

State of the Judiciary January 12, 2007
Mary J. Mullarkey, Chief Justice
Colorado Supreme Court

President Fitz-Gerald, Speaker Romanoff, Members of the 66th General Assembly, honored guests and friends:

Introduction

It is an honor to be here to discuss with you the State of the Colorado Judiciary. The first week of a new session always fills us with optimism about the future and the hope that great things can be accomplished for the citizens of our state. When state government works together to build a future that better meets the needs of the public, there is reason to be optimistic.

My remarks today continue a long tradition of the Chief Justice addressing members of the General Assembly at the beginning of every new session. Your invitation allows each Chief Justice to discuss a few of our successes and to draw attention to the challenges we face, particularly to the obstacles or difficulties that perhaps together we can resolve. It also is an opportunity to share a vision of the Judiciary that is committed to working with the other two branches of state government to improve the judicial services to the people of this state. It is my pleasure to do just that today.

Description of the Judiciary

As Chief Justice, I proudly represent the state's 275 judges and justices, and more than 2,800 full- and part-time employees of the Colorado Judicial Department. The state court system includes two levels of trial courts -- the county courts and the district courts -- and two levels of appellate courts -- the Court of Appeals and the Supreme Court.

We have a statewide presence. Every county has a court house where county and district cases are filed and decided by our judges. Our probation officers provide community-based supervision of criminal offenders in every jurisdiction. Members of the Judicial Branch are your neighbors and friends in communities throughout the state.

In the past year, more than 750,000 new cases of all types were filed in our trial courts. That number includes more than 190,000 cases filed in the district courts and more than 557,000 cases filed in the county courts. The Court of Appeals received nearly 2,748 new cases and nearly 1,400 new cases were filed in the Supreme Court.

These are not just attention-grabbing numbers. Rather, these cases represent lives that have been impacted, often adversely, through the acts of others. One of these cases may be a fourteen year-old who was caught writing graffiti on the neighbor's garage. On the other end of the spectrum, one of the 750,000 cases is a child who will be adopted into a family, getting a second chance at a life full of love and hope. We resolve all types

of disputes ranging from minor traffic infractions to highly complex, multi-million dollar commercial transactions, murder cases and everything in between.

Our probation officers supervised more than 37,000 adult offenders and more than 7,000 juvenile offenders. We supervise more people who have been convicted of crimes than any other entity in the state. Again, these are not just numbers. Every offender, every victim, their family members and many others in the wider community are impacted by our courts and our system of justice.

Just as our cases are not mere numbers, the people who work for the Judicial Branch are also more than numbers. I want to put the faces on the Judiciary by sharing some of our achievements from the recent past with you.

In August, over 100 judges, attorneys, probation officers, treatment providers and local community officials met in Cortez, to learn best practices in developing DUI courts and working together to more effectively address the problem of persistent drunk driving in the four corners region. Teams from the Judicial Branch were joined by teams from the Southern Ute Tribe, the Ute Mountain Ute Tribe, the Navajo Nation, Jicarilla Apache Nation, and judges from the Justice of the Peace courts in eastern Utah. This two-day program informed participants about DUI Courts and also provided a forum for teams to begin planning and refining how to most effectively operate DUI Courts in their districts. One result of this program is that the Colorado Department of Transportation has awarded a grant of \$500,000 to the Colorado courts to establish DUI Courts in Durango, Pagosa Springs, Cortez, and Breckenridge. The grant includes the Southern Ute Tribe and the Ute Mountain Ute Tribe in the effort to have courts from the various jurisdictions work collaboratively in monitoring problem drivers through local probation departments and treatment programs.

Turning to children and family cases, I can report the outstanding success of our statewide court case management system which has been praised as a national model for the collection and electronic transfer of information. This process makes critical information more readily available to all interested governmental entities in order to enhance the quality of decision making and public safety. "FAMJIS" (or the "Family Justice Information System") began in 2003 with a federal grant aimed at strengthening court efforts in child abuse and dependency cases. Better informed decision making is made possible by real-time data exchange with social services allowing the judicial officer to access a comprehensive snapshot of a child or a family's progress through the courts, including the number of times the child has been moved, the services a family has received, and the other cases involving that family. As one judicial officer reported, "[FAMJIS] helps provide judicial officers with succinct information to make decisions in the best interests of the children." Further, the data exchange provides detailed reports on outcomes to enable the Judiciary to develop best business practices and to collect relevant information for staffing models and resource allocations. Based on the success of this project, in future years, the Judicial Branch and Human Services Department hope to expand this FAMJIS program in the child support arena.

This fall, Colorado hosted to the State Court Interpreter Certification Consortium, an organization that addresses the growing numbers of court users who are not proficient in English. This group of thirty-nine states joined together to adopt standards and qualifications for court interpreters and to administer tests for certification. The Colorado courts work with interpreters of more than seventy different languages and have certified or credentialed interpreters in five languages in addition to Spanish.

The last topic I want to highlight is court house security. County officials, sheriffs and law enforcement officials joined judges and court administrators to address shortcomings in court security. The Court Security Committee met over a period of several months in 2006 to discuss how to provide security in court houses throughout the state to a level appropriate for each court location. This committee came up with innovative ideas that moved the discussion away from stalemate to solutions that could improve conditions in court houses in all areas of the state. Many of the identified solutions do not cost additional money and can be implemented immediately. The work of this committee forms the basis for one of the legislative initiatives I hope you will consider in this session.

Beyond these specific subjects, there are many other noteworthy achievements. For example, we have implemented problem-solving courts such as drug courts that emphasize treatment and personal responsibility. We have developed resources to provide mediation and other alternative methods used to resolve disputes without trials. We have used federal court improvement project funds to improve the outcomes for abused and neglected children. Our judges continue to be recognized as leaders by state and national organizations.

Legislative Requests

Here in this room we come together as the Legislative Branch and the Judicial Branch united in our goals to serve the people of Colorado. We each have very distinct roles yet these roles are intertwined as we go about doing the people's business. Today I come to you in my capacity as Chief Justice representing the Judiciary and respectfully request your assistance in fulfilling our responsibility to our three-branch system of government.

This year we are asking for the General Assembly's help as we focus on three primary issues facing the Judiciary. We hope that by working together solutions will emerge so that we can better serve the needs of the citizens.

Revised Staffing

Last year, we presented and you approved the first year of our five-year staffing plan. This year we ask you to look at the remaining four year plan that includes new judges, court staff, and probation officers. The volume of cases in the courts and probation that I described earlier place burdens on the system that cannot be met by existing judicial resources. If you conduct business at one of our courts, almost universally you can expect delays that are excessive by anyone's standards. Most courts

are closed to the public at noon and at 4 p.m. so that the staff can process the hundreds of new documents filed each day. Despite our best efforts, we cannot serve the public as well as we should.

The number of people and entities filing cases in the courts continues to exceed existing resources. Factors that typically influence the volume of new case filings include population growth, the economy, changes in state law and law enforcement policies, and other demographic factors. The biggest factors impacting court caseloads during the last ten years are population growth and the economy. We have about one new case filed each year for every six or seven people living in the state.

Beyond the sheer numbers of cases are other components that impact our ability to provide services. Today we have more diverse court users increasing the demands for language interpretations, more litigants than ever are proceeding without attorneys, and the nature of cases is becoming more complex.

It is important to recognize that the courts and probation also play a critical role in providing public safety. As we continue to see a system that is straining under the burden of rising demands and highly restricted resources, the issue of public safety weighs heavily on us. In the last thirty years, the amount of time a district judge has available to spend on a case has dropped dramatically from approximately one hour per case per year to less than thirty minutes today. Probation officers have seen their caseloads increase to levels far exceeding recommended standards.

In the past, the legislature has given fair consideration to our requests. You also have been receptive to examining alternative funding mechanisms to help us. We are again coming to you asking for your help.

Colorado's courts continually endeavor to be more effective and efficient. However, caseload growth has far outstripped new resources. By Fiscal Year 2008, case filings in the trial courts will have increased by 139 percent in a thirty-year period, while judicial officers including both judges and magistrates will have increased only forty-eight percent. We would need 191 new judicial officers to match the caseload growth in the trial courts.

The Colorado Judicial Branch is pursuing a long term staffing plan that will bring the courts to a more adequate level of staffing by Fiscal Year 2011. Key to this plan is enactment of HB1054 sponsored by Representative Terrance Carroll and Senator Brandon Shaffer. This bill would create sixty-three additional judgeships over the next four years. These judgeships are needed to address workload increases in fifteen of the state's twenty-two judicial districts and in the Court of Appeals. In total, the branch is requesting forty-nine new district judgeships, eight new county court judgeships and six new Court of Appeals judgeships.

The proposed increase in judgeships constitutes an approximate five percent increase per year for the next four years. This rate of growth will allow the courts to keep

pace with an average case filing increase of four percent per year and provide for very limited progress in making up for the historical understaffing.

I would be remiss if I did not tell you that the multi-year plan represents only a partial fulfillment of needs that exist in our courts. We had to cut our staff by thirteen percent when the budget collapsed in 2002-2003. Although we have recovered that number of positions, we have fallen behind because of the increasing caseloads. Allocation of the requested positions will not solve all our problems. It will, however, allow us to resolve disputes in a more timely fashion and reduce the risk of committing avoidable mistakes.

Court house Security

The second issue we will be bringing to you is security in our rural courts. There has been a very disturbing trend of violence directed at the courts, judges, attorneys, and everyone associated with them. At its most basic level, this is an attack on the rule of law and the American belief that disputes are resolved peacefully through court litigation, not by the use of force.

Our primary concern is the safety of all who use our courts including members of the public coming to conduct routine business, litigants, jurors, witnesses, attorneys, court staff, probation officers, judges, and law enforcement personnel. Many litigants do not want to be in court, are very emotional, and have extremely high levels of anxiety. In very recent history, Colorado has had a court house hostage situation, a suicide, arson, vandalism, and numerous attempts to bring weapons into facilities. We are currently working with county officials and law enforcement agencies re-evaluating facilities in light of the recent trend of violence directed toward the Judiciary. Currently there are thirty-eight court houses without full-time security screening available. Our goal is to address each court house in the state with an assessment of how best to provide security at that location, implement those measures that do not require additional funding, and obtain the resources necessary to implement additional security in combination with county officials in those locations where feasible.

Colorado Judicial Complex

The third issue is replacing the State Judicial Building. I have made note of this pending need in previous State of the Judiciary messages and last year you appropriated planning money for us to study the feasibility of this project. Because of the size and solemn nature of this investment for the people of Colorado and the institution itself, it is not a proposal we make lightly. Rather we are putting forward our request recognizing that construction of a new center of justice is in the best interest of the state and will be a cornerstone of our state for generations to come.

As you know, we are your neighbors in the block to the southwest of this building. For thirty years, we have shared our block with Colorado History Museum, which is funded as part of the higher education budget in the Executive Branch.

The Judicial Department and Colorado Historical Society have worked together to develop a joint proposal. The Museum would first be relocated to a site in the cultural and historical district near Civic Center Park. By constructing a new museum building, the Historical Society will be able to address its concerns about inadequate space and meeting current museum standards.

We currently face a number of challenges in our existing facility. The building was full the day it opened. Thirty years later it is an overcrowded, dilapidated building. Noncompliance with safety, fire, egress, ventilation, and American with Disabilities Act standards and codes are coupled with a physical design making the building vulnerable to potential terrorist attacks. The design also makes it impossible to renovate the building into a useable, secure workplace. Unfortunately, the State Judicial Building is a failed building that must be replaced as soon as possible.

We have coped with overcrowding in part by leasing offices in various locations in the metro Denver area. Currently we have four separate locations. The multi-location situation in and of itself creates numerous inefficiencies and is very expensive to the state both in terms of operational expenses and the loss of time employees spend going from facility to facility.

Our proposed building project would maximize the use of the block. It will house not only the two appellate courts and our administrative functions, but it would also house the legal offices funded by the state. These include the attorney general's office, the alternate defense counsel, the office of the child's representative, and the public defenders' office. The new complex consolidates costs, capitalizes on efficiencies, and greatly enhances security for all these agencies. It is a multi-agency and multi-party effort; and we need bi-partisan support.

The state has built no office space during the past thirty years, creating an explosion of extremely expensive rental commitments. We will be asking for your help in making the Colorado Center of Justice a reality. We are not naive in making this request knowing that you have many demands for scarce discretionary funds. We will be providing you with a package of funding alternatives and mechanisms for your consideration.

Outlook

We are proud of what we have accomplished. We resolve every dispute that comes before us, no matter how difficult, no matter how emotional, no matter how volatile. We have worked very hard to provide the highest level of services within our resource limitations. We have maximized limited resources and streamlined procedures wherever feasible. We have utilized technology wherever practical to increase the efficiency of our case processing. However, the benefits from these efficiencies cannot be sustained without additional judicial resources to adjudicate the caseload and staff

resources to process the cases so that judges have the information necessary upon which to render judgments.

There are no easy answers to addressing our challenges; however, there are opportunities and options that are important to examine. The court-related filing fees in Colorado are some of the lowest in the nation. For example, in district court civil filing fees we rank thirty-fifth in the nation. County court civil filing fees rank forty-sixth in the nation. These fees can be raised without adversely affecting access to the courts. There are other opportunities that should be explored to reclassify some general fund related court filing fees into cash funds. For our part, we are committed to continuing to explore, develop and implement efficiencies, and streamline processes.

Future

The future of the Judicial Branch depends on the support of the citizens and the other branches of government. In the past year, as the state celebrated the fortieth anniversary of the merit selection of judges, Colorado voters rejected a proposed constitutional amendment which would have imposed term limits on appellate judges. The effort to educate voters about the impact of the proposed amendment came from many different sources, but especially from leaders in the Executive and Legislative Branches of government. This effort reinforced my belief that the three branches of government must understand one another and work together to educate the public about the functions of state government. The people of Colorado must continue to treasure and respect the role of the Judicial Branch as an essential feature of state government. We have only to look around the world to see what happens in a place that does not have the rule of law.

An educated citizenry enhances the Judiciary's ability to protect constitutional and statutory rights and liberties; to assure equal access to the courts; to provide fair, timely and constructive resolution of cases; to enhance public safety; to successfully supervise offenders; and last but certainly not least to facilitate victim and community reparation. Each of these is possible only through all of us coming together – the Legislative, Executive and Judicial Branches, each with equally important yet distinctly different roles for the people of Colorado.

None of the issues I have raised here today is unique to Colorado or revolutionary in nature. They represent the building blocks of a Judiciary dedicated to providing an accessible, fair, impartial and respected institution for the people it serves.

Thank you for the invitation to join you here today. We look forward to continuing our long and honorable tradition of working with the Legislative and Executive branches to face challenges, develop viable alternatives, and enhance the ability of all three branches of government to serve all Coloradans.