

County Admin courtstaskforce - Court Survey

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Date: 8/26/2015 9:25 AM
Subject: Court Survey
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Joe, I have spoken with Jim Salk, one of the Town of Ithaca justices. He said he would send a response to the questionnaire separately. Our other justice, David Klein, is ill and could not meet. I do not have opinions on all the questions, but will respond to several.

Benefits of non-lawyer judges: there is some feeling that being "judged by one's peers" works better when the judge is a "regular person" in the community. A significant disadvantage is that such judges can ignore law and reflect favoritism. One solution is to continue to improve the training and oversight of non-attorney judges.

Quality of Justice Courts: the state wants the courts to be independent of local government. While that separation can be positive, it also can isolate the courts, with only police and the defendants really knowing what is going on. Regional courts might actually be more transparent.

Regional courts: one concern is the election and term of such judges. District judges now have ten-year terms, so there is little opportunity to turn out a bad judge. Could such judges be appointed?

Village courts: while dissolution makes a lot of sense, some provision would have to be made for court income to be re-distributed back to the villages. Cayuga Heights is said to generate a good deal of income from traffic violations.

Second justices: while one judge would help ensure consistency, there may be challenges concerning back-up for vacations and illnesses. Some individuals are willing to serve part-time, but may not be willing to work full-time, thus reducing the recruitment pool.

Moving criminal cases: District Courts or City Court may help improve the disposition of criminal cases. It might lessen the interest of justices in the job. It must get boring dealing with mostly traffic violations.

Central booking: this could remove a major obstacle to recruitment by reducing or eliminating the 2 a.m. call to a justice.

Other: any change to the current system should look at the economic factors. Now two-thirds of the income to the courts gets sent to the state. True, that money may be used for training and other local court support. What happens to the money sent to the state should be investigated. Some justices avoid some penalties because the state-required fines and/or surcharges are so high. Is there way to change those charges and to retain more money at the local level?

Herb

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The request has been made for thoughts and recommendations; and any relevant data or viewpoints, and specific structuring questions provided.

Changes since 2000 and 2015, in the community and in the Courts, affect work within the Town and Village Courts.

Since 2000, the Town and Village Courts have been incorporated more directly into the state-wide court community, and these changes are accepted to have improved the quality of justice. It was decided around the year 2000 that certain issues were best handled in the specialty courts. Then, in about 2006 there were changes within the Town and Village Courts, with assistance from the State, to improve the quality of justice: all court proceedings were to be recorded, the local courts were to be responsible for effectuating assignment of counsel to each and every incarcerated individual within 24 hours of the initial arraignment at court, and an administrative judge was appointed in regard to the Town and Village Courts. These changes continue, through the current pilot program initiative for defense counsel at arraignment where an individual is under arrest.

These changes were intended to, and do, increase protection for the due process rights of defendants in criminal proceedings (question 1), help preserve the benefits/mitigate the disadvantages of the local justice courts being presided over by nonlawyer Justices (question 2), and help with the provision of consistent and quality administration of the criminal and civil law, operating in an independent, public and transparent manner (question 3).

In 2008, the Special Commission on the Future of the New York State Courts delivered its report detailing findings, and associated proposed reforms for the Justice Courts, including the recommendation that enactment be considered from the local level. For Tompkins County, such locally developed changes could include consolidated municipal courts presided over by a lawyer judge (question 4), and moving all criminal cases to one or two District Courts or central court presided over lawyer judges and otherwise leaving Town and Village Courts intact (question 7), with leaving evictions, local code violations, animal control, small claims, traffic tickets in the local courts. The local inquiry should decide whether it will address criminal practice (question 7) or address all matters before the Town and Village Courts (question 4). I do not know enough about the operations of village courts to respond to question 5, although I do not see why matters at the Village Level could not be handled within the Towns, as has occurred elsewhere in the State.

Whether the second justice position should be eliminated thereby increasing remaining justice's time/responsibility (question 6) – I have concern for whether this idea is a good one, where and if the stakes are recognized to be larger as being studied by the task force, in which case I do not believe that this step would be a good or wise solution, or a solution at all rather than a possible temporary fix at risk of becoming permanent by default, once the task force is through with its work, given especially that this convening is of a time-specific duration.

I don't know the advantages of a central booking area for after-hours arraignments (question 8) -- I do believe it is necessary for the judge and defense attorney to have in-person contact with the charged individual, as does the charging agency, and therefore should the question of video arraignments be raised I would not think that wise.

My suggestion for improving the local justice court system (question 8), given the comprehensiveness of the request from the task force and the specific questions designed to elicit response to areas of inquiry by the task force in its communications, is that Town and Local Courts should have a random and equal case assignment system that is overseen by the administrative judge. This would be an accord with the other improvements designed to assist the quality of the administration of justice since 2006 at the Town and Village Courts, and similarly consistent with longstanding rules of the higher courts.

Given the changes between 2000 and 2015, I on the balance believe it is time for the local courts to consolidate with attorney judges. I also very much respect the work of the nonlawyer Town and Village judges before whom I appear. I further believe that the diversity of situations in each community merit attention under any consolidation plan.

Respectfully submitted,

Jane Murphy