

State of the Judiciary
Chief Justice Deborah T. Poritz, New Jersey Supreme Court
Address to the New Jersey State Bar Association
May 20, 2004

This is the third time that I have been invited to deliver a state of the judiciary address at the New Jersey State Bar Association annual meeting in Atlantic City. I am pleased indeed that this report has become a yearly event as we together intended, and I am delighted to be here today. Unlike prior years, however, I am not going to give you an overview of what the judiciary has accomplished in the past year. Because of scheduling difficulties, this year we do not have as much time together as in prior years and, therefore, I will focus instead on three important programs that the judiciary has undertaken, describing what we have done so far and what we intend to do in the future.

But first I must tell you what those of you who come into regular contact with the courts already know: that the New Jersey judiciary is in excellent shape. That I am able to say that we are doing well for the third year in a row is most gratifying. It is a comment about the quality of our own bench (about which I am most proud) and it is a tribute both to our court staff and to the bar, whose members have contributed to our efforts to improve the courts. I can only applaud your dedication and your hard work. Nonetheless, as I have said before, we must continue the process of self-examination and self-improvement if we are to continue to excel.

In that regard, we are focusing on the family division, a most critical component of our state judiciary. More specifically, in respect of the child-placement system, nothing we do is more important than our efforts to ensure that children are protected and nurtured. No group is more vulnerable, and no group is more important. What we do for our children is a measure of our worth as a society.

I do not have to tell you about the problems of the state's beleaguered child-placement system. It has been asked for too many years to take care of too many children with too few resources. But when dealing with the welfare of children, there simply are no excuses. We are committed to doing everything we can do to make our part of the system the best that it can be.

Every placement of a child at risk in this state -- more than 13,000 children last year -- is reviewed by a judge and/or a child-placement review board. Until a child is reunited with his or her family, adopted, or reaches majority, the plan for that child's care must be reviewed every year. Carrying out that task is difficult and time-consuming. Yet, our responsibility to those children requires that we find the time and the resources to accomplish those reviews.

Thanks to the commitment of our judges and staff, we have dramatically reduced the number of child-placement cases in backlog. As of March of this year, only 36 abuse and neglect cases were out of compliance with our time goals. When you consider that Essex County alone had more than 600 cases out of compliance at the end of last year, and had only five last month, you will understand just how far we have come. At present, 12 of our counties do not have a single case in backlog and five have a backlog of three cases or fewer. We will not be satisfied until no case is in backlog anywhere in New Jersey.

I am extraordinarily proud of the judges and staff in all of our family divisions who have done so much for the children who need so much.

The second program I want to discuss has received some publicity in the news media, so many of you know already about what we are doing. I am talking about drug courts.

A higher proportion of the people who are in prison in New Jersey are there for drug-related offenses than in any other state in the union. Nationally, about one-fifth of those sentenced to prison are sentenced because of drug-related offenses. In New Jersey, that percentage is greater than one in three (36 percent).

In cold, hard dollars, it has been estimated that New Jersey spends \$266 million a year to keep those people in our prisons, more than 16 other states spend on their entire corrections systems.

We at the judiciary know that drug courts work. In neighboring New York, two minimum-security prisons and a work-release facility are being closed because rehabilitation programs for drug-offenders have been successful. But we do not have to go beyond the borders of our own state to understand that we should have drug courts here in every county.

Drug courts, for those you who have not followed this story, or who have not directly participated in their development, are about close supervision and intensive treatment for offenders, accompanied by the direct involvement of a judge who oversees each offender's progress. About 3,500 persons have participated in the program since the first drug court opened in 1996, and today, we have drug courts in 13 counties.

Here is what we know from our experiences over the last eight years:

that a greater number of participants stay in our program than in other states' programs (based on the national average);

that more than 40 babies were born drug-free because their mothers stopped using drugs because of our program;

that almost all of our graduates leave the program with jobs;

that there is considerably less recidivism among graduates of drug courts than among the prison population generally;

that drug courts give the system a cost-efficient way to offer a viable alternative to incarceration for those least likely to pose a risk to society; and

that drug courts are a means to address racial disparity in the prison population. Today, 69 percent of our drug court participants are minorities, men and women who, for the first time, have been offered a choice other than incarceration.

We must continue this effort. Yet, there are eight counties -- Atlantic, Burlington, Cape May, Hudson, Hunterdon, Middlesex, Somerset, and Warren -- that do not have drug courts. We can have courts in those counties up and running within 30 days if we get the necessary funding from the Legislature.

I am delighted, therefore, to be able to tell you today that Governor McGreevey has proposed a 2.2 million dollar additional appropriation for new drug courts in his budget proposal for the coming year. That money will fund courts in the last eight counties by mid-April 2005. Indeed, we are hoping that the Legislature will increase that amount so that we can open earlier. Every month costs \$800,000, but every month added means fewer offenders cycling through the prison system and safer communities sooner.

Finally, there is one other project you should know about. For years, attorneys handling commercial litigation have asked for a court specializing in complex commercial cases. We were able to launch a pilot focusing on such cases in Bergen and Essex some years ago that has been well received. Although we have only about 300 commercial cases a year statewide, we continue to hear that attorneys would like to see an expansion of specialized case handling in this area. We are responding to those requests.

By September, we anticipate implementing in four vicinages a second pilot based on a model that is somewhat different from the Bergen/Essex pilot. Under this proposal, a general equity judge will preside over complex commercial cases that ordinarily would have been sent to the civil division. What that means is that one judge will be handling all eligible Track IV commercial cases from beginning to end.

Complex commercial cases will be eligible for the pilot when all of the parties:

1. Request, within 30 days of joinder, management by a general equity judge;
2. Submit a waiver of jury trial;
3. Agree to use complementary dispute resolution techniques; and
4. Agree to expedited discovery, with the goal of ultimate resolution of the case within one year.

In return, the parties will get the consistency that comes from a team of court professionals managing the case from start to finish. Over a two- or three-year period, the judiciary and the bar should be able to evaluate whether that consistency leads to more efficient and more effective case management.

I will close with a few general observations. There is always more to do. Our mission sounds simple -- we are charged with the fair and timely resolution of disputes, a task I hope we carry out with humility and a sense of the enormous responsibility entrusted to us. In this undertaking, we have a special relationship with the bar, for it is largely through your efforts, and the efforts of judiciary staff, that we are able to carry out our mission.

Recently, on Law Day, I listened to employees from the administrative office of the courts talk about their jobs. To a person, they were dedicated and proud. Whether from the drug courts or

from employee training, the person who spoke conveyed the satisfaction that comes when we believe that the work we do matters. What we do matters.