



Organizational Structure for the Judicial Branch of the US Virgin Islands

FINAL REPORT
July 2013

John Doerner, Project Director
Nial Raaen, Principal Court Consultant



Daniel J. Hall, Vice President
Court Consulting Services
707 Seventeenth Street, Suite 2900
Denver, CO 80202-3429
(303) 293-3063

This document was prepared under State Justice Institute (SJI) grant SJI-12-T-164 for the Supreme Court of the United States Virgin Islands (USVI). The National Center for State Courts (the Center, the National Center, or NCSC), a public benefit corporation targeting the improvement of courts nationwide and around the world, was commissioned to conduct a study of the administrative structure of the Supreme Court and Superior Court. The points of view and opinions expressed in this report are those of the authors as agents of the National Center, and do not necessarily represent the official position or policies of the Supreme Court or Superior Court of the USVI. NCSC grants the USVI Supreme Court, pursuant to any rules and regulations governing the aforementioned SJI grant, a royalty-free, non-exclusive license to produce, reproduce, publish, distribute or otherwise use, and to authorize others to use, all or any part of this report for any governmental or public purpose.

Online legal research provided by LexisNexis.



Table of Contents

1. Introduction1

2. Background2

 2.1 Statutory History..... 2

 2.2 Prior Studies and Recommendations 3

3 Administration and Governance5

 3.1 Judicial Branch Organization..... 5

 3.1.1 Current Organization of Administrative Activities..... 5

 3.1.2 Comparative Administrative Structures 11

 3.1.3 Applying Principles of Judicial Administration..... 13

 3.2 Judicial Branch Governance..... 15

 3.2.1 Overview of Current Judicial Governance 15

 3.2.2 Comparable Governance Structures and Approaches 16

 3.2.3 Applying the Principles of Effective Governance..... 20

4 Recommendations.....23

 4.1 Judicial Branch Governance..... 23

 4.2 Consolidated Administration 25

 4.2.1 Estimated Fiscal Impact 26

 4.2.2 Organizational Structure..... 28

APPENDIX A – Supreme Court of The United States Virgin Islands: Rule 10131

APPENDIX B – Principles for Judicial Administration 34

APPENDIX C – List of Interviewees 37

1. Introduction

The Supreme Court of the United States Virgin Islands (Supreme Court), under a grant from the State Justice Institute (SJI), contracted with the National Center for State Courts (NCSC) to assess the current organizational structure of the judiciary of the Virgin Islands and to determine whether administrative consolidation would be of lasting benefit and be worthy of strategic implementation. On the basis of background research, interviews with justices, judges, and staff of the respective courts, along with general observations of court operations, the NCSC presents its recommendations in this report for the future direction of administration and governance of the Virgin Islands Judicial Branch.

Following two initial telephone conferences, which included Chief Justice Rhys S. Hodge, Associate Justice Ive Arlington Swan and various administrative staff of both the Supreme Court and the Superior Court to discuss the scope and methodology of the study, the NCSC consulting team scheduled a visit to meet with the judges, departmental managers and administrative staff of both courts. The interviews focused on enhancing the consulting team's understanding of administrative operations in the Supreme Court and Superior Court, gaining insight and from judges and administrative staff regarding the advisability of consolidating administrative functions and soliciting views on the best approach to creating a more effective governance structure for the courts. The interviews were conducted with justices, judges and administrative staff at each court's facilities on both St. Thomas and St. Croix. (See Appendix C for a list of persons interviewed.)

In preparation for the visit, the team reviewed prior NCSC reports that addressed administrative structure, court facilities, compensation and job classifications, and Supreme Court strategic planning. During this assessment project, the consulting team also reviewed the most recent budget documents for the Supreme Court and the Superior Court, as well as current statutes and proposed legislation addressing court organization and governance.

2. Background

2.1 Statutory History

The judicial system of the United States Virgin Islands has evolved considerably over the past decade. The Supreme Court was created in 2004 following action by the United States Congress to amend the Organic Act of 1954. The Supreme Court began operation on January 29, 2007 following passage by the Virgin Islands legislature of Act No. 6687 of 2004. Prior to that time appeals from the Superior Court of the Virgin Islands were heard by the Appellate Division of the United States District Court for the Virgin Islands. The transfer of jurisdiction to the Supreme Court of the Virgin Islands excluded those cases filed prior to January 29, 2007.

The Organic Act provided that upon the Supreme Court's five-year anniversary the Judicial Council of the Third Circuit would report to Congress on the Court's operations. This occurred in late 2011 when a Third Circuit Review Committee reviewed the Supreme Court's decisions and operations as part of its report. On June 19, 2012, the Third Circuit Chief Judge and Chair of the Court Review Committee presented their report. A key element of the report was the recommendation that Congress consider legislation to elevate the status of the Supreme Court to be on a par with its peers in other states and territories. Shortly afterwards, The Virgin Islands Legislature passed Resolution 1783 urging Congress to implement the Council's recommendations. Congress subsequently took action and President Obama signed Public Law 112-226 on December 28, 2012, amending the Revised Organic Act of 1954 and establishing the Supreme Court's current status.

The original legislation (Act No. 6687) creating the Supreme Court, Virgin Islands Code (Annotated), Title 4 § 31 (d)(3), specified that the Chief Justice "... shall have general superintendence of the administration of the trial courts...including, without limitation, the improvement of the administration of such courts and securing of their proper and efficient administration." Subsection (5) retained assigned administrative powers of the Superior Court "to the extent not inconsistent with the powers of the Chief Justice." The original legislation appeared to be consistent with the concept of a system for administration and governance of the judicial branch as a whole. The Supreme Court sought to put this into practice by adopting Rule 101 which would have established a Judicial Branch Administrative Office. The Order promulgating Rule 101 further defined the duties and responsibilities of the administrative office of courts as the policy-making body for the Virgin Islands judiciary.

The administrative authority of the Supreme Court was subsequently modified by the Virgin Islands legislature in October 2007 by Act 6965. The current administrative structure of the judicial branch of the Virgin Islands is defined by 4 V.I. Code Ann. § 31(d) (3) as follows: "*The Chief Justice has general oversight of the judicial branch of the government of the Virgin Islands. Nothing in this chapter may be construed to authorize the Chief Justice to exercise control over the day-to-day administrative operations of the Superior Court of the Virgin Islands, including the Magistrate Division.*" This action effectively changed the administrative structure of the

courts as set forth in Act No. 6687 by redefining the courts as independent entities responsible for their own governance and administration, including the submission of separate budgets to the legislature.

In 2011, Bill No. 29-0163 was introduced in the Legislature of the Virgin Islands but subsequently withdrawn before passage. The Bill would have further amended Title 4 of the Virgin Islands Code to establish a Judicial Branch Management Committee vested with authority to adopt rules and establish policies for the operations of all courts, employee compensation, and submission of a combined budget request and annual report. The Bill also addressed the duties and responsibilities of the Chief Justice, the Presiding Judge of the Superior Court, and the role of a Judicial Branch Administrator.

2.2 Prior Studies and Recommendations

Since the commencement of Supreme Court operations in 2007, NCSC has been asked to assist the Virgin Islands Judiciary with planning and development in several areas. These efforts resulted in the following reports:

Initiating Operations Report - In March 2007, NCSC developed an organizational blueprint for the Supreme Court Clerk's Office and prepared a similar plan for the organization and responsibilities for an Administrative Office of the Courts. The report proposed an organizational structure that delegated responsibility for administration of the judicial branch to a newly created Judicial Branch Administrator, serving at the pleasure of and subject to the advice, approval, and supervision of the Chief Justice. Judicial branch governance would be managed through a Governance Council chaired by the Chief Justice and include the other members of the Supreme Court, the Presiding Judge of the Superior Court, at least one other Superior Court judge, and the Judicial Branch Administrator.

The plan further organized the staff of the proposed Judicial Branch Administrator's Office into seven divisions corresponding to function: Court Operations, Court Services, Legal Services, Administrative Services, Planning and Educational Services, Information Technology Services, and Bar Admissions. All except the Court Operations Division would be managed by a Division Director, who would report to the Judicial Branch Administrator. Court operations would continue to be managed by the Clerks of the respective courts who would retain most, though not all of their current responsibilities would be accountable to the Judicial Branch Administrator and responsible for implementation of policies established by the Judicial Governance Committee.

The report proposed one new division; Planning and Educational Services. While recommending that responsibilities of the Legal Counsel's unit be expanded to include the Judicial Branch as a whole rather than just the Superior Court, the report acknowledged that should legal counsel be called upon to defend a Superior Court judge in a *mandamus* action, the fact that the unit would report to the Judicial Branch Administrator rather than directly to the Chief Justice or the Supreme Court would insulate it from conflict-of-interest concerns.

Facilities Study - In 2008 NCSC was asked by the Supreme Court to prepare a Building Site Planning Assessment Report. The assessment analyzed six potential building sites for new Supreme Court buildings on both St. Thomas and St. Croix Islands. In addition, the assessment included development of a conceptual space program to meet the long term needs of the Court, programmatic blocking and stacking concepts to illustrate the functional relationships of the program, and a range of construction costs for the new courthouse facilities to be located on St. Croix and St. Thomas Islands. However, the report did not address the needs of the Superior Court or consider a combined operations facility concept.

Strategic Plan - Between July 2009 and May 2010 NCSC staff facilitated a series of meetings to develop a comprehensive strategic plan for the Supreme Court. This effort involved members of the court, the Administrative Director, the Supreme Court Clerk, court managers and staff. It resulted in the declaration of a vision for the Supreme Court, identified strategies to achieve that vision, and set out short and long range action plans related to these strategies, along with key measures and data sources for monitoring progress.

Job Classification and Compensation Study - A job classification and compensation study was presented to the Supreme Court by NCSC in August 2012. The study included recommendations for modifications to existing and future job classifications, a classification plan, an internal valuation of each classification using the Position Appraisal Method, an assessment of the relative market position of the Supreme Court with respect to pay based on regional, state and local external labor market data and analysis; salary grade recommendations for each classification, and a pay plan for maintaining a competitive pay structure over a five-year period.

The report noted that “both the Superior Court and the Supreme Court have administrative structures that perform many of the same functions, creating costly duplication and the possibility for a lack of uniformity and inconsistency within the judicial process.” It was further noted that the administrative structure could be redefined to be more effective and efficient. This would include developing an overall strategic planning and implementation process for the judiciary as a whole, directed by the Supreme Court with active participation and input from the Superior Court, but with day-to-day administration remaining the responsibility of each individual court.

NCSC recommended consolidation of the functions of fiscal management, human resources, purchasing and procurement, public information, internal audit and technology under Supreme Court administration, with the Superior Court retaining staff in these areas to carry out ongoing business functions on a day-to-day basis, in accordance with Judicial Branch policies. The report also identified specific positions for future consideration, including a Public Information Officer, Facilities Manager, and Procurement Manager, and recommended that these positions be centralized in order to ensure consistent policies and procedures throughout the Virgin Islands Judicial Branch.

3 Administration and Governance

This section of the report is divided into two sub-sections, one addressing administrative organization and the other internal branch governance. Each section includes an overview of the current situation at the time of the project team’s visit, comparisons of systems established in other states and territories, and a discussion of the principles and issues that form the basis for the effective organization of a judicial branch. Although the topics of the Judicial Branch’s organization and governance are treated separately for purposes of this discussion and recommendations, these two issues are clearly inter-related.

3.1 Judicial Branch Organization

The current organizational structure of the Virgin Islands Judicial Branch is based upon V.I. Code Ann. § 31 (d) (3) which states:

The Chief Justice has general oversight of the judicial branch of the government of the Virgin Islands. Nothing in this chapter may be construed to authorize the Chief Justice to exercise control over the day-to-day administrative operations of the Superior Court of the Virgin Islands, including the Magistrate Division.

Because there are differing interpretations of the meaning of the phrases “general oversight” and “day-to-day administrative operations”, there have been, with only a few minor exceptions, no structural consolidations in the administration of the Virgin Islands Judicial Branch since the initiation of operations by the Supreme Court. Each court continues to have its own administrative staff and separately develops administrative policies and procedures without any systematic degree of integration or collaboration.

This section of the report summarizes the current administrative organizations within both the Supreme Court and Superior Court; promotes the application of various principles for judicial administration; describes the Judicial Branch governance structures for a selection of other territories and some states; and presents the consulting team’s recommendations.

3.1.1 Current Organization of Administrative Activities

For all practical purposes, the Supreme and Superior Courts of the Virgin Islands are operating with considerable administrative independence from each other at this time. Both organizations have developed their own administrative policies governing operations, as well as procedural manuals for human resources, procurement and other functions. Each court has a judicial administrator position, a clerk of court, and a number of mid-level supervisory and line administrative positions responsible for support functions such as human resources, judicial security, finance, and facilities.

During the timeframe of this project, the Supreme Court positions of Administrative Director and Chief Financial Officer (CFO) were vacant. As a result, a management team consisting of the Assistant to the Administrative Director, Deputy Administrator for Technology Services, and two Account Clerks was acting in the absence of incumbents in these two key positions. The consulting team conducted interviews with administrative managers and staff in both courts to identify areas of commonality as well as functions that are unique to either the Supreme Court or Superior Court. References to the number of staff members in a particular functional area include the respective director or manager position, plus the number of active employees at the time of the visit by the consulting team. They do not account for vacancies in authorized positions among line staff. The following is a comparison and summary of the current major administrative functions based on those interviews:

Budget and Finance – The primary responsibilities of the Supreme Court CFO are currently being covered by the temporary administrative team. These include development of financial policies and procedures, monthly monitoring of expenditures and budget adjustments, verifying bi-weekly payroll entries and leave balances, processing invoices for payment, and preparing internal and external financial reports. The Supreme Court utilizes the Sage Non-profit® accounting system, and has developed an integrated imaging workflow process using the OnBase® document management system. In addition to the CFO, there are two accounting clerk positions in the Supreme Court Financial Services Office.

The CFO for Superior Court develops financial policies and procedures for the court, prepares and manages the budget, and prepares all external financial reports. The CFO also oversees all day-to-day accounting functions performed by the Accounting & Finance Division staff. These include processing invoices for payment, financial analysis and verifying bi-weekly payroll entries and leave balances. The Superior Court also uses the Sage Non-profit® accounting system but does not use an electronic record-keeping system. In addition to the CFO, the Superior Court Accounting & Finance Office consists of two accounting clerks and a supervisor based in the St. Croix Division and three accounting clerks and a supervisor based in the St. Thomas Division.

Both courts use the payroll processing system operated by the Executive Branch of the Virgin Islands as well as the Sage Non-profit® accounting system. Potential points for consolidation include financial policies and procedures; establishment of internal controls; payroll and leave processing; processing invoices for payment, and budget preparation and management.

Human Resources – Human resources functions are handled by the Human Resources Director at the Supreme Court. These activities include coordinating recruitment and orientation of staff, administration of employee benefits, compensation, performance reviews, grievances, FMLA compliance, safety issues, employee recognition programs

and some staff training. Records and documents are maintained electronically using the Courts OnBase® system. The Human Resources Director also prepares and maintains the Supreme Court Human Resources Policies & Procedures Manual. The Human Resources Director has no direct support staff.

In the Superior Court, human resources functions are the responsibility of the Human Resources Division. These activities include preparing and maintaining the Superior Court Human Resources Policies & Procedures Manual, coordination of recruitment and orientation for new staff, compensation, administration of employee benefits, disciplinary functions and employee training and development programs. The Superior Court Human Resources Division includes the Human Resources Director, one Assistant Human Resources Director and one Administrative Officer based on St. Thomas, one Assistant Human Resources Director and one Administrative Officer based on St. Croix. The Superior Court Human Resources Division does not use an electronic record-keeping system at this time.

Although many aspects of administering human resources functions are defined by statute or regulation, there is currently little coordination between the courts in this area. The 2012 NCSC job classification and compensation study should serve as the basis for the development of a uniform personnel system that includes a branch-wide classification plan, unified administration of compensation and benefits, employee recognition and incentive programs, training and professional development, shared technology and record keeping, development of a code of conduct, and policy development.

Procurement – The Supreme Court Procurement Manager is responsible for overseeing all purchasing processes for the Court including vendor relations and issuing requests for proposals (RFP), serving as a facility maintenance manager for the Supreme Court’s two locations and providing oversight of custodial work and upkeep at the St. Thomas facility. She has developed standard procedures for procurement, tagging, disposal and other asset management functions for the Court, and maintains a master vendor list with product pricing established through a bid process; when appropriate, she also utilizes the master lists prepared by the Executive Branch. Purchasing request forms are submitted and reviewed through an electronic workflow process incorporating the OnBase® system.

In the Superior Court, the Procurement & Property Manager oversees all purchasing processes including vendor relations and issuing RFPs to ensure that the staff at the facilities on St. Thomas, St. John and St. Croix has sufficient materials and supplies to operate effectively. She also supervises the 7 person custodial staff at the St. Thomas facility and 4 custodians on St. Croix. Expenditures particular to trial court operations, such as jury costs, including those associated with sequestered jurors, a high volume of court-appointed attorneys and other unanticipated trial costs often present challenges

in balancing the necessary procurement of products and services within budgetary limitations. The Superior Court Property & Procurement Division does not use an electronic record-keeping system.

The merger of procurement functions was frequently mentioned by the staff and judges interviewed by the consulting team as a step that would provide substantial benefits. A consolidated procurement function would likely enable the two courts to achieve more efficiency through greater buying power, reduced redundancy in purchasing, more efficient and cost-effective fleet and building management.

Information Technology – The courts have implemented separate case management systems to meet their particular needs. The Supreme Court Clerk’s system has become fully electronic with mandatory e-filing starting in 2011. The Clerk uses a vendor-based case management system, LT Court Tech, integrated with the OnBase® system. The Superior Court is currently in the process of implementing its second-generation case management system with a “go live” date projected during the summer of 2013. E-filing is not currently in place but is under consideration. Electronic access to Superior Court case information by staff in the Supreme Court was available for a time but was subsequently restricted. Staff in both courts indicated the need for access to electronic case files and the electronic exchange of data between the two courts for Superior Court cases on appeal to the Supreme Court and for investigative purposes by the Disciplinary Counsel.

Information technology staffs for each of the two courts also have responsibility for network maintenance, technical aspects of the security systems at the various facilities, mobile telephones, e-mail, virtual private networks (VPN), content filtering and digital technologies used in the courtrooms. The Supreme and Superior Courts maintain separate software licensing and support agreements. There is currently no overall joint technology planning process for the two courts.

Each court has its own technical staff to maintain hardware and system software, backup systems, network administration and desktop support. The Supreme Court Information Technology staff consists of the Deputy Administrative Director of Technology Services and two Computer Support Technicians. The Superior Court Information Technology Division includes one Analyst, one Specialist and three Computer Technicians on St. Thomas, one Analyst, and one Specialist on St. Croix. The St. Croix unit is also supported by a temporary intern position. Coordination of information technology strategies would allow the Judicial Branch to gain efficiencies in hardware and software purchases and provide more effective technology support to the judges and staff of both courts. It would also enable both courts to take advantage of applications and functionality not currently shared, such as the OnBase® system.

Facilities Maintenance & Management – Each court has responsibility for the physical maintenance, upkeep and repair of their various court facilities; the Superior Court also maintains a warehouse/storage facility and the building that houses the Rising Stars Program. The facilities maintenance function in both courts is overseen by the respective Procurement Managers. The Supreme Court employs two building/grounds maintenance workers and two custodians (one at each location) The Superior Court has seven custodians on St. Thomas and four on St. Croix, in addition to four facilities maintenance employees on St. Thomas and five on St. Croix.

There is currently no coordination of facilities planning and management between the two entities, though both the Supreme and Superior Courts are actively engaged in planning facility expansion or acquisition. The Supreme Court occupies leased space on St. Thomas and owns a facility on St. Croix. It has identified another property on St. Thomas that may be better suited for a more permanent structure and is also planning to construct a Supreme Court Building to replace the current office on St. Croix, which lacks courtroom space. The Supreme Court already owns the land on which this facility would be built. The Superior Court currently maintains two locations on St. Thomas in addition to a property that could be used for future expansion. The Court is also planning expansion of its facility on St. Croix to add a new wing and free up courtroom space for family court activities.

Court facilities projects create long-term effects on overall operational efficiency and costs. Coordinating the facilities planning and management of the Supreme and Superior Court in a consolidated administration would provide opportunities for increased efficiencies in space planning and costs of future operations.

Marshals Services (Security) – The Supreme Court Office of Judicial Security provides building and personal security for Supreme Court facilities, staff, and justices as well as protection of dignitaries. The Supreme Court marshals are trained and qualified as law enforcement officers. Duties also include service of process, development of internal security policies, automobile fleet management and general maintenance of security-related hardware. The current marshal staff members are all former employees of the Superior Court. Staffing includes one Chief Marshal and five Deputy Marshals. The Supreme Court Marshals' duties are outlined in Supreme Court Rule 102 which creates a separate marshal service for the Court as a result of the enactment of Act No. 6965.

In the Superior Court, the duties of the Marshals Division include security and protection of the court facilities, judges, staff and visitors, as well as responsibility for serving court warrants, notices, and civil process, seizures, and management of persons appearing at the courthouse while in-custody. The Superior Court marshals are also trained and qualified as law enforcement officers. Each Court is independently responsible for their own marshal training programs and continuity of operations planning. Staffing includes one Assistant Marshal and 27 Deputy Marshals on St. Thomas. The Chief Marshal, one

Assistant Marshal and 18 Deputy Marshals are based on St. Croix. The Marshals Division also includes two Administrative Officers in each of the two districts.

The duties of the Superior Court marshals require them to be present at the court facilities, escorting justices, judges or other dignitaries at a variety of locations, and throughout the community to serve court documents. These responsibilities should be considered when evaluating consolidation opportunities, more so than in the other functional areas in which a technological solution can compensate for employee location. In addition, coordination of training programs, equipment and supply purchases, and fleet management should provide significant cost savings. Minimum levels of security coverage for each court location should be used to control staffing distribution while deputy marshals could be routinely transferred between consolidated assignments when circumstances require.

Law Libraries – The Supreme Court does not have a separate law library or librarian, but does provide certain hard-copy law books, periodicals and other legal resources to the justices and staff as well as maintain an account for on-line legal research. A separate law library is being contemplated in the design for a future Supreme Court facility on St. Croix.

The Superior Court maintains law libraries at the courthouses on St. Thomas and St. Croix. These libraries are open to the public and also serve the judges, court staff, lawyers, and staff from various government agencies. The two Law Librarians are responsible for maintaining the inventory of law books and legal resources, providing some appellate law clerk services, and managing the on-line legal research accounts. This includes training staff and managing passwords to access the on-line service. Separate accounts with the vendor are maintained for each of the two Superior Court Libraries. The librarians also coordinate the publication of opinions and provide assistance to library users as needed, but are prohibited from providing legal advice.

Consolidating all three of the vendor accounts for legal research should significantly reduce the overall law library costs of the Judicial Branch while still allowing the courts to provide local library services

Records Management – The Clerks of each court are responsible for case records under their care. Administrative records of the courts are generally the responsibility of administrative staff at each location. Some efforts are currently underway to develop retention and destruction schedules, though not on a judiciary-wide basis. Most states have developed schedules under the authority of either the Supreme Court or the state court administrator, often in collaboration with the state archives. Some states have also developed system-wide standards for records management and preservation. This

has become increasingly important as courts rely more on digital record keeping systems.

The Clerks of both courts will need at some point in the future to consider developing standards and policies for records management, preservation and destruction. This effort should be coordinated so that the resulting policy and standards apply to the entire Judicial Branch.

Disciplinary Counsel & Bar Admissions – The Disciplinary Counsel is responsible for the investigation and prosecution of cases alleging either attorney or judicial misconduct. Allegations of attorney misconduct may have arisen from cases filed in either of the two courts or private transactions. The Disciplinary Counsel also provides outreach to the public and bar on associated activities and procedures.

Due to the relative volume of the caseload, the number of practicing attorneys and the number of judges, most of the court-related issues referred to the Disciplinary Counsel involve Superior Court matters. Currently, the Disciplinary Counsel does not have direct access to Superior Court information and must either hire a runner, send another staff person or personally go to the courthouse in St. Thomas or St. Croix to retrieve copies of information contained in Superior Court files.

The Bar Admissions Office is responsible for administering the bar exam, maintaining attorney practice status, and special admissions. These functions, originally housed in the Superior Court, were moved to the Supreme Court when operations got underway in 2007. Although bar admissions is now a Supreme Court function, both courts rely on information from the Bar Admissions Director to confirm the status of attorneys appearing in court. The Bar Admissions office also requires pending case information when attorneys go to inactive status. Without access to the Superior Court case management system, this information must be obtained through a request to the clerk for documents to be sent via fax or mail.

Currently, these functions are organizationally placed in only the Supreme Court Administrative Office so no further consolidation opportunities exist. However, there should be greater cooperation in the transfer of information between the courts, the Disciplinary Counsel and Bar Admissions Director.

3.1.2 Comparative Administrative Structures

State court systems are organized under a variety of structural models that reflect different approaches to funding and governance. Several states have complex trial court structures with predominately local funding sources. In many of these jurisdictions primarily funded by local governments, administration of the courts is decentralized and the central authority, usually

the Supreme Court and state court administrative office, exercises only limited administrative control. On the other end of the spectrum are unified trial court systems funded in full or large part by the state, with a greater degree of centralized administrative authority and control.

The emergence of the position of state court administrator as the chief administrative officer over a state or territorial court system has evolved since the first such position was created in the state of New Jersey in 1947.¹ The nature of the duties and responsibilities of state level administrators reflects the unique circumstances of geography, politics, and history in each jurisdiction. In his book *Creating the Judicial Branch: The Unfinished Reform*,² Robert Tobin describes several levels of authority that characterize the varying roles of state court administrators in the United States and its Territories:

- Shared responsibility with the chief justice and broad span of executive authority over the court system with strong lines of vertical authority over trial courts. This is more common in unified systems with centralized funding.
- Moderate delegated authority with clear but limited authority and control over certain aspects of trial court operations and a less prominent executive role.
- Limited administrative and managerial role over trial courts and duties that focus mainly on support to the supreme court in non-case related legal matters, such as rulemaking, legal education, legislative drafting, superintendence of the bar, and litigation involving judges and courts. This model is more common in a diffuse, locally-funded trial court system with a high level of local control and autonomy.
- Limited executive responsibilities and little control or oversight for trial court operations, though the incumbent may provide leadership in specific areas such as technology. Also more typical in less-unified systems.

Twenty one state constitutions refer to an administrative director of courts. Of these, eleven are appointed by the Supreme Court, six by the chief justice, two by the chief justice with the approval of the Supreme Court, and one by a judicial council. The basis of authority for these positions varies between those which have functions and authority spelled out by statute, versus those which are determined by a Supreme Court internal policy or rule. The clear advantage to the latter is the greater flexibility to make modifications to the position over time.

On July 25, 2007, the Supreme Court issued Promulgation Order No. 2007-0010, adopting Supreme Court Rule 101. Rule 101 acknowledges the system-wide management authority of the Chief Justice as the administrative head of the judiciary and the Supreme Court as the administrative policy-making body for the court system and enumerates the functions and responsibilities of the Administrative Office of the Courts. The passage of Act No. 6969 effectively nullified much of Supreme Court Rule 101, resulting in the present structure of dual administrations within the Judicial Branch.

¹ Alexander B. Aikman, *The Art and Practice of Court Administration*, CRC Press (2007).

² Robert Tobin, *Creating the Judicial Branch: The Unfinished Reform*, National Center for State Courts (1998).

In addition to the boundaries or duties set by rule or statute, the relationship between a state court administrator and the trial courts for the system they serve is determined by a number of other factors, including the degree of central control, state versus local funding, the size of the judiciary, and the preferences and capabilities of incumbent administrators and justices. In state-funded systems a number of services may be provided to trial courts by the administrative office, including technical assistance, technology solutions, managing special programs and pilot projects, administering state and federal grant programs, setting and enforcing standards, and oversight over the adoption of local court rules of procedures. In locally-funded systems where there is greater local autonomy, the relationship may be more advisory than regulatory.

The changing economic climate during the past five years has added pressure on governmental bodies to reconfigure organizational structures and re-align services to improve efficiency and maintain effectiveness in the face of declining resources. A natural reaction has been to move towards increased centralization of administrative activities in an attempt to achieve greater economies of scale, improved efficiency, and more uniformity. However, centralization alone is not necessarily an undisputed virtue. Centralization and standardization without thought to varying organizational needs and the impact on local services will not necessarily yield positive outcomes in the long run.

3.1.3 Applying Principles of Judicial Administration

The principles of judicial administration and governance referred to in this report are adapted from the recent publication *Principles for Judicial Administration*,³ which describes a set of basic principles for judicial branch governance. This document was published by the National Center for State Courts with guidance from the Conference of State Court Administrators (COSCA). Both the COSCA and the Conference of Chief Justices (CCJ) have issued resolutions in support of the Principles for Judicial Administration. A summary of all of the principles for Judicial Administration is presented in Appendix B. Several of the governance principles have been selected for their relevance to this project and are discussed below:

Principle 1: *Effective court governance requires a well-defined governance structure for policy formulation and administration for the entire court system.*

The governance structure of the judiciary should be apparent and explicit with clearly defined relationships among governing entities, presiding judges, court administrators and various court committees. Executive and legislative branch agencies, those working within the judicial

³ *Principles for Judicial Administration*, National Center for State Courts, Williamsburg, Virginia (2012); <http://ncsc.contentdm.oclc.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1891>

branch and the public should be able to determine who has decision-making authority, how decisions are made, and how policy is implemented throughout the affected entities. The purpose of a well-defined governance structure is twofold:

- First, it should enable development of policies that ensure uniformity of customer experience throughout the system.
- Second, the governance structure should enable reasonably uniform administrative practices for the entire court system that provide the greatest access and quality at the least cost.

While flexibility, discretion and local control are desirable as they encourage initiative and innovation, standardization fosters efficiency and uniformity of treatment. In the Virgin Islands Judiciary there are clearly activities which are the domain of the Supreme Court, such as bar admissions and disciplinary counsel. Likewise, certain administrative functions, such as jury management and court reporting, are unique to the Superior Court environment.

The Judicial Branch must have a clearly articulated mission, must state the values by which it operates and must identify its strategic objectives and goals. A well-defined governance structure enables the court system to accomplish these ends and to present a unified message to the public, as well as to legislative and executive branches. The court system benefits from the continuity, stability and consistency of an effective governance structure.

Principle 3: *Judicial Leaders should focus attention on policy level issues while clearly delegating administrative duties to court administrators.*

Principle 3 is related to both governance and administration. While the governing body maintains authority for policy decisions, implementation of these policies should be properly and clearly delegated to qualified administrative staff. It is also important that there are clear and consistent expectations from court leadership for staff performance and responsibility.

Policy decisions belong with the structural “head” of a judicial system, but implementation and day-to-day operations belong to administrative staff. Effective governance requires a strong court management team comprising judicial leaders and court administrators. An avoidance of micro-management by policy-makers and clear authority for implementation by managers are important for maintaining the credibility and effectiveness of court governance, as well as minimizing opportunities for undermining policy at the operational level.

Principle 5: *The court system should be organized to minimize the complexities and redundancies in court structures and personnel.*

The administrative structure of the court system should avoid overlapping or duplicative administrative activities and oversight. Clear and simplified structuring of Judicial Branch administration facilitates ease of use, engenders public understanding and ultimately, support.

The project team, with significant input from judges and staff at both the Superior Court and the Supreme Court, identified several functional areas in which improved collaboration and consolidation of administrative functions could be implemented to reduce costs, enhance efficiency, and promote improved external and internal communications by the Judicial Branch. These improvements are described in Section 3.1.1 of this report.

3.2 Judicial Branch Governance

Governance is the exercise of political and administrative authority to manage organizational affairs. It is a continuing process through which conflicting or diverse interests are accommodated and cooperative action is taken. In practice, there are a number of structural models that have evolved for governing courts and the project team recognizes the uniqueness of court governance issues. The governance model utilized must achieve balance ensuring that all units of the judiciary have an opportunity to contribute to policy decisions and that authority for decision-making is delegated to the appropriate level, while not losing sight of the need for a common vision and direction for the judicial system as a whole. The following section offers examples of court governance structures that are founded on collaborative decision-making principles.

3.2.1 Overview of Current Judicial Governance

The governance structure of the Virgin Islands courts now consists of two relatively distinct and independent systems with the primary decision-making authority vested in the respective chief judges. As previously discussed, administrative activities are performed in relative isolation between the two courts. For all practical purposes, most decisions are made independently. Concurrent submission of separately developed budget requests and publication of a consolidated annual report, with corresponding sections prepared independently, represent the only systemic collaboration between the two courts.

Many states and territories have established judicial councils, although the organization, membership and specified duties vary from one jurisdiction to another. The common theme is that they serve the judicial branch at a policy level, either in an authoritative or advisory capacity. The Virgin Islands created a Judicial Council which, unlike other judicial systems, historically functioned as the vehicle by which the Territorial Government provided assistance to the United States District Court. However with the creation of an independent judicial branch in the Virgin Islands the Council's purpose and focus has evolved to promoting communication and cooperation between the courts and other branches of government.

The examples in Section 3.2.2 illustrate how a number of court systems, some of which are organizationally comparable to the Virgin Islands, have adopted collaborative approaches to governance while still respecting the boundaries between the various levels of courts.

3.2.2 Comparable Governance Structures and Approaches

Just as states and territories operate under a number of different organizational models, the methods for governing state judicial systems vary. The most recent survey of state court organization revealed that over a dozen state judiciaries have judicial councils in place, and others have similar governing bodies under different names.⁴ The establishing authority for these councils includes constitutional provisions, statutes and rules of court.

The following are examples of how judicial councils operate in other states and territories:

The **Northern Mariana Islands** (NMI) established its judicial council by Supreme Court rule in 2009. The council consists of three Supreme Court Justices, the Presiding Judge of the Superior Court, and one associate judge as voting members. The council also includes the president of the NMI Bar Association and various court managers as non-voting members. The council's authority is advisory and includes overseeing court administration, setting branch administrative policies, recommending court rules for adoption by the Supreme Court, and proposing new legislation. The stated goal of the Judicial Council is to ensure fair, accountable, and efficient court management, and to institutionalize an administrative structure that strengthens public trust in the judiciary.⁵

The Judicial Council of **Guam**, created by statute in 2003, is composed of all full-time justices of the Supreme Court, the Presiding Judge of the Superior Court, and a designated Superior Court Judge. The advisory authority of the Judicial Council includes recommendation of policies for the administration of the judicial branch, including hearing all classified employee appeals. Section 1424-1(b) of the Organic Act of Guam placed all supervisory authority of the judicial branch with the Chief Justice of the Supreme Court. Non-voting members of the judicial council include nine staff members who head major administrative units of the courts.⁶

In the **District of Columbia**, the Joint Committee on Judicial Administration is the policy-making body for the courts. The responsibilities of the Committee include, among others, general personnel policies, accounts and auditing, procurement and

⁴ Bureau of Justice Assistance and National Center for State Courts; *State Court Organization* 2004. <http://www.ncsc.org/sco>

⁵ *The Northern Mariana Islands: A Historical Overview*, Chapters 5-7. Accessed at: <http://www.justice.gov.mp/history.aspx>

⁶ 2011 Judiciary of Guam Annual Report; <http://www.guamcourts.org/Information/images/2011%20Annual%20Report.pdf>

disbursement, development and coordination of statistics and management information systems and reports, and submission of the annual budget request.

Committee membership includes the Chief Judge of the District of Columbia Court of Appeals, as chair; the Chief Judge of the Superior Court of the District of Columbia; an associate judge of the Court of Appeals, who is elected by the judges of that court; and two associate judges of the Superior Court, who are elected by the judges of the Superior Court. The statutory Executive Officer is responsible for the administration of the Courts, subject to the supervision of the chief judges of the two courts, regarding the implementation of various administrative matters in the respective courts.

The **Idaho** Judicial Council is empowered by statute to provide nominations to the Governor for appointments to vacancies in the Supreme Court, Court of Appeals, and district courts, and may also make recommendations to the Supreme Court for the removal, discipline and retirement of judicial officers. Other duties include conducting studies for the improvement of the administration of justice and making reports to the Supreme Court and Legislature at intervals of not more than two years. The Judicial Council is comprised of seven members; the Chief Justice of the Supreme Court, who is chairman, a district court judge, two lawyers appointed by the governing board of the Idaho bar with the consent of the state senate, and three non-attorney members appointed by the Governor with the consent of the senate.⁷

The **California** Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. The Administrative Office of the Courts (AOC) implements the council's policies. Numerous advisory groups and task forces assist the Council in its deliberations.⁸

The **Georgia** Judicial Council is a policy-making body chaired by the Chief Justice of the Supreme Court of Georgia. Membership of the Judicial Council consists of twenty-six judges representing the appellate and trial courts of the state. The Council meets at least three times a year to consider judgeships, budgetary and policy matters, and other judicial branch programs.⁹

The Judicial Council of the State of **Nevada** is an administrative arm of the judiciary, developing policies for the improvement of the court system and making recommendations to be considered by the Nevada Supreme Court. The Judicial Council

⁷ Rules of the Idaho Judicial Council;

[http://www.judicialcouncil.idaho.gov/General%20Rules%20of%20Procedure%20REVISED%202012%20\(w%20Chavez\).pdf](http://www.judicialcouncil.idaho.gov/General%20Rules%20of%20Procedure%20REVISED%202012%20(w%20Chavez).pdf)

⁸ <http://www.courts.ca.gov/policyadmin-jc.htm>

⁹ <http://www.georgiacourts.org/index.php/judicial-council>

is comprised of 16 judges from across the state at every level, with the Supreme Court Chief Justice as ex-officio chairperson. There are five Regional Judicial Councils whose members meet independently.¹⁰

Section 6, Article 3 of the **Arizona** constitution provides that “The supreme court shall have administrative supervision over all the courts of the state” and that “the chief justice ... shall exercise the court's administrative supervision over all the courts of the state.” The Arizona Judicial Council was created to assist the Supreme Court and the Chief Justice in the development and implementation of policies designed to provide, 1) central direction for the administration of all courts, 2) uniformity in court operations, and 3) coordination of court services that will improve the administration of justice in the state.¹¹

The **Utah** Judicial Council is the policy-making body for the judiciary. It has the constitutional authority to adopt uniform rules for the administration of all the courts in the state. The Council also sets standards for judicial performance, court facilities, support services, and judicial and non-judicial staff levels. Utah is the only state in which the judicial council is designated as the administrative head of the judicial branch.

The Council consists of fourteen members. The Chief Justice of the Supreme Court chairs the Council. The other members include: a Supreme Court Justice; a judge of the Court of Appeals; five District Court judges; two Juvenile Court judges; three Justice Court judges; a state bar representative; and the State Court Administrator, who serves as secretariat to the Council. The judges serve three-year terms, and the state bar representative also serves three years.

By rule, the Judicial Council established a Board of Judges for each level of court. The Board of Judges adopts administrative rules in accordance with the guidelines of the Council, advises the Council, supervises the implementation of Council policies and serves as a liaison between judges and the Council.¹²

In addition to these examples from states and territories of the United States, the **South Australian** model is characterized by a co-operative “joint venture” approach among the courts of the smaller states, in which the council is in effect a board of directors. The Chief Justice chairs the council, and decisions cannot be made without the chief justice’s support. The Council nominates a court administrator who is under the council’s direction and control. The council is responsible for submitting the courts’ budget as well as an annual report to Parliament. The council may establish administrative policies and guidelines to be observed by participating courts in the exercise of their

¹⁰ <http://www.nevadajudiciary.us/index.php/judicialcouncil>

¹¹ Supreme Court of Arizona, Administrative Order No. 90-13;
<http://www.azcourts.gov/LinkClick.aspx?fileticket=9RQxeBcWVtE%3d&tabid=2390>

¹² <http://www.utcourts.gov/knowcts/adm/>

administrative responsibilities. The Council provides a link between the participating courts and encourages consistency in the areas of process and administration where appropriate, while recognizing that the participating courts maintain responsibility for their own internal administration.¹³

As part of a pilot project to test the impact of court unification in the **Michigan** trial courts, participating jurisdictions were encouraged to develop local court management councils. The following are examples of judicial council decision-making structures that were developed to govern the unified courts:¹⁴

- Judicial council comprised of judges with equal representation. Decisions are made collaboratively and issued by the council as an entity.
- Judicial council with a strong chief judge. Final decisions are made by the chief judge based on consultation with other members of the judicial council.
- Judicial council comprised of judges and senior administrative staff. Staff participation is in some cases limited to the court administrator, others include the administrator, clerk, and other key administrative staff. Staff members may be voting or non-voting members.
- Judicial council supported by a subordinate committee, typically a court management council. The management council may be a subcommittee that includes some or all judges, as well as key administrative and management personnel from the courts. In this model, the management council provides recommendations to the judicial council for consideration and approval.

The extent of court staff and stakeholder participation in judicial councils varies. To be effective, the governing body should have the competency to make informed decisions. This includes reaching out to staff and external stakeholders for their expertise. Some of the judicial councils routinely include staff and external stakeholders at their meetings, and most seek input from these individuals on at least a periodic basis.

Other success factors that were found to contribute to successful court governance include:

External Communication

The creation of a collaborative governing body creates new relationships between the courts, the funding unit, and outside agencies. The council will need to redefine these

¹³ <http://www.courts.sa.gov.au/OurCourts/CourtsAdministrationAuthority/Pages/Governance.aspx>

¹⁴ Nial Raaen, *Promoting Collaborative Governance Through Local Judicial Councils*, The Court Manager, Volume 23, Issue 1 (2008).

relationships in the context of a new administrative structure and communicate these changes to agencies and individuals that interact with the courts. Judicial decision making should be transparent. The participation of relevant stakeholders and open discussion of issues increases the perception that the governing body is accountable and responsive.

Change Management

Unifying administrative and judicial functions can result in substantial organizational and procedural changes. Managing the change process effectively has proven to be a key element of successful governance. Meaningful communications is a key issue between members of the bench; the bench and administration; the bench, administration and line staff; the bench, administration and third parties.

Shared Vision

Collegiality is the cornerstone of any effective judicial council. Each of the members must relinquish some autonomy and agree to support the group's decisions, regardless of personal agendas. Despite differences of opinion, members of the judicial council should maintain high visibility and clear support for the mission of the organization and decisions of the governing body. Under a consolidated administrative structure, the court's judicial leadership must provide clear and consistent guidance to administrative staff if decisions of the governing body are to be carried out effectively. This is a great opportunity for the courts to speak with a single voice on system-wide issues.

Continuity Planning

Change in council membership, particularly on smaller councils dominated by a few key members, can cause discontinuity, making it difficult to engage in long-range planning and execute important decisions. Written bylaws help institutionalize the governance process and ensure consistency over time.

3.2.3 Applying the Principles of Effective Governance

Chief Justice Warren E. Burger once noted, *“There can, of course, be no disagreement among us as to the imperative need for total and absolute independence of judges in deciding cases or in any phase of the decisional function. But it is quite another matter to say that each judge in a complex system shall be the absolute ruler of his manner of conducting judicial business. . . . Can each judge be an absolute monarch and yet have a complex judicial system function efficiently?”*¹⁵

¹⁵ Hon. Warren E. Burger and Hon. J. Clifford Wallace, *Judicial Administration in a System of Independents: A Tribe With Only Chiefs*, Brigham Young University Law Review, Volume 1998, Number 1, Pages 56-57.

The project team recognizes that each organization has a culture, that its values and traditions influence policy development, decision making, resource allocation, and organizational communication. It is also recognized that organizational culture is influenced by those in key leadership positions. Despite these variations in organizations, there are principles that the development of a system of governance within a judicial system that protects autonomy while at the same time promotes rational, system-wide administrative decision making.

Incorporate meaningful input from all court levels into the decision-making process.

Recent research into high performing courts suggests that while administrative consolidation and unification have their virtues, judicial organizations are more effective when they have embraced more collaborative models of governance characterized by mutual trust and respect. This includes promoting open collaboration between organizations and work units, encouraging creativity while clearly defining boundaries, and empowering decision-making. In contrast, organizations which are not collaborative are typified by guarded communication, unit or organization-centric decisions, and political solutions that may not be sustainable.¹⁶

Commit to transparency and accountability in all areas of operation.

As the judiciary achieves greater independence and self-governance it also shoulders the responsibility to be open and accountable for its actions and resources. This can serve to build and maintain trust within the judiciary, as well as the confidence of the public and other branches, that the courts are good stewards of the resources entrusted to them. This concept is related to Principle 15 of the Principles for Judicial Administration which reads: *The court system should be transparent and accountable through the use of performance measures and evaluation at all levels of the organization.*

Open communications on administrative decisions and how they are reached.

Judicial Branch governing bodies need to find a balance between the desire to conduct frank deliberations over policy issues while maintaining an open dialog with the public and judicial

¹⁶ Gordon Griller, *Governing Loosely Coupled Courts in Times of Economic Stress*, Future Trends in State Courts: 2010, National Center for State Courts (2010).

staff regarding the basis for policy decisions. Given that a judicial council, which includes judicial, legislative and executive branch representatives is already in place in the Virgin Islands, the focus of an internal policy-making body such as the judicial branch management committee should be on how to best involve members of the bench and administrative staff in the internal administration of the judicial branch.

The judicial system should speak with a single voice.

A self-governing judicial system that cannot present a unified position when dealing with the legislature and executive branches is indeed a “house divided.” According to the Conference of State Court Administrators, “The judiciary must be able to speak with one voice. Too often other branches are presented with a judicial branch that speaks with multiple, even contradictory voices. State court systems should continue their efforts to redesign administrative systems to promote the judicial branch’s ability to speak on system-wide issues from the broad perspective of the judiciary as a whole.”¹⁷ Competing discussions with the other branches can invite incursion into judicial independence and can weaken the judiciary’s position in budget negotiations. While the judiciary should allow lively internal discussion of the issues, once decisions are made, leadership should show a unified front.

Regardless of the established model for court governance, the structure, decision-making process, responsibility for implementation of policy, and scope of authority must be clearly defined and agreed upon. The absence of clarity in these areas can create confusion for staff, lead to conflicting priorities and activities, and ultimately undermine the confidence of other branches in the ability of the judiciary to manage its own affairs.

¹⁷ Conference of State Court Administrators, *Position Paper on Effective Judicial Governance and Accountability*, December 2001.

4 Recommendations

This section includes our recommendations concerning the overall governance and administrative structure of the court system in the United States Virgin Islands. Implementation of these recommendations would help to achieve two primary goals:

- Improve efficiency and reduce costs associated with the administration of the courts by streamlining the administrative structure.
- Advance the evolution of the Courts of the Virgin Islands into a unified, high-performing Judicial Branch.

4.1 Judicial Branch Governance

As a guiding structure for the recommendations in this report, the project team has relied upon several of the court governance principles as outlined in *A Case for Court Governance Principles*, by the Honorable Christine M. Durham and Daniel J. Becker.¹⁸ These principles emphasize transparency, collaboration, competency, communication, and clarity of authority and responsibility.

The project team supports the concept of an advisory management committee or council that would provide policy review and recommendations regarding Judicial Branch functions. This type of governance structure has been implemented in the majority of states and in similarly sized territorial court systems. It is well suited for the two courts of the Virgin Islands. Such a system can serve to strengthen both judicial independence and organizational accountability, while encompassing joint deliberation on policy matters and other issues of strategic importance to the judiciary as a whole. An advisory management council can also ensure transparent operation of the Judicial Branch and enable the Judicial Branch to speak with a single voice.

As the examples in Section 3.2.2 illustrate, there are a variety of approaches within which a collaborative framework of governance can be adopted by the courts. One of the most challenging initial issues may be determining the roles and authorities within the advisory body. Some management councils have developed a rotating chair concept to ensure that each court has an opportunity to serve in that capacity while others have sought to ensure equal representation and numbers of voting members among various levels of the Judiciary. To address such issues, several local judicial councils have adopted variations which provide for consensus decision making with the chair voting only to break a tie under exceptional

¹⁸ Hon. Christine M. Durham & Daniel J. Becker; *A Case for Court Governance Principles*; Perspectives on State Court Leadership Series; Harvard Kennedy School, Program in Criminal Justice Policy and Management; Bureau of Justice Assistance. https://www.bja.gov/Publications/HarvardExecSession_CourtGovernance.pdf

circumstances. We believe these types of approaches are generally not effective as they inhibit continuity, generate the potential for gridlock on particular issues and can lead to conflicting strategies and priorities.

Whatever version is developed, final authority has to be assigned somewhere and decisions which may not have universal support must be made. Among the state and territorial judicial branches, final authority rests with either the Supreme Court or the Chief Justice in all except for Utah. The essential element is to develop a workable set of protocols that promote consensus decision-making whenever possible and instill a shared sense of responsibility for all organizations within the Judicial Branch. The absence of clear leadership authority will undermine the ability to carry out policy and lead to conflicting priorities and actions on the part of judicial and administrative leadership. Ultimately, the effectiveness of any governing body will depend on the level of inter-personal cooperation which is achieved by the leadership based on their individual personalities and capacity for collaboration.

The need for the judicial system to speak as a single voice cannot be overemphasized. The adoption of a clear and unified system of governance shows that the branch can govern itself and manage its internal affairs in a professional and competent manner. Especially in times of fiscal constraint, it is critical that the courts engage in collaborative planning and priority-setting activities, rather than competing for available resources. As Durham and Becker point out, “Competing voices purporting to speak for the judiciary undermine the institutional independence of the courts and leave other parts of government (and the public) free to choose the messages they prefer ...”¹⁹

Recommendation: We recommend the creation of a judicial management advisory council or committee as the principal internal policy body for the Virgin Islands Judicial Branch. This body should be charged with providing policy review for both courts and making related recommendations. Because this would be an advisory body, general superintending authority over administrative policies and practices of the Judicial Branch, as envisioned in Act 6687, should be restored to the Chief Justice through appropriate legislation. Similar to the systems in the territories of the Northern Mariana Islands and Guam, both of which designate the chief justice as the administrative head of their respective judiciaries, voting membership on the council should include the Chief Justice as Chair, the two other Supreme Court Justices, the Presiding Judge and another designated judge of the Superior Court. The second Superior Court Judge could be either selected by the Presiding Judge or elected by the entire Superior Court bench.

¹⁹ Ibid. at page 6.

Jurisdictions with management councils have found that diversifying the core advisory council has facilitated better communication, fostered acceptance of processes and organizational changes, and brought a broader base of ideas and responses to bear when problem solving. When the judicial management council represents multiple layers of the judiciary, the judiciary is better able to speak with one voice.

This type of judicial management council is usually established by either court rule or legislation. If legislatively established, the language should provide sufficient flexibility to allow the council to determine its operational rules and in no way inhibit the capacity of the Judicial Branch to operate as an independent branch of government. Either way, legislation will be necessary to clarify the role of the Chief Justice as the administrative head of the Judicial Branch with general superintending authority as envisioned in Act 6687.

We additionally recommend that once organized, the council develop a written charter to clearly establish the scope of authority and responsibility, frequency of meetings, relationship with outside agencies, and other matters relating to on-going operations. Ideally, this body will propose and advise regarding administrative and management policies that would be applied throughout the Judicial Branch, evaluate issues on a systemic basis, and provide policy review to the entire Branch on administrative matters. It is important that the focus be on policy level issues, leaving daily operational issues to be managed at the local level by those assigned responsibility for carrying out policy. Although the Chief Justice will ultimately be accountable for the entire Judicial Branch and its performance, effective governance includes delegation of responsibilities to staff, establishing clear performance expectations related to those responsibilities, and a system for ensuring that those expectations are being met.

Further, judges and court managers should be provided with opportunities to participate and give input to the council on issues and decisions which may impact their responsibilities. Durham and Becker note that failure to consistently apply this foundational principle will result in a lack of buy-in, if not resistance and opposition to the implementation of strategic decisions²⁰. This can be avoided by providing for regular attendance and participation at council meetings by key administrative staff in a non-voting capacity, and periodic invitations to judicial officers, staff members, and outside stakeholders to participate in discussions about specific issues.

4.2 Consolidated Administration

The current model, which includes two distinctly separate administrative structures, creates inefficiencies and inconsistencies within the Judicial Branch. Administrative staff in an assortment of functional areas including Human Resources, Budget & Finance, Procurement and Information Technology, etc., assigned in either of the two courts perform identical or in

²⁰ Ibid. at page 5.

many ways similar duties. The separate structures create unnecessary duplication of effort and increase the overall costs of operation. As with all judicial systems, staffing costs represent the majority of expenditures.

Recommendation: We recommend that the Judicial Branch restructure its administration to consolidate several of the functions currently performed separately by the Supreme Court and the Superior Court. Those functions should be organizationally placed in an office of Judicial Branch Administration, led by a Judicial Branch Administrator appointed by the Chief Justice. The Administrator should receive policy guidance and direction from, and work closely with, the Chief Justice and the Judicial Management Council. Daily supervision of the Administrator's activities would be the responsibility of the Chief Justice. It is important to note that a number of functions, such as jury management, law library, court reporting and others, would have centralized policies and practices established by the Administrator under the guidance of the Chief Justice and the Judicial Management Council. A consolidated administrative structure would provide a significant amount of annual budgetary cost savings, allow for greater efficiencies in court operations and ensure that consistent policies are applied throughout the Judicial Branch.

The following discussion addresses the estimated fiscal impact and improved organizational structure resulting from a consolidated administration.

4.2.1 Estimated Fiscal Impact

In order to quantify the potential cost reductions that could be achieved through consolidation, the NCSC consulting team compared staffing positions as listed in the 2012 budget documents for each court with estimated needs in a consolidated administration. The team's estimate of staffing needs is based on the respective duties of each position as determined during the interviews and comparative staffing in the central administrative offices for judicial branches in various states and territories.

These estimates resulted in both short-term and future net cost reduction attributable to administrative consolidation. The short-term staffing effects are estimated as follows:

Estimated Short-term Staffing Effects of Consolidated Administration			
	Position Description	Gross Cost (Salary, FICA, Pension, Insurance)	Total Net Cost <Increase> or Reduction
<u>Immediate Additional Position</u> ²¹	Judicial Branch Administrator	\$152,454	\$152,454
<u>Short-term Additional Positions</u> ²²	Judicial Branch Human Resources Director	\$108,161	\$464,642
	Judicial Branch Procurement Officer	105,918	
	Judicial Branch Chief Financial Officer	138,083	
	Judicial Branch Chief Marshal	112,481	
<u>Short-term Reductions due to duplicative positions no longer necessary</u>	Supreme Court Administrative Director	\$149,917	(\$1,384,217)
	Superior Court Administrator	130,475	
	Asst. Superior Court Administrator	130,552	
	Superior Court Human Resources Director	106,461	
	Supreme Court Human Resources Manager	99,559	
	Asst. Human Resources Manager	88,241	
	Procurement Manager (Supreme Court)	88,794	
	Procurement Manager (Superior Court)	112,954	
	Chief Financial Officer (Supreme Court)	121,089	
	Chief Financial Officer (Superior Court)	141,926	
Chief Marshal (Supreme Court)	105,861		
Chief Marshal (Superior Court)	108,388		
	Net Short-term Annual Cost Reduction		(\$767,121)

In addition to the short-term staffing effects listed above, the current dual administrative structure also includes a number of similar and/or duplicative positions in both courts throughout various departments such as Budget & Finance, Information Technology, Facility Maintenance and Management, Marshal's Service. The determination of future cost reductions that would be possible under a consolidated administration should be based on a review of these types of positions in both courts. The grant for this project did not include sufficient resources to conduct a detailed study of the corresponding workload for all of these individual positions. As a result, the consulting team cannot provide a detailed listing of specific positions that would be considered duplicative or no longer necessary. However, once the decision to implement a consolidated administration is made and a Judicial Branch Administrator is appointed, the Judicial Branch should assess future administrative staffing based on the related duties and responsibilities, workload and ongoing needs of the Judicial Branch. Based on the consultants' understanding of the various positions and related responsibilities, as well as their

²¹ Assumes a base annual salary of \$125,000 plus applicable benefits.

²² Gross costs for these positions assume a base annual salary of 5% above the average for the current comparable positions in both the Supreme and Superior Courts.

knowledge of administrative staffing in similar judicial branches, it is estimated that an additional \$750,000 to \$1,000,000 in net annual budget savings could reasonably be expected.

Besides the net estimated cost reduction attributable to the reduced short-term and future need for various administrative positions, it is anticipated that savings would also be achieved through better coordination of purchases, especially high cost items such as software licensing, online legal research services, website hosting, and communications services. Some of these costs are determined by the number of users and rate reductions may be negotiated with the various vendors. Others would allow for contracting with only one rather than two separate vendors, thereby increasing purchasing power. Current expenditures for the two courts' separate case management systems total approximately \$230,000 annually. Because these systems are from different vendors and serve different purposes, it is not currently known if they could be compatible or whether automated data transfers between the systems can be made functional. However, a consolidated administration would enable an investigation of these options to proceed more quickly in order to maximize any potential cost savings.

Based on the figures provided to the consulting team, it appears that ongoing expenditures in the approximate annual amount of \$290,000 could potentially be reduced. An overall annual reduction in the range of 15% to 25%, or \$43,500 to \$72,500 is likely to be reasonable, although it is not possible to determine whether such savings would be achievable in the first fiscal year after consolidation or over a longer-term. That would require a review of the applicable contractual agreements and discussions with the corresponding vendor representatives.

The total net estimated cost reduction attributable to consolidation of the administration is summarized in the table below.

Summary of Estimated Annual Cost Reduction			
Description		Low Estimate	High Estimate
Staffing	Net Short-term Cost Reduction	\$767,121	\$767,121
Staffing	Future Cost Reduction	\$750,000	\$1,000,000
Procurement & Services	Coordination and Efficiencies in purchasing and managing operation	\$43,500	\$72,500
Net Estimated Cost Reductions		\$1,560,121	\$1,839,621

4.2.2 Organizational Structure

Under the consultants' recommended organizational structure, the current separate administrations would be consolidated and led by a Judicial Branch Administrator. The Judicial Branch Administrator would be appointed by and report to the Chief Justice. The practice in all judicial systems, except for the District of Columbia and the State of Georgia, is that the state court administrator is appointed either by the chief justice or the supreme court. This is in

keeping with the designation of the Chief Justice as the administrative head of the Judicial Branch.

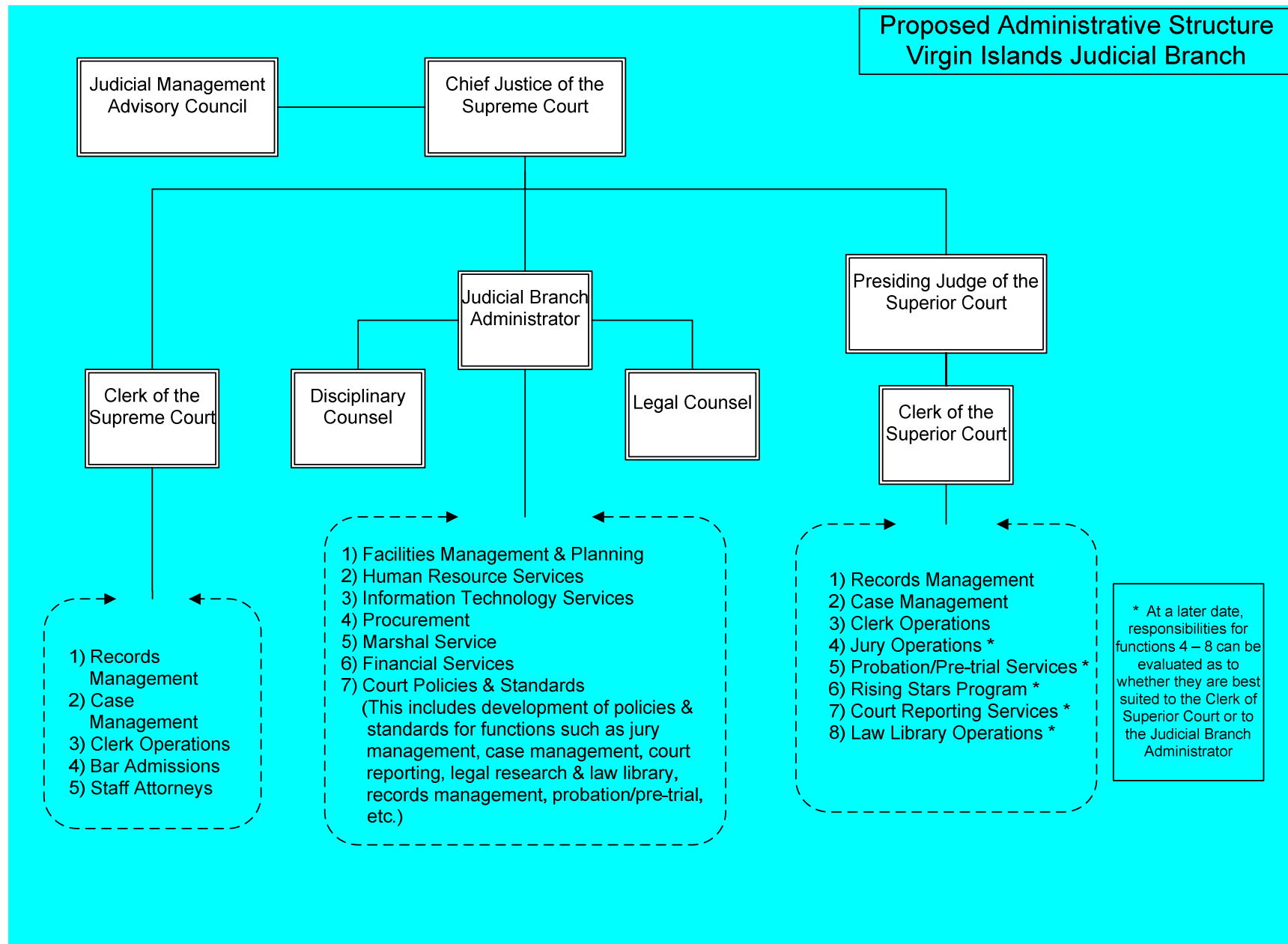
The Presiding Judge of the Superior Court would continue to oversee daily operations for that Court. Responsibility for certain trial court support functions, currently assigned to the Superior Court Administrator, would be reassigned to the Clerk of Superior Court. For example, while the consolidated administration would develop Branch-wide policies, certain activities such as jury operations, staff supervision, court reporting, etc. would continue to be performed at the Superior Court locations, under the supervision of the Clerk. This would require some assignment of these responsibilities to one or more staff members within the Superior Court Clerk's Office.

The Clerk of the Supreme Court would assume responsibility for managing the bar admissions function. Other responsibilities of the Supreme Court and Superior Court Clerks of Court would remain primarily the same as they are now except that standards and policies regarding case management, records retention, etc. would be established by the Judicial Branch Administrator under the guidance of the Chief Justice. The Clerks of the Supreme Court and the Superior Court will continue to report to the Chief Justice and Presiding Judge respectively.

The Disciplinary Counsel and the Judicial Branch Legal Counsel would report directly to the Director of Administration in order to maintain confidentiality and avoid potential conflicts of interest.

An organizational chart of the recommended administrative structure appears on the following page. This proposed organization also includes the Judicial Management Advisory Council. As noted previously in this report, responsibilities for operational aspects of certain trial court support functions, for which policies will be developed by the consolidated administration, have been placed under the Clerk of Superior Court. After the consolidated administration is established and well-functioning, the Judicial Branch may wish to consider whether some or all of these responsibilities should remain with the Clerk of Superior Court or be shifted to the Judicial Branch Administrator. This issue could be evaluated separately or in conjunction with the assessment of administrative staffing, which was discussed above in the Estimated Fiscal Impact section.

Recommendation: The project team further recommends that a list of responsibilities for the Judicial Branch Administrator, similar to those formerly included in Supreme Court Rule 101, be considered and adopted. A copy of Rule 101 is attached as Appendix A. Additionally, the Judicial Branch Administrator should be assigned Secretariat duties to the Judicial Management Advisory Council and participate in its deliberations as a non-voting member.



APPENDIX A – Supreme Court of The United States Virgin Islands: Rule 101

Rule 101. Administrative Office of the Courts

(a) **General Principle.** -It is essential that the entire Judicial Branch of the Virgin Islands have effective administrative services to preserve and support the independence of the judiciary as a separate branch of government. Judicial Branch administrative services include those functions required in developing and implementing the system-wide management authority and responsibilities of the Chief Justice as the administrative head of the judiciary and the Supreme Court as the administrative policy-making body for the entire Virgin Islands court system pursuant to 4 V.I.C. §§ 30; 31(d)(1),(3), and (4); and 32(e).

(b) **Responsibilities of the Judicial Branch Administrative Office.** -Under the administrative policies established by the Supreme Court and the management authority of the Chief Justice, there is established the Judicial Branch Administrative Office of the Courts (Administrative Office). The Administrative Office shall be headed by the "Administrator of the Courts" appointed by the Chief Justice and shall perform the following functions:

(1) Policy Development and Planning. --Participate in the development, implementation, coordination, and monitoring of Judicial Branch administrative policies and strategic plans.

(2) Legal Counsel. --Provide legal advice on the operation of the Judicial Branch; represent the Judicial Branch in legal proceedings; and represent individual judges, judicial officers, supervisors, and court personnel in legal matters arising from the performance of their official duties.

(3) Court Performance Monitoring. -Participate in the development, implement, and monitor compliance with Judicial Branch performance standards including the collection and analysis of quantitative and qualitative data and the evaluation of Judicial Branch programs and services.

(4) Budget Management. -Coordinate the preparation, review, and submission of the Judicial Branch budget; prioritize budget needs; and oversee the expenditure of funds consistent with the judicial budget.

(5) Fiscal Management. -Develop, implement, coordinate, and enforce Judicial Branch-wide fiscal management policies, standards, procedures and programs.

(6) Procurement Management. -Develop, implement, coordinate, and enforce Judicial Branch-wide procurement policies, standards, procedures and programs.

(7) Personnel Management. -Develop, implement, coordinate, and enforce Judicial Branch-wide personnel policies, standards, procedures, and programs.

(8) Information Technology Management. -Develop, procure, operate, and maintain automated management information, record keeping, and communication systems for the Judicial Branch.

(9) Records Management. --Develop, implement, coordinate, and enforce Judicial Branch-wide records management policies, standards, procedures, and programs.

(10) Case Management. --Participate in the development, coordination, implementation, and monitoring of Judicial Branch-wide case management policies, standards, and procedures.

(11) Facilities Management. -Develop, implement, coordinate, and enforce Judicial Branch-wide facilities management policies, standards, procedures, and programs; purchase or lease land and facilities as needed by the Judicial Branch; participate in the identification of needed renovations, improvements and repairs to Judicial Branch facilities; and oversee the completion of approved renovations, improvements, and repairs.

(12) Court Security Management --Develop, implement, coordinate, and enforce policies, standards, procedures, and programs to ensure the safety of judges, court personnel, court facilities, and members of the public using court facilities; the orderly conduct of judicial proceedings; and the continuity of Judicial Branch operations.

(13) Jury Management. -Develop, implement, and enforce jury management policies, standards, procedures and programs.

(14) Community Supervision Management. •-Develop, implement, coordinate, and enforce policies, standards, procedures, and programs for pre-trial and probation supervision services.

(15) Public Information, Liaison, and Annual Report. -Develop, implement, coordinate, and enforce Judicial Branch-wide public information policies, programs, and procedures; liaise and coordinate on behalf of the Judicial Branch with the legislature, the executive branch, and local government agencies, as well as with the bar, news media, and general public; and prepare the Annual Report of the Judiciary.

(16) Public Education. --Develop and disseminate educational materials to better inform the public regarding the laws and judicial procedures governing the Virgin Islands, how to access the courts, and the responsibilities of litigants, witnesses, and jurors.

(17) Continuing Professional Education. --Develop, implement, coordinate, and enforce continuing professional education policies, standards, procedures, and programs for judges, judicial officers, managers, supervisors, and other court personnel.

(18) Library Management. --Develop, implement, coordinate, and enforce policies, standards, procedures, and programs for providing statutes, rules, reports of decisions, and other legal reference materials and services for use by judges, judicial branch personnel, the bar, and the public.

(19) Regulation of Legal Practice. -Participate in the development, implementation, and coordination, in the enforcement of admission to legal practice and lawyer discipline policies, standards, procedures, and programs.

(20) Technical Assistance. Provide management and technological assistance to Judicial Branch units and individual judges, judicial officers, managers, supervisors, and staff.

(21) Secretariat for Meetings. --Serve as secretariat for the Judicial Conference, Virgin Islands, Judicial Committees, and other Judicial Branch bodies, meetings and conferences designated by the Supreme Court.

(22) Additional Duties. --Perform such additional duties as may be assigned by rule or the Chief Justice and where specified, the Presiding Judge of the Superior Court.

APPENDIX B – Principles for Judicial Administration

Governance Principles

Principle 1: Effective court governance requires a well-defined governance structure for policy formulation and administration for the entire court system.

Principle 2: Judicial leaders should be selected based on competency.

Principle 3: Judicial leaders should focus attention on policy level issues while clearly delegating administrative duties to court administrators.

Principle 4: Court leadership, whether state or local, should exercise management control over all resources that support judicial services within their jurisdiction.

Principle 5: The court system should be organized to minimize the complexities and redundancies in court structures and personnel.

Principle 6: Court leadership should allocate resources throughout the state or local court system to provide an efficient balance of workload among judicial officers and court staff.

Principle 7: Court leadership should ensure that the court system has a highly qualified, competent and well-trained workforce.

Decision-Making and Case Administration Principles

Principle 8: Courts should accept and resolve disputes in all cases that are constitutionally or statutorily mandated.

Principle 9: Court leadership should make available, within the court system or by referral, alternative dispositional approaches. These approaches include:

- a. The adversarial process.
- b. A problem-solving, treatment approach.
- c. Mediation, arbitration or similar resolution alternative that allows the disputants to maintain greater control over the process.
- d. Referral to an appropriate administrative body for determination.

Principle 10: Court leadership should exercise control over the legal process.

Principle 11: Court procedures should be simple, clear, streamlined and uniform to facilitate expeditious processing of cases with the lowest possible costs.

Principle 12: Judicial officers should give individual attention to each case that comes before them.

Principle 13: The attention judicial officers give to each case should be appropriate to the needs of that case.

Principle 14: Decisions of the court should demonstrate procedural fairness.

Principle 15: The court system should be transparent and accountable through the use of performance measures and evaluation at all levels of the organization.

Court Funding Principles—Developing and Managing the Judicial Budget

Principle 16: Judicial Branch leadership should make budget requests based solely upon demonstrated need supported by appropriate business justification, including the use of workload assessment models and the application of appropriate performance measures.

Principle 17: Judicial Branch leadership should adopt performance standards with corresponding, relevant performance measures and manage their operations to achieve the desired outcomes.

Principle 18: Judicial Branch budget requests should be considered by legislative bodies as submitted by the Judicial Branch.

Principle 19: Judicial Branch leadership should have the authority to allocate resources with a minimum of legislative and executive branch controls including budgets that have a minimal number of line items.

Principle 20: Judicial Branch leadership should administer funds in accordance with sound, accepted financial management practices.

Court Funding Principles—Providing Adequate Funding

Principle 21: Courts should be funded so that cases can be resolved in accordance with recognized time standards by judicial officers and court staff functioning in accordance with adopted workload standards.

Principle 22: Responsible funding entities should ensure that courts have facilities that are safe, secure and accessible and which are designed, built and maintained according to adopted courthouse facilities guidelines.

Principle 23: The court system should be funded to provide technologies needed for the courts to operate efficiently and effectively and to provide the public services comparable to those provided by the other branches of government and private businesses.

Principle 24: Courts should be funded at a level that allows their core dispute resolution functions to be resolved by applying the appropriate dispositional alternative.

Principle 25: Court fees should not be set so high as to deny reasonable access to dispute resolution services provided by the courts. Courts should establish a method to waive or reduce fees when needed to allow access.

APPENDIX C – List of Interviewees

Supreme Court of the Virgin Islands:

Chief Justice Rhys S. Hodge
Justice Maria M. Cabret
Justice Ive Arlington Swan
Regina Peterson, Assist. to Administrative Director
Kevin Williams, Dep. Director Technology Services
Veronica J. Handy, Clerk of Court
Koya Otley, Human Resources Director

Natalie Thomas Pickering, Procurement Manager
Delphine Farr Janey, Disciplinary Counsel
Lawrence Walcott, Jr., Chief Marshall
Elsie Mae King, Director of Bar Admissions
Elanore Francis, Account Clerk I
Keesha Rogers, Account Clerk II

Superior Court of the Virgin Islands:

Presiding Judge Darryl Dean Donohue, Sr.
Judge Douglas Brady
Judge Julio A. Brady
Judge Michael C. Dunston
Judge Adam G. Christian
Judge Jim S. Carroll
Judge Debra Watlington
Magistrate Alan D. Smith
Magistrate Miguel A. Camacho
Venetia H. Velazquez, Clerk of Court
Glendia B. Caines, Court Administrator
Lisa Davis-McGregor, Asst Court Administrator
Rolda Mason, Human Resources Director

Colleen Clendinen, Asst Human Resources Director
Nissa Bailey, Asst Human Resources Director
Paul Gimenez, General Counsel
Mary Barnes, Law Librarian
Tashima O'Bryan, Law Librarian
Kim Aska, Procurement Manager
Herman Hart, Information Technology Analyst
Travis Dolcar, Information Technology Analyst
Darwin Dowling, Chief Marshal
Vince Simmonds, Assistant Chief Marshal
Joseph Mahoney, Facilities
Vernon Browne, Facilities
Paulette Rabsatt-Simmonds, Chief Financial Officer

Other:

Glenda L. Lake, Chief Clerk of the U.S. District Court of the Virgin Islands