filed, the court would be free to sign the order without a hearing. The vast majority of motions in bankruptcy court are handled this way which eliminates a lot of waste and ensures that court time is allocated only for matters that are really contested.