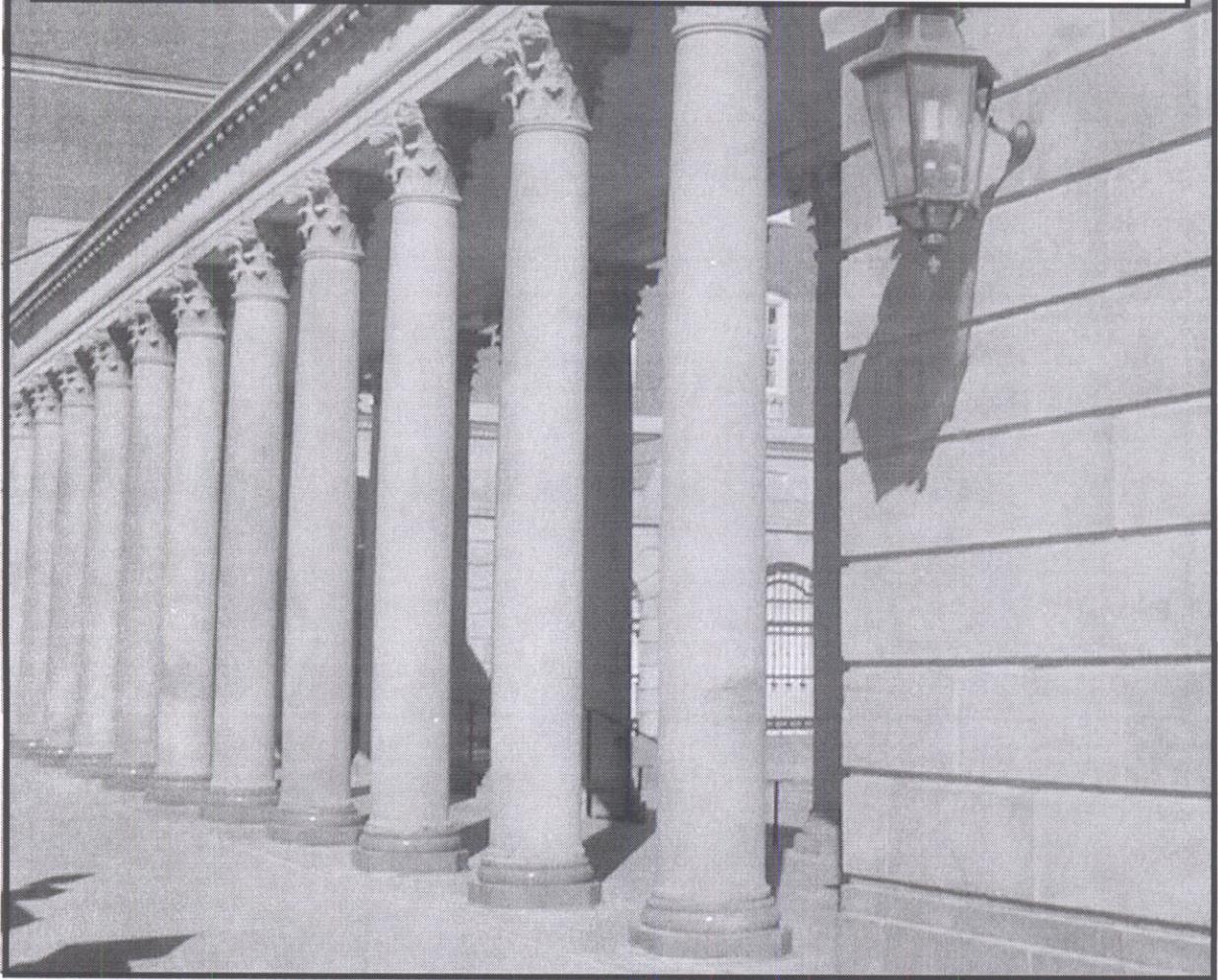


**FINAL REPORT OF THE
FUTURE OF THE COURTS COMMITTEE**

MAY 2001





JOHN P. BOURCIER
JUSTICE

Supreme Court of Rhode Island

Frank Licht Judicial Complex

250 Benefit Street

Providence, R.I. 02903

May 23, 2001

The Honorable Frank J. Williams
Chief Justice
Rhode Island Supreme Court
250 Benefit Street
Providence, RI 02903

Dear Chief Justice Williams:

I am pleased to submit for your consideration the Final Report of the Future of the Courts Committee.

The Committee was formed in September 1996 by then Chief Justice Joseph R. Weisberger who, in his charge to the Committee, requested that it endeavor to consider and propose modifications and changes in the overall operation of our present judicial system. He targeted as areas for our concern an appraisal of the adversary system and its usefulness in resolving certain types of disputes, a review of possible modifications to the jury system, alternate dispute resolution programs, and consideration of inventive uses of technology in case management and the maintenance of judicial records. He also urged the committee to emphasize user-friendly service by the courts, recognizing that in the next century even larger numbers of minorities and non-English speaking persons will be served as litigants, witnesses, and members of the bar. In addition, the committee was encouraged to take the broadest possible view in determining what will be needed for effectively operating the courts in the future, to scrutinize any assumptions based on past practices and procedures, and to be innovative in our deliberations so as to ensure that "Rhode Island's judicial system serves the needs of its citizens in the 21st century and beyond."

The Committee was comprised of thirty-two members representing all of the State Courts, the Federal Court, Judicial Administrators, the Rhode Island Bar Association, the Department of Attorney General, the Public Defender's Office, the Office of the United States Attorney, Roger Williams University and its School of Law, Brown University, the practicing bar and the general public. Despite its size and diverse makeup, the Committee was able to reach consensus on the wide range of issues that it examined.

Honorable Frank J. Williams

May 23, 2001

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Over the course of its study, the Committee reviewed and considered similar judicial studies that had been undertaken in eight other states. We found in them a striking similarity of mutual judiciary concerns. We were also able to conclude from those studies that our present judicial structure, when compared with those utilized in other states, was indeed one of the better in the nation, and is clearly more advanced and more efficiently organized than in most states. We learned that a number of states are presently advocating judicial reforms and restructuring that have long ago been adopted and are presently in use in this state. For example, Rhode Island was the first jurisdiction to establish a separate Family Court. The benefits of having judges with a special expertise and interest in this area handling difficult family matters have been widely acknowledged, and the Rhode Island Family Court has served as a model for other states. The effectiveness of the Workers' Compensation Court in reducing the cost of doing business in this state has also received wide recognition. Moreover, all of the courts have worked diligently to streamline case processing and reduce delay. Our Supreme Court is now acclaimed as one of the most respected and efficiently operated appellate courts in the country, and its appellate case docket is current with cases being heard and disposed of in less than one year from filing. The Superior Court, we observe, has made tremendous strides in reducing the time to trial in civil cases down to one year, and employs a model alternate dispute resolution program that has been studied and adopted for use in other states. The Superior Court's judicial evaluation program that permits attorneys, jurors and members of the public to monitor and evaluate judges has been enormously successful. The District Court, like the Superior Court, is a model for efficiency and case disposition, and the new State Traffic Tribunal has eliminated the backlog and delay in the trial and disposition of traffic violations that had existed in the past.

In general, our various state courts have instituted many innovations in recent years and have taken steps to recognize the growing diversity of the communities we serve. The Committee's recommendations should in no way be construed as being critical of the present, but rather an effort to prepare for what is to come, and an acknowledgment that there is always room for improvement. The Committee's successful accomplishment of its designated task, as reflected in its final report, is attributable not only to the Committee members, who each and all devoted unlimited time, dedication and diligence to the Committee's objective, but also in great part to the excellent leadership provided by Superior Court Presiding Justice Joseph F. Rodgers, Jr. and District Court Magistrate Joseph P. Ippolito, who chaired, respectively, the Court Structure and Case Management study subcommittees.

Honorable Frank J. Williams

May 23, 2001

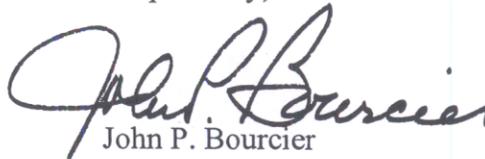
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The Committee acknowledges also the valued and sage assistance of District Court Chief Judge Albert E. DeRobbio, Family Court Judge Peter Palombo, Judge Janette Bertness of the Workers' Compensation Court, Joseph W. Walsh, Esquire, who served as committee vice chairperson, and from Ms. Susan McCalmont and Mr. Stephen A. King of the Rhode Island Supreme Court Judicial Planning Unit.

Last, and by no means least, the Committee acknowledges the gracious assistance provided by Professor Robert B. Kent, who so generously volunteered to serve as advisor to the Committee and who, in that capacity, was also most helpful in drafting proposed legislation that will be needed to effectuate some of the Committee's recommended proposals.

On behalf of the Future of the Courts Committee, I submit to you its final report. As you chart the course that our judicial system will take as it enters into the new millennium, I trust that the recommendations made in the report will be of assistance to you.

Respectfully,

A handwritten signature in cursive script, appearing to read "John P. Bourcier".

John P. Bourcier
Chairperson

JPB:pb

FINAL REPORT OF THE FUTURE OF THE COURTS COMMITTEE

MAY 2001

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SUMMARY OF COMMITTEE RECOMMENDATIONS

I. FUTURE VISIONS ON THE SELECTION OF JUDGES:

SHORT TERM OBJECTIVES:

1. Encourage the bar association to take an active role in the selection process on its own initiative without a legislative change.
2. Issue a statement in strong opposition to the process of electing judges.

LONG TERM OBJECTIVE:

1. Revisit Rhode Island's process for judicial selection in the future after there has been more experience with the process.

II. FUTURE VISIONS FOR THE APPELLATE PROCESS:

SHORT TERM OBJECTIVE:

1. Obtain passage of legislation allowing the chief justice to fill a vacancy on the Supreme Court by temporarily appointing a trial court judge.

LONG TERM OBJECTIVE:

1. Adopt a standard that would trigger reconsideration of the size of the Supreme Court.

III. FUTURE VISIONS FOR STREAMLINING COURT JURISDICTION:

SHORT TERM OBJECTIVES:

1. Adopt legislation eliminating the present jurisdictional lines in Rhode Island and establishing a single judicial district within the state.
2. Appoint an implementation committee to carry out the objectives of the legislation.

IV. FUTURE VISIONS ON COURT UNIFICATION:

SHORT TERM OBJECTIVES:

1. Achieve greater flexibility by expanding the authority of the chief justice in assigning judges from one court to another.
2. Reform the trial de novo through a statutory change.
3. Expand the jurisdiction of the District Court through a statutory change.

LONG TERM OBJECTIVES:

1. Reexamine the feasibility of increasing the civil jurisdiction of the District Court.
2. Reduce the disparity in judicial salaries.

V. FUTURE VISIONS ON THE COURTS' INTERFACE WITH THE PUBLIC:

Meeting the Needs of Persons with Disabilities

SHORT TERM OBJECTIVES:

1. Continue revising court forms.
2. Expand on judicial and employee training.
3. Promote attorney training.
4. Expand on justice system coordination and community outreach.
5. Adopt statutory and rules changes to address disability accommodation needs.

LONG TERM OBJECTIVES:

1. Assure that future court construction meets ADA requirements.
2. Acquire real-time transcription equipment.
3. Create a sign language interpreter/ ADA assistant position.

Meeting the Needs of Non-English Speaking Litigants and Witnesses

SHORT TERM OBJECTIVES:

1. Develop an interpreter resource network.
2. Require the examination and licensing of all interpreters and translators.
3. Establish a code of professional conduct for interpreters.

LONG TERM OBJECTIVE:

1. Establish an office of interpreter/translator services.

Assuring the Safety of Court Staff and the Public in Court Facilities

SHORT TERM OBJECTIVES:

1. Conduct a security audit.
2. Conduct a survey of court personnel on their views of security needs.
3. Make explicit the delegation of duties between the capitol police and the sheriffs in courthouses.
4. Differentiate between the duties of state marshals and state sheriffs.
5. Raise the training standards for sheriffs uniformly.
6. Develop an organized response to potentially dangerous situations.

LONG TERM OBJECTIONS:

1. Unify the capitol police, sheriffs and marshals into a single court security force.
2. Install x-ray machine devices at courthouse entrances.
3. Require everyone to pass through a security check at courthouse entrances.
4. Upgrade chambers security.
5. Address security in the courthouse offices of the Attorney General and the Public Defender.
6. Enhance the security of jury waiting rooms.
7. Install bulletproof benches with panic buttons.
8. Expand the use of video conferencing technology.
9. Address security in the Newport County courthouse sally port.

Providing User-Friendly Facilities

SHORT TERM OBJECTIVES:

1. Initiate court scheduling that allows for a more even flow of people in and out of court facilities.
2. Make calendars available, by litigant last name, at the front desk.
3. Institute night and weekend court to accommodate the public, police, cities and towns.
4. Create meeting rooms for lawyers, clients, and litigants to converse and settle cases.
5. Place work stations for public reference in all court clerks' offices.
6. Install comfortable seating in waiting areas.
7. Establish self service counters.
8. Refurbish jury rooms.
9. Establish bus routes to all court locations.

LONG TERM OBJECTIVES:

1. Establish a schedule for maintenance and repair of courthouse facilities.
2. Construct or purchase a facility for a new courthouse convenient to northern Rhode Island.
3. Develop services in convenient locations outside of courthouses.
4. Develop standards for court facilities.

VI. FUTURE VISIONS ON TECHNOLOGY IN THE COURTS:

SHORT TERM OBJECTIVES:

1. Establish a courtwide technical advisory committee.
2. Authorize the use of fax and electronic technology for filing and related operations.
3. Improve and enhance intra-court communication.
4. Expand use of the internet.
5. Provide twenty-four hour telephone access with voice mail in all court facilities.
6. Increase access to legal research.
7. Provide adequate training to all judges and personnel in new technologies introduced in the courts.
8. Incorporate technology opportunities in all modifications to facilities or new buildings.

LONG TERM OBJECTIVES:

1. Introduce electronic filing.
2. Provide for the electronic storage of documents.
3. Install video terminals/kiosks both in court facilities and off-site.
4. Expand the use of video communication.
5. Examine the use of expert systems to assist in rule-based decision making.
6. Study and initiate real-time transcription.
7. Enhance courthouse security through the use of technology.
8. Explore the use of computer reenactment or animation.

VII. FUTURE VISIONS FOR JURY SERVICE AND JURY TRIALS:

SHORT TERM OBJECTIVES:

1. Increase community awareness about the role of jury service in a democratic society.
2. Enhance the efficiency of the Office of the Jury Commissioner.
3. Guarantee the representation, inclusiveness and accuracy of the juror source list and limit release from jury service.
4. Establish standard procedures to facilitate jury composition and juror comprehension and deliberation.
5. Promote juror satisfaction at all stages of jury service.

LONG TERM OBJECTIVES:

1. Reduce the length of jury service in Kent and Providence Counties.
2. Examine juror compensation.

VIII. FUTURE VISIONS ON THE USE OF ADR IN THE COURTS :

SHORT TERM OBJECTIVES:

1. Establish a continuing education program.
2. Implement a comprehensive evaluation of existing programs.
3. Assess the need for ADR programs.
4. Conduct a mandatory settlement conference one week prior to trial in Superior Court.
5. Improve the quality of existing programs.

LONG TERM OBJECTIVES:

1. Appoint an interdisciplinary task force.
2. Carefully and incrementally expand ADR programs only with full support.
3. Promote an array of alternative ADR programs.
4. Carefully consider the benefits of mandatory versus voluntary programs.
5. Assure the quality of ADR programs.

MEMBERS OF THE FUTURE OF THE COURTS COMMITTEE

The Honorable John P. Bourcier, *Justice, Supreme Court, Chair*
Joseph W. Walsh, *Esquire, Vice Chair*

Court Structure Subcommittee

The Honorable Joseph F. Rodgers, Jr., *Presiding Justice, Superior Court, Chair*
The Honorable Janette A. Bertness, *Associate Judge, Workers' Compensation Court, Vice-Chair*
The Honorable Bruce M. Selya, *Judge, U.S. Court of Appeals for the First Circuit*
The Honorable Albert E. DeRobbio, *Chief Judge, District Court*
The Honorable Stephen P. Nugent, *Associate Justice, Superior Court*
The Honorable Peter Palombo, Jr., *Associate Justice, Family Court*
The Honorable Robert K. Pirraglia, *Associate Judge, District Court*
The Honorable Lillian M. Almeida, *Judge, Traffic Tribunal*
Zygmunt J. Friedemann, *Ph.D.*
John Hardiman, *Esquire, Public Defender*
Bruce I. Kogan, *Esquire, Roger Williams University-School of Law*
Beverly E. Ledbetter, *Esquire, Brown University*
Anthony J. Santoro, *Chancellor, Roger Williams University*
John A. Tarantino, *Esquire, Rhode Island Bar Association*
The Honorable Sheldon Whitehouse, *Attorney General*

Case Management Subcommittee

The Honorable Joseph P. Ippolito, Jr., *Magistrate, District Court, Chair*
Robin Feder, *Esquire, United States Attorney's Office, Vice-Chair*
Maureen A. Aveno, *Workers' Compensation Court*
John H. Barrette, *Superior Court*
Edward N. Beiser, *Ph.D., J.D., Brown University*
William Burgess, *Family Court*
Thomas M. Dickinson, *Esquire*
William C. Dimitri, *Esquire*
Vincent DiMonte, *Esquire*
William Ferland, *Esquire*
J. Michael Keating, Jr., *Esquire*
Eva Marie Mancuso, *Esquire*
Elizabeth McDonough Noonan, *Esquire*
Leo Skenyon, *Traffic Tribunal*
Madis T. Suvari, *Esquire*

Susan McCalmont, *Staff*
Stephen King, *Staff*

RHODE ISLAND JUDICIARY FUTURE OF THE COURTS COMMITTEE

FUTURE VISIONS ON THE SELECTION OF JUDGES

I. VISION STATEMENT FOR IMPROVING THE JUDICIAL SELECTION PROCESS

Judicial selection processes vary state to state, but the most common involve either the election of judges or gubernatorial selection through a nominating process. Whatever the method, the goals should be to attract and retain the most qualified persons for service on the bench and promote the concept of an independent judiciary. Motivated by a call for reform, Rhode Island adopted a new method of judicial selection in 1994. The new process provides for an independent, nonpartisan judicial nominating commission with nine members. The nominating commission recommends three to five names for appointment to the governor. The governor's selection must be confirmed by the Senate, unless the appointment is to a vacancy in the Supreme Court, which requires confirmation by both the Senate and the House of Representatives.

In addition, to the process of selection, there is the issue of judicial retention. Rhode Island is the only state where judges may serve for life. Although Rhode Island judges do not actually have "life tenure," they "serve during good behavior" without any review or age limit. The majority of the other states have limited terms, and in the two states other than Rhode Island that do not have limited terms, there is mandatory retirement at age 70. The federal system also provides that judges may serve for life. However, in the federal system chief judges must relinquish their position at age 70 but may continue to serve on the court.

Although most states have limited terms for judicial service, it is questionable whether this actually has any effect. In most cases judges are retained indefinitely despite term limits, and there have been instances where judges who took unpopular positions were not retained. Thus, the general consensus among committee members was that Rhode Island's "service during good behavior" provides judges with the independence to ignore popular opinion and yet provides a process for removal when the circumstances warrant it. Recent examples suggest that the removal process works.

II. SHORT TERM OBJECTIVES FOR IMPROVING THE JUDICIAL SELECTION PROCESS

1. Encourage the Bar Association to Take an Active Role in the Selection Process on its Own Initiative without a Legislative Change -- One suggestion was to modify the statute on judicial selection to include a process for rating candidates by the bar association. The review process contemplated would involve a special committee established by the bar association for this purpose with very diverse membership. This committee would only rate the governor's nominee, and the rating would be limited to declaring a candidate qualified, very qualified or highly qualified.

Arguments against such a rating process are that it might be dominated by the large law firms, that it would give the bar in effect a veto power over candidates, and that the bar already can provide a rating on its own initiative. However, the short statutory time frames in the judicial selection process make it difficult for the bar to rate candidates, specifically the time between submission of the list to the governor and the governor's selection of a candidate (21 days) and the time that the General Assembly has to act on the governor's nominee (6 to 67 days). Nevertheless, it was agreed that the bar association should be encouraged to take an active role in the selection process without a legislative change.

2. Issue a Statement in Strong Opposition to the Process of Electing Judges -- Committee members expressed strong opposition to the election of judges noting that when this process is used, little attention is paid to the election and the cost can force judges into a position that could compromise their independence. Thus, the committee should make a public declaration opposing the election of judges on the grounds that it undermines judicial independence. Accompanying this should be a statement that Rhode Island's current merit selection process with life service during good behavior has been effective, and, because the process is so new, more experience is needed before any changes should be proposed.

III. LONG TERM OBJECTIVES FOR IMPROVING THE JUDICIAL SELECTION PROCESS

1. Revisit Rhode Island's Process for Judicial Selection in the Future after there has been more Experience with the Process.

IV. CONCLUSION

Rhode Island's current merit selection process with life service during good behavior has been effective, and, because the process is so new, more experience is needed before any changes should be proposed.

FUTURE VISIONS FOR THE APPELLATE PROCESS

I. VISION STATEMENT FOR AN EFFECTIVE APPELLATE PROCESS

The function of the appellate process is to review actions by the lower courts and bring finality to cases in a fair, efficient and cost-effective manner. In order to continue handling appeals without undue delay, the appellate process in Rhode Island should be structured in such a way that it is not overwhelmed by fluctuations in the size of the appeals caseload. Many states experienced an explosion in appeals in the early 1990s, and Rhode Island was among them. In 1994 the number of appeals to the Rhode Island Supreme Court reached 776, an all time high for the state. The most common response to increasing appeals by state court systems has been to create an intermediate court of appeals. Based on 1998 data, 35 states had one intermediate court of appeal, and 5 states had two. Only 11 states and the District of Columbia have no intermediate court of appeals.

The Rhode Island Supreme Court's caseload falls in about the middle of the 11 states that do not have an intermediate appellate court. In 1995, the number of appeals to the court of last resort in these states ranged from 345 in Wyoming to 2,691 in West Virginia; Rhode Island had 762 appeals that year. The courts of last resort in these states range in size from 5 to 7 justices, while the District of Columbia has 9 justices. Thus, one alternative to creating an intermediate appellate to address an increase in appeals would be expanding the size of the Rhode Island Supreme Court from 5 to 7 justices. This would allow greater flexibility, since with this number the court could sit in panels of five and hear more cases.

Another alternative for achieving flexibility would be to grant the chief justice the authority to call up judges from the trial courts to sit on the Supreme Court under certain circumstances. For example, between 1993 and 1997, the court was almost continuously down one judge due to the length of time taken in replacing the four justices who either retired or resigned. The temporary assignment of a trial judge to the court during this period would have been a significant benefit. The federal system has the flexibility to move trial judges to the circuit court or to bring in judges from other circuits. Unfortunately, legislation introduced in the past to accomplish this in the Rhode Island state courts has never passed.

II. SHORT TERM OBJECTIVES FOR AN EFFECTIVE APPELLATE PROCESS

1. Obtain Passage of Legislation Allowing the Chief Justice to Fill a Vacancy on the Court by Temporarily Appointing a Trial Court Judge -- Formerly, the governor had the power to fill vacancies on the Supreme Court. However, the constitutional amendment changing the method of appointment for Supreme Court justices eliminated this provision, leaving the constitution silent on a process for temporarily filling vacancies on the court. Therefore, legislation should be adopted that would authorize the chief or acting chief justice, with the concurrence of the majority of the other justices, to appoint a justice from any of the trial courts to perform the duties of a Supreme Court justice on a temporary basis.

III. LONG TERM OBJECTIVES FOR AN EFFECTIVE APPELLATE PROCESS

1. Adopt a Standard that would Trigger Reconsideration of the Size of the Court -- Based on past experience, expansion of the Supreme Court from 5 to 7 justices should be reevaluated whenever appeals exceed 850 for two years in a row. Maine, which had 988 appeals in 1995, has 7 judges on the court. The highest number of appeals received by the Rhode Island Supreme Court was 776 in 1994, but the number has declined slightly each year since then. Appeals totaled 674 in 1996, and in 2000 they totaled 538. Thus, it is anticipated that future appeals will remain within this range, at least for the short term.

IV. CONCLUSION

Creating an intermediate appellate court in Rhode Island would be a very expensive solution to an increase in appeals. It would require another court building as well as additional judges and staff, and the cost would be hard to justify.

There is no need to increase the size of the Rhode Island Supreme Court at present. For the first time the court will have three retired justices who can serve when needed. Also, the Supreme Court caseload has been on the decline since 1995, and there is the possibility that changes in the new rules of civil procedure might even result in a further decline in appeals. Under the new rules a judge can grant a new trial on an error in a ruling of law, which may avoid appeals. Nevertheless, unexpected changes can occur, and there should be a mechanism in place that would trigger reconsideration of the size of the court in the event there is an explosion in appeals.

FUTURE VISIONS FOR STREAMLINING COURT JURISDICTION

I. VISION STATEMENT FOR STREAMLINING COURT JURISDICTION

There is a concern that the present county system of jurisdiction in Rhode Island is not serving the courts well primarily because the county facilities are too small and do not allow for the reassignment of judges where they are needed. Based on this, the Presiding Justice of Superior Court is considering transferring all civil cases to Providence County and using the out-county facilities for criminal cases only. The District Court also has found the outlying facilities inadequate. This was one reason for consolidating the eight divisions into four, combined with the decisions by several cities and towns to evict the District Court from their facilities to meet their own needs, the waste of time and resources in transporting prisoners to the outlying locations, and the difficulty and inefficiency in staffing so many locations. The federal court operates in one location in Rhode Island without any problem, and the Workers' Compensation Court also serves the entire state from one location without experiencing any difficulty. Because Rhode Island is comparable in size to single counties elsewhere, conceptually Rhode Island should be one judicial district with court managers deciding what is heard where and when.

II. SHORT TERM OBJECTIVES FOR STREAMLINING COURT JURISDICTION

1. Adopt Legislation Eliminating the Present Jurisdictional Lines in Rhode Island and Establishing a Single Judicial District within the State
2. Appoint an Implementation Committee to Carry Out the Objectives of the Legislation -- The implementation committee should include legislative members but be formed under the aegis of the courts (for continuity). Initially this committee should examine the feasibility of replacing the Kent County Courthouse with a central facility, possibly housing a central criminal court, to promote efficiency.

III. CONCLUSION

Because Rhode Island is so small geographically the county system is an unnecessary impediment to the efficient operation of the state courts. The county system should be abolished, and Rhode Island should have a single judicial district within the state.

FUTURE VISIONS ON COURT UNIFICATION

I. VISION STATEMENT ON COURT UNIFICATION

The structure of the state judiciary should have as its objective the prompt, fair and cost-effective resolution of disputes. More recently the trend nationally has been towards consolidating and simplifying the structure of courts. Under its present structure the Rhode Island judiciary is unified in some aspects. The courts have a single budget and personnel system, all facilities are managed centrally, there is a central library and the Advisory Council is a joint decision-making body. However, historically the state courts have moved from a single, unified court to six separate courts, three of which have highly specialized roles. When the Rhode Island court system was established in 1843, there was a single court, the Supreme Court, handling all trial and appeal functions. The District Court was established in 1886 to replace justices of the peace who were non-lawyer judges, and the Superior Court was created in 1905 to take over the trial function. Following this, the Family Court was created in 1960 as a specialized court. Then in 1991 the Workers' Compensation Commission and in 1992 the Administrative Adjudication Division were both legislatively reconstituted as courts with specialized caseloads.

The consensus has been that the specialized courts in Rhode Island, including the Workers' Compensation Court and the Family Court, should remain as separate entities. Having judges and staff with special expertise and training in these areas has assured that these types of cases receive the attention and resources required. Therefore, discussion of the benefits of unification have focused on the merger of the District and Superior Courts.

The benefits anticipated from the consolidation of courts are as follows:

1. Greater flexibility: The assumption is that a consolidated court allows for greater flexibility in assigning, and reassigning, judges and court personnel in response to changing needs.
2. A reduction in overhead: Consolidation, it is assumed, results in administrative efficiency by eliminating any duplication in facilities and services.
3. Elimination of redundancy and delay in processing cases: Also, consolidation eliminates overlapping jurisdictions and processes that result in cases moving back and forth between courts. In Rhode Island an anticipated benefit from merging the District and Superior Courts would be elimination of the trial de novo and the ability of District Court judges to handle felony dispositions.

Consolidation also has its detractors. The justices of the Superior Court are opposed to the merger because they do not want to be assigned to the more routine, high volume types of cases that are handled by the District Court. In addition, there is a concern that unification violates the spirit of merit selection of judges by automatically elevating District Court judges to the Superior Court and also might work against the appointment of minorities who have benefited in the past by gaining experience in the District Court.

In addition, consolidation for its own sake may not improve the performance of the courts, if there is no compelling reason for it. In other states where unification has occurred there have been

serious problems that motivated a change in the structure of the courts. For example, trial court unification occurred in Massachusetts because of the numerous criticisms leveled against the courts, including separate budgets for the divisions of the court, the lack of a judicial evaluation process, and a decentralized computer system that could not communicate between court divisions and locations. These are not issues in Rhode Island. The Rhode Island courts have a unified budget, a judicial evaluation process, and are implementing a new automated information system that will allow communication among courts and also related, outside agencies.

Moreover, statistics have shown that the present two-tiered system in Rhode Island has worked reasonably well. The District Court provides a screening function, leaving the Superior Court to focus its resources on matters of greater consequence. The rate of appeal from the District Court is very low with appeals to the Superior Court representing only about 1 percent of District Court filings. In addition, District Court appeals make up only about 5 percent of Superior Court filings and thus historically have not been a burden on the Superior Court. Also, based on a 1988 study, only about 5 percent of District Court appeals actually result in a trial in Superior Court with the remainder disposed of either by a plea (70 percent) or dismissal (20 percent), and these percentages have remained constant.

Without the unanimous support of the judges and without any significant benefit that could be demonstrated, the committee tabled further discussion of the unification of the District and Superior Courts. However, while the committee did not support merging the District and Superior Courts, it endorsed a number of changes short of formal merger that would address two significant issues, eliminating the trial de novo and expanding the jurisdiction of the District Court.

II. SHORT TERM OBJECTIVES FOR ACHIEVING COURT UNIFICATION

1. Achieve Greater Flexibility by Expanding the Authority of the Chief Justice in Assigning Judges from one Court to Another -- Even without merging the District and Superior Courts, the committee agreed that greater flexibility within the present structure of the Rhode Island court system could be achieved by expanding the authority of the chief justice in assigning judges from one court to another. At present the statute defining the power of the chief justice in judicial assignments provides as follows:

“In order to aid in the prompt disposition of judicial business, the chief justice shall have power to assign a judge on the district court to sit in the superior or family courts subject to the approval of the presiding justice of the superior court, if the district judge is to be assigned to the court, or the chief judge of the family court, if the district judge is to be assigned to that court; such assignment to be for a temporary period of no longer than thirty (30) calendar days as shall be agreed upon by the chief justice and the presiding justice of the superior court or the chief judge of the family court as the case may be; provided however, that if the thirty (30) day period shall expire during a trial the justice may sit until the trial is completed; and, provided, further, that the justice shall have the power to sit and exercise the function of a justice of the superior court or family court for the purpose of rendering a decision or completing any matter pending before him or her as a justice of the superior court or family court at the expiration of the period. Included in such matters shall be

the hearing of motions for new trials, sentencing, allowance of bills of exceptions and transcripts, and any and all other functions necessary to the conclusion of cases heard before him or her as a superior or family court justice. The foregoing provisions shall be interpreted and construed liberally for the purpose of accomplishing the purpose thereof. No other judge may be assigned to another court other than herein provided. The chief justice may terminate the temporary assignment sooner than as agreed upon as aforesaid if he or she determines that the need for the assignment no longer exists.”

Thus, under the present statute the chief justice’s authority is limited to the assignment of District Court judges to the Superior or Family Courts only. Therefore, RIGL 8-15-3 should be revised to enable the chief justice to assign any judge of any court to another trial court subject to the approval of the chief judges of the sending and receiving courts and the consent of the judge to be assigned. In addition, the section limiting assignments to 30 days should be changed to allow assignments to extend for any “designated” period. (See Appendix A-1.)

2. Reform the Trial de Novo through a Statutory Change-- There were several proposals put forward for eliminating the trial de novo:
 - a. Empowering District Court judges to handle misdemeanor jury trials with six-person juries.
 - b. Eliminating the trial de novo and allowing litigants to exercise their right to a jury trial only by transferring their cases to Superior Court.
 - c. Limiting the right to a jury trial to misdemeanors carrying a potential jail sentence of over six months.
 - d. Establishing an appellate division of the District Court for the trial de novo of misdemeanors, rather than allowing jury trials for misdemeanors in the first instance.

The committee identified several obstacles to these options, the major one being the physical structure of many of the courthouses. None of the courtrooms presently used by the District Court outside of Providence can accommodate juries, thus precluding the use of six person juries or an appellate division of the District Court in any of these facilities. Another obstacle identified was the difficulty in obtaining approval of a constitutional amendment, which would be required in order to limit the right to a trial de novo to serious misdemeanor offenses only. An additional obstacle would be public opposition to the concept of appeals being handled within the same court. It was noted that the public has expressed concern about a process where judges hear appeals of decisions made by their own colleagues.

On the other hand, there was impetus for some action to reform the trial de novo process. One influence was a report by the BOTEK Analysis Corporation expressing concern about the demoralizing effect that it has on prosecutors, solicitors and victims in the prosecution of domestic violence cases. It was agreed that the most feasible approach would be through legislation modifying the right to appeal rather than attempting to eliminate it altogether. According to statistics presented to the committee, 25 percent of the appeals to Superior Court in criminal cases involve pleas taken in the District Court. Thus, legislation limiting the right of appeal to an adjudication of guilt or other specific circumstances would significantly reduce the number of appeals.

While it was acknowledged that this could be accomplished by use of a form signed by defendants waiving their right to a jury trial on entering a plea in the District Court, the argument

was made that such a form is already in use by the Department of Attorney General but has not been accepted by the city solicitors. Therefore, legislation would be the best method to limit appeals uniformly and without any additional paperwork.

The committee recommended limiting the trial de novo by a statutory change and by action of the District Court to revise Rule 37 of the District Court Rules of Criminal Procedure. Under the present provisions of RIGL 12-22-1 and Rule 37, defendants have the right to appeal from any sentence imposed by the District Court. This should be revised so that the right to appeal would be limited only to persons aggrieved “by a conviction and sentence imposed after a trial” by the District Court or by “any conviction and sentence imposed following a voluntary waiver of trial and a plea and negotiated sentence approved by the court” where “ the sentence imposed is not that agreed upon by the defendant, the state and the court.” (See Appendix A-2.)

3. Expand the Jurisdiction of the District Court through a Statutory Change -- The committee considered several options for expanding the jurisdiction of the District Court:
 - a. Increasing the District Court's jurisdiction in civil cases.
 - b. Allowing the transfer to Superior Court of civil cases where there is concurrent jurisdiction at the discretion of the judge or by motion of either party and imposing a penalty that no interest be paid in civil cases where the award falls below the jurisdiction of the Superior Court.
 - c. Authorizing District Court judges to handle District Court appeals to Superior Court.
 - d. Expanding the powers of District Court judges to include the authority to dispose of felony cases. It was agreed that handling such cases by waiver of information at the initial appearance or at a violation hearing in District Court would be a savings in both time and money to the system.
 - e. Empowering District Court judges to handle the pre-arraignment calendar for felony cases. This calendar successfully disposes of 30 to 50 percent of all felonies filed in Providence County Superior Court. In addition, it was proposed that this beneficial program be extended to the counties.

The following concerns were raised about several of the proposals:

- a. At present there is no critical need to reduce the workload of the Superior Court by increasing the civil jurisdiction of the District Court. According to statistics, there are presently 3,379 civil cases pending trial in Superior Court. Based on the average disposition rate, this does not indicate that a backlog exists.
- b. The expansion of District Court jurisdiction in civil cases to \$15,000 might impact arbitration. The Superior Court does not designate appeals to arbitration, but attorneys can agree to send their cases there, and arbitrators may be reluctant to overturn a judge's decision.
- c. While it was estimated that roughly 10 percent of the Superior Court civil caseload, or about 1,000 cases, would be added to the District Court civil caseload as a result of increasing the jurisdiction to \$15,000, it was acknowledged that there is a lack of data to show exactly how many cases would transfer jurisdiction. Without any specific number to rely on, the

Chief Judge of the District Court was uncertain whether the court could handle an additional caseload without more resources.

- d. The benefit of giving judges and plaintiffs the chance to transfer civil cases to the Superior Court when there is concurrent jurisdiction was questioned.
- e. There was a concern that the Attorney General might not be involved in felony pleas taken in the District Court as well as a concern that the Public Defender's Office might not be able to guarantee that the District Court would be staffed regularly with an assistant public defender.

Based on the lack of demonstrated need and a lack of data regarding the resources required for an increase in the civil jurisdiction of the District Court, it was agreed to table this proposal with the recommendation that it be revisited at a later time. Also, it was agreed that the chief justice's authority to assign a District Court judge to handle appeals to Superior Court was addressed already in the proposal relating to the assignment of judges.

However, the committee endorsed the proposal to extend the jurisdiction of the District Court to allow the court to take pleas in felony cases with the written consent of a representative of the Attorney General. In such cases it was agreed there should be no appeal to the Superior Court. This should be accomplished by a combination of statutory and rule changes. Under the present provisions of RIGL 12-10-4, when a person is brought before the District Court on a complaint charging him or her with an offense which is not within its jurisdiction, the court "shall not receive from such person a plea of guilty and shall proceed to the further disposition of the complaint according to law." This should be changed to state that the court "may, with the written consent of the attorney general or his or her authorized designee, and with a waiver of indictment or information by such person, receive a plea of guilty or nolo contendere and may impose sentence. There shall be no appeal to the Superior Court." (See Appendix A-3.)

Although it was acknowledged that defendants must have representation to enter a plea on a felony at this stage in the process, this language should not be included in the proposed legislation. The District Court should make it a policy that representation be afforded to any defendant who wants to enter a plea on a felony case.

III. LONG TERM OBJECTIVES FOR ACHIEVING COURT UNIFICATION

1. Reexamine the Feasibility of Increasing the Civil Jurisdiction of the District Court -- While the committee did not take any immediate action on increasing the civil jurisdiction of the District Court, it was agreed that this issue should be revisited in the future.
2. Reduce the Disparity in Judicial Salaries -- The issue of the disparity in judicial salaries among the courts initially arose as part of the committee's discussion of court unification. Several committee members indicated that reducing the differential in judicial salaries would be consistent with expanding the powers of the Chief Justice to assign judges from one trial court to another trial court and with increasing the jurisdiction of the District Court. According to information presented to the subcommittee, the salary differential among the courts has been increasing since the early 1980s.

Discussion of this topic included a wide range of related issues: the responsibilities and nature of the work of the justices and judges in each court; inclusion of the justices of the Supreme Court in an equalization formula; a comparison of judicial salaries in Rhode Island to other states (Rhode Island salaries are highest in New England); the financial impact of salary equalization; the likelihood of the approval of any change in the judicial salary structure; and other ramifications that may result from a review of the present judicial salary structure.

The committee considered two options, one that would reduce the disparity in base salaries among judges and another that would establish a higher base salary for justices of the Supreme Court and an equal base salary for the justices and judges of the Superior, Family, District and Workers' Compensation Courts. There was no agreement on the precise wording of a proposal, but the concept endorsed was that it should be state policy, rather than proposed legislation, to reduce the pay differential in judicial salaries among all of the courts. The goal should be to reduce the differential to no more than \$3,000. (At present the difference is \$11,826 between the Supreme Court and the Superior and Family Courts and \$6,667 between the Superior and Family Courts and the District and Workers' Compensation Courts.)

IV. CONCLUSION

There would be no demonstrable benefit to merging the District and Superior Courts at this time. Nevertheless, through legislation expanding the jurisdiction of the District Court and limiting the trial de novo, Rhode Island will take a major step towards consolidating and simplifying the structure of the courts.

FUTURE VISIONS ON THE COURTS' INTERFACE WITH THE PUBLIC

I. VISION STATEMENT FOR MEETING THE NEEDS OF PERSONS WITH DISABILITIES

As a branch of state government, the Rhode Island Judiciary is fully committed to compliance with the requirements of the Americans With Disabilities Act (ADA), which prohibits discrimination against individuals with disabilities in “recruitment, hiring, promotions, training, pay, social activities and other privileges of employment” and requires that employers make reasonable accommodation for “the physical or mental limitations of otherwise qualified individuals with disabilities.” The act further requires that state and local governments make reasonable accommodation for people with disabilities so that they may fully benefit from all government programs, services and activities by eliminating all physical barriers, practices or policies that might discriminate against them. In order to achieve this vision, the state courts already have made significant modifications to court buildings and to programs and services and must continue to work to eliminate any remaining barriers.

II. SHORT TERM OBJECTIVES FOR BETTER ACCOMMODATING PERSONS WITH DISABILITIES

Even though the judiciary has taken steps to provide access and make accommodation for persons with disabilities, further efforts are needed to eliminate any remaining barriers to court services. The following steps should be taken within the next one to two years to meet this objective:

1. Continue Revising Court Forms -- Court forms that notify persons to appear at court hearings are being modified to include information on how to request accommodation. However, these forms should include language that informs them of an accommodation request process. This includes hearing notices, summonses, and subpoenas. To assure that this is achieved, the Supreme Court should issue an order establishing this as a court wide policy.
2. Expand on Judicial and Employee Training -- Training should be developed to supplement the initial training provided to some employees and to most judicial officers. The training should provide judges and staff with practical information on how to address the accommodation needs of disabled persons effectively. For example, the program for judges should cover such practical questions as where sign language interpreters should be positioned during a trial and the proper use of assistive listening equipment. The program for employees should brief them on the requirements of the ADA and how they can be most helpful to someone making a request for accommodation, including the name and telephone number of the employee. Also, a process has been established for court employees and users to file complaints and have their complaints resolved when they believe that reasonable accommodation has not been provided for their disability, and employees should be aware of this process. These programs should be explained to each court at judges' and staff meetings.

3. Promote Attorney Training -- The Bar is an integral part of the court process and plays an important role in assuring that clients and members of the public are aware that they are entitled to receive appropriate accommodation. The Bar would benefit from a briefing on what accommodation the court is able to provide and the process for making a request for accommodation on behalf of clients. A first step would be to publish a bar journal article on this topic. In addition, the courts should provide an MCLE approved training program on this subject.
4. Expand on Justice System Coordination and Community Outreach -- The judiciary's ADA coordinator has informed organizations involved in assisting court users with disabilities about the process for requesting accommodation and has encouraged them to provide feedback on improving the process. To expand on this outreach effort, periodic meetings should be scheduled with other justice system agency personnel, including staff of the Department of Attorney General, Public Defender, etc., to exchange information on improving the accommodation process.
5. Adopt Statutory and Rules Changes to Address Disability Accommodation Needs -- On October 1, 1997, the Supreme Court issued an order establishing a judicial policy for providing services to the hearing impaired. Under this policy, the court provides sign language interpreters or other appropriate auxiliary aids or services to participants in court proceedings and jurors who are deaf, hearing impaired or have other communications disabilities. All courthouses have assistive listening equipment available for this purpose. Along with adopting a formal policy on services to the hearing impaired, there should be a review of court rules and statutes to determine whether any changes are needed so that the policy and other efforts to provide accommodation to persons with disabilities can be fully implemented. For example, a rule change may be necessary to allow interpreters to accompany hearing impaired jurors during jury deliberations provided constitutional concerns are adequately addressed.

III. LONG TERM OBJECTIVES FOR BETTER ACCOMMODATING PERSONS WITH DISABILITIES

The courts also need to have a long range vision for addressing the needs of persons with disabilities. The passage of the Americans with Disabilities Act has spawned a greater awareness among persons with disabilities of their right to participate fully in the programs, activities and services of state and local government, and as a result the demand for access to these services has increased. The expectation is that the demand will only continue to grow in the future. To meet this challenge, the following objectives are proposed:

1. Assure that Future Court Construction Meets ADA Requirements -- Modifications have been made to all court facilities to make them more accessible to disabled persons. Wheelchair accessible entrances have been provided, raised signage has been installed, and handicapped accessible rest rooms have been constructed. In those buildings where the cost to modify elevators was unduly burdensome, provision has been made to conduct court business on the first floor. However, all future court construction must meet the specific standards set forth in the

Americans with Disabilities Act. This includes provision for disabled access at entrances, elevator service that can accommodate wheelchairs, appropriate signage, rest rooms that accommodate disabled persons, and courtrooms that are outfitted with assistive listening devices. Technological advances in this area also should be considered in planning for new construction.

2. Acquire Real-Time Transcription Equipment -- A promising technology that is available in some federal and state courts is real-time transcription. At present no court reporters employed by the Rhode Island court system are certified to do real-time transcription, and accommodation is provided by contracting with a private reporter service. However, as this technology becomes more commonplace, the court should consider acquiring real-time transcription equipment and providing incentives to its reporters to obtain this certification.
3. Create a Sign Language Interpreter/ADA Assistant Position -- As the demand increases for providing accommodation to persons with disabilities, it may become necessary and cost-effective to create a full-time position for a court employee who can assist in coordinating this effort and provide training and technical assistance to court staff in the use of sign language interpreters and assistive listening devices and systems. The individual hired for this position should be a qualified sign language interpreter who can provide direct services in court proceedings.

IV. CONCLUSION

It should be the goal of the courts to eliminate any and all barriers to justice. In regard to persons with disabilities, the courts are committed to full compliance with the ADA and should continually assess their performance in meeting this goal.

I. VISION STATEMENT ON MEETING THE NEEDS OF NON-ENGLISH SPEAKING LITIGANTS AND WITNESSES/VICTIMS

Effective justice presupposes effective communication and understanding. Thus, the Rhode Island justice system must work to eliminate any language or cultural barriers that prevent litigants, victims and witnesses from fully participating in and comprehending the proceedings in our courts. An increased sensitivity to the needs of non-English speaking participants will be the basis for any improvement.

II. SHORT TERM OBJECTIVES FOR MEETING THE NEEDS OF NON-ENGLISH SPEAKING LITIGANTS AND WITNESSES/VICTIMS

Rhode Island has experienced a surge in its immigrant population over the last fifteen years, and it is estimated that this population will continue to grow at a rate of roughly 4,000 to 6,000 individuals per year. Not only is the immigrant population growing, but the census data reveals that there is a significant number of this population that does not speak English well. A total of 55,000 persons or roughly 7.3 percent of all adults are in this category. Thus, the growing diversity of the Rhode Island population and the increasing number of people who are non-English speaking will require an expansion of bilingual services in the future. The effort in the short term, that is over the next one to two years, should be to develop a framework that assures the quality of interpreter and translator services to meet the rising demand. (Interpreters translate the spoken word; translators translate the written word.)

1. Develop an Interpreter Resource Network -- The court has an obligation to provide adequate language services to as many courtroom participants as possible. To that end, the court should:
 - a. Develop a State/Federal/Municipal interpreter resource pool;
 - b. Develop a statewide "on call" interpreter resource listing;
 - c. Utilize AT&T language line (LL) service for immediate interpreter needs.

2. Require the Examination and Licensing of All Interpreters and Translators -- Currently in Rhode Island there are no minimum standards or proficiency guidelines for court interpreters. Interpreters are hired on the basis of their own assurances of competence, a resume, or a recommendation from an agency that does not test for interpreter competency or minimum skills. To assure the competency of interpreters, the court should require that they meet minimum standards of proficiency. Most states have established proficiency programs within the State Court Interpreter Certification Consortium, a program developed by the National Center for State Courts. A principal component of this program is to assist states in developing standards for measuring the competency of interpreters and translators through a formal skills evaluation that includes:
 - a. Establishment of minimum standards for court-certified interpreters;
 - b. Development of a test based on the Federal Certification Exam (written and oral);
 - c. Development of a certification training program;
 - d. Certification of interpreters -- initially in Spanish and later in the most frequently encountered languages.

3. Establish a Code of Professional Conduct for Interpreters -- Based on similar codes in other states, the judiciary should establish a code of professional conduct for interpreters. Familiarity with the code should be one of the basic requirements for interpreter certification.

III. LONG TERM OBJECTIVES FOR MEETING THE NEEDS OF NON-ENGLISH SPEAKING LITIGANTS AND WITNESSES/VICTIMS

In the long term, the demand for bilingual services is going to require greater coordination court wide. To achieve this, the following action is recommended:

1. Establish an Office of Interpreter/Translator Services -- Coordination and supervision of certification, court scheduling and other translation services should be provided through a single department. Such centralization will ensure that timely, adequate and equal service will be available to non-English speaking people in all courts. The responsibilities of this office would include:
 - a. Assessing the skills of and certifying court interpreters;
 - b. Developing training opportunities for court-certified interpreters;
 - c. Scheduling and assigning interpreter personnel;
 - d. Providing video and written materials on court procedures in as many spoken/sign languages as possible;
 - e. Overseeing the translation of court forms;
 - f. Developing a resource network outside the court system (see below).

IV. CONCLUSION

As Rhode Island's population grows increasingly diverse, the court must vigilantly safeguard the rights of all participants and assure that any barriers to access to the courts are eliminated.

I. VISION STATEMENT ON ASSURING THE SAFETY OF COURT STAFF AND THE PUBLIC IN COURT FACILITIES

The primary security problem facing our judicial system in the new millennium is the deterioration in society's respect for the rule of law. In the past, this respect made courthouses a place of authority, order and general good behavior by all those who were present in the building. Nevertheless, while safety in court buildings is a mounting concern, an equally compelling interest is the need to provide the public with open and convenient access to court services. Thus, achieving a proper balance between security needs and the need for free and open access must be the goal of a future-oriented courthouse security program.

II. SHORT TERM OBJECTIVES FOR ASSURING SAFETY OF COURT STAFF AND THE PUBLIC IN COURT FACILITIES

While security measures must comply with the individual rights granted by the United States Constitution, courts generally have held that vigorous yet reasonable security measures do not violate the First, Fourth, and Sixth Amendments to the Constitution.

A cursory look at present security measures taken in our courthouses shows that Rhode Island has initiated steps, such as the installation of metal detectors at all courthouse entrances, which have prevented many members of the public from bringing weapons into our courthouses. At the same time, Rhode Island should take additional measures to ensure the security of our judges, jurors, participants in individual cases, such as prosecutors, defense lawyers and civil attorneys, and those members of the public who are present in the courthouse.

It is difficult to assess the magnitude of any security problem in Rhode Island courthouses because there is not a centralized and systematic method in place for determining whether or not there is indeed a security crisis. Thus, in the short term, the goal of a security program should be to analyze in-depth what the court's security needs are.

1. Conduct a Security Audit -- The court should seek to have the entire system audited for security problems and issues. This can be done (probably free of charge) by the United States Marshals Service. The Marshals Service has a standard survey of courthouse security, which they have frequently used in examining state court systems. The National Sheriffs Association also has published a courthouse security audit manual.
2. Conduct a Survey of Court Personnel on their Views of Security Needs -- The opinions of those on the "front lines" of courthouse security also should be sought. Therefore, a statewide survey should be conducted seeking input from all judges as to the security problems they have encountered in the courthouse generally, and in their courtrooms in particular. Further, all law enforcement officers, including state and local police, sheriffs, capitol police officers, and state marshals, should be canvassed for their views as to how courthouse security could be improved. The views of attorneys also should be sought, perhaps through the Bar Association.

3. Make Explicit the Delegation of Duties Between the Capitol Police and the Sheriffs in Courthouses -- Notwithstanding the need to conduct a systematic analysis of security problems, there are some areas where the need for action is obvious. At present, security responsibilities are distributed among several groups. The Rhode Island Capitol Police are primarily responsible for the entrances to the courthouses, as well as the immediate perimeter of the buildings. Rhode Island sheriffs are responsible for security in the courtrooms and the personal security of judges and jurors. The State Marshals are responsible for the secure transportation of ACI inmates for courtroom appearances, but only in Providence and Kent Counties. However, the precise delineation of the responsibility for security in the hallways of the courthouses is more ambiguous. It is always a potentially volatile area with criminal defendants, their victims, witnesses, and attorneys all milling about in great numbers in an atmosphere of uneasy tension. Responsibility for security in the hallways most logically falls to the sheriffs. Therefore, it is recommended that Sheriffs' Department personnel be on patrol at high-volume times in these high-circulation zones.
4. Differentiate between the Duties of State Marshals and State Sheriffs -- The duties of State Marshals, particularly as to the transportation and security of prisoners in the cell blocks, should be made uniform statewide. It is recommended that the State Marshals, as required by state law, be delegated the duty of transporting all prisoners, including those with court dates in Washington and Newport Counties, and further that the marshals be given the exclusive duty of operating the cell blocks and bringing prisoners in and out of the courtroom.
5. Raise the Training Standards for Sheriffs Uniformly -- Ensuring that those who are on the front lines of courthouse security have both the physical tools and the academic training necessary to respond effectively to any situation is critical. For example, it often is incumbent upon a deputy sheriff to break up a scuffle, prevent a defendant from assaulting another person in the courtroom or even prevent a defendant from escaping. In the past, sheriffs were hired without regard to physical ability and were provided only minimal training, such as a short class in handcuffing. However, the situation is changing. The High Sheriff of Providence County has taken steps to overhaul the selection and training of the deputy sheriffs in his department. Officers will be required to pass agility tests and oral and written examinations and to complete a four-to-six week training program where they will be instructed in such areas as courtroom security, handling physical confrontations, restraint tactics, and first-aid. As we head into the new millennium, minimum training standards and continuing education should be established for all deputy sheriffs so that they can properly protect themselves, judges, court staff, jurors, litigants and the public, allowing justice to be dispensed in an orderly fashion.
6. Develop an Organized Response to Potentially Dangerous Situations -- A tactical response team should be put in place so that there is a coordinated and well-thought-out plan enabling judges and prosecutors to deal with problem trials and any situation involving threats against a judicial officer, jurors, attorneys, or witnesses. Over the last several years, prosecutors and police have handled these situations on an ad hoc basis. This should not be the case, as there are tactical units trained in crowd control and restraint available to the judiciary. For example, the Providence Police Department has a SWAT team that has training in hostage negotiation. Further, the Department of Corrections has a Tactical Response Team, which has special training in riot control as well as in

responding to various weapons situations. Obviously, there is a need to have a system in place so that the parties involved can anticipate rather than simply react to a dangerous situation.

III. LONG TERM OBJECTIVES FOR ASSURING THE SAFETY OF COURT STAFF AND THE PUBLIC IN COURT FACILITIES

While a full security audit will determine what the court's future equipment needs may be, there are a number of technologies available that would enhance security in the Rhode Island courts. Due to the cost they are recommended as long term goals. In addition, a long term vision of security in the courts should include a plan for developing a single, highly trained security force with the flexibility to handle all aspects of security in the courts.

1. Unify the Capitol Police, Sheriffs and Marshals into a Single Court Security Force -- The various responsibilities of the three groups that handle courthouse security is described above. In the short term these responsibilities should be clarified and distributed more uniformly, but in the long term these three groups should be merged into one well-trained security force. This would allow greater flexibility in assignments and assure a higher standard of skills and preparedness.
2. Install X-ray Machine Devices at Courthouse Entrances -- X-ray machines are used by the federal courts to supplement the metal detectors now in use by the Capitol Police at courthouse entrances. The use of such equipment would empower the Capitol Police to make more thorough searches of containers coming into the courthouse. As the ability of a person to smuggle in weapons in ingenious ways expands, X-ray machines, such as those used in airports, could be a supplement to the present method, where a Capitol Police officer simply opens a pocketbook or a briefcase and searches it manually.
3. Require Everyone to Pass Security -- Revisit classification of those not required to go through security system. All individuals entering the courthouse should be required to go through the security system: litigants, witnesses, visitors, attorneys, employees, and other individuals, such as government attorneys and letter carriers who are normally allowed to pass by the security system. The court already has initiated a rule whereby all law enforcement, regardless of whether he/she is a litigant in a case, must sign in and disclose weapons on his or her person. Additionally, members of law enforcement who are litigants in cases must check their weapons at the courthouse door.
4. Upgrade Chambers Security -- At present there is security for judges in their private chambers in several, but not all, of the courthouses. Deputy sheriffs regulate access to chambers by attorneys and other personnel who wish to see the judge. However, frequently the judge is sitting alone, and any person could simply walk right into the chambers and assault a judge. The state courts might consider installing equipment similar to what is available at the United States District Courthouse. In the federal courthouse, judicial chambers are regulated by a locked door with a keypad and security cameras. New emerging technologies also should be considered in this regard (e.g., voice recognition apparatus).

5. Address Security in the Courthouse Offices of the Attorney General and the Public Defender -- The offices of both the Attorney General and the Public Defender are easily accessible by any member of the public. A person wishing to retaliate against prosecutors or police officers who are in the courthouse offices of the Attorney General's Department could walk directly into the office without being stopped. Locked doors and surveillance equipment should be considered for these offices.
6. Enhance the Security of Jury Waiting Rooms -- While jurors who are actually chosen for jury duty on a particular case are normally under the protection of one or two deputy sheriffs, it appears that jurors waiting to be called for jury duty have limited security.
7. Install Bulletproof Benches with Panic Buttons -- Steps should be taken to provide some protection to judges from firearms. Should bulletproof glass prove prohibitively expensive, a simple and cost-effective measure that could be taken is one such as that used in a rural courthouse in Montana. There, officials lined the courthouse benches with old, outdated law books, providing protection should gunfire erupt in a courtroom. Further, the judges' benches and chambers should be secured with panic buttons in all court buildings to be utilized at a moment's notice to alert security personnel in an emergency.
8. Expand the Use of Videoconferencing Technology -- The arraignment courtroom in Providence Superior Court has videoconferencing equipment available. In order to limit the number of inmates transported to court each day, wider use of this technology should be explored for routine appearances.
9. Address Security in the Newport County Courthouse Sally Port -- The Murray Courthouse is not equipped with a secure area for the discharge and loading of prisoners into vehicles, which has led to at least one escape in recent years. The historical significance of this building makes exterior construction problematic, but the lack of security that results must be considered.

IV. CONCLUSION

The fact that the Rhode Island courts have not experienced any incidents of bombing or homicide does not mean that current security measures are adequate. As noted above, there are in fact many areas where security measures need to be reexamined. However, measures to tighten security have to be weighed against providing the public with convenient access to court services.

I. VISION STATEMENT ON PROVIDING USER-FRIENDLY FACILITIES

The primary focus in the planning and design for courthouses of the future should be on accommodating the public. Many features of current court facilities in Rhode Island and in most states do not reflect the needs, convenience and comfort of those who must use the courts. Court sessions are held and clerks' offices are open only during traditional work hours, imposing inconvenience and even financial hardship on the public. Most, if not all, of Rhode Island courthouses have inadequate or no public transit access and virtually little or no public parking access, again resulting in inconvenience and a financial burden on users. The old state-owned courthouses that existed and serviced the public in specific geographical areas, such as Woonsocket, Pawtucket, Cranston, East Greenwich, and Warren, have been gradually phased out, and court functions have been centralized. As a result, the remaining, new or refurbished courthouses are bursting at the seams. Work areas are overcrowded, and hallways and elevators are congested. Another concern is that day care is available in only one of the seven court buildings. Also, there are no private areas or only limited areas for attorneys to meet with clients in most court buildings. To achieve a more user-friendly court, future facility planning should adhere to the following principles:

- ◆ Access to court services should be broadened to include access beyond the courthouse walls.
New technologies make it possible for users to file papers and make payments from remote locations. Such access to services should be available at convenient locations to minimize "trips" to the courthouse.
- ◆ Facility use should be planned and coordinated to avoid congestion and maximize convenience to the public.
Services provided in the courthouse should be structured around the convenience and needs of the public.
- ◆ Judicial facilities should exhibit an atmosphere of dignity and decorum consistent with their function.
Dirty buildings in a state of disrepair are not conducive to the exercise of justice. All court facilities should reflect the dignity and importance of the proceedings.
- ◆ Court facility design and renovation should incorporate advanced information technology.
Advanced information technology will be an integral part of justice tomorrow, and facilities must be able to accommodate advanced technology hardware.

II. SHORT TERM OBJECTIVES FOR PROVIDING USER-FRIENDLY COURT FACILITIES

Improving the aging court facilities in the face of an escalating and diversified range of court functions is a need that must be addressed. Short term plans for replacing, renovating, and improving inadequate employee work areas of the courts must be broached by keeping in mind technological innovations and new alternative programs for dispensing justice to Rhode Island's citizens.

Currently, there are 80 judicial officers (66 judges and 14 magistrates) performing various functions in the 7 remaining courthouse facilities. The physical condition in two of these facilities, the Traffic Tribunal and the Kent County Courthouse can be described as "existing in a state of disrepair, overcrowded, and nothing more than retrofitted office space." Replacement of these two buildings is planned for the near future. With recent media, public, and review committee attention, all criticizing the deplorable conditions of the Traffic Tribunal facility, relocation of this court is the highest priority. The existing site is totally inadequate in its space, layout, and security for the daily operations of the court.

The court is awaiting approval for funding to construct a new facility for the Traffic Tribunal. The recommendation to replace the Kent County Leighton Judicial Complex has received the unanimous approval of the Governor, legislators, and the Chief Justice. Funds have been allocated for a feasibility study on either the relocation or replacement of this facility and for building design and architectural fees, and the court is awaiting approval of construction funds for this project also.

The Garrahy Judicial Complex is now an overused building in constant need of repairs and upgrading. The building is twenty years old; its fixtures, paint, entrance doors, elevator cabs and hoists, and carpeting need immediate attention. Cell block refurbishment also is required to meet health and security codes. In addition, the air circulation, heating and air conditioning system is constantly malfunctioning, has exceeded its 15 year life expectancy, and needs to be replaced. Funds have been allocated to begin resolving these deficiencies, and major renovations to this facility are underway.

The Licht, the Fogarty (both in Providence) and the Murray (Newport) Judicial Complexes have all received recent renovations. However, the 70 year old Licht facility needs the replacement and/or repair of several major items: the air filtration exhaust stack, the sidewalks, the roof, and the fuel tank. Funds are being sought to repair or replace these items, as they potentially violate safety, structural, environmental and fire code requirements. The seventh building is the Washington County McGrath Judicial Complex, which opened in 1988.

In addition to the plans that are underway for improvements to the physical plants, other short term goals should be adopted to re-engineer court functions. Changes that improve public access and convenience will greatly enhance the image of the Rhode Island court system.

1. Initiate Court Scheduling that Allows for a more Even Flow of People in and out of Court Facilities -- At present, most court calendars begin at either 9:00 or 9:30, and all cases are scheduled for this time. This creates a tremendous strain on court facilities, especially the entrances, the clerks' offices, the elevators, and the hallways. New methods for scheduling that accommodate the public should be implemented in all courts. At a minimum, calendars should be broken into morning and afternoon sessions.
2. Make Calendars Available, by Last Name, at the Front Desk -- A master calendar with the names of litigants and witnesses and their courtroom should be made available at the front desk or at an information desk so someone is available to answer the question, "Where am I supposed to be?"

3. Institute Night and Weekend Court to Accommodate the Public, Police, Cities, and Towns -- Although extending court hours to nights and weekends will have to be negotiated with court employee unions, courts should move in this direction, especially courts that have a high volume, i.e., District Court and Traffic Tribunal.
4. Create Meeting Rooms for Lawyers, Clients, and Litigants to Converse and Settle Cases -- In the plans for renovations to the Garrahy Judicial Complex and the relocation of the Administrative Adjudication Court and the Kent County facility, space should be allocated for attorney/client meeting rooms. Attorneys and clients should have areas where they can speak privately and prepare for court proceedings.
5. Place Work Stations for Public Reference in all Court Clerks' Offices -- Work stations are available at the counter in some of the clerks' offices but should be available in all clerks' offices to allow the public to review court files or court schedules on their own.
6. Install Comfortable Seating in Waiting Areas -- Adequate and comfortable seating is not available in the hallway waiting areas in most court buildings and should be provided.
7. Establish Self-Service Counters -- In the planning for renovations and building replacement, space should be allocated for information racks that contain court forms and brochures so that the public does not have to wait in line at the clerk's office just to obtain a form.
8. Refurbish Jury Rooms -- One important contact between the court and the public is jury service. Several thousand people perform jury service each year, and frequently it is the only contact these members of the public will have with the judicial process. From this perspective, jury service is an important public relations opportunity for the courts, and yet the facilities for jurors, especially the jury deliberation rooms, are inadequate. Areas where jurors deliberate should be comfortably furnished and clean.
9. Establish Bus Routes to All Court Locations -- At present there is no bus service to the Traffic Tribunal on Harris Avenue in Providence, nor to the Washington County Courthouse on Tower Hill road in Wakefield. Through a cooperative effort with the Rhode Island Public Transit Authority (RIPTA), bus routes should be established providing public transportation to these locations.

III. LONG TERM OBJECTIVES FOR PROVIDING USER-FRIENDLY COURT FACILITIES

Long term improvements to facilities that can accommodate the rapid advances in technology and computers will allow the courthouse of tomorrow to become a "virtual courthouse," where the public and justice can interact without any barriers. Future Rhode Island court facilities will need to be designed to allow for computer flooring and ceiling grids for the installation of closed circuit television hookups in courtrooms and judges chambers and for the installation of numerous computer work stations throughout the courthouse. This will enhance the rapid exchange of information, i.e., courtroom

scheduling, data entry, payment of court fines, the downloading of copies of court files and other pertinent information, with the long term goal of “minimizing the reliance on paper documents and files.”

Future court construction also should focus on locating facilities for the convenience of the public. Parking should be available, and courts should be accessible to public transportation. The general public in Rhode Island presently is confused and inconvenienced by the constant relocation of the various court divisions, locations, and various court functions. Providing established, convenient county court locations throughout the state will allow for the prompt delivery of justice and will replace the cumbersome and expensive judicial process that currently exists.

1. Establish a Schedule for Maintenance and Repair of Courthouse Facilities -- With the replacement of the court system's two totally inadequate facilities, the Kent County Leighton Judicial Complex and the Traffic Tribunal, the court should direct its attention toward other projects, specifically establishing and adhering to a scheduled maintenance and repair program for all courthouse facilities. This program should include upgrading facilities to accommodate new technology.
2. Construct or Purchase a Facility for a New Courthouse Convenient to Northern Rhode Island -- The area that has been primarily inconvenienced by the closing of satellite court locations is northern Rhode Island. A new facility is needed to eliminate the overcrowding in the Garrahy Complex, and it should be sited with this need in mind.
3. Develop Services in Convenient Locations Outside of Courthouses -- ATM machines for the payment of court fines and costs, kiosks located in shopping centers, and terminals that access court information in libraries and other public buildings are all mechanisms for making court services more convenient to the public.
4. Develop Standards for Court Facilities -- The court should develop reasonable standards to ensure that all trial court facilities include adequate office space for judges and staff, provide for the personal safety of court users and personnel and provide comfortable and appropriately furnished facilities for jurors and participants. All facilities should reflect the dignity and importance of the proceedings.

IV. CONCLUSION

There is a growing awareness that judicial facilities presently are not located or designed to provide easy and convenient access to the public. Accommodating the public should be the guiding principle in future facilities planning.

FUTURE VISIONS FOR TECHNOLOGY IN THE COURTS

I. VISION STATEMENT FOR TECHNOLOGY IN THE COURTS

Technological advances offer great potential for improving the administration and quality of justice in Rhode Island. However, technology is not a solution in itself. Rather it should be introduced for a defined purpose only after considerable thought and planning. Applications of technology in the state court system should be assessed by determining whether they decrease the time and labor associated with existing tasks, permit the cost-effective accomplishment of useful tasks not previously feasible, or permit the elimination of tasks. Most importantly, it should be realized that the extent to which a system is used will determine whether it is ultimately worthwhile. Therefore, technology must be user friendly to both court employees and the public. To derive the greatest benefit, decisions about technology should be consistent with the principles that follow.

- ◆ Technology should provide greater access to the courts for all citizens.
The judicial system is a public service institution, and the technology utilized should make access easier and more convenient for all citizens. Through technology, the attorneys, state and local agencies, the media and the general public can have electronic access to the judicial system at any time from off-site locations. Technology should facilitate access to the courts for those who have encountered barriers in the past, including persons with disabilities; persons of limited means; and persons who are non-English speaking. In addition, it should be easy to use for persons who are technologically unsophisticated.
- ◆ Technology should improve the decision making process but not replace the knowledge, skills and judgment of individuals.
Advances in court technology do not relieve decision makers of their fundamental responsibility to judge the facts and reach a fair decision. Rather, technology is a tool that can assist decision making by providing more complete information in a more useful form.
- ◆ Technology should improve the quality of justice.
The quality of a decision is related to the quality of the information on which it is based. Thus, improving and increasing access to automated legal research, criminal history, information on community services, and any other information that can aid in judicial decision making should appreciably enhance the quality of justice.
- ◆ Technology should enhance productivity and efficiency.
New technology should allow the judicial system to be more productive by decreasing the time and labor for completing tasks and/or by performing new and useful tasks that were not feasible without this aid. It should allow the entry and exchange of information to be quicker, more accurate and more efficient than in the past. The clear advantages to using a new technology must be easily demonstrated to the users.

- ◆ Technology should accommodate the need for security and the protection of privacy.
As personal information becomes more accessible through technology, confidentiality and security must be addressed. The right and need to access and share information must be carefully balanced against the protection of the individual's right to privacy.

II. SHORT TERM TECHNOLOGY OBJECTIVES

In order to achieve the vision outlined above and utilize new technology as effectively as possible, the courts should adopt both short term and long term strategies. Short term strategies are those objectives that can be accomplished within the next several years. In the short term, the court's primary focus should be on the replacement of outdated software and hardware with a communications network that serves all courts, related agencies and the public. All new court software and hardware must allow for the integration of data and exchange of information throughout the system. The second focus should be on the implementation of appropriate, available technologies that provide broader access to the courts. The litigation process can be simplified and made more efficient and less expensive through such well understood technologies as fax and electronic filing. Scheduling and docket control can be streamlined through electronic bulletin board access to court filing and scheduling information. Mediations, settlement briefings and the scheduling of conferences can be expedited with teleconferencing.

1. Establish a Courtwide Technical Advisory Committee -- The Rhode Island courts are state funded and function as a unified system with the Chief Justice serving as the executive head. The Chief Justice should establish a courtwide committee to serve in an advisory capacity to the court's information and management systems unit (RIJSS). It should include members of the bar as well as administrative staff within the courts. This advisory committee will provide a permanent forum in which to address the issues posed by modern communication and information technologies. The goal of the committee should be to promote, coordinate and facilitate the application of technology in all state courts according to the principles stated above. Some immediate concerns that this committee should address are as follows:
 - a. Standardize the hardware and software that make up the court's statewide information network -- The court is in the process of installing new hardware that will be the foundation for the court's statewide information network. In conjunction with this project, the court is purchasing new software for a statewide criminal information system that will link the courts, law enforcement and juvenile justice agencies. This effort, referred to as Justice Link or J-Link, is being supported with state and federal funds. The goals of J-Link are to streamline case processing and improve case management by eliminating duplication in data entry and facilitating the exchange of data. This should result in a comprehensive and integrated information distribution network for criminal case processing that connects and serves the entire judicial branch, other agencies and the public. Eventually this system will extend to civil case processing and ultimately will incorporate all functions within the court system. Although the introduction of the criminal information system will precede the naming of the technical advisory committee, the committee should play an important role in

establishing standards for the use of this system as it expands. Furthermore, courtwide standards will serve as the blueprint for all future technological development to ensure compatibility among the various systems and to preserve the capacity to integrate existing and emerging software and hardware.

- b. Develop proposed policies and guidelines to allow public access while protecting individual privacy -- One of the technical advisory committee's most important and difficult tasks will be the development of guidelines that balance the right of public access with the need to protect privacy. The debate over individual privacy rights and the public right of access has intensified with the advent of technology that facilitates access to judicial and government records. Public policy favors open access to government information, including information collected and generated by the justice system. While there is a presumption of open access to judicial records, there are important reasons to restrict access to certain types of information in order to protect significant public and private interests, such as the privacy of adoption records and information pertaining to crime victims. Users should be confident that their personal information is maintained free from unwarranted intrusion.
- c. Develop a system of data exchange not data reentry -- Ideally, information should be captured only once, preferably at its source, and all subsequent users of that information should access it electronically in a manner consistent with security, confidentiality, and privacy policies. Current court information systems require the reentry of data already captured at other points in the system. In order to minimize paper flow and redundancy in data collection and to improve data accuracy and availability, every effort should be made to coordinate the data collection and access requirements of all users within the justice network.
- d. Ensure the integrity of the data on the system -- The court's automated information system will be valuable only if the data is reliable. Statewide standards should be developed and implemented to ensure accurate data entry, to provide for error correction, and to secure data from damage. In addition, any system that is designed for direct public access must include strict safeguards to prevent tampering and ensure the continued integrity of the information.
- e. Review available technologies and develop guidelines for use in the courts -- Existing technology, such as fax transmissions, electronic interchange of information, video arraignments, and optical scanning, are used widely in business and in other court jurisdictions. The technical advisory committee should examine these opportunities and develop recommendations that address traditional judicial standards regarding security, origin and time of filing, receipt and acceptance of pleadings and other documents, and signature authenticity and certification. Based on these standards, this technology can be easily incorporated into the court's case processing scheme.

2. Authorize the Use of Fax and Electronic Technology for Filing and Related Operations -- Despite the widespread use of facsimile machines, facsimile filing is authorized only in limited instances in the Rhode Island courts. Thus, the filing of most documents with the court requires the use of a mail service or a trip to the clerk's office. If the court adopts standards to ensure the security and authenticity of documents in digital form, fax filing could provide the citizens of Rhode Island with enhanced access to their courts without undermining the integrity of documents. Facsimile filing is an excellent interim step that will lead to electronic or digital filing.
3. Improve and Enhance Intra-Court Communication -- Written intra-court communication should no longer be conducted solely by fax and mail. Virtually all intra-court communications can flow through a statewide judicial communications network. This network should include an e-mail service for communication between individuals and electronic bulletin boards for group communications. Also, it should provide staff in the various courts with direct access to information maintained in other courts, such as pending cases, warrants, case dispositions, liens, and orders.
4. Expand Use of the Internet -- Presently the courts utilize the Internet simply to provide public access to recent opinions published by the Supreme Court. The use of the Internet should be expanded to provide the public with a greater array of useful information concerning the court, as well as providing judges and court staff with the capability to access relevant information. The Internet can provide the public with information such as a description and general information concerning the courts, opinions, selected court calendars, and administrative orders. Judges and court staff can use the Internet to access information from national justice system organizations, to explore federal grant programs and to access state agency information, such as the Legislature's information system that contains updated reports on pending legislation
5. Provide Twenty-Four Hour Telephone Access with Voice Mail -- Existing technology no longer limits public access to the regular business hours of the courts. The court should update its current telephone system to provide twenty-four hour telephone access to information such as the hours of court operation, the locations of and directions to court facilities, selected court calendars and regular or emergency announcements. The addition of voice mail can ensure the accuracy and timeliness of message delivery to court employees.
6. Increase Access to Legal Research -- Judges should have convenient and immediate access to a wide range of legal information. In addition to the material available in the State Law Library, judges and law clerks can benefit from electronic access to legal research materials. This access should be available in judges' chambers and courtrooms. Expanding access to on-line or CD-ROM based legal research to all judicial officers will ensure that they have convenient access to high-quality research services.

7. Provide Adequate Training to all Judges and Personnel in New Technologies that are Introduced in the Courts -- New court technologies will be effective only if all judges and court personnel receive adequate training in their capabilities and use and accept them as reliable. Ongoing training ensures that new technology will be used correctly and its capabilities fully understood. In addition, there should be dissemination of information to all employees on the technologies currently in use in any of the courts. Also continuing education for employees should include information on promising new technologies that are in use in courts in other jurisdictions.
8. Incorporate Technological Opportunities in all Modifications to Facilities or New Buildings --All modifications to existing court facilities and all new court design should incorporate available technologies. This requires a thoughtful examination of the technological opportunities mentioned in these short and long term goals, as well as consideration of emerging technologies.

III. LONG TERM TECHNOLOGY OBJECTIVES

It is very difficult to develop a detailed, long-term technology plan for the courts because information and communications technologies are changing too rapidly to make confident predictions more than a few years ahead. Nevertheless, taking the existing and emerging technologies and fully applying them to case management can make a significant difference in the operation of the courts. When the short-range goals have been accomplished, the court and the courtwide technology advisory committee should examine the following long range issues to determine their usefulness and appropriateness.

1. Introduce Electronic Filing -- Attorneys should be able to file all court documents electronically using a statewide court filing system. The filing system should be able to charge the appropriate filing fee to an attorney's account and route the document to the appropriate court personnel. The system also should serve the document electronically on all counsel of record and electronically confirm receipt. National standards for electronic data interchange should be investigated and properly modified for use in the Rhode Island court system.
2. Provide for the Electronic Storage of Documents -- Courthouses are overflowing with documents, and the limited storage space in most court facilities makes this problem even more compelling. These documents are stored in a variety of forms that makes electronic searching virtually impossible. Therefore, court personnel spend an inordinate amount of time filing, searching for, and retrieving documents. Technology can easily be used for record storage and retrieval. However, statewide standards for the uniform electronic storage of court documents should be established. The format selected should be capable of storing both the image and text of documents, and these standards should assure ease of access for the public and court employees.
3. Install Video Terminals/Kiosks both in Court Facilities and Off-Site -- The placement of video terminals for access to court information and for the payment of court ordered child support, fines, fees and restitution would provide a valuable service to the public and the legal community. Kiosks

that provide general information about court services can be placed in court facilities, other state office buildings, and municipal facilities such as city and town halls and libraries. These would assist in educating the public about the court system and how to use it. Video terminals with daily court schedules can be located at courthouse entrances to guide users to courtrooms the way airports provide travelers with up to date information on airline schedules and gates. Also, conveniently placed kiosks can provide the public with an easy method for paying monies owed to the court using credit or ATM cards. Since the goal of these technologies is to ensure greater access to court services, they must be user-friendly. Their use must require little or no training, and they must be accessible to persons with disabilities and non-English speaking persons.

4. Expand the Use of Video Communication -- The use of video communication technology would significantly reduce physical appearances in court. This form of communications should be investigated for use beyond arraignments, including non-evidentiary motions and expert testimony. If built into courtrooms, this technology would greatly facilitate media and public access to court proceedings and provide improved security for court personnel.
5. Examine the Use of Expert Systems to Assist in Rule-Based Decision Making -- Emerging technologies are available that facilitate rule-based decision making, such as the calculation of support payments. One consideration in evaluating this technology is whether individual decision making, which is the hallmark of our judicial system, would be sacrificed for expediency. Another consideration is the impact such technology may have on the public's perception of the judicial system. Despite these legitimate concerns, such systems can aid judges by eliminating mathematical or clerical errors and providing them with better information in a more useful form.
6. Study and Initiate Real-Time Transcription -- Computer-assisted transcription is currently in place in many of the Rhode Island courts, but the courts do not have real-time transcription equipment and no court reporter is certified in the use of this technology. The courts do have real-time transcription software and funds are available to train court reporters in this skill. The implementation of real-time transcription can help the courts meet their obligation to provide meaningful access to all people. For example, real-time transcription can improve access to courtroom proceedings for the deaf or hearing impaired. It also provides immediate access to all recorded testimony and will assist in evidentiary rulings.
7. Enhance Courthouse Security Through the Use of Technology -- It is essential that the courthouse provide a safe forum for the resolution of disputes involving a wide range of individuals. Advanced security methods should be employed to ensure the safety of court users and court employees. However, security improvements must utilize technologies that do not limit access to the court, unnecessarily invade the privacy of individuals, or interfere with decorum in the courtroom.
8. Explore the Use of Computer Reenactment or Animation -- Computer animation and reenactment is a visual presentation technology that is intended to recreate an event or to simulate an action that has occurred. Its use is currently authorized by court rule, but these animation/reenactments are usually prepared by attorneys at their own expense, and it is very costly. The necessary technology to display reenactments should be available in courtrooms to all litigants. However, the high cost for

preparing animation/reenactments will probably limit their use.

IV. CONCLUSION

The demands being placed on court systems across the country have increased dramatically over the past decade and will continue to grow in the future. Legislative mandates, the increase in juvenile crime, and emerging issues, such as concern for the environment and industry based litigation impact on the courts. At the same time, the public has become wary of the high cost of government services, including funding for the courts, and there is the expectation that the courts should do more with less. Technology is not a panacea, but the thoughtful review and application of appropriate technological advances can assist the courts in meeting this challenge. Moreover, it is clear that the implementation of appropriate technologies can enhance the delivery of justice by making court information and services more accessible to the public and improving the safety of court facilities.

FUTURE VISIONS FOR JURY SERVICE AND JURY TRIALS

I. VISION STATEMENT FOR JURY INNOVATIONS

"Trial by jury is a fundamental concept of the American system of justice and has been instrumental in the preservation of individual rights while serving the interests of the general public."

"The significance of the jury is not limited to its role in the decision-making process; jury service also provides citizens with an opportunity to learn, observe, and participate in the judicial process."

These statements from the introduction to the American Bar Association's Standards Relating to Juror Use and Management underscore the significance of the jury and the jury trial in the American legal system. Because the jury trial plays such a critical role in our society, education about the role of the jury is essential so that the public understands its importance. In order for citizens to become actively involved in and committed to our system of justice, jury service must be extended to as broad a cross section of the population as possible. Preservation of the jury system requires effective court management including providing adequate facilities for jurors and making them feel that they are providing a valuable service and not wasting their time. Finally, once a matter goes to a jury for trial, the court, the trial judge and the attorneys, must structure a trial environment that allows jurors to arrive at a thoughtful decision based on the law and the facts presented, relatively free from bias, misunderstanding and confusion. To protect the integrity of the justice system, decisions concerning the jury process should be consistent with the principles that follow.

- ◆ Education of the public in the role of the American jury system is essential.

Jury service is an opportunity for citizens to participate in the justice system process and should be viewed as a civic service not as a burden. To assure that the public recognizes the importance of the jury trial system and has an appreciation for the service jurors provide, there must be an organized program of public outreach.

- ◆ The jury pool should be as broadly representative as possible of the adult population in the jurisdiction.

The pool of prospective jurors should include as broad a representation of the eligible population as practical. Appropriate measures should be taken to eliminate any factors that might prevent any segment of the community from being identified as potential jurors or might create barriers curtailing access to service. Juror compensation and the length of jury service should not be obstacles.

- ◆ Jury service should be a satisfying experience.
Jurors must be dealt with in a professional and courteous manner. This includes providing suitable facilities and appropriate amenities. All jurors should have the opportunity to provide feedback to the court on their experience.
- ◆ Jury selection procedures should facilitate the selection of unbiased jurors in an efficient and fair manner.
Jury selection should be conducted so that it guarantees that the panel is representative yet preserves the legitimate role of counsel in the jury selection process. Juror questioning should be limited to the direct purpose of the voir dire.
- ◆ The presentation of evidence should facilitate jurors' comprehension of the law and the facts and assist them in arriving at a fair decision.
Individuals bring to jury service a wide range of beliefs, attitudes, expectations and abilities to process, synthesize and analyze information. Therefore, the court must structure the trial environment so that it assists jurors in arriving at a thoughtful decision based on the law and the facts presented.

II. SHORT TERM OBJECTIVES FOR JURY INNOVATIONS

In order to achieve the vision outlined above, the courts should adopt both short and long term strategies to enhance jury service and facilitate jury deliberation. Short term strategies are those objectives that can be accomplished within the next several years. In the short term, the court's primary focus should be to increase the public's understanding of the important role that jury service plays in our society, to enhance the efficiency of the Office of the Jury Commissioner, to create a fair and representative jury pool and to establish standard practices, where possible, in the areas of voir dire, juror privacy and jury instructions and to explore initiatives that will assist jurors in comprehending and deliberating based on the law and the facts presented at a trial.

1. Increase Community Awareness of the Role of Jury Service in a Democratic Society -- The public's understanding of the justice system's procedures and the crucial role of the jury makes for a better informed and less cynical public resulting in a more informed jury pool. Therefore, the court should develop a community awareness campaign to educate the general public concerning the crucial role of jurors in the justice system. This will require a strategy that includes extensive judicial involvement and cooperation among the courts, the other branches of state government, the state bar association, the various media outlets, and the business and education communities. In establishing such a campaign, the court should explore public television, public service announcements and videos for prospective jurors. Existing civic and community organizations (e.g. parent-teacher organizations, garden clubs, rotary clubs) should be approached to reach as diverse a population as possible in a cost effective manner. Judges, attorneys and court personnel could serve as volunteer speakers at these meetings.

In addition, videos on the judicial process and the role of jurors should be purchased for use in the jury lounges. This information should supplement the explanations provided by the Jury Commissioner's staff and the pamphlets on jury service that are distributed to jurors. The court should explore potential federal funding from organizations such as the State Justice Institute to support the development of educational information for this purpose.

2. Enhance the Efficiency of the Office of the Jury Commissioner -- At present, the ten employees in the Office of the Jury Commissioner perform all duties related to juror service with limited assistance from computer technology. This includes developing a potential juror list with information from the Board of Canvassers and the Registry of Motor Vehicles, tracking and reviewing approximately 50,000 juror questionnaires each year, summoning more than 1,200 jurors each month through the mail, and monitoring the service of more than 700 jurors each month. To give this office the tools necessary to operate more efficiently and effectively, the court must provide the office with up-to-date technology. This technology should include the capability to scan and track juror questionnaires; to issue, monitor and track juror summonses; to manage juror activity; and to provide sophisticated statistics.
3. Guarantee the Representation, Inclusiveness and Accuracy of the Juror Source List and Limit Release from Jury Service -- To create a jury pool that represents a fair cross section of the population, the court currently uses voter lists provided by local Boards of Canvassers and lists of licensed motorists and persons with state identification cards provided by the Registry of Motor Vehicles. Based on the voter list and driver/ID card list, the Office of the Jury Commissioner does a large mailing of juror questionnaires in the spring. All undeliverables are returned to the office. The last mailing resulted in approximately 20 percent undeliverables out of 22,000. If an undeliverable address comes from the voter list, the office notifies the Board of Canvases in that city/town. Because the lists are not updated regularly by the Boards of Canvassers and the Registry of Motor Vehicles, they are not as representative as they should be. The court should work with the Registry of Motor Vehicles and the Boards of Canvassers on procedures to guarantee the accuracy of these lists.

Exemptions from jury service are established by state law as set forth in RI Gen. Laws § 9-9-3. At present, certain groups, including police officers and attorneys, are excused from service on request. If persons who can claim an exemption under state law respond on the above-described juror questionnaire that they wish to serve, their names are added to the jury list. Other than the exemptions specified by law, postponements or exemptions are handled on a case by case basis by the Jury Commissioner. Accommodations are made based on financial hardship and health. In some cases, documentation, such as letters from doctors or employers, is requested.

Jury service is an important public service, and all qualified United States citizens should have an opportunity to serve. No class of persons should be released from service automatically; release should be approved only on an individual basis for hardship, not inconvenience. The automatic release of particular groups should be eliminated.

4. Establish Standard Procedures to Facilitate Jury Composition and Juror Comprehension and Deliberation.

- a. Voir dire -- Standardize voir dire in all trial courts by providing counsel with basic information on all jurors, by the trial judge conducting a preliminary voir dire on standard issues and by allowing appropriate and reasonable attorney voir dire.

Voir dire is an integral part of the adversary process and is necessary for the effective exercise of challenges. Since the lawyers are the most familiar with the issues and facts of the case, they are more likely than the judge to recognize problems of juror bias and should be allowed to conduct the voir dire examination. This should be a court wide policy consistently followed by all trial judges.

Competing interests, however, must be recognized in the need for the information necessary for the litigants to select a jury and the reasonable degree of privacy expected by potential jurors. The court must be vigilant in protecting juror privacy to the extent allowed by law while still maintaining the practice of reasonable and appropriate attorney voir dire. In order to protect juror privacy, both the court and the attorneys must be made aware of what questions jurors consider invasive. Both the court and attorneys must be aware that legitimate questions may leave jurors feeling exposed. For example, when lawyers ask about children they usually are attempting to ascertain bias-are the children police officers or insurance agents? Jurors, on the other hand, may view such questions as identifying younger children who may be at home and the parent does not want to disclose that information. Many of these issues can be resolved through awareness by the judges and attorneys of the jurors' desire for privacy.

The current practice of listing all jurors with address and occupation on printed sheets that are available throughout the courthouse is unnecessary. The availability of those lists to anyone raises grave issues of privacy, particularly in criminal cases and in litigation where the backgrounds of the jurors may be checked. Juror lists, as described below, should be made available to counsel when the jury is impaneled and returned to the court once the jury is sworn.

The court also must exercise appropriate control over the voir dire process to avoid the unnecessary lengthening of trial proceedings. To expedite voir dire, counsel should be provided with basic background information on each member of the panel the morning that jury selection is to begin. For now, counsel can use copies of the current juror questionnaire. Eventually, when the Jury Commissioner's office is computerized, this information should be produced electronically by abstracting items from an expanded questionnaire, such as the age, gender, occupation, educational level, marital status, prior jury service, the geographic area in which the juror lives, the occupation of the jurors, and the age and occupation of any children. In addition, the trial judge may conduct a preliminary voir dire of the entire panel on standard issues, such as familiarity with the subject matter, the litigants or their attorneys, witnesses and any other obvious conflicts.

- b. Alternate jurors -- Unlike criminal cases, the alternate jurors in civil cases are sometimes designated at the outset of the trial. At the conclusion of the case, the alternates will either be dismissed or, in some instances, the attorneys, usually at the request of the trial judge, allow the alternates to participate and vote in deliberations. However, there is no consistent court policy regarding this practice. The concern that jurors may be less attentive during the trial, if they believe they will not be required to deliberate, may be well founded. Therefore, the court should consider adopting a policy in civil cases consistent with the practice in criminal cases and not designate the alternates in advance. The court also should standardize the practice of allowing alternates to participate in deliberations.
- c. Juror note taking -- Selection to serve on a jury is a challenging experience. Since jurors come to jury service with a wide range of abilities and learning styles, the passive style traditionally utilized in the jury trial may not be universally effective, especially when the issues and arguments are complex. For most individuals, a more active approach would allow them to process information better and keep their attention focused on the trial. Juror note taking is one technique that has been found to aid jurors in remembering and comprehending issues.

The Superior Court currently is conducting an informal pilot project on juror note taking, and Superior Court judges have the discretion to allow jurors to take notes during a trial. If the outcome of the Superior Court pilot project is positive, a court policy establishing consistent procedures for note taking should be instituted. Said policies must include destruction of the notebooks by a designated court official after the conclusion of deliberations.

- d. Trial notebooks for juror use -- Another technique that can aid jurors in organizing, understanding, and recalling information is a trial notebook for juror use. These notebooks can contain a variety of information depending upon the case and counsel agreement. This technique is most appropriate for lengthy trials and complex cases. To assure consistency, a rule should be adopted authorizing and establishing guidelines for the use of notebooks that would contain information agreed upon by both parties and approved by the judge. Jurors also would benefit from guidance on how to structure their deliberations that could be presented in the form of videotaped instructions on the deliberative process, not on the particular case.
- e. Jury instructions, interrogatories and special verdicts -- To assure that jury instructions and duties are clear and complete, the trial court should develop a set of uniform jury instructions, interrogatories and special verdicts covering core legal concepts and routine matters. These should be prepared by a drafting committee of judges and then reviewed by outside experts, including attorneys, law professors and a grammarian or another professional who can determine whether the instructions are in "plain English" and can be understood. The approved instructions should be available to attorneys through the Internet, Case Base, or another medium that is widely accessible. Such standard instructions would

be subject to review for changes in the law, Supreme Court rulings on particular jury instructions and other technical and grammatical improvements to the instructions.

The judge should provide jurors with a written copy of the jury instructions. The advantages to written instructions are that they can assist jurors in understanding the charge, reduce the possibility of disagreements about the instructions, and reduce deliberation time.

In certain cases, special verdicts and written interrogatories are useful to determine if the law has been applied to the facts presented. In these matters, the judge and trial attorneys prepare a special verdict form with specific questions pertinent to each of the disputed facts or legal issues. The court should develop guidelines to structure the use of special verdicts and interrogatories while recognizing the need to develop questions that are not ambiguous or incomprehensible.

5. Promote Juror Satisfaction at all Stages of Jury Service -- One of the strengths of the present jury system in the Superior Court is the courtesy and professionalism of the staff in the Office of the Jury Commissioner. Any changes to the system should ensure that this quality is not compromised in any way.

In addition to professional and courteous treatment, jurors must be provided with suitable waiting areas, courtrooms and jury boxes, and deliberation rooms. Although there have been improvements to the jury lounge in the Licht Judicial Complex (Providence), the jury deliberations rooms in this building are in poor condition. At a minimum, the rooms to be painted and refurbished with more comfortable furniture. In the future all modifications to court facilities and all new court design should include plans for appropriate facilities for juror activities, including designated juror parking areas with shuttle service , if necessary.

Some trial judges do make it a practice to hold post verdict conversations with jurors. This should be done uniformly by all judges to give jurors a sense of closure and accomplishment at the end of a trial. If possible, alternates who did not deliberate should be part of this practice. Such conversations should include an expressed appreciation for serving on the trial, clarification of the jurors right to discuss the case, as well as clarification about trial attorney contact with jurors. In addition, the court should develop a policy on affording trial attorneys the opportunity to interview jurors shortly after a verdict. In trials that may create emotional stress for jurors, there should be a special debriefing effort. This would apply to trials that include gruesome evidence or testimony, lengthy trials, high profile trials and trials that require sequestration. The court should consider training judges and court staff in addressing post trial stress or using trained social workers or psychologists to address this issue with jurors.

Presently, only jurors who actually sit on trials receive questionnaires at the end of their service. The purpose of the questionnaire is to provide a juror's perspective on judicial performance. In the future, all jurors should have the opportunity to provide feedback to the court through the use of an exit questionnaire that focuses on the jury experience.

III. LONG TERM OBJECTIVES FOR JURY INNOVATIONS

Long term goals are issues that may require long range study or require implementation of the short term goals prior to consideration. These goals are based on the present structure of the Rhode Island jury system. Below are the recommended long term goals.

1. Reduce the Length of Jury Service in Kent and Providence Counties -- Studies have shown that the length of jury service has an impact on the representation of the jury panel, since the economic hardship and extreme inconvenience of lengthy terms increases the number of requests to be excused from jury duty. Therefore, the time that citizens must be available for jury service should be the shortest period possible to reduce the inconvenience and hardship presented by jury duty.

The system that has been recommended in the American Bar Association Standards on Juror Use and Management as the optimum term of service is the one trial/one day term of service. Of the four counties, two, Washington and Newport Counties, use the one trial/one day term of service. In the remaining two counties and the state's largest counties, Providence and Kent, jury service is for two weeks. This is a less than ideal situation but without the computer upgrades to the Jury Commissioner's Office outlined under the **Short Term Objectives, Section B**, it would be almost impossible for that office to handle the greater volume of jurors that would result from shortening the term of service in these two counties.

Once the short term goal outlined above has been met, reducing the time of service to at least one week in both Kent and Providence Counties should be a top priority. Under a one-week term, jurors would complete the last trial assigned even if it continues past the one-week term. Ultimately, the one trial/one day term should be adopted in these two locations.

2. Examine Juror Compensation -- A diverse jury pool is critical to our jury system. Unfortunately, economic concerns and hardships prevent eligible citizens from serving. Therefore, jury compensation is an important component of an inclusive jury pool. Currently some, but not most, employers pay a juror's base salary during service. However, overtime is not reimbursed leaving jurors unable to meet their expenses. The current compensation of \$15.00 per day and public transportation tickets is not economically realistic. Child care concerns and business interruption costs far exceed this stipend.

Juror compensation is directly related to the length of service (discussed in Section IIA.). While many potential jurors and/or employers could afford one day of jury service, the longer the length of service the more difficult it is for all parties. The court should work with the Governor and the General Assembly to increase juror compensation, however, private reimbursement also should be explored. Forming a partnership between the courts and the Chamber of Commerce to address this issue is key. In this endeavor, an awareness campaign to help businesses understand their vital role in the justice system is essential. Voluntary involvement by larger businesses would attract interest in the program.

In discussing both length of service and juror compensation, the key goal is to ensure a representative panel and juror satisfaction. If potential jurors know their personal or professional life will not suffer as a result of jury duty, then more people will be willing to serve, which will ensure quality jurors who can meet the challenge of jury duty.

IV. CONCLUSION

In the course of the meetings of the Jury Innovations Working Group, many more ideas than those set forth above were discussed. While some were rejected by the group, some of the remaining ideas were the subject of vigorous debate. That debate did not always lead to resolution but led to discussions on the nature of jury trials, the differences in criminal and civil jury trials, the role of the lawyer and judge and the duties of the jury and individual jurors. Accordingly, the discussions often polarized on civil/criminal issues and on the role of the advocate versus role of the jury. As we could not reach a consensus on these issues, we present to the Subcommittee the issues which were not resolved but which others may feel the need to address, now or at some point in the future when the Short Term Goals have been met and the Jury Innovations Working Group has been reconvened (perhaps with different members who can reach a consensus).

- ◆ Juror questions to witnesses through the trial judge.
The working group discussed this innovation at length, but ultimately rejected it due to unfeasibility. The tension which this issue presented was between allowing counsel to try their case as they saw fit even if certain information was not produced or made readily evident to the jury and permitting jurors to clarify issues or ask the question they thought the lawyers missed.
- ◆ Juror discussion of evidence during the trial.
In terms of understanding any case, it is contrary to human nature to defer from discussing it until it is over. In day to day life our impressions are formed on an ongoing basis. The fear, however, is that the impressions would be solidified early on and defendants would be denied an opportunity to be heard by an open minded jury.
- ◆ Pre-instructions to jurors before closing arguments.
In order to understand the closing arguments, a framework of the instructions may help jurors to process and order the information received. Pre-instruction, however, may limit the role of advocate and unfairly prejudice jurors to one particular party.
- ◆ Juror questions about instructions.
This point raised issues regarding jurors involvement and the idea that the jury instructions should be understandable to the average citizen. Hopefully, standardized instructions may assist in any misunderstanding of the instructions but whether jurors have the right to become more active participants at this level is undecided.

- ◆ Re-closing -- Procedures for dealing with a jury impasse.
Other courts have devised systems for dealing with juror impasse including allowing attorney's to reargue certain points. This obviously raised a great degree of difficulty for criminal lawyers who believe the case should rise or fall on the trial and no "second bites at the apple" should be permitted. For civil lawyers, the concern was in obtaining a verdict and trying to avoid the need for a retrial.

- ◆ Decisions by a supermajority in civil cases.
This raised the same concern as jury impasse in that cases need to be resolved. Other states have employed supermajority but those states often employ twelve jurors for civil cases. With only six jurors (or possibly eight), the need for a supermajority is not as great.

- ◆ Day care center.
Although not discussed by the full working group, the feasibility of a day care program to attract stay at home parents is an issue that could be discussed by the Subcommittee or by a reconvened working group.

FUTURE VISIONS ON THE USE OF ADR IN THE COURTS

I. VISION STATEMENT ON ADR

The use of alternative dispute resolution (ADR) techniques has grown in significance and popularity over the past two decades and has served parties in both large and small disputes, from international conflicts to neighborhood arguments. Because ADR approaches are being utilized with greater frequency in schools, workplaces, even churches, many people are becoming increasingly aware of these new techniques for resolving disputes.

Courts and members of the legal community have become important participants in the effort to employ means other than litigation for dealing with disputes. Someone filing a court case today is far more likely than five or ten years ago to be asked to consider some form of settlement assistance. Indeed, ADR is increasingly a part of discussions about how to manage litigation at almost every level of the courts.

ADR is not a new concept to the Rhode Island judiciary, where experimentation with ADR began a decade ago. Among programs developed to date are:

- ♦ The Rhode Island Superior Court introduced a court-annexed arbitration program in 1989. Arbitration is an adversarial process in which a neutral hears and decides factual and legal issues in a dispute and renders a decision or award. In the Superior Court program, civil cases with a damage claim of up to \$100,000 are referred to arbitration before an experienced member of the Rhode Island bar who enters an advisory award. If a party is dissatisfied with the outcome, the case may be returned to the regular calendar and tried without reference to the arbitration proceeding.
- ♦ Since 1993, the Superior Court has conducted "Settlement Week" once or twice a year, during which the civil trial calendar is suspended. A large number of personal injury and contract cases are scheduled for 60-minute sessions with an experienced litigator, who works with the parties and their lawyers to sort out and identify legal issues and push vigorously for settlement. The sessions tend to stick closely to purely legal issues, such as liability and damages, with settlement discussion focused sharply on the amount of settlement. Settlement Week is often described as a mediation program, and it is true that some of the participating neutrals try hard to interject mediation techniques into their proceedings. That number is small, however, and the extreme time constraints under which they labor limits mediation efforts. What emerges most often is a judicial settlement conference conducted by a neutral and richly experienced attorney. In a typical settlement week program in Providence County, as many as 600 cases are submitted to the process, resulting in the settlement of better than half.

The Rhode Island Bar Association has recently established what it calls a mediation program that essentially adopts the Settlement Week model and makes it available on a voluntary basis to willing litigants in Superior

Court. The Association maintains a roster of “mediators,” which includes anyone who has been approved as a neutral in the Superior Court-annexed arbitration program.

- ◆ In 1995 the Rhode Island Family Court introduced a court-sponsored divorce mediation program. Under the program, each divorcing couple is provided information on the nature and availability of mediation, as well as a list of court-approved divorce mediators. Membership on the roster, which includes both attorneys and individuals with therapeutic or social work training and experience, requires appropriate graduate educational credentials, completion of a 40-hour training course in divorce mediation and malpractice insurance. Parties to the divorce select a mediator and meet as often as necessary with the mediator to negotiate the particulars of a settlement agreement, which is then reviewed and presented to the Family Court by the parties’ respective attorneys. In its first three years of operation the number of divorces mediated annually under the program has remained fairly steady at about 150.
- ◆ In 1998 the Family Court initiated a court-based mandatory mediation program for termination of parental rights (TPR) cases in Providence County. The program emphasizes case management as well as mediation. At the time of filing, cases are placed on a schedule for court action that includes mediation. Mediation is handled by court staff who are also responsible for case management.
- ◆ In February 1999 the Family Court introduced a mandatory court-based mediation program in Providence County for miscellaneous petitions seeking custody, visitation and/or child support relief. All parties are required to attend a mediation session prior to their hearing on the motion calendar.

In comparison with other jurisdictions, some of which have more diverse programs that have been operating for decades, the utilization of ADR in the Rhode Island judiciary has evolved slowly. On the other hand, the development here has been a grassroots process, with the emergence of ad hoc programs embraced and sponsored by individual courts and jurists, a pattern of evolution that has characterized the growth of judicial ADR nationally. Jurisdictions typically experiment with a variety of programs, enjoy some success, consolidate existing programs and impose some form of centralized direction and oversight on both old and new programs.

The beginning point for any effort to centralize and improve court-related ADR programs is a clear understanding of their purpose. The overall objective of employing ADR within the judicial context is to enhance public access to the just resolution of disputes. Litigation is often a costly, untimely and infinitely divisive method for resolving disputes. ADR seeks to provide disputants who bring their cases to the courts, the penultimate societal institution for the resolution of disputes, with less costly, swifter and, in many cases, more effective means for settling their conflicts. Successful ADR programs benefit the courts no less than litigants by diverting appropriate cases to effective alternatives that preserve and extend judicial resources for those causes that require more focused attention.

II. SHORT TERM OBJECTIVES FOR THE IMPROVEMENT OF JUDICIAL ADR PROGRAMS

Immediate goals for improving ADR in the Rhode Island judiciary include the consolidation and assessment of existing programs and careful planning for any needed expansion. Over the next two years, this would require:

1. Establish a Continuing Education Program -- Bench, bar and litigants need more and better and more readily accessible information on the ADR programs currently available in the Rhode Island judiciary. The written materials generated by the Rhode Island Family Court provide a useful model, but new materials ought to consolidate a description of the court-annexed arbitration program, Settlement Week, the Rhode Island Bar Association's settlement or mediation program and the Rhode Island Family Court divorce mediation program. The materials might describe the nature and possible benefits and limits of each program. In addition to these written materials, it is important that judges, in the course of their management of the litigation process, consistently educate litigants and their attorneys about the usefulness and effectiveness of ADR in appropriate cases. Written materials alone do not suffice because the bar and litigants are often unaware of how or why an ADR program may be relevant to their specific case. The judiciary's endorsement of the use of ADR within the context of a specific case powerfully legitimizes attorneys' efforts to persuade their clients to employ alternatives.
2. Implement a Comprehensive Evaluation of Existing Programs -- There needs to be an effort to collect data on existing programs and evaluate their success before expanding or adding programs. Little data is currently captured on cases in the court-annexed arbitration program, and there is not much analysis of whatever data is gathered. Settlement Week and the Rhode Island Family Court divorce mediation program collect some raw statistics on settlement rates, but little more. At least a one-time analysis of the effectiveness of current ADR programs, whether obtained through a consultant or some sort of graduate school internship project, is needed to provide some objective assessment of their utility. It would obviously be best, albeit perhaps not immediately feasible, to establish a permanent capability to track and record the passage, outcome and characteristics of cases handled in each of the existing programs.
3. Assess the Need for ADR Programs -- There is a need to assess the extent to which the bench, bar and litigants are committed to existing ADR programs, as well as probing the extent of interest in the development and introduction of additional alternatives. The Rhode Island Family Court divorce mediation program has not enjoyed anywhere near its anticipated usage, and members of the long roster of mediators assembled for the program handle on the average about two cases a year through the program. ADR, it turns out, is one of those concepts that has wide support rhetorically, but is often seen as less relevant in the context of an attorney or litigant's specific case.
4. A Mandatory Settlement Conference One Week Prior to Trial in Superior Court -- This matter was not finalized and was referred to the current Chief Justice whose particular concern for ADR resolution is widely known.

5. Improve the Quality of Existing Programs -- The court-annexed arbitration program in particular seems to be suffering from an increasing inability to get parties to accept arbitrators' advisory awards. There ought to be an effort to analyze the growing failure rate to ascertain its cause(s). It may well be that there needs to be a refresher orientation session for the neutrals in the program or some training effort to enhance their arbitration skills. A more concentrated effort of education, as described above, might also increase the willingness of divorce and civil litigants to use current ADR programs. The extent of current use of the existing ADR programs, with the possible exception of Settlement Week, does not point to any immediate need to add new programs, but suggests rather the utility of strengthening existing ones.

III. LONG TERM OBJECTIVES FOR THE IMPROVEMENT OF JUDICIAL ADR PROGRAMS

While the immediate need is to consolidate and evaluate existing ADR programs, the rapid growth of judicial ADR offerings in state and federal courts around the country suggests that eventually the Rhode Island judiciary may want to expand the breadth of programs it offers to the bar and litigants in search of different ways to resolve disputes. Such an expansion should consider the following steps and issues:

1. Appoint an Interdisciplinary Task Force -- A number of jurisdictions have had great success in initiating the organization and expansion of ADR programs by appointing a commission or task force that includes representatives from the bench, bar, ADR community and the general public to assess and define the nature of, and need for, new efforts.
2. Carefully and Incrementally Expand ADR Programs only with Full Support -- ADR programs should not be proliferated in the absence of a demonstrated need for their existence and some sure promise of their acceptability by the bench, bar and general community. Programs initiated without adequate administrative support, moreover, have typically fared poorly and often failed. Much of the success of court-related alternative programs consists in getting parties and counsel to the table. Administrative staff to superintend the assembling of voluntary participants in an alternative program is essential. There is no point in introducing ADR programs without the necessary supportive administrative structure.
3. Promote Mixed Alternatives -- A successful array of alternative programs should consist of a mix of both adversarial and non-adversarial components. While arbitration represents a less formal adversarial process, it remains fundamentally adversarial. The fastest growing and now predominant alternative program in courts around the country is mediation, which introduces a neutral intervenor to help parties negotiate settlement. In mediation, the focus is not just on legal issues but also on interests and the parties' mutual willingness to recognize and respond to each other's interests.
4. Carefully Consider the Benefits of Mandatory versus Voluntary Programs -- One of the most difficult issues to be faced in establishing a full array of court-related ADR programs is whether to make participation in alternatives mandatory or voluntary. While the current general trend in both state and federal court programs is towards mandating participation, there are strong countervailing

arguments to the effect that mandatory programs impose impermissibly on the constitutional right of access to the courts. Whatever the local answer, the question is one that ought to be addressed in a way that puts priority on litigants' meaningful access to justice.

5. Assure the Quality of ADR Programs -- However regulated, the court's responsibility for the quality of neutral services provided by any roster of intervenors is key to the success, legitimacy and integrity of court-related ADR. This means the court should determine who serves, should investigate complaints about the competency of the neutral services provided and should dismiss incompetent neutrals.

IV. CONCLUSION

The apparent success of ADR programs that already exist in the Rhode Island judiciary represents a powerful endorsement of the concept and its acceptability among bench, bar and the public. There is a need to confirm objectively that apparent success and work to institutionalize current programs. Further expansion of present programs or the addition of others should be grounded in a thoughtful assessment of need, rather than a pell-mell rush to implement programs for the sake of implementing programs. Any further expansion should probably be orchestrated by a commission or committee that represents the centralized judgment of the overall judiciary and applies to any new program the supervening value of litigants' effective access to justice.

Appendix A

§ 8-15-3. Power to assign judges. In order to aid in the prompt disposition of judicial business, the chief justice shall have power to assign a judge ~~on the district~~ of any trial court to sit in ~~the superior or family~~ any other trial courts subject to the approval of the presiding justice ~~of the superior court, if the district judge is to be assigned to the court,~~ or the chief judge ~~of the family court, if the district judge is to be assigned to that court~~ of both the sending and the receiving courts and with the consent of the judge to be assigned; such assignment to be for a ~~temporary designated period of no longer than thirty (30) calendar days as shall be agreed upon by the chief justice and the presiding justice of the superior court or the chief judge of the family court as the case may be;~~ provided however, that if the ~~thirty (30) day~~ designated period shall expire during a trial the justice may sit until the trial is completed; and, provided, further, that the justice shall have the power to sit and exercise the function of a justice of the ~~superior court or family receiving~~ court for the purpose of rendering a decision or completing any matter pending before him or her as a justice of the ~~superior court or family~~ receiving court at the expiration of the period. Included in such matters shall be the hearing of motions for new trials, sentencing, allowance of bills of exceptions and transcripts, and any and all other functions necessary to the conclusion of cases heard before him or her as a ~~superior or family court~~ justice of the receiving court. The foregoing provisions shall be interpreted and construed liberally for the purpose of accomplishing the purpose thereof. No other judge may be assigned to another court other than herein provided. The chief justice may terminate the temporary assignment sooner than as agreed upon as aforesaid if he or she determines that the need for the assignment no longer exists.

2001--

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2001



AN ACT

RELATING TO

APPEALS IN CRIMINAL CASES

Introduced by:

Date Introduced:

Referred To:

It is enacted by the General Assembly as follows:

1 Section 1. Section 12-22-1, in Chapter 12-22 of the General
2 Laws, entitled "Appeals in Criminal Cases" is hereby amended to read as follows:
3 12-22-1. Right to appeal from district court to superior court---
4 (a) Except as provided in subsection (b) of this section, every person aggrieved by
5 a conviction and sentence of the district court for any offense ~~other than a~~
6 ~~violation~~ may, within five (5) days after the sentence, appeal to the superior court

1 for the county in which the division of the district court is situated, by claiming an
2 appeal ~~in the~~ before any judge, magistrate or clerk of the district court or by filing
3 a notice of appeal in writing with ~~in~~ the office of the clerk of the division of the
4 district court appealed from or at any of the penal institutions of the state, before
5 ~~any justice of the supreme or superior court, or before a justice or clerk of the~~
6 ~~court appealed from, or before~~ with any of the persons authorized to take bail at
7 those penal institutions.

8 (b) From any conviction and sentence imposed following a
9 defendant's voluntary waiver of trial, plea, and negotiated sentence approved by the
10 court, there shall be no appeal if the sentence is that agreed upon by the defendant,
11 the state, and the court.

12

RULE 37. Appeal to the superior court. A defendant aggrieved by a conviction and sentence of the District Court may appeal therefrom to the Superior Court for the county in which the division of the District Court is situated. The appeal may be claimed by giving oral or written notice of appeal in open court or by filing a written notice of appeal with the clerk of the division in which the sentence was imposed. Notice of appeal shall be given within five (5) days of the imposition of sentence appealed from. From any conviction and sentence imposed following a defendant's voluntary waiver of trial, plea, and negotiated sentence approved by the court, there shall be no appeal if the sentence is that agreed upon by the defendant, the state, and the court.

§ 12-10-4. Plea on offense beyond trial jurisdiction of district court. Whenever any person shall be brought before a district court upon a complaint charging him or her with an offense which is not within the jurisdiction of the court to try and determine, the court may ~~shall not~~ with the written consent of the attorney general or his or her designee and with waiver of indictment or information by such person, receive from such person a plea of guilty or nolo contendere and shall proceed to the further disposition of the complaint according to law may impose sentence. There shall be no appeal to the superior court.