Washington Supreme Court

STRATEGIC PLANNING STEERING COMMITTEE

July 18, 2011
Olympia, Washington

WASHINGTON COURTS

WASHINGTON SUPREME COURT

STRATEGIC PLANNING STEERING COMMITTEE

AGENDA

July 18, 2011 – 1:30pm-5:00pm

Quinault Conference Room
Administrative Office of the Courts
Olympia, WA

I. Introductions

II. Strategic Planning Purpose and Principles

III. Organization of Committee Business

   a. Discussion of Charge
   b. Discussion of Committee Procedures
   c. Discussion of Committee Workplan

IV. Organizational Assessment, Trends and Conditions Research

V. Mission and Vision Statements

VI. Stakeholders

VII. Outreach Activities

VIII. Meeting Schedule

M E M O R A N D U M

July 14, 2011

TO: Members, Supreme Court Strategic Planning Steering Committee

FROM: Steve Henley, Judicial Planning Specialist

RE: Meeting 1 materials

Please find attached the following documents which members are encouraged to peruse prior to the meeting on Monday:

- an agenda
- a brief background summary
- copy of a recent speech given by John Broderick, past Chief Justice of New Hampshire, to the National Association for Court Management
- Chapter One of "An Approach to long range Strategic Planning for the Courts"

In addition the following links are to two markedly different strategic plans for supreme courts which you might want to take a few minutes to examine:

Louisiana Supreme Court:

http://www.lasc.org/la_judicial_entities/documents/LASC_Strategic_Plan_10-14.pdf

Supreme Court of the U.S. Virgin Islands:

http://www.visupremecourt.org/wfData/files/StrategicPlanReport-Final.pdf

WASHINGTON SUPREME COURT

STRATEGIC PLANNING STEERING COMMITTEE

Background Information

I. COMMITTEE CHARGE

Chief Justice Barbara Madsen provided the charge to the committee in her appointment letter to members:

> "The purpose of the steering committee is to oversee the development of a long-range strategic plan for the Supreme Court of the State of Washington in its capacity as the state's court of last resort and as a court of original jurisdiction. The steering committee should therefore focus its efforts on the adjudicatory role of the court and those functions which support it. The scope of the project thus embraces the offices of the Clerk of Court, the Supreme Court Commissioner, the Reporter of Decisions, the State Law Library, chambers staff, the Judicial Information System in providing services to the supreme court regarding its cases, and the public information function of the Administrative Office of the Courts as regards dissemination of information about supreme court cases.
>
> The steering committee is not asked to conduct planning as it relates to the responsibilities of the court or the chief justice exercised in overseeing the judicial branch, or supervision the Administrative Office of the Court, policy and rules committees, court personnel not within the court proper, or other judicial branch entities.
>
> Included in the scope is the adjudication of disciplinary actions against lawyers and judges, as well as bar admission matters, filed with the court. Regulatory activities regarding attorneys, judges, or other judicial branch personnel that are not presented to the court within case proceedings are not within the scope of the planning effort.

II. MEMBERSHIP AND STAFF

Members:

Mr. Danilo Anselmo
Ms. Lisa Bausch
Mr. Walter Burton
Ms. Jude Cryderman
Mr. Howard Goodfriend
Mr. Ken Masters
Judge Ann Schindler
Justice Debra Stephens

Staff:

Mr. Steve Henley
Ms. Colleen Clark

III. WORKGROUP RECOMMENDATION OF PROCESS AND SCHEDULE

The Strategic Planning Steering Committee was formed pursuant to recommendations of the Strategic Planning Process Workgroup, an advisory group formed by the Chief Justice as chair of the Supreme Court Long-Range Planning Committee. In its report this body also provided a general framework for a planning process that the steering committee is free to adopt, reject, or modify. The report said:

> "Broadly speaking, a planning process could be organized into three general phases: project planning and preliminary research; outreach, gathering of input from stakeholders and evaluation of research; and development, refinement and finalization of a proposed plan. An outline of activities to occur within this framework is provided below.
>
> In terms of a schedule, the pace at which a planning body can move forward would be dependent on the availability of members and staff to participate in meetings and other planning activities. Assuming the optimal availability of members and staff, a schedule could provide in the range of two to three months for each phase, for a total of about six to nine months from the time the planning group is organized. To the extent that members and staff are at times unavailable this schedule would be somewhat extended, but twelve months would seem like a reasonable outer limit.

Phase One – Project Planning and Research

- Orientation to fundamental purpose and principles of strategic planning.
- Develop a preliminary mission statement and vision statement.
- Determine what statistics, reports and other research materials should be compiled for consideration by the committee.
- Conduct a thorough stakeholder analysis, identifying internal and external stakeholders.
- Determine manner of interaction with each set of stakeholders -- surveys, focus groups, conferences, invitations to comment, other methods -- ensuring that all internal and external stakeholders are provided an appropriate opportunity to express their perspective and ideas.
- Prepare for specific outreach activities. Determine which members will be involved in which activities. Determine how input will be documented.
- Determine an overall project schedule that includes dates for all committee meetings, time periods to complete research and outreach activities, and timeframes for the development, refinement and finalization of work products.

Phase Two – Outreach and Input.

- Review and discuss implications of research.
- Carry out all planned outreach activities and receipt of input.
- Evaluate success of outreach activities, considering whether adequate input is being received by the task force. Consider modifications or additions as necessary.

Phase Three – Drafting, Review, Finalization.

- Review and deliberate on all information collected.
- Refine mission statement and vision statement.
- Identify major strategic issues.
- Formulate strategies that respond to strategic issues.
- Draft strategic plan articulating issues, strategies and guidance for activities to implement strategies.
- Circulate for review and comment.
- Finalize plan.

John Broderick

Remarks to the
Mid Winter NACM Conference
Baltimore, MD
February 7, 2011

"Reengineering The Courts for the 21st Century and the Challenges to Court Leadership"

Good morning,

It's a genuine pleasure to be with all of you again. Since I last spoke at your midyear conference two years ago in Portland, Oregon much has changed in my professional life. After serving for fifteen years on the New Hampshire Supreme Court, and most of the last seven as Chief Justice, I decided to step down from the court this past November. I am now the dean of our university's law school.

The risk of leaving the bench early, however, is that you get to find out who those people are who never really liked you, even though they smiled when they called you "Your Honor". But that's a risk worth taking. I've also come to terms with the fact that some lawyers now seem to take less interest in my general welfare. I'm not sure why that is, although I have a few ideas. Sadly, my family no longer stands as quickly as they used to when I enter a room. But, all in all, I'm adjusting.

But there are plusses to leaving the bench early, too. Not only am I rediscovering the simple joy of having a first name again, I have also come to realize another benefit of my early departure; it has allowed me to use my years of service and commitment for other important purposes. In my case, I look forward to heading a distinguished law school faculty, helping to reform legal education to ensure that law school graduates are more "practice ready" than ever before and assisting in inspiring a new generation of lawyers to meet the changing and accelerating demands of the 21st century.

I also want to use my new freedom to speak more openly and candidly about the challenges confronting state courts and about the need for court management and leadership to be more creative than ever before and more open to new ideas and systemic change. The status quo is no longer possible and in these unprecedented times, it is not your friend, even if you could sustain it. That reality and my respect for all of you made your kind invitation to come to Baltimore a pleasure to accept.

During my years on the bench, I witnessed and participated in an era of incredible change and challenge. Exponential change, really. Much of it was thrust on us and not welcomed or planned for. Before becoming a judge in 1995, I was a trial lawyer for more than

two decades. I loved the trial courtroom and all it represented in American life. But the court system seemed more vibrant during my years as an advocate, more accessible to more people and far more affordable for those who sought justice. Times have certainly changed but our mutual obligation to keep watch over the critical mission and capacity of the state courts has not changed. While our watch is more arduous and lonely than in years past, the obligation to keep watch remains. Much hangs in the balance. Success will require not only that we implement and manage real change but, more importantly, that we embrace it. All of you are critical to that success and well-equipped to achieve it.

During my thirty-eight years as a lawyer and judge, both the importance and professionalism of court management has grown. Today, you are indispensable to the capacity of the American justice system to fulfill its core obligations. You are more skilled, better trained, better educated and more dedicated than at any time in your distinguished history. What all of you do every day, while often below the radar, makes our justice system possible. You genuinely matter to the rights of a free people. Not many others can say that about the jobs and careers they chose but you can. You should all be rightly proud of all you do.

For many people, you and those you supervise, are the face of justice behind the counters in America's courthouses. You also help to design and manage court operations and court infrastructure and oversee their effectiveness and overall consistency. While the judges may be more visible than you are, in many ways, you are just as important. Because of my admiration for what you do and the incredible commitment and competence with which you do it, I welcome this opportunity to share some thoughts with all of you this morning. I would like to focus my remarks on three areas: the forces I see that demand real change in the systems you manage; the type of systemic change that will be required to meet the demands; and the importance of enhanced court administration to implement and manage needed change.

Let me turn first to the forces driving change. At the top of the list are the expectations of the private marketplace. Technology, time and money underscore them. Simply stated, we have become a nation of multitaskers, more anonymous yet more integrated and interdependent. Efficiency, speed and transparency have become the watchwords of our times. Doing more for less is the new imperative.

Instant communication is the "new normal." Facebook, Twitter, blogs, Skypes, Blackberries, i-Pods and i-Phones are the new channels for social interaction. This list is not exhaustive or static but it is revolutionary. The internet is the new town square. The fax machine, while not yet an antique, is an endangered species. Once a novel and important invention, it has become dated, and it didn't take too long for that to happen. In the 21st Century, even change is at risk. Even change is changing.

Time and distance have been dramatically compressed by our new means of communication. As a result, diligence and efficiency will never be defined as they once were. 24/7 is the growing expectation in our virtual world. Weeks of waiting on a court calendar that

was once perceived as timely is now seen as the old equivalent of months or longer by the unrelenting, pulsating world outside our windows.

Paper, still the mainstay of most state courts, is beginning to disappear from the rest of real life at an amazing pace. Just look at the growing financial losses of the U.S. Postal Service over the past decade. Letters are far less common than they once were and Federal Express carries letters and packages that the Postal Service once shipped when it was the only game in town. E-mail has made Federal Express less relevant. Why wait for overnight delivery when the instantaneous click of a mouse will do the job in the blink of an eye, and for a lot less money. We're in such a rush and so impatient that we've developed an internet vocabulary all its own with acronyms and abbreviations.

Even libraries are becoming less relevant to community life and knowledge. Some have shuttered their doors and many others are struggling. Portable electronic reading devices like Kindles and Nooks are replacing books, especially for the millennial generation.

Barnes and Noble is for sale. Borders is flirting with bankruptcy. Last year, online retailer Amazon sold more e-books than paper ones. That had never happened before. Indeed, twenty years ago that would have seemed pure fiction.

Many newspapers have been victimized by the "expectations speed bump". According to a recent edition of the New Yorker, in the past three years, newspaper circulation and advertising revenues have plummeted, a fourth of all newsroom employees have been laid off or have accepted buyouts, and more than a hundred free local papers have folded. Even some major city newspapers have disappeared. America Online has hired nine hundred journalists within the last year and is hiring forty more each week. The news services we rely upon are changing.

More and more newspapers that have survived are moving to the internet but most have yet to figure out a business plan for sustainable profit. Even the New York Times seems to be having trouble finding the "sweet spot" in this new century that shows little respect for longevity, influence or past importance. Nothing and no one seems indispensible any longer. Even the anchors of the 20th century are in trouble: General Motors and Chrysler filed for bankruptcy and Ford narrowly escaped it. That would have seemed unimaginable twenty years ago; absolutely unimaginable. Just a few days ago, I was having lunch in an upscale chain restaurant, if there is such a thing, in Concord, New Hampshire that had small, electronic menus on its tables from which you could both place your order and pay for it. It certainly was not good news for the wait staff yet it catered to the dual realities of this new age: too little time and too little money. Computers don't have 401(k)s and they don't need health care. They also don't call in sick.

A few weeks ago, I read a brief article in a New Hampshire newspaper announcing that Blockbuster had filed for Chapter 11. It didn't seem that long ago that Blockbuster <u>was</u> the cutting edge of the 21st Century. Netfliks and On Demand Television moved it from the "cutting

edge" to the "cutting room" floor. The only mistake that state courts and those who lead and manage them can make is to assume that they are somehow immune from the rip tides and strengthening undertows of these perilous times. The requirement for a smarter, less expensive and more user-friendly court system will need to be fulfilled. Just like paper, libraries, gas guzzling cars, newspapers and old style videos, there are alternatives to the current civil justice system. Either state courts will meet rising marketplace expectations or others will. The private justice system in American has already been flourishing and the federal courts could handle more "customers".

In addition to being battered by accelerating marketplace realities, the state courts are also confronting changing generational expectations. They can't be ignored, either. Let me share two brief stories that I hope make a larger point: it's not whether state courts can survive with yesterday's practices tweaked at the margins but whether the next generation will tolerate or even understand what most of us with more than 15 years of judicial service at all levels have grown to accept.

Just how real generation change can be was brought home to me last summer. A friend of mine who lives on Cape Cod year round, took his family to Vermont over Labor Day weekend. When they were returning home, he told me, they passed through a tiny Vermont town; just a general store and a gas station. My neighbor was startled when his sixteen year old daughter who was sitting in the back seat exclaimed:

"Dad, what is that?"

"Where?" he said.

"Over there by the gas station", she said, pointing out her passenger window.

As it turned out, she had spotted a phone booth. She had never seen one. After the big metal and glass box was explained to her, she went back to quietly texting. For many of us, our yesterday is unknown to others. There's a lesson in there for state court judges and administrators who are often conflicted about both the need for meaningful change and their obligations to design it and direct its path. It's not that the telephone in that odd looking booth couldn't have completed Alyssa's call, it's just that it was so dated, unfriendly, exposed and antiquated as to be unappealing. It actually required conversation to communicate. Now that's a 20th Century notion! Texting through the ether from the quiet privacy and comfort of the backseat seemed a much better bet. Sixteen year old Alyssa will probably need the courts one day herself. If she sees us like that phone booth, she will either use the federal courts, the private justice system or complain about the services we provide her. None are good for public trust and confidence and none are pre-ordained.

Now my second story. Two years ago I was flying home from Honolulu. My seat mate on that trip was a 6 year old boy named Jack. His parents were across the aisle and asked if I

would mind changing seats with their son so he could be closer to them and I would have the window. Not a bad trade, I thought, when taking off from Oahu on a late afternoon picture-perfect day. As we were barreling down the runway a few minutes later, I asked Jack if this was his first flight. "No," he said, a little exasperated, "I had to fly to Hawaii.". I had the sense Jack was regretting my company. Once we were airborn, Jack watched the movie and ate everything he was offered. At one point he considerately tapped my forearm to ask if I was enjoying the flight. Jack had apparently decided to give me a second chance. When I asked where home was he replied, "The Chicago area". No further details were offered. His parents had trained him well.

But what I remember most about that trip is that somewhere in the growing darkness over the Pacific, Jack's father handed him a small device that he was able to hold comfortably in the palm of his 6 year old hand. He worked it like a fighter pilot. It had icons, text and streaming video. I had no idea what it was. Given Jack's earlier reply to my question about whether he was flying for the first time, I didn't dare to ask him to identify it. But I remember wondering what Jack's reaction would be if he saw the technology many state courts are using, including my own. To be blunt, I didn't think he'd be impressed and I wouldn't have been proud to show him. Jack, I thought, will likely need the state courts one day himself. We all need to be prepared for his visit. Most of us have a long way to go before we'll be ready. His expectations will be very high. Ours better rise to meet them and others will need to join us if we are to make that happen.

The third force demanding change in state courts is the painful reality that more and more people and small business can't afford the services state courts offer. Courts take too long, offer more process than is due and lawyers increasingly cost too much for too many. Just ask yourself: "Could I afford to hire a lawyer and if so, for how long?" Your answer will no doubt mirror the answers of most Americans. Four years ago, the President of the California State Bar authored an article about the neglected middle class in the state courts. "Of the many challenges that we face as a profession," he wrote, "the one that should concern us most is that we now have a legal system for which the majority of Americans cannot afford adequate legal services…Either we'll need to adapt our system to more actively need more of society's needs or society will change the system for us." I agree with him. Delivering a product people can't afford is not a formula for success in the 21st century. The billable hour, while still appropriate in some cases, cannot be the only arrow in the quiver. If it is, "do-it-yourself" lawyering will become even more of a growth industry.

The final great force for change is state budget freefall aggravated by a growing lack of civic understanding, both inside and outside of state legislatures. Too many citizens and legislators seem not to appreciate the fundamental importance of state courts to the underpinnings of our constitutional democracy. In many ways, declining civic knowledge may be the biggest threat to state courts. Combining this decline with the steep decline in state budgets could make for the "perfect storm".

About a year ago, the New York Times warned that state courts were at a "tipping point" and were "spiraling into crisis" because of huge state budget deficits. For the 2010 fiscal year, for example, 45 state court systems experienced budget deficits ranging from 2 to 16 percent. In California, Arizona and Iowa, the deficits have grown even larger. For the current fiscal year, state governments are expecting a collective $180 billion deficit that will certainly diminish court services. State governments are looking at structural deficits which could result in a collective $599 billion short fall between revenue and expenditures for the fiscal years 2009 to 2012. This is worse than any recession in our lifetime. Even when the tide returns it is not expected to reach old levels. Even in fiscally responsible New Hampshire, the looming budget is about a billion dollars shy of being balanced and that is after much of state government, including the courts, has been put on life support.

As for the growing civic knowledge gap, let me share a brief story. During my last two years as chief justice, the state budget problems were severe. I testified twice before House Finance in a short time. Two weeks later, after a close but supportive vote, I ran into a committee member in a State House elevator. I thanked him for his support and we talked for a bit. At one point, he said, "You know, judge, your testimony was very powerful." Never having said anything powerful before, I was curious. "What did I say", I asked, "that you remember?" "When you told us that the courts are actually the third branch of government. That was very powerful." He responded without a hint of a smile. And he was our friend. Recently, a senior, elected executive branch official described the court system in a public statement as "an important state agency". Two thirds of American adults can't name the three branches of government and only 15 percent can identify the Chief Justice of the United States Supreme Court. Many more could name the three judges on American Idol. To paraphrase Thomas Jefferson, no nation can long exist both ignorant and free. If the civic knowledge gap continues, we will soon be road testing the soundness of Mr. Jefferson's prediction.

It's troubling that some people believe that courts should reflect the will of the popular majority. Under their view, if court decisions aren't popular, cutting court budgets is an appropriate response, and in time, judicial independence will be eroded. When they can, some people vote judges out of office for just issuing unpopular opinions. Just look at the recent Supreme Court elections in Iowa. As I speak to you today, there are some in my home state legislature that would like to curtail or eliminate judicial review – especially where an act of the legislature is declared by the courts to be unconstitutional. Unless the civic knowledge gap is filled, declining budgets may be the least of our problems.

Having identified the forces for change, let me address the kind of systemic redesign that will be needed in the state courts to respond. It is greater than many of you may think. I know it is greater than I once thought. I would point to our experience in New Hampshire to suggest that effective redesign will require that court leadership and management be open to systemic change and that it will be necessary to suspend disbelief that real change is possible. As Mary McQueen, President of the National Center for State Courts recently said, "Hoping and coping are no longer enough." In these uncertain times, "failing in place" is a possibility for

every enterprise – both large and small, public and private. State courts can "fail in place" too, even if the doors remain open and the lights are on. Some would say they are failing now. Since they handle almost 98 percent of all judicial business in the United States, failure would be catastrophic.

In New Hampshire, 73 per cent of our annual judicial branch budget is spent on salaries and benefits for 620 non-judicial staff, 59 full time judges, 15 marital masters and 37 part-time judges. We also have numerous court security officers who receive modest per diem payments and no benefits. Still, they consume 5% of our budget. We spend about 12% of our budget on facilities. Our technology funding comes from a separate dedicated fund. After our essential spending is done, we have virtually nothing left to meet discretionary needs.

When I became Chief Justice in 2004, our Supreme Court undertook to modernize and streamline court operations to make them more efficient and more user friendly for more people. We created a family division for a broad array of cases ranging from divorce, to domestic violence, adoption, juvenile delinquency, guardianship of minors, CHINS petitions and termination of parental rights. We drew cases for the family division from all the trial courts in our state. The family division docket now accounts for more than 60 percent of all cases in our system.

We also created a self-funded, first ever judicial branch Office of Mediation and Arbitration. It operates in all courts, including our Supreme Court. Many, many cases are being resolved without ever having a judge involved and litigants overwhelmingly honor the deals they make. We also established a specialized opt-in docket for business cases. Many judges initially resisted it on the basis that every judge should be a generalist so we asked the legislature to create it and the Governor to nominate the first-ever judge to run it. It is now working well. We also made a whole host of changes to accommodate and assist the self-represented and we dramatically enhanced our web site. When we finished we thought we could rest for awhile. Certainly, we thought, we had done enough to accommodate changing times. Then, state budget deficits grew and our appropriation declined. We were asked to make more cuts to our already reduced budget. Rather than lay off dedicated and experienced staff, all of us, from the Chief Justice to the newest staff member, agreed to save another $3.1 million through voluntary unpaid furlough days over our two year budget cycle. This required the courts to close almost one day a month. Many counters are closed to the public, even when the courts are open, to allow staff to process paperwork without interruption. To save even more money we suspended many civil jury trials, reduced court session days in some courts by 20 percent and reduced our use of many part-time judges. As non-judicial staff retired, we held their jobs vacant. Today about 92 of our 620 staff slots are empty. Almost 15 percent of our full time judicial positions remain unfilled and more than 20 percent of our marital master slots remain vacant. Ironically, because we needed money to keep the court system afloat, we asked our Governor not to fill these vacancies. We needed to use the money to pay retirement contributions and rising health care costs.

Although the budget deficits continue to grow it is not, in my opinion, possible for our courts to take any more financial hits and pretend they are providing timely, thoughtful justice. It got so bad last year that four parties filed suit claiming their state constitutional rights to timely access to the courts were being abridged. Although the case was dismissed without a hearing on the merits, the point was made.

To stave off further requested cuts, my colleagues and I agreed that I would sit down with editorial boards to make the case that the hemorrhaging should stop. As it turned out, we received universal support from the newspapers for adequate funding. Mercifully, the cuts did stop. Not convinced, however, that we could hold the line for FY12 and 13, we established an Innovation Commission in March of last year and asked a successful private sector businessman to chair it. The Commission had broad membership; some of it legislative. It's mission was broad, too. After ten months of serious study and analysis, the Commission just issued a hundred page report with significant suggestions for systemic change. Most prominently, the Commission recommended a huge infusion of capital budget money for technology needs and also urged the formation of a Circuit Court which would result from combining the district, family and probate courts into a single entity. Judges in the new combined court would serve interchangeably on all types of cases. It also recommended consolidations and centralizations which, in time, would eliminate 50 middle management positions; including clerks and deputy clerks of court. The Commission also recommended that all speeding violation cases be removed from our district courts to our Department of Safety. The Commission report promised to save $37 million in budget growth over this decade. It has received near-unanimous support from thoughtful media and legislative leadership. As tough as it would be to implement, it may be the only way out of our burning building. Since 30 percent of our staff will likely retire in five years, it is hoped that we could accomplish personnel savings without laying off any staff.

By March of last year, it was starkly apparent to us, despite our earlier efforts to enhance efficiency and reduce the rate of rising costs, that the court model we had on the ground was not fiscally sustainable. It is hard to justify a budget that is 73 percent people in today's day and age when technology, centralization and consolidation can, if used and managed wisely over time, supplant the need for many current court staff and future hires. The challenge now in my state is to make the legislature appreciate that if it gives the courts $5 million in technology money it cannot expect the courts to cut their operating budget by the same amount immediately. However, that will be a more focused discussion to have and, perhaps a more successful one than asking the legislature to continually increase the court budget for an outdated system by 5 percent every year forever. Those days are over. We all need to find a new way out.

What does all this mean for you?

In these new times, court management can no longer hope to oversee and expand resources to meet growing demands with a 20th century paradigm of modest cost savings and

efficiencies to guide them. All of you are in a footrace to keep the state courts viable and relevant. Not just for today's users but for Alyssa and Jack, too. That's what's at stake. You have the unenviable task of doing so in circumstances where many legislatures demand undifferentiated cuts across state government while many lawyers and judges still believe that we're in a "bad patch" but will one day return to the security and predictability of yesterday. While you're trying to do your airport redesigns with fewer air traffic controllers than you need, you have to consider that more and more of the planes stacking up overhead don't have pilots and others are too big for your runways.

I urge all of you to rethink the airport model on the ground. Maybe all the cases in our adversary system don't need to be there. Maybe every plane doesn't need to land at our airport. At the very least, maybe they don't all need to land here in the first instance. Divorce cases come to mind. There has to be a better and less divisive, not to mention less expensive, way to dissolve failed marriages. Presenting each side with boxing gloves, expensive trainers and managers and a professional scorer and referee might not be affordable or sound. In most cases, it may not work well for the kids, let alone the parties. Divorce cases remain a huge part of state court litigation.

A few years ago our court heard an appeal involving an attorney's lien in a divorce case. The narrow legal issue was whether lien procedures had been followed. The case involved a husband and wife who between them had $100,000 in assets. The wife's legal bill for which the lien was sought was $30,000. In our state where marital assets are presumptively divided equally, the math in the case demonstrated that our system for handling divorces might well be broken; quite apart from whether the lien was perfected.

The 20th century way to address expanding needs and delayed flights at airports was to hire more people and pay overtime. Both those systems have vanished. You will need to find ways to do more in less time and less expensively than ever before. You may have to advocate for a tiered triage system in our adjudicative model and you may have to design smaller runways with fewer planes for people to take so they can leave the airport with a solution they can actually afford. Maybe small aircraft have different needs than jumbo jets.

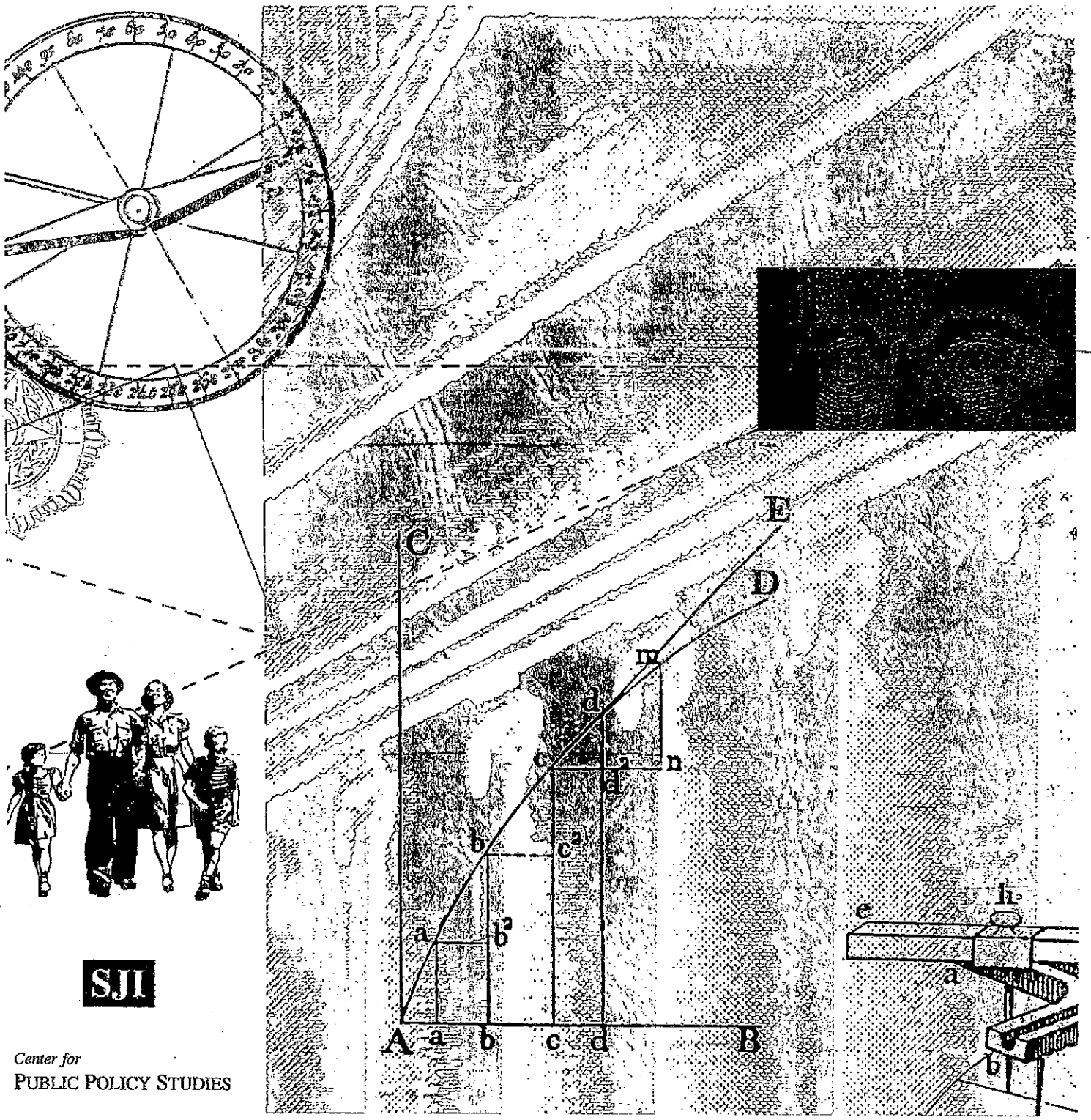
Technology enhancement and the elimination of paper are key. Creating more of a virtual courthouse open for business in one form or another seven days a week should be your target. Video conferencing and video hearings should be a priority and interactive website capacity should be a goal. Airports don't close at 4:30 in the afternoon and I can make reservations on line all night long.

Although you will be called upon to make do with fewer people, the people you will need to hire will need to be better trained and more skilled. They will not be inexpensive. Unless legislatures change their view on state employment, they will make your job of attracting high quality, long-serving staff very difficult.

Judges and court management, as well as state legislators, will need to decide the core mission and expectation for state courts. The types and kinds of cases state courts routinely handle have changed over time and more of them are jumbo jets. Many more involve families and many of those small planes approach our runways without pilots. It's getting more and more difficult to land aircraft. Before our jumbo jets go elsewhere or the small planes begin to crash, we need to figure out a better and more efficient airport design. That's really your challenge, your core mission. I know it won't be easy or without false starts. But, I also know this. There are a lot of passengers in those planes who are counting on you and your incredible skills. And, by the way, our constitution promises everyone a right to land somewhere and no one has an inexhaustible amount of fuel.

Thanks for listening and, more importantly, thanks for all you do.

An Approach to Long Range Strategic Planning for the Courts



SJI

Center for
PUBLIC POLICY STUDIES

AN APPROACH TO LONG RANGE STRATEGIC PLANNING FOR THE COURTS

May 29, 1992

Prepared For:
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SJI State Justice Institute

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CHAPTER I

LONG RANGE STRATEGIC PLANNING AND THE COURTS

Introduction

The economic, social, political, and technological trends shaping the nation are creating unprecedented demands on courts. These forces of change also foreshadow future demands that will differ substantially from those of the past. Yet, few courts are now able or equipped to anticipate or respond adequately to these current and anticipated future demands. One purpose of this *Guide to Long Range Strategic Planning in the Courts* is to outline an approach to help courts respond to these demands.

Long range strategic planning is a collection of concepts, processes, and tools designed to help courts:

- Identify and understand the implications of the demands confronting them now and the demands they are likely to face in the future;
- Determine their capacity to meet current and future demands;
- Define a desired future that responds to changing demands;
- Outline a path to realize their desired futures; and
- Establish a foundation for ongoing strategic management.

This *Guide* includes step-by-step instructions for implementing an approach to strategic planning in a variety of court settings.

A description of an eight-step planning approach and how it can be implemented, along with a variety of practical tools, such as information collection and analysis forms, are included in this *Guide*. It is designed to be used by planning teams composed of judges, state and local court administrators, planners, and state and local court staff. It assumes that courts are willing to undertake a planning effort because they are concerned about improving their performance.

This chapter provides an overview of the approach to long range strategic planning, and a description of how the remaining chapters in the *Guide* are organized. The overview includes a discussion of why long range planning is needed in courts, a description of the planning process, and a review of the eight steps that make up the approach.

Approach Overview

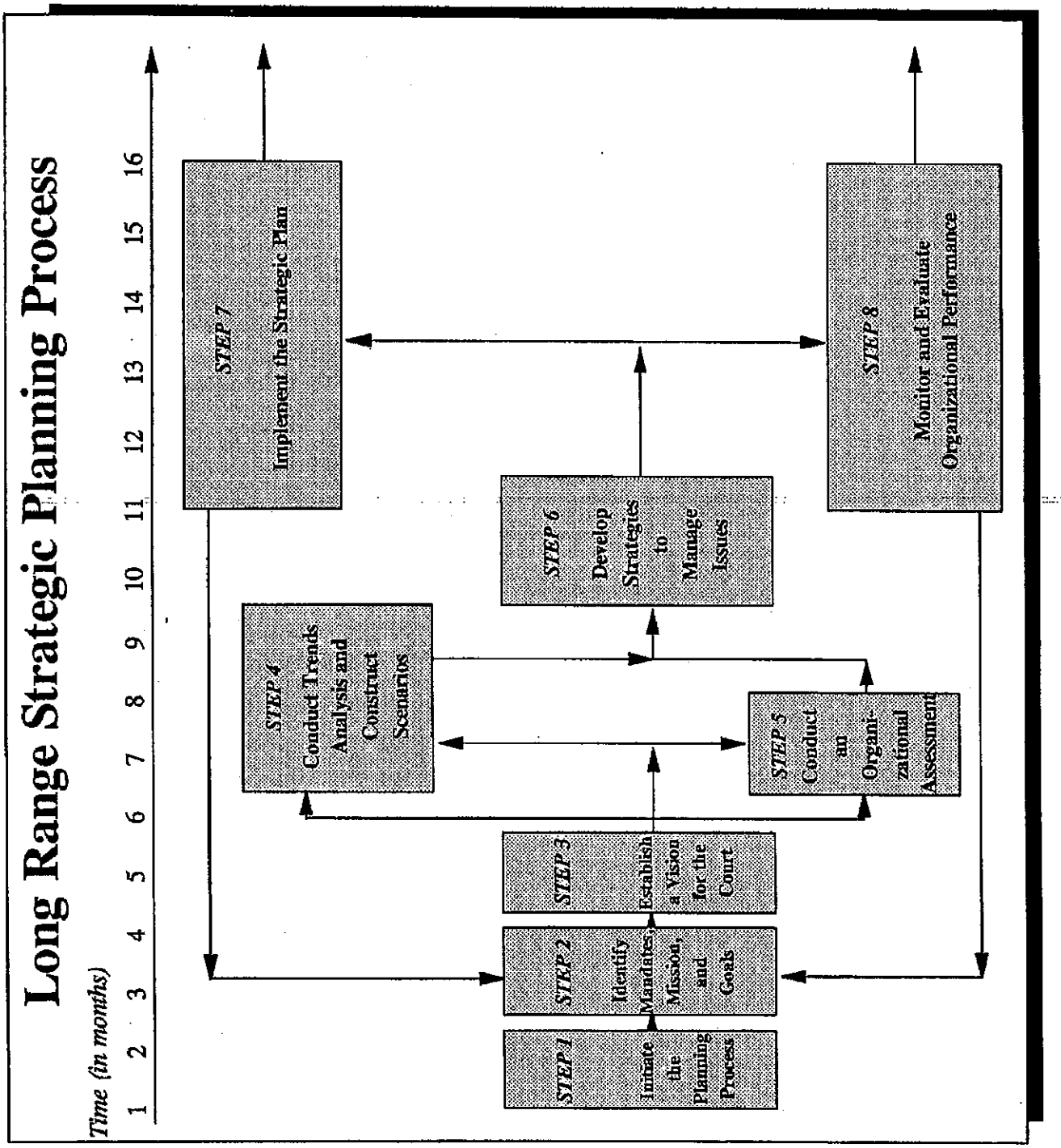
There are eight steps in the long range strategic planning process. The spatial and temporal relationship among those steps is displayed in Figure 1. The major points to note in the figure are:

- Generally, the planning process is sequential; that is, early steps in the process (e.g. identifying mandates, missions, and goals) need to be completed before later steps (e.g. identifying strategies to respond to demands) can be successfully completed. Some steps, however, can be undertaken simultaneously. For example, the analysis of trends (Step 4) and the organizational assessment (Step 5) can be done at the same time.

- Two steps in the process — implementing strategic management (Step 7) and monitoring performance (Step 8) — are largely ongoing tasks.

- The time required to complete each step varies. Each of the first three steps, for example, may only require 4-6 weeks to complete. Other steps likely will take longer. It should be noted that the times shown in Figure 1 are very general estimates based on the planning experience of different organizational types with disparate needs. The amount of time required to complete a long range strategic planning effort in a specific court will be determined by a variety of factors, such as the size of the court system, the magnitude of its problems, and the number of staff and amount of resources that can be dedicated to planning.

FIGURE 1


Long Range Strategic Planning Process
Time (in months)
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16
STEP 1 Initiate the Planning Process
STEP 2 Identify Mandates, Mission, and Goals
STEP 3 Establish a Vision for the Court
STEP 4 Conduct Trends Analysis and Construct Scenarios
STEP 5 Conduct an Organi-zational Assessment
STEP 6 Develop Strategies to Manage Issues
STEP 7 Implement the Strategic Plan
STEP 8 Monitor and Evaluate Organizational Performance

What is Required to Complete Each Step in the Planning Process?

- **Step 1: Initiate and agree on a planning process.** A successful long range strategic planning process requires (1) a group of determined initiators, committed sponsors, and enthusiastic participants; and (2) agreement among these individuals about the scope, tasks, timing, and purpose of the planning effort.

  Purpose: The purpose of this step is to identify and recruit appropriate individuals to the planning effort (i.e. those who share a common understanding of the value, purpose, scope, benefits, mechanics, and potential implications of long range strategic planning.)

  Outcome: A comprehensive roadmap of the entire planning process to which a majority of the participants have agreed.

- **Step 2: Identify organizational mandates, missions, goals, and stakeholder expectations.**

  Purpose: The purpose of this step is to define the court's mission and establish its objectives relative to fulfilling that mission. The court's mission is a function of its mandates (i.e. the services it is required to provide by law) and the service requirements it has assumed over time. These requirements have usually evolved through precedent or as a result of demands from stakeholders (i.e. a person, group, or organization that can place a claim on an organization's attention, resources, or services, or that is affected significantly by the court's performance).

  Outcome: A statement of the court's mission and goals.

- **Step 3: Develop a comprehensive organizational vision for the future.**

  Purpose: The purpose of visioning is to help a court think about the future creatively and uninhibitedly. Visioning allows the court to develop a picture of what it would like to be under ideal conditions. Unlike a mission statement, which outlines a court's organizational purpose, a vision statement outlines what the court could be.

  Outcome: A statement that defines what the court would like to be.

- **Step 4: Conduct trends analyses and construct scenarios.**

  Purpose: The purpose of conducting trends analyses and constructing scenarios is (1) to identify the nature, magnitude, and sources of the demands that might confront the court; and (2) to assess the likely implications of those demands on the court's structure and operations.

  A *trend* is a series of related events, or activities that appear to have a demonstrable direction over time. A *scenario* is a history of the future. It describes the possible magnitude, sources, direction, and consequences of the more important trends likely to shape a court over a particular period of time. Scenarios are not predictions. Rather, they are fact-based speculations about what might happen in the future.

  Outcome: A report that summarizes the important trends, identifies the implications of those trends, and assesses the potential impact of trends on the courts.

- **Step 5: Conduct an organizational assessment.**

  Purpose: An organizational assessment describes the structure and operation of a court and identifies its strengths and weaknesses. It helps measure the court's capacity to meet current and likely future demands. Its emphasis is proactive in that it generates information about how the court might improve its performance.

  Outcome: A brief report describing the court's organizational structure and its strengths and weaknesses.

- **Step 6: Develop management strategies.** This step is the heart of the long range strategic planning process.

  Purpose: The purpose of this step is to identify strategic issues and develop organizational responses to those issues (i.e. strategies).

  Strategic issues are fundamental trends, events, or policy choices that affect a court's mandates, mission, values, service level and mix of services, costs, organization, and management. *Strategies* are patterns of organizational activity that respond to strategic issues in ways which express the court's vision of what

it should be doing. *Strategic planning* is a tool for developing the court's most appropriate response to strategic issues.

Outcome: A report which summarizes and prioritizes the strategic issues and the strategies identified to address those issues.

- **Step 7: Implement strategic management.** A court's strategic planning needs to become ongoing strategic management. However, without a well developed implementation design and an ongoing commitment to manage the court strategically, the planning effort will have had limited utility.

  Purpose: The purpose of this step is to provide the tools and procedures for converting strategic planning to strategic management.

  Outcome: A strategic plan that outlines operational goals on an annual basis and that specifies the action steps required to achieve those goals.

- **Step 8: Monitor, evaluate, and modify organizational performance.** Evaluation and monitoring in strategic management assesses whether the court is following its strategies and achieving what it wants to achieve.

  Purpose: The purpose of this step is (1) to measure actual performance against expected performance, (2) to identify any gaps between the two, (3) to determine the reason(s) for a gap, (4) to determine whether corrective action is warranted, and, if so (5) to develop a corrective action plan.

  Outcome: Annual assessment reports that measure progress toward meeting strategic objectives, that identify obstacles to improving performance, and that propose adjustments and refinements to the strategic plan.

Who Should be Involved in Strategic Planning?

If a planning effort is to be both comprehensive and serve as a foundation for performance improvements, it will need to involve a variety of people: some from the many levels within the court, some from the interorganizational justice system network, and some from the "external" environment which surrounds the court. Specifically, long range strategic planning should include:

- **Top decision makers (e.g. the chief judge and court administrator).** They need to be involved because they usually control the resources needed for the planning effort and likely will be formally responsible for implementing any changes that result from it. Also, top decision makers are usually responsible for linking the court with other justice system agencies, other units of government, and the community generally.

- **Middle managers** need to be involved primarily because they most likely will be responsible for operationalizing most of the strategic decisions resulting from the planning effort. Also, middle managers often carry the burden for the managerial changes that result from long range strategic planning, and often hold unique knowledge about the way the court system "really" works.

- **Technical core and front-line personnel.** Technical core staff need to be involved because of their knowledge of the day-to-day procedures and practices of the court, such as record keeping, accounting, and facility operations. Front-line personnel need to be involved in the planning process because of their extensive contact with and/or extensive knowledge of the public and its needs. In addition, since both groups have the potential to undermine any planning effort, their cooperation with the planning effort is essential.

- **People from agencies throughout the interorganizational justice system network.** Today it is recognized that court's neither enjoy the luxury of being isolated from the rest of the justice system, nor do they have the practical authority to control the behavior of other justice system agencies. As a result, they need the support and cooperation of other justice system agencies to conduct and implement the results of long range strategic planning.

- **Court users.** The expectations of litigants, witnesses, jurors, and others who use the court, their sources of satisfaction/dissatisfaction, and their suggestions for improvements need to be incorporated into strategic planning efforts. Several mechanisms exist to elicit ideas from and the participation of court users, including surveys, personnel interviews, and having representatives of public advocacy groups serve on planning committees.

- **Interest group representatives.** Attorneys, insurance industry representatives, business groups, human service agency personnel, and other interest groups with a sizeable stake in court performance need to be included in planning efforts. Interest group representatives can affect the feasibility of implementing

changes to improve court performance. Perhaps even more important, however, is that they often have knowledge of and access to information important to the court, especially information about potentially important long term social, political, economic, and technological trends.

- **Consultants.** Planning and management consultants can enhance a planning effort largely by helping the court structure the planning process; helping it conduct trends analyses and a few of the other more complicated technical aspects of planning; and helping it deal with any obstacles that may arise. Consultants who are experienced meeting facilitators can be especially valuable in strategic planning efforts. As a neutral third party, they often can help a group develop useful outcomes, particularly a group that includes strong personalities and is composed of participants from a wide range of positions within the court.

- **State AOC representatives.** Many trial courts do not include professional planners and meeting facilitators among their staff. Many AOCs, however, may be able to provide these and other staff to help with the planning effort. For example, AOC staff may have information or access to information that will greatly enhance a strategic planning effort. Also, their support may be critical in obtaining the approval and financing needed to implement some of the changes recommended by the planning effort.

How Should Participants be Organized?

To be successful, long range strategic planning needs to be structured appropriately. The strategic planning experience of numerous public and private organizations offer useful guidelines for structuring a planning effort. Those guidelines suggest that the court may want to organize participants into three groups: (1) a court executive team, (2) a long range strategic planning committee, and (3) one or more work groups.

- **A court executive team** is the existing policy making body of a court. It is typically composed of a chief judge, the presiding judges of each of the court's criminal, civil, and other major divisions, and senior court administrators. The court executive team's role in strategic planning is to authorize and muster support for the planning effort, and to establish the long range strategic planning committee.

- **A long range strategic planning committee** is composed of representatives from various levels and units of the court. Its role is to design the planning process; establish necessary work groups; develop the court's mission, goals, and objectives; define critical issues; and develop the strategic plan and examine its implementation costs.

- **Work group(s).** Depending on its interests and needs, a court may establish one or more work groups that include people from outside the court. These work groups may include:

  A trends and futures assessment work group is composed of court personnel and people from throughout the justice system network and the community. Its role is to examine major social, political, economic, and technological trends and their implications for the court.

  An organizational assessment work group is composed of court personnel and people from throughout the justice system network and the community. The role of this group is to examine the court's operations and capacity to meet the demands that confront it.

  Issue study work group(s) are composed of court personnel and people from throughout the community and justice system, including interest group representatives. These groups are formed to examine specific court-related issues identified by the long range strategic planning committee and by other work groups as being especially important.

What Can a Court Expect to Get From Long Range Strategic Planning?

- **Sheds light on important issues.** Long range strategic planning is a structured, disciplined approach that produces new information, repackages existing information, and draws attention to information that may be easily overlooked if not viewed within a broader context. It can help a court anticipate issues and problems and thus reduce the frequency of crises and unpleasant surprises.

- **Helps the court set priorities.** Long range strategic planning identifies high-priority items by answering the question, "What issues facing us will make a difference three, five, or ten years from now?" It allows the court to focus on fundamental, high priority issues, and to clearly distinguish them from less critical issues.

- **Positions the court to act on opportunities and supports improvement efforts.** Long range strategic planning helps to overcome resistance to change by identifying opportunities and detailing their advantages. It enables a court to adopt a proactive, rather than a reactive, position. Thus, it plays a part in creating its own future.

- **Identifies the most effective use of limited resources.** Long range strategic planning helps the court to target resources to important issues. It highlights those actions and programs that will be of greatest value in achieving desired results.

- **Helps to establish the Court's presence in the community.** Today's communities are in a constant state of social, economic, political, and technological flux. Long range strategic planning helps the court develop and maintain a sense of identity in its community as well as a long term direction that can withstand changing leadership and continually emerging crises.

- **Fosters community education and encourages consensus building.** Long range strategic planning helps the court identify major trends, events, and developments shaping the community. By sharing this information with key constituencies and interest groups, the court helps the community build a shared vision and develop strategies for achieving shared objectives.

- **Provides a mechanism for participation and cooperation.** The long range strategic planning process is participatory in nature. The involvement of diverse groups with diverse interests helps lower barriers and heighten mutual awareness.

- **Provides hope for overburdened justice system staff.** Long range strategic planning provides an opportunity for court staff to think beyond day-to-day problems.

- **Provides a foundation for ongoing strategic management.** Long range strategic planning provides the philosophy and tools for establishing ongoing strategic management within a court.