

Minutes  
Committee on Public Trust and Confidence  
Kelly Inn, Bismarck  
March 25, 1999

Members Present

Justice William A. Neumann, Chair  
Joel Gilbertson, Independent Community Bankers  
Marlene Brisson  
Rep. Kathy Hawken  
Dennis Hill, ND Assoc. of Rural Electric Coop.  
Cynthia Mala, Exec. Dir., Indian Affairs Commission  
Sen. Tim Mathern  
Betty Mills  
Connie Sprynczynatyk, ND League of Cities  
Sandi Tabor, SBAND  
Dick Weber, Past Pres., ND Mental Health Assoc.  
Sister Thomas Welder, University of Mary

Members Absent

Judge James Bekken, Southeast Judicial District  
Jess Cooper, GNDA  
Mike Jacobs, Grand Forks Herald  
Yvonne Kroll  
Max Laird, ND Education Association  
Stan Lyson  
William Marcil, Forum Communications  
John Risch, Leg. Dir., United Transp. Union (ND)  
Mike Unhjem, Blue Cross/Blue Shield

Chair Neumann called the meeting to order at 10:00 a.m. and drew Committee members' attention to Attachment B (March 22, 1999) - Minutes of the December 11, 1998, meeting.

IT WAS MOVED BY SANDI TABOR, SECONDED BY SEN. MATHERN, AND CARRIED UNANIMOUSLY THAT THE MINUTES BE APPROVED.

At the request of Chair Neumann, staff reviewed the Issue Priorities and Strategies identified at the December 11, 1998, meeting - Attachment C (March 22, 1999). Staff said the issue categories are organized in the priorities identified at the December meeting, with specific issues in each category then organized in the priority discussed by Committee members. He said strategies tentatively identified at the December meeting are also included, however the priority importance of the various strategies is still to be determined.

Chair Neumann suggested Committee members next consider refining the strategies previously identified and then consider the priority of importance to be given to each strategy.

*Issue Category*

***I. Barriers to Public Access***

Gateway Barriers

With respect to providing interpreters (Strategy 4), Sen. Mathern noted that many organizations, including education and human services, are finding it increasingly important to

secure interpreters. He suggested the judiciary coordinate any effort to obtain interpreter services with similar efforts by other service providers.

With respect to providing an ombudsman to assist those who encounter difficulties (Strategy 4), Joel Gilbertson asked whether such services are provided in other states. Staff responded that several other jurisdictions have on-site personnel to provide assistance to those seeking services in the courthouse. For example, he said, Maricopa County Superior Court provides resource personnel to assist individuals in locating court offices, provides child care services, and also provides assistance in completing court-related forms. Joel Gilbertson noted there are many different sources within the courthouse for information about what is going on in the courthouse, for example, the clerk of district court, the register of deeds, the sheriff, etc. But, he said, the lack of a coordinated, centralized source of information may make it difficult for the public to obtain coherent, usable information.

Betty Mills suggested there are different kinds of information the public may seek: specific information about how things are done, e.g., filing small claims cases, or filling out forms, and a more general kind of information which may consist simply of providing directions and information about which offices provide what services.

In response to a question from Dick Weber concerning whether efforts have been undertaken to make North Dakota courts more "user friendly", Sandi Tabor said a pilot project is underway in Grand Forks to provide a simpler, more expedited process for certain categories of divorce cases.

Dick Weber observed that there are different kinds of user-friendly environments. For example, he said when a person enters the Burleigh County Courthouse, the first thing encountered is the security checkpoint; bathroom locations are visible, where city fines are collected is visible, but there is no person to offer assistance or guidance. Upon reaching a courtroom, he said, an armed officer is encountered, followed by the imposing figure of a black-robed judge arriving in the courtroom. All of which, he said, contributes to an overwhelming and alienating environment for many people. Beyond how court hearings are conducted, he said, efforts should be made to humanize, to change, the "climate" of the courthouse environment. In that regard, he suggested Strategies 1 (simply language and forms), 2 (providing information and assistance), and 3 (exploring technology) could neatly fit together.

Joel Gilbertson suggested every district should be required to appoint someone as an on-site resource person responsible for providing and coordinating information. Rep. Hawken emphasized the role that volunteers could play in such an effort.

Sen. Mathern recalled that during recent testimony regarding legislation proposing the establishment of a human rights commission, supporters of the legislation made clear they did not want to be involved in the court system and preferred a different forum for the airing of their grievances. There is, he said, a perception that the courts are very expensive and intimidating.

In response to a question from Chair Neumann regarding the priority of strategies identified under Gateway Barriers, Sen. Mathern recommended adopting the strategies in the sequence listed. He also suggested Strategy 3 should be modified to read "Implement" rather than "Explore" technology resources. With respect to the wording change, he said, the strategies throughout the document should be cast in a more action-oriented fashion.

Committee members agreed with the tentative priority listing of strategies under Gateway Barriers.

Connie Sprynczynatyk cautioned against selecting easy strategies as top priorities. She emphasized the need to focus on any systemic issues, although likely more difficult, that may need to be addressed.

### Representation Barriers

Sen. Mathern noted that a recurring theme encountered in the Fargo area is that people involved in child welfare issues, family disputes, and guardianship situations do not desire legal representation. They often complain, he said, that lawyers do not adequately understand their problems and are too expensive. Instead, he said, the request is that "regular people" be found to represent them in these various proceedings. Consequently, he said, there is a need for some method of supporting an accessible system for non-lawyers, e.g., Strategy 4. However, he said, a competing concern is that a person may then not receive the best kind of representation or access to the system.

Joel Gilbertson noted that sometimes clients do not want lawyers and sometimes lawyers do not want the particular client. Often, he said, the system simply cannot "fix" the particular problem and the lawyer may receive little or nothing in payment for services. Thus, he said, there is a level of system dysfunction that greatly complicates matters.

Marlene Brisson wondered whether the courts are the best place to solve certain problems. She suggested the need for more mediators and trained negotiators, particularly in domestic matters. Connie Sprynczynatyk observed that past discussions and other information indicate that domestic relations cases constitute a significant portion of judicial workload. If, she said, solutions are to be

found for a category of problems, then it would make the most sense to focus on the kinds of cases that present the greatest opportunity for involvement with the courts.

Sandi Tabor said the Family Law Task Force has pursued a pilot project for mandatory mediation before divorce. She said Legal Assistance of North Dakota also provides funding for lawyer training and approximately 30 lawyers will be trained in mediation during the summer. Additionally, she said, the Family Law Task Force has recommended a study resolution for consideration during this legislative session which proposes a thorough review of the family law code. As an additional resource, she noted that North Dakota State University has instituted a program to educate parents on the effect of divorce on children. She said there are problems associated with how the judicial system operates with respect to domestic relations cases, but there are also problems simply related to the personal cost involved in representing clients in domestic cases. She said she is concerned that if some answer is not found, a point will be reached where lawyers will simply refuse to handle family law cases.

With respect to funding considerations, Sandi Tabor said funding is a key issue with respect to Strategies 1 (explore funding options) and 3 (encourage more pro bono legal services). The challenge, she said, is how to assist the Legislative Assembly in understanding the importance of funding for pro bono legal services.

In response to a question from Chair Neumann regarding the priority of strategies identified under Representation Barriers, Committee members agreed the priorities should be reorganized in the following order: Strategy 4, Strategy 3, Strategies 1 and 5 combined, and Strategy 2.

#### Physical Barriers

With respect to Strategy 2 (monitoring the declining number of judges), Justice Neumann said the Supreme Court continues to review the impact on judicial services of the ongoing reduction in the number of judges. With respect to Strategy 3 (analyzing judicial system resources), he said the Supreme Court has recently been provided with a weighted caseload study, but he wondered whether that study completely addresses the recommended strategy.

#### ***Failure of Education***

With respect to Strategy 1, Marlene Brisson suggested the importance of collaborating with other professional disciplines. She said it is important that other members of the professional communities, mental health professionals, substance abuse counselors, and the like, are aware of how the courts operate so that proper information can be provided when needed. She suggested

members of the community should meet periodically to assemble a list of resources that can be updated from time to time. Sister Thomas Welder agreed and said the interdependency of modern society underscores the need for collaborative efforts at the community level.

Justice Neumann stressed the importance of judges becoming involved in providing information to the public (Strategy 3). He noted that some judges have written about the role of judges as being essentially reactive, simply responding to problems presented in a court setting. Some have recently suggested, he said, that a more proactive role for judges should be considered. Following discussion, Committee members agreed Strategy 3 regarding involvement of the judiciary in providing information to the public should be moved to the top priority position.

In light of several Committee members having commitments during the afternoon, it was agreed that the remaining issue categories, strategies, and strategy priorities would be reserved for further discussion at the next meeting.

Sister Thomas Welder noted previous discussion regarding the possibility of conducting a survey and wondered whether the Committee was prepared to pursue that initiative. Staff said the Hearst Corporation had developed a national survey for the National Center for State Courts. The survey, he said, has been conducted and will form the basis of information submitted during the National Conference on Public Trust and Confidence. He said the survey instrument has been made available to states for use if the information garnered from the survey is provided to the National Center.

Marlene Brisson noted that survey summaries in earlier materials indicated respondents in the Midwest had a more positive opinion of the courts. She said it would be interesting to see if North Dakota respondents shared a similar opinion.

There was general agreement to pursue a survey and more information will be provided at the next meeting.

Chair Neumann said the Committee's next meeting would likely be in mid to late summer.

There being no further business, the meeting was adjourned at 12:55 p.m.

---

Jim Ganje, Staff