Hon. Jerome J. Richards  
District Attorney for St. Lawrence County  
County Courthouse  
48 Court Street  
Canton, New York 13617-1169


Dear Mr. Richards:

I will commence this letter report with a brief statement of the background and context of the referenced site visit for the benefit of third party readers of this letter.

On November 19 and 20, 2001, Maury Geiger, a consultant specializing in rural justice system assessments, and I conducted a "problem definition" visit to St. Lawrence County in response to a technical assistance request that you had sent, in April 2001, to our then-extant Criminal Courts Technical Assistance Project. That project was a national-scope activity. It provided no-cost or shared cost, short-term consulting services to state and local judicial system agencies under an umbrella grant from the Bureau of Justice Assistance/USDOJ. Our visit was the result of a series of correspondence and telephone conversations between us beginning after I received your letter requesting that the technical assistance project conduct a study of the locally-funded limited jurisdiction court system (i.e., 37 City, Town and Village Courts, for which I will use the term "Justice Courts" throughout this letter) serving St. Lawrence County and examine the desirability, comparative benefits and probable costs of replacing the current system with a scheme of several state-funded District Courts.

Because the requested assistance was beyond the scope of work that the CCTAP was designed to provide, I offered the alternative of a two-day visit by myself and Mr. Geiger to review the issues with you and other County representatives and determine if we could suggest a smaller scope of technical assistance from the CCTAP project that could be helpful to the County. In the alternative, we hoped to be able to suggest a course of action, and the likely cost therefor, to obtain the necessary analysis and recommendations on which to base an effective response to the administration of justice problems that were described in your April letter. This category of consultation is what we refer to as a "problem definition visit," in contrast to the more protracted "on-site study" modality of technical assistance.

Thanks in large part to the efforts of Ms. Friedel of your staff, who designed an inclusive interview schedule for our visit, we were able to discuss varying perspectives on the merits and
perceived shortcomings of the County's limited jurisdiction court system with at least 30 representatives of justice system and general government entities in St. Lawrence County.

This intensive exploration of the situation in its political, philosophical, and public administration (including fiscal) complexities, as well as the evident lack of detailed and consistent data and the need to conduct observation of the facilities and operations of many, if not all, of the lower courts involved, confirmed to us that the original technical assistance request that you presented was beyond our project's ability to undertake. We also felt that a typical technical assistance intervention by our project (about 10 person-days of effort) would not have sufficed to address any fundamental component of the problem to a degree that would have been significantly helpful to the County. With respect to the latter, it might have been possible to develop a modified intervention that reasonably could be expected to have the effect of mitigating some aspect of the dysfunctions of the present system or giving the County a building block for further pursuit of structural change if a representative of the OCA had been able to participate in our site visit. This is something that should be kept in mind for future consultancies on this issue.

We did come to the conclusion that a combination of assistance from federally-supported technical assistance resources would be worth pursuing and could be significantly helpful to the County in this matter. Our suggestions in this regard are presented below; but, first, it might be helpful for us to share some of our observations about the current situation.

Review of Background Materials Pre- and Post-Visit:

The background materials your office and other criminal justice agencies provided us — including filings and dispositions for each Justice Court for calendar year 2001, the more detailed cost and workload information for the Morristown City Court, the Justice Courts coverage schedule for your office and that of the Public Defender's Office for September and October 2001, and the prisoner transportation logs for the Sheriff's Department for the same two months — permitted us to assess, on an impressionistic level, some of the resource management issues involved in working within the present system. A number of findings emerged from analysis of the data which lead us to think that the present unsatisfactory situation described in your TA request might be at least partially remedied in the short-term by the adoption of management and coordination measures — while the more complex and protracted processes entailed in the pursuit of legislatively sanctioned structural change continue.

For example, the Justice Court statistics we were provided indicate very few dispositions by trial, and almost all of the dispositions by trial that were reported take place in only a handful of the local courts: Ogdensburg, Massena, Potsdam and Gouvernour.

In addition, from a review of the two months of court coverage data for your office, Assistant District Attorneys conducted an average of 42 Justice Court staffings at 20 courts each month (approximately 40% of which were evening sessions), which is far more frequent than would have been required by the incidence of trial dispositions reported in the aforementioned justice court.
workload statistics. These data suggest that, whatever other reasons your staff (and the Public Defender's) have to be in Justice Courts, most of the pleas which are entered in criminal cases are negotiated at court. That raises the question of whether your staff's work with the "outlying" local courts could be conducted with greater efficiency, for example, conducting plea negotiations by telephone and fax prior to the court date and communication of agreed pleas to the court by fax (something that we understand is done now to some extent), with any court appearances required by rule or statute in such cases scheduled, by mutual consent, for a specific court date once each month. Or conducted with greater use of technology: for example, use of teleconferencing or video-phone conferencing during court sessions for proceedings appropriate for this method of appearances by counsel. Or with greater cooperation in court scheduling: for example, Justice Court calendaring procedures that provide for scheduling specific categories of cases or proceedings for periodic daytime sessions in those courts where evening court sessions are the norm. These types of questions and potential remedial measures should be explored in any study of the current lower court system, along with the advantages and disadvantages of adopting a multiple location District Court system for the County.

The Sheriff's Department's data on prisoner transport incidents for September and October 2001 show that about 39% [77] of the 198 prisoner transports during that period were related to defendant court appearances, including County Court. The remainder of transports had to do with normal jail operations - prisoner medical visits, transfers to state facilities and other county jails, courtesy transports for local law enforcement agencies, and the like. Monthly, the Sheriff's deputies transported to an average of 15 different courts, and about 64% [49] of all court transportation trips for the two-month period were to the five communities of Canton, Massena, Ogdensburg, Potsdam and Gouverneur. When the remainder of the prisoner transports to Justice Courts are considered, 75% of them [21 out of 28] were to town or village courts adjacent to those five communities.

During the two-month period, the only Justice Courts that required prisoner transport service outside of the geographic area encompassed by the five communities were in Lisbon (five trips), Pitcairn and Hermon (one each). These seven trips entailed a total of 266 miles of driving and 13 hours of deputies' duty time. Extrapolating this two-month period of prisoner transport experience to 12 months, a rough guess at the number of annual Sheriff's Deputies' duty hours that are devoted to prisoner transport to Justice Courts outside of the Massena-Gouverneur corridor on an annual basis is 80, or about two person-weeks of effort [266 miles to "outlying" Justice Courts during September and October x 6 = 1596 miles over a 12-month period, divided by the 20 miles per one hour of staff time that is the norm reflected in the Sheriff's Department's log = 80 hours]. By way of comparison, the staff hours required for Justice Court prisoner transport within the Massena-Gouverneur corridor during the two month period for which records were reviewed was 291 hours (a little over 7 person-weeks); extrapolated to a 12-month period, it would be 1743 hours, or about 44 person-weeks of duty time.

This preliminary analysis suggests several avenues for more rigorous inquiry in any study of the County's lower courts scheme: would the Sheriff's Department component of County justice
system resources [both staff transportation resources and jail capacity] under a District Court system be significantly more efficient, cost-effective and conducive to community safety than the present system?; and/or, with a shorter-term period in mind, could reasonable changes in Justice Court scheduling, pre-trial release practices and local legal culture achieve significant efficiencies in the use of Sheriff's Department, District Attorney and Public Defender resources? With respect to our "local legal culture" comment, the times shown for prisoner transport incidents in the Sheriff's Department's log suggests that a goodly number of prisoners are in court for a very brief time. A comprehensive review of the situation might reveal areas for needed "process" improvement in the current system – perhaps a significant number of prisoner transports are for procedural events that might be conducted more efficiently, but still consistent with due process, by the use of remote communications technology; or perhaps defendants are frequently released at court appearances due to an inordinate use of "time served" dispositions.

**Pros and Cons of the Current Limited Jurisdiction Court System**

In our discussions with justice system and general government officials, we sought to elicit their perspectives on the pros and cons of the present lower court scheme. The near consensus expressed in these interviews was that the main advantage of the present system was the access to the courts that it affords residents of the sprawling county, and that the belief (not necessarily well-founded) that it results in lower justice system costs for the citizenry. While there also was general acknowledgment that the same factors that were "positives" – the number and dispersion of court locations and their diverse operating hours – presented logistical problems for judicial system agencies, more problematic for most respondents were the apparent absence of high standards and consistency in procedures, rulings, and atmosphere – attributable, it was felt, to the fact that few of the magistrates are law-trained and there is no central administration of the Justice Courts system.

Both the positive and negative attributes of the present system that were cited contribute to the image and reality of justice that public officials need to be concerned about in determining how best to deliver judicial services to the residents of St. Lawrence County.

In our opinion, the current situation is very unsatisfactory in terms of operational efficiency, cost (in both its qualitative/image and fiscal aspects), and accountability. We do not believe, however, that the current lower court system has necessarily to be wholly or partially replaced with a District Court system, but that its shortcomings must be remedied. Under the present statutory framework, as we understand it, this will require either a serious ballot initiative to adopt a District Court system for all or part of the County; or, alternatively, conscientious, voluntary action on the part of the local government officials to adopt some corrective measures on a county-wide or multi-township basis for the Justice Courts. Among these measures should be coordinated case and court access scheduling, greater clerical support of the courts, and the implementation of some technology enhancements. Among the latter, assuming that the County is not able to gain access to the state courts computer system, County data processing department specialists may be able to design an internet-based Justice Courts MIS system to assist with case scheduling and reporting issues.
Recommended Course of Action

In order to fully assess the situation and develop an appropriate and feasible improvement plan, a three-step approach is recommended. First and foremost is the need to obtain funding for the conduct of a comprehensive, data-driven study of the functioning of the lower court system in the County. Second is the need to design and adopt near-term measures to reduce the dysfunctions and image of justice issues that are seriously affecting the ability and performance of judicial, law enforcement, indigent defense and prosecutorial agencies in St. Lawrence County. The third step, if indicated by the results of the comprehensive lower courts study, is to undertake an inclusive public information initiative to arrive at a consolidation plan that will be presented formally to the voters in the affected parts of the County.

Conducting a comprehensive study of the functioning of the lower courts scheme, with consideration of the observations and suggestions herein, could provide the foundation for the development and endorsement by the CJPG of a penultimate consolidation plan or alternative plans for effectively delivering Justice Court services in St. Lawrence County. A nine-month chronological period should be sufficient for the operational review and interaction of the consultant(s) and the CJPG to develop a proposed long-term improvement plan. In order to fund such a review, the County could apply for a technical assistance (TA) grant from the State Justice Institute (SJI) to retain a consultant to work with the CJPG in this endeavor. These SJI TA grants are available in amounts up to $30,000, and awards are made quarterly. The SJI web site – www.statejustice.org – contains information on the streamlined application process for such grants, and either SJI Executive Director David Tevelin or Deputy Director Kathy Schwartz would be pleased to discuss the procedures and your TA goals with you. Their telephone number, in Alexandria, Virginia, is: 703-684-6100.

In the event that you do not have a consultant to identify in your application or to select after award, I could recommend for your consideration several appropriately qualified individuals with whom neither I nor American University has any financial relationship. It is generally better to name a prospective consultant in your grant application, as that strengthens the applicant’s representation that the goals of the grant are achievable within the resources budgeted. With respect to the latter, if the County could negotiate a contact with a consultant for a rate of $400 per day, a $30,000 grant would enable 60 days of consultant time and $4,000 in travel (if needed) and other costs. For this initial phase of effort – focusing on alternative options for reorganizing the lower court system – we believe that about 50-70 days of professional time would be adequate; so even if consultant rates were higher, it would still be feasible to retain a competent person and complete the tasks.

A final caveat about the SJI TA grant process: the program is set up to provide support to court entities, so it would be very helpful if the application were submitted by the County with the joint endorsement of yourself and Judge Nicandri.

The second step, the design and implementation of near-term measures to mitigate
inefficiencies in the current system, should take place contemporaneously with the comprehensive review. Among the measures that should be considered in this effort would be the feasibility of new taking place. Decisions in this regard might take into consideration such things as: the public policy priority of the types of cases involved (e.g., DWIs, misdemeanors involving assaultive behavior), or the dates and hours when individual courts hold their sessions, or the adoption of remote technology capabilities or case management improvements on the part of your office and the Public Defender’s Office staff. These determinations should be based on a review of the workload and level of use of the various Justice Court facilities, as well as of the demands of the felony and appeals caseloads in the County Court.

A chronological period of three-four months should be adequate for the design and adoption of at least temporary or pilot process and coordination measures that would address some of the more serious scheduling problems and counterproductive legal culture practices that may be factors in the current situation. The National District Attorney’s Association (NDAA), through its affiliated American Prosecutors Research Institute (APRI), would be a logical source of assistance for this phase of the overall improvement effort. Although we are not aware that NDAA/APRI has currently any federal grant support to provide the non-program-specific type of TA envisioned in this step, we strongly suggest a personal call from you to NDAA Executive Director Newman Flannigan to discuss the possibility of the assistance of that organization for this short-term technical assistance. The track record of your office in obtaining federal and state funds to implement special initiatives that enhance the public safety capabilities of your office, at little or no cost to the County, suggests that something might be fashioned to warrant assistance from NDAA in this matter under one of their several technical assistance projects. It might be helpful in this regard to stress the 90-mile border that St. Lawrence County shares with Canada. NDAA’s telephone number is: 703-549-9222.

Ideally, although the same limitations on available general technical assistance resources that apply to NDAA probably apply to the National Legal Aid and Defender Association (NLADA), Ms. Iverson should call Scott Wallace, the NLADA Director of Defender Services (tel: 202-452-0620), to determine if a joint, short-term TA effort involving his office and NLADA might be possible to address the scheduling and case processing issues that we recommend be the focus of step two.

The third step, the conduct of a public education program on the pros and cons of restructuring the lower court system and obtaining broad public input into the final design should be a County Government undertaking with the support of the CJPG, with outside specialist help, as necessary. We don’t have a recommended or predicted length of time for this aspect of an improvement plan that involves electorate action. A lot depends on the staging, credibility, and public information efforts incorporated into steps one and two. A year of public meetings and state-county-local constructive interaction might be sufficient to reach the point where a proposal for adoption of a District Court scheme could be placed formally on the ballot. Or it could take more. Advice and literature with respect to this aspect of our recommended course of action can be obtained from the American Judicature Society, in Chicago, Illinois. The assistance of that organization and, perhaps, the New
York City-based Center for Court Innovation, the research and technical assistance arm of the New York State court system, are two organizations that could be helpful with this phase of the County's court system improvement initiative.

Finally, concurrently with steps one and two, above, it is important to seek the cooperation of the OCA to increase the availability to Justice Court magistrates and clerical personnel (presumably augmented in number, as urged above) of state-conducted training and materials -- along with increased incentives for them to actually avail themselves of such resources. Although, as we understand the situation, the OCA cannot mandate magistrate attendance at state-conducted training, it can have substantial impact by using the stature of the state judicial system to stimulate and support self-improvement efforts on the part of the local court system judiciary and governing bodies.

Thank you for the courtesy which you and other St. Lawrence County officials extended to me and Mr. Geiger when we were in Canton.

I regret and apologize for the delay in getting this report to you, and I hope you will feel free to call if I can be of further assistance to St. Lawrence County.

On behalf of Maury Geiger and myself, I remain

Very truly yours,

[Signature]

Joseph A. Trotter, Jr.
Director
Justice Programs Office

JAT:sc

cc: Maurice Geiger, Esquire