

State of the Judiciary

Chief Justice Barbara M. Durham, Washington Supreme Court

Message to the Washington Legislature

January 21, 1997, in Olympia, Washington

Chief Justice Durham: I feel very honored this morning to be speaking with you on the same day we honor the memory of Dr. Martin Luther King, Jr. During his life, Dr. King spoke eloquently and often about justice. In his famous letter from a Birmingham Jail he wrote: "Injustice anywhere. . . is a threat to justice everywhere." And shortly before his tragic death, he suggested to some friends the wording for his own eulogy. He said, in part: "Yes, if you want to say that I am a drum major, say that I was a drum major for justice."

The question before us this morning is: "What are we doing to make the justice system better for all our citizens?" I am pleased to report that from Bellingham to Vancouver, Aberdeen to Pullman — our courts and our judges have been working hard to make our justice system efficient.

Thanks to your support in the legislature, and the voter's approval of Initiative 8210 two years ago, we have brought stability to judicial leadership. For more than one hundred years, chief justices in our state automatically rotated as Chief Justice for a single, two-year term. Today, I stand before you as the first chief justice who has been elected by the court to serve a four-year term. My colleague, Justice Jim Dolliver, our court's most senior member and a former chief justice, has become the court's first Associate Chief Justice, or second in command.

Stabilizing judicial leadership will enable us to operate more efficiently as we sharpen our judicial vision and create our first statewide, long-range plan.

Three of our justices have been working hard to make the courts more accessible — not only to litigants — but also to citizens, voters, and others who need our help. Justice Charles Z. Smith has served for 8 years as chair of the Washington Minority and Justice Commission. The commission has conducted groundbreaking cultural diversity studies and educational programs to ensure that all people are treated fairly and equally.

Justice Charles Johnson chairs the Supreme Court Rules Committee, which is working on ways to streamline court procedures to make courts more "user friendly." Justice Johnson's efforts include revising the rule-making process to provide for more public participation.

Associate Chief Justice Jim Dolliver presides over our court interpreter committee. We are one of the very few state judicial systems that train and certify foreign language interpreters to work in courts with those who speak little or no English.

Let's now examine some of our judiciary's exciting innovations, in the areas of television and technology. In the past, very few people visited our court to observe cases being argued. . .until recently. Now, friends and utter strangers stop us on the street and tell us what they thought

about a case we heard two days ago—or even that morning. That’s the power of television. Our hearings, we understand, were the first gavel-to-gavel, appellate court proceedings televised live, anywhere in the world. This innovative educational tool is a two-way street - TVW takes the court to the people and it brings people to the court.

In addition to having a presence on television, we are also taking advantage of the technology of the Internet. The Washington Court Home Page has become a popular web site. You can now find current Supreme Court opinions on-line. We also plan to put on-line the court’s past opinions in cooperation with Gonzaga Law School. Besides judicial opinions, our web pages offer a wealth of general and technical information about the courts.

Another successful project that combined technology and cooperation, was recommended by the Walsh Commission -- that was the Judicial Voter’s Pamphlet. Last year the Court directed distribution of the first, statewide judicial voter pamphlet ever published in Washington. Under the leadership of a committee chaired by Justice Gerry Alexander and Justice Phil Talmadge, and the generous cooperation of our state’s daily newspapers, we distributed nearly one and a quarter million pamphlets.

Citizens received the pamphlets just before the September primary, the time when most judges are elected. Voters received thorough, helpful information about each judicial candidates’ qualifications. By means of this public and private endeavor, we were able to print and deliver the pamphlets for only three-and-one-half-cents a copy. The response we received was overwhelmingly positive. Many voters asked us to produce the pamphlet regularly. We also posted voter information on the Internet. More than twelve hundred individuals accessed our Internet edition.

Improving the information voters have about judicial candidates was only one of the recommendations of the Walsh Commission. At the core of that report is a recommendation that would change the way judges are selected in our state. I believe that judges -- all judges -- should be elected --- that voters should have the right to cast a ballot about the competence of every judge. There are, of course, many ways to achieve that goal. During the next few years, I anticipate a healthy and vigorous debate on this subject.

I would like to now turn to our criminal justice system. I am particularly proud of the leadership the judicial branch has demonstrated in dealing with the issue of domestic violence. Domestic violence is a crime that afflicts every community, and every racial, ethnic, and economic group. How large is the problem? In 1994, the courts in our state handled nearly 31,000 petitions for domestic violence and civil-harassment protection orders. That’s about 84 cases a day, one every 17 minutes. In the last legislative session alone, you considered 34 different measures, introduced to eliminate the problem of domestic violence. As judicial leaders, we firmly believe that domestic violence must be dealt with in a coordinated comprehensive way. Two years ago, Attorney General Christine Gregoire, Justice Richard Guy and I hosted the first domestic violence “summit”. As a follow up, last month we called a second statewide summit. In that meeting, we continued to build relationships among organizations and to foster cooperation. We also heard encouraging reports from local leaders about their efforts to combat the problem. In the Tri-cities, for example, a summit was hosted by Craig Mattheson, a superior court judge in

Benton–Franklin Counties who worked together with the Gender and Justice Commission. The Commission will use the Tri-cities’ mini-summit as a model for other cooperative local events.

Next July, we will complete a project that you initiated in 1995 authorizing us to create a statewide domestic violence tracking system. With this tracking system in place, chronic spouse abusers may still run — but they won’t be able to hide their past. Arrest and conviction information will be instantly available to police, prosecutors, and judges across the state. We will know whether or not a civil protection order has been issued in any county in the state, no matter what type of proceeding.

Violent crime is no longer confined to our streets. As you may recall, three women and an unborn child were shot and killed, two years ago, in the hallway outside a busy King County courtroom. I convened an emergency meeting of presiding judges to examine ways our courthouses could be made safer. Yakima County prosecutor, Jeff Sullivan, chaired an advisory group of county commissioners, lawyers, judges, law enforcement officers, and security experts. Together, they developed a set of safety guidelines. These guidelines form a "blueprint for safety," and are being adopted in many of our courts and courthouses. The personal well-being of the public is always a high priority.

As every judge, county commissioner and each of you know, our state’s jail and prison space is severely limited. Space is especially limited for juvenile detention. The professionals in juvenile court realize that they must act early, particularly with young, high-risk offenders. Our state’s Early Intervention Program, which is in place in 12 juvenile courts, allows court officials to reach juvenile offenders early in their probation through the use of intensive monitoring. Our courts have worked hard to explore alternatives to incarceration. Today, throughout the state, courts are experimenting with aggressive electronic home-monitoring, weekend schooling, day-reporting-centers, and community-service work crews. Judges have long recognized the connection between crime, delinquency, and the state of health of our families. Judicial and legislative leaders are continuing to work together to help, reconcile troubled youth and their families. Last year our courts handled more than 9000 truancy petitions, compared to a statewide total the year before of just 91! Superior court judges helped shape some of last session’s most far-reaching juvenile measures. We will continue to work with you to deal with the challenges of our criminal justice system.

Let’s now turn to legislative and judicial cooperation. Because our functions sometimes overlap, we took another step last November, aimed at a more effective partnership with the legislature. We sponsored a leadership workshop to discuss our mutual roles in establishing our state’s laws. Important questions were explored. For example:..."What steps can the legislature take to ensure that its intent is preserved when constitutional questions are raised?" And, "How can we better assure that laws are interpreted the way the legislature intended?" We will continue to explore these and other questions — that affect both civil and criminal laws.

Another challenge we all face is the way we manage our limited resources. Local courts have found new ways, and often new resources, to meet these budget challenges. A good example of how our judicial leaders are finding innovative ways to manage their limited resources is the "courts helping courts" program. In order to stretch employee resources, staff members from one

court visit another to lend help and expertise. And, to hold down expenses, host courts accommodate visitors in their own homes. Judges from the trial courts to the appellate courts are striving to maximize limited resources.

The Supreme Court voted unanimously just last week to seek your support for a bill requiring appellate judges, upon leaving the bench, to complete their opinions within 60 days.

Last month, Judge Faith Ireland, President of the Superior Court Judges' Association and Judge Robert McBeth, President of the District and Municipal Court Judges' Association, held four meetings across the state to discuss funding issues. Judges recognize the growing challenges you and county commissioners face in finding ways to keep pace with the rising costs of the criminal justice system. We pledge our cooperation in trying to find new and more efficient ways to allocate scarce dollars.

Recently, we scrutinized our entire court budget. Under the leadership of Justices Phil Talmadge and Richard Guy, the Supreme Court initiated a zero-based budget process to take a hard look at where our departments could reduce expenses. We used this process to construct our budget proposal for the upcoming biennium. We have also just completed an internal management review, coordinated by Justice Alexander. Our goal was to improve our internal communications and day-to-day operations. We have now reviewed all of our operations — and evaluated our core functions. We will ask you to consider legislation to update some of our operations.

These and other efforts will allow us to hold the line on expenses while keeping the wheels of justice turning. Another example of cooperation, is the state's improved lawyer discipline system. The bench and the bar have been working together to improve the process by which lawyers are disciplined, and to make the process more responsive to the needs of the public. Based on recommendations made by a joint task force of judges, lawyers, and the public at large, the Washington State Bar Association significantly reorganized its discipline process. The bar underwrites the discipline system at a cost of two-point-three million dollars a year. And lawyers pay for it—no public tax money is involved.

To do this, the state bar association has

- . increased bar association dues
- . doubled the staff who review complaints
- . and created consumer affairs positions to serve the public.

The bar may now cooperate with criminal investigations and the public can get more information on past sanctions. Already we see dramatic improvements in the way complaints are handled. For the first time in years, more cases were closed last year than were opened. Later this month the Court will publish, for comment, these and other recommendations for improving the lawyer discipline system.

Five individuals in particular have contributed their vision and leadership to this project. I would like to recognize their contributions. They are:

- . Current bar president Tom Chambers;
- . Former chief justice Jim Andersen;
- . Former bar president Paul Stritmatter;
- . Chair of the board of governor's discipline committee, Peter Ehrlichman; and
- . The association's chief disciplinary counsel, Barrie Althoff.

Let me share with you two examples of how we are using technology to make our courts more efficient. To make valuable court information more readily available, Judicial Information System terminals can be found in the Office of Support Enforcement, Department of Licensing, and in county prosecutor's offices. The State Patrol and some local law enforcement offices also have access to our data. Last month a performance audit was conducted on our JIS by the National Center for State Courts in Virginia. Representative Ballard, you will be pleased with the results of the audit: The report states that our JIS staffing levels are among the most efficient in the country. We operate more efficiently, and reliably, and at less cost-per-user than...

- . comparable systems in other states,
- . similar systems in Washington State,
- . and even systems in the private sector.

Chaired by Justice Phil Talmadge, JIS now handles six-hundred, seventy-five thousand transactions a day. This number will soon reach the million mark.

And now for something different

Judges are not often perceived as "warm and fuzzy". But a unique program which brings judges into the classrooms to explain our legal system has received high marks. This isn't a new program. When I came to the court 12 years ago, I was concerned that judges were isolated from the public. Having been raised by a mother who was an educator for forty years, this idea was a natural. Co-chaired by Justice Richard Sanders and myself, a group of judges, educators, lawyers and members of the public have developed lesson plans for students from kindergarten through college about our legal system. Judges who volunteer their time are partnered with teachers around the state to visit classrooms. Since the program's beginning, over 130 judges have educated more than 1,300 students.

Just last week, a committee of judges chose public education as the theme for our annual fall judicial conference. In early September some 300 judges will arrive in Yakima. At least 100 of them will have the opportunity to visit local schools from Zilla to Sunnyside. We even hope to visit one of the most exciting educational facilities in our state, Heritage College. Set on the Yakama Indian Reservation not far from Toppenish, Heritage College is led by Dr. Kathleen Ross, a Roman Catholic nun. Fifty percent of undergraduates at Heritage College are either Native-American or Hispanic-American. Eighty-five percent are the first in their families to attend college.

Heritage College was established through the mutual efforts of Dr. Ross, Yakima community leaders and the Yakama Indian Nation. It is an unusual and outstanding institution and certainly one that would have pleased Dr. Martin Luther King, Jr. Dr. King closed his Birmingham letter saying: "We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects us all indirectly."

Together let us continue to seek what is fair, what is right, and what is just for the citizens who have placed their trust in us. Thank you.