

SECTION 9

COURT FUTURES REVISITED

**JUSTICE IN THE NEXT MILLENNIUM:
REPORT OF
THE COURT FUTURES VANGUARD**

**Prepared under a grant
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Report of
the Court Futures Vanguard

Workshops to Prepare Court Futures
in Georgia, 1991-1992

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February 1993

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FORWARD

The State Justice Institute initiated project, known informally as the Georgia Court Futures Study Project, captured the imaginations of a core of participants, who struggled mightily to both envision and to develop strategies for improvements in court services to serve the citizenry in the year 2020.

It caused some people to get more involved in the present-day operation of the State's courts. In still others it brought out concern for protecting the status quo against any transformation. For many more, however, the undertaking impelled a realization that people in the judicial branch, themselves, just may possess both the reason and the means to shape the destiny of their public service. This may be the most important and the most long-lasting outcome of the activity.

As an educational effort, in contrast to a court reform project, the activity can probably be pronounced a success. Certainly, the reportorial detail and the valuative data reflected in the project's final document, this report, supports such a self-lauding assertion. Simply as a grant project, the activity fulfilled most of its objectives, and even released a sum of unexpended funds back to the State Justice Institute.

Nevertheless, without the patience and cooperation of all who acceded to the ICJE's request to take part (back in the spring of 1991), from steering committee members to individual conferees, the two and one-half year immersion in "futures thinking" accomplished by the project could not have been achieved. The instrumental leadership of Dr. LaVerne Williamson, the official Project Facilitator and primary drafter for all the project's written products, proved pivotal to the undertaking's success. Technical assistance from the National Center for State Courts in visioning methods, unexpectedly, enriched the last stages of the project. Necessary financial support from the State Bar Foundation and the ICJE, together with the State Justice Institute, also had a salutary impact.

For all of this cooperation, leadership, and other support, the ICJE of Georgia expresses its grateful thanks.

Richard D. Reaves

Project Director

and

Executive Director

Institute of Continuing Judicial Education

February, 1993

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An artist begins with a vision of the final painting. We also need a vision - a vision of the court structure and operation which can ultimately dispense pure justice. We must have the commitment to make the visions of today, the traditions of tomorrow. With this kind of thinking, a group of forward-looking judges, lawyers, legislators and lay people worked together for two years on the issue of the future of the courts in Georgia. I commend their report to you. . .

Harold G. Clarke
Chief Justice, Georgia Supreme Court
January 13, 1993

Executive Summary

In May of 1991 a group of over 100 Georgians - representatives of the judicial, legislative and executive branches, judicial educators, lawyers and citizens - began a comprehensive review of the state judicial system. This two year study, a project of the Institute of Continuing Judicial Education, in cooperation with the Georgia Supreme Court and funded through a grant from the State Justice Institute, focused on any and all issues directly relevant to both the current operation of the state court system and its future operation.

This Court Futures Vanguard was divided into ten task force groups - six groups based on six different types of courts operating in Georgia, and the remaining four groups focusing on the issues of Alternative Dispute Resolution, First and Second Branch Support Services (Communication), Court Automation and Judicial Education. The task forces met individually during 1991 and 1992, concluding their work with a second major workshop held for the full Vanguard in October 1992. This second workshop included the original Vanguard members and invited "consumers and users" of judicial services throughout the state. Individuals from various interest groups, educational organizations and the legal community at large were invited to attend.

The task forces examined a variety of issues important to individual courts and to the state judicial system as a whole. The organizational framework for this review involved a discussion of: (a) trends - patterns of change over time which have affected or will affect the courts, (b) scenarios - combinations of trends merged and projected forward to suggest a picture of the future of the state judicial system, (c) visions - hopes about how the future of the state judicial system should look and (d) strategies - what

actions are needed to move toward the identified visions. A preliminary report of the Vanguard's work was distributed prior to the October 1992 conference, with input welcomed from all participants.

Discussion among Vanguard members identified ten key issue areas of critical importance to the state judicial system, thus to the state as a whole. These issues, as discussed by Vanguard members, are summarized below.

1. Alternative Dispute Resolution

Alternative dispute resolution, the use of non-adversarial, extra-judicial alternatives in the settlement of legal disputes, was endorsed by the Court Futures Vanguard. Vanguard members felt that the use of alternative dispute resolution mechanisms, such as mediation or arbitration, can provide creative solutions to legal problems and offer more promise than any other suggested reform for reducing judicial caseloads. The Vanguard's discussion on this issue underscored many of the conclusions reached by the Joint Commission on Alternative Dispute Resolution created in 1990, which released its report in September 1992.

2. Civil and Criminal Process

Support was expressed in Vanguard discussion for reform in a variety of areas. Certain offenses - parking, minor traffic offenses, some misdemeanors, and some property offenses (e.g., bad checks) should be decriminalized to allow judges to focus on more serious traffic, property and violent offenses. Use of the jury and grand jury should be reviewed. These processes should be reserved for certain types of serious cases. More attention should be directed to the development of sentencing alternatives which do not rely upon prison space, e.g., alcohol and drug treatment, home monitoring devices, offender identification bracelets. The need for increased funding for indigent defense should also be addressed.

3. Communication

Vanguard members agreed that communication and cooperation within the judicial system (i.e., among courts), and between the judicial branch and the executive and legislative branches merit improvement. Lack of communication and cooperation among courts leads to conflicts in goals, competition for resources and a lack of judicial branch support within the political system. The lack of interbranch communication and cooperation leads to the passage of legislation which is not responsive to constituent needs, insufficient resources for courts and a lack of "truth in sentencing" (i.e., sentences mitigated administratively to address overcrowding). Without meaningful communication the loser is the citizen, with needed judicial services not being provided in a

timely manner. A number of strategies to improve intra-branch and interbranch communication and cooperation were suggested.

4. Constituency Services

Throughout their deliberations members of the Court Futures Vanguard consistently showed a strong interest in the attitude of the public toward the state judicial system, as well as concern for the effectiveness and efficiency of judicial services provided. Vanguard members stressed the importance of expanding successful consumer services, e.g., the victim-witness assistance program, easier judgement enforcement options, as well as the implementation of other needed services such as expanded court hours, more comfortable and accessible facilities, public education, and language and cultural interpreters.

5. Court Automation

The Court Futures Vanguard expressed support for a full and adequately funded system of court automation, at all levels of the judiciary and in all geographical areas of the state. Court automation was viewed as a tool which would assist consumers by speeding up the processing of cases, and judicial personnel by providing more accurate, up-to-date case information. The Vanguard supports the continuing efforts of the Georgia Courts Automation Commission, established in 1990 for the purpose of working toward this goal. The Vanguard also expressed concern that information generated through court automation be utilized with respect for individual privacy.

6. Funding

Vanguard members agreed that the judicial system as a whole is under-funded, especially when compared to funding for the executive and legislative branches. But Vanguard members also agreed that the judicial branch should be more aggressive in the budgeting process, both in terms of state and locally funded courts. Much of the funding problem can be directly related to the communication problems between the judicial branch and the executive and legislative branches. Vanguard members concluded that planning, coordination and unity of purpose within the judicial branch in the budgetary process must be achieved before fiscal independence can be accomplished. Several revenue generating proposals were discussed, e.g., add-on fees. The Vanguard also suggested that fiscal impact be formally considered in all legislation affecting the judiciary, particularly in regard to creating judgeships.

7. Image Problems

Vanguard members agreed that the judicial system as a whole is experiencing a negative image problem with Georgia citizens. Much of this problem is the result of a lack of understanding on the

part of the public regarding the purpose and operation of the system, particularly what courts can and cannot do. The Vanguard concluded that much of this problem can be addressed through public education programs about the judicial system, improved consumer facilities and services, and an increased willingness on the part of judges and their staffs to participate in public forums. Brochures, videos and the use of a media spokes-person might also be helpful. The creation of a judicial liaison could improve relations with the legislative and executive branches. Vanguard members also noted that work should be done to improve relations among courts, i.e., to dispel negative images of particular courts held by some lawyers and judges.

8. Judicial Selection and Education

Vanguard members agreed that the election of judges, while upholding important democratic principles, can impact negatively in the delivery of state judicial services. Popular election can result in a diversity of qualifications and experience among judges, sometimes creating unwelcome disparity in decisional outcomes among various jurisdictions. Partisan selection of judges injects too much politics into the selection process. Vanguard members suggested that either: 1) all judges be selected through a non-partisan election process, or 2) judges be appointed through the "Missouri Plan." A combination of these two options could be used.

9. Philosophy and Structure

The issues of philosophy, "what is the purpose of the judicial system," and structure, "what judicial structure or structures will best allow the judicial system to carry out its purpose," figured prominently in Vanguard discussions. The magistrate courts, municipal and special courts and juvenile courts all expressed particular frustration over the lack of a clear "mission statement," a definition of the role and purpose of each such court in the state judicial system. More attention should be directed toward assisting these courts in this regard.

Vanguard members conceded that structural changes in the state judicial system are necessary. While structural unification of the present court system is not universally supported, Vanguard members conceded that economic problems will force the closing of some courthouses with a move toward regional courthouses, circuit-wide grand juries and circuit riding judges. Some counties will consolidate resources, realigning court services locally. Vanguard members concluded that external pressure to operationally unify the judicial system will continue to grow. While no consensus on structural unification was reached, it was agreed that more uniformity in operation and jurisdiction could be achieved through the resolution of philosophical issues, more standardized procedures and forms and increased communication among courts.

10. Research, Evaluation and Planning

Vanguard members expressed strong support for a research, development, evaluation and planning capacity to serve the state courts. This would be an entity through which new programs and ideas could be channelled, refined, researched and pilot tested throughout the state as needed - an office dedicated solely to the improvement of courts in Georgia.

Also, more attention should be directed to the evaluation of judges, support personnel and court programs. Traditionally, judges receive little feedback on performance, except in election results. Surveys, "focus groups," impact studies, and personnel performance audits should be instituted to provide needed feedback to judges and their staffs. Finally, a mechanism for continued futures planning should be established within the judicial system.

*The full project report includes a number of useful appendices. Appendix A lists the names and occupations of the Vanguard members, by task force. Appendix B provides both a written and a diagram summary of Georgia's current judicial structure. Appendices C -N provide lists of specific inquiries examined by the task forces. Appendices O and P provide copies of resolutions passed by the Georgia House and Senate in support of the Court Futures study effort. Appendix Q provides a selected bibliography of futures thinking articles and books. Appendix R provides a summary of the progress of the Georgia Courts Automation Commission. Books, articles, video tapes and slides relating to the Georgia Court Futures project are available through the Georgia Court Futures Resource Library housed in the Administrative Office of the Courts in Atlanta, Georgia.