

Minutes
Municipal Court Task Force
June 10, 2015
Old Jail Conference Room

Members present: Gwen Wilkinson, Glenn Galbreath, Scott Miller, Betty Poole, Ray Schlather, Jason Leifer, Lisa Smith, Elizabeth Thomas, Mary Ann Sumner.

Members excused: Mark Solomon

Staff present: Joe Mareane, Marcia Lynch

The meeting began at 4:30 PM and adjourned at 6:05 PM

Mr. Mareane opened the meeting by explaining how the group had come to be, beginning with New York State's directive to local governments to consider structural realignments and governments and programs that could result in greater efficiencies and higher levels of effectiveness. In accepting the challenge, the Tompkins County Council of governments (TCCOG) formed a shared services committee charged with looking at potential consolidations, mergers, shared services, and other efficiencies. The committee considered a variety of possibilities, including back-office operations, highway services, public safety, and the Municipal Court system. In exploring possible efficiencies and qualitative improvements in the court system, Mr. Mareane interviewed a number of individuals within the criminal justice system and found a couple of common themes. First, that although there may be opportunities to save money, the savings will not be of the magnitude sought by New York State. Second, that a system with 11 courts and 19 judges of varying levels of legal experience and training could result in inconsistencies in the quality of justice.

Based on those findings, TCCOG's shared service committee, and subsequently the entire board, recommended creating a task force to look at how structural realignment could result in increased efficiencies or more consistent levels of quality. In January 2015, the TCCOG board approved a resolution establishing this task force.

Mr. Mareane noted that this is not the first time the Municipal Court system has been reviewed. State studies in 2006 and again in 2008 were undertaken, without resulting in changes to the basic structure of the justice courts. The State studies did lead to operational improvements, such as more training, intended to raise the overall level of quality. He also noted that at least one of those studies recommended the change come not from the top down but from the bottom up, suggesting that each county look at its own system and arrive at its own solutions within the context of the state constitution. Mr. Mareane indicated that it is his belief that the political culture in Tompkins County is receptive to new ideas, so long as they result in improved service, and that if change could happen anywhere it would likely be here.

Mr. Mareane described the composition of the task force, noting that it was intended to encourage a balanced discussion. The task force includes two defense attorneys, two town judges (one a lawyer, one not), a city court judge, the district attorney, a representative of the assigned counsel supervising attorney, two town supervisors, and a representative of the sixth judicial district. He said his office will provide staff to the task force. He also noted that other stakeholders, such as the Advocacy Center and the Sheriff, have asked to be able to attend the meetings on a regular basis.

Mr. Mareane advised the task force that he had asked Mr. Schlather to serve as its chair, and that he had accepted that invitation.

At that point, the meeting was turned over to Mr. Schlather.

In accepting the chair, Mr. Schlather noted that his views on lay judges in local courts had changed over time. He cited a Supreme Court case that found the system unconstitutional unless there was a process to remove the case to a court overseen by a lawyer judge. He supported that position initially, but has come to find that local courts with lay judges represent a part of the best of the system; that our area has a long history of quality lay justices. However, he said that he is open to considering other approaches. He has seen how district courts in other areas, presided over by lawyer trained judges, handle more serious offenses. He sees potential opportunities to even the playing field even better than it is now. He said the task force is a unique opportunity to bring change to the system. He encouraged task force members to hold off on considering legal constraints to change, and to first come up with a plan and then review what legal changes would be required to allow that plan to be implemented.

Mr. Mareane reviewed the charge to the group. The first was to assess the potential to improve efficiency and reduce costs through structural realignments of justice courts within Tompkins County, provided that such realignments do not diminish the quality of justice. The second charge is to determine whether specific and cost-effective structural changes would be likely to improve the overall quality of justice within Tompkins County. He also stated that the task force was being asked to issue a report outlining its findings and recommendations by June 1, 2016. There were no objections or modifications to those charges.

Mr. Mareane reviewed the contents of the notebook that had been prepared for task force members. The materials include some basic information, such as a listing of the justice courts and judges in Tompkins County, laws governing the organization of justice courts, a few relatively recent reports on the justice court system, and data provided by his department regarding inmates sentenced to the county jail by the justice courts.

Mr. Schlather then asked each task force member for his/her initial thoughts and observations about where the task force should go and some of his/her thoughts about the current system.

Mr. Leifer said he hopes to look at the idea of a district court handling misdemeanors. He also said that the cost of the Municipal Court is not insignificant, noting that in Dryden the cost of the courts is the equivalent of \$.15 per thousand on the town tax levy, with fines collected by the court not sufficient to cover the cost. He indicated that one outcome of the task force could be asking New York State to pick up more of the costs or all of the cost of the Municipal Courts. He also noted that it's becoming difficult to find people to run for judicial office, and that the quality of candidates varies from town to town.

Ms. Wilkinson said we need to begin with a discussion of the meta-issues, such as the need to define "efficiency" and "consistency", before we get into the details of how to address those goals. She encouraged a review of existing statutes and constitutional provisions so that we know what will have to be amended if changes are proposed.

Mr. Galbreath noted that this is a daunting task particularly in the absence of a significant opportunity to save money, which is often the primary driver of change. He noted that politics may arise, with local groups or political parties becoming involved. He also commented on the complexity of the court system in New York State versus others, which are not nearly as complex, making it possible for the group to nibble at the structure of the justice courts and to make changes in the quality of justice.

Ms. Sumner said that she is a bit of a naysayer with respect to changing the justice court system. (Additional comments are provided later in the meeting.)

Ms. Thomas asked how would we know whether quality was being achieved in the Municipal Courts. She also said that the cost of the court in the town of Ulysses was not small, and represents approximately 5% of the town's tax levy. She said the clerk of the court is very busy and can't keep up with current workload, suggesting that one of the recommendations of the task force may be to provide additional training to court staff.

Mr. Miller said that as a new full-time judge and a former defense attorney he had conflicting thoughts about the justice court system. He noted that with two full-time judges and 10 staff, the city court handled a volume of 2500 cases in 2014. He expressed concern about the workload of city court if it comes to handling cases now being handled by the towns and villages. He said that while practicing law outside of Tompkins County, he saw problems of the quality of justice. While the lay system is here to stay, he said civil matters should remain close to the people; but when jail is a possibility, we can't simply count on the good fortune of having non-lawyers who have the same love of the law as we see in justices within Tompkins County. Mr. Miller cited the new counsel at arraignment initiative as an example of how consistency can improve results. He also referenced Judge Lippmann's recommendation for a DWI part that would again allow a consistent approach to handling these offenses. However, the towns and villages were exempted from that new approach, something Mr. Miller suggests we look at.

Ms. Poole said that the court clerks would love the DWI part, which is now very paper intensive. She suggested that DWI could be centralized just like the felony drug court. She said that she has heard the

group talk about three issues: an exploratory look at the system; that money savings will not be significant (judges don't make much money and are on call 24/7); and an undertone about the consistency of justice within the system. She noted that consistency cannot be mandated; but there are differences between upstate and downstate, East and West, and other divisions that affect outcomes and approaches. She also said that as a former clerk, she understands the hard time courts have getting all the work done. She suggested that the task force could look at reducing the number of judges in each town and village, something Enfield has done -- going from two judges to one.

Ms. Smith provided background on the sixth judicial district, noting that it covers 10 counties. She provided a handout which is an excerpt of the justice court manual that discusses consolidation and cost savings. She said her role in the task force will be objective and as a source of information.

Ms. Sumner said the question of oversight is interesting. The town board usually takes a hands-off position regarding the courts, and receives input mostly by rumors from those involved in the system. She welcomes the chance to put data about the courts on the table. She also asked whether the new counsel at arraignment may have reduced the number of arraignments as police officers are more inclined to write appearance tickets as a way to escape the long wait for lawyers to arrive at court. There was some discussion that ensued regarding this topic, and a general sense that this may be happening to some degree.

Mr. Schlather then turned to organizational issues. He noted that if the final report is due on June 1, the task force should have arrived at conceptual recommendations two or three months before then. The group agreed that this should be in place by February 29, 2016. Thereafter, a draft report will be written and circulated, with follow-up discussion and revision as necessary.

With respect to meeting schedules, the group agreed that it should meet semi-monthly at the beginning of the process and then go to a monthly schedule thereafter. Meeting should be from 4:30 PM to 6 PM.

At the next couple of meetings, the meta-issues of "efficiency" and "quality" should be discussed and defined. The group will also need to notify the stakeholders from whom it wishes to receive testimony. It was noted that the task force should provide an opportunity for ordinary citizens to offer comment, and that litigants should be included among the stakeholders. Generally, meetings this summer will be internal, with stakeholder presentations and discussions beginning in the fall.

The task force agreed to the following meeting dates:

- June 24
- July 8
- August 5 (if needed)
- September 16
- September 30

- October 14
- October 28
- November 4
- November 18
- December 2
- December 16
- January 13
- January 27
- February 10
- February 24
- March 16-first draft of report
- April 13-continued review of draft

Task force meetings will be held in the old jail conference room until September. It is hoped that meetings can be held in the county legislative chambers beginning in September in order to facilitate the stakeholder discussions and presentations.

Mr. Schlather encouraged members to begin developing a list of names of individuals who should present to the task force and began thinking about how we can better define terms like efficiency and quality.

Mr. Schlather stressed that the meetings will be public, open, and transparent. All materials will be subject to FOIL, so no member should destroy any notes or records of these meetings. He believes the results will be best if the process is completely open.