



## Vermont Judicial Branch

### FY 2018 Budget Summary – Key Budget and Programmatic Issues



#### The Judiciary's FY 2018 budget presentation materials include six documents:

- This summary of key FY2018 budget and programmatic issues within the Branch
- [Vermont Judiciary Annual Statistical Report for FY2016](#)
  - [Appendix I- Judiciary Statistics FY16](#)
  - [Appendix II - Judiciary Statistics FY16](#)
- [Vermont Judicial Branch Overview, 2017 Legislative Session: Courts, Judiciary Programs, and Performance Measures](#)
- Budget detail document – includes budget “ups and downs” and all Vantage reports
- Guardian ad Litem Issue Paper [Enhancing the Vermont Guardian ad Litem Program](#)
- “Lean” analysis [Streamlining Juvenile Proceedings - Lean Analysis](#)

#### Topics covered in this summary document include:

- Courts, Judiciary Programs, and Performance Measures
- Upward Caseload Pressures on Court Resources
- Structural Challenges in Court System Funding
- FY 2018 Budget: Governor's Recommendation
- Process for Development of the Judiciary's FY 2018 Budget Request
- Budget Items Not Included in the Governor's Recommendation
- Creating a More Efficient Vermont Judiciary

#### Courts, Judiciary Programs, and Performance Measures

Basic indicators of court performance are a necessary ingredient of accountability in the administration of justice and effective governance of the third branch. Moreover, performance measures provide a structured means for courts to communicate this message.

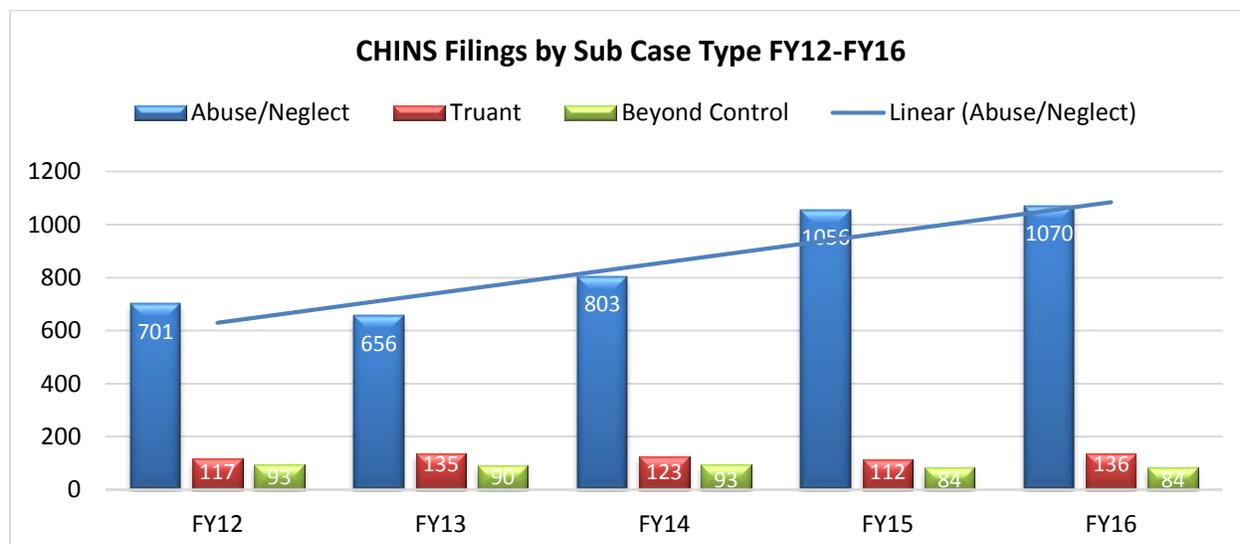
The Vermont Judiciary assesses performance through measures developed by the National Center for State Courts. CourTools is an instrument designed to foster consensus on what courts should strive to achieve and their success in meeting objectives in a world of limited resources.

The Vermont Judiciary also used the Results Based Accountability model to measure performance of court programs. These programs include treatment court dockets, the Vermont Superior Court family mediation program, the parent coordination program, the Guardian ad Litem program, the Court Interpreter program, judicial and staff education programs, and educational programs designed to inform self-represented litigants, parties in relief from abuse proceedings, and parties in divorce and parentage proceedings.

The Vermont Judicial Branch Overview for the 2017 Legislative Session, which accompanies the Judiciary’s budget materials, sets forth in greater detail the Mission, Vision, and Principles for Administration of the Vermont Judiciary adopted by the Supreme Court, as well as performance measures established by the Judiciary, where applicable, and measurements of performance outcomes, to the extent available.

### Upward Caseload Pressures on Court Resources

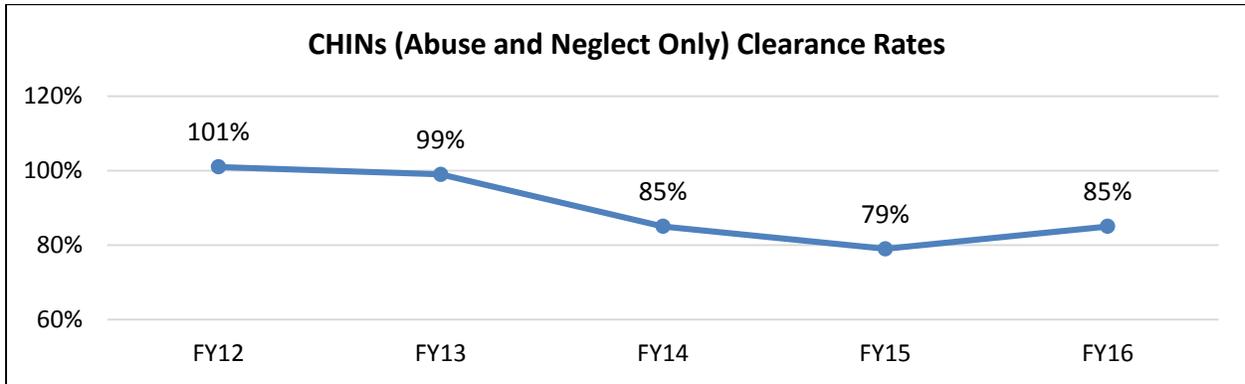
#### Increase in Abuse/Neglect (CHINS) Filings



### CHINS

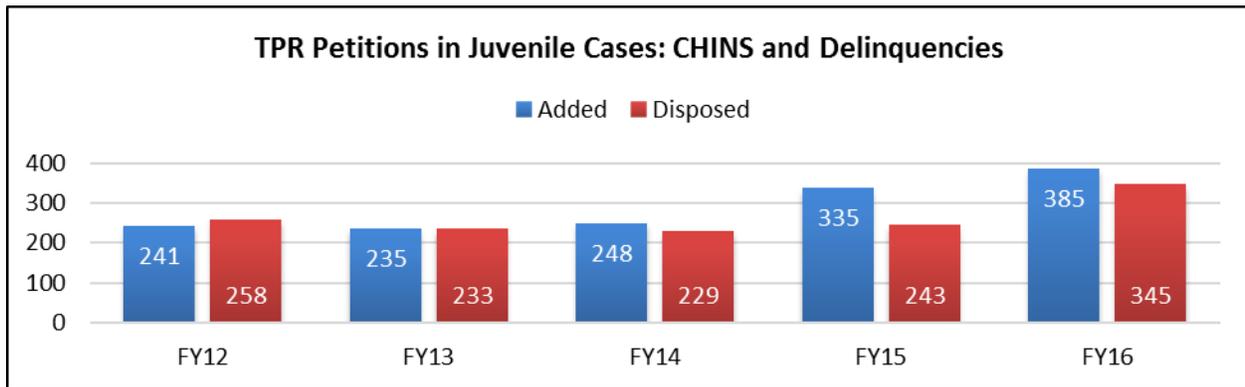
Of the 1,290 CHINS cases filed in FY16, 1,070 were abuse/neglect cases, the remainder were beyond parental control or truant. The increase in CHINS filings over the past few years has been fueled primarily by a dramatic growth in abuse/neglect cases. The number of abuse neglect filings from FY15 to FY16 increased slightly more than 1%. However, these filings are still very high; abuse/neglect filings have increased 63% since FY13.

The clearance rate for Abuse and Neglect cases rose 6% from FY15 to FY16. Although encouraging, this clearance rate remains one of the lowest of any group of cases in any division of the superior court. CHINS cases are labor intensive for judges and court staff. They require numerous hearings and the stakes for the litigants are high. Not only are many of the children involved in these cases removed from the custody of their parents, there is always the threat of termination of parental rights if parents are unable to regain custody within a reasonable amount of time. Clearance rates below 100% is a source of concern. It means the development of a backlog of cases that will be difficult to overcome without a dramatic decline in the number of filings or an increase in resources.

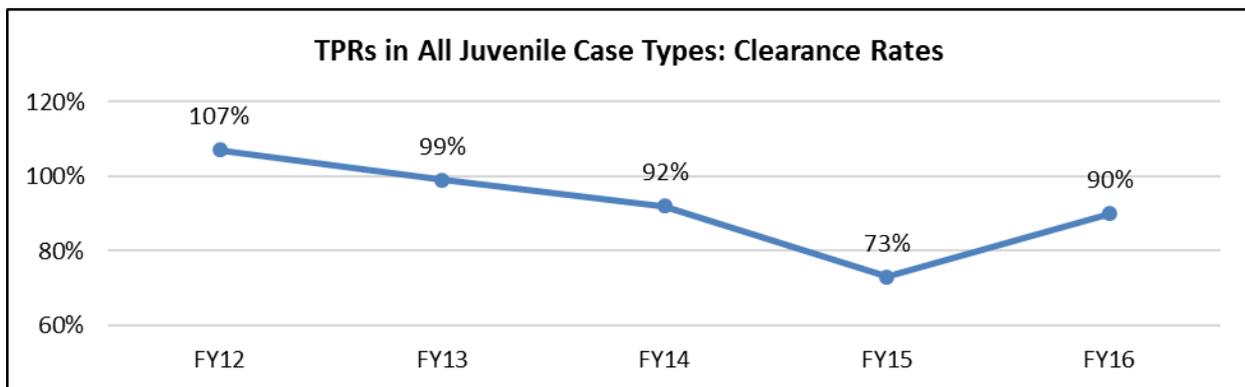


### Increase in Termination of Parental Rights (TPR) Filings

TPR petitions have increased by 60% since FY12 with the major increase occurring during the past two years. This is a trend that is likely to continue given recent increases in the number of CHINS filings.

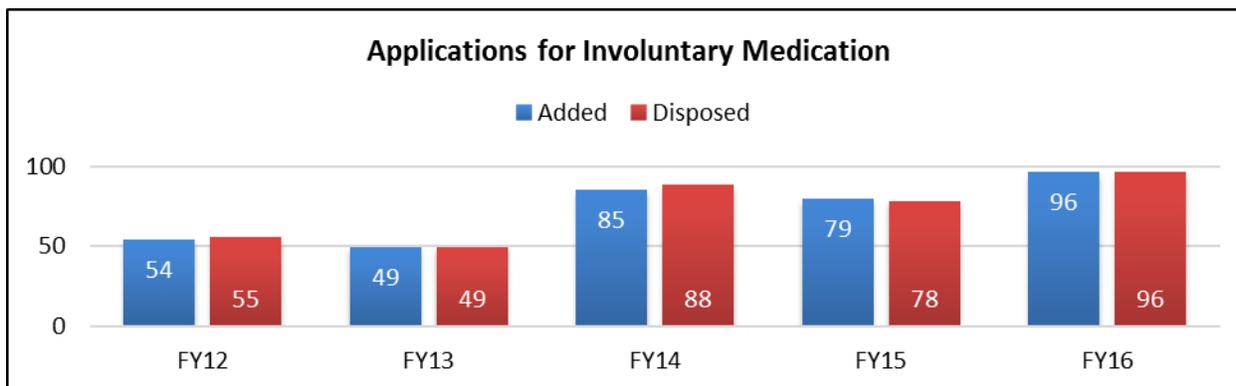


The clearance rate for termination of parental rights petitions rose dramatically in FY16, rising 23% and signaling a return to previous clearance rates.



### Increase in Applications for Involuntary Medication

The fastest growing case type in the mental health docket is involuntary medication. While the numbers of cases remain small in comparison to applications for involuntary treatment or continued treatment, they nearly doubled in FY16 as compared to FY12. From a workload perspective medication cases require a significant amount of judge time since they are almost always contested. They also place a significant burden on the family division units where a designated hospital is located.



### **Structural Challenges in Court System Funding**

The Judiciary’s funding structure provides relatively little room to absorb growth in operating costs due to its reliance on General Funds, and there is relatively little leeway to reallocate resources within the Branch due to high share of personnel and physical footprint costs as a share of the total budget.

Over 88% of the Judiciary’s budget is funded with General Funds; while less than 5% is derived from various fee and surcharge sources, as illustrated below.

<b>Fund:</b>	<b>FY 2018 Governor's Recommendation</b>	<b>Fund Sources as Percent of Total</b>
General Fund	\$41,716,625	88.3%
<b>Fee-based revenue sources:</b>		
Attorney Admission Licensing Fund	\$759,089	1.6%
Court Technology Fund	\$1,631,724	3.5%
<b>Other fund sources:</b>		
Waste Management Fund	\$128,305	0.3%
Environmental Permit	\$148,342	0.3%
Inter-Unit Transfer Fund	\$2,325,272	5.0%
Federal Revenue Funds	\$556,455	1.0%
<b>TOTAL</b>	<b>47,265,812</b>	<b>100.0%</b>

In addition to being heavily reliant on General Funds, the Judiciary’s budget is concentrated in several cost areas. The three largest items – salary and fringe benefits; Fee for Space; and court security contracts – account for 88% of the Branch’s expenses. After accounting for mandatory

internal service charges and accounting transactions, only 8.3% of the Judiciary’s budget is associated with operating expenses.

<b>Major category of expense (all funds):</b>	<b>FY 2018 Governor's Recommendation</b>	<b>As Percent of Total</b>
Salary and Fringe (less vacancy savings) (including new position requests)	\$33,839,992	71.6%
Fee for Space (including Lamoille expansion)	\$5,226,083	11.1%
Court security contracts (including proposed rate increase)	\$2,525,303	5.3%
Other internal service charges (DII; VISION; Insurance)	\$1,335,881	2.8%
Cash payment to DCF (Title IVD accounting transaction)	\$422,720	0.9%
All other expenses	3,915,833	8.3%
<b>Total (all funds)</b>	<b>\$47,265,812</b>	<b>100.0%</b>

### **FY 2018 Budget: Governor’s Recommendation**

The primary sources of budget pressures behind the Judiciary’s FY 2018 budget recommendation can be divided into two categories: state-wide pressures that confront all units of State government, and pressures specific to the Judiciary. All these pressures increase the cost of adequately providing the Judiciary’s current level of services; none of them reflect new programs or initiatives by the Judiciary (although in some cases they reflect innovative approaches to key pressures). Funding of these pressures is critical in maintaining – and not falling further behind – the already austere operational capacity, caseload pressures, and constitutional obligations of the Branch.

State-wide General Fund pressures include:

- Salary and salary-driven fringe benefits (i.e., the annualization of the FY17 Pay Act): \$865,246
- Employer share of health insurance premiums: \$116,349
- Internal service charge pressures (primarily Fee for Space; but also VISION accounting/payroll system; DII allocated charges; insurance; etc.): \$606,020
- **Total state-wide pressures: \$1.6M, or 4.1% GF increase versus FY 2017**

Judiciary specific General Fund pressures included in the Governor’s Recommendation include:

- Lamoille courthouse expansion – Fee for Space for “State portion” of building: \$153,936
- Opiate related Family Division caseload crisis - 3 new positions: 1 Juvenile docket master & 2 court support - each position 50% FTE (all General Funds): \$137,952
- Sheriffs' and other security contract rate increase - 4%: \$100,000
- Guardian ad Litem shortage crisis - utilize non-profit organizations to assist in recruiting, training, retention of GAL volunteers: \$264,234
- Potential impact of collective bargaining: \$ TBD
- **Subtotal: Judiciary-specific pressures: \$656K, or 1.7% GF increase versus FY 2017**

**TOTAL FY 2018 Judiciary – Governor’s recommendation: \$2.8M, or 7.1% GF increase versus FY 2017**

The figures above make clear that a significant portion of the Judiciary’s budget pressures are associated with State-wide issues that confront all units. We defer to the Agency of Administration to address those pressures with the Appropriations committees.

#### **Process for Development of the Judiciary’s FY 2018 Budget Request:**

The Supreme Court solicited input from various units within the Judiciary to identify FY 2018 budget pressures and provide a venue for requested new programs and initiatives. Upon the review and compilation of those responses, the Supreme Court identified that the fiscal needs of current operations constituted the highest priority of funding – so that caseloads and other metrics of judicial performance did not decline further. In other words, funding to support current services required such a significant fiscal increase that it was impractical to seek funding for new initiatives or programs in the upcoming budget cycle. This decision was not a reflection on the merits of those proposals, and the Judiciary may pursue them in the future when the fiscal climate is more conducive.

The following is brief discussion of each of the Judiciary-specific pressures:

#### **One-time Funding for Next Generation Case Management System (NG-CMS): \$5.8M -**

The following information and figures are preliminary pending final vendor selection and contract negotiation. The Judiciary has begun the process of acquiring an NG-CMS to replace its antiquated current case docketing system. (See [Vermont Judiciary Next Generation Case Management System \(NG-CMS\) Legislative Update](#) previously provided to the Legislature on January 24, 2017, for additional details about this project). The Judiciary has preliminarily estimated a total project acquisition cost of approximately \$12M. Act 26 of 2015 (FY2016-2017 Capital Bill) appropriated \$4.55M for the first stages of acquisition of the NG-CMS, with the expectation that the Judiciary would return during this Capital Bill cycle to request the remaining

funds. This fall, the Judiciary submitted a request of \$5.8M as part of the Governor's Capital Bill development process. (The Judiciary expects to contribute \$1M-\$2M of its own Court Technology Funds toward the acquisition cost.) As part of the Governor's overall fiscal package, the Governor opted to include the Judiciary's request for NG-CMS funding in his annual Appropriations bill by funding it with one-time "non-budgeted revenue" rather than in the Capital Bill. The Judiciary is pleased that this most critical project is fully funded in the Governor's overall plan, and defers to the other two branches as to the most appropriate means to fund it. As noted above, the Judiciary has provided extensive documentation of this project, and given its importance and complexity, we request that the Appropriations Committees allow us the opportunity to meet with them on this topic separately in addition to our general operating budget hearing.

**Lamoille courthouse expansion – Fee for Space for “State portion” of building: \$153,936:** The courthouse in Hyde Park was county-owned and served all four divisions of Superior Court in Lamoille County, but lacked sufficient space and ADA accommodations to provide modern court services. Rather than build a separate building, the State elected to finance an expansion, with the resulting combined building being jointly owned by the State and County. The additional Fee for Space reflects the State's portion (40%) of building operating costs.

**Opiate related Family Division caseload crisis - 3 new positions: 1 Juvenile docket master & 2 court support - each position 50% FTE (all General Funds): \$137,952:** Section 1 of Act 167 of 2016 authorized a Judicial Master position with certain limited judicial authority to assist with Family Division caseload pressures (but did not create any appropriated positions). The proposed part-time Master position, along with two part-time support staff, would “float” among counties depending where Family Division caseload pressures were greatest.

**Sheriffs' and other security contract rate increase - 4%: \$100,000:** In most Vermont counties, the County Sheriff provides security services in the courthouses. These services are via contract with the Judiciary; there is no constitutional or statutory requirement that the sheriffs provide these services. For many years, the sheriffs have expressed concerns that the rates offered by the Judiciary have not kept up with growth in the costs of those services. In the spring of 2016, the Windham County Sheriff alerted the Judiciary that he would not be renewing his contract to provide services in the county's courthouses in FY 2017 and beyond, based on his assessment of the Judiciary's rates relative to his cost of services. In an expedited competitive process, the Judiciary engaged a private security firm (Securitas USA) to provide services there, and the results so far have been positive. However, it remains the Judiciary's preference where possible to utilize the sheriffs for these services. The Judiciary requested funding for an 8% rate increase with the intent to bring the Judiciary's rates closer to (albeit still lower than) other government entities that utilize the sheriffs' services, and hopefully forestall further voluntary terminations of services by the sheriffs. The Governor's recommendation included funding for a 4% rate increase.

**Guardian ad Litem Program crisis – contract with non-profit organizations to manage recruiting, training, and support of GAL volunteers: \$264,234:** The Vermont Guardian ad Litem Program (VTGAL) is a statutorily required program whereby the Judiciary recruits, trains, and supervises volunteer guardians ad litem (GALs) who advocate on behalf of children involved in Family Division proceedings. The Judiciary allocates General Funds to maintain this program. Those funds pay for a statewide program manager as well as several part-time regional GAL coordinators who oversee all aspects of the program in the counties where they are assigned. The Judiciary also uses those funds to reimburse volunteer GALs for eligible expenses. The current levels of funding and staffing are insufficient to recruit, train, and supervise the number of volunteers needed to meet current and projected demand. The Judiciary’s FY 2018 proposal requests an increase in funding to be allocated to the VTGAL. This additional support will provide the funding the Judiciary needs to establish contractual relationships with one or more non-profit organizations, which would manage the program in one or more counties and be responsible for recruiting, training, and supporting the volunteers in those counties. This issue is discussed at greater length in the “Guardian ad Litem Issue Paper.”

**Potential impact of collective bargaining: \$ TBD:** The Judiciary recently concluded bargaining with the VSEA for the FY2017-2018 contract. The “across-the-board increase” (ABI) and average financial value of step increases are already reflected in the Judiciary’s Pay Act appropriation. The contract also includes a provision for an independent review of the classification of docket clerks, court security officers, and related positions. At this time, we cannot anticipate the results of that review. For instance, the report could find that these positions are appropriately classified, in which case, there would be no fiscal impact. If, however, the review found that reclassification was appropriate, the potential impact could be significant, depending on the increments and scope of an upward position classification. The contractual language requires the Legislature to fund any reclassification increase before it can go forward.

**Technical budget issue – swap of Tobacco Settlement Funds for General Funds:** During the Judiciary’s meeting with the Secretary of Administration and Finance Commissioner regarding its FY18 budget request, the Executive Branch requested the following “fund swap” – eliminating the Judiciary’s Tobacco Settlement Fund appropriation of \$39,031 and replacing it with General Funds. The Judiciary understands the swap to be related to the Executive Branch’s goal to consolidate the uses of the annual Master Tobacco Settlement funds, as those special fund revenues decline over time. The Judiciary does not object to this swap, and intends to use those funds as it did the Tobacco Settlement Funds – to partially support its program manager position that oversees treatment and other specialty court programs.

## **Budget Items Not Included in the Governor's Recommendation**

The Judiciary appreciates that given the constrained fiscal climate, the Governor included adequate funding for state-wide budget pressures and many of the Judiciary-specific pressures that were included in the Judiciary's request. The following identifies those items requested by the Judiciary that were not included in the Governor's Recommendation:

- **General Funds to support Research and Information Services (RIS) IT unit in Judiciary, to replace declining Court Technology Fund revenues: \$125,227:** The Court Technology Fund is funded by several fees, the largest of which is a \$12.50 surcharge on all civil violations. Payment of civil violations is in decline. The Court Technology Fund has declined in annual revenues from a peak of approximately \$2M to approximately \$1.5M. The Judiciary requested \$125K, which reflects the difference between last year's estimated revenues and this year's. The Court Technology Fund supports technology acquisition by the Judiciary but also supports a portion of the RIS division. It is reasonable to expect that Court Technology Funds will never return to their original level, creating a base budget need for the Judiciary, presumably to be backfilled with General Funds. While the Judiciary currently has a positive balance in the Court Technology Fund, those reserves are earmarked for critical technology acquisition projects. It is likely that this item will come back as either a budget adjustment or FY 2019 request.
- **Sheriffs' and other security contract rate increase - 8%: \$97,270:** For the reasons discussed above, the Judiciary requested an 8% rate increase for Sheriffs and other security providers, and the Governor included funding for a 4% rate increase. While recognizing the constrained fiscal climate and the Judiciary's other budget pressures, the Judiciary reiterates its request for funding at the 8% level to hopefully forestall further defections by Sheriffs.
- **Five additional security officers (2 deputies; 3 private security): \$280,084:** At the request of the Legislature, the Judiciary has conducted two studies over the past two years to review the security operations and infrastructure of State courthouses. Both studies identified the need for additional court security officers because existing staffing levels did not meet "best practices." In last year's budget request, the Judiciary requested 18 additional officers as an initial step toward a minimally-acceptable staffing level; the Legislature opted not to create or fund any additional positions. For FY 2018, the Judiciary identified five locations where the staffing levels are currently dire and in need of immediate rectification. The Governor's Recommendation does not include funding for these additional services. The staffing needs remain, and the Judiciary will continue to express its concerns about the risks from inadequate court security staffing levels.

## **Creating a More Efficient Vermont Judiciary**

Over the past several years, the Judiciary has undertaken multiple initiatives – both large and small – to create a more efficient delivery of judicial services. The following is a brief description of those initiatives.

### **Large-scale initiatives:**

The Judiciary is taking on a variety of restructuring endeavors to improve and modernize operations. Many of these initiatives, however, will not manifest into “harvestable” budget savings in the immediate future. The items discussed below will: (1) take several years to produce quantifiable savings; (2) produce savings other than within the Judiciary; (3) improve the quality and customer experience of the judicial process but not necessarily reduce costs; or (4) some combination of the above.

**Next Generation Case Management System:** The FY16-17 Capital Bill provided \$4.6M funding, reflecting the first tranche of project that is likely to cost \$10M-\$15M. An outside project management firm has been working with the Judiciary for several months, and is currently assisting the governance team in the vendor selection and contract negotiation processes. It is expected that the procurement will be complete and implementation vendor will be onboard by March 2017. Funding legislation requires the Judiciary to present information to the Legislature prior to finalization of vendor selection. The Next Generation CMS has potential to overcome a variety of current operational roadblocks, but may also require future operational restructuring. (Experience from judicial units in other states is that there likely are not significant cost savings – rather there are significant operational improvements for the courts and court users.)

**Video appearances:** For over a year, a pilot project has been underway to conduct video arraignments in the Chittenden County criminal division and associated Department of Corrections facilities. That pilot program recently expanded to five days a week. As a result, more than 500 detainee transports have been avoided. Reducing detainee transports saves costs in the budget appropriation for Sheriffs and State’s Attorneys (not the Judiciary). More importantly, reducing transports increases the safety for the detainees, the Sheriff’s deputies, Judiciary employees, and all court users. The multi-departmental workgroup overseeing this project has identified Bennington County Superior Court and Marble Valley Correctional Institution as the next sites for program expansion. This project was initially funded with \$210K of one-time funds to purchase equipment at courthouses and correctional facilities. The Judiciary estimates that an additional \$101K is needed to purchase equipment for all facilities.

**“Lean process” analysis of abuse/neglect proceedings process:** With financial and technical assistance from the Department of Environmental Conservation, the Judiciary convened an interdisciplinary working group in October 2016 to explore improvements to abuse/neglect proceedings under the “lean process” approach. The group analyzed how courts schedule and resolve matters from inception of the case up to merits hearings. The working group included a

judge, a court clerk, a public defender, a prosecutor, an assistant attorney general, four DCF employees, and 2 guardians ad litem. During its weeklong analysis, the group identified several issues and opportunities for improvement cutting across multiple players in the process. The group identified several recommendations, which are currently under review by the Supreme Court. This subject is discussed in more detail in the “lean analysis” issue paper included in this budget package.

### **Small-scale initiatives:**

Over the past several years, the Judiciary has engaged in multiple small-scale efficiency efforts to mitigate cost growth and fund small initiatives. Much of this savings has been achieved by empowering local court managers through the creation of “unit budgets” and monthly budget-to-actual reports so those closest to the operations can impact spending decisions. Other savings have been achieved by consolidating court operations where small annex operations were consolidated into larger ones within the same county. Savings have been achieved in a variety of budget line items, including (figures reflect savings versus the FY 2015 budget unless otherwise noted):

- **Eliminating use of Equipment Revolving Fund for small equipment purchases:** \$321K annual savings;
- **Telephone lines:** (reducing # of lines): \$34K annual savings (versus FY13 budget);
- **In-state mileage:** (increased use of fleet vehicles and imposition of mileage reimbursement limits): \$26K annual savings;
- **Office supply purchases:** \$55K annual savings;
- **Postage:** (via increased use of electronic mailings): \$17K annual savings;
- **Books and periodicals:** (via use of electronic media and more efficient allocation): \$20K annual savings.