

Minutes
Municipal Court Task Force
June 24, 2015
Old Jail Conference Room

Members present: Ray Schlather, Gwen Wilkinson, Glenn Galbreath, Scott Miller, Betty Poole, Elizabeth Thomas

Members excused: Mark Solomon, Jason Leifer, Lisa Smith, Mary Ann Sumner

Staff present: Joe Mareane, Marcia Lynch

Guests: Heather Campbell (Advocacy Center), Julia Hughes (Assigned Counsel Program), Peter Salton (Village of Cayuga Heights), Debbie Payne

The meeting began at 4:35 PM and adjourned at 6:00 PM

Chairman Schlather opened the meeting at 4:35 PM. Guests and members were introduced.

The minutes of the June 10th meeting were moved by Ms. Wilkinson, seconded by Mr. Galbreath and unanimously approved.

Chairman Schlather recommended the task force spend 45 minutes to discuss “meta-Issues” leaving the balance of the meeting to discuss stakeholders to be invited to present testimony and housekeeping items including the development of a website, hiring interns, and how to tap other data resources. Mr. Schlather also recommended that time be set aside at each meeting for public comments, and invited guests to offer comments.

Ms. Debbie Payne indicated her support for the task force, and its goal of improving the quality of justice. Ms. Payne had served as the Newfield Town judge for 8 years, and offered to serve as a resource for the committee.

Chairman Schlather began the discussion about meta-issues by asking members to discuss what the concepts of economy, efficiency, quality and consistency mean to them.

Ms. Wilkinson asked what are the group’s organizing principles, for example the term “consistency.” She asked whether the task force is looking for uniformity in outcomes such as sentencing and bail, or for procedural consistency. As an example of the latter, she noted that all cases could have consistency in the way the process (motion date, timeline for pre-trial conference, other appearances etc.) is structured. Achieving procedural consistency may also result in cost savings. She is most interested in the consistency of structure and process—the way they move through system; so that cases move along on a predictable, consistent course.

Mr. Galbreath noted that the consistency issue could be challenging, citing Cayuga Heights' approach toward plea bargaining and Vehicle and Traffic cases as examples of how some municipalities differ from others. Variations in community priorities and court workload levels could make consistency difficult. In ideal world, all would be consistent and predictable. He agreed with Ms. Wilkinson's point about the difficulties facing attorneys and clients who come into one court and find procedures to be different than they experienced elsewhere.

Ms. Poole noted the importance of judging each case on its own merits and agreed that community values and priorities differ from one area to another, making it difficult to get everyone to agree on a definition of consistency. She noted that there are three branches of government for a reason, so we must be careful about where we go with this.

Ms. Thomas noted that judges are all elected, so will enter office with different points of view and approaches. She asked whether the task force has the authority to encourage a procedural consistency.

Mr. Schlather agreed that uniformity is impossible, but that we should expect the consistent application of certain fundamental principles, such as those relating to due process and other fundamental rules set forth in law, such as those regarding presentencing investigations and the setting of reasonable bail. The best we can hope for is consistency at the most fundamental level of what the law requires. There are some areas where we might be able to come up with, such as things that come out of the DA's office such as standard maximum reductions in speeding points that tend to happen already, recognizing that there are always exceptions that must be considered.

(Mr. Miller entered at this time.)

Ms. Thomas asked how the fundamental rules discussed by Mr. Schlather are enforced. Mr. Schlather referred to training required of judges and others in the system, and suggested this is something the task force may later consider. Ms. Poole discussed the outlets already available in the system for the public to address such problems. She also noted that some of the training available to town and village judges is not available due to funding constraints imposed by the municipal governments.

Mr. Miller referred the low number of misdemeanor convictions (103) in the town and village courts included in the information provided to the task force at the first meeting. This compares to 2500 in the City of Ithaca. He observed that there are a lot of courts for such a small number of convictions. Mr. Mareane noted that the statistics reflect only the number of people who have been sentenced to the County jail. He said that we will need OCA help in getting total caseload data.

Mr Schlather returned to the question of where consistency is achievable.

Mr. Miller responded that DWI is such an area. In the Ithaca City Court, approximately 10-20% of misdemeanor DWI cases are sentenced to jail. He requested information regarding those sentenced to jail on 1st and 2nd charges for DWI in the town and village courts, and whether it is consistent with the pattern in the City. Mr. Schlather asked whether Mr. Miller sees consistency as a question of results or procedures. Mr. Miller commented on the large financial impact of DWI sanctions, such as the vehicle

interlock, on lower income people, and that judges have the authority to waive some or all of the interlock fees to ease that burden. He said that consistency in how judges deal with those fees would be important. He expressed concern that individuals outside the City may be treated more harshly than those in the City; something Judge Lippmann has attempted to address at the City and County level by directing that they achieve greater consistency in the way they handle DWIs., especially with respect to the financial impact on defendants.

Mr. Schather requested information regarding how much of the municipal courts' caseload is related to DWI offenses. This, in turn, would shed light on how much of the justice courts' caseload would be carved out if a separate DWI part was created. In reflecting on earlier comments by task force members, he said that consistency may be a byproduct of other improvements in the system, such as training. He further noted that if some of the more rote offenses such as DWI, where rules are clearly defined, were pulled from the justice court caseloads, it might be a way to take care of a significant portion of the cases carried by the municipal courts. Similarly, other non-misdemeanor offenses may be identified where we are less worried about consistency than in other cases, such as family offenses, where consistency is more important.

Mr. Schlather then moved the discussion to the question of efficiency, such as efficiencies of timeliness, cost-effectiveness, minimizing personnel, resource use, communication, and technology and community.

Ms. Wilkinson shared her perspectives on limiting the number of times a case return to court, noting that she sees many cases held-over time and again. She indicated that many routine cases should be able to be handled in three to four appearances.

Ms. Poole indicated that because the circumstances of cases differ, it would be difficult to limit the number of appearances, especially in larger volume courts. She asked Mr. Miller whether the City Court cases are resolved in a reasonable period of time. He responded that a routine petit larceny case is usually resolved in one or two appearances motivated, in part, by the "terror of a large docket." In response to Ms. Wilkinson's question, he said even without such large caseloads, he would not expect many hold-overs. Ms. Wilkinson cited this as an example of how cases can be moved along more quickly if expectations are established. Mr. Miller also reflected that consistency is served by the large volume of cases, and densely-packed calendar, that allows City Court judges to discern patterns that inform the judges' expectations about number of necessary appearances.

Ms. Wilkinson suggested that this conversation may lead to a future discussion about a consolidated DWI part for Town and Village Courts and a roadmap for a case, first arraignment, second appearance (offer), third appearance (plea promotions)—with that roadmap we can harness the course the case takes.

Mr. Galbreath said that the principles being discussed (consistency, efficiency, economy, quality) should not be considered so generally, but instead be applied to evaluate any suggestions that arise over the course of the task force's review. Although there may not be full agreement about how to define all of the terms, he suggests that are better discussed when placed in the context of a specific proposal.

Mr. Schlather said that “quality” may be the most easily defined principle: the adherence to fundamental due process—notice and opportunity to be heard. Individuals must be aware of what they’ve been charged with, have quality counsel, have judges who will listen, and an ability to have their day in court. That due process is a part of quality. We want people to trust our system, and they will not if they do not perceive the system as fair. Quality also means the time to be thorough. As long as we keep these principles (efficiency, economy, quality, and consistency) in our heads when we consider different systems, it will help guide the assessment of those proposals.

Mr. Schlather turned the discussion to stakeholders who should be invited to present to the task force.

The groups outlined in the task force’s charge were referenced (magistrates, defense bar, prosecution, involved agencies, municipal officials, law enforcement (including jail). Mr. Galbreath suggested assigned counsel, CDRC, legislators/CEOs of municipalities, the general public, individual prosecutors. Ms. Poole suggested inviting the NYS Magistrates Association, code enforcement officers, and dog control officers. Ms. Thomas suggested inviting court clerks. Mr. Miller suggested involving the public via the local media. Mr. Schlather suggested the Tompkins County Bar Association, a local landlord association and tenants association, the neighborhood legal services association, Cornell legal aid, Probation, defendants and other small claims users, and entities that now have district courts or have consolidated under the Justice Court Act. Ms. Wilkinson suggested merchants. Ms. Hughes suggested DSS. Ms. Payne suggested school districts. A suggestion was also made to invite STOP DWI coordinator Michelle Barber.

Mr. Schlather encouraged members to think about how to consolidate and invite these stakeholders and be prepared to discuss this at the next meeting.

Ms. Wilkinson asked whether we’ve considered what we want to ask the stakeholders to address in order to ensure focused presentations. Mr. Schlather suggested the message be: “You’re God, what kind of concrete changes would you like to see to make things better.” The task force would then have access those ideas as it considered proposals.

Mr. Schlather said the stakeholders will provide ideas and data regarding their experiences, such as workflow questions when the clerks are present. We should think about what to put in the letter of invitation to these stakeholders.

Mr. Galbreath offered two approaches: 1) begin to put out ideas and allow others to react to them, or 2) to start with a blank slate.

Mr. Galbreath described a concept that would help engage the public in offering and critiquing ideas. He suggested developing a list of potential initiatives, along with the associated pluses and minuses, that can be shared with the public and invited stakeholders. This could begin with a list of task force initiated ideas for change, with related pros and cons, along with a clear disclaimer that these are only ideas. Others could use the same vehicle to offer their ideas, and respond to those that are posted.

Mr. Thomas agreed with the approach, recognizing that stakeholders should not feel constrained by the list when they present their ideas.

Mr. Schlather agreed with the approach, but is concerned by the mechanics of that process of maintaining the website and the “filter” process.

Mr. Mareane said a webpage can be developed to do conventional things such as posting agendas, minutes, and things like lists of ideas. The page can also include an electronic suggestion box/email input feature to accept comments from the public. Ms. Poole and Mr. Schlather asked about how the emails would be disseminated to members and how the filtering process now works. Mr. Mareane suggested the emails would go to County Administration for dissemination for members and could also post the responses. Mr. Schlather encouraged the posting of the email unless something warrants filtering.

Several members suggested writers be advised that their letters may be published publically.

Mr. Galbreath recommended that information from the letter be used to help populate a list of ideas, with associated pros and cons, to help organize the information.

Mr. Schlather suggested that future minutes may include a bulleted summary of the major points made at the meetings, along with related pros and cons.

Mr. Mareane noted that we may be able to attract interns to this project who could assist with the web page development and maintenance.

Ms. Thomas suggested that board members could also be involved in organizing the collection and organization of the material received.

Mr. Schlather encouraged staff to get the webpage up, even if is rudimentary, in time for the next meeting.

Mr. Schlather turned the discussion to the meeting assessment. All found the meeting worthwhile and productive.

The meeting was adjourned at 6:00 p.m.