

State of the Colorado Judiciary 1981  
Chief Justice Paul V. Hodges, Colorado Supreme Court  
Message to the General Assembly  
January 9, 1981

President of The Senate Fred Anderson, Mr. Speaker, Ladies and Gentlemen of the 53<sup>rd</sup> General Assembly:

It is indeed an honor and privilege to appear before you today for my second by any report on the state of the judiciary. I want to warmly greet my friends of many years standing, the members with whom I have become acquainted the past two years and the more than 20 new members, many of whom I have not met. However, I am looking forward to renewing acquaintances and making new ones, to enhance the high degree of communication between our two branches of Government.

I want to pay my respects to the new speaker of the house, Bev Bledsoe, with whose brother Bill I had the pleasure of serving during my tenure in the house in the 1950s. It is significant to know the two gentlemen who headed the respective judiciary committees in the last assembly are now you were majority leaders – senator Ralph Cole and representative Ron Strahle. Your minority leaders are also involved in our activities: Senator Regis Groff, serves on the Judicial Planning Council which I appoint, and representative Federico Peña has been active on the committee on counsel for indigent persons. We deeply appreciate and value highly the services these members have given to our court system.

A development which has been highly beneficial to all of us has been the feeling of cooperation and ability to communicate freely on matters of mutual concern. I have stated repeatedly that my door is always open to you, and at any time we can give information or data that will assist you in formulating legislative policy or drafting bills, please call upon us. The state court administrator and his staff have been directed to work closely with every one of you at all times. A representative of his staff is available to meet with you at any time to discuss pending legislation and assist you in any way possible.

Very briefly I would like to review some of our accomplishments and problems with you. During the past two years, filings in the Supreme Court have reached a new plateau, just short of 1,000 per year. Although terminations have increased steadily and substantially during the last five years, the number of pending cases may be attributed to the greater complexity of issues facing the court, and the loss of Judge time associated with the for changes in the composition of the court since I addressed you previously. Nevertheless, projections for calendar year 1981 indicate that filings may significantly grow, and terminations will increase.

I do wish to recognize the outstanding leadership of chief Judge Pete Silverstein, of the Colorado Court of Appeals. From 1970 until January 1980, when he retired, judge Silverstein conducted the affairs of the court with great competence and wisdom. Since January 1980 chief judge Dave Enoch has continued to ably administer the Colorado Court of Appeals.

Notwithstanding the concerted efforts of the judges of the court of appeals, the number of pending cases has again increased. The court of appeals disposed of 1,166 cases in the last fiscal year, which represents the highest number of terminations in the history of the court.

However, the court of appeals had 1,139 pending cases at the close of the previous fiscal year which represents a 92.4% increase in pending cases since FY 74–75. An ongoing analysis is being made to determine the future needs of the Colorado Court of Appeals.

Last year's dramatic increase in trial court workloads seems to be continuing this fiscal year. During FY 1979–1980, the district courts increased at an overall rate of 10%, compared to a substantially lower percentage increase during each of the preceding three years.

FY 1978–1980 saw a 7% increase in County Court activity. Again, the major increase was in the civil area, with nearly 12% more than the preceding year.

Figures from the first four months of this fiscal year indicate another year of phenomenal growth. If the current filing trend continues, the trial courts will realize a 10% increase in District Court activity and an 8% increase in County Court activity.

As a result of this growth pattern, the courts are facing the need for additional resources. For the past three years the Judicial Department has used the cost model as basic management and budget tool. The model was developed as a cost-related management system, with the ability to provide greater quality, availability and uniformity of court services. The primary objective is to gauge and control the cost of court service.

The cost of model analysis of court staffing needs, coupled with case filing increases, indicated the need for an additional 80 people in the trial court clerks' offices around the state.

The same cost model methodology is used to analyze the need for additional judges. Preliminary review of the data indicated the urgent need for several additional district and county judges. While the caseload increases appear to be state-wide, the need for additional judicial manpower appears to be most critical in the metropolitan areas.

During the past few years, we have taken an aggressive stance in managing the courts. In order to maintain a high level of permanence in the most economical and efficient manner, it is becoming increasingly necessary for many judges in court employees to work harder and put in many overtime hours. It is hope that their pay will at least stay even with the cost of living, that's giving them the necessary incentive to maintain a high degree of accomplishment.

We realize that it is incumbent upon the judiciary in cooperation with the legislative branch to seek alternate means of disposing of the tremendous number of cases which presently confront us. In this regard, several of our district court judges in the metropolitan area are conducting experiments in civil case management, which we hope will shorten the time it takes civil cases to proceed through the system.

Early indications are that these methods of case management by the judge, point to drastic reductions in the time it will take for the average case to reach final disposition. Should additional experiments indicate similar conclusions, we intend to develop a team of judges and administrators who would help institute these processes in the other courts. Indications are that these case management methods may also be helpful in the processing of criminal case loads.

In addition, during 1981 a civil delay pilot program will be implemented in two of the divisions by the Denver district courts. The goal of the program will be to reduce the time from filing to trial in civil cases by one-half.

It is anticipated that this program, coupled with the telephone conferencing project also slated to begin in 1981 in Boulder, Alamosa, and Denver, will allow courts to process civil filings more expeditiously. The Colorado Bar Association and all local bar associations are cooperating in these projects.

The Judicial Planning Council continues to function in a most supportive and progressive manner, under the able chairmanship of Judge Donald P. Smith, Jr. of the Court of Appeals. During the past two years the council has enjoyed the valued input of two distinguished members from the General Assembly: Senator Regis Groff and Senator Martha Ezzard, formerly a member of the House of Representatives. The council holds six regular meetings each year, and there are dozens of meetings of the many committees.

In June 1979 in response to the interest of the General Assembly, as expressed in House Bill 1033, and the similar interest of the Supreme Court, I asked the Judicial Planning Council to establish a special committee to study and recommend methods of evaluating the performance of the judges of this state, and likewise, to recommend a message for disseminating that information to the public so that they could cast their ballots for retention or removal of judges in a more informed manner.

The Committee on Judicial Performance included legislators, media representatives, educators, lawyers, judges, and persons of diverse backgrounds. After literally hundreds of hours of public hearings, study, and deliberations, the committee issued an interim report in December, 1979 which was distributed to members of the legislature, bar associations, media and other interested groups. The final report was presented to the Judicial Planning Council in August, 1980 and to the entire Supreme Court in September, 1980.

Initial feedback from across the country indicates the report is considered major work in this area of concern. Copies will be distributed to you. The report provides for a lawyer and non-lawyer input in the development of an easily understood profile of each judge for public consideration. The Supreme Court would be most interested in your reaction to the committee's recommendations. The report could provide a national model as a technique for the accountability of judges, while, at the same time, preserving the necessary independence of members of the judiciary.

Our public information program has included a meaningful study of the feelings and reactions of court users, to enable us to address their frustrations and concerns more effectively. We have

encouraged speakers bureaus throughout the state to get judges in court employees before the public to explain their work and to respond to the needs and inquiries of citizens. The most visible and important product of the public education committee has been the printing and distribution of a booklet "You and Your Colorado Courts", outlining in simple and direct language the various phases of the court system. Over 20,000 of these books have already been distributed, both in Spanish and English language versions. Copies have been requested from all parts of the state by: students, teachers, speakers, organizations, schools, libraries, attorneys, courts, jurors. Every one of you has received a copy. Two large school districts are reproducing the text for their students. The state capital tour guides under the supervision of Phyllis Woodard give copies to all school teachers who bring their children to visit this building.

While we are on the subject of public relations, permit me to digress a moment to recognize two people in the Judicial Department who have given outstanding service in promoting a good relationship between the court system and the public, as well as other agencies of government. Jim Thomas, the State Court Administrator has been a real tower of strength, and I know you share with me a feeling of the highest regard for Jim and his work. Carl Jacobson, Director of Special Programs, a 35 year veteran of the court system, was heavily involved in the production and distribution of the book I spoke of moments ago, edits our monthly newsletter, and is almost singularly responsible for keeping it at the level of interest and quality it has attained. At the same time he leads his expertise in the field of probation where he worked so many years, and now coordinates the probation system statewide for us.

At the opening of the 52<sup>nd</sup> Assembly two years ago, I mentioned our monthly newsletter "Colorado Courts", which was done on a trial run. It has proved to be such a valuable tool in disseminating information, not only to our court employees statewide, but is reported as being of great value to legislators, other governmental agencies, libraries, and others. We consider it to be one of the leading means by which we have maintained a flow of information of mutual interest to all branches of government. The favorable reception which so many of you have given our publication is appreciated most sincerely.

Many other progressive and innovative ideas to improve court services are on the drawing board. Included as an experimental program to convert from legal to letter-size paper for all court documents. If the experiment proves successful, a mandatory date to establish uniformity will be established. It is believed that there are major benefits in this conversion, including possible reduction in costs of paper and filing equipment, and a major simplification of procedures.

One particular program of which we are very proud, is the one-day/one-trial jury system in El Paso County, which has generated interest nationwide. This program, which is now extended to Denver, Mesa, Adams and Larimer Counties, is designed to improve juror management and usage. Our main objective is to involve more citizens in the jury system with less inconvenience and to provide them with a more rewarding experience. By the way, I appointed former chief justice Edward E. Pringle to direct this project and he has served with great distinction and competence.

The administration of probation in Colorado continues to be a most beneficial adjunct to the role of the courts in the criminal justice system.

In order to improve probation services on a statewide basis into attain an equal funding pattern among districts, the State Court Administrator's Office in cooperation with the chief probation officers, developed and implemented a standardized method for classifying probation cases. The classification system establishes the appropriate level of supervision for individual probationers, based on the need to protect the community and to rehabilitate the offender.

One of the principal benefits of the probation program is the payment of restitution to victims of crime. In fact, restitution through probation is really the only way in which any substantial financial help can be given to those persons who suffer monetary loss as a result of criminal activity. It is truly good news for me to report that in the fiscal year which ended July 1, 1980, nearly \$2 million in restitution have been paid out to victims, from collections made by probation officers from their clients. Four years ago this figure was only \$659,000. Intensive concern with this important issue is paying off. We shall continue to emphasize this important element of criminal justice.

We hope you will take a close look at the matter of juror and witness fees, which have not been adjusted for many years. With inflation and its attendant problems, it is increasingly difficult for jurors and witnesses to even approach the out-of-pocket cost of doing their civic duty to the system of justice. Colorado ranks last among the states in juror compensation. I am sure you will agree that improvement in this area is currently of great importance.

The Colorado Commission on Judicial Qualifications, established in 1967, has the constitutional responsibility to investigate complaints of judicial misconduct, willful or persistent failure to perform duties, in temperance, physical or mental disability, and conduct prejudicial to the administration of justice. During the past 13 years over one hundred meetings have been held, to review more than 500 cases which were filed in that time. A score of judges have resigned or retired following commission action, and a slightly larger number censured. Close attention has been paid to the interim legislative committee meetings at which the matter has been discussed. We shall support any constructive measures to affect constitutional changes which will improve operations of the commission.

I have carefully studied the report of the Interim Committee on Judiciary, headed by Senator Cole and Representative Strahle, and wish to complement the members for their concern and diligence in dealing with a number of important issues relating to the judicial system.

A number of bills have been introduced to implement the recommendations of the committee. I hope you will pay close attention to the suggestions developed by the committee, in making your decisions on the dispositions of the various bills. Much that has been proposed addresses important issues that require attention.

We are deeply appreciative for the consideration and understanding you have shown to our fiscal needs. I know only too well how difficult it is for you to tailor the total amount of budget request to fit the actual funding available, but our observations indicate that you have done a marvelous job and handling this most difficult job. You have treated us fairly and wisely in the past, and we trust your good judgment in the future allocations.

Please accept my sincere thanks for the invitation to appear before you today, to give our account of stewardship, these are troubled times in the world, the nation and the state. The role which the courts play is equally awesome with that of the executive and legislative branches. All of us must work together to arrive at solutions to the problems, to balance innovation with solidarity of purpose, to maintain and improve upon the gains made in the administration of justice. We constantly strive to do the best job possible, and with your strong support we have been able to uphold high standards in our judicial system, and to serve the citizens of our great state in as economical and efficient a manner as possible.

Daniel Webster said that “justice is the great concern of man on Earth,” and continued that “whoever labors to strengthen the pillars of justice connects himself in name and fame and character with that which is as durable as the frame of human society.” Your efforts toward improving the administration of justice places you within the context of Webster’s memorable words.

I hope you will join in our efforts and aspirations to give the people of Colorado the finest system of justice, in the best tradition of our great state.