

## CHAPTER 4

### THE PLAN

*You imagine what you desire;  
you will what you imagine;  
and at last you create what  
you will.*

--GEORGE BERNARD SHAW

The Commission envisions a court system for the citizens of West Virginia that is accessible and responsive, timely in its decisions and processes, fair and just, and accountable for its rulings, conduct, and use of resources. As befits its role, it is a wholly independent entity, but collaborates with other agencies and organizations so that it may more effectively fulfill its mission. Every individual and matter that comes before it is accorded respect and dignity. It is a system marked by integrity.

The bricks and mortar of this vision are contained in the Commission's recommendations, and the Commission is proud of the body of broad-based and far-reaching recommendations proposed. However, for the present, they are only words on paper. Their importance, force and effect lie in their implementation. Making that happen will take the leadership, active support and persistence of those who demand a court system that meets the standards which have been the focus of the Commission's work.

Many of the Commission's recommendations can be accomplished by the Supreme Court through its administrative authority, others will

require the Legislature to pass or amend legislation or to propose constitutional amendments. Full implementation will require participation by the Governor, the State Bar and local bar associations, the judiciary and other court personnel, county commissions, prosecutors, public defenders, sheriffs, and various committees and governmental agencies.

The Commission has purposefully chosen not to create a list prioritizing implementation of the recommendations for several reasons. First, it was clear from the information gathered during the data collection process and the commentary heard at both the March 1998 Focus Group meeting of "stakeholders" and the April 1998 focus group meeting of West Virginia University College of Law professors that each and every issue was "urgent" in the eyes of some stakeholder in the system. Second, the Commission believes that each body with the power and authority to implement the recommendations has the knowledge and the expertise necessary to appropriately prioritize implementation. Finally, some of the recommendations will involve substantial costs to implement, even though they may result in long term savings as well. Available funding will necessarily determine in part the implementation schedule of some recommendations.

While all the changes proposed will not be achieved at once or necessarily in the exact form advanced, it is possible to sketch the broad outlines of the structure and agenda of the court system the Commission proposes. Such a snapshot may not do justice to the breadth and depth of the specific recommendations presented elsewhere in this report, but, it serves to emphasize the basic themes on which members of the Commission

agree.

and mediators to serve *pro se* and low-income litigants.

**The structure of the West Virginia Judicial System will change:**

- An intermediate appellate court will provide greater access to litigants, more timely decisions, and the opportunity to develop a written body of administrative law.
- A family court will treat the family unit holistically, with specially trained judges, supported by case managers and other appropriate personnel, hearing all family law cases including petitions for domestic violence final protective orders, child abuse and neglect and other juvenile matters.
- Circuit and magistrate court clerk offices will be merged and under the full administrative and budgetary control of the Supreme Court in order to enhance communication between the levels of court, maximize the use of technology, and consolidate administrative support.
- The administrative and technical support available to local courts will be enhanced by the addition to the Administrative Office of Courts of four regional trial court administrators and an oversight coordinator for child abuse and neglect cases.
- Court Appointed Special Advocates will be available statewide to advocate for the best interests of children in abuse and neglect proceedings, and there will be more volunteer lawyers

**The court system will be assisted by other entities that will conduct research, formulate policy, and manage developments in several broad areas:**

- An Office of Alternative Dispute Resolution will oversee and evaluate the use and integration of alternatives to the traditional adversarial process in the court system.
- A Commission on Sentencing Policy, composed of representatives of all branches of government, will conduct research on sentencing trends, establish sentencing goals and priorities, and evaluate the impact of sentencing practices on correctional resources.
- A Committee on Technology in the Courts will encourage and coordinate the use of technology in the courts for the benefit of those who work within the system, litigants, and the public.
- A Court Facilities Commission will establish minimum standards for court facilities and review compliance with these standards statewide.

**The establishment and application of uniform policies, rules, procedures, and forms across courts will be a priority:**

- The Supreme Court will promulgate rules in a number of new areas,

including, procedural rules for juvenile delinquency cases, trial court administrative rules, rules on alternative dispute resolution practice, and rules to guide judicial officers and court personnel in their interactions with self-represented litigants.

- The Administrative Office will develop and implement a number of standard forms and guides, many especially designed to assist self-represented litigants.
- Training and on-site technical assistance will focus on enforcing uniformity of procedures and the use of standard forms.

**Barriers to meaningful access to the legal system will be identified and removed:**

- Self-represented litigants will be provided with the information and services necessary to enable them to effectively access the courts.
- Current efforts to insure access to the courts and court programs for those with physical and mental impairments will be accelerated.
- Specific measures will be enacted to insure adequate legal representation for low income litigants in civil cases.
- A multi-faceted approach will be taken to address the cost effectiveness and efficiency of indigent defense representation.

- Court access will be enhanced through the application of new technologies.
- Accurate and understandable information will be made available to litigants, victims, and the general public.

**The use of technology to facilitate court operations, case management, and public access will be encouraged and supported.**

- The 2001 Courtroom of the Future project will be expanded beyond criminal arraignments to include, among other matters, domestic violence hearings, testimony of child victims/witnesses, and *pro se* assistance.
- Communication technologies, including fax and electronic filing systems, will be available in all courthouses and court offices.
- Computer systems will be integrated and networked across judicial offices and related agencies.
- Information systems will be enhanced, integrated, and allow for monitoring and evaluation of court system operations and projects.

**Training and education of judicial officers and other court personnel will be both more expansive and more specialized. Jurors will also become better students of their cases.**

**Public education and community outreach will be a core function of the court system.**

**The court system itself will be a “learning institution,” expanding its data collection and research and evaluation responsibilities in order to better monitor system and program performance.**