

State of the Judiciary  
Chief Justice Edward E. Pringle, Colorado Supreme Court  
Message to the Legislature  
January 19, 1973

Lieutenant Governor Vanderhoof, Mr. Speaker, Members of the Forty-ninth General Assembly,  
Ladies and Gentlemen:

It is a great honor and my great pleasure to be invited once again to address you on the state of the Colorado judiciary. Much has happened in the judicial system since I appeared before you two years ago. I would like to share our accomplishments and plans with you, while at the same time being frank about our shortcomings and continuing problems, including those where your help is needed.

The Colorado judicial system continues to be viewed as a national model, because of administrative structure, state funding, separate personnel system, overall performance in closing cases, and for continued innovations, such as the computerized record and information system now being developed, about which I'll say more later. And disconnection, let me say that we have made mistakes in the past and we will undoubtedly make more in the future, but it is not because we are not willing to explore and incorporate new ideas in technology where we think it will make the System less cumbersome and more efficient. Our continued goal is to provide Colorado with sound justice exercised with reasonable speed in an efficient and economical manner, with a minimum of technicalities.

Our record during the past two years shows that this goal is being actively pursued. Let me give you a few illustrations:

-- District court judges terminated 86,419 cases in the last fiscal year, or almost 10 percent more than the number of cases filed, even though case filings were up 5.3 percent over the previous year. This is an average of 1,078 per judge, well above standards generally accepted nationally of 800 to 900.

-- Almost half of all district court civil cases (49.9 percent to be exact) were terminated within six months of the time they were ready for trial. In Denver, the average time was 9.6 months, much better than almost any other metropolitan area of comparable size in the United States.

-- Last year you set by statute a time limit of six months from arraignment to trial in criminal cases. I am happy to report to you that we have been able to adhere to that standard, although lack of judicial personnel at times made it difficult.

-- County courts have generally met our performance standard that trials to court be terminated within 30 days of filing and trials to jury within 90 days of filing.

-- At the appellate level, despite the continued increase in the number of cases filed, it is now possible in the Supreme Court to have a civil case argued before the court within 60 days of the

time it is ready for argument. This is a dramatic change from the situation two years ago when it took 20 months from issue to oral argument.

This accomplishment was possible not only because of the effort of the Supreme Court, but also because of the work of the Court of Appeals created by legislation in the 1969 session. Incidentally, the Supreme Court wrote 323 opinions last year and closed 611 cases. This was an average of 46 written opinions per judge, 10 above the national recommended standard. Civil cases are now being actually decided within five to six months of the time the case is that issue.

Unfortunately, the situation is not as good when it comes to the criminal appellate docket. As you know, all criminal appeals are now heard by the Supreme Court and are being filed at the rate of 250–260 per year, with further increases anticipated.

Two years ago, it took 19 months from the time a criminal case was ready to be heard to oral argument. This time period has been reduced to 11 months, an excellent achievement – but not good enough, and try as we may we have been unable to get below this 11–month figure. With the continued increase in criminal filings and further anticipated appeals testing the new criminal code, there is no way the Supreme Court can reasonably expect to reduce the time lag much more in criminal cases. Therefore, I am recommending to you the addition of three judges to the Court of Appeals and the vesting of criminal appellate jurisdiction in that court. If this is done, we expect it by July 1974, we can achieve the same speedy disposition of criminal cases as we have with civil cases. In other words, all cases will be orally argued within 60 days of issue.

The creation of the third division of the Court of Appeals will, of course, add to our already intolerable space problems. The Court of Appeals presently has its chambers and clerk's office in the Social Services Building. This space is inadequate and the location inconvenient, because the court uses the Supreme Court library and courtroom. The Supreme Court does not have sufficient space for its own clerk's office and related activities, and the Supreme Court conference room is woefully inadequate. The State Court Administrator's office is scattered over four locations in three different buildings.

We are pleased that the General Assembly understands our needs and is ready to do something about it. And this connection, I call your attention to S.B. 59, which provides a supplemental appropriation for program planning and determination of space needs for the new court building and urge its early adoption, so that the program plan can be completed by April 2, which will make it possible to find the next stage in the construction process out of fiscal year 1974 funds before you adjourned. Incidentally, in connection with this, I cannot help recalling the Chief Justice's Report to the General Assembly in 1962, in which he noted that the Supreme Court had given up the space in the Capitol now known as Room 320 in return for the legislative promise that a new building would soon be forthcoming. The way indeed has been tortuous and long in the past 11 years, but hopefully the end is now in sight.

We are proud that the National Center for State Courts is interested in becoming a tenant in the new judicial building, and meetings to discuss this proposal have already been held with the governor, the joint budget committee, and the leadership of the general assembly. The National Center is the clearing house and research arm for state court systems. Its creation was urged by

Chief Justice Burger and very strongly endorsed by the delegates to the National Conference on the Judiciary held in Williamsburg in 1971. The Center is willing to pay the construction costs for the amount of space it will occupy, and the state may ask the center to leave at any time by refunding the Center's investment.

There are several reasons why the Center would like to locate in Colorado and share facilities with us. A major reason is that Colorado is considered a national model and judicial administration, as I mentioned earlier. We would provide an excellent laboratory for research and analysis. The center would be able to share our law library and purchase time on our computer, the saving a considerable amount of money. Climate and easy accessibility by air also enter into the picture.

I would like to turn now to probation services. One of my major concerns is providing adequate probation services throughout the state. And this is impossible to do with present caseloads and manpower. National experts say that caseloads per officer should not be more than 35 to 50, yet we have many districts where the caseload is more than 100, and the statewide average is 90.9. The recent report by the Committee for Economic Development, Reducing Crime and Assuring Justice, states, "the standard maximum of 35 probationers for each probation officer seems moderate; it may be too high." The committee report recommends strongly that "probationary and parole forces must be strongly reinforced, [and] reoriented.... They are society's main resources in diverting offenders, whether juvenile or adult, occasional or habitual, minor or major, from continuance in criminal courses of conduct...."

I would like to point out that this statement was not made by social philosophers or correctional theorists, but by hardheaded businessman. The CED group which made the study includes an executive vice president of Standard Oil of New Jersey, the former chairman of the board at Inland Steel, the president of the Pillsbury Company, the vice chairman of the board of General Electric, and many others with similar positions.

Not only is probation more successful in rehabilitating offenders than incarceration in the penitentiary or reformatory, it also cost less than one-tenth as much as institutional confinement.

In addition to probation supervision, other Probation Department functions include pre-sentence investigations and personal recognizance bond investigations, both of which are growing, and the load is increasing substantially. Furthermore, Probation Departments have been called upon to make an increasing number of investigations in child custody matters. Yet the number of officers and the necessary clerical support has not kept pace.

I have received letters and calls from trial judges throughout the state, who are concerned about the situation and who complain of the delay in processing criminal cases, because of time involved in completing pre-sentence investigations because of not enough staff. One example from the 4th District El Paso County should suffice as an illustration. The judges there write:

Our Probation Department is overworked and morale is low and the quality of pre-sentence investigation reports is declining because they are done under constant pressure... It is imperative that we be given more probation officers to

meet the needs of our district... Punishment loses a lot of the effectiveness where it's in position is so long delayed because of the inability to get a pre-sentence report.

To meet these problems, we are seeking 32.7 FTE probation officer positions for fiscal 1974, plus necessary clerical support. This will bring caseloads more in line with the 50 work unit standard, but will still leave us short of the mark – to say nothing of the 35 caseload standard advocated in the CED report. We recognize everything cannot be done at once, but it is vital that major improvements be made now.

Before leaving this subject, let me add that we are making administrative and program improvements, even with our handicaps. With the use of LEAA and Highway safety funds, we are expanding and improving volunteer probation services. These have proven to be successful, and Colorado is a national leader in this regard.

Another high priority item is the adequate staffing of juvenile detention facilities. There are five of these in the state – Denver, Adams, Arapahoe, El Paso, and Jefferson Counties. These are now under the judicial branch and used primarily to detain juveniles prior to court hearings. Adequate staffing is vitally necessary, whether these facilities remain with the judicial department or are transferred to the department of institutions as is presently being considered. Our budget request last year for detention center staff was cut significantly, and the positions asked for this year are absolutely necessary to provide minimum 24-hour staffing for these facilities. Because of inadequate staffing, there is low morale, high employee turnover, great accumulation of compensatory time, and split shifts. Most important of all, we are doing an injustice to the youngsters who are placed in the detention centers, when we are not staffed adequately to do the job.

There are other problems related to juvenile detention. The most important is clarification of who is to be responsible for facility construction and maintenance – the state or the counties. I have asked you to rectify the situation for the last two years, and Chief Justice McWilliams made the same request before me. It applies not only to detention, but you all court facilities. It is a matter of legislative policy as to whether it should be the state or the counties, and we make no recommendation in this regard except that if the counties are given the responsibility, there should be provision for them to pool costs on a judicial district basis. I agree with the Chairman of the Joint Budget Committee that it is indeed a strange situation when a county or group of counties can build a detention facility without prior approval from the state and the state is then obligated to staff it and operate it.

While a clear determination is needed as to responsibility for construction and maintenance of all court facilities, it is more of an acute problem in detention, because juveniles are the ones who suffer. Many of you are aware, I am sure, of the situation in the Jefferson County Detention Center last summer, where the county said it was the states responsibility to provide air conditioning, contrary to the Attorney General's opinion and the position of the Joint Budget Committee. Meanwhile, youngsters sweltered in 106° heat and couldn't even be allowed to go out on the grounds, because the fence was inadequate, and the county also felt that the fence was

a state responsibility. Air conditioning is also a major need at both the Denver Juvenile Hall and the Zebelon Pike Center in Colorado Springs.

Earlier I cited some of our achievements in expediting cases in the District and County Courts. This was done despite a statewide increase of five percent in new District Court cases and 11 percent in County Court cases. These increases in new cases will continue and bear a direct proportion to population growth and concentration. In the current fiscal year, we estimate that 89,500 cases will be filed in District Court and 138,000 in County Court, exclusive of the Denver County Court.

Most of the increase is concentrated in the urban chain along the eastern slope of the Rockies, as you might expect, but there has been considerable caseload growth in some of the mountain areas, particularly Steamboat Springs, Glenwood Springs, and Aspen. To the extent possible, we reassign judges to help equalize workload and assist those districts with the most cases. But such assignments must, of necessity, be short-term ones, never more than one to two weeks, because judges are required by the Constitution to be residence of the district for which they are selected and stand for retention, and the people of each district are entitled to have a judge reasonably available in residence to handle their judicial business.

We have been careful over the last few years and requesting new judgeships. First, we make sure that the caseload problem is not temporary, and then we assign as much outside judicial power as possible, bearing in mind the limitations I just mentioned. Finally, only when we determine the situation is susceptible to no other solution, do we request new judgeships from you. And that is the situation we are faced with today in the 10<sup>th</sup> (Pueblo) and 14<sup>th</sup> (Steamboat Springs) Judicial Districts, the Denver Juvenile Court, and the County Courts in Adams, Pueblo, and Weld Counties.

The annual number of case filings in the 14th District is 1,013. This, of course, includes water cases. But even without water, the number of cases filed is in excess of 700. 500 case filings is considered a proper load for a rural judge, who has to spend a great deal of time traveling. The 14<sup>th</sup> is a fast growing district, and continued caseload increases can be expected. This is too much for one judge, especially when he is also responsible for water cases.

The situation in Pueblo is not quite as serious, but case filings per judge for 1,121 in fiscal 1972 and are expected to be close to 1,250 in fiscal 1973.

In fiscal 1972, the Denver juvenile court had 5,578 new filings and 605 cases reinstated for a total of 6,183, handled by two judges and two referees. In addition, there were several hundred cases handled informally. There has been a substantial increase in filings thus far in fiscal 1973, and more are anticipated, because of the improvement in the intake process. On January 1, 1972, it took 76 days to get a case through juvenile intake, and this delay was rightfully criticized by some members of the general assembly in committee hearings. On December 1, 1972, this time lag has been cut to 28 days, and a further reduction is expected.

Similarly, there's been a substantial decrease in the time required to dispose of juvenile cases. In January 1972, it took 211 days to close a contested case and 130 days to close a non-contested

case. But October 1972, this time from filing to disposition and contested cases was 108 days and then non-contested cases, 34 days. Without another judge, there is no chance to maintain this time interval, let alone improve it.

Generally, we consider that a full-time county judge should be able to handle 3,500 to 4,000 cases per year. If the caseload increases substantially beyond 4,000, a backlog buildup can be expected. Last year, at our request, you added county judges in Arapahoe, Boulder, and El Paso Counties. We now need the same help in Adams, or the caseload this year what per judge will be 4,800; Pueblo, where it is expected to reach 5,900; and Weld, where 5,300 is anticipated.

Colorado has every reason to be proud of the quality and dedication of its judiciary. It is second to none in my opinion, but this may not always be so unless something is done about the level of judicial compensation. In the last two or three years, several able men have left the bench because of inadequate compensation and have either returned to private practice or excepted federal appointments. There's also been difficulty in some judicial districts in getting a selection of qualified candidates when vacancies occur. Lawyers at or near the top of their profession cannot be expected to give up their practice during their most productive years to accept salaries which are not only much less than their income from private practice, but also a much less than those given department and division heads of the executive branch. The problem is not only one of a salary increase as such, but one of establishing proper judicial compensation levels.

The Governor has recognized this problem and appointed a committee of distinguished citizens, chaired by Chester Alter, former Chancellor of the University of Denver, to study the whole question of judicial compensation. This report will shortly be given to the Governor, and I am sure it will be transmitted to you for your consideration of whatever its recommendations are.

Closely related to judicial compensation is the problem of retirement benefits. Judicial retirement benefits in this state are woefully inadequate and are not in keeping with the concept of a career judiciary, which the voters of this state adopted in the 1966 general election. I strongly urge you to look into this problem and make improvements. We are studying this matter now, and I will have some recommendations in this area for your consideration at a later date.

Well we are pleased with our accomplishments thus far in operating a unified court system, we have no intention of resting on our laurels, and we are constantly looking for ways to improve the system.

Because we believe in local autonomy in so far as it is compatible with a unified system, in the past two years we have delegated more authority to the Chief Judges in each of our 22 judicial districts. This authority, however, must be exercised in conformance with the rules, regulations and procedures promulgated by the Supreme Court, the Chief Justice, or issued by the Court Administrator as directed by the Supreme Court or Chief Justice. This latter requirement assures greater uniformity in operation of the system, while the delegation of authority encourages participatory management and places local decision-making at the local level. We are now in the process of forming an Advisory Judicial Council composed of Chief Judges and district and county judges selected at large to assist us in formulating administrative policy.

We should, at this time, point out that it was just a little more than three years ago that are quartz operated as independent entities, in many ways like city – states or feudal fifteens. Changes of the magnitude of the unified court system cannot be accomplished overnight. We are working steadily at the transition and feel considerable progress has been made.

Our personnel system has now been an operation for three years, and, in keeping with my responsibility as head of the judicial system, I felt it was time to have an independent review by an outside source to see how the system is working and what changes and improvements are needed. The study is now going on. This review is compatible with the personnel and reclassification study being conducted in the executive branch classified service. As you know, the statute provides that our employees are to be treated equally with those of the executive and legislative branches.

The Colorado judicial system is doing more in the application of automation to judicial administration than any other state system, with the possible exception of Hawaii.

The Judicial Department has developed a long-range automated plan which involves not only an expansion of present automated programs, but also automating the record keeping system and then solution of computer terminals and district and county courts and probation departments and the seven largest judicial districts in the state by the end of fiscal year 1975.

This program, which was reviewed by the Joint Budget Committee this past summer, has been started through a combination of federal and state funds and will be sustained in large part to cost savings, so that the requirement for additional state funds will be minimal. One example of cost savings is the automated jury selection program. Twenty-six counties, all of those over 12,000 population, are now in the program. The jury wheel and jury panels are selected by computer; juror questionnaires and summons are mailed by computer, and jurors are paid by computer.

The Uniform Jury Selection and Service Act you adopted a 1971 requires us to use list other than voter registration, and, by rule, we have added city directories, motor vehicle registrations, and drivers' licenses. Without the computer, this effort would require 20 additional clerks of the cost of more than \$100,000.

Under the automated program, record keeping and accounting will be simplified and repetitive entries and paperwork will be eliminated. One of the most important features will be improved calendaring of cases. The dockets of all judges will be available for instant retrieval, so that at the time the case is set a check can be made as to whether the lawyers have cases or hearings before any other court on the proposed date. This will eliminate scheduling conflict. The U.S. District Court is interested in this program, and, if successful, may join us, so the conflict between state and federal courts can also be eliminated.

Very sketchily, the System will involve terminals in each court with the clerks can press the proper buttons, as the airlines now do, and the information site is flashed up on the screen. I want to read – emphasize that our projection indicates that the system can be operated with very little additional expense to the state.

I would like to mention quickly a few other projects designed to improve the administration of justice. Already completed as a study of court house law libraries in this state. These libraries become a state responsibility on January 1, 1970. This study sets out standards for different size libraries and a several year plan for meeting the standards. Many of these libraries have been in a state of neglect for years.

Even more important for the proper administration of justice is the completion of pattern criminal jury instructions by a special committee and their adoption by the Supreme Court. These instructions should reduce the amount of time required to instruct juries in criminal cases and lead to less chance of error on appeal.

Another equally important project is now nearing completion. For almost two years, a committee of juvenile judges has been working on the Standards of Juvenile Justice in Colorado, and this task is almost finished. The purpose of the standards is to provide greater uniformity in the handling of juvenile offenders by courts in court related agencies. There are many other projects, but these examples should make it clear that we are not just sitting on our judicial dignity and meeting the challenges imposed by today's society to provide a more efficient and effective court system.

To do these things, let alone maintain the status quo, cost money. The Judicial Department is asking for \$20.5 million in fiscal year 1974, an increase of \$2.3 million or 12.3 percent over the current year, and the public defender is asking for \$2.1 million. I have already mentioned to you the great needs in probation services and juvenile detention where much of the increase is involved. I've spoken to you about the continued rise in court caseloads, with the resulting requirement for additional staff, especially until the automation program is in full swing in urban areas. There is need for additional staff for the Supreme Court and Court of Appeals, and the State Administrator's Office needs additional help to carry out its personnel, physical, and research responsibilities.

I would also like to point out that we are faced with a number of costs over which we have no control, because of constitutional and statutory requirements. These include court appointed counsel, jury fees, grand jury costs, witness fees, sheriff's fees, medical commissions and mental health cases, and all of the expenses related to water rights adjudications. These costs have to be met, but we should not be required to reduce our level of operations and other important areas to do so.

We greatly appreciate the budget considerations given us by the General Assembly in the past, and we recognize the many demands made upon you for funding – always greater than the money available. But I cannot urge so strongly that you give us the necessary resources for us to continue to provide the citizens of Colorado with a judicial system of which we can all be proud. For the courts don't belong to you and me, or to the bench and bar, they belong to all the citizens, and when justice suffers, everyone suffers.

It was reported just this week that the National Commission on Justice, appointed by President Nixon, has made its findings on the courts after more than a year of study. Almost all of their major recommendations concerning court system organization and judicial selection and tenure



have already been adopted in Colorado. The commission recommended merit selection of judges of a type similar to ours, and incidentally, I should point out that each year more states adopt this method of judicial selection. Our neighboring states of Kansas, Utah, Nebraska, and Iowa have now adopted this plan, and last November, the citizens of Wyoming change from nonpartisan election to merit selection pattern substantially after our system. The commission also recommended a judicial removal condition – we have that. It recommended a unified, state funded court system – in most respects, we have that. It recommended the Chief Justice as executive head of the system – we have that.

There is one recommendation with which we are not in compliance, and we are not likely to be without a massive infusion of judges and supporting court personnel as well as police officers, prosecutors, and defenders. The report recommends trying all felony cases within 60 days of arrest – not arraignment but arrest. We are meeting the present six-months rule adopted by the General Assembly in 1971; in many judicial districts the average time from arraignment to disposition is 90 to 120 days or less, but there is no way the 60-day from arrest to disposition standard can be met with present personnel and facilities.

In conclusion, the state of Colorado judicial system is generally good. I am confident that, with your continued concern and cooperation, we can meet and solve existing problems. Together, we can provide the citizens of Colorado with even more efficient and effective administration of justice dedicated to the just and speedy determination of cases, no matter how large or small.

Thank you again for the opportunity to appear before you, for your continuing interest in the administration of justice, and for your many contributions to the operation and improvement of the Colorado judicial system.