State of the Judiciary Address
Chief Justice Richard J. Hughes, Supreme Court of New Jersey
Message to the Legislature
November 21, 1977

Mr. President, Mr. Speaker, Governor Byrne, Members of the Legislature, Ladies and Gentlemen:

I have come here today at the kind invitation of the Legislature, an idea supported by the Governor in his Annual Message of 1975. I am grateful for this avenue of communication with you, and through you with the people of New Jersey. Thirty years ago this very month, when they adopted the 1947 Constitution, the people indicated by a landslide vote their deep interest in the better administration of justice and their commitment to the kind of first-line court system on which it must depend.

As once noted by Chief Justice Vanderbilt, the people showed their "clear intent to establish a simple but fully integrated system of courts and to give to the judiciary the power and thus to impose on them the responsibility for seeing that the judicial system functioned effectively in the public interest. Indeed 1 in the minds of many, if not a majority, of our citizens this was the primary reason for their desire for a new Constitution."

I am here then to give you and the people an account of our stewardship of that system, to tell you of the present condition of its courts, to project our plans and hopes for improvement in the administration of justice, and to outline very candidly the resources necessary if our mission is to be accomplished.

So far as I can determine, this is the first time our branches of government have come together in the chambers of the Legislature to consider together the public interest in the administration of justice. We know that each branch of government is separate, and the powers of government are constitutionally divided among them, and one may not validly encroach upon the other. Yet the branches are crucially interdependent and support and complement each other in many essential ways. Although they respect each other they are not watertight compartments, and there should be no artificial barrier preventing communication among them in the public interest. There is a vital difference between interference and cooperative communication. Unless the courts refrain from interference with the other branches, for instance, except as plainly required by the Constitution, that Constitution itself would be offended. That is why the courts consistently shun participation in decisions on legislative policy, that being the business of the Legislative branch, subject only to the Constitution to which we are all bound in loyalty by our very oath of office. By the same token, if the Legislature and Governor would deny the courts resources vital to their effective operation, again the constitutional will of the people would be frustrated. They would be taking away from the people something which the people themselves created by Constitution-namely, a court system effective to meet changing demands on the administration of justice. As I shall tell you, those demands today are very great. To meet them there must be close communication and cooperation among all branches of government.

And so the potential of this meeting today to consider our joint obligations to the people, is surely in the public interest. It can clear the air of possible doubt and misunderstandings. It can identify strengths and weaknesses in the present operation of our courts. we can chart for the people the future course of justice in New Jersey, if supported by their will as expressed through the Legislature and Governor. Therefore it is important to place upon the table in full public view the mutual responsibilities we share for the administration of justice. This bridge of precise communication with the people will result in honest accountability, an indispensable key to good government and the administration of justice alike.

Perhaps we should recall first the changes which the years have brought about. The new state court system in 1948 numbered 60 full-time judges; now, if we were at full strength we would have about 300. But in 1948 the courts confronted less than 12,000 cases, whereas at August 31, 1977 we faced a litigation load of over 167,000 cases. So that while the state and county court system is five times larger in numbers of judges, its responsibilities are almost 14 times greater.

In that brief 30 years, vast new fields of law have developed, some by the United States Supreme Court's definition and enforcement of constitutional right, representing the supreme law of the land. Some by action of our own Legislature, in mandating new court responsibilities such as the recent legislation requiring judicial review of foster home placements of children. Some by evolution of court policy, such as our directive that commitments for mental disability be constantly reviewed, so that justice be done the unfortunate, without risk to the public security. ·whatever the basis, the courts are confronted today with large new areas of judicial responsibility - environmental law, civil rights law, consumer law, product liability and malpractice law, prison rights cases-an almost endless list of new burdens thrust upon the courts, not so mucl1 by their own choice as by the converging pressures of this half of the 20th Century, in the context of the Constitutions under which we live.

And casting even greater burdens upon the courts is the modern phenomenon of criminal violence, pervasive, frightening, unprecedented even in our nation's pioneer years. Everywhere is heard the demand for " speedy trial" disposition of cases involving those who threaten the community. Innocent citizens, particularly the weak and elderly, are "mugged" and robbed and sometimes badly hurt by cruel street predators, including very young and brutal juveniles. Some two years ago I cautioned our judges to avoid excessive leniency, particularly to the persistent intractable violent offender. I told them that:

> Together with a thoughtful, careful individual consideration by the judge of each case with full recognition of the constitutional and legal rights of the offender, there must also be consideration of the safety and security of the public.

In describing the problems facing our court, let me deal separately with the congestion of our criminal and civil calendars.

THE ADMINISTRATION OF CRIMINAL JUSTICE

In the Governor's Legislative Message of January 13, 1976, he requested that the courts implement speedy tria1 disposition of serious criminal cases, especially those involving violence.

The Judiciary enthusiastically agrees with this goal, assuming the necessary resources can be provided. I immediately directed a statewide survey to determine what resources would be necessary not only in terms of judicial manpower and supporting court personnel such as probation officers and court reporters, but also with respect to needed prosecutor and public defender personnel, additional courtroom facilities and the like.

The survey was completed on April 15, 1976, and filed with the Governor, the President of the Senate and the Speaker of the General Assembly. It. projected the dollar cost of a four-year phase-in program to accomplish speedy trial goals, asserting that implementation could commence with the new court year in September 1976. Unfortunately, due to various financial hardships facing the State in the interim, the resources for this ambitious program were never provided.

Even without the needed logistical support the courts have pressed on toward the "speedy trial" goal. In several vicinages, particularly in the urban counties, so-called "Impact" programs are ongoing under the joint leadership of the Attorney General, county prosecutors, public defenders and courts. These programs concern serious crimes of violence and have goals of indictment within 45 days from date of arrest, trial within 60 days thereof and, upon conviction, sentence imposed soon thereafter, so that final disposition occurs 120 days from date of arrest. It is our hope that every county will be involved in such programs by the end of this year. It is obvious that swift and sure justice is the most effective counter-measure to the violent crime of our times, and I pledge that the courts will expend every effort and make every sacrifice to help this program succeed.

But as with many worthwhile reforms, new complications are generated. The needed emphasis on criminal trials is obtained at the expense of the civil calendars, as I shall outline to you in a moment. The deployment of judges in the 12 vicinages, as between criminal and civil trials, is shown on Schedule "A." Moreover, as additional criminals are sentenced to imprisonment, pressure is brought on crowded prisons and reformatories; the situation is so critical that on October l, 1977, no less than 310 state prisoners were being held in county jails. Assignment Judges and sheriffs alike have warned of security risks in holding hard-core violent criminals in county jails never designed for that function. It is obvious that the State must continue its struggle with this urgent problem, and many initiatives are presently under way.

And so the difficulties grow despite our use of every expedient consistent -with constitutional rights and law. Plea negotiation, subject to judicial overview, is helping to dispose of criminal calendars which otherwise would literally collapse. A pretrial intervention system 1 which I shall describe later, relieves the criminal calendar of the early and redeemable offender, directing him away from involvement in the criminal justice process. Prosecutors have had restored to them administrative responsibility for the closing of files on cases not meriting prosecution, subject again to judicial overview. Assignment Judges are alert to the rotation of experienced judges to the criminal calendar. Due to the flexibility wisely built into our court system, all trial judges whether on the Superior Courtt, County Court, Juvenile and Domestic Relations Court or County District Court bench may be cross-assigned to all trial functions to make full use of the comparative experience and availability of the judges to meet the rise and fall of calendar

congestion pressures from time to time. This is another reason for consideration of increased parity of compensation among such judges.

Even now we are preparing a new procedure, applicable at both trial and appellate levels, to identify all cases of violent criminal conduct1 to make sure that persons threatening the public security will receive priority attention and not be lost in the congestion afflicting the courts in all categories of litigation. This policy would include not only the familiar heinous crimes of hon1icide, arn1ed robbery and the like, but other offenses such as rape, "wife-battering," so-called, and child abuse, evil offenses against the innocent, against which society has in the past been too slow to act sternly. These shameful and unhappy matters have come "out of the closet" only in recent years, and can no longer be tolerated. It is my goal, insofar as the courts can accomplish it, that New Jersey become known as a state where sure, prompt and substantial punishment will be visited upon those convicted of violence to the sanctity and dignity of the person.

And so in these and many other ways, the courts are attempting to cope with the ever-mounting congestion of litigation, which bears such close relationship to the peace of the community and the security of our society.

Let me pause here to deal, parenthetically, with the canard that judges do not work hard, or could work harder. It is simply not true. I have seen in my time a rise in production attainable only by very hard work on the part of judges, far beyond the ordinary call of civil duty. I have seen the health of judges fail by the intensity of their devotion to duty. In 1973 the per capita work product of judges was 1,700 cases, today it is about 2,000.[1] Our Appellate Division carries more than the load of any appellate court in the nation and far above the average. Trial and appellate judges are provided with a home law library owned by the State so that work far beyond the formal court hours is yielded by these highly responsible judges. Going by my own experience the members of the Supreme Court also are never far away, not only in their chambers but on evenings and weekends in their homes, from cartons full of briefs and legal papers, on cases awaiting their decision. The Supreme Court last year disposed of a record volume of 244 appeals, 30 percent more than the previous year. In the first year of operation of the new court system in 1949, the Supreme Court was pleased to report that it had disposed of 15 petitions for certification. Last year the Supreme Court decided 919 such petitions, not to speak of motions and disciplinary matters. Nor are these simple issues; many require examination of at least four briefs as well as transcripts of the record below. The growth of litigation in the courts as well as increased judicial productivity (which we hope and believe to be without sacrifice of quality) is a continuing pattern as shown by Schedule "B," describing last year's developments in the several courts.

The facts belie the suggestion that New Jersey judges are laggard-the truth is just the opposite.

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[1] The term "cases" as a statistic might be misleading, as though involving simple matters such as a traffic ticket or a simple negligence case. These "cases" include litigations of vast importance and complexity. For instance, one of our judges is specially assigned to handle a case involving 906 plaintiffs, 40 defendants, and 42 attorneys, which case might take months or years to try. This litigation is included in our 167,000 "cases."

THE CIVIL CALENDARS

I must report that in the area of civil litigation, a crisis situation is upon us. This condition diminishes the image of justice to an alarming degree; if uncorrected it will some day shame the State.

Our emphasis upon criminal trials, essential to the protection of the community, has reduced intolerably the capacity of the courts to administer justice in the civil litigation area. Although the term "civil litigation" is an abstraction, it includes deeply felt needs and rights of the human condition, the injured person seeking redress for damages inflicted upon him, -the business entity seeking· remedy for contractual default, -the husband or wife seeking justice with regard to the support and custody of children, -a hundred other issues on which citizens are entitled to hearing and justice at the hands of the courts, with reasonable promptitude. These people, and in their thousands they represent the public, are being shortchanged. The public is thus being denied the justice it was promised by the Constitution of 1947.

I attach as Schedule "C" a summary of the suspension or slowing of civil trials in the various vicinages and the status of the civil calendars. in each.

Here again the courts, assisted by the organized Bar, are attempting to lift the litigation calendars from the morass by " early settlement" programs in damage suits as well as in matrimonial cases. "We are doing everything else we can on the civil side, but as you can see we are fighting an uphill battle.

Unless this civil blockade can be relieved the precise reasons for it should be made clear, namely the manpower situation of the courts squeezed by the public demand for “speedy trial" of criminal cases. I deem it my duty as Chief Justice, and I hope that my successor Chief Justices will continue this policy, to maintain close communication, with the people, who are the final judges of the extent to which the courts are to be supported. In the hands of the people, at the end, rests the power to secure the availability of justice by supporting and maintaining the court system on which it depends. That people in general are still interested in court reform is evidenced by the action of the people of New York in recently voting for very sweeping appointive and administrative reforms as to the judiciary in that state.

JUVENILE JUSTICE

I shall not attempt here to document extensively the situation very well and sorrowfully- known to the American public-the phenomenon of criminal activity on the part of the very young, an activity which seems to peak between the ages of 14 and 24. Broad daylight purse-snatching, "mugging" and such violence are commonplace on the streets of our communities, sometimes in the very shadow of the State House or the county court houses. Female secretaries and court personnel in some areas must be escorted by armed guards to their cars in the very court house parking yard. Young children are brought into the drug traffic, to take advantage of their comparative immunity from exposure and punishment because of their juvenile status. Unexplainable vandalism and destruction are frequently encountered. These unacceptable

conditions must be brought under control by joint and firm action of all of us in government. We cannot await the long-range repair of social injustice and urban decay which underlie some of these problems.

I pointed out before the value of communication among the branches of government. An example might be noted in the recent legislation reducing and tightening the areas of protection to juvenile off enders, in ·which we had so strongly believed in the past. Our Court fully supports and will promptly implement by rule this new discipline of accountability by those who are young in years but adult in the way they inflict criminal violence and other harm upon society.

In the area of senseless vandalism our courts have been encouraged, by judicial decisions of the Supreme Court as well as by administrative directive, to make full use of restitution and reparation as a condition of probation. This technique is not only just to the public wl1ich must pay the bill for vandalism, hut also rehabilitative to the juvenile offender who is thereby taught, perhaps for the first time, the facts of life with regard to repayment for the damages caused by his misconduct. We are exploring other concepts of requiring the rendering of service to the community which has suffered by these misdeeds, not only of juvenile but adult offenders. Such a dispositional option presently in effect in the Juvenile Court .in Cincinnati is described in Schedule "D."

None of this new attitude of firmness should indicate that we are giving up on the juvenile offender-for, in a way, that would mean we are giving up on ourselves and our ability as a State to cope with this modern problem. We shall press the avenues of rehabilitation as we always have, but important primary emphasis must be placed upon the safety of the community. That must come first. Our forefathers spoke of domestic tranquility." Our courts and all other agencies of government must strive anew to accomplish this goal.

THE UNIFIED COURT SYSTEM

The leading spokesman for the judicial reform which culminated in the new court system established by the 1947 Constitution was Arthur T. Vanderbilt. Providentially he became the first Chief Justice of its Supreme Court. He devoted the remaining years of his life to the development, on that good constitutional base, of a court system which soon became the model for other American jurisdictions. Wherever one goes in America, at judicial conferences and seminars, the opinion is unanimous that the New Jersey court system is second to none. Other states when they seek to improve their court structure, court administration and court procedures look to New Jersey.

Chief Justice Vanderbilt died in the harness of service to the people of New Jersey, literally collapsing on his way to work. He was succeeded by another great Chief Justice Joseph Weintraub, judicial scholar as well as administrator, whose drive and integrity sparked the continued progress of justice in New Jersey until his retirement in. 1973. The tragically short tenure of Chief Justice Pierre P. Garven yet spoke of his devotion to these same goals of excellence. And so there has descended to the present Supreme Court a record of high tradition which invokes the keenest sense of responsibility to support and defend that judicial system, making sure that it remains in the vanguard of all the systems of justice in America.

This sense of responsibility impelled me, with the approval of the Supreme Court, to testify in behalf of a constitutional amendment which would merge the county courts into the state court system. This was the omission in the 1947 Constitution which disappointed Chief Justice Vanderbilt and which has resulted in massive duplication and waste and overlapping which has worked against the public interest.

Rather than lengthen the text of this message, let me attach as Schedule "E" the gist of my testimony before the Assembly Judiciary Committee on March 25, 1977. That Committee reported favorably a proposed constitutional amendment, later agreed to by a 63-0 vote in the Assembly. In the confusion of the end of the legislative year the Resolution died in the Senate Judiciary Committee.

I sincerely hope that in 1978 the Legislature will permit the people to vote on this constitutional reform, and thus take a first and indispensable step toward unification of the court system. In the century to come, generations of New Jersey and will be grateful for this advance in the economical and efficient administration of justice.

THE MUNICIPAL COURTS

Every Chief Justice since 1948 has described the municipal courts as being, in many respects, the most important of our courts, at least in the sense of their visibility to the New Jersey public. A very large percentage of the public has no personal contact or experience with any other court. Hence it has been pointed out that nowhere can the community be more sensitive to the regularities - and irregularities - of judicial administration than at the local level."

There are 385 municipal court judges in the 567 municipalities of New Jersey. Many judges are appointed to preside in more than. one municipal court, particularly in smaller communities. In the court year ending August 31, 1977, the municipal courts in our state dealt with 3,900,000 complaints. As documented in a recent survey report in a South Jersey newspaper the municipal courts, like all courts, are coming under increasing public scrutiny. And this is as it should be, if the place of justice is to be "an hallowed place." Back room or secret justice is not justice at all. As once pointed out by Chief Justice Vanderbilt:

> The judicial robe is a constant reminder to the magistrates that they, like all other judges, are subject to the Canons of Judicial Ethics as rules of court ***. It is not enough that a judge be honest and impartial; it is essential that he have the reputation in his community for being a man of absolute integrity, whose judgment is not and cannot be influenced by other than the proofs introduced before him in court.

The municipal judges participate in an elaborate pattern of judicial education and training supervised by the Administrative Office of the Courts. Additionally, training courses are provided for municipal court clerical personnel. In this calendar year it includes six courses in three different areas of the state. The testimony in all municipal courts in New Jersey is

electronically recorded and our Administrative Office trains court personnel in operation of recording machines.

There is an annual two-day seminar for new municipal judges, and an annual Judicial Conference for all municipal judges. Our Court Rules deal extensively with municipal court practice. Seminars are conducted at frequent intervals. We issue a Municipal Court Bulletin monthly, discussing recent decisions and procedural reforms. Regular audits of municipal court accounts, done locally, are examined by the Administrative Office of the Courts, which maintains a special municipal court section. Local trial court administrators conduct periodic visitations to monitor the municipal courts; this at the direction of the respective Assignment Judges who are administratively responsible, representing the Chief Justice, for the proper functioning of. the municipal courts.

Judges of the municipal court, as all other judges, are subject to the Code of Judicial Conduct monitored, as will be seen later, by our Advisory Committee on Judicial Conduct. Municipal judges, as all other judges in New Jersey, are totally divorced from political activity of any kind.

JUDICIAL TRAINING AND EDUCATION

Since 1948 the impetus and thrust of the New Jersey court system has been forward and upward. In every feasible way it has sought to increase its service to the people. Its rules of court and practice are reformed and upgraded from year to year. It tries to use every ounce of flexibility to serve the public more efficiently. It outreaches to public participation and interest, such as in its Juvenile Conference Committees, its fostering of volunteer programs, including no less than 2,500 trained probation and parole volunteer counselors, its relationship with the media and with the organized Bar, and its cooperation with Legislative and Executive branches of the State government.

Vital to this objective of increased service to the public is our program of judicial training and education. Through this technique, the Administrative Office of the Courts strives to enhance the ability of judges to deal with the increasing volume of litigation with maximum expedition, equity and expertise.

The New Jersey Judicial College was established by us in September 1976. It involves every New Jersey judge and has been markedly successful. For several days prior to the commencement of each new court year, all judges in the state system participate in very intensive courses, lectures and discussions on every judicial problem from equity to criminal sentencing. The lecturers include some of our most mature and experienced judges, as well as visiting judges, law professors and other experts and specialists. Additionally, the Administrative Office of the Courts, under supervision of the Committee on Judicial Seminars, provides mini-seminars for judges on timely technical subjects. I note that judges attend these mini-seminars on their own (non-court day) time.

These programs are paralleled by the involvement of many New Jersey judges in the summer sessions of foe National College of the State Judiciary at the University of Nevada. This intensive four-week training is described in the attached Schedule. "F." Principal expenses are

defrayed by the State Law Enforcement Planning Agency, enhanced by the participant judge's contribution of two weeks of his annual vacation time. However, this should not be viewed as a real vacation because the working day runs from 8 a.m. to 9 p.m., far from vacation hours.

The elaborate scope of our training objectives is further shown on the "Table of Contents" attached as Schedule "G." A copy of the program described in this table of contents will be furnished, of course, to any legislator upon request. You will note one item, "Prison Tour Program." I take this occasion to again thank 240 trial judges who accompanied me two years ago on a three-day tour of penal institutions and reformatories, mostly on their own (non-court day) time. We intend to continue this program next year, for it is a valuable part of judicial education as well as a key to cooperation and understanding between sentencing judges and institutional authorities.

I am very proud, and I hope you will be too, of our Judicial Training and Education Program. Like many others of our achievements, it is unequaled in other American jurisdictions.

THE ANNUAL JUDICIAL CONFERENCE

The rules of court provide for this conference "to assist the Supreme Court in the consideration of improvements in the practice and procedure in the courts and in the administration of the judicial branch of government." Its membership is provided for by rule and its wide scope, is shown by the categories of attendees listed in Schedule "H. " The conference serves, as does our annual Court-press dinner meeting, to which are invited legislative leaders and executive officers, as a needed bridge of communication between judiciary and public.

SUPREME COURT COMMITTEES

The Supreme Court is aided in carrying out its rule making, administrative and disciplinary responsibilities by several Supreme Court committees and panels. Their membership includes judges, attorneys, and in some instances members "of the lay public. These members serve without compensation except in the case of bar examiners, and this generous involvement in the work of the Court is, we think, unparalleled in any other jurisdiction.

The identification of the 1978 Supreme. Court Committees is set forth in Schedule “I.”

JUDICIAL CONDUCT

Shortly after becoming Chief Justice I was confronted by many complaints from the general public as well as from attorneys concerning the conduct of various judges. These complaints in the main did not involve charges of corruption or culpable favoritism, but just plain bad manners, clothed in the arrogance of judicial power. Rudeness and oppressive conduct to attorneys honestly representing their clients, - denigration of a defendant or witness who might be poor, or ill, or disadvantaged or ill-spoken in the English language; -pandering by heavy or humiliating humor to a built-in audience of court attaches at the expense of a hapless citizen before the bar of what should be justice. Such conduct is intolerable on the part of any judge, ranging from the

Chief Justice to the municipal judge in the smallest hamlet. It conflicts with the Code of Judicial Conduct, which provides:

> A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers and others with whom he deals in his official capacity ***.
>
> A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law ***.

Our Court therefore established, in 1974, its Advisory Committee on Judicial Conduct, chaired by retired Justice John J. Francis, and including, in addition to lawyers, several members of the lay public. Its work has been magnificent and has, we think, restored much public confidence in the ability "of the courts to police and regularize their conduct and so deserve the confidence of the public. The significantly good experience with the inclusion of lay citizens has led us to adopt a like policy in our attorney ethics disciplinary reforms, which I shall mention later.

THE ADMINISTRATIVE OFFICE OF THE COURTS

In the modern court system the crushing burden of litigation and the complexity of new judicial obligations have made clear the importance of business-like court management in the administration of justice. The people foresaw this in 1947, for in their Constitution they vested these responsibilities:

The Chief Justice of the Supreme Court shall be the administrative head of all the courts in the State. He shall appoint an administrative director to serve at his pleasure.

Responsibility for the operation of all the courts in the State is manifestly a heavy burden, quite impossible to fulfill without an excellent Administrative Office of the courts. Shortly before I took office I heard a day-long staff presentation describing the functions and programs of that office. I was totally amazed and very gratified to realize the wide scope of responsibility carried out so well by that office. I wish that every legislator and concerned citizen could be made familiar with the detail of that administration, for it would show its major role in the preeminent status of New Jersey courts in the nation. It would be convincing, too, of the need for legislative and executive support of the operation of the Administrative Office and the maintenance of its important functions, which are indispensable to the administration of justice.

Time permits me to mention only a few of our important projects, but to indicate the broad reach of activity of the Administrative Office I call your attention to the current responsibilities of its Civil Practice section, attached as Schedule “J.” This is only one of our administrative functions.

Sentence Disparity Project

For many years the courts have been criticized and. The image of justice diminished by the appearance of widely disparate sentences for similar or comparable crimes. In New Jersey, about [illegible] judges in a given year impose sentence upon some 17,000 criminal defendants. Sentences vary in their severity not only from county to county, but from court to court in the

same county. Apparently unfair disparity results not only in institutional unrest but likely repetition of crime after release. An armed robbery culprit might receive in one court a sentence of 3 to 5 years, whereas his co-defendant or a defendant in an identical type of case might receive 15 to 20 years. The statistical comparison is sometimes misleading because the lighter sentence might be imposed on a first offender and the heavier upon an habitual and violent defendant. Even so, there is public misgiving about the equality of justice, and so our Administrative Office of the Courts conducting an important sentence disparity project. Hopefully, guidelines for sentencing will develop to cope with such invidious or suspect disparity in sentences. This $300,000 project is funded by the State Law Enforcement Planning Agency. It involves a case-by-case analysis from pre-sentence report to final court action of some 17,000 cases. More than 800 separate data tests are applied to each of these cases, with the expectation tl1at definitive criteria for sentencing can be developed. For lack of a computer facility, which I shall mention later, these 17,000 cases are being examined and coded manually, partially with the help of 85 students from New Jersey law schools who acted this year as summer interns and who did what has been described as a "great job." The data collected will be analyzed by use of purchased outside computer facilities, made necessary by lack of a Judiciary-managed computer.

The sentence disparity program is the leading project of its type in the nation. It presents great hope for the development of techniques to overcome the imbedded problem of disparate sentences. Like many others of our projects, the analysis of data could be done in half the time and at much less expense if we had the assistance of a" Judiciary computer." And such a computer availability could lead this project into fields very closely connected with the public security, such as closer supervision of probationers and the like.

Collective Negotiations

As part of its continuing support of the Judiciary, the Probation Services Division of the Administrative Office of the Courts represents the County Court. Judges in collective negotiations with organized units of probation officers and supervisors on a county-by-county basis. Over the past several years supervisors in five counties broke away from existing line staff units and formed separate negotiating groups, increasing the number to 26. The work of Probation Services in continuing these complex and intense negotiations from year to year allows the County. Court Judges to devote more of their time to their judicial work.

The centralization of collective negotiations in our Probation Services section has also produced other benefits. Preliminary studies indicate there has been a decrease in the disparity among probation departments in salary ranges and economic working conditions. In addition to representing the County Court Judges at collective negotiating sessions, Probation Services appears on behalf of the Judiciary before the Public Employment Relations Commission when negotiations reach an impasse stage and require mediation and fact-finding and when grievances reach an arbitration stage.

The Administrative Office of the Courts also has negotiated a contract with the court reporters that was effective July 1, 1977, and will terminate on September 30, 1979. The slightly more than two-year life of the contract provides time for an in-depth analysis of the reporters' pay scale

and benefit schedules and working conditions, including a comparison of similar schedules and conditions in other jurisdictions. It is hoped that through this evaluative process the needs of the reporters and the court system will be more clearly delineated and more equitably served.

Probation Training and Special Services

Of the 1,100 professional probation officers currently employed in the. State of New Jersey, 854 or 77 percent have participated fa one or more training programs provided by our Administrative Office. More than half of the 346 probation staff investigators have completed some form of training through our probation training center. Since November 1974, when the Supreme Court mandated special training for probation officers, 90 percent of all new officers completed at least one training session during the first year of service and 70 percent went on to complete at least a second program during that first year.

During the present court year we will be conducting 47 separate courses in order to help provide the Judiciary with a capable and skilled probation staff. In addition, four new courses are presently under development to provide probation with more diverse counseling skills. At the close of the last court year, Probation Services staff had been responsible for ensuring that the services provided to more than 100,000 "pay-through" support cases from Superior, Juvenile and Domestic Relations and Municipal Courts were in compliance with New Jersey statutes, court rules and judicial policy as well as in conformance with the requirements established by the Federal Child Support Enforcement Program.

The Administrative Office plans to begin a case-oriented probation management information system on the 42,000 individuals presently under probation supervision in New Jersey. The degree to which this system will be successfully implemented will depend upon the availability of computer program time and program staff. The design of the system will permit an analysis of probation services needs, program effectiveness, and provide the capability for probationer tracking through the probation system. This tracking and supervision are closely connected with the public safety.

Clients' Security Fund

The Administrative Office staffs with secretariat and counsel the important Clients' Security Fund, operated by a distinguished Board of Trustees under supervision of the Supreme Court. It is financed by mandated annual contributions from New Jersey attorneys upon the logical base of their concern with the probity and good reputation of the profession.

The Fund was established in 1961 on a voluntary basis by the New Jersey State Bar Association as a symbol of the profession's commitment to the public for the rendition of honest legal service, the Association's original financial commitment being a contribution of $5,000. In 1969, the New Jersey Supreme Court made mandatory the economic contribution and participation of all lawyers, the original annual contribution of an attorney being $15. That contribution was increased in 1976 to $50 per year, except for lawyers practicing less than five years, who pay $25. Although there are at present almost 18,000 members of the New Jersey Bar, as of

September of this year the Fund had found it necessary to reimburse clients by reason of dishonest lawyer conduct in cases involving the acts of only 50 attorneys.

The Trustees of the Fund are authorized to award up to $15,000 per claimant, and can pay a ceiling of $200,000 in multiple claims against any individual lawyer. Only victims of deliberate dishonesty by members of the Bar acting as attorneys or fiduciaries are compensated. Since the inception of the Fund, it has made reimbursements to defrauded clients of $1,717,000.

The Trustees of the Fund serve without pay as a service to the public and the profession. Their dedication can he observed in the 125 hearings held to date in 1977, as well as national recognition by the American Bar Association as the foremost Clients' Security Fund in the United States.

Affirmative Action

Through its Administrative Office, the Judicial branch maintains an affirmative action program to provide equal employment opportunities to all individuals regardless of race, religion, sex, age or national origin. Its program has been approved by the Civil Service Commission as being "outstanding." Its six top management positions include three white males, two females and one black male.

Hispanics and black persons are on its professional and investigative staff as we11 as throughout the system. Of its three court clerks, one is fem ale. Not only is affirmative action demanded morally and legally, but certainly required of the Judiciary in view of its responsibility to enjoin unlawful discrimination on the part of others.

Our goal is a staff of excellence, diverse in sexual and racial composition, and capable of providing for the efficient administration of justice throughout the State.

Pretrial Intervention

This is another program encouraged and monitored by our Administrative Office. This valuable innovation in the administration of criminal justice is part of a wave of reform in the criminal process which is sweeping the country. As its name implies, it intervenes in that process to remove certain accused defendants from the revolving-door corruption and futility of imprisonment, where that course is warranted and compatible with the public safety. These individuals-usual1y first-time offenders accused of non-violent crimes-are placed in training programs, afforded access to drug and alcohol detoxification courses and given professional counseling, usually for a three or six month test interval. If this rehabilitative experience is successful, prosecution is dropped and the offender has a new chance, without a criminal conviction record, to seek employment and rejoin the law-abiding community. By removing such marginal offenders from further prosecution, pressures on the criminal calendars are relieved. By eliminating from trial less serious offenses, judges and prosecutors are able to devote their attention to important cases relating to the public security.

The pretrial intervention program, accommodated by rule of court, is established in 19 of our counties and I hope the others will soon join so that New Jersey, in this as in so many other fields, can lead the nation and better serve the public interest.

As with many other innovations, understandable public questions have arisen, and I shall try to answer them.

Is this program compatible with legislative policy? Answer: It is. The Legislature in 1971 adopted such policy with regard to drug offenses and I have no doubt, particularly in view of the economic benefit to the taxpayer, would put its stamp of approval on the whole court policy. The Federal Congress is also considering such diversion programs.

Does it threaten the public security? Answer: No, for access is carefully granted with an eye to that security, and by concurrence of the county prosecutor as well as the court.

Does the court rule invade the executive authority of the prosecutor? Answer: No-for the Supreme Court has decided the prosecutor has virtually untrammeled authority, essentially a veto power-except in case of arbitrary abuse.

Is the program potentially successful? Answer: It is, by the evidence available. Access to the program is not automatically granted but is highly selective. For instance, in Cumberland County, of 487 applications, 40 were enrolled, 328 rejected and others are pending. In Salem County, of 386 applications, 16 were enrolled, 194 rejected and others are pending. Statewide, of 5,010 enrollees, 224 were terminated for unsuccessful program participation and returned to court for regular prosecution. This represents a 5 percent failure of enrollees. The true test, of course, is measured by recidivism, that is re-arrest after successful program participation. Continual tracking since 1972 indicates a New Jersey recidivist rating of 4.7 percent. This compares with 91 percent of prison inmates who had previous arrests before their present offense.

What is the stake of society and the taxpayer in pretrial intervention? Answer: Very high, both as to the security of the community and the taxpayer's pocketbook. It is self-evident that the rehabilitated and employed offender is of much less risk than the embittered and undereducated state prison inmate who returns to the community. The average cost of processing a defendant through PTI in New Jersey is $331. The average cost of pre-sentence report and one year probation supervision of that same defendant would be $455. But the cost 0£ institutionalization is almost mind-boggling, beginning with an average $7,500 per annum state institutional or county jail cost. Taking into consideration welfare for the offender’s family, it is estimated that a one year custodial term for a married defendant with three children would cost the taxpayers about $13,000. I think this answers the taxpayer question. Multiply it by 1,000 defendants - $13,000,000 - and the answer becomes quite vivid.

Beyond all that, however, the value to society of a decent, hard-working citizen, once shocked by the threat of prison and given a chance at rehabilitation, is very high in terms of the security of the law-abiding mainstream. I hope you will agree that pretrial intervention is one of the most promising correctional treatment innovations in recent years.

Ethics and Discipline Reforms

The Constitution reposes in {he Supreme Court authority for the admission of persons to the practice of law and for the discipline of those admitted. This serious responsibility of the Court to "keep the house of the law in order" is exercised through the Court's judicial and rule-making powers as well as its administrative authority. The Court has adopted comprehensive rules of ethical conduct for lawyers. Claimed ethical violations are examined in the first instance, generally, by the ethics committee of each county, composed of lawyers appointed by the Court. After hearing, the committee either dismisses the complaint or presents its findings to the Supreme Court for discipline. After the respondent-attorney has had a hearing, the Court may disbar, suspend or reprimand the attorney or dismiss the matter. Confidentiality is maintained until formal action by the Court, for the protection of the reputation of attorneys, some of whom are innocent of ethical violations although targets of frivolous complaints, such as by disgruntled clients. The Administrative Office of the Courts maintains a Central Ethics Unit. Its function is to coordinate the activities of the county ethics committees, assist them where necessary, investigate ethics matters ref erred to the Unit, present and argue various ethics presentments before the Court and serve the Court administratively in many other ways.

Since the ethics committees comprise lawyers sitting in judgment on other lawyers (as is the case with most other professions in their internal ethics procedures) it is sometimes believed that full justice to the complainant is not accorded. It has never been established that this is so, but in these matters as in the area of judicial ethics, not only is the substance important but the appearance of fairness as well. Inclusion of members other than lawyers on such committees would reassure the public, and careful selection of lay citizens committed to the court's rule of confidentiality would protect the reputation of the innocent lawyer as the Court does now.

However, after a full year of consultation with the organized Bar, the Supreme Court has decided to implement this reform in two stages, the second to be conditioned on successful experience with the first. New rules are being promulgated to establish first a statewide Disciplinary Review Board which will include, as well as lawyers, several outstanding lay citizens. If that experience is successful, a similar reform will be considered as to the local ethics committees. We hope and believe these reforms, which we shall carefully monitor, will enhance the reputation of the Bar in. the eyes of the public. It is not right that fine and honest lawyers (the vast majority) should suffer damage reputation-wise for the misdeeds of a tiny few. A full copy of the extensive rule revisions will be made available to any legislator upon request.

To save time I shall not discuss other important activities of the Administrative Office, but attach as Schedule "K" a list of additional items on its agenda. Subject to the discretion of the Legislature and Governor, I think it would serve the public interest if a committee from each branch would listen to a full presentation of that administrative working of the court. We would cordially invite such a meeting, and I could arrange it when convenient to you and on very short notice.

COOPERATION WITH LEGISLATIVE BRANCH: THE "BEADLESTON" COMMITTEE

Former Senator John J. Horn, the chairman of the Law Revision and Legislative Services Commission, appointed a committee headed by Senator Alfred Beadleston to meet with the Supreme Court to discuss desirable legislative goals in response to judicial findings or recommendations in court opinions; this pursuant to that Commission's statutory duty to remedy defects in the law pointed out by judicial decisions. At initial meetings, it was agreed that the legislative committee did not solicit court recommendations as to fundamental legislative policy, particularly in controversial matters; and by the same token the Court disavowed any purpose to seek particular legislation which might intrude on the legislative prerogative, Rather the purpose was to identify gaps in the law as judicially determined, sometimes contained in lengthy and technical court decisions, on which more specific communication between the Judicial and Legislative branches would be effective to remedy unintended injustices or defects, in existing statutory law.

During the last year or two of stress and extreme pressure on both Legislative and Judicial branches, this liaison has not been active, but its purposes are so salutary that it should be re-energized at this time, and our Court would welcome a renewal of this sensible communication.

As an example, our Court has interpreted the statutes concerning juvenile probation as accommodating restitution and reparation as acceptable terms thereof. We are further exploring, as I mentioned, the concept of mandated community service as an alternative to incarceration for substantial vandalism or like delinquency. It would seem to be in the public interest that these matters be considered as legislative policy. Many similar questions half-way between judicial interpretations and dearly stated legislative policy could be clarified by the type of communication intended by the Beadleston Committee and its successor.

Additionally, in the administrative field, our initial meeting with the Senate Judiciary Committee- revealed that some Assignment Judges were declining to excuse from calendar commitments lawyer-legislators required to attend legislative sessions or committee meetings. I promptly; established a uniform policy for such deference to the Legislative branch. It is counter-productive to governmental efficiency that such misunderstandings should exist. We hope that in the new legislative session a start can be made in renewing useful communication in the public interest and I pledge the cooperation of the Supreme Court in that respect.

COOPERATION WITH THE EXECUTIVE BRANCH

Here again, artificial and stilted barriers to communication between these branches seemed not in the public interest. For example, I mentioned the several days of visitation of hundreds of judges to reformatories and penal institutions. No doubt with the encouragement of the Governor, the correctional authorities rendered every conceivable type of cooperation, including comprehensive statements of institutional goals by superintendents, staff leaders, psychiatrists and the like, and opportunity for our inspection of cells and educational and training facilities, extending to conferences with prisoners and correctional personnel. Similarly, at a time of particular stress on overcrowded prison facilities, I was requested to order suspension of imposition of prison sentences by our courts for a brief interval and did so. Another example is Executive encouragement through Corrections Commissioner Mulcahy of the so-called "Lifers'" program at Rahway State Prison, one of whose principal supporters is our Juvenile and Domestic

Relations Court Judge George J. Nicola of Middlesex County. Several prisoners serving life sentences at Rahway lecture visiting delinquent and predelinquent juveniles about the hardships of prison life. In the last year more than 3,000 youths, in some 255 tours, have been exposed to this program. Sponsors are police and probation departments, youth services agencies and the like. It is reported that these young people are so shocked and horrified by this intimate view of the prison life toward which they are headed that 33 sponsoring agencies have reported that only 55 of a test group of 840 juveniles have gotten in trouble again. This is a recidivist rate of 6.5 percent, which would seem to establish the program as an effective one which, according to Judge Nicola, is becoming nationally recognized. I attach as Schedule "L" two typical letters. concerning this program addressed to Judge Nicola. Our Administrative Office has a television film of one of the "Lifers'" confrontations which can be shown to any legislator upon request.

Moreover, judges and administrators serve on several panels appointed by the Governor, including the Juvenile Justice Advisory Committee, State Law Enforcement Planning Agency and Drug Abuse Advisory Committee.

I hope that further close relationship between the Judicial and Executive branches can be maintained, for it is clearly in the public interest.

COOPERATION WITH THE FEDERAL COURTS

Upon passing the New Jersey State Bar examination, the successful candidate is admitted to practice in the state courts. On the same date and on the basis of that state qualification, he is admitted to practice in the United States District Court. The judges of that Court and of the Supreme Court join together to administer the oath of office and to greet the new attorneys. The dual status of these practitioners sometimes implicates questions of discipline to be imposed on lawyers guilty of some ethical infraction. The jurisdictions respect their respective obligations in that regard, even though in rare cases they might disagree as to the extent of appropriate discipline.

Because of the intense trial activity in the federal and state court systems it often happens that there is conflict between the calendar commitments of busy trial lawyers. These conflicts are adjusted by close and informal communication between our Assignment Judges and the United States District Court Judges. Similarly, conflicts between the state court system and the United States Court of Appeals for the Third Circuit have recently been resolved informally by a system of notification agreed upon by Judge John Gibbons, representing the Third Circuit, and Justice Alan Handler, speaking for the New Jersey courts.

With the cooperation of Chief Judge Lawrence Whipple of the United States District Court, a committee of three of our Assignment Judges is examining the federal system of assignment of cases for trial, to consider the possibility of improving our own system.

We will continue to encourage this close liaison between federal and state court systems for the better administration of justice.

JUDICIARY COMPUTER AND TITLE IV-D OF THE SOCIAL SECURITY ACT

I link these two subjects because the enormous Title IV-D task resting upon the courts is one of many examples showing the need for a Judiciary-managed computer. One of the service obligations of the courts is to ensure compliance with Title IV-D, which is in turn relevant to some $10,000,000 of federal funds contributed to the aid of families with dependent children welfare program; without state compliance these federal funds would be lost and corresponding additional burdens cast upon the State.

On January 4, 1975, Congress approved P.L. 93-64-7 creating Part D of Title IV of the Social Security Act. This amendment, entitled "Child Support and Establishment of Paternity," became effective in New Jersey as of August 1, 1975, upon approval by the federal government of a state plan. The ultimate aim of the program is to reduce the outlay of public funds in the form of aid to families with dependent children by establishing more effective enforcement of child support obligations owed by absent parents. The legislation seeks to achieve this goal by providing financial incentives to state and local agencies, provided that they adhere to federal requirements and cooperate to establish paternity, obtain support orders, locate absent parents and enforce delinquent support obligations.

In New Jersey, the administering agency is the Division of Public Welfare of the Department of Human Services. In light of existing statutory provisions and intergovernmental relationships, however, the Division of Public Welfare has entered into a contract with the Administrative Office of the Courts under which the latter assumes responsibility for the administration of this program on behalf of the Judiciary and to monitor the performance of the 21 county probation departments in their support enforcement activities. Under the terms of that contract, the Administrative Office of the Courts is obligated to perform a number of services, including:

1. To establish uniform staffing standards for the 21 county probation departments to ensure a sufficient staff for adequate support enforcement activities.

2. To provide technical assistance to and monitor the performance of the probation departments.

3. To receive and review all expenditure reports of the probation departments in connection with the Title IV-D program, to certify them to the Division of Public Welfare and to receive from DPW all moneys received as federal reimbursement and remit such funds to the counties.

The Administrative Office of the Courts is also responsible under its contract with the Division of Public Welfare to ensure that the county probation departments provide the following services:

1. Collection of support payments in all AFDC-related cases.

2. Enforcement of all court orders for child support in AFDC-related cases, including prompt identification of delinquent payors and use of the Parent Locator System when required.

3. Assistance in establishing support orders in AFDC related cases.

4. Offer of the same services to non-AFDC cases.

5. Maintenance of all required records and the furnishing of all statistical reports required by HEW or DPW.

Since January 1, 1977, the Department of Health, Education and Welfare has been in the process of auditing all state plans and agencies to ensure compliance with the federal statute and regulations. A finding of non-compliance could result in a penalty being levied against the state in the amount of five percent of the state's annual federal allotment of funds. For Aid to Families with Dependent Children. Patricia Timlen, Esquire, Chief of the Bureau of Child Support and Paternity Programs of the Division of Child Welfare, testified before Judge Muir in the Application of Warren County Probation Department against the Freeholders of Warren County that this penalty would result in a loss of approximately $10,000,000 in 1977.

In addition, a finding of non-compliance could result in the withholding in whole or in part of federal reimbursement for expenditures incurred by the Administrative Office of the Courts and the probation departments in implementing the Title IV-D program. Since the inception of the program, the federal government has reimbursed to the extent of 75 percent salaries and fringe benefits of the perso1mel engaged in Title IV-D activities. The total so reimbursed for those expenditures by the Administrative Office and the 21 county probation departments from July 1, 1975 through June 30, 1977, is $9,985,558.16. It was originally the understanding that indirect costs such as space, rental, equipment, supplies and the like would be similarly reimbursed, but HEW has subsequently ruled that such indirect costs are not reimbursable under a provision of the statute excluding "the ordinary administrative costs of the judiciary." This ruling is currently under appeal. If the appeal is successful, an additional payment of $1,544,352.47 will be due as reimbursement for the period from July 1, 1975 through June 30, 1977. This indicates that indirect costs are approximately 15 percent of direct costs which are expected to increase as all county probation departments succeed in building their respective staffs to the levels prescribed.

The total cost of enforcing the Title IV-D program in New Jersey during 1976 amounted to some $8,000,000.00. In fiscal 1977, however, the processing through probation departments of child support orders yielded almost $84,000,000.00. Generally speaking, it is believed that for each federal-state dollar expended, three dollars are recovered from errant parents, which saves that much in public welfare expenditures and is therefore manifestly cost-effective. Child and family support orders processed through the probation departments of the State in the court year 1975-76 amounted to 104,000 cases.

I have digressed to mention this program and its complexity only in order to illustrate our need for a Judiciary-managed large-scale computer to do our job, including our Title IV-D responsibilities which are only prototypes of many other-similar burdens of case tracking, recording and reporting, which are necessary to an efficient court operation. It has been suggested that Judiciary needs could "make do" with a fragmented share, available when convenient to others, of access to one of the 11 computers presently in operation in the Executive branch of government. Our experience so far has been unsatisfactory, and the ability of the courts to fully serve the public has been diminished.

lt has never been supposed that the obligation of the Judiciary to keep its own dockets, records, files, transcripts and other items of judicial information could be invaded or taken from it by the Executive or Legislative branch. Understandably no desire to do so has ever been expressed. In this technological age, when these elements become computerized rather than manual, there would seem to be no constitutional justification for a different rule. Encroachment on judicial responsibilities was rejected on constitutional grounds in 1974 by the Supreme Judicial Court of Massachusetts. We in the New Jersey court system do not desire such a confrontation and I do not think that it is necessary or advisable.

The Constitution is quite plain in its reposition of responsibility for the administration and practice in all courts in the Chief Justice and the Supreme Court. Granted this, the relationship between computer management of judicial information and that responsibility is apparent.

Modern judicial administration is dependent in the first instance upon judicial management information and the enormous volume and complexity of judicial responsibilities require a judicial data center and large-scale dedicated computer. I have previously referred in this message to matters in which a computer capacity is indispensable, such as sentence disparity, probationer tracking, juvenile statistics, support and custody confidential information, attorney, trial calendar conflicts, confidential disciplinary matters affecting lawyers and judges and the like.

A lack of computer information on. a need-to-know basis about the operations of the courts and their calendars makes effective management and administration extremely difficult. The increased number of case filings has resulted in a proportionate rise in the volume of paperwork to be recorded and filed, and the addition of more clerical staff to keep records current. Increases within the court system are reflected in the following workload trends:

	Court Years Ending 1973	August 31, 1977
Cases Added	488,204	
% Change from 1973		23.9
Cases Disposed	454,516	
% Change from 1973		19.1
Pending Backlog	132,555	
% Change from 1973		26.6

These figures show the obvious need of the New Jersey courts for the most efficient utilization of court time and resources.

All major jurisdictions with even one-half of New Jersey's appellate volume are turning to computers. The National Conference of Appellate Court Clerks is developing in its Committee on Technology in Appellate Courts a strong recommendation for the operation of such computers under exclusive court management. The administrative expedition by the Chief Justice of "speedy trial" in our 21 counties would certainly be made more efficient if he had at his fingertips a computerized reference to the precise situation in the field.

I hope that early next year suitable legislation can be developed confirming entitlement to Judiciary-dedicated computer resources. Planning can then begin for acquisition and location of

the hardware and data center personnel in the planned Justice Complex, which I shall mention later. About three years lead time will be available, so that resources will only be immediately needed for the "requirements analysis" and " system design" phases of the statewide program which should begin as soon as authorized. These phases can be most efficiently and economically accomplished in the light of a prior determination to design a statewide Judicial management information system in support of a fully unified and state-funded judicial system. Standardized court records, budget, fiscal and personnel systems will assure uniform, economical and efficient judicial service to the public in all courts in all counties. An example of the enormous savings available upon achievement of these interrelated goals is the expected elimination of duplicate filing of paperwork of the Superior Court at both state and county levels.

In urging the Governor to consider a Judiciary-managed computer, I once mentioned to him:

> It was the desire of the people of New Jersey in 1947, and I think it still subsists, that the New Jersey court system should be outstanding in the nation in its administration and efficiency. Making computer support fully available to the court system, accomplishable only in the way I have described, would help fulfill this desire and I believe, not only presently but years from now, the people would be grateful.

In a very fair response, but without prejudging the issue, the Governor suggested preparation of a specific plan, and we are seeking budget support for the specifics which I have mentioned. The Governor also advised that in the current planning of New Jersey's new Justice Complex, space would be set aside in the new building for a potential Judiciary computer, so that the issue would not be indirectly and prematurely resolved against the Judiciary position. The Supreme Court is grateful for this very fair attitude, and further commends the Governor and State Treasurer for moving forward with unprecedented expedition to construct the Justice Complex. It will serve New Jersey well in the century to come.

THE JUDICIARY BUDGET

In our constitutional framework, the operation of the court system depends upon budget provision of necessary resources. The relationship between such resources and the administration of justice is an important dimension of the ability of government to act in the interest of the people. Our total budget request for fiscal year 1979 is $26,672,557. Of this sum, $24,495,907 is for general operation of the Judicial branch and $2,176,650 is for state aid, to counties basically for 40 percent reimbursement for county court judges' salaries.

With respect to the $24,495,907 request for general operation of the Judicial branch, this sum represents an increase of $5,402,151 over the adjusted appropriation for fiscal year 1978.

This increase of $5,402,151 over the adjusted appropriation for the present £seal year must be considered in the light of our requests and appropriations over. the past few years. The present grave budget situation did not just happen, but rather it developed as the result of continuous underfunding and understaffing over the years in the face of ever-increasing workload, as follows:

Underfunding			
Year	Requested	Adjusted Appropriation	Decrease
1976	18,237.895	15,013,496	3,224,399
1977	19,557,092	16,957,066	2,600,026
1978	20,501,900	19,093,756	1,408,144
1979	24,495,907	--	--

Understaffing		
Year	Requested	Approved
1976	154	16
1977	202	0
1978	214	115
1979	202	--

We are not critical of these developments, understanding that they occurred in a period, of financial recession, but merely point out the effect on the administration of justice. That causal relationship is important to the level of efficiency the people demand of their court system.

Over the years the expenditures for the Judicial branch have been approximately one-half of one percent of the total state expenditures. In forms of dollars, the sum has been equated with the cost of building a five mile stretch of a four lane highway. On. the other hand, the revenues to the State from the Judiciary have been increasing. During the past fiscal year the revenues turned over to the State amounted to more than $8,000,000.

Among the major categories in the $5,402,151 increase in the request for fiscal year 1979 over the adjusted appropriation for the current fiscal year are the following: (1) salaries, $3,314,543 ($2,289,138 for 202 new positions); (2) materials and supplies, $413,475; (3) services other than personal (travel, per diem court reporters, data processing, staff training, etc.), $1,532,313.

Among the requested 202 new positions are 23 positions mandated by statute to judges assigned to the Chancery Division (N. J. S. A. 2.A.:11-7 and N. J. S. A. 2.A.:11-19), 40 positions of Official Court Reporters and 43 positions for the Clerk of the Superior Court, wherein the gravity of the problem due to understaffing is of such nature that the various county bar associations have found it necessary to pass resolutions requesting that remedial action be taken.

Let me mention but one illustration of the relation between the budget requests and service to the public. For fiscal 1978 the Legislature granted 37 positions for personnel in the office of the Clerk of the Superior Court. Twenty-three of these persons (together with five more experienced employees) comprise a "night shift" in that office made necessary by space shortage. Other employees work overtime on Saturday, and they all confront an unprecedented backlog in equity filings, particularly on the matrimonial side.

In this single instance it can be seen that as we gradually work off this backlog, the quality and availability of justice are enhanced. If in fiscal 1978 these positions had been denied, or had

certain unexpended balances not been available to pay such overtime, the quality and availability of justice would correspondingly be diminished. Similar examples are legion and I shall not trouble you with them.

But as you can see, adequate budget support is indispensable to the administration of justice.

JUDICIAL COMPENSATION

The comprehensive material already contained in this Message is intended as a report to you and the people of New Jersey of the condition and needs of the finest court system in the nation. I think we all want it to remain so. The recommendations for legislative and executive action will be taken up, I hope, early in the new legislative year.

The subject I am about to discuss, however, is so serious and urgent that a failure to act in this session of the Legislature could foreshadow, indeed almost invite, a beginning deterioration in the New Jersey court system. I do not want to see this happen - I do not believe either you or the people want it to happen. But ominous signs of change are apparent, none of which are in the interest of the State. Several of our finest and most experienced judges have been forced to resign to adequately support their families. The greatest difficulty has been encountered by the Governor in persuading able and experienced lawyers with children in college, for instance, to accept appointment to the bench. I have been advised informally that many other judges will be leaving, not by choice, for most judges love the bench, but out of economic necessity and for the sake of their families.

I hope that such attrition in the membership of this fine New Jersey court system can be stopped. It is beyond my power to do so however-only the Legislature and the Governor can do that by promptly upgrading judicial compensation.

At the beginning of the present Administration in 1974, it had been legislatively intended that the salary of the incoming Governor would be increased by $15,000, that salaries of certain executive officers would be increased, and that there would be an across-the-board increase in judicial salaries in the amount of $9,000 per year. All of this was deemed then to represent a minimal increased compensation justified by inflationary pressures on the cost of living. It happened that the federal government, through the Cost of Living Council, was recommending against high percentage raises in compensation generally, in order to slow the rate of inflation. Consequently, Governor Byrne elected to accept the $15,000 increase in his compensation in three yearly stages. The Legislature therefore determined that only the "first stage" ($3,000) of the other salary raises should be authorized. But it was the stated intention of the Senate Judiciary Comu1ittee, as indicated by its chairman, Senator Dugan, that these additional installments would be forthcoming over the following two years, which would amount to an addition of $6,000 in the case of judges. The State then fell on evil times financially because of the continuing recession, and therefore the intended increases were never granted.

As a result, and according to factual evidence which will be placed before you and which I hope will be convincing, the situation regarding judicial compensation in New Jersey is presently in a shambles. Even the $6,000 raise intended in 1974 has, by now, become hopelessly inadequate,

Here is the evidence which will be produced before your committees: the average trial judge in 1970 was paid $37,000, when the Consumer Price Index stood at 116.3. In 1974, as I have stated, that salary became $40,000. But as of July 1977 the Index, representing the purchasing power of judges the same as everyone else, had risen to 182.6. The present $40,000 salary would therefore have to be $58,000 to provide today equivalent real income or purchasing power. This inexorable rise in the cost of living has been recognized, as it should be, as to other state employees. Since 1970, they have received cost-of-living increases (in addition to seven annual 5 percent increments which judges do not receive) totaling 29.5 percent, plus another 5 percent payable July 1, 1978, or a total as of that date of 34.5 percent. In that interval, by contrast, judges received but 8.1 percent.

The cumulative real income loss to the average trial judge from 1970 to 1977 totals $60,390 in relation to the Consumer Price Index, or $51,379 (as of July 1, 1978) in relation to an equivalent state employee who received cost-of-living increases since 1970. These comparisons are not in any way aimed at any other state employees. Of course they are entitled to their increases and everyone supports them. A. first principle of social justice is very old but still true, -"The laborer is worthy of his hire." The trouble is that somehow the judges have fallen by the wayside and have not received the benefit of this ancient truism.

Traditionally our judicial salaries have paralleled the per capita income position of New Jersey in relation to other states. Current statistics place New Jersey at the second highest per capita income level of the 50 states. Yet, the National Center for State Courts' survey now ranks New Jersey judicial salaries as 11th in the nation. Forty-seven of the states, since New Jersey judges' last raise of June 24, 1974, have increased their state's judicial salaries--that's right, 47 of the states. In February 1977, all federal judges received a $12,500 raise, increasing trial judges to $54,500 and appeals judges to $57,500. I hope this present Legislature will provide a similar $12,500 raise for New Jersey judges. Without in any way exhibiting less than high respect for judges of other jurisdictions, I will tell you that no judge, anywhere, in any jurisdiction, works harder than the average New Jersey judge. “The laborer is worthy of his hire.”

Moreover, I would hope that the Legislature will provide that judicial salaries in the future will increase automatically on a par with cost-of-living increases granted all other state employees. That would not only be just but sensible, for it would mean that never again would an appeal have to be made, such as I am making today, for judicial pay increases needed to preserve a court system which we all cherish and want to survive.

In any legislation adopted by you to fortify the interest of this state in maintaining the national stature of the New Jersey court system, and the consequent benefit to our citizens, I hope you will not forget the judges of the Workers' Compensation Courts. These judges, to be sure, are in the Executive branch of government, but their decisions come before us for review and therefore involve the judicial process and the well-being of the people of New Jersey in the dispensation of justice to the employees and employers in the State. Such full-time judges should receive compensation adequate to keep and attract the £nest type of Workers' Compensation judge.

Finally, I will remind you that in this problem of judicial salaries, I am something of an expert witness. In 1957, with nine children and grocery, tuition and other bills as well as a mortgage to

pay, I was forced to leave the bench - judicial work that I dearly loved. The consequence to the State of New Jersey was problematical. Not only did it lose my judicial service, but later it had to tolerate me for eight years as Governor. Lest a trend of resigned Superior Court judges becoming Governor sets in, let us see that no judges have to resign for economic reasons but rather can fulfill their destiny as judges and so serve the State and their fellow man. This depends now, exclusively and emergently, on you. Under existing law, failure to face this decision before the new legislative year in January 1978, would disqualify every lawyer in the new Legislature from judicial appointment during his or her elective term of office. This, quite unnecessarily, would react to the disadvantage of the State.

Let me say now, as 1 have said many times before, - I trust the people - I trust their representatives - I believe both will do their full duty to the State.

[Schedule A through Schedule L omitted from transcript]