



MINUTES

September 9, 2016

Duke University Law School

Attending:

David Levi, AP Carlton, Shelia Eley, Ed Gaskins (on phone), Rob Harrington, George Hausen, Calvin Hill, Mary Irvine, Amanda Lacoﬀ, Jennifer Lechner, Anne Lloyd, Julian Mann, Daphne McGee, Darrell Miller, Emily Portner, Anne Reed, Will Robinson, Danielle Seale, Osmond Smith, Janet Ward Black, Jon Williams, Roxanna Zelander-Lewis

Meeting began at 10:38am

Introductions

Minutes for May 6, 2016 Approved

Levi offered a verbal summary of the Charlotte public meeting. Impressive, lawyers and citizens spoke. Impressions: general support for work of commission, this committee and the other committees; talk about electronic filing, most think it will be very productive and generate further changes that we can't anticipate, but will make the system more accessible and efficient.

Case tracking received broad support, uniformity and flexibility both. Possibility of local control and have case managers make amendments.

Some court administration professionals said that there's going to be a need for case management professionals and take those responsibilities from the judge. Juvenile justice system was a lively issue. Some raised questions of resources if the age is raised, more on juvenile side if age is raised and will be resource issue. Some discussion of family court. Debate within judiciary on family court, specialized or more general docket. Some courts have dedicated family court, some don't have family court and have a general docket. Both courts think both work.

Disagreement on the committee as to whether there are a family court staff/general staff pay disparity.

Harrington attended a meeting in Charlotte. Raising age was an issue and that juvenile system be funded to handle added workload. Importance of making sure that there's trained and capable court administrators for this work. One person suggested collapsing District and Superior court judges, but first time it was raised.

Hausen in Wilmington and Greensboro. People taking the interim reports very seriously. Judicial selection was a big issue, and needed to be looked at.

Harrington said came up in Charlotte as well.

Eley, in Wilmington, need to restore trust in judiciary, since hard to find information about judges and hard to make a good decision. Need to increase judge's salary.

Anne Lloyd was in Greensboro. People were engaged, about 40 speakers half about judicial selection. Much on efficiency and case management.

Mann was in Wilmington. Only one comment on judicial salaries. Four or five comments on family court and importance of how many cases being processed.

Hill said Asheville had lots of family court people attending. DA supported raised the age issue.

Harrington: strong showing of legal services in Asheville and struggles to survive as legal aid lawyer.

Robinson offered a summary of the public meetings and comments and final report work. Working to finalize the framework for final report with co-chairs and reporters. Want to retain independence of each committee, but want to recognize overlap and need to harmonize report. Plan is that each committee will have a part II that's their own report, with a synthesis as Part I.

Mecklenburg County Court administrator presented 1972 document noting that someone other than judge or DA need to manage cases in the system.

Smith emphasized that only 29 responded. 52% support single judge assignment, meaning 15 judges out of 115 superior court judges. When 35% means 10 judges. Suggested that judges are okay with rotation and assignment system because did not raise it.

Jim Drennan, former AOC director, will be drafting the final report with emphasis on Part I.

Robinson went over the Civil Justice Committee Summary of Public Comments on Interim Report, solicited comments from Chamber of Commerce, etc. to hear from them.

Gaskins recommendations all depend on the technology report, what was the necessity of public filing to superior and district court? Is there a sense of significant support?

Robinson spoke of support for electronic filing. Organizational input recognize need to get system up to speed. Barry Dunn is finalizing recommendations in September, will be a 200 page report.

Emily Portner emphasized that comments in raw, not the summary, mentioned supporting e-filing.

Carlton asked about cost. Will said maybe 90 million over 6 years. But way budget tabulated is time for people as well as hardware.

Williams concept is a unified system, not broken county by county.

Broke for 15 minutes review of the Summary of Public Comments 11:18am.

Reconvened at 11:33

Levi is there anything in these comments that require a revision of the recommendation of the interim report?

Robinson's position, don't feel there are any red flags, nothing will go over the cliff. Family court issue discussed a bit. No other committees are dealing with the family court. Hesitate to make comprehensive recommendation on family court.

Black think make sure separating family law issues in NC system, from smaller questions of dedicated family courts or not. Concern is family law issues.

Smith, family courts have a criminal courts as well. Recommendation of logistics and etc. to study the family courts.

Hill Buncombe county does not consolidate the criminal component.

Carlton study and outline between how different cases are treated, but also have different jurisdictions handle these cases.

Levi family law issues are custody, property distribution, divorce, juvenile criminal, adoptions and emancipations, dependency and termination of parental rights.

Williams: urging of differentiating between different types of cases, line can be drawn between this model and domestic law. I.e. simple divorce as opposed to complex cases.

Is triage model used trans substantive? Can be applied to ordinary civil and family?

Mann on domestic relations. New theory of case management is triage, track.

Add recommendation on domestic issues in court study. Recommend to chief justice to put together a task force or blue ribbon panel.

Hausen, impact on court fees and fines as exacerbating poverty, need uniformity on expungements, and become eligible.

Harrington, prefatory language that there's issues affecting populations ability to engage in society.

Miller suggested language on civil justice interface with fines, fees, and poverty cycle issue.

Mann ABA futures commission, 9.2 administration fines and fees should be adjusted to avoid these issues.

Add number of cases pro se nature, the kinds of cases that come up, etc.

Black recognize address the district court practice, dependency etc.

Mann raised the issue of change in discovery in federal level. Where are we with that in this report?

Levi our structure about case tracking system, and body to oversee that is how we're addressing discovery issues.

Harrington, case management and tracking, section should also discuss background drivers of costs in this discussion is lack of control over discovery and issue identification. Perhaps link to the federal stuff, and AP Carlton's suggestion that want to get to business court because of active management tools.

Black, be mindful on limitations of discovery.

Mann say something on discovery as under the purview of case management.

Levi active case management is essential to managing these issues.

Magistrates court?

Black: add something about 20% cases proceed through magistrates court and where pro se litigants are an issue and need more resources, support, lawyers in appropriate cases, in this level of cases.

Portner: Uniformity, jurisdiction amount not always the same, recommend under uniformity some consistency on magistrate judge amount in controversy.

Danielle says magistrates have different kind of delegations other amounts in controversy.

William: non-uniformity that has developed in magistrates need to be tightened up. Chief District judge has a lot of discretion. Undermines uniformity.

Harrington we need to flag in enough detail the magistrates court issue.

Magistrates is a problem on uniformity and pro se pressures is a problem. Need to address this on case uniformity.

Hill not sure whether the tracking case management works at magistrate level.

Williams, is that about law training for magistrates.

Harrington, fits language on study on this for magistrates.

Looking at a timeframe of early December for the finalizing Part II reports, for January submission of entire report to the Chief Justice.

Adjourned for lunch 12:27

Reconvened in 12:48

Carlton asked about judicial selection. Public trust is taking point on this issue.

Portner said Public Trust in interim report is high level overview, and issue they are studying. Heard some recommendations from the bar association and gets into level of detail, but not endorsed any specific plan. Considering all options.

Smith, question about input on final report with other committees.

Williams each committee is got its own report, and Drennan will harmonize.

Adjourned at 12:56 pm