

**COMMISSION SURVEY ANALYSIS FOR WINDHAM COUNTY**  
**N=17**

- 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 The only one I can think of is electronic filing, but given the cost to purchase the system and train clerks and attorneys, I'm not really sure it would improve cost-effectiveness of court operations.
- 2 One clerk's office for Family and District Court. But the courthouse does not need to be reconstructed to do this. It seems that the folks in each clerk's office need to work out their differences so that they can make the space that we have works. Spending money now on a costly renovation makes little sense unless it includes WI-FI upgrades and other upgrades that we will need in the coming years.
- 3 Combine the family & district court staffs. Have one Court Manager over both Family & District Court. Combine both Probate Courts. Have one in Brattleboro.
- 4 Electronic filing of motions-saves postage and mailing time.
- 5 Not that I am aware of or use.
- 6 I don't think so.
- 7 The monthly PTR day when nearly all criminal defense attorneys are required to be at the district courthouse with their respective client to report the status of the case. 90% of these could be done without the judge. The clerk could take the report, and those who are demanding a jury trial could be excused to return the next day for a calendar report to the judge who then organizes the draw for the third day. This then uses about 2 hours of attorney time instead of two days, and reduces judge time by 2/3. Secondly, the State would have to report whether or not they are prepared for trial e.g. witnesses, evidence etc. Rather than wait until jury day to find out that they do not have their ducks in a row.
- 8 Yes, courts need to more email friendly.
- 9 No.
- 10 Yes, courts could be consolidated or centralized and efficiency and cost effectiveness achieved, but at the cost of quality of justice, and convenience for litigants,

judges, court staffers and lawyers. Courts should remain at the local level. The model of the environmental court with central offices only works because the judges travel. That model could be pursued.

11 I am not aware of any. I practice almost exclusively in the District Court.

12 Probate Courts could be merged into Family Court (guardianships, adoptions) & Superior Courts (Decedents' estates).

**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 Not much. Personal appearances are crucial in most, if not all cases. Telephonic appearances are an adequate and inexpensive second best. I will say that the digital recording system in the new Rutland courthouse is a vast improvement over tape, both because of the quality of the recording and because the digital nature of the information makes it easier to back-up and preserve. I still don't think it is as good as a court reporter.

2 E-filing to save paper. WI-FI in the court so that we could work while waiting for cases in court. Video arraignments ARE NOT a good idea. They cause confusion and ultimately lead to more in-court time and additional transport of defendants as local bail hearings will be routine in every case.

3 Electronic filing of all papers as is done in Federal Bankruptcy court.

4 Wi-Fi/Internet should be fully available to practitioners at the Courthouse, so work can be done in down times.

5 Electronic filing, already in use in federal system in Vermont, is easy to use once you get the hang of it. Improves efficiency and cuts costs.

6 The federal court allows, and soon will mandate, electronic filings. That might help.

7 Courthouses that have Wi-Fi with pass codes if necessary so that attorneys can access courts on line, offender locator and other tools to make it more efficient and less bothersome for court staff. It would also allow attorneys to do other work while waiting at the courthouse for hearings.

8 Password protected access to DDRs. Pre trial lists can remain the way they are but the case call should be by attorney so that if counsel has resolved/settled all of his/her cases they do not have to hang around for hours.

- 9 Yes. Attorneys of record and pro-se litigants need full digital access to their court files.
- 10 The courts that do not accept faxes should reconsider and accept them.
- 11 Technology is not likely to improve cost effectiveness.
- 12 Better basic computers at the probate courts.
- 13 I am not aware of any such technology. However, Court needs upgraded technology to play video DVD's in the Court room, so the Court, parties, and attorneys can all view comfortably at the same time.
- 14 Unified computer systems allow for testimony via phone & videophone in more circumstances.
- 15 Increased use of electronic filing and electronically retrievable decisions similar to that used in the Federal courts may help reduce the physical volume of paper handled by court staff. By allowing all filings and decisions to be electronically filed would improve legal access to the body of case law, particularly at the trial court levels.
- 16 Greater use of e-mail by the probate courts would be cost effective, save time and improve access.

**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 Law clerks could be pooled and work remotely on cases for judges in every county or district rather than being based in one courthouse and being required to travel in between courthouses. Courts could be consolidated into one building (though I hate to think of losing our beautiful historic courthouses). The Court system could be consolidated so that one court had jurisdiction over civil, criminal, family and probate litigation.
- 2 Allow judges to be assigned to a given county to work, as needed, in the Family, District, and Superior courts.
- 3 In criminal court, allow Court to have more authority over docket, including right to dismiss de minimis cases. In criminal court, put Diversion decisions and Deferred Sentence options totally in hands of the Court. Greater use of specialized Courts, although initial outlay may be greater, better use will reduce costs down the road. This would include Drug Courts, Mental Health Courts, etc.

- 4 Raise taxes to provide adequate funding and personnel.
- 5 More awareness that time crunches will be occurring and resources throughout the system will be reduced. Deadlines may have to be extended. (This has not been a problem as of yet, just thinking about the future).
- 6 Conflict counsel, who are the only uncompensated attorneys at status conferences and PTR should have their cases called either before or just after private cases in order to conserve time and because they are required by contract to have a private practice running at the same time that they are donating most of the time it takes to do conflict cases.
- 7 Mandatory status reports by parties/attorneys on court approved forms.
- 8 Consolidation of courts will reduce convenience and access to justice, if that is what is planned.
- 9 Regarding the probate courts, you should be exploring revenues enhancements and increased efficiencies by the use of technology and the expense reduction if appropriate will flow naturally from this.
- 10 Retain retired Judges on "senior status" so they may be asked to sit as needed for vacations, and caseload relief.
- 11 The Side Judges are not cost efficient or effective.
- 12 Consolidation of Windham County\'s probate courts, presumably in Brattleboro, would save money.

**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 In the Wyoming court system (where I clerked for a summer) there are county courts for misdemeanors and civil claims under \$5000. In addition, the state is divided in to several judicial districts. The District courts hear everything over \$5000 in civil litigation and all felonies. They also hear probate and family law cases. While it would require some streamlining of our rules, I'm certain that our judges are capable of being the type of generalists that such a system requires. While every county has its own county judge, smaller, less populous counties are combined into one judicial district. Every judicial district has at least one judge and more populous districts have several.

- 2 The legislature should end the practice of jury trial for traffic ticket appeals. It should be appealed to a judge.
- 3 In criminal courts, better mechanisms for Court to get rid of de minimis cases. Diversion and Deferred Sentences should be run out of the Court. Victims Advocates should be judicially supervised as opposed to States Attorney supervised - use model of GAL's. Use of specialized court such as Drug and Mental Health Courts.
- 4 On occasion when the calendar is particularly full in district court, if 2 courts ran at the same time (e.g. minor misdemeanor vs. felony or multiple count cases) many more cases could get completed and out the door. Judges need to look at PC much more carefully. Not every time a police officer is called does there need to be a criminal charge leveled.
- 5 The entire state should use all the Windham county courts as examples of how to run efficiently and professionally.
- 6 Probate court could be abolished and folded into the Superior court.
- 7 I think that the courts are efficient and effective now. If it is cost savings you want, you can eliminate some courts altogether, but that will not serve Vermonters well.
- 8 In the District Court, separate dockets for serious felonies (e.g. crimes against persons), from misdemeanors and felony theft charges. This might promote expeditious disposal of "lower level" offenses, allowing more time to handle serious cases.
- 9 Allow for more drug courts & treatment programs for drug & other offenders.

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

**Responses:**

1 I strongly believe that the time for rotating judges has passed. Rotating judges increase uncertainty in litigation because they review and undo the orders of their predecessors. They encourage judge shopping every summer as litigators try to figure out whether the "devil you know" is better than the "devil you don't know," and they increase state spending on reimbursing travel expenses. Moreover, time spent in the car is time that judges could be spending drafting orders--work they now have to do on nights and weekends--since they are on the bench in many instances for 8 hours a day. If the rotation of judges is meant to protect one county from a permanent tyrannical or incompetent judge, that goal could be better served through the oversight of the Supreme Court and the state legislature. We have, and should continue to recruit, a strong, careful, and dedicated trial court bench. Rotating judges do nothing to increase the efficient and effective delivery of judicial services to Vermonters, and as noted above, it

is my belief that the system actually is detrimental to those goals as well as to the administration of justice and the rule of law in general.

2 Eliminate side judges. One probate court per county. Arraignments by phone where an attorney is involved and with waiver signed by defendant.

3 Courts are currently dumping grounds for cases no one else wants. Mental Health system should be used for many cases that tie up the District Courts. Perhaps some problems should be looked at as EITHER MH or criminal, but not both. Courts should regain control of their dockets by having power to send cases to diversion, offer deferred sentences or outright dismissal if certain conditions are met.

4 Perhaps increasing the role of GALs in Family Court, or providing some incentive for more volunteers as there seems to be a shortage.

5 If the courts are "too busy" to handle paperwork, pleadings and persons in a manner they deem prudent/acceptable some portion of that load is the result of not imposing sanctions of costs and attorney fees for the truly and incontestably silly/vexatious suit or defense. Worthy matters could then get more attention.

6 Fund the judiciary so that all positions are filled.

7 The Court and the State could be looking at more creative consequences to anti social but not wholly criminal activity.

8 More email or web-based communication w/ verifiable receipts.

9 I have ideas to improve the judicial system but they all would cost more money, not less. I don't have any suggestions that would save money except to merge the Probate courts into the Superior court.

10 Pay the raises to staffers that have been authorized by the legislature but not delivered.

11 Re-institute sensible pricing of probate services and have the revenues defray the probate expenses first.

12 In the District Court, hire more Judges, create a Magistrate level for misdemeanor crimes, and/or make use of retired Judges.

13 Any proposal to consolidate one or more courts or functions must be carefully evaluated for its potential impact on legal access, delay, affordability, and preservation of the judiciary's constitutional role in our system of government. Judges and staff who presently work day to day in our system are best able to make recommendations for cost saving and efficiency measures. Members of the Bar can provide meaningful input when a carefully researched proposal is put forth for consideration. I have an active civil

litigation practice and a substantial portion of my practice is devoted to environmental and land use planning and permitting matters. My personal experience over the last couple of years is that the number of cases being tried to verdict in the Superior Courts has declined. The backlog in the Superior Courts appears to be manageable. We are able to get cases heard in the southern part of the state on a timely basis. My experience in the Environmental Court is that the volume and complexity of cases appear to be increasing. The Environmental Court may need to adopt a two-tiered system with standardized discovery and trial procedures for "routine" cases and a different set of discovery and trial procedures for cases designated as "complex". Some of the complex Environmental Court cases have consumed multiple days of court time leaving less time for the Court to handle routine land use issues and render decisions on a timely basis. The bottom line is that the judicial branch must be maintained as an independent coequal branch of government with Court services provided in a system that is open, accessible and timely for all Vermonters.