

State of the Judiciary  
Chief Justice Ruth V. McGregor, Supreme Court of Arizona  
Message to the Arizona Legislature  
January 18, 2007, in Phoenix, AZ

President Bee, Speaker Weiers, members of the Arizona Senate and House of Representatives, judges, honored guests and fellow Arizonans. Good afternoon. On behalf of the Arizona judicial branch, I thank you for this opportunity to appear before you in joint session to report about the progress the judicial system has made in its efforts to be responsive to public needs and administratively accountable as a branch of government.

I count myself fortunate to serve on the Arizona Supreme Court with four colleagues who bring ability, commitment to the rule of law, and great energy to their positions: Vice Chief Justice Rebecca Berch, Justice Michael Ryan, Justice Andy Hurwitz and Justice Scott Bales. Our court, of course, is only a small part of the judicial branch. The branch and the public also benefit from the services of hundreds of fine judicial officers in our justice, municipal, superior, and appellate courts, our clerks of court and their staff, and the court administrative and probation staffs in our fifteen counties statewide. I thank all of them for the outstanding job they do each day.

By working together with the other branches of government, Arizona has developed a court system of which we can all be very proud. By almost any measure, Arizona's courts bring honor to our state. National organizations and our colleagues across the country recognize our court system for its integrity, administrative accountability, and commitment to innovation and public service. In fact, the U.S. Chamber Institute for Legal Reform, an affiliate of the U.S. Chamber of Commerce, ranks the Arizona judicial system as one of the "best" state court systems.

To find ways to continue our success, we use various performance measures to determine how well our courts are doing in meeting the public's needs. A number of Arizona courts have been using objective performance measures known as "CourTools" to measure customer satisfaction, and the results are very encouraging. In the Maricopa County Superior Court:

- 94% of court users said that they were treated with courtesy and respect by court personnel.
- 92% of court users said that they understood what happened in court and what they needed to do next, if anything.

We also measure judges' performance. As you may know, the Judicial Performance Review Commission surveys all court users to evaluate the performance of merit selection and retention judges. Last year, the Commission found that:

- 97% of those who use our courts rated judges "satisfactory" or higher.
- 87% of those who use our courts rated judges "very good" or "superior."

We could not operate our judicial system, which impacts every community in Arizona, without the support of the Legislative branch. We thank you for your support of court initiatives that affect real people, your constituents, every day, and we look forward to working with you to improve what is already a very good court system.

We understand, however, that the public demands more than competence from its courts: the judicial branch must also be administratively accountable. The primary tool used by the judicial branch to improve and hold itself accountable is its Strategic Agenda, which defines a set of goals that the system works to achieve. The theme of our current Agenda, "Good to Great," reflects our commitment to making Arizona's justice system the best system possible, a goal that we recognize we can achieve only through leadership on every level and participation from communities and citizens throughout Arizona. The Good to Great Agenda includes five major goals; I will briefly discuss three of them today.

Our first goal reflects the primary goal of every court system, which is to provide access to swift, fair justice. To help define initiatives under this goal, we asked the public what they thought our administrative priorities should be in our limited jurisdiction courts, where 95 percent of case activity occurs. The public response was very clear: do a better job of processing DUI cases. While all branches of government play an essential role in addressing this critical public safety issue, let me tell you what the Judicial Branch has done. Because we cannot fix a problem until it is adequately defined, our first step was to create an expert task force to review current processes and problems. After holding hearings and consulting those involved in the system, the task force recommended a number of steps we can take to increase the speed of DUI case processing, which benefits both defendants and victims. We established a pilot project in ten justice and municipal courts across the state, which will report the results of our changes next summer. Preliminary reports show that the changes in process are effective. In DUI sentencing, as well as in all areas of criminal sentencing, the judicial system increasingly uses research that helps us identify those offenders who are most likely to re-offend and, within the sentencing options permitted by the legislature, how to provide appropriate supervision and treatment that will reduce recidivism rates. By doing so, we make Arizona safer.

Providing access to swift, fair justice requires that we constantly look for new ways to surmount obstacles to reaching that goal, and Arizona's courts have often been in the forefront of doing so. One continuing challenge results from the fact that many people with legal issues cannot afford to hire attorneys and must represent themselves. When trying to access justice, the litigant without a lawyer is often uncertain about how to move through the court system. Recognizing this need in the 1990s, Arizona established the first "Self Service Center" in the nation to provide information to these self-represented litigants. We now are working to provide more of these services through the internet, so that litigants do not have to travel to one of our courts to obtain the forms they need. But litigants without lawyers often need more than forms, and they ask court staff for guidance. Ethically, court staff may not give legal advice, but they may provide procedural information. Because the line between advice and information is not always clear, frequently both the customer and the court employee have been frustrated. To help alleviate this problem, I created the Legal Advice-Legal Information Guidelines Task Force in May 2006 to develop standards and guidance for our court staff so that they can recognize when and how they can properly help the public. We expect to implement these new

procedures in our courts over the coming year.

The second goal of the Good to Great Strategic Agenda involves protecting children, families, and communities. One of the ways the court protects the community is by better addressing the needs and rights of crime victims, while maintaining court neutrality and also assuring the rights of defendants. Last year, I created the Court's Commission on Victims in the Courts, to help us do just this. One of the first accomplishments of the Commission was to oversee the development of an electronic notification system that allows crime victims to register to receive e-mail notification of court orders in their own cases. To date, nearly 3,000 people have signed up to receive up-to-date case information. This procedure keeps crime victims better informed about the status of their cases and reduces the frustration that results from delay in notification.

Another way the judicial branch provides accurate legal information to the public is by creating useful websites. Some years ago, we created the Lawforkids.org website. This nationally recognized website, which receives an average of over 2.5 million hits per month, gives the public, both adults and juveniles, critical legal information about juvenile rights and responsibilities under the law. Building on this success, last November we introduced a "LawforSeniors.org" website and a "Law for Seniors" brochure. These components help seniors and their families protect and prepare themselves legally, physically, and financially for challenges posed by aging. As part of meeting the needs of the public, the Court also must fulfill its role in holding offenders accountable. Many of you are familiar with our "Fees/Fines and Restitution Enhancement" program, commonly called FARE. To date, the FARE program has collected over \$56 million overdue dollars - revenue that is distributed to city and state government and crime victims, according to your directions.

The third goal of the Strategic Agenda calls for courts to be accountable, in recognition of the fact that the public expects accountability for government operations and administration. Our Strategic Agenda calls for every court in Arizona to adopt objective performance measures. In addition, I am happy to report today that the judicial branch has found many new ways of making our operations more transparent. We have taken advantage of the advances offered by the internet to distribute information about court proceedings and decisions by posting court agendas, rulings, and administrative decisions. To provide information about the qualifications of those who apply for judicial merit selection openings, we post each person's application. To encourage greater public involvement in the court's rule-making process, we provide web access to permit those interested to comment upon pending rule change petitions. We also have taken a cue from the Legislature and now broadcast Supreme Court oral arguments live on the web. To allow the public to obtain full information about the performance of merit selection judges standing for retention, we are hosting a new, user-friendly website that permits the public to obtain detailed information about judicial performance as compiled by the Judicial Performance Review Commission.

This Commission, and others like it, demonstrates one of the ways the public holds the judicial branch accountable. One of the greatest assets of the Commission is that most of the 30 Commission members are not attorneys or judges – they are from the public. The public members of the Commission come from varied backgrounds, including active or retired educators, psychologists, accountants, business executives, consultants and community

volunteers. In fact, we so value the public perspective that we have public volunteers on every one of our court committees and commissions, well as on our Foster Care Review Boards and CASA programs. That translates to almost 2,000 citizen volunteers involved on a regular basis with the Arizona court system.

Our Strategic Agenda includes two other goals. You can read about the progress we have made on these goals, as well as more about the goals I have discussed, by viewing the annual report that is on our website.

All government agencies feel the strain of Arizona's skyrocketing growth rate, and the courts are no exception. Many of the growing number of court cases involve the business community, and we are aware of the need to process those cases promptly. The United States Chamber of Commerce has stated that when businesses are deciding where to locate, one of the fundamental variables they consider is the stability and efficiency of their court systems. One of the ways the Arizona courts have responded to the needs of business is by creating a "Complex Litigation Court" in Maricopa County. The goal of the Complex Litigation Court is to provide continuous judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite these difficult cases, keep costs reasonable, and promote an effective decision-making process by the court, the parties, and counsel. I am pleased to report that the Complex Litigation Court is working well, with 80% of its users expressing satisfaction with this specialized process as compared with traditional case processing.

The Complex Litigation Court requires the use of technology and e-filing of all case documents. But our use of technology is not limited to this Court. At many points within the court system, we use technology to accomplish tasks as inexpensively as possible, while maintaining quality. Using technology appropriately, we can increase access to justice, reduce cost, and improve customer service. Our advances in technology have been made possible, to a great extent, by the dedicated funding sources you provided us fifteen years ago, for which we thank you. We have made every effort to use those resources wisely, and we have succeeded in doing so. Last year the Legislature directed the Auditor General to review the Court's technology operations. I am pleased to report that the Auditor found that the Court is making excellent use of its resources and that the Court has a "sound project management process."

Although the judicial system is working well, we constantly look for areas that need attention. One of those areas involves the significant backlog of capital cases in Maricopa County. To give you an idea of the scope of the problem, while there are four capital cases pending in Pima County Superior Court, there are nearly 140 capital cases pending in Maricopa County. We must address this backlog and doing so will require ongoing commitment and effort.

The Legislature took one step last session to help. Through legislation sponsored by Sen. John Huppenthal, you established an office that helps handle death penalty cases. However, our work is far from done. We must develop a comprehensive plan to address death penalty cases so that cases are not overturned on appeal because of incorrect handling. If cases are overturned, they will be re-litigated, and the defendants will face additional delay, while the victims will be re-victimised. By doing the job right in the first place, we avoid delay and also avoid wasting precious taxpayer resources. We also must prepare to handle the increased number of appeals

that will result once the backlog starts moving through the mandatory appeals process. Because of the unique and exacting standards required by appellate review, the Supreme Court is not currently equipped to handle a large number of additional death penalty appeals.

So, today I am announcing the creation of a task force to make recommendations about the steps needed to improve our handling of death penalty cases. Arizona Supreme Court Justice Michael Ryan will chair the task force, which will include representatives of all the stakeholders in the system. We must find a way to resolve this problem. And by working together, I am confident that we can find solutions. Another system that needs revision in Arizona is our jury system. Arizona has been a pioneer in adopting modern jury rules that make jury service more convenient and that enable jurors to generally be more effective. In addition, you passed, and we implemented, the lengthy jury trial fund to help fairly compensate those who serve on lengthy trials.

But there is more to do. The current jury service statutes are antiquated and no longer work. We are asking the legislature to update the jury statutes this session. We have proposed legislation would allow counties with multiple court locations to develop jury assignment plans that would minimize the amount of traveling a juror needs to do. While we cannot eliminate all travel, with your assistance, we can create a system that is both more convenient and constitutionally compliant.

All three branches have their role to play in our system of government. Most often, we agree about how to improve the administration of justice. Occasionally, we will disagree about administrative issues or case decisions. But cooperation and collaboration between our branches is critical if we are to reach our mutual goal of making Arizona the best that it can be. I look forward to exploring some of the ideas presented here today with you. Together, we can move Arizona's courts from very Good to truly Great.

Thank you.