

THE FUTURE OF THE COURTS
IN CHAMPAIGN COUNTY

Summary of a Conference
at the Champaign County Courthouse

February 8, 2003

CONFERENCE MISSION

To stimulate thinking about priorities, visions and strategies to guide the courts of Champaign County in providing accessible and impartial justice for a future filled with expected, but indefinable, change.

Foreword

Probably no arm of our culture clings so firmly to the past as our courts. Judges and legal scholars can make archeologists seem forward-looking. And practitioners from the time of King George would instantly recognize some of what's said and done in a modern American courtroom.

There's a very good reason for this. For the law to mean anything at all, it must mean the same thing from one day to the next. As a result, courts place great importance in precedent. There's even a phrase for it - Latin, of course - called *stare decisis*, that can be roughly translated as "that's already been decided."

Champaign County's Presiding Judge, J.G. Townsend, explained all this to some four score community leaders and thinkers - most of them neither lawyers nor judges - gathered one Saturday at the county's new courthouse.

The participants' charge was to peer into the future and envision how the local administration of justice might need to change in the years ahead. It was a fascinating experience, and the carefully selected participants approached it with both seriousness and enthusiasm.

The event was the Conference on the Future of Champaign County Courts, the second such undertaking organized by Judge Townsend. Seven years ago, participants ascribed many of the court's challenges to outdated and overcrowded facilities. Their ruminations underscored the obvious - that the County needed a new courthouse.

Well, the County did itself proud in that regard. The new facility that housed this year's conference is spacious, efficient, practical and even attractive. It features some cutting edge technology and has several features specifically addressing shortcomings discussed at length during the earlier gathering.

Now the challenges relate to how this grand new structure is to be used. Unconstrained by budgets and political realities, conference participants were invited to brainstorm. The News-Gazette joined with the Champaign County Bar Association and the local League of Women Voters in sponsoring the day.

Participants did include a number of lawyers. But schools, law enforcement, churches, social service agencies, business, medicine and even agriculture were represented. Representatives arrived both with their own unique views of the courts but, more important, with their independent expertise about the world.

For good or for ill, most of society's problems and conflicts

ultimately come to rest under the courthouse roof and the watchful eye of judges who may or may not fully understand just how they arrived.

There's plenty right, attendees seem to agree, with the way the local courts are responding. But there's also room for improvement - and some of the current deficiencies might well be exacerbated by future trends in the broader culture.

Frank DiNovo, Director of the Champaign County Planning and Zoning Department, set the stage with local demographics gleaned from the 2000 census and comparisons of those with the picture of local society recorded 10 years prior and beyond.

Future consumers of court services may be older and more likely to live alone than in the past. They will less likely be white and may more likely be Asian or Hispanic. A substantial number may be foreign born. All of this has implications for the courts, as it does for other institutions that deal with society as a whole.

A startling variety of languages already are being accommodated - with mixed success. A Chinese interpreter, for example, must be of the right regional dialect. Spanish spoken in one country may be spoken quite differently in another.

And apart from language issues, conference participants noted, there are cultural differences that may prove particularly problematic in the courts. In some cultures, domestic battery may not be met with the disfavor that greets it here. In some cultures, drinking and driving mix without taboo. Likewise, specific punishments might be better understood and accepted in some cultures than others. Those were just examples of how a more heterogeneous population may raise issues for the courts. New technology raises other issues. Trends in the treatment of mental illness raise yet others, as does a greater population of seniors.

Already, participants noted, those who enter the courthouse may be alienated, confused and expecting the worst. The legal system - with its rigid rules and specialized jargon - may seem like a foreign culture itself, even to those who grew up watching Perry Mason or L.A. Law. And it's typically a time of some stress; almost no one comes to the courthouse for fun, and many - particularly minorities - may be expecting a deck stacked against them.

Conference participants poured forth ideas for dealing with these and dozens of other scenarios. Some were complicated and technical; others were as simple as a "greeter" to offer a smile and some directions to those who enter the courthouse. Many of the ideas have made their way into this report - intended to guide Townsend and others.

Inevitable change confronts all society's institutions. Most wait to react, often too late. Townsend and the Champaign County courts

deserve credit for embracing a better way. Not everyone is either so forward-looking or so open-minded to the ideas outsiders may bring to their sandbox.

With luck and follow-through, Champaign County may have new ideas that match its new building in readiness for the future.

John Foreman, Publisher
The News-Gazette

SUMMARY

Participants in the conference were divided into subgroups, each under the direction of a moderator, to discuss issues in several broad categories related to the justice system. A number of ideas surfaced repeatedly in subsequent reports to the plenary session. Although expressed in slightly different terms, they might be summarized into one of three general categories:

- 1) The increasing challenges of cultural diversity and an international population.
- 2) The need for a "user-friendly" courthouse environment.
- 3) The desirability of judicial outreach to the community for educational purposes.

DIVERSITY

The courts already are dealing with an increasingly heterogeneous population. Population forecasts suggest that this trend is apt to continue or accelerate. At present, the courts are seeing significant numbers of individuals with origins in Spanish-speaking homelands and from any number of Asian countries. Challenges associated with this phenomenon may increase. Conference participants, including members of the judiciary, cited a number of problems and some possible solutions:

-While translators are available for court proceedings, they are not universally available at all other steps of the legal process. The probation office, for example, does not have translators readily available for their important work. In other instances, even the translators who are available may not be expert in specific dialects or in regional variations within a language. Spanish, for example, is spoken quite differently in some countries as opposed to others. Participants were able to cite specific examples of important communication that was impeded by this problem. Equally important to some, at least, was the fact that translators do not always understand the legal process or its unique terminology.

- Signage in the courthouse is exclusively in English, and many routine forms are not available in other languages.

- Apart from the challenges imposed by language, some cultures have value systems quite different from the values codified in our law. In some cultures, for example, domestic violence or driving under the influence may not be recognized as aberrant behavior.

- Some populations have a culturally ingrained distrust of law enforcement and the courts.

USER FRIENDLINESS

The courthouse and the court system, in some part by design, are serious and imposing. The process and vernacular of the law are unfamiliar even to many for whom language imposes no barrier. Moreover, many of those who arrive at the courthouse are often under significant stress. As one conference participant put it: "They arrive expecting the worst." These problems are only exacerbated among those referenced above for whom language, national origin or culture may impose additional obstacles to understanding the procedures and process. Conference participants thought some relatively simple steps could yield improvements:

- Various groups identified the need for a "greeter" or an information desk that could alleviate some anxiety and help visitors navigate the courthouse physically. Different participants described the requirements and benefits in different ways. Some thought just an unmanned informational kiosk would help. Others described personnel offering little more than a friendly greeting and directions. Still others expressed a need for staffing with greater technical expertise in the various offices and practices within the courthouse. One group described the position as a courthouse "concierge."

- Current judges received mostly high marks for their efforts to assure that participants understand what is happening within the courtroom itself. Other courthouse personnel might benefit from greater effort to follow that model. One group suggested what it called "PR Training" for courthouse personnel.

- More and better signage and posting of courthouse calendars were also thought to be of help.

OUTREACH

No individual discussion group may have used precisely the label chosen here to describe this group of recommendations, but it seems to be a useful catchall phrase for a variety of topics generally related to greater public access to the workings of the court system. In a number of the discussions, suggestions related to this - which might also be called "public education" - came up as a means for addressing some of the problems identified in the two areas referenced above. A broader public understanding of the courts might increase familiarity for those from different cultures, increase trust in the legal system and create a greater comfort level for all those who come in contact with the courts. Specific recommendations include:

- Dramatically increasing the variety and the usefulness of information available over the Internet. In some scenarios, this also could decrease the need for people to access the courthouse physically.

- Expanding the availability and educational value of tours for schools, clubs, etc. and including more opportunities for discussions with judges. At least one group suggested facilitating "mock court" for student groups.

- Greater availability of judges - and perhaps other courthouse personnel - as visiting speakers to outside groups, classes, etc.

- Enhanced media relations and access.

- Creation of a standing committee to study and address questions related to user-friendliness and access.

In addition to the fairly concrete suggestions outlined above, a number of more technical 'internal' matters suggested themselves as topics of further study by court personnel or some other appropriate constituency. These are loosely summarized in the following.

TOPICS FOR FURTHER STUDY

Many small group discussions at the Conference yielded more questions than answers. This outcome is not unexpected. One suggestion of the participants is that a committee of interested parties: citizens, lawyers, law enforcement personnel, judges, representatives from social agencies and others should be formed and meet regularly to evaluate and recommend changes to the Champaign County justice system. Three topics requiring further study were identified during the Conference:

- (1) The efficacy and fairness of the Public Defender/Contract Attorney system of representing the indigent criminal defendant;
- (2) The justice system's relationship with social service providers;
- (3) Developing and expanding alternatives to criminal penalties.

PUBLIC DEFENDER / CONTRACT ATTORNEY SYSTEM

In Champaign County, the responsibility for representing indigent criminal defendants is divided between the Champaign County Public Defender's Office and attorneys retained under contract to represent defendants charged with felonies and in juvenile abuse or neglect cases. Currently, there are 11 attorneys in the Public Defender's Office, four contracts for attorneys assigned to represent indigent defendants in felony cases and two contracts for representation in juvenile matters. (One for an attorney and/or CASA as guardian ad litem and one for an attorney to represent parties on appeal in juvenile matters.) Contract attorneys are compensated by an annual salary, instead of being paid on an hourly basis. With the contract amount calculated on a part-time basis, contract attorneys also maintain a private practice.

Conference attendees expressed concerns about the efficacy and fairness of this system. Some of the participants expressed concern about the increasing number of felonies being charged and the resulting increase in caseloads for felony attorneys. Other participants indicated a concern about the lack of time the attorneys spend with clients and a resulting lack of communication between attorney and client. Participants also questioned whether the strain of maintaining a private practice and fulfilling contractual obligations affects the quality of representation by contract attorneys. Based on these and other concerns, the participants in the Conference indicated that further study on this issue is warranted.

COURT'S INTERACTION WITH SOCIAL SERVICE AGENCIES

Another area for further study identified by Conference attendees is the relationship between the justice system and social services providers. Many participants in the criminal justice system have underlying social, emotional, financial or psychological issues that, addressed earlier might not have led to criminal charges. In many respects, the courts become a conduit between individuals needing access to social services and the providers of those services. Whether someone needs the assistance of a government agency (e.g. DCFS), a mental health provider, a substance abuse treatment facility or other assistance, the courts have been placed in the position, either through statutory enactment or the practicalities inherent in the system, of acting as conduits. This situation sometimes requires courts to function in ways not traditionally within the courts' functions.

Participants in the Conference suggested ways of easing the burdens on the justice system while providing needed services to those in the system. One recommendation was the creation of a "liaison, coordinator" or "one-stop shop" as a social services resource. This "liaison" would have the information and documentation necessary to obtain social services. A component of this process would be an early assessment or "triage" of a person's needs. This "triage" assessment might indicate that a person be provided social services as an alternative to criminal prosecution. Providing access to services for all members of the family, not just those individuals in the system, was another recommendation of the participants.

DEVELOPING OR EXPANDING ALTERNATIVES TO TRADITIONAL CRIMINAL PENALTIES

Another area identified for further examination is the need for development or expansion of alternatives to traditional criminal penalties. Jail overcrowding is seen as a problem of increasing concern in Champaign County. In order to alleviate this problem and provide more effective rehabilitation, many participants indicated that alternatives to traditional criminal penalties needed

to be identified and, where applicable, expanded.

One of the options currently used is "Drug Court". This program involves a community-based probationary sentence in which the felony probationer must complete counseling, submit to drug testing, and comply with other orders entered by the court (e.g. abide by a curfew, etc.). The probationer's progress is evaluated each week by the "Drug Court" judge. Non-compliance with the terms of the probation can include stronger restrictions on a probationer's activities or even probation revocation.

Participants in the conference recommended expansion of the "Drug Court" model. One suggestion was the establishment of a "Mental Health Court" for those defendants whose mental health condition was the root cause of their criminal behavior. The establishment of a "Peer Court" for troubled juveniles was also mentioned as a possible alternative to traditional penalties. Another suggestion was to expand "Drug Court" to include juveniles. Currently, "station adjustments" are being used to steer troubled juveniles toward a law-abiding future. When a juvenile is brought to the stationhouse and admits to committing a crime, the officer has the option of completing a "station adjustment" form which lists what actions the juvenile must take to avoid criminal prosecution. These actions may include requiring a juvenile to improve their school performance, complete community service, make restitution for property damaged or stolen, or other community-based activities as an alternative to placing the juvenile in the justice system.

The participants of the Conference indicated that the alternatives currently in place need to be studied to determine their efficacy. Ideas for new alternatives also need to be evaluated to determine their viability.

The COMMITTEE ON THE FUTURE OF CHAMPAIGN COUNTY COURTS

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Written materials produced for and used at the 1992 Future and the Courts of Illinois Conference by the Supreme Court of Illinois and the American Judicature Society were relied upon by the committee in preparation for this event.

John T. Phipps Law Offices, P.C. contributed materials for use in the conference.

DEDICATION

This conference is dedicated to the memory of Lois Brodsky. For many years, Lois served this community and its courts as the Chairperson of the Criminal Justice and Courtwatcher program of the League of Women Voters of Champaign County. Lois, as a member of the State League of Women Voters Committee on Criminal Justice, served as a delegate to both national and Illinois conferences on the Future of the Courts, and was the driving force behind an ad hoc committee which conducted the 1995 conference on the Future of the Courts in Champaign County. Lois was instrumental in organizing the Court Appointed Special Advocate chapter in Champaign County to assist the Court in cases of abused and neglected children. She proposed improvements in the administration of justice in Champaign County, many of which have been adopted by the Judges, the County Board, the Jury Commission, and other appropriate bodies. Lois Brodsky was a dynamic woman, vitally interested in courts which served the community, and this conference is dedicated to her memory.

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