

November 7, 2002

The Honorable Gerald W. VandeWalle
Chief Justice
North Dakota Supreme Court
600 E Boulevard, Dept. 180
Bismarck, ND 58505-0530

Re: Planning Recommendations

Dear Chief Justice VandeWalle:

The Judicial Planning Committee has completed its initial work developing planning recommendations for the North Dakota judicial system. On behalf of the Committee, I am pleased to submit the attached Mission Statement (Attachment A), Vision Statement (Attachment B), and Planning Recommendations (Attachment C). These are the products of a collegial and diverse Committee membership, and reflect the members' careful and thoughtful consideration of issues affecting the judiciary.

Over the course of six meetings, the Judicial Planning Committee reviewed a considerable amount of information regarding planning in the judicial environment. The Committee began its study with an overview of the state judicial system and a discussion of the general components of judicial planning. The Committee sought to combine elements of long term planning and futures planning to enable it to consider not only short-term issues affecting the judicial system but also to identify issues and trends that may affect the judiciary farther into the future. Often called "strategic planning", this approach allowed the Committee to begin a process we hope will assist our system in moving beyond short-term planning and crisis management and towards anticipating future demands systematically and consistently.

The first step in the Committee's planning effort was development of a mission statement. The Committee was aided in this effort by review of the mission statement devised by the Committee's predecessor. After discussion of the general purposes and components of a mission statement, the Committee prepared a draft statement, which was distributed to judges and employees of the judicial system for comment. Those comments were reviewed by the Committee and proved useful in refining the statement. Following further consideration, the Committee adopted the attached Mission Statement, which the Committee concluded clearly and succinctly describes the overarching purpose of the judicial system.

The next step in the Committee's work involved development of a vision statement - a statement that represents what the judicial system should look like and be doing in the future. Reviewing trends affecting the judiciary, both present and future, is important in this effort if a vision statement is to be useful not only in realistically representing the preferred future course for the judiciary, but also in describing what future changes are needed to enable the judiciary to more effectively provide judicial services to citizens of the state. To aid the Committee in its review of trends affecting the judicial system, judges and employees were asked to identify the three most significant trends they perceived as affecting the judiciary, possible responses to those trends,

and changes they thought the judiciary should initiate over the next five years. Comments received from judges and employees identified twelve general trends, fifteen possible responses to trends, and eight actions considered necessary for the judiciary to undertake in the short term. Using this information, a distillation of trends identified in planning initiatives across the country, and demographic information concerning North Dakota citizens, the Committee prepared, revised, and adopted the attached Vision Statement. The Vision Statement's four segments address the following areas of recommended judicial action: public trust and confidence, technology, dispute resolution, and administrative and operational support structure.

Based upon information reviewed and discussed in developing the mission and vision statements, the Committee assembled planning recommendations in each area identified in the Vision Statement. While all the recommendations anchored in and informed by the Vision Statement are important, the Committee concluded that none can likely be effectively achieved now or in the future unless the judicial system's administrative and operational support structure is changed to provide a more flexible, informed, and cooperative method for administrative decision-making. As reflected in the opening paragraph of the attached Planning Recommendations, the Committee concluded that too often internal policies, procedures, and practices contribute to confused and inconsistent implementation of system objectives and compromise the judicial system's ability to effectively provide judicial services. Perhaps most significantly, the Committee concluded there is a lack of clarity and commitment concerning the system's need to operate as a whole rather than as a collection of independent parts.

The attached Planning Recommendations, in Sections I through III, offer several recommendations in the areas of public trust and confidence, technology, and dispute resolution. While last in the progression, Section IV, which offers recommendations regarding administrative and operational support, forms the bedrock upon which achieving the others necessarily depends. These recommendations were informed in good measure by the discussions at two sessions of the Judicial Conference facilitated by the Group Decision Center from NDSU. At the November 2001 session, the discussion appeared to indicate a general agreement on matters concerning the administrative organization of our system. A common theme seemed to be the need to consider a more refined, accountable process for administrative authority and decision-making. The Committee discussed similar issues and, informed by the Judicial Conference activities, developed Draft Reorganization Concepts regarding the administrative structure and operation of the system. Those Concepts were presented to the June 2002 Judicial Conference and formed the basis for a two day discussion of administrative reorganization. The Committee reviewed the results of that discussion as background for the recommendations in Section IV.

In Section IVB of the Planning Recommendations, the Committee recommends the current Council of Presiding Judges should be replaced by a more broadly representative Council that would have responsibility for developing policies and procedures governing the administration of the district and juvenile court system. Council membership would consist of at least nine members, including the Chief Justice as Council Chair, one justice of the Supreme Court, the presiding judge from each administrative unit to be described below, one judge elected at large from each unit, and at least one lawyer. The Committee concluded that such a representative body would provide a more broad-based vehicle for considering administrative issues and also

provide for enhanced involvement of the trial bench through their elected representatives. Lawyer membership would prove beneficial in providing the perspective of members of the bar, who are among those obviously affected by the administrative management of the judicial system. The Committee carefully considered the membership of the recommended new Council with the objective of affording the opportunity for informed, constructive decision-making regarding the administrative operation of the judicial system. The key membership element is the Chief Justice's status as chair of the Council, which the Committee concluded preserves the administrative authority vested in the Chief Justice by the state constitution.

The Committee also recommends in Section IVB of the Planning Recommendations that the state be divided into three administrative units for purposes of assuring effective and uniform implementation of administrative policies and procedures developed by the Council. A presiding judge would be selected for each unit and a trained trial court administrator should be employed for each unit. To ensure a clear line of authority and responsibility and to ensure effective implementation of policies and procedures, the Committee recommends that each trial court administrator should be hired by the state court administrator after consultation with the presiding judge and should be supervised by the state court administrator. Subsequent recommendations address the scope of responsibility and authority exercised by the trial court administrators.

In recognition of the administrative responsibilities of the new Council, the Committee recommends in Section IVC that committees associated with the development of trial court administrative policies and procedures should be established under the new Council. Membership would be determined by the Chief Justice after consultation with the Council. Joint bench-bar committees and other committees responsible for matters other than trial court administration would continue as committees of the Supreme Court.

As previously indicated, the Committee concluded modifications to the administrative operation and support structure of our judicial system were essential to effectively achieve the goals contemplated in the Mission and Vision Statements. While ultimately in agreement regarding the role of the new Council, the Committee discussed at length whether the Council should have broader, more encompassing responsibility for developing policies and procedures for the administration and operation of the entire judicial system. Such an empowered Council was considered to represent a cleaner, more logical method for decision-making concerning administrative practices and procedures. However, the Committee concluded that such an arrangement may pose serious issues with respect to the constitutional authority and responsibility of the Chief Justice and concluded that a more narrowly limited Council, while not ideal, could provide a basis for informed, cooperative decision-making with respect to the administrative operation of the judicial system. The Committee did agree, however, that the operation of the new Council, if established, should be monitored and greater responsibilities for the Council should be considered periodically. This conclusion is reflected in Section IVB (1).

The Committee worked diligently in developing the attached Mission and Vision Statements and Planning Recommendations. I would like to take this opportunity to extend my thanks and appreciation to members of the Committee for their unfailing willingness to commit substantial time and effort to the Committee's work. Their experience, vision, and commitment to improving

the judiciary have resulted in proposals that are realistic yet hopeful for change within our judicial system.

If you have any questions concerning the work of the Committee, please contact me at your convenience. I am willing to discuss these recommendations at greater length if you desire. Committee members have also indicated their interest in continuing discussions about the issues addressed in this report with the Supreme Court, the Council if established, and others as deemed appropriate.

Sincerely,

William A. Neumann, Chair
Judicial Planning Committee

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Attachments