CHEMONICS INTERNATIONAL INC.

RUSSIAN-AMERICAN JUDICIAL PARTNERSHIP II

Pilot Court Evaluation Report

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SECTION I

Purpose, Scope, and Approach

A. Purpose

This report is submitted to respond to section C1a of the year two work plan of the Russian-American Judicial Partnership (RAJP), specifically in support of the goal of improving judicial administration by establishing a pilot court project. Following the work plan, from October 14 through 25, 2002, the team participated in a series of meetings with representatives of the Russian Judicial Department and others involved in court operations and made site visits to the two pilot courts identified: the Priokski Court in Novgorod and Pushkinski Court in Pushkin, outside St. Petersburg. This report reflects our observations and recommendations.

B. Scope

Though the work plan provides general guidance on the scope of the review to be undertaken in the pilot courts ("courts' facilities, organization, personnel resources, financial operations, case-flow management, paperwork, computer operations, and any internal manuals and training"), the term "pilot court" is not defined. Nor is the intended scope of the pilot court program itself defined, though two of the results indicators in section C1a of the work plan presumably relate to this activity: 1) number of model procedures being used in pilot courts and replicated, and 2) court finance and budget procedures improved. While these provide some insight into the program's aspirations, they afford less-than-complete guidance as to the breadth of the recommendations we might appropriately make or the mechanisms for replicating those recommendations in other courts or by the Judicial Department. Unless there are means to implement them, the best of recommendations remain unrealized. Thus, our analysis is constrained by limits on time, technical assistance, and resources to implement our recommendations.

Changing judicial administration in Russia is a daunting task: Russia has more than 20,000 federal judges and 60,000 nonjudicial staff working in more than 2,500 courts. The RAJP pilot court program covers only two of those courts, both of which are modest-sized *rayon*, local courts of general jurisdiction. The governance of the judicial system is regulated by a plethora of statutes, procedural codes, regulations, and subnormative acts, all of which influence the administrative operations of individual courts and the relationship of those courts to the Judicial Department. The Judicial Department is charged with administrative oversight of the system through its central and oblast offices. Significantly, all budgetary and finance matters for the judiciary are managed by the Judicial Department, not by individual courts.

A thorough grounding in the legal framework governing the system and an understanding of how that framework is applied in practice are necessary before change within it can be responsibly advocated. Only then can a pilot court program provide a vehicle for systemic change — if given sufficient time and resources. Optimally, a pilot court program should be a process, not an event or a series of events. With respect to the RAJP program, our observations and recommendations

reflect the limited exposure we have had to the system. Realistically, the site visits just completed, the follow-up visit planned for the spring, and the U.S. study tour contemplated through the Open World Russian Leadership Program will be beneficial to those involved, but cannot be expected to lead to significant systemic change — or even to an optimal level of change within the individual pilot courts. Continuous concerted effort in the form of additional technical assistance and funding will be needed for either result.

The scope of our recommendations is largely limited to those things that might productively improve the circumstances of the pilot courts without the need for regulatory change. It is only secondarily concerned with wider systemic issues. While this limited emphasis is not optimal, it is realistic given the level of effort currently envisioned for this activity.

C. Approach

This report is intended to provide assistance to several groups, all of which share common goals but each of which may have differing (though complementary) perspectives and interests:

- USAID and Chemonics must plan future assistance in judicial administration, establish targets for that assistance, and allocate resources to achieve them. We have included the background and candid insights above to help inform their decisions.

- The Judicial Department and the pilot courts need specific advice and concise recommendations that are useful, realistic, and immediately implementable. The remainder of the document is intended to respond to that need. Challenges, problems, and inefficiencies observed in the courts are explained and prospective solutions detailed.

SECTION II

Pilot Court Evaluation

A. Introduction

Judicial administration integrates a number of subsystems operating within individual courts and the Judicial Department and Council of Judges that govern them. We have approached our analysis and recommendations holistically, attempting not only to address relevant subsystems individually but also to address the interrelations among them. Our concern was to optimize the operations of the pilot courts and the degree of service they offer to the public. Our analysis covers the following subsystems; for each area, narrative is followed by recommendations for the pilot courts:

- Optimization of Personnel
  - Court management/administration
  - Judicial assistants
  - Support staff

- Space and Facilities
  - Equipment, furniture, and supplies
  - Filing systems, records, and archives
  - Case-flow management
  - Technology and automation
  - Security
  - Collection of court fees
  - Planning, performance measurement, and training optimization of personnel

B. Court Management/Administration

The position of court administrator is relatively new in Russia. As might be expected, the role of individual court administrators has yet to fully evolve. Though the law entrusts the position with significant management authority, that authority is not yet fully enjoyed in practice in either pilot court (or presumably in other courts). This is an observation, not a criticism: In both courts the team observed solid collegial working relationships between the chief judge and the court administrator that could be fairly termed "management teams." The system is evolving appropriately in that the management teams are operating in a healthy and mutually respectful working environment. What is needed within those teams is a gradual shift in responsibility from the judge to the court administrator.

The court administrators, Vladimir Pavlovich Reckhachiov in the Pushkinski court and Viacheslav Pavlovich Zhidarev in the Priokski court, had retired from military careers before coming to work in the judicial system. It is our understanding that their backgrounds are typical of court administrators throughout the country. Though both appeared highly motivated (and exceptionally congenial and accommodating), they came to their positions without either

experience in the courts or relevant management skills. They are therefore growing into their positions as they gain experience. Presumably, with time and training, their chief judges will cede increasing responsibility to them.

It is critical that all concerned work to ensure that this process continues. Currently, for example, neither administrator is fully engaged in managing court staff or workflow. Neither has been given training that would enable them to do so; nor have they been trained in the job functions performed by the personnel that theoretically report to them. Absent a clear understanding of all aspects of the court's operations — what each staff member is doing and why — it is unrealistic to expect court administrators to improve the efficiency of the court or its delivery of service to the public.

Court administrators are employees of the Judicial Department. All other nonjudicial personnel are employed by the courts in which they work. The principal advantage of this arrangement is that it insulates the court administrator from what would otherwise be complete subservience to the chief judge. In practice, the court administrator simply has two masters: the chief judge and the chief of the oblast office of the Judicial Department. The chief judge is the ultimate arbiter of personnel matters within the court, whose employees cannot be expected to report to a person employed by a separate entity.

Regrettably, the court administrator is also at the bottom of the Judicial Department hierarchy. He has no budgetary authority and is not aware of what resources are allocated to the court; authorization for all expenditures is vested in the oblast office. The court administrator is reduced to an intermediary between that office and the court, seeking the department's approval for filling even the most modest of the court's needs.

In sum, the chief judge controls the people working in the court and the court administrator's superiors in the Judicial Department control the money. Because this structure leaves little for the court administrator to actually administer, it marginalizes the position.

Recommendations

1. A comprehensive training program for court administrators should be designed and administered by the Judicial Department. This could include a management certification program similar to the U.S. Federal Judicial Center's leadership program.

2. The administrators in each pilot court should make a concerted effort to learn all aspects of the jobs of the personnel reporting to them. Understanding the nuances of those positions will give the court administrator a more complete view of the operations of the court, which is essential to improving them. The chief judge should be actively engaged in and supportive of this effort.

3. Each court's management team — the chief judge, the court administrator, and any other key personnel — should meet regularly to discuss court operations and issues of immediate concern. The meetings should have a prepared agenda that includes an oral status report from the court administrator. Given the working environment in the pilot courts, these meetings may first seem overly formal, but conducting them will focus all involved on

important issues that might not otherwise be addressed. They will provide a convenient forum for gauging progress toward goals, and they will enhance accountability for meeting deadlines.

4. The administrators in each pilot court should visit the other court. This will allow each to experience the working environment in a different court and may lead to greater understanding of the possibilities of the position and to new ideas for improving working conditions within the courts. The intangible benefits of such cross-pollinization can be significant, while its expense is minimal. This activity could readily be expanded to include nonpilot courts.

5. The current arrangement, with court administrators employed by the Judicial Department rather than the courts, should be reviewed. The problems cited above might be addressed by having court administrators employed by the courts they serve rather than to the Judicial Department. They could be appointed and dismissed by the chief judge individually or by a committee of judges and representatives of the Judicial Department.

6. Court administrators and court management teams should be privy to all budgetary information affecting their courts. They should be given substantially more discretion in use of those funds and should not need the approval of the Judicial Department for anything but major capital expenditures.

7. Court administrators should be responsible for assigning routine cases in accordance with a protocol established by the chief judge. They should also have authority to delegate responsibilities to subordinate clerks. This is an important part of differentiated case management, discussed in the case flow section below.

8. The pay scales for court administrators should be reviewed. Compensation is currently at the level of a court secretary. To attract the best possible candidates, the court administrator's compensation should be commensurate with the responsibilities of the position.

B1. Judicial Assistants

The new position of judicial assistant could provide considerable benefit to the courts and the public. The judicial assistants the team met with in both pilot courts appeared knowledgeable and motivated. They currently perform a variety of functions, most commonly assisting judges with legal research and opinion drafting and receiving members of the public who need assistance in filing matters with the court.

The position seems to be becoming a training ground for those aspiring to careers as judges. This trend seems positive in that it affords both the judicial assistant and the court an opportunity to evaluate the other. Still, it will become increasingly important to ensure that judicial applicants that have not served as judicial assistants are given equal consideration, and that any preference given to judicial assistants is clearly delineated in a transparent selection process.

The team was concerned with the practice of *ex parte* communication between judges and members of the public seeking advice on matters before the court. The practice is reportedly common in rayon courts throughout the country and was explained as a public service necessitated by the large numbers of poor pro se civil plaintiffs who would otherwise be unable to properly file matters before the court. While the intent is doubtless laudable, its effect is pernicious. The prospect of any litigant appearing before a judge without the presence of the opposing party on any matter before the court is anathema to the fundamental principles of fairness and neutrality essential to the rule of law. The perception of impropriety, whether or not there is actual impropriety, erodes the confidence of the absent party that the proceeding will be fair.

Judicial assistants are well placed to alleviate this problem. In the Priokski court where there is a one-to-one ratio of judges to judicial assistants, the assistants receive members of the public in their offices, which are typically located directly outside the judges' chambers. This is clearly superior to having the judge participate in such meetings, though we believe it can be improved further, as we recommend.

Recommendation

1. In courts that have enough judicial assistants, a rotation should be set up where each in turn services a public counter for the express purpose of advising members of the public advice on filing matters before the court or on other matters currently handled by judges during their public office hours. The judicial assistants on duty should give assistance to any case, no matter which judge is handling it. The judicial assistants should not offer opinions on the merits of cases or insights into the prospective disposition of any matter. For the convenience of the public, the service counter should be located as near the intake section as possible. Members of the public should not be allowed to visit judges' chambers or address their questions directly to judges.

This system will allow all judicial assistants to assist their judges without interruption from the public except when they are servicing the public counter. Citizens will no longer have any need to visit their offices, and traffic within the court will be substantially reduced. By scheduling rotating office hours, the public service counter can remain open from 9 a.m. until 6 p.m. each day, thereby expanding service to the public. In courts with insufficient numbers of judicial assistants, this function should be performed by the clerk's office.

B2. Support Staff

The clerks, court secretaries, and other support staff in each pilot court were keenly interested in assisting the team and in learning how courts in other countries are administered. Many of the clerks we met with were highly experienced, but we also noted significant attrition, particularly among court secretaries, who often view their positions as a stepping-stone to a legal or judicial career. Staff turnover in the Pushkinski court, for example, was approximately 25 percent in the last year because a significant number of court secretaries who had been engaged in legal studies had moved on to other positions after graduation. This problem may be alleviated in part by the new judicial assistants; presumably, aspiring jurists will increasingly view that position as the entry point of choice to a judicial career.

Retaining qualified staff is important to the health of any institution. Turnover may be minimized through careful hiring practices designed to attract qualified persons whose circumstances and aspirations suggest that they will remain in their positions. Once hired, the willingness of any employee to remain will depend upon remuneration and job satisfaction. The components of job satisfaction may vary depending on the individual, but some components are common to all: 1) being respectfully treated by colleagues, 2) the perception that your work is valued and worthwhile, 3) confidence in your competence to perform as required, 4) the absence of boredom born of routine, and 5) the stimulation associated with being engaged and challenged.

Recognizing this, the trend in modern court administration is decidedly toward the cross-training of personnel so that a single person can perform a variety of functions. Currently, the clerks in both pilot courts function within the narrow confines of highly specific jobs. Though a civil clerk might assist another civil clerk, there is little or no mingling of duties between civil clerks and those in the criminal or administrative offices. This is true whether the divisions are physically located together or separately. (In the Pushkinski court there is a common intake room; in the Priokski court the functions are in different offices.) This leads to a variety of inefficiencies. Public service is hampered because only one person can address a citizen's request, and workflow is impeded if that key person is absent.

Optimizing the use of staff is connected with aspects of court administration addressed in other sections of this report. These include the use of space and facilities (we recommend combining public functions in a central area); the maintenance of records (we recommend a new manual filing system); and the use of technology and equipment (combining offices reduces the amount and cost of the equipment that must be purchased and supported).

In this section our concern is with the human component of the equation. Cross-training of employees has a number of benefits. First, it provides a larger number of people with a broader view of the operations of the court. By learning jobs other than their own, staff understand not only how things are done but also why. This heightened perspective can lead not only to valuable new ideas from the staff for improving operations, but it also fosters a sense of joint responsibility for the delivery of service.

Second, cross-training and rotating through a variety of functions keeps people engaged in their work; no one can be expected to perform indefinitely a limited number of insular tasks with enthusiasm. Though complacency may at first give rise to resistance, our experience shows that cross-training improves overall job satisfaction, which ultimately has as its most important consequence improved customer service. An employee engaged in the work and understanding the general administrative operations of the court is optimally positioned by both disposition and knowledge to provide good service.

Recommendations

1. All staff currently performing civil, criminal, and administrative intake functions should be cross-trained in the duties of the others.
2. Divisions within intake operations should be eliminated so that all clerks are tasked with assisting with any type of case.

3. Office hours for all services to the public should extend from 9 a.m. until 6 p.m. Lunch hours for staff should be staggered to allow offices to remain open. The goal should be to complete any citizen's request without delay and without the citizen having to return to the court to complete routine business.

4. Customer service standards and a code of conduct for all court staff should be written. These should be clearly posted within the court facilities, and mechanisms should be put in place to receive and address citizens' complaints about standards that have been violated. Court staff should play an integral role in drafting the standards.

5. The courts employ both drivers and couriers. The drivers often provide transport to the couriers, apparently on the theory that documents would be not be secure if left unattended in the car while the courier enters a building to make a delivery. This practice should be reviewed. Drivers can and should also serve as couriers, reducing the need for separate courier positions. Security could be enhanced by, for example, locating secure lock boxes in the trunks of court vehicles.

C. Space and Facilities

The appropriate use of the space and facilities of a court has a significant effect on its administrative operations, security, and service to the public. Optimally, we counsel that operating units with significant public interaction be placed on the ground floor near the main entrance for the convenience of the public, to reduce traffic within the facility, and thus to enhance its security. We also recommend combining various public functions into well-organized common spaces to facilitate efficient workflow and customer service. These recommendations are complicated by the limitations imposed by building design. Neither the Pushkinski nor the Priokski court buildings were designed for the purpose they now serve; nor are they ideally suited for that purpose.

A further complication in Russia is the legal requirement that local municipalities provide space to the courts except where new facilities are constructed by the Judicial Department. Though the nuances of this system are beyond the team's purview, its effects are troubling. Court chief judges must negotiate for additional space with municipalities that will receive no revenue for providing it. There appears to be little or no incentive for a municipality to accede to a court's request for space and every incentive for it to lease or sell the same space to a party that can pay for it. Though we have not analyzed the possible effects of federalizing court facilities, we believe it to be worth considering.

Because the pilot courts have different space and facilities issues, we address them separately.

C1. Pushkinski Court

The Pushkinski facility is well ordered and in good condition. Its principal defect is that it is too small to meet the operational needs of the court. During the team's visit, the court was advised that the municipality has granted its request for more space adjoining the second floor of its current space. The new space will house additional courtrooms and judges' chambers, freeing for

other use one of two areas on the ground floor that are currently being used as courtrooms with adjoining judge's chambers. The question is which space should be reallocated, how, and for what purpose.

Recommendations

1. The larger of the two spaces on the ground floor (the courtroom fronting the street side of the building) should be converted into an expanded intake office. The courtroom lies to the right and at the end of the hallway. The judge's chamber lies at the end of the hallway in the center, and the current intake office lies at the end of the hallway to the left. Eliminating non-load-bearing walls that separate the three rooms will create one large space. A significant part of the hallway that is currently not used can be recaptured as part of the expanded space. Stated differently, eliminating the interior walls of the three rooms at the end of the current hallway would create a large rectangular space consisting of the entire end of the building. On the right the new space would be connected to the archive area via a nonpublic entrance.

   Depending on how the new interior counter space is configured, it may also be possible to incorporate an entrance to Pushkenskaya Street that can provide public access to the interior of the building through the hallway. Currently, the facility is accessed only through a side-alley door that is also used as a sally port for prisoners. The team can provide additional advice on configuring the space if needed.

2. The court has plans to create a new sally port for prisoners in a U-shaped gap at the rear of the facility. We support that plan and believe it will enhance court security.

3. We also endorse the court's plan to use the new second floor space for courtrooms and judges' chambers. The team can provide floor plans upon request.

4. The court should provide a public restroom facility. Currently, the only restroom, on the second floor, is locked and available only to staff.

5. A bench to prevent access from outside the building currently blocks the second-floor emergency exit. The bench should be removed and the door equipped with an alarm that will sound if it is opened.

C2. Priokski Court

The Priokski facility is of ample size, though the structure itself is not optimal for use as a court. The main building has three floors joined by a wide stairwell in a central atrium of modest size. The main building connects at ground level by a single-story causeway with a second three-story building directly behind it. Thus, to pass between the upper levels of the buildings a person must descend to the ground floor, pass through the causeway, and ascend the stairs on the other side. The secondary building is long and thin, making its rooms less desirable than the comparatively spacious rooms in the main building. Intake and other public offices are currently located throughout both buildings, as are courtrooms and judges' chambers.

Both buildings have basements. The one in the main building is being renovated and equipped as a stress reduction facility. The other houses the court's archives. The entire facility is undergoing various degrees of repair. Construction debris and discarded furniture are scattered in hallways and unused spaces throughout the facility.

Recommendations

1. With minimal investment or structural change, this facility can be readily reorganized for the greater convenience of both court staff and the public. The principal change we recommend is to consolidate and relocate the court's public offices to the ground floor immediately to the left of the main entrance. By breaking out non-load-bearing walls to connect two rooms and recapture a nonessential hallway, a large open space can be created with a public service counter fronting the central atrium. This will enable the court to handle most of the public's needs readily from a single location and eliminate most of the traffic within the building. The space can accommodate all civil, criminal, and administrative clerks and the mail clerk and provide space for two judicial assistants who will serve the public in rotation (see section B1 recommendations, above). Rooms vacated when staff are moved to the central space can readily be converted to courtrooms and judicial chambers, as was discussed in detail with representatives of the court during the team's visit.

2. There are no signs in the building to identify rooms or provide direction to the public. There should be a directory in the central atrium that clearly identifies the location of courtrooms and public offices, each of which should also be appropriately marked. Signs should also denote office hours and display the court's docket.

3. The court should provide a public restroom. Though there are restrooms on each floor of the main building, a key is required to access any of them. One should be designated for public use and left unlocked.

D. Equipment, Furniture, and Supplies

The furnishings in the courtrooms and judges' offices in both pilot courts are adequate and serviceable. That is not true of some of the furnishings in the intake offices, where many of the desks are small, workspaces are cramped, and chairs are old and uncomfortable. In many cases the shelving units used to store cases are ill-suited to the task and take up far more space than is necessary. In the Pushkinski court, for example, files are kept in old steel vaults that are inconvenient to use and monopolize a large percentage of available space.

Recommendations

1. Combining intake sections as recommended can provide a much-needed opportunity to improve the working conditions of the staff. Ergonometric design that is efficient for the working environment should be incorporated into the planning of the space. This should include an ample number of workstations fronting the public counter. Workstations should include such conveniences as adjustable computer keyboard trays, dividers that can support bookshelves, storage units, tack boards, and other components. Closed filing units (and the

metal vaults used in the Pushkinski court) should be replaced by open shelving units that can support a modern filing system such as that described in the next section.

2. In both courts basic office supplies are in critically short supply. Sufficient resources should be allocated to meet the courts' needs; discretion for purchases should be vested in the court administrator rather than Judicial Department oblast officers.

3. A4 paper should be used exclusively in both courts. Common in the pilot courts (and reportedly throughout the judicial system) are old forms, presumably produced by the Judicial Department or the Ministry of Justice, of varying sizes and of inferior quality. These forms should all be discarded. Failure to standardize paper sizes will substantially reduce the utility of any plans for automation in the courts as well as implementation of a modern manual filing system.

E. Filing Systems, Records, and Archives

Russia has yet to discard the manual filing system used throughout the region in past decades. Documents of varying size, shape, and paper quality are manually sewn into low-grade gray file folders that are stacked one on top of the other in bins divided by judge or hearing date. Since stacking the files obscures any identifying information on their covers, it is impossible to tell one from another without disturbing the stack.

The filing system provides no ready mechanism for intake offices to track the location of files if they are out of place or sent to a judge's chamber. Worse, there are circumstances in which original files are released from the court's control to be sent to experts or prosecutor's offices. Copies are not retained, nor are fixed return dates established, much less enforced.

Statistics on matters before the court are compiled in approximately a dozen ledger books, all of which are hand-written and some of which do not adequately cross-reference the others. The information in the ledgers is later manually rewritten into a statistical report for the Judicial Department. That report is prepared on an inordinately large form that must be folded numerous times to fit into a standard folder for storage or easy transport. No one the team interviewed was able to articulate what role, if any, the reports play in any decision-making process within the courts or the Judicial Department.

Clerks with many years of experience manage the archive offices in both pilot courts and often deal directly with members of the public requesting archived materials. The Pushkinski archive room is well situated on the ground floor and will adjoin the renovated intake office if the recommendations already discussed are implemented. The room is freshly painted and neat, the shelving units are adequate, and the files they contain appear well organized. The primary concern is that the room has comparatively little unused space and may be filled to capacity within a few years.

The Priokski archive is in the basement of the secondary building at a substantial distance from any of the court's current intake offices or from the recommended combined intake office. It consists of two rooms, one across a hallway from the other. The larger of the two has been freshly renovated and has adequate shelving, but its files suffer from a comparative degree of

disorder; the court's single archive clerk is gradually reshelving them. The smaller of the two rooms is completely disorganized, filled with random stacks of files, discarded furniture, and construction debris.

Recommendations

1. The use of closed or secure filing cabinets should be discontinued in favor of open shelving units like standard bookshelves. Securing the rooms where records are stored would obviate the need for cabinets.

2. Case file folders should be converted to a standard color-coded, pre-printed, end-tabbed style that uses metal fasteners to secure papers, discontinuing the practice of sewing papers into the file folders. File folders should be color-coded to distinguish between civil, criminal, and administrative case types. This will reduce misfiling and simplify identification. Two-hole paper punches should be purchased to prepare documents for placement on the metal fasteners in the new file folders. Sample folders will be provided to the RAJP.

3. When criminal cases are received from prosecutors' offices in old file folders, their contents should simply be transferred into the new folders.

4. New case numbers are assigned to existing cases when cases are brought forward at the beginning of each year. This practice is confusing and should be discontinued when a consolidated docket record is established.

5. No original files should be released to any person or entity outside of the court. If court experts or prosecutors require documents, copies rather than originals should be sent. Once the original file leaves the custody of the court, there is no way to ensure against its loss or vouch for the integrity of its contents.

6. The multitude of ledger books currently in use should be streamlined, either by better-designed manual records (such as a comprehensive docket sheet that records all case activity, perhaps with color-codes for subsidiary case types) or by a computerized solution as described in the automation section below. The current widespread duplication of information should be eliminated.

7. The information collected in the statistical reports prepared for the Judicial Department should be reviewed to ascertain both why it is collected and what it is used for. Statistical information should be used as a management tool to gauge performance, for resource allocation, etc. Because the current reports seem to be prepared solely out of habit, it is likely that the potentially valuable information they contain is underused. The reports themselves should be prepared on a computer and maintained on A4 paper.

8. Archiving should be exclusively a back office function. All requests for archived materials should be communicated through the intake offices. Archive clerks should have no contact with persons from outside the court.

9. The system for archiving documents should itself be well documented and all shelves clearly marked. This will ensure that other staff members can locate records when the archive clerk is absent.

10. Reshelving the files in the Priokski archive should be a priority to prevent loss or damage and to free the clerk to perform her customary duties. The clerk should be given temporary assistance to complete the task rapidly.

F. Case-Flow Management

Effectively managing case flow lies at the heart of a court's administrative operations. Each case should be afforded as much time and attention as is necessary to achieve a just outcome, but no more. Inefficient case-flow management results in needless delay, which in turn compromises public confidence in the integrity of the judicial system.

To improve efficiency and combat delay, the trend in modern court administration has been to adopt differentiated case management (DCM). DCM is a system that screens cases for complexity, assigns cases to specific tracks based on that complexity, and manages cases to disposition according to predetermined milestones for each track. There might be different tracks, for example, for simple, standard, and complex cases, or tracks might be determined by case type — minor theft cases in one category and murder cases in another. The chief judge, in consultation with other judges, generally establishes protocols to allow the court administrator and clerk's office to readily determine to which track new matters should be assigned. The track will then determine how the case is assigned and managed.

Besides facilitating efficiency, DCM has other advantages. It provides a ready mechanism for most cases to be randomly assigned by court administrators or clerks. The chief judge assigns only those cases that are complex or otherwise unusual. This is critical to fundamental fairness because it reduces the real or perceived possibility for corruption in the assignment process. If justice is to be blind, random case assignment secures the blindfold.

The chief judge in both pilot courts (and presumably in all the others) currently assigns all cases. In Pushkinski, the chief judge typically assigns criminal cases by the nature of the offense, which has resulted in particular judges specializing in specific offenses. In both courts, civil matters are assigned according to the neighborhood in which the moving party resides. Thus each civil judge is assigned a territory. Cases are typically assigned within one to three days of being filed, and the judge generally issues a trial scheduling order within three to five days, though serving notice of that order on the parties may take up to ten days.

In general, there are too many steps in the processing of cases. Different persons deal with matters and files at different stages because duties and record-keeping functions are specialized. This often means that unnecessary tasks are performed and there is duplication of effort.

The timely issuance of notices is a primary concern for clerks. Enforcement of judgments and other legal consequences are triggered by notification. Currently, all notices are prepared manually, which means that all basic information related to the parties and the case must be

rewritten for every notice issued. Neither court has an effective system for tracking case activity and coming events to alert the clerk's office to actions it must take.

Reengineering case-flow management is not easy. It requires dissecting the actions performed at each stage in the movement of the case and the record-keeping process. Realistically, the team's brief exposure to the pilot courts is insufficient to allow us to do the topic justice. Because our observations are far from complete, our recommendations can only be general. They are intended to delineate the beginning of a process that we hope to continue with the pilot courts as the program continues.

Recommendations

1. The pilot court chief judges and their judicial colleagues should initiate DCM by setting up a case assignment protocol with various tracks for cases. (A starting point could be the case categories currently used for statistical purposes.) Thereafter, the court administrator or the clerks should assign all routine cases pursuant to the protocol. The chief judge, who is legally responsible for assigning cases, can execute daily summary orders to ratify the assignments.

2. Judicial specialization should be reduced. The accumulated expertise associated with specialization may be desirable, but overspecialization can diminish the perspective of judges and give rise to professional stagnation. It also reduces the pool of prospective judges available to the public for assignment in any given case. Any judge of general jurisdiction should be capable of competently disposing of a wide range of case types.

3. Each court's management team should thoroughly analyze intake and operational procedures. Reexamining even the most basic of procedures can reveal inefficiencies that can then be rectified. This process should reduce both redundancy and the number of ledgers that are maintained. It should also quicken and simplify procedures in preparation for automating them. This is discussed further in the technology and automation section.

4. Procedure manuals should be written for all positions. These manuals should outline each job duty step by step, provide basic checklists (e.g., case opening: verify the completeness of the documents, open a case file/assign case number, make entry onto case docket/ledger of case data, assign judge, etc.). Procedure manuals are invaluable for training, quality control, performance measurement, and handling unusual matters.

G. Technology and Automation

The promise of automation is often misunderstood by institutions because they equate computerization with an automatic increase in efficiency, a misunderstanding that leads to disappointment. Automating an inefficient system simply magnifies its inefficiencies.

Automation is also a ceaseless and costly process, not a task with a finite cost and end point. Computers, software, networking equipment, training, and other inputs necessary to support automated systems are all expensive and of limited durability. Equipment must be constantly replaced. Training and software must be constantly updated.

Nevertheless, automation can be tremendously valuable to a judicial system — provided that its intended uses are clear, sufficient funds have been allocated over the long term to support it, and existing procedures are reengineered to take full advantage of the technology being implemented. Simply installing computers and networks is not enough. Automation requires rethinking everything about how courts conduct their operations.

Both pilot courts are in the nascent stages of automating. Networking lines have been run in both facilities and a few computers have been installed. Some staff members in the Pushkinski court have been given basic computer instruction through a program sponsored by the Judicial Department in conjunction with a local university. Unfortunately, they have no office computers to work with to reinforce what they have learned. Internet access in Pushkinski is restricted to a dial-up connection in the system administrator's office. The Priokski court has less equipment and its staff has received no training. Priokski has no Internet access.

Both courts are currently experimenting with an automated case management system. The Pushkinski court is piloting a system developed by Agora, a private company whose sole activity is reportedly development of the judicial software application, a product it has been working on for years with marginal success. The company apparently had several hundred employees at one point, though the number currently stands at approximately 20. The Pushkinski court is running version 12 of the software, though Agora has reportedly produced a 15th version. The company is apparently no longer improving the application but is still servicing versions. The Priokski court is piloting a software application from CROC, a private company engaged in software development projects spanning a variety of industries. That application is still in its development stage; programming has been underway for approximately a year.

The team knows nothing about the contractual relationships between the Judicial Department and Agora or CROC. We do not know the capacity of either company to consistently offer the range of services necessary to complete and service their applications; nor do we know what the cost would be for them to do so. Though we observed demonstrations of both products, we have not fully assessed them and are not positioned to recommend one over the other. Still, we are prepared to offer some general observations about both.

Neither product contains the full range of functionality desirable in an automated case-management system. For example, neither can automatically import information so that it does not have to be entered more than once in any case; neither can automatically generate notices; neither has a full range of unified templates; neither has a tickler system to notify staff of upcoming deadlines; and neither has full scheduling capability. To their credit, representatives of both companies expressed their intention to remedy these deficiencies, and they readily conceded that their products still need significant work.

Perhaps the most troubling concern with both products is the lack of security. Though both systems restrict access through graded user passwords, neither can prevent data from being altered once the system is accessed and neither contains a transaction log to track the content and author of all entries. Absent such safeguards, there is a real possibility that critical data could be improperly and anonymously manipulated.

Both courts expressed interest in automating various systems through a number of mechanisms. In addition to those recommended below, two were discussed that the team does not presently recommend: recording hearings with voice recognition equipment and creating digital records by scanning the contents of case files. Both systems are prohibitively expensive, highly sophisticated, and unwarranted given the modest volume of cases in the courts. The data storage requirements of such systems are considerable and would necessitate the purchase of substantially more powerful and thus more expensive servers. Even standard analog audiotapes are problematic in that their contents would need to be transcribed to be useful, and the tapes themselves would need to be maintained and stored. We therefore recommend that plans for these technologies be postponed.

Recommendations

1. Every judge and staff person in both courts should be provided with a personal computer connected to the LAN.

2. Systems support and maintenance is critical. Each court should have a well-trained systems administrator and a backup cross-trained from other staff to do basic functions when the systems administrator is unavailable (backups, rebooting servers, troubleshooting minor hardware problems).

3. Systems security must be a high priority from the start. Daily backups of network drives, virus protection, transaction logging on case-management software, uninterruptible power supplies and "soft" shutdown software on servers, firewalls for Internet and other outside connections, and spare critical components (such as servers and their hard drives and storage media) are all essential elements of a well-thought-out system. Users should be provided with policies and training.

4. A system-wide networking capability, if only dial-up, should be established between the pilot courts and the Judicial Department (and ultimately among all Russian courts) for e-mail, information exchange such as statistics reporting, and supporting a decisions database. Web sites should be established to facilitate this and to provide information to the public.

5. A comprehensive basic training program should accompany installation of the computers. This should be mandatory for all users and should cover Microsoft Word, Excel, and other basic programs. After this initial training, basic automation should be introduced into court procedures, beginning with word processing, the use of templates for forms, internal e-mail, and legal research. Each step should be accompanied by additional training.

6. Only after these stages are accomplished should higher-order software applications, such as the Agora or CROC case management systems, be introduced. Again, this should be accompanied by training. It is critical before either system is deployed that it be completely tested and that the Judicial Department and the software vendor conclude a long-term plan for systems support and servicing. If this is not done and the software vendor ceases its involvement in the courts, the consequences could be dire.

7. All legal research applications currently used by the courts' legal consultants should be made available to all personnel through the local area network (LAN).

8. There should be an adequate number of copiers, printers, and facsimile machines in the intake offices. Combining intake offices as recommended will result in substantial savings because less equipment will be needed.

9. There should be an adequate number of telephone lines installed in the courts. Numbers for intake offices should be publicly available. It should be the policy of the courts to disseminate as much information as possible by telephone to conveniently service the public.

H. Security

Both pilot courts have done an admirable job of securing their facilities within the limits of their resources. Both have guarded entrances, and in most cases private passages join judicial chambers to courtrooms so that judges can avoid public hallways. Unfortunately, resources prevent security personnel from being present in other parts of the facilities, particularly in courtrooms. The public roams unattended freely through both facilities because of the location of public services. With minimal expense, we believe both facilities can be made more secure.

Recommendations

1. Security screening equipment should be used at the main entrance of each court. It is our understanding that the Pushkinski court is currently planning to install such equipment.

2. The consolidation of public offices already recommended will reduce traffic throughout both facilities. Any person not having business in a courtroom will no longer have reason to go beyond the public intake office. This will enable security personnel at the main entrance to more carefully monitor the entrance of people into the building.

3. Citizens should no longer be allowed to visit judicial chambers or internal staff offices for routine business. Judicial assistants and clerks should field all citizen inquiries from the public intake office.

4. Once the LAN and computer work stations are operable, all court secretaries in all courtrooms will be working from networked computers. A "panic button" can then be created at no cost using internal e-mail to silently alert the security officers at the court entrance should their assistance be required.

I. Collection of Court Fees

Courts in Russia have no authority to collect fees from the public or to engage in financial transactions. This policy has both advantages and disadvantages. Recognizing that evaluating this system is not within the team's mandate, we will not address its merits in detail. Still, it has practical effects on the public that should be addressed. Currently, any fee that must be paid into

court must be paid at a bank. Thus, a citizen who learns that a filing fee is due, for example, must leave the court, go to a bank elsewhere, pay the fee, and return to the court with the receipt. Any person requesting a copy of a document must depend on the court's willingness to provide it without charge because the court has no ability to charge for that service. While the policy of separating financing from the courts may have sprung from worthy intentions, public convenience was not among them.

Recommendations

1. Absent a change in the policy, a local bank should be invited to locate a cashier's office in or near the intake offices of both courts. The business generated by the public should be enough to cover the cost of a single bank employee and the minimal expense associated with maintaining a single window. This may be more attractive to the bank if negotiated by the Judicial Department for all courts within a given oblast.

2. A petty cash exception should be made to allow courts to charge a reasonable fee for copies. The fee should be sufficient to cover the cost of paper, toner, and servicing and depreciation of the copier. The court administrator, a Judicial Department employee, could technically collect the fee on behalf of the Department, though he would task the clerks making the copies with collecting the fee under his authority.

J. Planning, Performance Measurement, and Training

While this section is the last to be addressed, it is perhaps the most important. The need for planning, gauging performance, and training is discussed both directly and indirectly in virtually every section of this report. These activities characterize the holistic approach to effective court administration advocated by the team. The management team meetings recommended in the court management/administration section (B), the process reengineering discussion in the case-flow management section (F), the strategic planning and training recommendations in the technology and automation section (G) are all examples of the comprehensive approach to administration we subscribe to. All these activities necessitate a concerted effort and commitment to look beyond daily routines for new approaches that will improve the service the court can offer to the public. In addition to those matters already addressed, we recommend the following:

Recommendations

1. Management teams in each court should specify their vision of the future and apply that to daily decision-making to ensure that the courts use resources wisely, provide excellent customer service, and are prepared for the future. This can be accomplished through management team meetings and through facilitated training organized by the Judicial Department.

2. Planning for automation is critical. The right equipment not only needs to be purchased, but schedules and funding for replacements need to be set. Similarly, supplies, maintenance, and system upgrades need to be planned for.

3. Reportedly, every two to three years standard tests are given to court staff to assess their competency. The idea of performance measurement is a good one but should be more comprehensively tied to daily job duties and court goals. For instance, if the clerk's office is expected to receive a new case, open the file/record data, and forward the matter to the assigned judge within one day, this should be measured and followed up if the goal is not met. All major functional areas should be defined, reported on, and made part of routine management. Deficiencies could catalyze reexamination of work processes, staff training, or in extreme cases disciplinary actions.

4. The current statistical recording and reporting system should be reviewed. Only relevant data should be collected, and the data collected should be used to monitor performance.

5. Court staff, particularly intake clerks and others dealing with citizens, should be given customer service and other topical training.

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