

Report of the State of the Judiciary of the State of New Jersey
Chief Justice Deborah T. Poritz, New Jersey Supreme Court
Message to the State Bar
May 27, 2002, in Atlantic City, New Jersey

Every year in November I deliver a state of the judiciary address at our judicial college. As most of you know, that is the time, the three days before Thanksgiving, when all of the state court judges in New Jersey come together to attend classes, share information and learning experiences, and renew their commitment to the life of the law. Our college begins on a Monday morning with a plenary session in which my role is to bridge the work of the year before with a path to the year ahead, and to reflect generally on our accomplishments and our goals for the future.

For some years now I have thought about giving that address to a wider community. Many chief justices across this nation do that as a way of informing the other branches of government and the public about the work of the courts in their states. Some speak in a legislative forum (I am told Chief Justice Hughes spoke to our Legislature when he was chief), some in other forums, including state bar association meetings, but all take the opportunity to bring to a wider audience the story of the courts.

Fortuitously, your state bar leadership asked me to speak here today on the state of the judiciary. I was delighted to accept. This is my first attempt to bring to you -- and through you, to the public -- our story here in New Jersey, and I thank you for the opportunity to do so. At the judicial college, I usually begin by looking back to assess where we have been. I will begin the same way today.

This past year is marked by a great divide, a divide that is seared into our hearts and our minds by the images of two great towers falling into dust and rubble, and of the men and women who fell with them, and of those who lost their lives at the Pentagon and on that field in Pennsylvania. If ever we thought we were invincible, we lost our innocence on that day; if ever we thought we were safe, here in our own land, we lost that sense of security. We learned that we are vulnerable, and we learned to treasure our values, our way of life, our families, and our homes.

The judiciary is proud that we did our best to keep courtroom doors open after 9/11, and that we continued to do the work of the courts. However imperfectly we perform, and we are human in our capacity to err, we stand by the rule of law. And that is our bulwark against the evils of terrorism, against all who would renounce the rule of law to further their own ends.

You, too, should be proud, proud of your work. I visited Liberty State Park and spoke to the lawyers there who gave of their time freely, to help victims' families cope with the aftermath of 9/11. The bar association organized much of that effort and worked in other ways to help simplify the legal process and to provide relief quickly and compassionately. You should be very proud, and I am honored to stand among you.

After 9/11 it was not easy to focus. What sustained us was -- is -- the belief that what we do is important, and that doing it well matters. So I am going to tell you about what we have done and will be doing to serve you -- and the public -- better.

Our modern court system will be 54 years old this Sept. 15th. From its inception, the new judiciary was meant to be a unified system of courts that would resolve disputes in an efficient, effective, and fair manner. Many of you, perhaps most of you, were not even born when that vision was formed. Yet, most of you were actually practicing law by the time it became a reality more than 40 years later, when, in 1995, legislation was enacted phasing in state-funding for the unified operations of the Superior Court.

Since then, the hard work of turning that far-sighted vision into a functioning and enduring system of justice has been non-stop, sometimes obvious, sometimes not so obvious, but always inching the system forward toward the goal set for us more than half a century ago. I have been privileged to lead that work and I stand ready to support it, to meet what Judge Williams, our administrative director, recently called the last great challenge of the framers of our constitution.

As you well know, our effort to integrate the courts has been dominated by the development and implementation of standards and best practices. With input from AOC staff at the central office, from line judges, from the bar and from other interested stakeholders, the conferences of presiding judges and division managers have developed standards and best practices for all of the various components of our system. As the name suggests, we sought predictability through a statewide system that translated the best in procedures and practice into a uniform set of rules for the conduct of litigation in our courts. And, predictably, it was our reformation of standards across the major practice areas that has generated the most interest -- and the most controversy.

I will start with the criminal division because it is such a good story. Over the past year, the judiciary worked closely with the governor's office and legislative leaders to promote the expansion of drug courts to every county. Drug courts offer a new approach to treating drug-addicted offenders. Rather than emphasizing incarceration, which by itself does little to combat addiction, drug courts emphasize close supervision and thorough treatment of offenders, with the continuing direct involvement of a judge in overseeing the offender's progress.

The record, both nationally and in New Jersey, shows that drug courts work. They work because participants remain in treatment and under supervision; they work because the cost per offender is about half the cost of prison; they work because they result in fewer relapses by offenders and greater success in the payment of fines and in holding families together; and they work because they reduce racial disparity in our prison population. We are hopeful that the expansion of this program will make a difference.

Best practices in our family division covers many case types and different sub-specialties. Most important, our efforts appear to be making another kind of difference in family court dispositions. We are seeing substantial reductions in our backlogs in critical areas: from April 2001 to April 2002 our backlogs dropped 36 percent in dissolution, 34 percent in delinquency, 40 percent in non-dissolution and 49 percent in domestic violence cases.

Given the sensitivity of these matters, and the impact of timely disposition on families in New Jersey, we are justifiably proud of the progress made.

That brings me to the civil division, where we have had the most difference of opinion, shall we say, since the standards took effect more than a year-and-a-half ago. Not unlike our other divisions, best practices in the civil division had two main goals: to secure greater trial date certainty and to achieve greater uniformity among counties in their management of civil cases. We believed, and still believe, that accomplishing those goals will reduce the costs of litigation at the same time that it will reduce the psychological costs of repeated adjournments of scheduled trials.

It is premature, even now, to assess how well we have done, although we are beginning to see encouraging signs. As in family, the backlog is way down, despite a rise in filings for the last two years. Indeed, we are at an all-time low in our civil backlog: last year's 22 percent decrease is now down an additional 17 percent this year! Is backlog down because of best practices? We think best practices has made a difference here too.

We are finding that earlier preparation means earlier resolution of cases and, therefore, more timely justice. In those counties where we have achieved trial date certainty, cases are being resolved faster and the system is functioning better. I thank all of you who came to the process with an open mind and a willingness to work with us to improve the administration of the courts. I particularly thank outgoing president, Danny Waldman, and incoming president, Rich Badolato, for their honest assessments and constructive comments. We had regular meetings on this subject, and yes, I laughed at Danny's jokes, but always because he was funny, not out of pity (that's what he apparently told the New Jersey Lawyer). We have had a good relationship and I know it will continue this next year. Most important, even as we implement best practices, we are moving on to our next and most enduring challenge -- that of continuously improving the system. And that means evaluating what has already been put in place. We have established measurement tools to do this. We monitor trial date certainty on a weekly basis, determining how many cases are noticed for trial, how many are started, how many adjourned, and whether the adjournments are based on the unavailability of a judge or some other reason.

We have a visitation program that gives each vicinage a checklist and a series of questions to answer prior to the visit itself. What comes out of those visits can both help improve the operation of that vicinage and identify local practices that might be adapted to statewide use.

We have procedures in place to make sure that we hear and consider feedback from you, from the trial judges, and from our staff. We listen, and when appropriate, we adopt your suggestions. Many of you may remember when Judge Williams and I showed up at last year's bar meeting and listened to your concerns about civil best practices. The bar committee formed to review the new rules subsequently issued its interim report, and its recommendations led to adjustments to those rules.

We listened. Starting in September, an attorney who has not received timely discovery may seek either a motion to compel or an order to strike or dismiss without prejudice. And, track changes

can be made when the nature of the case has changed, as for example, an ordinary auto negligence case has become a medical malpractice case.

The key to making best practices work will be making sure they evolve along with the evolving needs of the system. We believe we have put the necessary safeguards in place to ensure that they can.

We continue to explore new ways to reduce or eliminate backlog and repetitive court events. We continue to work on extending the best practice initiative to all of the components of the court system. Just this month, I charged Judge Williams to coordinate the creation of best practices and standards in child support enforcement, an area of interest to both the legislature and the judiciary. And appropriately so. Our efforts to improve enforcement of child support are critical to hundreds of thousands of New Jersey children.

In the end, this is about doing the best we can to deliver justice. It has been said that we have one of the finest state judiciaries in the country. We cannot stand still and maintain that high accolade.

Let me close with some good news and some bad. Our cadre of judges is at an all-time high, which bodes well for continuing to clear calendars and reduce backlog in the years to come. That additional judicial presence will not be felt immediately, however, as this year's budget shortfalls will limit our use of recall judges next year. It is difficult to justify, in these hard times, using as many recall judges when we have so many new judges.

The financial crisis that threatens all of state government is forcing us to tighten our belts and defer purchases and programs when we can. We must work efficiently and we must cut costs.

Improving our services through the effective use of technology has been another dominant theme for the judiciary. We can teleconference and hear argument by phone in every civil, equity and family courtroom in the state. We have created a video-conferencing network to accommodate remote testimony in every courthouse, and we are receiving testimony from places as far away as Tel Aviv and as close as the local county jail. We have implemented a statewide program for language interpreting by phone to make our courts more accessible to New Jersey's increasingly diverse population. And we have implemented a program to permit payment of parking and traffic tickets by credit card over the Internet that is now operating in over 300 municipal courts, and that will be operational in every municipal court in the state by this summer.

Dwarfing all of these successes, however, is our compelling need to modernize our antiquated information technology systems to avoid a catastrophic breakdown. We have developed a strategic plan to address critical I.T. needs, but implementation will take at least 5 years. The work is costly (over \$133 million), and we must start now, in the midst of a budget crisis. At this difficult time, I am deeply grateful for the State Bar's support of our proposal for filing-fee increases to be placed in a specially dedicated fund to meet those essential I.T. needs. That support is vital for our future.

Let me close by again expressing my pride, this time in our efforts to promote diversity at every level of the judiciary workforce. The role of women and minorities in leadership positions throughout the court system has never been greater. We are committed to maintain and build on the diversity of our workforce to more effectively serve the multi-cultural and multi-racial population that calls New Jersey home.

No state court system has ever had a more solid foundation.

I am reminded of Chief Justice Vanderbilt's remark that judicial reform is not for the short-winded. How right he was. Judicial reform is ultimately not for the sprinter, but for the long distance runner. We are in this for the long haul because, as I said upfront here today, the work is worth doing.