State of the Judiciary
Chief Justice Allen T. Compton, Alaska Supreme Court
Message to the Legislature
February 25, 1997

Introduction

First I would like to introduce to you my colleagues.

The newest appointee to the Alaska Supreme Court was appointed last month by Governor Tony Knowles. A former supreme court law clerk, Alaska District Court Judge, and United States Attorney, one of the original appointees to the Alaska Court of Appeals when it was established in 1980 and, only through this day's end, it's only Chief Judge, Alexander O. Bryner.

The newest member of the court, also only through this day's end, the first woman to be appointed to the Alaska Supreme Court, Justice Dana A. Fabe.

The next senior justice was raised here in Juneau, attending Capitol Elementary and Juneau-Douglas High Schools. Justice Robert L. Eastaugh.

Our next senior justice has been a member of the supreme court since 1977. Justice Warren W. Matthews.

Today, February 25, marks the 70th birthday of the senior member of the Alaska Supreme Court. He has served on this court for 32 years, including four terms as its Chief Justice. Before his appointment to this court, he served five years as a superior court judge in Fairbanks. His record of service to the judiciary of this state, and, through his judicial office to the people of this state, is unsurpassed, and unsurpassable. Today also marks the last day of his active service, tomorrow the first day of his retirement. Justice Jay A. Rabinowitz.

Also with us today is Arthur H. Snowden, Administrative Director of Courts, well known to you because of his work with the courts over the last 24 years. This will be Mr. Snowden's last appearance as Administrative Director at a State of the Judiciary Address, as he is retiring this spring. He has provided the administrative leadership that has helped make the Alaska Court System a model for state court management throughout this country. His vision, his strength of purpose, and his unselfish devotion to the institution are hallmarks by which he has become known, and by which he will be known long into the future. Also with us is Stephanie Cole, currently the Deputy Director for the Alaska Court System, who has been selected by the Alaska Supreme Court to become the next Administrative Director.

New Judicial Appointments

Since we last met a larger than usual number of judges have been appointed to the bench. Ben Esch was appointed to the Nome Superior Court to fill the vacancy created by the retirement of Judge Charles Tunley. Eric Sanders was appointed to the Anchorage Superior Court to fill the vacancy created by Justice Fabe's appointment to the supreme court. Recently Dan Hensley, Sen Tan, and Anchorage District Court Judge Michael Wolverton were appointed to the Anchorage

Superior Court to fill vacancies created by the retirements of Judges Mark C. Rowland, Karl S. Johnstone and Joan Woodward. The Valdez Superior Court vacancy was administratively transferred to Palmer, because of Palmer's critical caseload, and filled by the appointment of Eric Smith. William Bonner is presently the Acting District Court Judge in Valdez, where a vacant district court judgeship now is being advertised. Finally, Fred Torrisi was appointed to the Dillingham Superior Court, a new judgeship created by the last legislature.

The vacancies created by these many retirements have left courts in the Third Judicial District without necessary judicial resources. To compensate for the temporary loss of judicial resources, district court judges in Anchorage have served as superior court judges pro tem. Acting district judges were hired in their place to assist in the district courts. While there has been some disruption, the Presiding Judge and Area Court Administrator for the Third Judicial District, and those who work with them, whether judicial officers or administrative staff, have done a magnificent job in minimizing any inconvenience to litigants and the public which our courts serve.

Development of a Judicial Complex in Anchorage

Adding to the sense of displacement that many Alaska Court System employees in Anchorage felt this past year, in May the Anchorage trial courts moved into the Nesbett Courthouse, located east across I Street from the existing Boney Building. In October administration staff moved from four different locations into the newly renovated building located directly south across Fourth Avenue from the Nesbett Courthouse. This Administrative Office Building is the final addition to the Anchorage Judicial Complex. The proximity of the supreme court, court of appeals, trial courts and administrative offices have resulted in efficiencies in operations not possible in the past. We now have conference facilities that will accommodate statewide meetings of judges, clerks and magistrates. On site warehouse space obviates the need to lease a storage and archival facilities. Some additional remodeling work remains to be done in the Boney Building, but after years of overcrowded conditions the Alaska Court System in Anchorage now has adequate space to house all necessary functions.

New Legislation in Genera: Domestic Violence In Particular

It is common that laws enacted by the Alaska State Legislature become the framework within which the judiciary works. An example of this symbiotic relationship is the passage of the Domestic Violence Protection and Victim Protection Act of 1996. This Act substantially changed many aspects of both civil and criminal law in Alaska. Initially the court system responded to these changes by providing extensive training conferences for judges, magistrates, and clerks, an effort made possible in large part by federal funding available through the state's Violence Against Women Act committee. ln addition we have produced comprehensive written training materials for judicial officers and offices. We have modified forms used by victims of domestic violence when seeking assistance, and on which judicial officers document the issuance of protective orders. The significance of the changes brought about by the new law cannot be minimized, nor can the difficulties be ignored. For us, we have to respond, just as do you when you perceive a need for new or additional laws.

The judiciary is just now beginning to see the impact of the new domestic violence law on our caseloads and on the amount of time that our judicial officers dedicate to the handling of those

cases. In the first six months since the new domestic violence law became effective, we had a nearly 18% increase in the number of domestic violence civil protective order filings. Our judges tell me that the amount of time each individual case takes is generally double what it took under the pre-July 1 996 law. The time increase is a result of the additional mandatory hearings now required, the increased number of issues being considered, the increase in the number of cases being contested, and the increase in the number of attorneys involved in these cases. We have not been able to calculate the increase in the number of criminal cases resulting from- the mandatory arrest provisions of the new law, but every indication is that our criminal caseload has been affected as well.

As both state and federal laws increasingly emphasize the need for a comprehensive response to the problem of domestic violence in our society, the Alaska judiciary will continue to make every effort to comply with the changes in the law and to cooperate with the executive and legislature to maximize efforts to respond to the problems the changes address. I encourage you to recognize that such efforts by the judiciary, and the executive branch as well, require adequate funding as well as adequate time to prepare for the changes. I ask you to make a careful assessment of the true costs of changes, such as the creation of a mandatory registry for domestic violence protective orders and the time it takes for the executive branch to implement such a registry, and a careful assessment of the broadening of the issues which each judicial officer must consider before granting a protective order. It takes money to implement new laws. It takes time to make the necessary adjustments to effectuate them. Domestic violence is but one of many areas of change which impact the judiciary similarly.

On behalf of the judiciary, I want you to know that we appreciate the difficult job you face in making and funding new laws. We want to work cooperatively in a partnership with you and with the executive to assure the effectiveness of all our efforts in these areas.

Caseload Statistics

In large part, the court measures its workload, and its resource needs and allocations, by assessing the levels of caseloads and the changes that occur in these caseloads over time. In this last fiscal year, one of the most dramatic changes we observed was a 16% increase in felony filings statewide, with seven courts reporting a greater than 20% increase in felony filings. Within these statewide felony filings, the largest statistical grouping was violent crime. Also of interest is the recent growth of the children's proceedings caseload. Between fiscal year 1993 and fiscal year 1996, we have seen a 26% increase in children's filings in superior court. Over this same period of time, our largest court in Anchorage experienced a 65% increase in children's filings.

Case filings help us predict workload, but case filings do not always reflect the level of activity at a court location, because they do not include post judgment proceedings, for instance. In recent years, trial judges have seen an increase in post-judgment activity, particularly petitions to revoke probation, motions to modify child support, and motions to modify child custody. These proceedings can be as time-consuming and complicated as the original action.

Caseload statistics also do not reflect the increased number of pro se litigants. Nationwide, state and federal courts have seen a huge -increase in the number of citizens who represent themselves in court, shunning the assistance of a lawyer. These litigants place a disproportionate stress on

the court system, because they generally are less knowledgeable and skillful about accessing the justice system, and require more assistance from judges and court staff.

Standing Advisory Committees

The Alaska Supreme Court currently has ten standing advisory committees on rules and court procedures. Last year, 115 individuals served on these committees. The committees studied and made recommendations to the supreme court on a range of issues, including management of grand juries, expanded use of telephonic appearances in criminal cases, simplification of felony sentencing procedures, mandatory disclosure of information in divorce actions, alternative dispute resolution, standards for home study investigations in adoptions, improved case management in child-in-need of aid cases, and implementation of the new domestic violence law. Without these committees, we would be lost.

lndigency Guidelines Committee

The Alaska Constitution guarantees persons charged with crimes the right to the assistance of counsel for their defense, as does the United States Constitution. These constitutional provisions require that counsel be appointed for indigent defendants at public expense. Alaska's Public Defender Act defines who qualifies as an "indigent person" for this purpose.

Early last year it came to the attention of the supreme court that the criteria used to decide whether to appoint counsel for indigent persons varies substantially among and even within judicial districts. Last April, with the supreme court's approval, I appointed a committee to recommend standards to be used by judges in determining a person's eligibility for appointed counsel. This committee, which currently consists of four judges, one magistrate and two pretrial services clerks, has been working on this project since last May. The committee expects soon to forward its recommendations to the supreme court.

Joint State-Federal Courts Gender Equality Task Force

State and federal courts in Alaska established a joint Gender Equality. Task Force in 1993. They renewed their commitment to the goals of this group last year. The Task Force has demonstrated that the state and federal courts can cooperate successfully on an important venture that serves citizens throughout the state. Members of the Task Force completed and published their final report last year, recommending education for court personnel and judges, as well as for lawyers. They also suggested state and federal court rules and a state ethics rule for attorneys prohibiting gender discrimination. The Task Force has begun to update the Women's Legal Rights Handbook, a state publication last revised in the 1980s. Other state agencies, non-profits, and the private bar are cooperating with the Task Force, which is funded primarily by donations from the Anchorage Bar and private individuals. The Task Force will continue to assess the progress that state and federal courts are making towards providing gender fairness for all persons in the courts.

Court Advisory Committee on Fairness and Access

In late 1995, the supreme court established a special committee, called the Committee on Fairness and Access, to investigate issues of concern to minority ethnic and cultural groups throughout the state. Although the courts can take pride in the fact that sentencing patterns have

not shown ethnically related disparities for nearly twenty years, we believed that it was time to take a broader look at people's access to the justice system. The committee has sought the help of ethnic groups across the state, has scheduled public hearings, and is compiling extensive information about the six major areas of concern that the members identified. These include the court's role as an employer, selection of juries, access to the courts in the rural areas of the state, possible disparities in the incarceration of adults and juveniles, the experiences of ethnic and cultural persons who come into the courts as parties or witnesses, and language and cultural barriers that may exist.

Because we are in the middle of collecting data about these issues, I cannot give you a complete picture of the committee's findings. It is worth noting that the state's population appears to be diverse in ways we had not expected. For example, magistrates in smaller communities from Ketchikan to Barrow said that periodically they need Spanish interpreters in their courts. Many have needed Filipino translators, and some needed Russian or Korean and other Asian languages. In the predominantly Yupik and lnupiat communities, the courts find a strong need for bridging cultural as well as linguistic gaps in understanding. We will need to work with other state agencies, private organizations, and community based interest groups to begin to meet these needs, once we have the committee's recommendations in hand.

We invite you to attend the committee's Juneau public hearing, set for March 26 at the courthouse from 5:00 p.m. to 7:00 p.m., and to contact us if you or any of your constituents have issues that this committee should consider.

Child in Need of Aid Committee

In January of this year, I appointed a new supreme court committee to investigate and recommend ways in which Alaska courts can better handle child in need of aid proceedings. As part of a nationwide effort to ensure that children do not linger in foster care, the court had asked the Alaska Judicial Council to study the way in which child in need cases are handled in Alaska courts. In October 1996, the Judicial Council issued a comprehensive report indicating a number of areas in which improvements and further studies were warranted. The new Child In Need of Aid Committee, chaired by Sitka Superior Court Judge Larry Zervos, will continue the efforts begun by the Judicial Council, and will help the court move towards implementation of needed changes in our system. The court's work is being supported in part by a four-year federal grant which is available to all states for work in this area.

I want to stress that service on one of these committees, whether a standing committee or a special committee, is not simply another line to be put on a resume, or in a law directory. Committee work is done by dedicated volunteers, who put in many thankless hours in the performance of their tasks. They receive no pay for what they do, and indeed often must step away from their desks to perform volunteer tasks. They serve not simply the bench, or the Alaska Court System, but you and the people of the state as well. Their impact on the judiciary is quite significant, yet their profile low. They richly deserve our thanks.

Legislative Proposals

I will briefly mention two legislative proposals we have asked the House and Senate Judiciary Committees to introduce. One will transfer the issuance of marriage licenses from the court

system to the Bureau of Vital Statistics. Currently, the bureau creates the marriage license form and is the custodian of marriage license records. The bureau agrees with the court system that it will be more efficient for the bureau to manage the distribution and issuance of marriage licenses, benefitting the public by providing one location rather than two for applications, licenses, and recording.

The second bill addresses a problem that is of increasing concern to public officials nationwide. There is a developing problem of so-called patriot groups recording false liens against the property of public officials and others who do not share their political views. A false lien can tie up private property for years, and cost the state substantial attorney time in attempting to clear title to the property. The proposed legislation will make it a misdemeanor to record a false lien, and simplify the process for removing one.

Budget

Today I am going to mention only one item in our budget, because it is unusual. We have requested $1,431,800 to provide funding for 22 additional Department of Public Safety Court Security Officers.

As you may be aware, Title 22, Article 3 of the Alaska Statutes provides that the Commissioner of Public Safety is responsible for providing a variety of services to courts, including services to maintain order. Due to increasing concerns from both courts and the Department of Public Safety that inadequate security personnel are being provided in the court environment, we asked the Department of Public Safety to investigate and report to us what additional resources would be necessary to provide adequate security services to courts statewide. The funding request you see in our budget reflects the assessment provided to us by the Department of Public Safety. Because the receipt of the Public Safety report came so late in the process of preparing this year's budget documents, we included it in our own budget request, but with the understanding that funding appropriated for this purpose should most appropriately be channeled to the Public Safety budget.

I urge you to take this request very seriously. We must provide a safe and secure court environment for members of the public, litigants and witnesses, and court staff. Nationally, we have seen a dramatic increase in violent incidents in court environments, often with tragic results. We have the opportunity to take steps to avoid that type of devastating event in our own state, and we owe it to the people of the State to provide them with a court environment which is free from the very real threat of violence.

Conclusion

It is our view that the state of Alaska's judiciary is sound. Nonetheless, as the branch of government without a political constituency – and quite rightly so – it is fragile. It depends upon the legislature's and executive's willingness to maintain it as the strong, independent branch of government intended by the drafters of our constitution. We stand ready, willing, and able to cooperate with the legislature and executive in those areas where cooperation will not compromise the independence so necessary to the judiciary in our system of government checks and balances.

The judiciary does not exist and function in a vacuum. It is part and parcel of all the men and women who work for the Alaska Court System, whether they be judicial officers or administrative personnel, and of the many who are not Alaska Court System employees, but volunteers who work tirelessly to improve the service we provide to the people of the State of Alaska. To these people I say "Thank you for a job well done."

It has been an honor to appear before you today. Thank you for your time.

And thank you for your support.