

State of the Judiciary
Chief Justice Charles E. Jones, Supreme Court of Arizona
Message to the Arizona Legislature
January 30, 2002, in Phoenix, AZ

Mr. Speaker, Mr. President, Honorable Representatives and Senators, fellow justices, and guests, I am honored to appear before you on behalf of the Arizona Supreme Court. I appear both as a judicial officer, and in an administrative capacity over the third branch of government of the state of Arizona.

In one sense, I am surprised to be here. I was appointed to the supreme court six years ago, with no thought of the chief justiceship. Nor have I aspired to the office during my years of tenure. My desire at the time was simply to serve as a member of the state judiciary during my remaining professional years. It certainly did not occur to me that I might serve in this office in a time of war or during a record-breaking state budget deficit. By contrast, former Chief Justice Zlaket has pointed out that when he was chief justice, the economy was robust, the state treasury enjoyed a surplus, and the world was at peace. I suppose timing is everything!

As I begin this term as Chief Justice, it is appropriate that I first acknowledge the accomplishments achieved during Justice Zlaket's term as chief. During his tenure and certainly with help from this body, many excellent objectives were achieved, including;

- The construction of safe, secure juvenile detention facilities in 14 of our 15 counties;
- Technological advancements in our judicial system bringing greater efficiency to our courts;
- Our model court program, successful statewide in keeping dependent and neglect-ed children from languishing for unduly long periods in foster care;
- The re-engineering of criminal case processing with funds the legislature appropriated through our "Fill The Gap" project to provide swift, fair justice to criminal defendants, victims of crime, and taxpayers; and,
- Improvements to the attorney discipline oversight system, streamlining shortening by months the process for the disposition of discipline cases.

Justice Zlaket's impact on the administration of justice in Arizona will be felt for years and for generations to come.

My Background

I am not a native Arizonan, but I have deep roots in this great state. My paternal grandparents came from the southeastern United States to settle in Prescott during the era of Reconstruction

following the Civil War. My father was born in Prescott and received his schooling in that pioneer community during the latter part of the 19th century. Many years later, following completion of my formal education and graduation from law school, was determined to accept employment in Arizona, having been offered a position with a Phoenix law firm. That was almost 40 years ago. For my wife, Ann, it was a homecoming. She was born and raised in the Gila Valley, more particularly Safford. We have raised all of our children here. They are now grown, settled, educated, and, fortunately for us, all are currently employed. Of course, parents are always relieved when that is the case. During all of the years of my career, my work has been in Arizona. I am proud of our wonderful state and remain committed to its future. Thus, I and my colleagues, along with the Administrative Office of the Courts, will be focused on improving the judicial branch of government to ensure that our state has a dependable justice system, not only today, but for generations to come.

Case and Revenue Data

The courts form an integral part of our system of government simply because controversies inevitably arise. Courts neither create nor seek these disputes, but it is our constitutional duty to resolve them when they are brought before us. Last year, more than 2.4 million cases were filed in Arizona courts, and more than \$200 million in fines, fees, and restitution payments were collected. Revenue collected by the courts for the benefit of general and special funds at the state, county, and municipal level increased by more than 7%, while case filings decreased by point four percent (-.4%). I am particularly gratified that restitution payments collected by the courts for the victims of crime increased a dramatic 14.2%.

Probation/Public Safety

We operate in more than 300 locations statewide with 9,000 people working in our courts and probation offices. Last year, more than 60,000 adults with felony records and more than 10,000 juveniles were under court-supervised probation in this state. After budget reductions imposed in the recent special session, I have become increasingly concerned that we may no longer be able to provide adequate levels of probation supervision to protect the public. We want to work with you to ensure the proper level of funding for these services. The judicial department's total state budget amounts to 2.3% of the general fund budget of the state. However, that small percentage, 2.3%, is important to ensure viability of the public responsibilities delegated to us.

Justice for a Better Arizona

A Strategic Agenda

As your chief justice, I have adopted an agenda consisting of five strategic initiatives. Some reflect a continuation of worthy efforts started earlier, but still in need of careful attention.

They are:

- First, Protecting Children, Families, and Communities;

- Second, Providing Access to Swift, Fair Justice;
- Third, Connecting with the Community;
- Fourth, Being Accountable; and,
- Fifth, Bringing about needed improvements in certain vital areas of the Legal Profession.

Focus for 2002

JP Enhancement

Ninety-five percent (95%) of the cases filed in Arizona are addressed by our courts of limited jurisdiction. These consist of justices of the peace and municipal magistrates. Such courts affect thousands of citizens each day, and we have many dedicated and competent judges managing these courts. Occasionally, we read of judicial misconduct, and recognize that while all cases involving misconduct are not unique to limited jurisdiction courts, we have seen too many in recent years that are. This session, we will work with Senators Janett and Smith and Representative Gary Pierce on legislation introduced to improve qualifications for the office of Justice of the Peace-qualifications which have not been materially upgraded since 1912-and to increase the level of training and support programs for them. We are anxious to streamline case management in these courts. We want them to focus on processing PEOPLE, NOT PAPER. Several reforms are in the making to accomplish these ends and we enlist your support.

Advancing Technology

On another front, automation of court record keeping is also vital. Investigations following the terrorist attacks of September 11 have demonstrated the absolute need to complete the roll-out of technology by which judicial information systems are linked with other parts of government. The experience of 9/11 has demonstrated painfully that information needs to be available to the right people, at the right time, both in the state and federal sectors. In our limited information systems that now exist, after 9/11, we searched, at the request of FBI investigators, and actually found records on individuals suspected by federal agencies as terrorists who had lived in our state and had violated our laws while here.

We have made strides, but they are limited. Tomorrow we will launch an addition to our website, complete with the ability to search for information literally on millions of Arizona court cases. In future years, if we can obtain the funding, all courts will have their information available online. Last year, Justice Zlaket promised we would create a multi-purpose data warehouse which, among other things, would make orders of protection available to law enforcement agencies 24 hours a day. We have launched the first phase of that system on schedule, and we have received a federal grant to assist with the next phase. Technological advancements have been paid for in substantial part by the users of our justice system. We need your support to ensure that these databases continue to be maintained by the people who use the system. That is why we are

asking this legislature to consider legislation that would provide a modest increase in some user fees. How the judicial branch is funded is, of course, a policy decision for the legislature. It is, therefore, a matter for this body to determine whether the information systems being developed to promote public safety will be funded through fees charged to the users, or by taxpayers through the state general fund. Representative Voss has a bill that will allow you to express a choice on that issue, and we look forward to working with her on this important piece of legislation.

Family Court Reform

We have also indicated the need for reform in our domestic relations courts. It is there, most of all, that we observe emotional distress and anguish over such issues as dissolution of marriage, child custody, and domestic violence. People's relationships, parental rights, even lives are at stake. We are conducting an evaluation of better ways to address domestic issues, particularly as they affect children.

We seem to be discovering that our traditional adversary process, in use in the courts of the English-speaking world for centuries, may not provide the best approach by which to resolve emotion-packed family issues. But, even if courts were to find a better way, I hasten to state that the judicial branch is not equipped to provide the ultimate solution to social and other problems related to the family. We can share some of the duties, but in the end, courts must resolve legal issues. We believe that improved methods by which to address family law issues can play a role in breaking cycles of violence and providing families with an unbiased venue for the resolution of family controversy. In our Superior Courts, we are now beginning the process of re-examining family-related issues, and in some counties, integrated family courts, designed to provide greater consistency in the resolution of issues, are being established.

We anticipate working with Representative Johnson, Representative Hershberger, Senator Hartley, and Senator Peterson, all of whom lead the child support enforcement and domestic relations reform committee. Before leaving the subject of the family, let me digress just a moment. It is my personal belief that we can unburden the courts and find success in this area only when neglectful parents begin taking responsibility for their children by nurturing and motivating them every step along the way. If society cannot accomplish that objective, the problems will simply multiply rather than diminish.

Fiduciaries

Three years ago, you passed legislation requiring the Administrative Office of the Courts to license and supervise fiduciaries who are appointed by the courts to oversee some of our most vulnerable citizens both young and elderly. While most fiduciaries perform well, unfortunately some do not. We have documented millions of dollars some fiduciaries have embezzled from those for whom they have charge. As Chief Justice I cannot allow this to continue. We have taken some steps to remedy this problem, but we need your help. Our problem, in large measure, is our inability due to lack of resources, to provide for the auditing of records. This session Senator Richardson and Representative Voss will propose legislation that will make available the

additional tools necessary to help protect these vulnerable Arizonans. We ask that you look carefully at this legislation as it is badly needed.

Complex Litigation Task Force

On another subject, we live in an economy that conducts business rapidly in a complex world. We must, therefore, have an effective system for handling complex litigation that arises with increasing frequency. Advancements in science and technology, and the demands businesses face competing in worldwide markets, have prompted the creation of a Complex Litigation Task Force consisting of business lawyers, trial judges and public members. Senator Cirillo has agreed to serve on this committee and offer his experience and insight. I have charged the task force with reviewing the pros and cons of creating a complex civil litigation division in our Superior Court and to report back to the Arizona Judicial Council this summer. Numerous other states have established such courts, generally with favorable results.

Challenges Ahead

Whether we achieve these and other objectives, some of which have been outlined today, will be determined in large measure by the willingness of the Legislature to help us get the job done. Funding which you provide will have a direct impact on the quality of justice available to the people of Arizona.

Working Together For A Better Arizona

As I conclude my remarks, I reflect on our national history. A new nation came together more than two centuries ago, the result of blood, toil, and sacrifice. A determined people embarked on a noble experiment in government, in their own words, "to form a more perfect union." Most had withdrawn from European homelands by reason of religious persecution, absolute monarchies where there was no rule of law, and deprivation stemming from forms of totalitarian government. They sought something better, a form of government that would encourage the expression of liberty and recognize human dignity. On these shores, they established a form of limited government with checks and balances to ensure that within the new republic, no one individual and no single branch or agency could wield an excessive concentration of power.

Yet, while each branch of government is independent, each depends on the others to function within constitutionally assigned spheres. The legislature establishes public policy and controls the treasury to see that policy is properly pursued. The executive implements the policy and enforces the law. These branches exercise the political power of government. The judicial role is vastly different. Courts were never intended to exercise political power. We exercise only the power of judgment. We are called on to resolve controversy and to provide analysis, equity, and balance among competing interests.

To do so, we depend solely on the trust and confidence of the people-the same people that gave us our Constitution and the same people that today, offer sustaining hope for the perpetuation of our inspired form of government. The judicial power is vital because, inevitably, controversy

among citizens, or between the government and the people, or even between competing departments of government must be governed by an independent rule of law, not by political opinion and not by majority public opinion.

Those who led this grand experiment in human liberty, established a nation of laws which have guided us through a revolution, a civil war, the dark days of two world wars, Korea, Vietnam, depressions, even assassinations, and many other crises. They have preserved democracy when threatened by military or terrorist attack, or by scandal. Our great institutions have spread from one coast to the other. We have been to the moon and returned safely. And, as a state, we will survive the challenge now facing us because we will face it together. While we may not agree on all issues, I call for us to join together as Arizonans, as Americans before us have joined, to surmount the challenge and to accomplish important objectives for the remarkable state in which we live.