

State of the Judiciary  
Chief Justice Ruth V. McGregor, Supreme Court of Arizona  
Message to the Arizona Legislature  
March 23, 2009, in Phoenix, AZ

Good afternoon, President. Burns, Speaker Adams, members of the Arizona Senate and House of Representatives, colleagues, judges, guests and fellow Arizonans. This is the third year that I have spoken to you about the state of Arizona's judiciary. When I first became Chief Justice, we established a Strategic Agenda, called "Good to Great," that focuses on the principle that, while Arizona has a good court system, we can always find ways to make it better. During the past four years, we have made significant improvements at every level of our court system. For example, we launched an effort to expedite the processing of DUI cases because of the severe consequences these cases have on our communities statewide. That effort, which continues today, has reduced DUI cases pending for more than 180 days by 77%. We instituted new appellate proceedings that have substantially reduced the time needed to complete review of cases involving the termination of parental rights. And, when we call on jurors to serve at the courthouse, we offer an online service that allows jurors to select their most convenient jury service date.

All of our courts, working with our Commission on Technology, have continued their efforts toward greater automation and better electronic communication with other justice agencies. In addition, our courts have found new ways to work with and support one another and our partners in the justice system. I anticipated that we would make progress in these and many other areas. What I did not foresee was the magnitude of the current economic downturn. While the Legislature and Governor have primary responsibility for finding a solution to Arizona's fiscal crisis, the court system understands that we must do our part to find ways to manage in these hard times.

In my past reports on the state of the judiciary, I did not speak about financial issues facing the courts: other conversations provided more appropriate opportunities to address that subject. Currently, however, the courts, like all parts of government, simply cannot describe their condition without reference to financial challenges. So today, I will talk with you and the people of Arizona about our efforts to continue moving our courts from "Good to Great" in very hard times.

I can report to you that, viewed as a reflection of the dedication and skill of our judges, clerks of court, administrators, staff, and hundreds of volunteers, the state of the judiciary is strong indeed. Viewed in the context of Arizona's fiscal crisis, the state of the judiciary is precarious.

As you are well aware, recent years have seen substantial growth in Arizona's state government; that growth, however, has not occurred within the state-funded portion of the Judicial Branch. Since 2000, the Judicial Branch's General Fund allocation has actually decreased by 13% and the courts now receive only 1.25% of the General Fund. Given the combined effect of the decrease in Arizona's General Fund and the state courts' reduced proportion of that fund, we are limited in the difference we can make to the State's bottom line. Even though we play a limited role in the state budget, during this crisis the Judicial Branch has

stepped forward to propose a budget reduction plan that allows us to do our part while helping to keep the public safe. Working with the Legislature and the Governor during the past two years, the Courts have absorbed state funding cuts and fund sweeps of more than \$28 million. Because of those cuts, we have eliminated more than 125 state positions, and Arizona's trial courts, superior, justice, and municipal, have frozen hundreds of other positions as a result of cuts imposed by counties and cities. In addition to reducing personnel, we have taken a number of other steps to respond to the budget crisis. I have directed the courts to re-examine all expenditures and revenue sources to find ways to reduce costs and increase revenue.

We have taken other actions: we have temporarily reduced by half the annual training requirement for non-judicial employees, which saves court education costs; we have moved to re-structure and streamline court operations; and we will expand the highly successful FARE program to increase revenues. As you know, the FARE program is a public-private partnership through which we collect court-ordered fees, fines, and restitution and then return the collected amounts to state, county, and city coffers, as directed by statute. By expanding FARE, we will not only enforce more court orders but also increase revenues to the cities, counties, and state. Over the past five years, our efforts through the FARE partnership have increased revenues by an impressive \$460 million, and we intend to further increase those revenues.

Any cost-reducing efforts by the judicial branch must involve the costs of probation services, which account for 80% of the General Fund dollars we receive. To identify possible cost savings involving probation, our presiding judges are developing and implementing plans to determine whether we can safely move offenders currently on probation to a lower level of probation or terminate probation early. We also are re-engineering our probation pre-sentence reports to ensure that we have the most important information prioritized and readily available for public protection purposes.

We cannot avoid the reality that additional cuts to the judicial branch budget will necessarily impact probation services, but we must move cautiously because reducing the level of supervision unwisely can impact public safety. For that reason, we have proposed to the Legislature some carefully-defined procedures to reduce the cost of probation. Cuts beyond those we have proposed come with public safety consequences. I say this not to cause alarm, but to alert you to the very real impact of further cuts to the judiciary.

Our ability to absorb cuts is not without limits. The judicial branch of government is a separate, coequal branch of government, not a discretionary agency: we must operate no matter the economic climate. A lack of resources, at some point, makes it impossible for the court system to function. Faced with similar budget crises, some states have reached a point of constitutional confrontation between the political branches of government, with their constitutional obligation to manage budgets and appropriations, and the judicial branch, with its constitutional obligation to maintain the justice system. By working together, Arizona has avoided that situation, and the budget reduction plan we have submitted allows us to continue to avoid a collision that benefits no one, least of all the people we all serve. Our courts understand that we must bear some of the financial burden facing Arizona, we have pledged to you that we will continue to work with you to find solutions.

What we cannot do, however, is take steps that make it impossible for the judicial branch of government to operate. In these challenging days, Arizona's state government may have to eliminate some services; a fair and impartial justice system cannot be one of them. In fact, during bad economic times, people need the courts more than ever, and our caseloads increase even as our resources decrease. This economic downturn is no exception: we currently are experiencing an unprecedented growth in court filings. Based upon that growth, we project that, for the FY 07 through FY 09 period, statewide superior court civil filings will increase by 50%; we expect contract lawsuits to increase by 90%. Juvenile abuse and neglect cases are on track to increase by 53%.

One need not be an expert in court administration to understand the combined effect of reduced resources and increased case filings. The only possible result of the intersection of those two forces is that the courts can resolve a smaller percentage of their cases in a timely manner. It will take longer and longer to move cases through the courts. You might ask, "Who is harmed when a backlog of cases develops in the courts?" The answer is, "Almost everyone."

Delay in criminal cases harms the State, harms defendants waiting for a speedy trial, and harms victims awaiting the prompt resolution of their cases, as guaranteed by the Arizona Constitution. Delay prevents the placement of abused and neglected children in permanent homes after parental rights are severed. Delay increases, sometimes to nearly unbearable levels, the stress experienced by those awaiting child custody or child support decisions. Delay harms those suing or being sued in personal injury suits, as either recovery or exoneration awaits the availability of a judge and jury. And delay harms businesses. The expected increase in eviction and foreclosure actions, construction litigation, and contract disputes, coupled with the decrease in resources available to our courts, assures that resolution of those disputes will take longer.

It is important to recognize that a court system's efficiency in resolving disputes is one factor businesses consider when selecting a state in which to locate. Unfortunately, civil and business cases are the first to be delayed when court budgets are cut, as our Arizona Constitution requires that criminal cases be decided first and statutes mandate priority for juvenile, workers' compensation, and unemployment cases. We cannot let budget cuts return us to the time not so long ago in Arizona when it took 5 to 6 years to complete the resolution of civil cases and still hope to attract new business to Arizona.

Unwarranted delay in processing cases not only frustrates litigants, but also leads to reduced revenue, which in turn impacts all those programs that you have, by statute, directed court receipts to support. We fully recognize the cost of delay. However, the court system simply cannot process the more than 2.8 million cases filed with us each year or maintain and expand FARE without implementing an adequate automated case management system.

Our current case management system requires that we program each new statutory change manually, court by court, across Arizona, each year. Over the years, particularly in the criminal justice system, these changes have increased exponentially and have overwhelmed our current case management system, which is almost twenty years old and failing. We delayed replacing it during the last recession, but delay is no longer an option. Building on several years' planning, we have started the process of converting to a robust, reliable case management system; we

must complete this automation work for the rest of our courts.

I cannot exaggerate how serious a problem we face with regard to our case management system. Last summer the judicial branch's central computer room, which will be replaced as part of this project, failed twice during a thirty-day period. In those two instances, we were able to complete temporary repairs to the computer center by working in crisis mode overnight. If this system were to permanently collapse, our network and case processing system would not just be delayed: it would come to a halt, and we would have lines of people stretching for blocks around our courts as they try to conduct their business. If the system were to collapse, we would not be able to manage the orders that process the tens of millions of dollars in child support payments; we could not adequately respond to those seeking secure orders of protection; we would not be able to process cases that affect the economic wellbeing of the state; and we could not perform our constitutional duty to provide access to the courts.

We must be able to serve the civil and criminal justice system and the public and, to do so, we must complete our vital work on the new automation system. The good news is that this automated system does not depend upon state General Fund monies. Its cost will be paid by those who use the courts through user fees that flow into automation funds established by statute by this body. I ask only that you work with our plan and not divert these dedicated user fees to other uses.

Arizona's courts are committed to minimizing the case-processing delays that we know will occur as resources decline. So, like other areas of government, and most of the private sector, we will have to find ways to operate with fewer employees over the next several years. Given our increasing caseloads, we must implement strategic changes in the way we operate the courts. The judicial system has many projects that are "shovel ready" and needed to make our court system better. We know that, in this economic climate, we must place some of those projects on hold, but some are so essential to maintaining court productivity that we must proceed. To this end, today I am pleased to announce that, even in the midst of this economic chaos, the Arizona Administrative Office of the Courts has negotiated a new public/private e-filing partnership called "AZ Turbo Court."

In formulating this program, we took a lesson from the highly successful MVD "Service AZ" website, another public/private partnership. When AZ Turbo Court is operational, it will:

- Increase court productivity, which currently is being negatively affected by staff shortages;
- Improve the productivity of the businesses and the lawyers who use our courts by allowing not only e-filing but also electronic storage and access to documents; and
- Greatly simplify the process for citizens filing matters for themselves.

The new system will allow traditional e-filing of documents, but also will provide much more: an intelligent form production process will walk a person through an interview process, determine the required forms and complete those forms with the filer. Modest user fees will finance this service, which, like our case management system, will not require the expenditure

of any General Fund monies. As I mentioned earlier, given the small size of our budget, cuts to the courts do little to help with the budget problem, and additional cuts can do great harm. But we can and have helped in other ways. In addition to the cost-cutting steps I mentioned earlier, the courts will focus on four goals during this fiscal crisis:

- First, we must maintain a quality civil case processing system to serve all courts users and to help attract business to the state.
- Second, we must preserve public protection by maintaining quality criminal case processing, and effective probation systems.
- Third, we must find ways to safely reduce probation revocations to save state prison costs; and
- Finally, the courts must increase revenues by expanding the FARE program.

While our courts must continue their efforts to move from “Good to Great,” I recognize we will have to move more slowly as we manage through these rough times. With your help, we will find solutions that continue to assure Arizonans access to a court system that is efficient, responsive, and just. Thank you for your support and assistance as we continue to fulfill our joint obligation to the rule of law.

## RETIREMENT STATEMENT

Before I leave you today, I have one more announcement. I contacted Governor Brewer this morning and notified her that I intend to retire from the Arizona Supreme Court at the end of June.

I have been privileged to serve this State for the last 20 years as an appellate judge. During my combined years on the Court of Appeals and the Supreme Court, I had the pleasure of working with dozens of outstanding and dedicated colleagues, with irreplaceable staff attorneys, and with the talented young graduates who worked with me as my law clerks.

My term as Chief Justice has given me the opportunity to work closely with the judges, clerks of court, court administrators, staff, and hundreds of volunteers who make our courts operate statewide, and I value that opportunity.

I also value the opportunity I have had to work with the members of the Legislative and Executive branches. While we have not always agreed, you did me the honor of listening and considering our branch’s views with respect, and I hope you felt reciprocal respect from the courts.

It will be hard to leave the court; the work we do is challenging and meaningful, and the court has become my work family.

But my husband and I, after a half-century of gainful employment, have decided that now is the time to spend more time with family and friends and to take more time to pursue other interests.

I leave the courts in the best hands possible. My colleagues on the Supreme Court—Vice

Chief Justice Rebecca Berch, Justice Mike Ryan, Justice Andy Hurwitz, and Justice Scott Bales--have amply demonstrated their ability to lead and serve the judicial system and the State.

Our courts across the state benefit from the leadership of our chief and presiding judges, as well as from the combined efforts of our administrators, beginning but not ending with Dave Byers and Mike Baumstark, and our clerks of courts.

I have made no specific plans for my retirement. I expect to remain involved with issues important to our judicial system, including the need to retain judicial independence and our own merit system, as well as the need to provide adequate resources for all our courts so we can provide access to those who need our services.

But, for the present, my focus remains on finding solutions to the problems that face the state judicial system today and ways to continue moving our courts "from Good to Great," even in these challenging times.

Thank you all for your support and your friendship.