

Attachment 1

MEMORANDUM

TO: Lee Suskin
Court Administrator

FROM: Patricia Gabel
Director, Court Improvement and Innovation

DATE: September 8, 2008

RE: Vermont Judicial Education

The Vermont Judicial Branch has offered a comprehensive program of Judicial Education for many years. For example, we will be holding our 25th Annual Judicial College in June of 2009. We are known nationally for the high quality of the programs we produce in-state and for the commitment of our judges to participate as skilled faculty presenting well-developed education programs, both in Vermont and, in the case of a number of our judges, at national venues such as National Judicial College.

In order for courts to fulfill their constitutional mandate, judges need to demonstrate the highest ethical standards, extensive legal knowledge, and complex and unique skills in leadership, decision-making, and administration. Many of our judges are former prosecutors, assistant attorneys general, or defense attorneys, and they bring that wealth of experience and training with them when they come to the bench. We then supplement that experience and training with a continuing judicial education program in which all judges participate.

In addition to the in-state programs we produce, including orientation and mentoring for new judges, our annual week-long residential Judicial College, and our annual Family Court Day and District Court Day, we also support and manage grant-funded and scholarship-funded out-of-state education programs for Judges, as well as devote a small budget of general funds to supplement costs not covered by grants or scholarships. All judges are expected to attend Judicial College each year, receiving at least 28 hours of judicial education each year from Judicial College alone. Judges sitting in District and Family Court attend either one or both of District Court Day and Family Court Day. These educational programs normally provide an additional 5 hours of continuing education each.

Thus, each year, a typical Vermont trial court judge attends between 28 and 38 hours of targeted education programming, in addition to multi-disciplinary and out-of-state education opportunities that become available. This record compares very favorably to the average 15 – 20 hours of required judicial education reported by most states [according to the National Association of State Judicial Educators.]

We periodically join in regional tri-state judicial education programs, and our judges participate in both regional and statewide multi-disciplinary programs of relevance to judges. Our 2005 tri state program with New Hampshire and Maine, for example, offered sessions on domestic violence and the effects on children and families, including the issue of sexual abuse. An earlier tri state conference featured a significant educational program on sex offenders in the context of sentencing, including a presentation by a psychologist regarding incarcerated sex offenders and a presentation by a former FBI profiler.

We send our judges to national judicial education programs so that they are able to obtain multiple perspectives on judicial branch functions and positions, and to share knowledge, skills, and attitudes with others who hold similar positions in other courts.

As Director, I work closely with the Administrative Judge to ensure that the time judges devote to out-of-state education and professional training is appropriate, given the need to have enough judge time annually to decide cases and to permit judges to manage their caseload. We also work together to ensure that grant-funded and scholarship-funded out-of-state education and training programs are made available to judges on an equitable basis, while at the same time trying to ensure that the needs of the Judicial Branch are met with these programs.

Schedule A sets forth a sample list of topics covered during our annual Judicial College programs.

In 2006, for example, we devoted an entire afternoon program to the issue of sex offenses. The first part of the program, entitled “Sex offenders: Risk Assessment and Treatment,” was presented by Judge Jack Wesley, who developed his presentation under the auspices of the Institute for Faculty Excellence in Judicial Education. The program materials included a copy of Vermont’s Sexual Violence Prevention Act [H. 856].

The second part of the afternoon was a panel presentation entitled “Sentencing Sex Offenders,” moderated by Judge Wesley. The panel members were Georgia F. Cumming, the Program Director of the Vermont Department of Corrections’ Sex Offender Treatment Programs; Robert J. McGrath, Clinical Director of the Vermont Treatment Program for Sexual Abusers; and Candice M. Monson, Assistant Professor of Psychiatry at Dartmouth Medical School, Associate Professor of Psychiatry at Boston University School of Medicine, and Deputy Director of the Women’s Health Sciences Division of the VA National Center for Posttraumatic Stress Disorder.

At this year’s Judicial College in June of 2008, we spent one full day studying “Evidenced Based Sentencing.” Although the feature presentation by Douglas B. Marlowe focused on sentencing in the context of treatment courts, the judges spent the afternoon session working collectively in teams on various general sentencing scenarios that illustrated a number of key points at which judges must use their discretion in sentencing: (1) the decision to imprison, (2) the terms and conditions of probation, (3) the sentencing process, (4) responding to violations of probation, (5) securing

cooperation of criminal justice system partners, and (6) evidence-based sentencing and corrections policies. This approach was based on an article written by Roger Warren, entitled: *Evidence-Based Practice to Reduce Recidivism: Implications for State Judiciaries*. The full text of this article was included in the Judicial College materials.

Many of our Judicial College programs within the past ten years have included information about sexual assault, child sexual abuse, treatment of offenders and victims, and considerations in sentencing sex offenders. These topics are often covered in either the family court or criminal court contexts, including discussions of sentencing, Department of Corrections' procedures and programs, parental rights and custody, or related areas.

All of Vermont's judges have or will have, by the end of April of 2009, completed the two-week long course in General Jurisdiction offered to all state judges by the National Judicial College. In addition to an afternoon program on evidence and two full days on criminal law and procedure, there is another half-day program devoted to sentencing.

Our Trial Court Judicial Officer Orientation Program includes as a part of the basic program, a session on sexual offender issues. This orientation is typically provided by experts in the field, such as Georgia Cumming and Robert McGrath.

As a recipient of federal grant funds under the Court Improvement Program related to child welfare, we have adopted a multi-year Strategic Training Grant plan that includes as three of our objectives the following: (1) "New judges attend the Child Abuse and Neglect Institute seminar offered by the National Council of Juvenile and Family Court Judges;" (2) "Develop and/or make available to new judges education and training on juvenile court proceedings, best practices, and child welfare;" and (3) "Provide ongoing training to judges." The judges who attended the Child Abuse and Neglect Institute in June of 2007 reported that one day of this program was dedicated to Medical Issues in Abuse and Neglect Cases. A part of that day was devoted to issues related to the sexual abuse of children. The focus of the presentation was to assist judges [through competent medical testimony] to be able to identify sexual abuse based on the medical evidence. The program also emphasized that the lack of medical evidence does not necessarily mean that sexual abuse did not occur. The National Council of Juvenile and Family Court Judges [NCJFCJ] has published "The Child Abuse and Neglect Institute: The Role of the Judge – A Curriculum and Instructor's Manual." This Curriculum is available for use by state jurisdictions to develop local programming.

Thanks to our federal CIP grants, a good number of our judges have attended the national conferences sponsored by the NCJFCJ. Many of the workshops offered at these national conferences deal directly or indirectly with child abuse and violence. For example, one workshop at a recent conference attended by one of our judges was entitled, "The Role of Judges in Managing Juvenile Sex Offense Cases: Keys to Informed Decision-Making."

A majority of our judges have attended national domestic violence training for judges in the past few years. The courses attended include: "Enhancing Judicial Skills in

Domestic Violence Cases,” “Continuing Judicial Skills in Domestic Violence Cases,” Innovative Judicial and Probation Responses to Domestic Violence,” “Addressing Domestic Violence and Child Custody,” and the National Judicial College Program on Domestic Violence. One of our judges has periodically served as a member of the Faculty for the National Judicial College’s week-long domestic violence program for judges. In June of 2007, several Vermont trial court judges attended either as faculty or as participants an in-state conference on domestic violence, including a session on abuse prevention order practice.

Topics offered by out-of-state education programs attended in recent years by judges from Vermont include workshops on domestic violence and sexual abuse; dynamics of domestic violence [the victim]; effects of domestic violence on children; judicial symposium on child sexual abuse, victim realities, child abuse and neglect – case law update; community notification and sex offenders; do high risk sex offenders belong in the community?; teen dating violence; dysfunctional violent families; the victim in juvenile court; medical aspects of child abuse and neglect; psychological perspective on the child victims; the adjudicatory process in child abuse and neglect cases; and sexually aggressive and reactive children.

Presiding judges frequently invite speakers to address Bench-Bar meetings. Recent examples include presentations by a pediatrician regarding the medical aspects of child abuse cases and by DOC staff regarding the treatment programs offered to offenders, including the IDAP program for domestic abusers.

In March of 2009, the 36th National Conference on Juvenile Justice sponsored by NCJFCJ will include sessions on family violence, child abuse and neglect, and juvenile sex offenders. We hope we will have the resources to send some judges to this conference.

In terms of our in-state education program development, the program for our District Court Day, to be held on October 10, 2008, includes a session on the sentencing of sex offenders.

Judicial College Summary

The Division of Court Improvement and Innovation provides continuous and career-long development of judicial officers through its orientation and mentor programs, attendance at national programs, and regular in-state programs, which includes an annual, week-long, residential Judicial College.

The annual Judicial College has been in existence since 1985. Over the last 24 years, we have covered these subject areas:

- Case management
- Child development and juvenile justice
- Civil law, procedures and issues
- Communications
- Constitutional law
- Court interpreters
- Court security
- Criminal law, procedures and issues
- Domestic abuse
- Ethics and professionalism
- Evidence, testimony, search and seizure
- Family law, procedures and issues
- Health and Stress Management
- Judicial demeanor and conduct
- Judicial writing and findings
- Jurisprudence
- Jury trials, management, and practice
- Media relations
- Mediation and negotiation
- Organizational change
- Pro se litigants and pro bono legal services
- Public access
- Public trust and confidence
- Restorative justice
- Sentencing and decision-making
- Sexual harassment and gender bias
- Techniques of conducting a trial
- Technology and computer instruction
- Treatment courts (drug courts, mental health courts)

Additionally, we have offered program that specifically focus on sex offenders (1986), child witnesses and sexual offenses (1990), risk assessment and treatment of sex offenders (2006), and sentencing sex offenders (2006).

Our college also includes jurisdictional workshops. These sessions traditionally include updates on new legislation, Vermont Supreme Court decisions and rules, procedural changes, and innovative programs.

In recent years, the jurisdictional discussions have covered:

- The child abuse registry and increased sex offender registry requirements
- Stalking and sexual assault cases- legal issues
- Sexual exploitation and issues concerning the Department of Corrections
- Enhancing sentences for and preventing risks posed by dangerous sexual offenders (the sexual violence prevention act)
- The Addison County sex offender polygraph project