

State of the Judiciary
Chief Justice Dorothy C. Riley, Michigan Supreme Court
Message to the Michigan Legislature
March 18, 1987, in Lansing, Michigan

Governor Blanchard, Lieutenant Governor Griffiths, Speaker Owen, state officers, members of the House and Senate and all my splendid colleagues of our “one court of justice.”

I am genuinely pleased to appear before you this afternoon to report to you and to the people of Michigan on the state of the judiciary. All of us, legislators and judges alike, have a special reason to join together this year. Not only is 1987 the 200th anniversary of the Constitution of the United States, but it is also the 150th anniversary of Michigan’s statehood.

Our constitutional bicentennial and sesquicentennial celebrations give us reason to pause and consider again the underlying principles and the grand design that we commemorate this year. That design called for the division of the power of our federal government into three independent branches, and fifty years later it was to serve as a model for Michigan’s Constitution and division of state powers.

Our coming together this afternoon symbolizes our mutual recognition that while we have a constitutional responsibility to retain independence from each other, we also have a constitutional responsibility to each other. This Legislature bears the responsibility for developing a system of court financing and for legislating, within the structure established by the constitution, the jurisdiction and the structure of the courts. The judiciary has the responsibility of managing the court system efficiently and to be fiscally responsible: the solemn duty to dispense justice and to report to you as I am doing now. History teaches that, for our tripartite form of government to discharge its interrelated responsibilities effectively and preserve the delicate balance that exists between them, the three branches must communicate, accommodate, and cooperate.

It is in this spirit that I report to you this afternoon.

Over the past several years, to meet the growing needs of the trial courts throughout the state, our Court has resolutely attempted innovative measures to improve the quality of justice delivered to the people of Michigan. Under the Court’s leadership and with the assistance of State Court Administrator, Judge V. Robert Payant, the judges of our state have had substantial success, despite the fact that their courts often lack adequate equipment, operate out of crowded, make-shift facilities, and, in many instances, are understaffed. To the extent that our efforts have been successful, it has been because we have had the full cooperation of the judges’ associations and the 571 state judges whom they represent. Approximately 190 of our judges are here this afternoon, having attended a session of the Michigan Judicial Institute this morning. I am grateful to them and to their associations, and I would like to acknowledge their presidents who are with us this afternoon.

1. The president of the Michigan Judges Association, the Honorable Hilda R. Gage.

2. The President-elect of the Michigan Probate Judges Association, the Honorable Barry M. Grant.

3. The president of the Michigan District Judges Association, the Honorable Roger J. La Rose.

The justice system of our state, however, is not made up of judges alone.

Lawyers are the front line of the system, and I am pleased to say that the organized Bar has been most supportive of our Court's efforts to improve the quality of our court system. It is for this reason that I am pleased to acknowledge the president of the State Bar of Michigan, Mrs. Julia D. Darlow.

Implicit in the concept of cooperation and accommodation among the three branches of government and the bench and the bar is the need to communicate. During the past several years we have made deliberate efforts to keep our lines of communication open with each of you. This past year we reached out to the community and provided a vehicle, the Citizens' Commission, that enabled the public to communicate with us.

COOPERATION AND ACCOMMODATION BETWEEN BENCH AND BAR

One of the programs initiated by the Supreme Court last year that illustrates the outstanding cooperation we have received from both the bench and bar is the work of the Caseload Management Coordinating Committee (1) under the supervision of Justice DENNIS W. ARCHER. Responding to increasing caseloads (2) and concerns (3) raised by Michigan citizens in a survey conducted in conjunction with Justice PATRICIA J. BOYLE'S Citizens' Commission, this committee is hard at work:

1. developing time guidelines, and,
2. seeking improved technology.

In addition, the Michigan Judicial Institute, the Supreme Court's continuing education arm, will be playing a vital role in this caseload management project. The institute, under the supervision of Justice MICHAEL F. CAVANAGH and the direction of Dennis W. Catlin, designed an innovative program to define and achieve excellence in case management which, beginning in June and continuing throughout the next year, will bring together teams of chief judges, court administrators, county clerks, and other court personnel from trial courts throughout the state. Through a series of training sessions these teams will focus on their case management problems and develop solutions for their own courts. Given the seventeen percent increase in new filings in the trial courts of our state in 1986—the work of this committee is crucial to controlling caseloads statewide. Voluntary implementation of the committee's recommendations in some jurisdictions has already had significant impact on reducing case processing time; however, lack of modern information systems slows overall progress.

The Supreme Court itself has also been working to reduce its own backlog—we have cut our backlog of pending cases in half over the last three years. For this same time period we have

continued to reduce the time from filing to disposition of a typical appeal by one-third for an average time of less than seven months. In 1986, opinions were also released an average of seven months after oral argument.

COOPERATION WITH AND ACCOMMODATION OF LEGISLATIVE PROGRAMS

Recent legislative initiatives of critical social, economic, and technological import have required concomitant judicial responses and these responses are illustrative of our effort to accommodate legislative programs. These actions are reflected in increased judicial and administrative workloads without, in many instances, comparable increases in our judicial appropriations. Among these serious public concerns which judges and lawyers join you in addressing are programs such as:

1. Sentencing Guidelines. This program, under the direction of Justice MICHAEL F. CAVANAGH, structures guidelines for felony sentences to eliminate disparity and provide a sound basis for uniformity and consistency in sentencing throughout Michigan (4). The committee continues to review and refine the guidelines.
2. Victims' Rights. We also share your concern that Michigan recognize the rights of citizens who are the victims of crime. The crime victim's rights act of 1985 [1985 PA 157] strengthens these rights and provides responsibilities and opportunities for the courts to further safeguard the rights of the hapless victim of crime.
3. Protection and Treatment of Children in Need of Care. In a similar way, your efforts in recent years to assure every child in Michigan the best possible environment in which to live and grow have heightened sensitivity to the plight of children and families enmeshed in the court system. We applaud your focus on this often forgotten segment of society and pledge to continue to work with you in the specific areas of Foster Care Review Boards (5) and Friend of the Court programs.

The Supreme Court, recognizing the crucial role which the judiciary plays in the provision of services to families and children, established the Probate Court Task Force in 1986 to examine how best to deliver services to the children of Michigan. The report of the task force, chaired by the Honorable Raymond L. King, president of the Probate Judges Association, will be made available to you later this spring. We urge that you carefully consider their recommendations—many of which may require legislation and affect funding for children's services by the state. (6)

COOPERATION WITH AND ACCOMMODATION OF THE EXECUTIVE BRANCH

Many programs initiated by the Supreme Court require, and I might add happily receives, cooperation with the Executive Branch of State Government. Among these continuing efforts are:

1. Liaison with the Michigan Department of Social Services with whom we have cooperatively developed:

A. An effective child support enforcement system which resulted in the collection of \$572 million in child support in 1986. (7) Michigan ranks number two in the nation in total collection, however, we are number one in terms of cost efficiency.

B. Recommendations for a Foster Care Licensing Program.

C. Recommendations for an information and data sharing system, and

D. Recommendations for adult protective services guidelines.

2. Cooperative efforts with the Attorney General's office in the processing of welfare fraud cases resulting in over \$800,000 in revenue to the State General Fund.

3. Establishment of a Joint Task Force with the Secretary of State to improve reporting on convictions (8) for traffic violations.

OPENING LINES OF COMMUNICATION WITH THE PUBLIC

Public awareness of the importance of the judicial role in society is evidenced not only by the 3.2 million cases, excluding parking violations, filed in Michigan's courts in 1986, but also by the increasing coverage of judicial proceedings. The product of the "one court of justice" is justice. Unlike the products of industry or services of government, justice is an integral part of our form of government. Unlike an automobile or a highway, one cannot point to justice. Yet justice is very real to the people of Michigan—whether they have been personally involved in a lawsuit or, equally as important, affected by decisions impinging upon their personal liberties or property interests.

In 1986, Justice PATRICIA J. BOYLE supervised the Citizens' Commission to Improve the Judiciary. This commission, composed of twenty-six citizens from throughout Michigan, was charged with advising the Court on improvements in our legal system. Their recommendations (9) are currently under review by the Supreme Court and the Court has enlisted the services of former Chief Justice, G. MENNEN WILLIAMS, to assist us in the implementation effort. Many of these recommendations will require your support—through enabling legislation in some instances and funding in others. We commend this effort of Michigan's citizens and urge your assistance in making their suggested improvements.

The confidence of the public in the court system is essential to maintaining the public trust required by our constitution. Several continuing programs assure and preserve the quality of the legal profession and thus the judicial system in Michigan. Among these safeguards are:

1. Five ABA accredited Michigan Law Schools,
2. A Board of Law Examiners which implements requirements for both character and fitness and a written examination before admission to the Bar,
3. Grievance procedures which provide a forum for the public to grieve actions of both attorneys and judges, and

4. Continuing legal education programs for both judges and attorneys.

NEED FOR ADEQUATE JUDICIAL FUNDING

All of the efforts that I have cited reflect a judicial branch sensitive to the awesome responsibilities of the executive and legislative branches and to the needs of the public which we all serve. All of these efforts reflect a judicial branch whose budgetary requests deserve the necessary funding to enable it to cooperate with and accommodate your initiatives and fulfill its mandate under the constitution. To put it simply that means a bigger piece of the pie—a larger part of the state's total budget.

While the particulars of the judicial budget will be addressed in the normal appropriations process, let me outline some general concerns which affect the functioning of the Michigan judiciary. The entire judicial budget of the State of Michigan constitutes less than one percent of the State General Fund. (10) Because our share of the pie is so minuscule, local government—counties, cities, and townships— continues to bear the burden of financing the judiciary of this state. However, they are finding it more and more difficult to adequately fund the courts in your communities.

While your efforts to assist local governments through judicial standardization payments have resulted in more uniform judicial salaries, resources available at the local level are still insufficient to fund your courts. The completion of the State Financing Model which was enacted into law in 1980 for the Wayne Circuit, Recorder's, and 36th District Courts may not be feasible statewide at this time. If you conclude so, then I urge you to explore alternative proposals. One such proposal advanced by the Michigan Supreme Court last year, and which has now been endorsed by the judicial associations, the State Bar, many counties, and other concerned groups, would fund specific mandated court services statewide. State assumption of such services as juror and witness fees and the cost of assigned counsel, (11) appellate counsel, and transcripts would greatly alleviate the burden on local government.

Solutions must be found and choices made to adequately fund our court system. We urge you to take a statesman-like approach to find the necessary revenue to provide equitable funding for all of Michigan's courts. We welcome the opportunity to work with you in this effort and we have specially assigned Justice JAMES H. BRICKLEY, to work with us on this matter.

On behalf of the judiciary, I thank each of you for helping us achieve some of our goals this past year. Together, we have made some advances, and we share with you the satisfaction of working together to give continuing vitality to our constitution, which we have come to cherish as a living document.

This is why so many of my colleagues are here this afternoon. We are here to thank you for all you have done, to pledge our full support, and to ask that you understand that we cannot stop pursuing needed assistance from you to perform our constitutional functions. Because our judicial responsibility is constitutionally and statutorily mandated, we cannot reduce our services. We can only delay them or postpone them—alternatives that we do not view as acceptable to you or your constituents.

Thus, I urge that as each of us reflects on the grand design of our United States Constitution we understand the need to communicate, accommodate, and cooperate to fulfill our constitutional responsibilities to each other and to the people of Michigan.

In the months ahead, I ask that we reflect on the spring and summer of 1787—the long tumultuous months leading up to the 17th of September, 1787. I ask that you consider again the courageous legislative process, a political process in its finest sense, that produced our constitution. And then I ask that, like your legislative forebears in the spring and summer of 1987, you act to insure the viability of the judicial branch, to enable it to carry out its constitutionally mandated responsibilities to the people of Michigan.

On behalf of Justice LEVIN, Justice BRICKLEY, Justice CAVANAGH, Justice BOYLE, Justice ARCHER and Justice GRIFFIN, I thank you, ladies and gentlemen of the House and Senate and guests for receiving our message this afternoon.

And to our colleagues in the gallery, we thank you for your splendid presence and your continued commitment to our “one court of justice.”

* Reporter’s Note: The annual State of the Judiciary address to the Legislature is prepared and delivered by the chief justice after consultation with the justices of the Supreme Court. The views expressed in the address, however, do not necessarily represent those of all the justices.

- 1) See appendix I, Summary of the Caseload Management Coordination Committee Report.
- 2) See appendix II, Summary of Michigan Trial Court Caseloads for 1986.
- 3) See appendix III, Citizens’ Perception of the Administration of Justice Regarding Caseload Processing.
- 4) The Court’s commitment to equal justice under law has been well demonstrated during 1986 by the continued progress that has been made as a result of the sentencing guidelines program. Racial and gender sentencing disparities remain at levels significantly lower than existed in the past between those who pled guilty and those who exercised the constitutional right to a trial, and between those who can afford a lawyer and those who cannot. In coming months, the Court’s guidelines advisory committee will be conducting a pilot program to test significant revisions to improve sentencing for certain assaultive crimes.
- 5) See appendix IV, Summary of the Foster Care Review Board Program.
- 6) See appendix V, Summary of the Work of the Probate Task Force.
- 7) See appendix VI, Summary of Child Support Collections and Enforcement.
- 8) See appendix VII, Summary of Task Force on Reporting Traffic Related Offenses.
- 9) See appendix VIII, Recommendations of the Citizens’ Commission to Improve Michigan Courts.
- 10) See appendix IX, State Expenditures from State Revenue Sources for Fiscal Year 1988.
- 11) Justice Charles L. Leving has been specially assigned by the Michigan Supreme Court to review the issue of assigned counsel for both trial and appellate courts.