

STATE OF THE JUDICIARY ADDRESS
by Chief Justice Daniel A. Moore, Jr.

before the 18th Alaska State Legislature
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Good Morning, President Halford, Speaker Barnes, Senators, Representatives, Ladies, and Gentlemen.

I am pleased to appear once again before the 18th Alaska Legislature. I am here to speak not only on behalf of the Alaska judiciary, but also for the state agencies whose work is essential to the effective functioning of the judicial system. And I am speaking this morning not just to you, but also with you, for I believe that the legislature, the executive branch, and the judiciary are the public voice of the people of the State of Alaska.

It does not matter that our titles differ, or that you are elected officials and I represent the appointed members of the judiciary, for our goals, our responsibilities, and our vision must be the same: we are here because the people of the State of Alaska have agreed to create, support, vote for, and be governed and judged by the branches of government which you and I represent.

We are each a part of the mechanism of collective decisionmaking for the people of the State of Alaska. The laws, the services provided by state justice agencies, and the decisions of the Alaska courts are visible signs of the willingness of the people to work together toward common goals in 20th century Alaska.

In working toward those goals we face many challenges. We must deal with the shrinking state budget. We must improve public safety, health, and education. We must adapt to changes in the makeup of the family and in shifting private and public social and economic expectations. We must allocate scarce resources fairly. And, above all,

we must deal with these challenges not only in our individual capacities as legislators, judges, state employees, and appointed officials, but cooperatively as well. We must work together to find common ground, unity in policy and direction, and collective solutions.

I would like to share with you a general assessment of the work of the Alaska Court System in the hope that we can identify that common ground.

The work of the court system grows steadily. One measure of growth is caseload, which is directly affected by changes in population, economic conditions, laws, and law enforcement. In the last year we have experienced some very specific caseload increases. Those increases include a 16% increase in superior court general civil filings, and significant increases in domestic relations and children's court filings. Caseloads in some courts have increased dramatically: for example, Kotzebue had a 30% increase in superior court filings and a 147% increase in children's cases.

Since criminal cases are subject to strict constitutionally-based time standards, the calendaring of those cases is relatively inflexible. Consequently, increases in civil case filings are usually managed by increasing the time it takes to bring those cases to disposition. Hidden behind that slightly stuffy phrase - "increasing the time to disposition" - are some very human costs.

Delays in civil cases can mean that lives are put on hold until divorces are granted or child custody is determined. Delays can mean that children remain in foster care while families wait to adopt them. Delays can mean that salaries are not earned, bills are not paid, buildings are not built, and wells are not drilled. Court cases are not counted like widgets; cases are people, people who need to get on with the business of life.

Because we know that, we continually strive to improve our work. For example, in the last year the Supreme Court has made numerous changes to court rules and procedures. We changed the appellate rules to reduce the cost of appeals. We adopted a more detailed Code of Judicial Conduct which provides more guidance for judges and the public. We are currently reviewing significant changes to discovery and child support rules which should take effect later this year. We have

made our Rules of Court gender-neutral, following the lead of the federal courts. We have introduced electronic executions on payments of civil judgments to improve the collection of fines for the state and municipalities.

We are improving our work in other ways, as well. We are developing increasingly sophisticated caseload management systems through computerization and increased employee training. We have developed better inventory, printing, mailing, and distribution systems. We are constantly increasing the court system's accessibility to the public by upgrading our facilities, increasing the use of phone, fax, and modem technology, and providing more public information materials. We actively seek input from the public about the quality of our service, and we have implemented an employee recognition program to reward court employees who serve the public best. All in all, we remain strongly and actively committed to our responsibility to the public.

We are faced with new concerns, as well. Courts nationwide are experiencing an increase in security problems and episodes of violence. Fortunately as yet we have had relatively few incidents of courtroom violence in Alaska, although a highly publicized threat was made against the life of a retired judge not long ago. Consequently we are in the process of implementing new security measures in several courts using the fiscal resources which are currently available to us.

Other security changes are more major and will require more direct funding. For example, the new Anchorage courthouse will incorporate design elements which increase security without creating the image of a fortress, an image which is inconsistent with the public business of a court. I ask you to recognize, also, that because the court is a public institution, the costs of security are truly public costs. Improved security measures are needed not only for judges and court employees but also for litigants, attorneys, the employees of justice agencies, and the general public alike.

I must talk today about the work of those justice agencies. It is important to remember that the courts do not create their caseloads: most increases in the work of the courts are a direct result of increases in the work of state justice agencies. The courts and those agencies must work effectively together without losing sight of our individual mandates and responsibilities.

The court system's constitutional mandate is to provide a forum for the adjudication of all disputes legitimately brought before it. Such a forum will work only if law enforcement, prosecution, defense, and corrections are all able to perform their functions. Those functions are best performed when both intellectual and economic resources are fairly balanced among the different components of the justice system. Justice demands this balance. There are numerous agencies which provide vital links in the chain of justice. In the face of ever-growing caseloads and ever-stretched budgets, the Alaska Public Defender Agency and the Office of Public Advocacy provide defendants with constitutionally mandated counsel, and abused and neglected children with guardian ad litem services. Through the efforts of the Alaska Pro Bono program, almost 8,000 hours of volunteer time has been provided in civil cases by volunteer attorneys, physicians, paralegals, and others.

Whenever it is appropriate, we work very closely with all the agencies, organizations, and individuals whose participation in the justice system is essential. For example, we are currently testing pilot videolink programs which will reduce the need to transport in-custody defendants for hearings. Representatives of the court system are part of an advisory committee which has met regularly since last summer to assist the executive branch in the daunting task of selecting the first-ever State Medical Examiner and implementing the state medical examiner legislation which became law last September. This committee, with members from the Departments of Law, Public Safety, and Health and Social Services, and the court system and local law enforcement, has been a model of effective inter-governmental cooperation.

Such inter-governmental cooperation is being fostered in many ways. Governor Hickel has recently reestablished the Criminal Justice Working Group. Members from the legislature, the executive branch, and the Court System meet in a non-adversarial setting to review, revise, and endorse policies and objectives which will benefit the criminal justice system as a whole. For example, this group has recently been addressing issues such as the coordination of access to computerized information systems, juvenile waiver and "three-strikes" proposals, and a variety of suggestions regarding probation, parole, diversion, fines, fees, and other criminal justice issues.

Legislators, citizens, and all the members of this group realize that the justice system can function only as a whole and integrated system. Laws which create new crimes cannot improve the safety of our public if law enforcement and prosecution do not have sufficient resources for investigation and enforcement. Similarly, the courts and the defense agencies must be prepared to handle increases in prosecution; otherwise, cases which cannot be brought to trial within the necessary legal time frames may be dismissed. Corrections must be able to provide both pre- and post-conviction resources in numerous forms: jail beds, treatment, high and low supervision programs, and prevention and rehabilitative services.

I urge you to consider carefully the budgetary needs of the court system and all other components of the justice system. The court's request is modest and conservative, and it represents the resources which the court requires to carry out its constitutional mandate.

I have not yet mentioned another important part of the system: the Alaska Judicial Council, which is an independent, constitutionally-created agency. The Council's most visible work is in the judicial selection and retention system. Recently the Council nominated five applicants for the first vacancy on the Alaska Supreme Court in over a decade. The Council is currently reviewing the performance of more than two dozen judges who will be on the ballot for retention this coming November.

Alaska's judicial selection and retention system has worked well for over 30 years. It is the most thorough in the nation and is, in fact, a model for other states. Attorneys and non-attorneys share their experiences, and consensus is almost always reached. In 237 judicial selection votes over the past five years, the three attorneys opposed the three non-attorneys in only four cases - and in half those cases the Chief Justice sided with the non-attorneys.

The court believes, as do those who know the work of the council, that the council's constitutional structure is well designed, effective, and fair. I urge you to table SJR 47 which would amend the Constitution to give the Governor more appointees on the council.

The judicial council also works on projects relating to rural justice, the coordination of criminal justice agencies, and the use of technology to improve the criminal justice system. Their work in the area of rural justice is of particular interest now, when there is so much to be accomplished with ever-shrinking resources. In two rural justice reports, the council has documented increasing interest on the part of rural residents to resolve disputes locally, in alternative and frequently more informal settings. Local forums for dispute resolution, if carefully structured and managed, can offer all participants ready access to due process. These forums help individuals and also provide welcome assistance to the burdened state systems. All citizens want to be, and deserve to be, participants in the justice system. After all, public safety is a community responsibility which must be shared by all members of society. I should also mention the work of the Alaska Bar Association, particularly in the area of attorney discipline, a task which occupies nearly half the Bar Association's staff and about one-third of its budget. The Bar takes timely action on the roughly 200 to 250 grievances which are received each year. Through diligent efforts, the efficiency of the grievance process has become such that in 1993 the open caseload fell to 68, the lowest in more than a decade. The Bar is meeting the public need well.

There is one final area of interest which I would like to mention today - the evolving relationship of the state and federal courts. Those courts are increasing their coordination through state/federal judicial councils. The issues which these councils discuss, such as habeas cases, calendaring conflicts, and cooperative juror usage, are being expanded to include new areas of cooperation such as education, technology, multi-court litigation, and joint facility usage. That increase in communication and cooperation between the state and federal courts should help to strengthen the important national principle of "Equal Justice Under Law."

That principle - "Equal Justice" - means, in part, that the dual systems of state and federal laws and courts are uniquely charged with the development of national uniformity. For example, the state courts handle the overwhelming majority of both civil and criminal cases which are filed in this country every year. However, federal laws are constantly being applied, interpreted, and ultimately developed in those state court criminal actions. Thus the dual system of courts ensures that national uniformity is built by day to day input in both state and federal courtrooms. That uniformity, for all its difficulties, binds us together as a nation.

And it is that uniformity - and our similarities - which should bind us together. We should not let our differences hold us apart. As responsible members of society we share universal goals: we want our homes to be secure. We want our streets, schools, and workplaces to be safe. We want the business of the world, and the business of our private lives, to be stable and productive. We seek deterrence, isolation, punishment, treatment, and rehabilitation for those who disturb the peace of our state.

The burdens of the work of the state today are enormous. However, as many of us have learned in our personal lives, the best way to lighten a burden is to share it. As policy makers, we must constantly strive to discuss our ideas, share our concerns, and work toward managing a fair and economical system of service delivery. As judges, legislators, and managers, we must remember that balance, fairness, and equal opportunity are critical components of any justice system. We share with one another the burden, the responsibility, and the honor of collective decision making for the people of the State of Alaska.