

State of the Judiciary  
Chief Justice Steven C. Gonzalez, Washington Supreme Court  
Written Message to Washington Legislature  
January 2022

Governor Inslee, members of the State Legislature, judicial officers, elected officials and fellow Washington residents:

It is my privilege to report to you the state of Washington's judiciary. 2021 was another challenging year for Washington courts. It was also a year of better communication, new partnerships, innovations, and important steps towards fulfilling the promise of equity and access to justice for all.

2021 was the second year of the pandemic and the second year of renewed work for racial justice. We have faced critical questions both new and old. Where and how are people struggling to access justice? Where is technology a help and where is it — or the lack of it — a barrier? What does research and evidence tell us about justice being dispensed unequally? Are our courts safe, in these times of easy transmission and quick anger? Which traditional practices — including court fines and fees and our rules about protection orders — are hindering fairness and access to courts? What role should tradition and long standing rules play as the judicial branch does the work confided to it within our system of divided government?

It is fundamental to the justice system that we examine what we do. Some of that examination is detailed in this report.

That examination is also detailed in a three-year study by the Gender and Justice Commission about the ways in which gender and race combined affect outcomes of cases and access to justice. The study included five pilot projects to provide even more experience and information on critical questions. The detail and breadth of this study will give our branch tremendous guidance in improving the justice we provide.

That examination is also detailed in a study by the Race and Justice Task Force 2.0. This builds on the work of the 2010 task force and provides updated information on how race still affects access to justice and the outcomes of encounters with the justice system. This State of the Judiciary report also includes the results of research about court fines and fees — legal financial obligations (LFOs) — which can have the profound effect of criminalizing poverty. You will also find research into legal representation for children, research into the incarceration of women and girls of color, and updated information on how the Court Recovery Task Force is examining numerous questions brought on by the pandemic and the call for racial justice.

We do not rely on only judicial branch members to conduct these examinations. Those who come to courts and those affected by judicial practices must be part of the discussion if we are to find and adopt better practices. The task force studies are products of many stakeholders coming together to present their best analysis of where we are and where we can improve. The taskforces have involved the good work of the practitioner and the academic, the defender and the

prosecutor, the civil litigant and the civil defender. We have also learned much from victim advocates and offenders who need treatment who have spoken eloquently about where we fall short. For the LFO study by the Minority and Justice Commission's LFO Stakeholder Consortium, people from all sides of the issue came together, many for the first time, and helped make policy changes both in the legislature and the courts.

I want to give my sincere appreciation to all those who gave of their time on task forces, committees and pilot projects to provide us with insight we might not otherwise have had.

Being willing to look critically at ourselves to gain new insight is only half of the battle. We must take those insights and act on them because atmospheric promises of equitable and accessible justice have to actually mean something. We have to apply what we have learned to everyday practices. One important part in doing this is communicating with each other. A silver lining of the pandemic is that judicial branch leaders such as presiding judges across the state are meeting and talking regularly. We're discussing what we all are facing, comparing notes, and finding solutions together.

We've learned that some of our processes need updating and the pandemic is making sure we do that.

This past year is also the first time our annual Judicial Summit included leaders of both the Legislative and Executive branches. Tradition has often hampered communication between the three branches because of the need to be cautious about maintaining the separation of powers that safeguards our liberties. But the tradition also hampers understanding and problem solving. Judicial leaders cannot talk with lawmakers about active court cases, but we can talk with lawmakers about technology and access problems, budgets and our court security. Lawmakers can tell us that their constituents are confused by the protection order process or ask us questions about court facilities.

It is our obligation to administer justice, and we look forward to continuing and expanding on better communication between the branches so we can be more effective in doing so.

The judicial branch only functions if people have faith that the process is fair. We have room to improve. The big question before us is how to do that. We can't be afraid to examine ourselves and accept what we learn. We can't be afraid to listen to others, and we can't be afraid to set aside tradition that isn't working.

I want to thank my colleagues in the judicial branch for their tremendous efforts to keep courts working effectively in these unpredictable times, and for all of their extra effort toward determining how we move forward. Much has been accomplished and I look forward to all of our work helping fulfill the promise of equal justice under law.