

State of the Colorado Judiciary
Chief Justice Luis D. Rovira, Colorado Supreme Court
Message to the Legislature
January 1995

Mr. Speaker, President Norton, and members of the General Assembly,

Thank you for inviting me to deliver this, my third State of the Judiciary address. As I did in 1991 and again in 1993, I welcome the opportunity to share with you our accomplishments, goals and needs for the future. First I want to introduce my colleagues who share with me the responsibility of directing the judicial branch of government – Justices Erickson, Lohr, Kirshbaum, Vollack, Mullarkey and Scott.

When I first spoke to you in 1991, I noted that the judicial branch had embarked on a long-term planning effort. A ninety member task force of attorneys, judges, business people, academics and others met over 18 months to assess citizens needs and expectations of the courts in the 21st century.

In 1993, I outlined the broad goals of the *Vision 2020* report. Participants pictured a judicial system that would be better understood by the general public; one that would reflect the future Colorado population; one with a variety of forms in which to resolve disputes; a system improved by technology; and one that assists society in resolving its disputes.

Today I can tell you that we have begun to put the sinking of the previous years into action with a program we call “Planning for Change.” In May 1993, we launched the program to bring about meaningful changes in the way the judicial branch does business. A collaborative process with judges and other judicial employees was used to identify 97 action items that would make a positive difference. In January 1994 we provided you with a copy of our newsletter, *Colorado Courts*, which described what had been accomplished and what still needed to be done.

Basic to our thinking in *Planning for Change* is that while we must provide an efficient and orderly means by which disputes must be resolved, the process and product of such change must be consistent with our constitutional duty, as set out in Article II, Section 6, “courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property or character...”

Our judges are hearing an ever increasing number of cases. Four years ago 531,000 cases were filed. This year we estimate that there will be over 550,000. This growing caseload results from four major factors;

- population growth,
- new laws enacted by the legislature,
- a growing number of youthful offenders, and
- drug crimes.

Judges are hearing cases that involve moral, scientific and ethical issues which engender great

debate in our society. In the courtroom we are called upon to consider the use of scientific knowledge that was not known twenty years ago.

For example:

- the use of DNA typing in criminal cases,
- legal theories of wrongful birth and wrongful life,
- the right to refuse medical treatment or nourishment for another who is not competent or able to make the decision,
- who is the mother and who should have custody when in vitro fertilization and gestational surrogates are involved.

These, and a host of other issues are presented to the courts by our citizens. We cannot turn them away. We should not say, “come back next year.” We must not say that resolution of disputes and obtaining a just result is beyond our capacity to provide.

The people of our state give life to the courts. They believe that courts provide a forum to obtain justice, even though somebody disagreed with anyone decision. It is this belief that undergirds the role in strength of the judiciary. For above all else, we must remember that the judiciary exists so that the life, liberty and property of the people will be protected.

Our *Planning for Change* program establishes a number of goals and the means and methods to achieve them.

In the area of technology, we have made significant progress in the installation of our new automation system.

When I spoke with you in 1993, we had yet to complete the installation of our first trial court computer system. That occurred on July 1, 1993. Since that time, we have placed this new system in almost half of our judicial districts. By the end of 1995, we will have completed installation throughout the state.

We appreciate the financial support we have received from the General Assembly in developing the system. It will improve our effectiveness and allow us to share data with other agencies and the public. We realize that our data is in demand and that others have legitimate needs for access to it.

We have begun to experiment with sharing data electronically, allowing the data to be entered only once into the system.

For example, last month the El Paso County Court was “hooked up” to the Colorado Springs Police Department. Information on the thousands of traffic tickets written by that department are now automatically transferred into our court computer. There is no longer any need for courts to enter the information from the ticket into their own computer system. Moreover, disposition information will be automatically transferred back from the court to the police department.

This pilot program is the first of its kind in the Colorado court system. It provides a preview of what can be accomplished in the next few years with the use of advanced technology.

In order to develop a court system better understood by the general public, we have developed standardized forms and information packets for laypersons about court procedures. Our goal is to have these packets available for those who do not have attorneys. In addition, standard orders are being developed for use in all districts.

It is incumbent upon all branches of government to make the best use of public money. Through planning for change, strategies have been developed to manage the courts expanding workload and fairly distribute money and employees among the twenty-two judicial districts.

To this end, we are fashioning model key systems to streamline and standardized court processes; revising our budget and allocation procedures to more accurately meet our needs; and reallocating staff from one district to another, based on workload.

Alternative forms of dispute resolution continue to offer the potential to reduce costs and to improve access to court services. Seventeen judicial districts now have programs which use a variety of dispute resolution mechanisms, including mediation, arbitration and settlement conferences.

H.B. 92-1168, sponsored by then Representative Blickensderfer, opened the way to test a “multi-door courthouse” where a variety of dispute resolution techniques can be provided to litigants. That program is now being developed in Arapahoe County.

Initiatives have been undertaken to improve the way family disputes are addressed. In 1993, you passed S.B. 93–27, requesting the state court administrator to submit an evaluation to the legislature and the need for a family court system in Colorado. Fulfilling your request, we undertook an extensive study which included seeking the advice of over 140 family law experts. Progress has been made to improve the way family disputes are resolved; more can be done. The report we submitted contains fourteen suggestions that could lead to overall improvements in the resolution of family disputes.

Early intervention into the lives of troubled children can often make a critical difference. Pursuant to S.B. 94–192, three judicial districts have been selected to participate in an intensive family preservation program. Juvenile offenders on probation or in the custody of the division of youth services, and their parents or guardians, will be diverted into early, intensive intervention programs. The sites are: the 4th (Colorado Springs), 8th (Ft. Collins), and 12th (Alamosa) Judicial Districts; the pilot program is scheduled to run from October 1, 1994 through July 1, 1998.

Effective treatment plans are an important part in providing services to children in foster care. The judicial branch is working with the department of human services in an effort to assess the effectiveness of court order treatment plans and dependency and neglect cases where a foster care is involved.

Based on circumstances, the treatment plan may or may not involve reuniting a family. These circumstances might include incarceration of the parent, abandonment, or severe disability of the parent. Federal funds will be utilized to support this four-year project. The final results will be used to develop more effective treatment plans.

When I spoke to you in 1991 and again in 1993, I discussed at some links our probation system, which is operated within the judicial branch. This system continues to be of great importance and concern to me.

Probation is the largest, and, I believe, the most cost-effective program for dealing with those who have been convicted of a criminal offense.

Now, 28,000 adults and 9,000 juveniles are supervised by the probation department at a cost of \$28.5 million. To prepare the presentence reports relied on by judges to decide on probation or incarceration, and to supervise probationers in a manner that is consistent with our goal of safety to the public, the probation department has grown from 366 to 535 employees in the past 10 years – a 44% increase, well the number of probationers has increased by 75%.

The number of offenders on probation will continue to rise as the population of the state and criminal filings increase, and new laws are passed making certain conduct unlawful. We expect an increase of 2,000 adults and 1,000 juveniles in this fiscal year. Our probation system must be adequately funded. It must have the resources to supervise, control and, hopefully, rehabilitate offenders in the community.

Probation officers are being called upon to provide supervision to an increasingly serious offender population. At present, caseloads exceed 160-180 offenders per adult officer and 100-110 for juvenile officers. In order to provide adequate supervision to the “highest risk” probationers, we are forced to reduce supervision to the rest of the probation population. Our budget for FY '96, currently before the Joint Budget Committee, request as our highest priority, the additional probation officers we need to maintain the probation system at adequate levels.

For the most serious offenders on probation, we continue to provide adult and juvenile intensive supervision programs. These programs are designed to provide enhanced supervision and services, well diverting serious offenders from prison.

A recent study by the Division of Criminal Justice indicated that adult ISP programs successfully diverted offenders from prison, supervised higher risk offenders than residential community correction, and did so at significantly less cost to the state. (\$6-8.00 per day versus \$33.00 per day). One year after release from the ISP program only 9% of the probationers had committed a new offense, while 23% of those in community corrections committed new crimes.

In addition to ISP, we have implemented other specialized probation programs over the past few years: the drug offender program now has a caseload of 520; the female offender program has a caseload of 180; the sex offender program is now being tested in two judicial districts.

We have also developed a program to assess and monitor domestic violence offenders and nine judicial districts. This program will provide a standardized, pre-sentence risk-assessment approach that identifies those domestic violence perpetrators most likely to offend again. Supervision of these people will include closer surveillance and treatment.

Currently the magnitude of the problem far surpasses the resources available. Ultimately, the success of any program rests on treatment and the coordinated efforts of the courts, prosecutors and law enforcement.

All of the specialized programs reflect the increasing complexity of dealing with offenders in the community. As with ISP, they provide cost-effective alternatives to incarceration.

In the past you have encouraged probation, parole, and community corrections to work together. With the cooperation of the executive branch agencies, the judiciary has explored ways to further this effort and as a result has submitted a report to the Joint Budget Committee.

These efforts have produced agreements to provide integrated approaches to supervising offenders in the community. Key to this has been the standardized approach to substance abuse assessment and standardized risk assessment.

Today, probation and parole are sharing training resources, developing integrated performance reviews, and examining programs to more effectively supervise females and sex offenders. These efforts will reduce the cost to the state, provide uniformity and improve the overall effectiveness of these programs.

The issue of drug assessment and control remains with us. In July, 1994 the Denver District Court established a specialized drug court to improve both the case processing time and, ultimately, the outcome of drug offender cases. The program emphasizes early identification of drug abuse, and requires strict adherence to conditions of bond and frequent monitoring by the court. The program seeks to reduce repeat drug offenses by placing offenders in the correct treatment program as soon as possible in the legal process.

The extent of the drug problem can best be illustrated by the Denver experience. In 1994, 4,795 criminal cases were filed. The lead charge in 2,155 cases was a drug offense, representing 45% of criminal filings.

The success of a specialized drug court in other states has been attributed to the combined efforts of the court, probation, district attorneys, public defenders, local law enforcement and community treatment providers. Early results are encouraging, but only time will tell us whether such a program should be replicated in other judicial districts.

Finally, I want to speak briefly about three proposals that we are asking you to consider:

First: increasing judicial salaries. In 1991: when I brought this matter to your attention, the salary of our district court judges ranked 46th out of 50 states. You acted to increase judges' salaries at that time.

Today, judges again rank near the bottom of judicial salaries nationwide: 43rd out of 50 states. It is imperative that the state offer reasonable compensation, if we are to continue to maintain the Colorado tradition of appointing and retaining men and women of demonstrated intellect, maturity, and experience to service judges.

Almost all other state employees are included in a process known as the annual wage survey. I recommend that after an appropriate salary increase in 1995, judges be included in the wage survey program in the future, so that there will be no need for the Chief Justice to come before you and request an increase every three or four years.

Second, we ask again that you authorize three additional County Court judges: two for El Paso County, and one for Douglas County. While our caseload data show needs for judges in other areas, it is in the El Paso and Douglas County Courts that they need is now urgent.

Douglas County has one county court judge facing average annual case filings of over 9,300, compared to the statewide average of just over 4,900. In El Paso County the average filings facing each of the six current County Court judges is over 7,800, again compared to a statewide average of 4,900.

Third, we ask that you authorize the expansion of our senior judge program. This has been a successful and cost-effective program. Retired judges agree to hear cases for up to 60 days a year. This is equivalent to a 25% full-time judge, for which the senior judges are compensated, by way of an increased pension benefit, and an amount equal to 20% of what a full time judge earns.

Our proposal is to increase the maximum days of service from 60 to 90 days a year. This increased availability of experienced judges will enable us to assist high volume courts keep their dockets current and to provide a substitute when a judge is unable to be present due to illness, death in the family, or other unforeseen events. It will not solve our problem in El Paso or Douglas Counties, but it will be of help elsewhere.

My report to you has thus far focused on what the judicial branch is doing in our plans and needs in the future. However, we also collect revenue – \$59 million in fiscal year 1994, representing a substantial percentage of our total budget. Of this amount, \$25.3 million went to the general fund, \$8.2 million to the highway users trust fund and the wildlife fund; and \$3.7 million to cities and counties. In addition, over \$20 million, an increase of 18% over the previous year was collected for restitution and victim assistance and compensation funds from offenders.

The Colorado Constitution mandates that I retire on, or before my 72nd birthday, which I will reach in September of this year.

During my sixteen years on the Supreme Court, and five years as Chief Justice, I have had the opportunity to work with many of you concerning issues which affect the judicial branch. It has always been my opinion that cooperation among the judicial, legislative and executive branches of government is necessary if we are to achieve our goals of serving the public in a timely, cost

effective manner, and providing each person due process of law and justice. Judicial interdependence in matters relating to the budget and administrative planning does not lessen judicial independence in decision making.

I am confident that you, as well as we, recognize that a strong and independent judiciary is the hallmark of a free society. Our state courts are the first, and in most cases, the last line of defense against attacks on our rights and liberties. They are crucial in maintaining stability in changing times.

The concept of justice has been a beacon that has inspired us, that beckons us toward greater achievement, and demands that even though we may not fully achieve it, we must take part in the struggle. To maintain the house in which justice abides requires vigilance, care and sacrifice.

There is much I hope to accomplish in my remaining months on the bench, and I look forward to working with you through one more legislative session.

In closing, I thank you again for the many kindnesses you have shown me during these past five years that I have served as chief justice. I have appreciated the fine working relationship that our two branches of government have enjoyed. May it continue.