

State of the Judiciary January 14, 2005
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Colorado Supreme Court

President Fitz-Gerald, Speaker Romanoff, Members of the 65th General Assembly, honored guests and friends:

Introduction

It is an honor to join you today to discuss the State of the Colorado Judiciary. The General Assembly has a long tradition of inviting the Chief Justice to address its members at the beginning of each new session. It gives the Chief Justice an opportunity to update the General Assembly on the work of the Judicial Branch over the prior two years and to present the judiciary's requests for legislative action.

Description of the Judiciary

As Chief Justice, I proudly represent the state's 256 judges and justices, and more than 2,800 full and part-time employees of the Colorado Judicial Branch. 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 are a statewide organization with at least one judge and one courthouse serving in every county. The judiciary also includes probation services. Our probation officers supervise persons who are convicted of crimes and serve their sentences within the community rather than in the custody of the Department of Corrections. In the past year, almost 700,000 new cases of all types were filed in our trial courts. That number includes over 177,000 cases filed in the district courts and 514,000 cases filed in the county courts. Our probation officers supervised 39,000 adult offenders and 6,800 juvenile offenders. The court of appeals received 2,500 new cases and 1,300 cases were filed in the supreme court.

By any standard, the judiciary faces a heavy workload in the courts and probation. That work has been made more difficult by the state's financial crisis. The last two years have been difficult ones for the Judicial Branch, as they have been for many people living in Colorado and for the state government generally. We have had to cope with rising caseloads and fewer financial resources. When I am asked to describe the past two years, I say we are dancing as fast as we can.

Effects of Budget Cuts

When I last spoke to the General Assembly in 2003, we were responding to the falling revenues with temporary measures including a hiring freeze and requiring employees to take eight days without pay. It quickly became obvious that more drastic measures were necessary. Because 85 percent of our budget goes to pay personnel, we must reduce personnel costs in order to reduce our expenditures. When our budget was cut for the fiscal year that began on July 1, 2003, we had to eliminate jobs. We reduced our total number of positions by 290 full-time employees, or 13 percent.

As fate would have it, the number of new cases filed has been rising just as the numbers of employees have been falling. Case filings in the trial courts generally follow the state's population. About one case is filed for every six or seven people living in the state. If, as I read, Colorado's population is now 4.5 million, our new cases are likely to exceed 700,000 and may reach 750,000 before the fiscal year ends on June 30, 2005.

We absorbed many of our job losses through attrition by holding a position vacant when someone resigned or retired, but we were required to lay off more than 90 people. These were good employees who lost their jobs through no fault of their own. As you can imagine, this has been a demoralizing experience.

We have survived as well as we have because of the extraordinary dedication, hard work and ingenuity of our judges and employees. In coping with our new reality, we have tried to follow two principles. One is to give our judges and employees the tools and training to do their jobs. The other is to give priority to cases that are time sensitive or involve the most vulnerable people. If we don't have time to do all the cases, we must do those cases first. A prime example of high priority cases are those involving abused and neglected children. We have also looked for new ways to handle cases cheaper, better and faster. We aim to reduce unnecessary costs and delay while getting better results for the litigants. In other words, we have invented some new steps to keep up with the music.

My constant concern is that we are not able to give the people of Colorado the level of services that they should receive. To compensate for the lost staff, most courts have reduced their public hours. Courts close their doors at noon or 4 p.m. so that the clerks can process the hundreds of documents going in and out of the courts every day. Telephone calls may go unanswered and the lines of people waiting for services are longer. Many district courts no longer have live court reporters, but rely on electronic recording devices. Some judges lack basic clerical support services to retrieve files, enter orders and mark exhibits.

Other effects of the budget cuts are not as visible. Court employees must perform each task more quickly or leave the task undone. Judges have less time to analyze and decide each case. The same is true for probation officers and staff. The average caseload is now 217 adult offenders per probation officer, a ratio far above the national recommended standard. To supervise 217 people, each probation officer is allotted only eleven minutes per week with each adult offender. That is not much time for the effective rehabilitation that the public expects. The probation officers also assist victims and prepare pre-sentence reports for judges. We run the risk in the courts and probation that we will make mistakes that could have been avoided.

Increased workloads have caused us to rely more heavily on improvements in computer technology and other innovations.

Use of Technology

The Colorado Judicial Branch has often earned national recognition for its advances in technology. Over the past two years the Branch has been recognized for its case management system, and its role in the state's CICJIS or criminal justice information project. The courts and Colorado Bureau of Investigation have worked closely together to match arrest records and court dispositions. The current disposition match rate of over 90 percent far exceeds the national average of 30 percent. The courts have also worked with CBI on developing an automated sex offender registration system that will more efficiently track these offenders. We continue to work hard in enhancing both of these systems which are critical to efficient case processing and public safety.

The Branch has also been a leader in the area of electronic filing. This allows attorneys to file their court pleadings through the Internet rather than by coming to the courthouse. The benefits of this to the courts, litigants and their attorneys are clear. Electronic filing has been a voluntary system for the most part, and its value can be seen in the fact that is used in 70 percent of the district court civil

cases. The ultimate goal is to have a “paper-on-demand” system where paper works for us rather than against us. Paper would not be generated automatically, but would be produced only when needed. On a pilot project basis, several courts such as the Denver Probate Court, Boulder County District Court and courts in Arapahoe, El Paso, Alamosa and Teller counties have already made e-filing mandatory. The time savings and storage space savings are already impressive and bound to increase over time.

The Colorado courts are leading the nation by being the only statewide court system that has electronic filing capabilities in all of its general jurisdiction civil, domestic relations, probate and water cases. No other state can match that. We hope to expand electronic filing to the county courts in the next several months.

There are other technology projects underway or recently completed to improve the way we do business. For example, we have better, more accurate lists for summoning jurors. We exchange data electronically with executive agencies. The Department of Corrections shares data electronically with the courts to track restitution paid by inmates. We will be working with the Department of Human Services to exchange electronic data on child welfare and child support services.

While information technology is a great tool for the courts, there are other tools that are equally important to the long term success of the Judicial Branch. Those are the new ideas and innovative approaches to managing cases that will change the way courts operate. Simplified Divorce and simplified civil discovery are two of the new approaches that benefit courts and the parties.

New Approaches

Civil litigation is often criticized as expensive, complicated, acrimonious and slow. It is seen as beyond the reach of the average person even though the average person sometimes must resolve disputes through the courts.

We have developed two successful ways to address these problems. The first is Simplified Divorce which has greatly reduced the time it takes to get a divorce and the bitter feelings that often develop during a lengthy divorce proceeding.

Simplified Divorce depends on specially trained judicial officers or court personnel meeting with the divorcing couple soon after the case begins and resolve informally as many matters as possible. The formal discovery process is largely eliminated and the disputed issues that must be tried are greatly reduced.

We have taken a similar approach to smaller civil cases in which less than \$100,000 is at stake. By rule, we have strictly limited the amount of pre-trial discovery so that the costs are reduced.

Simplified Divorce has been a great success. It started as an experiment but now is the norm statewide. Simplified discovery for civil cases has been in use for a shorter time but it is proving to be similarly popular.

Both of these “cheaper, better and faster” innovations originated in Colorado and have no equals in other states. They illustrate the creative thinking that can make a real difference.

Let me briefly describe the progress we have made in a few areas that may be of interest to you.

Dependent and Neglected Children

As I mentioned earlier, we are committed to prompt handling of cases involving children who have been removed from their families because of neglect or abuse. Since 1997, there have been concerted efforts at the national, state, and local levels to reduce the time these children spend in limbo not knowing whether they will be reunited with their parents or freed for adoption. They need decisions to be made as soon as possible on what their permanent placement will be.

Through better case handling, our district courts have greatly reduced the time it takes to make the permanency decisions in these cases. Adams County District Court, for example, has reduced the time for making permanency decisions for children by an average of three to four months per case. The El Paso County District Court and El Paso County Human Services were recognized nationally last month by the United States Department of Health and Human Services for excellence in increasing the number of children adopted. Seventeen awards were given nationwide and Colorado has the only trial court to be honored for improving the judicial system.

Our efforts to expedite these cases are now moving to the appellate courts where we hope to have success equivalent to that of the trial courts.

Problem Solving Courts

Throughout the state we have also developed specialized courts to address persistent social problems such as drug abuse or mental illness. Emphasis is placed on rehabilitation and treatment with strict accountability by the offender to the court. The goal is to break the cycle which repeatedly brings the same offender back to court for having committed new offenses.

One new effort is the Denver Family Integrated Drug Court, which coordinates hearings and treatment for family members when a parent is a defendant in the adult drug court and the children are involved in a case pending in the juvenile court. The juvenile case may be delinquency, dependency and neglect, truancy or paternity. A team works with the family to provide individual treatment, family therapy and other services. A case is successful if the adult completes probation and the family is reunited. Although the numbers are small with 57 participants to date, the results are encouraging. We have been awarded another federal grant to expand the program.

The idea of bundling together all pending cases involving a family is sometimes called "One Family/One Judge." Adams County District Court has used the concept for several years and generally 50 to 60 pending cases are handled this way. Juvenile delinquency, dependency and neglect, and truancy cases are bundled with child issues from dissolution of marriage or paternity cases. All of the family's cases are heard by the same judge who can make certain that the family is receiving consistent treatment and planning.

Jury Reform

We have an ongoing effort to improve the quality of jury service by making better use of jurors' time and giving them the tools to do their work. I mentioned earlier that we have improved the lists to summon prospective jurors. The process for reporting for jury duty and being excused from jury service has been streamlined. Once in the court room, jurors are treated differently from the way they were in the past. No longer are jurors expected to sit passively and remember days or weeks of

testimony without taking a note. Jurors receive notebooks with the relevant information. Jurors are now able to take notes and can submit questions to the judge to ask witnesses.

Three of our jury trials were nationally broadcast on television this year. Each was a one hour documentary of a homicide trial. The three judges involved were Judge Gloria Rivera and Judge Morris Hoffman, both of Denver District Court, and Chief Judge Harlan Bockman of the Adams County District Court. Each documentary provides a “behind the scenes” look at a real criminal trial that is accurate and interesting. We hope to use the videotapes to educate the public about the work of the courts.

Now let me turn to our legislative requests for this year.

Legislative Proposals

The Judicial Branch has before the Joint Budget Committee our request for funding in the 2006 fiscal year. We are requesting funding for the personnel expenses that are common policy for all state employees.

Beyond the basics, our top priority is the funding of 12 new district judges that were authorized in 2001 and scheduled to be added in the last two fiscal years. The positions were not funded because of the budget problems, but the need has not diminished. In fact, even more judges are needed now in both the district and county courts.

If state revenues rebound as predicted, we hope that the 12 judges and 48 associated staff are finally funded. We are also seeking 56 new probation officers to reduce the caseload and improve some specialized programs that were reduced.

We are discussing with the Joint Budget Committee some changes in our business practices that could free up money to fund our proposed increases. As always, we will work closely with the committee as it considers our budget requests.

The Judicial Branch is making four requests for substantive legislation as well. We are seeking reauthorization of the Family Friendly Facilities law, which will sunset if not extended. This provides money for children’s waiting rooms in courthouses so that children are not exposed to court proceedings that do not involve them while their parents attend court hearings.

We also seek a change in the senior judge program. This statute allows retired judges to work on a part-time basis and has become an invaluable aid to our sitting judges. I ask that the legislature remove the twelve year cap on senior judge service. We are losing some of our best senior judges because of that limit.

Two other proposals I suggest are long-range planning issues that might be subjects for interim committees. One is the future use of the block occupied by the state judicial building. We are your neighbor down the hill between Broadway and Lincoln on 14th Avenue. Our building houses the supreme court and court of appeals. It has been greatly overcrowded for years and most of our employees now are located off-site in rented office space at three different locations in the Denver area. The south end of the block is occupied by the Colorado History Museum, and it, too, is short of space.

My vision is that the Museum will relocate to a site of its choosing and the entire block will be committed to the Judicial Branch and related state entities such as the Attorney General and Public Defender. It may take 10 or 20 years to accomplish, but we should start planning now.

The other project I suggest the legislature undertake is examining the 22 judicial districts into which the state is divided. With the state's rapid growth and increased concentration of the population in urban areas, it is time to see if the boundaries of the judicial districts should be changed.

The judiciary deals with the existing districts every day but there are other interested parties such as the District Attorneys and the counties. A study should include all the stakeholders and the legislature is the body that can do that.

Conclusion

I wish you well as you undertake the important work of this session. Doing the people's business is always difficult, but this year will be especially hard. I hope you look favorably on our requests so that the courts can better serve the people.

Thank you.

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