

*State of the Judiciary Address*  
**RICHARD J. HUGHES**  
*Chief Justice*  
*Supreme Court of New Jersey*



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*To the Legislature*  
*November 21, 1977*

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*Chief Justice*  
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ACQUISITIONS

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# The State of the Judiciary

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*Mr. President, Mr. Speaker, Governor Byrne,  
Members of the Legislature, Ladies and Gentlemen:*

I have come here today at the kind invitation of the Legislature, an idea supported by the Governor in his Annual Message of 1975. I am grateful for this avenue of communication with you, and through you with the people of New Jersey. Thirty years ago this very month, when they adopted the 1947 Constitution, the people indicated by a landslide vote their deep interest in the better administration of justice and their commitment to the kind of first-line court system on which it must depend.

As once noted by Chief Justice Vanderbilt, the people showed their "clear intent to establish a simple but fully integrated system of courts and to give to the judiciary the power and thus to impose on them the responsibility for seeing that the judicial system functioned effectively in the public interest. Indeed, in the minds of many, if not a majority, of our citizens this was the primary reason for their desire for a new Constitution."

I am here then to give you and the people an account of our stewardship of that system, to tell you of the present condition of its courts, to project our plans and hopes for improvement in the administration of justice, and to outline very candidly the resources necessary if our mission is to be accomplished.

So far as I can determine, this is the first time our branches of government have come together in the chambers of the Legislature to consider together the public interest in the administration of justice. We know that each branch of government is separate, and the powers of government are constitutionally divided among them, and one may not validly encroach upon the other. Yet the branches are crucially interdependent and support and complement each other in many

essential ways. Although they respect each other they are not watertight compartments, and there should be no artificial barrier preventing communication among them in the public interest. There is a vital difference between interference and cooperative communication. Unless the courts refrain from interference with the other branches, for instance, except as plainly required by the Constitution, that Constitution itself would be offended. That is why the courts consistently shun participation in decisions on legislative policy, that being the business of the Legislative branch, subject only to the Constitution to which we are all bound in loyalty by our very oath of office. By the same token, if the Legislature and Governor would deny the courts resources vital to their effective operation, again the constitutional will of the people would be frustrated. They would be taking away from the people something which the people themselves created by Constitution—namely, a court system effective to meet changing demands on the administration of justice. As I shall tell you, those demands today are very great. To meet them there must be close communication and cooperation among all branches of government.

And so the potential of this meeting today to consider our joint obligations to the people, is surely in the public interest. It can clear the air of possible doubt and misunderstandings. It can identify strengths and weaknesses in the present operation of our courts. We can chart for the people the future course of justice in New Jersey, if supported by their will as expressed through the Legislature and Governor. Therefore it is important to place upon the table in full public view the mutual responsibilities we share for the administration of justice. This bridge of precise communication with the people will result in honest accountability, an indispensable key to good government and the administration of justice alike.

Perhaps we should recall first the changes which the years have brought about. The new state court system in 1948 numbered 60 full-time judges; now, if we were at full strength we would have about 300. But in 1948 the courts confronted less than 12,000 cases, whereas at August 31, 1977 we faced a litigation load of over 167,000 cases. So that while the state and county court system is five times larger in numbers of judges, its responsibilities are almost 14 times greater.

In that brief 30 years, vast new fields of law have developed, some by the United States Supreme Court's definition and enforcement of constitutional right, representing the supreme law of the land. Some by action of our own Legislature, in mandating new court responsibilities such as the recent legislation requiring judicial review of foster home placements of children. Some by evolution of court policy, such as our directive that commitments for mental disability be constantly reviewed, so that justice be done the unfortunate, without risk to the public security. Whatever the basis, the courts are confronted today with large new areas of judicial responsibility—environmental law, civil rights law, consumer law, product liability and malpractice law, prison rights cases—an almost endless list of new burdens thrust upon the courts, not so much by their own choice as by the converging pressures of this half of the 20th Century, in the context of the Constitutions under which we live.

And casting even greater burdens upon the courts is the modern phenomenon of criminal violence, pervasive, frightening, unprecedented even in our nation's pioneer years. Everywhere is heard the demand for "speedy trial" disposition of cases involving those who threaten the community. Innocent citizens, particularly the weak and elderly, are "mugged" and robbed and sometimes badly hurt by cruel street predators, including very young and brutal juveniles. Some two years ago I cautioned our judges to avoid excessive leniency, particularly to the persistent intractable violent offender. I told them that:

Together with a thoughtful, careful individual consideration by the judge of each case with full recognition of the constitutional and legal rights of the offender, there must also be consideration of the safety and security of the public.

In describing the problems facing our court, let me deal separately with the congestion of our criminal and civil calendars.

### THE ADMINISTRATION OF CRIMINAL JUSTICE

In the Governor's Legislative Message of January 13, 1976, he requested that the courts implement speedy trial disposition

of serious criminal cases, especially those involving violence. The Judiciary enthusiastically agrees with this goal, assuming the necessary resources can be provided. I immediately directed a statewide survey to determine what resources would be necessary not only in terms of judicial manpower and supporting court personnel such as probation officers and court reporters, but also with respect to needed prosecutor and public defender personnel, additional courtroom facilities and the like.

The survey was completed on April 15, 1976, and filed with the Governor, the President of the Senate and the Speaker of the General Assembly. It projected the dollar cost of a four-year phase-in program to accomplish speedy trial goals, asserting that implementation could commence with the new court year in September 1976. Unfortunately, due to various financial hardships facing the State in the interim, the resources for this ambitious program were never provided.

Even without the needed logistical support the courts have pressed on toward the "speedy trial" goal. In several vicinages, particularly in the urban counties, so-called "Impact" programs are ongoing under the joint leadership of the Attorney General, county prosecutors, public defenders and courts. These programs concern serious crimes of violence and have goals of indictment within 45 days from date of arrest, trial within 60 days thereof and, upon conviction, sentence imposed soon thereafter, so that final disposition occurs 120 days from date of arrest. It is our hope that every county will be involved in such programs by the end of this year. It is obvious that swift and sure justice is the most effective counter-measure to the violent crime of our times, and I pledge that the courts will expend every effort and make every sacrifice to help this program succeed.

But as with many worthwhile reforms, new complications are generated. The needed emphasis on criminal trials is obtained at the expense of the civil calendars, as I shall outline to you in a moment. The deployment of judges in the 12 vicinages, as between criminal and civil trials, is shown on Schedule "A." Moreover, as additional criminals are sentenced to imprisonment, pressure is brought on crowded prisons and reformatories; the situation is so critical that on October 1, 1977, no less than 310 state prisoners were being held in county jails. Assignment Judges and sheriffs alike have warned of

security risks in holding hard-core violent criminals in county jails never designed for that function. It is obvious that the State must continue its struggle with this urgent problem, and many initiatives are presently under way.

And so the difficulties grow despite our use of every expedient consistent with constitutional rights and law. Plea negotiation, subject to judicial overview, is helping to dispose of criminal calendars which otherwise would literally collapse. A pretrial intervention system, which I shall describe later, relieves the criminal calendar of the early and redeemable offender, directing him away from involvement in the criminal justice process. Prosecutors have had restored to them administrative responsibility for the closing of files on cases not meriting prosecution, subject again to judicial overview. Assignment Judges are alert to the rotation of experienced judges to the criminal calendar. Due to the flexibility wisely built into our court system, all trial judges whether on the Superior Court, County Court, Juvenile and Domestic Relations Court or County District Court bench may be cross-assigned to all trial functions to make full use of the comparative experience and availability of the judges to meet the rise and fall of calendar congestion pressures from time to time. This is another reason for consideration of increased parity of compensation among such judges.

Even now we are preparing a new procedure, applicable at both trial and appellate levels, to identify all cases of violent criminal conduct, to make sure that persons threatening the public security will receive priority attention and not be lost in the congestion afflicting the courts in all categories of litigation. This policy would include not only the familiar heinous crimes of homicide, armed robbery and the like, but other offenses such as rape, "wife-battering," so-called, and child abuse, evil offenses against the innocent, against which society has in the past been too slow to act sternly. These shameful and unhappy matters have come "out of the closet" only in recent years, and can no longer be tolerated. It is my goal, insofar as the courts can accomplish it, that New Jersey become known as a state where sure, prompt and substantial punishment will be visited upon those convicted of violence to the sanctity and dignity of the person.

And so in these and many other ways, the courts are attempting to cope with the ever-mounting congestion of litigation, which bears such close relationship to the peace of the community and the security of our society.

Let me pause here to deal, parenthetically, with the canard that judges do not work hard, or could work harder. It is simply not true. I have seen in my time a rise in production attainable only by very hard work on the part of judges, far beyond the ordinary call of civil duty. I have seen the health of judges fail by the intensity of their devotion to duty. In 1973 the per capita work product of judges was 1,700 cases, today it is about 2,000.<sup>1</sup> Our Appellate Division carries more than the load of any appellate court in the nation and far above the average. Trial and appellate judges are provided with a home law library owned by the State so that work far beyond the formal court hours is yielded by these highly responsible judges. Going by my own experience the members of the Supreme Court also are never far away, not only in their chambers but on evenings and weekends in their homes, from cartons full of briefs and legal papers, on cases awaiting their decision. The Supreme Court last year disposed of a record volume of 244 appeals, 30 percent more than the previous year. In the first year of operation of the new court system in 1949, the Supreme Court was pleased to report that it had disposed of 15 petitions for certification. Last year the Supreme Court decided 919 such petitions, not to speak of motions and disciplinary matters. Nor are these simple issues; many require examination of at least four briefs as well as transcripts of the record below. The growth of litigation in the courts as well as increased judicial productivity (which we hope and believe to be without sacrifice of quality) is a continuing pattern as shown by Schedule "B," describing last year's developments in the several courts.

The facts belie the suggestion that New Jersey judges are laggard—the truth is just the opposite.

<sup>1</sup> The term "cases" as a statistic might be misleading, as though involving simple matters such as a traffic ticket or a simple negligence case. These "cases" include litigations of vast importance and complexity. For instance, one of our judges is specially assigned to handle a case involving 906 plaintiffs, 40 defendants, and 42 attorneys, which case might take months or years to try. This litigation is included in our 167,000 "cases."



## THE CIVIL CALENDARS

I must report that in the area of civil litigation, a crisis situation is upon us. This condition diminishes the image of justice to an alarming degree; if uncorrected it will some day shame the State.

Our emphasis upon criminal trials, essential to the protection of the community, has reduced intolerably the capacity of the courts to administer justice in the civil litigation area. Although the term "civil litigation" is an abstraction, it includes deeply felt needs and rights of the human condition,—the injured person seeking redress for damages inflicted upon him,—the business entity seeking remedy for contractual default,—the husband or wife seeking justice with regard to the support and custody of children,—a hundred other issues on which citizens are entitled to hearing and justice at the hands of the courts, with reasonable promptitude. These people, and in their thousands they represent the public, are being shortchanged. The public is thus being denied the justice it was promised by the Constitution of 1947.

I attach as Schedule "C" a summary of the suspension or slowing of civil trials in the various vicinages and the status of the civil calendars in each.

Here again the courts, assisted by the organized Bar, are attempting to lift the litigation calendars from the morass by "early settlement" programs in damage suits as well as in matrimonial cases. We are doing everything else we can on the civil side, but as you can see we are fighting an uphill battle.

Unless this civil blockade can be relieved the precise reasons for it should be made clear, namely the manpower situation of the courts squeezed by the public demand for "speedy trial" of criminal cases. I deem it my duty as Chief Justice, and I hope that my successor Chief Justices will continue this policy, to maintain close communication with the people, who are the final judges of the extent to which the courts are to be supported. In the hands of the people, at the end, rests the power to secure the availability of justice by supporting and maintaining the court system on which it depends. That people in general are still interested in court reform is evidenced by the action of the people of New York in recently voting for very sweeping appointive and administrative reforms as to the judiciary in that state.

## JUVENILE JUSTICE

I shall not attempt here to document extensively the situation very well and sorrowfully known to the American public—the phenomenon of criminal activity on the part of the very young, an activity which seems to peak between the ages of 14 and 24. Broad daylight purse-snatching, “mugging” and such violence are commonplace on the streets of our communities, sometimes in the very shadow of the State House or the county court houses. Female secretaries and court personnel in some areas must be escorted by armed guards to their cars in the very court house parking yard. Young children are brought into the drug traffic, to take advantage of their comparative immunity from exposure and punishment because of their juvenile status. Unexplainable vandalism and destruction are frequently encountered. These unacceptable conditions must be brought under control by joint and firm action of all of us in government. We cannot await the long-range repair of social injustice and urban decay which underlie some of these problems.

I pointed out before the value of communication among the branches of government. An example might be noted in the recent legislation reducing and tightening the areas of protection to juvenile offenders, in which we had so strongly believed in the past. Our Court fully supports and will promptly implement by rule this new discipline of accountability by those who are young in years but adult in the way they inflict criminal violence and other harm upon society.

In the area of senseless vandalism our courts have been encouraged, by judicial decisions of the Supreme Court as well as by administrative directive, to make full use of restitution and reparation as a condition of probation. This technique is not only just to the public which must pay the bill for vandalism, but also rehabilitative to the juvenile offender who is thereby taught, perhaps for the first time, the facts of life with regard to repayment for the damages caused by his misconduct. We are exploring other concepts of requiring the rendering of service to the community which has suffered by these misdeeds, not only of juvenile but adult offenders. Such a dispositional option presently in effect in the Juvenile Court in Cincinnati is described in Schedule “D.”

None of this new attitude of firmness should indicate that we are giving up on the juvenile offender—for, in a way, that would mean we are giving up on ourselves and our ability as a State to cope with this modern problem. We shall press the avenues of rehabilitation as we always have, but important primary emphasis must be placed upon the safety of the community. That must come first. Our forefathers spoke of “domestic tranquility.” Our courts and all other agencies of government must strive anew to accomplish this goal.

### THE UNIFIED COURT SYSTEM

The leading spokesman for the judicial reform which culminated in the new court system established by the 1947 Constitution was Arthur T. Vanderbilt. Providentially he became the first Chief Justice of its Supreme Court. He devoted the remaining years of his life to the development, on that good constitutional base, of a court system which soon became the model for other American jurisdictions. Wherever one goes in America, at judicial conferences and seminars, the opinion is unanimous that the New Jersey court system is second to none. Other states when they seek to improve their court structure, court administration and court procedures look to New Jersey.

Chief Justice Vanderbilt died in the harness of service to the people of New Jersey, literally collapsing on his way to work. He was succeeded by another great Chief Justice, Joseph Weintraub, judicial scholar as well as administrator, whose drive and integrity sparked the continued progress of justice in New Jersey until his retirement in 1973. The tragically short tenure of Chief Justice Pierre P. Garven yet spoke of his devotion to these same goals of excellence. And so there has descended to the present Supreme Court a record of high tradition which invokes the keenest sense of responsibility to support and defend that judicial system, making sure that it remains in the vanguard of all the systems of justice in America.

This sense of responsibility impelled me, with the approval of the Supreme Court, to testify in behalf of a constitutional amendment which would merge the county courts into the state court system. This was the omission in the 1947 Constitu-

tion which disappointed Chief Justice Vanderbilt and which has resulted in massive duplication and waste and overlapping which has worked against the public interest.

Rather than lengthen the text of this message, let me attach as Schedule "E" the gist of my testimony before the Assembly Judiciary Committee on March 25, 1977. That Committee reported favorably a proposed constitutional amendment, later agreed to by a 63-0 vote in the Assembly. In the confusion of the end of the legislative year the Resolution died in the Senate Judiciary Committee.

I sincerely hope that in 1978 the Legislature will permit the people to vote on this constitutional reform, and thus take a first and indispensable step toward unification of the court system. In the century to come, generations of New Jerseyans will be grateful for this advance in the economical and efficient administration of justice.

### THE MUNICIPAL COURTS

Every Chief Justice since 1948 has described the municipal courts as being, in many respects, the most important of our courts, at least in the sense of their visibility to the New Jersey public. A very large percentage of the public has no personal contact or experience with any other court. Hence it has been pointed out that "nowhere can the community be more sensitive to the regularities—and irregularities—of judicial administration than at the local level."

There are 385 municipal court judges in the 567 municipalities of New Jersey. Many judges are appointed to preside in more than one municipal court, particularly in smaller communities. In the court year ending August 31, 1977, the municipal courts in our state dealt with 3,900,000 complaints. As documented in a recent survey report in a South Jersey newspaper the municipal courts, like all courts, are coming under increasing public scrutiny. And this is as it should be, if the place of justice is to be "an hallowed place." Back room or secret justice is not justice at all. As once pointed out by Chief Justice Vanderbilt:

The judicial robe is a constant reminder to the magistrates that they, like all other judges, are

subject to the Canons of Judicial Ethics as rules of court \* \* \*. It is not enough that a judge be honest and impartial; it is essential that he have the reputation in his community for being a man of absolute integrity, whose judgment is not and cannot be influenced by other than the proofs introduced before him in court.

The municipal judges participate in an elaborate pattern of judicial education and training supervised by the Administrative Office of the Courts. Additionally, training courses are provided for municipal court clerical personnel. In this calendar year it includes six courses in three different areas of the state. The testimony in all municipal courts in New Jersey is electronically recorded and our Administrative Office trains court personnel in operation of recording machines.

There is an annual two-day seminar for new municipal judges, and an annual Judicial Conference for all municipal judges. Our Court Rules deal extensively with municipal court practice. Seminars are conducted at frequent intervals. We issue a Municipal Court Bulletin monthly, discussing recent decisions and procedural reforms. Regular audits of municipal court accounts, done locally, are examined by the Administrative Office of the Courts, which maintains a special municipal court section. Local trial court administrators conduct periodic visitations to monitor the municipal courts; this at the direction of the respective Assignment Judges who are administratively responsible, representing the Chief Justice, for the proper functioning of the municipal courts.

Judges of the municipal court, as all other judges, are subject to the Code of Judicial Conduct monitored, as will be seen later, by our Advisory Committee on Judicial Conduct. Municipal judges, as all other judges in New Jersey, are totally divorced from political activity of any kind.

## JUDICIAL TRAINING AND EDUCATION

Since 1948 the impetus and thrust of the New Jersey court system has been forward and upward. In every feasible way it has sought to increase its service to the people. Its rules of court and practice are reformed and upgraded from year

to year. It tries to use every ounce of flexibility to serve the public more efficiently. It outreaches to public participation and interest, such as in its Juvenile Conference Committees, its fostering of volunteer programs, including no less than 2,500 trained probation and parole volunteer counselors, its relationship with the media and with the organized Bar, and its cooperation with Legislative and Executive branches of the State government.

Vital to this objective of increased service to the public is our program of judicial training and education. Through this technique, the Administrative Office of the Courts strives to enhance the ability of judges to deal with the increasing volume of litigation with maximum expedition, equity and expertise.

The New Jersey Judicial College was established by us in September 1976. It involves every New Jersey judge and has been markedly successful. For several days prior to the commencement of each new court year, all judges in the state system participate in very intensive courses, lectures and discussions on every judicial problem from equity to criminal sentencing. The lecturers include some of our most mature and experienced judges, as well as visiting judges, law professors and other experts and specialists. Additionally, the Administrative Office of the Courts, under supervision of the Committee on Judicial Seminars, provides mini-seminars for judges on timely technical subjects. I note that judges attend these mini-seminars on their own (non-court day) time.

These programs are paralleled by the involvement of many New Jersey judges in the summer sessions of the National College of the State Judiciary at the University of Nevada. This intensive four-week training is described in the attached Schedule "F." Principal expenses are defrayed by the State Law Enforcement Planning Agency, enhanced by the participant judge's contribution of two weeks of his annual vacation time. However, this should not be viewed as a real vacation because the working day runs from 8 a.m. to 9 p.m., far from vacation hours.

The elaborate scope of our training objectives is further shown on the "Table of Contents" attached as Schedule "G." A copy of the program described in this table of contents will

be furnished, of course, to any legislator upon request. You will note one item, "Prison Tour Program." I take this occasion to again thank 240 trial judges who accompanied me two years ago on a three-day tour of penal institutions and reformatories, mostly on their own (non-court day) time. We intend to continue this program next year, for it is a valuable part of judicial education as well as a key to cooperation and understanding between sentencing judges and institutional authorities.

I am very proud, and I hope you will be too, of our Judicial Training and Education Program. Like many others of our achievements, it is unequaled in other American jurisdictions.

### THE ANNUAL JUDICIAL CONFERENCE

The rules of court provide for this conference "to assist the Supreme Court in the consideration of improvements in the practice and procedure in the courts and in the administration of the judicial branch of government." Its membership is provided for by rule and its wide scope is shown by the categories of attendees listed in Schedule "H." The conference serves, as does our annual Court-press dinner meeting, to which are invited legislative leaders and executive officers, as a needed bridge of communication between judiciary and public.

### SUPREME COURT COMMITTEES

The Supreme Court is aided in carrying out its rule making, administrative and disciplinary responsibilities by several Supreme Court committees and panels. Their membership includes judges, attorneys, and in some instances members of the lay public. These members serve without compensation except in the case of bar examiners, and this generous involvement in the work of the Court is, we think, unparalleled in any other jurisdiction.

The identification of the 1978 Supreme Court Committees is set forth in Schedule "I."

## JUDICIAL CONDUCT

Shortly after becoming Chief Justice I was confronted by many complaints from the general public as well as from attorneys concerning the conduct of various judges. These complaints in the main did not involve charges of corruption or culpable favoritism, but just plain bad manners, clothed in the arrogance of judicial power. Rudeness and oppressive conduct to attorneys honestly representing their clients, —denigration of a defendant or witness who might be poor, or ill, or disadvantaged or ill-spoken in the English language; —pandering by heavy or humiliating humor to a built-in audience of court attaches at the expense of a hapless citizen before the bar of what should be justice. Such conduct is intolerable on the part of any judge, ranging from the Chief Justice to the municipal judge in the smallest hamlet. It conflicts with the Code of Judicial Conduct, which provides:

A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers and others with whom he deals in his official capacity \* \* \*.

A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law \* \* \*.

Our Court therefore established, in 1974, its Advisory Committee on Judicial Conduct, chaired by retired Justice John J. Francis, and including, in addition to lawyers, several members of the lay public. Its work has been magnificent and has, we think, restored much public confidence in the ability of the courts to police and regularize their conduct and so deserve the confidence of the public. The significantly good experience with the inclusion of lay citizens has led us to adopt a like policy in our attorney ethics disciplinary reforms, which I shall mention later.

## THE ADMINISTRATIVE OFFICE OF THE COURTS

In the modern court system the crushing burden of litigation and the complexity of new judicial obligations have made clear the importance of business-like court management in the administration of justice. The people foresaw this in 1947, for in their Constitution they vested these responsibilities:

The Chief Justice of the Supreme Court shall be the administrative head of all the courts in the State. He shall appoint an administrative director to serve at his pleasure.

Responsibility for the operation of all the courts in the State is manifestly a heavy burden, quite impossible to fulfill without an excellent Administrative Office of the Courts. Shortly before I took office I heard a day-long staff presentation describing the functions and programs of that office. I was totally amazed and very gratified to realize the wide scope of responsibility carried out so well by that office. I wish that every legislator and concerned citizen could be made familiar with the detail of that administration, for it would show its major role in the preeminent status of New Jersey courts in the nation. It would be convincing, too, of the need for legislative and executive support of the operation of the Administrative Office and the maintenance of its important functions, which are indispensable to the administration of justice.

Time permits me to mention only a few of our important projects, but to indicate the broad reach of activity of the Administrative Office I call your attention to the current responsibilities of its Civil Practice section, attached as Schedule "J." This is only one of our administrative functions.

#### Sentence Disparity Project

For many years the courts have been criticized and the image of justice diminished by the appearance of widely disparate sentences for similar or comparable crimes. In New Jersey, about 100 judges in a given year impose sentence upon some 17,000 criminal defendants. Sentences vary in their severity not only from county to county, but from court to court in the same county. Apparently unfair disparity results not only in institutional unrest but likely repetition of crime after release. An armed robbery culprit might receive in one court a sentence of 3 to 5 years, whereas his co-defendant or a defendant in an identical type of case might receive 15 to 20 years. The statistical comparison is sometimes misleading because the lighter sentence might be imposed on a first offender and the heavier upon an habitual and violent defendant. Even so, there is public misgiving about the equality of justice, and so our Administrative Office of the Courts is

conducting an important sentence disparity project. Hopefully, guidelines for sentencing will develop to cope with such invidious or suspect disparity in sentences. This \$300,000 project is funded by the State Law Enforcement Planning Agency. It involves a case-by-case analysis from pre-sentence report to final court action of some 17,000 cases. More than 800 separate data tests are applied to each of these cases, with the expectation that definitive criteria for sentencing can be developed. For lack of a computer facility, which I shall mention later, these 17,000 cases are being examined and coded manually, partially with the help of 85 students from New Jersey law schools who acted this year as summer interns and who did what has been described as a "great job." The data collected will be analyzed by use of purchased outside computer facilities, made necessary by lack of a Judiciary-managed computer.

The sentence disparity program is the leading project of its type in the nation. It presents great hope for the development of techniques to overcome the imbedded problem of disparate sentences. Like many others of our projects, the analysis of data could be done in half the time and at much less expense if we had the assistance of a "Judiciary computer." And such a computer availability could lead this project into fields very closely connected with the public security, such as closer supervision of probationers and the like.

### Collective Negotiations

As part of its continuing support of the Judiciary, the Probation Services Division of the Administrative Office of the Courts represents the County Court Judges in collective negotiations with organized units of probation officers and supervisors on a county-by-county basis. Over the past several years supervisors in five counties broke away from existing line staff units and formed separate negotiating groups, increasing the number to 26. The work of Probation Services in continuing these complex and intense negotiations from year to year allows the County Court Judges to devote more of their time to their judicial work.

The centralization of collective negotiations in our Probation Services section has also produced other benefits. Preliminary studies indicate there has been a decrease in the

disparity among probation departments in salary ranges and economic working conditions. In addition to representing the County Court Judges at collective negotiating sessions, Probation Services appears on behalf of the Judiciary before the Public Employment Relations Commission when negotiations reach an impasse stage and require mediation and fact-finding and when grievances reach an arbitration stage.

The Administrative Office of the Courts also has negotiated a contract with the court reporters that was effective July 1, 1977, and will terminate on September 30, 1979. The slightly more than two-year life of the contract provides time for an in-depth analysis of the reporters' pay scale and benefit schedules and working conditions, including a comparison of similar schedules and conditions in other jurisdictions. It is hoped that through this evaluative process the needs of the reporters and the court system will be more clearly delineated and more equitably served.

#### Probation Training and Special Services

Of the 1,100 professional probation officers currently employed in the State of New Jersey, 854 or 77 percent have participated in one or more training programs provided by our Administrative Office. More than half of the 346 probation staff investigators have completed some form of training through our probation training center. Since November 1974, when the Supreme Court mandated special training for probation officers, 90 percent of all new officers completed at least one training session during the first year of service, and 70 percent went on to complete at least a second program during that first year.

During the present court year we will be conducting 47 separate courses in order to help provide the Judiciary with a capable and skilled probation staff. In addition, four new courses are presently under development to provide probation with more diverse counseling skills. At the close of the last court year, Probation Services staff had been responsible for ensuring that the services provided to more than 160,000 "pay-through" support cases from Superior, Juvenile and Domestic Relations and Municipal Courts were in compliance with New Jersey statutes, court rules and judicial policy as well as in conformance with the requirements

established by the Federal Child Support Enforcement Program.

The Administrative Office plans to begin a case-oriented probation management information system on the 42,000 individuals presently under probation supervision in New Jersey. The degree to which this system will be successfully implemented will depend upon the availability of computer program time and program staff. The design of the system will permit an analysis of probation services needs, program effectiveness, and provide the capability for probationer tracking through the probation system. This tracking and supervision are closely connected with the public safety.

### Clients' Security Fund

The Administrative Office staffs with secretariat and counsel the important Clients' Security Fund, operated by a distinguished Board of Trustees under supervision of the Supreme Court. It is financed by mandated annual contributions from New Jersey attorneys upon the logical base of their concern with the probity and good reputation of the profession.

The Fund was established in 1961 on a voluntary basis by the New Jersey State Bar Association as a symbol of the profession's commitment to the public for the rendition of honest legal service, the Association's original financial commitment being a contribution of \$5,000. In 1969, the New Jersey Supreme Court made mandatory the economic contribution and participation of all lawyers, the original annual contribution of an attorney being \$15. That contribution was increased in 1976 to \$50 per year, except for lawyers practicing less than five years, who pay \$25. Although there are at present almost 18,000 members of the New Jersey Bar, as of September of this year the Fund had found it necessary to reimburse clients by reason of dishonest lawyer conduct in cases involving the acts of only 50 attorneys.

The Trustees of the Fund are authorized to award up to \$15,000 per claimant, and can pay a ceiling of \$200,000 in multiple claims against any individual lawyer. Only victims of deliberate dishonesty by members of the Bar acting as attorneys or fiduciaries are compensated. Since the inception of the Fund, it has made reimbursements to defrauded clients of \$1,717,000.

The Trustees of the Fund serve without pay as a service to the public and the profession. Their dedication can be observed in the 125 hearings held to date in 1977, as well as national recognition by the American Bar Association as the foremost Clients' Security Fund in the United States.

### **Affirmative Action**

Through its Administrative Office, the Judicial branch maintains an affirmative action program to provide equal employment opportunities to all individuals regardless of race, religion, sex, age or national origin. Its program has been approved by the Civil Service Commission as being "outstanding." Its six top management positions include three white males, two females and one black male.

Hispanics and black persons are on its professional and investigative staff as well as throughout the system. Of its three court clerks, one is female. Not only is affirmative action demanded morally and legally, but certainly required of the Judiciary in view of its responsibility to enjoin unlawful discrimination on the part of others.

Our goal is a staff of excellence, diverse in sexual and racial composition, and capable of providing for the efficient administration of justice throughout the State.

### **Pretrial Intervention**

This is another program encouraged and monitored by our Administrative Office. This valuable innovation in the administration of criminal justice is part of a wave of reform in the criminal process which is sweeping the country. As its name implies, it intervenes in that process to remove certain accused defendants from the revolving-door corruption and futility of imprisonment, where that course is warranted and compatible with the public safety. These individuals—usually first-time offenders accused of non-violent crimes—are placed in training programs, afforded access to drug and alcohol detoxification courses and given professional counseling, usually for a three or six month test interval. If this rehabilitative experience is successful, prosecution is dropped and the offender has a new chance, without a criminal conviction record, to seek employment and rejoin the law-abiding community. By removing such marginal offenders from further

prosecution, pressures on the criminal calendars are relieved. By eliminating from trial less serious offenses, judges and prosecutors are able to devote their attention to important cases relating to the public security.

The pretrial intervention program, accommodated by rule of court, is established in 19 of our counties and I hope the others will soon join so that New Jersey, in this as in so many other fields, can lead the nation and better serve the public interest.

As with many other innovations, understandable public questions have arisen, and I shall try to answer them.

Is this program compatible with legislative policy? Answer: It is. The Legislature in 1971 adopted such policy with regard to drug offenses and I have no doubt, particularly in view of the economic benefit to the taxpayer, would put its stamp of approval on the whole court policy. The Federal Congress is also considering such diversion programs.

Does it threaten the public security? Answer: No, for access is carefully granted with an eye to that security, and by concurrence of the county prosecutor as well as the court.

Does the court rule invade the executive authority of the prosecutor? Answer: No—for the Supreme Court has decided the prosecutor has virtually untrammelled authority, essentially a veto power—except in case of arbitrary abuse.

Is the program potentially successful? Answer: It is, by the evidence available. Access to the program is not automatically granted but is highly selective. For instance, in Cumberland County, of 487 applications, 40 were enrolled, 328 rejected and others are pending. In Salem County, of 386 applications, 16 were enrolled, 194 rejected and others are pending. Statewide, of 5,010 enrollees, 224 were terminated for unsuccessful program participation and returned to court for regular prosecution. This represents a 5 percent failure of enrollees. The true test, of course, is measured by recidivism, that is re-arrest after successful program participation. Continual tracking since 1972 indicates a New Jersey recidivist rating of 4.7 percent. This compares with 91 percent of prison inmates who had previous arrests before their present offense.

What is the stake of society and the taxpayer in pretrial intervention? Answer: Very high, both as to the security of the community and the taxpayer's pocketbook. It is self-evident that the rehabilitated and employed offender is of much less risk than the embittered and undereducated state prison inmate who returns to the community. The average cost of processing a defendant through PTI in New Jersey is \$331. The average cost of pre-sentence report and one year probation supervision of that same defendant would be \$455. But the cost of institutionalization is almost mind-boggling, beginning with an average \$7,500 per annum state institutional or county jail cost. Taking into consideration welfare for the offender's family, it is estimated that a one year custodial term for a married defendant with three children would cost the taxpayers about \$13,000. I think this answers the taxpayer question. Multiply it by 1,000 defendants—\$13,000,000—and the answer becomes quite vivid.

Beyond all that, however, the value to society of a decent, hard-working citizen, once shocked by the threat of prison and given a chance at rehabilitation, is very high in terms of the security of the law-abiding mainstream. I hope you will agree that pretrial intervention is one of the most promising correctional treatment innovations in recent years.

### **Ethics and Discipline Reforms**

The Constitution reposes in the Supreme Court authority for the admission of persons to the practice of law and for the discipline of those admitted. This serious responsibility of the Court to "keep the house of the law in order" is exercised through the Court's judicial and rule-making powers as well as its administrative authority. The Court has adopted comprehensive rules of ethical conduct for lawyers. Claimed ethical violations are examined in the first instance, generally, by the ethics committee of each county, composed of lawyers appointed by the Court. After hearing, the committee either dismisses the complaint or presents its findings to the Supreme Court for discipline. After the respondent-attorney has had a hearing, the Court may disbar, suspend or reprimand the attorney or dismiss the matter. Confidentiality is maintained until formal action by the Court, for the protection of the reputation of attorneys, some of whom are innocent of ethical violations although targets of frivolous complaints, such as by

disgruntled clients. The Administrative Office of the Courts maintains a Central Ethics Unit. Its function is to coordinate the activities of the county ethics committees, assist them where necessary, investigate ethics matters referred to the Unit, present and argue various ethics presentments before the Court and serve the Court administratively in many other ways.

Since the ethics committees comprise lawyers sitting in judgment on other lawyers (as is the case with most other professions in their internal ethics procedures) it is sometimes believed that full justice to the complainant is not accorded. It has never been established that this is so, but in these matters as in the area of judicial ethics, not only is the substance important but the appearance of fairness as well. Inclusion of members other than lawyers on such committees would reassure the public, and careful selection of lay citizens committed to the court's rule of confidentiality would protect the reputation of the innocent lawyer as the Court does now.

However, after a full year of consultation with the organized Bar, the Supreme Court has decided to implement this reform in two stages, the second to be conditioned on successful experience with the first. New rules are being promulgated to establish first a statewide Disciplinary Review Board which will include, as well as lawyers, several outstanding lay citizens. If that experience is successful, a similar reform will be considered as to the local ethics committees. We hope and believe these reforms, which we shall carefully monitor, will enhance the reputation of the Bar in the eyes of the public. It is not right that fine and honest lawyers (the vast majority) should suffer damage reputation-wise for the misdeeds of a tiny few. A full copy of the extensive rule revisions will be made available to any legislator upon request.

To save time I shall not discuss other important activities of the Administrative Office, but attach as Schedule "K" a list of additional items on its agenda. Subject to the discretion of the Legislature and Governor, I think it would serve the public interest if a committee from each branch would listen to a full presentation of that administrative working of the court. We would cordially invite such a meeting, and I could arrange it when convenient to you and on very short notice.

## COOPERATION WITH LEGISLATIVE BRANCH: THE "BEADLESTON" COMMITTEE

Former Senator John J. Horn, the chairman of the Law Revision and Legislative Services Commission, appointed a committee headed by Senator Alfred Beadleston to meet with the Supreme Court to discuss desirable legislative goals in response to judicial findings or recommendations in court opinions; this pursuant to that Commission's statutory duty to remedy defects in the law pointed out by judicial decisions. At initial meetings, it was agreed that the legislative committee did not solicit court recommendations as to fundamental legislative policy, particularly in controversial matters; and by the same token the Court disavowed any purpose to seek particular legislation which might intrude on the legislative prerogative. Rather the purpose was to identify gaps in the law as judicially determined, sometimes contained in lengthy and technical court decisions, on which more specific communication between the Judicial and Legislative branches would be effective to remedy unintended injustices or defects in existing statutory law.

During the last year or two of stress and extreme pressure on both Legislative and Judicial branches, this liaison has not been active, but its purposes are so salutary that it should be re-energized at this time, and our Court would welcome a renewal of this sensible communication.

As an example, our Court has interpreted the statutes concerning juvenile probation as accommodating restitution and reparation as acceptable terms thereof. We are further exploring, as I mentioned, the concept of mandated community service as an alternative to incarceration for substantial vandalism or like delinquency. It would seem to be in the public interest that these matters be considered as legislative policy. Many similar questions half-way between judicial interpretations and clearly stated legislative policy could be clarified by the type of communication intended by the Beadleston Committee and its successor.

Additionally, in the administrative field, our initial meeting with the Senate Judiciary Committee revealed that some Assignment Judges were declining to excuse from calendar commitments lawyer-legislators required to attend legislative sessions or committee meetings. I promptly established a

uniform policy for such deference to the Legislative branch. It is counter-productive to governmental efficiency that such misunderstandings should exist. We hope that in the new legislative session a start can be made in renewing useful communication in the public interest and I pledge the cooperation of the Supreme Court in that respect.

### COOPERATION WITH THE EXECUTIVE BRANCH

Here again, artificial and stilted barriers to communication between these branches seemed not in the public interest. For example, I mentioned the several days of visitation of hundreds of judges to reformatories and penal institutions. No doubt with the encouragement of the Governor, the correctional authorities rendered every conceivable type of cooperation, including comprehensive statements of institutional goals by superintendents, staff leaders, psychiatrists and the like, and opportunity for our inspection of cells and educational and training facilities, extending to conferences with prisoners and correctional personnel. Similarly, at a time of particular stress on overcrowded prison facilities, I was requested to order suspension of imposition of prison sentences by our courts for a brief interval and did so. Another example is Executive encouragement through Corrections Commissioner Mulcahy of the so-called "Lifers" program at Rahway State Prison, one of whose principal supporters is our Juvenile and Domestic Relations Court Judge George J. Nicola of Middlesex County. Several prisoners serving life sentences at Rahway lecture visiting delinquent and pre-delinquent juveniles about the hardships of prison life. In the last year more than 3,000 youths, in some 255 tours, have been exposed to this program. Sponsors are police and probation departments, youth services agencies and the like. It is reported that these young people are so shocked and horrified by this intimate view of the prison life toward which they are headed that 33 sponsoring agencies have reported that only 55 of a test group of 840 juveniles have gotten in trouble again. This is a recidivist rate of 6.5 percent, which would seem to establish the program as an effective one which, according to Judge Nicola, is becoming nationally recognized. I attach as Schedule "L" two typical letters concerning this program addressed to Judge Nicola. Our Administrative Office has a television film of one of the "Lifers" confrontations which can be shown to any legislator upon request.

Moreover, judges and administrators serve on several panels appointed by the Governor, including the Juvenile Justice Advisory Committee, State Law Enforcement Planning Agency and Drug Abuse Advisory Committee.

I hope that further close relationship between the Judicial and Executive branches can be maintained, for it is clearly in the public interest.

### COOPERATION WITH THE FEDERAL COURTS

Upon passing the New Jersey State Bar examination, the successful candidate is admitted to practice in the state courts. On the same date and on the basis of that state qualification, he is admitted to practice in the United States District Court. The judges of that Court and of the Supreme Court join together to administer the oath of office and to greet the new attorneys. The dual status of these practitioners sometimes implicates questions of discipline to be imposed on lawyers guilty of some ethical infraction. The jurisdictions respect their respective obligations in that regard, even though in rare cases they might disagree as to the extent of appropriate discipline.

Because of the intense trial activity in the federal and state court systems, it often happens that there is conflict between the calendar commitments of busy trial lawyers. These conflicts are adjusted by close and informal communication between our Assignment Judges and the United States District Court Judges. Similarly, conflicts between the state court system and the United States Court of Appeals for the Third Circuit have recently been resolved informally by a system of notification agreed upon by Judge John Gibbons, representing the Third Circuit, and Justice Alan Handler, speaking for the New Jersey courts.

With the cooperation of Chief Judge Lawrence Whipple of the United States District Court, a committee of three of our Assignment Judges is examining the federal system of assignment of cases for trial, to consider the possibility of improving our own system.

We will continue to encourage this close liaison between federal and state court systems for the better administration of justice.

## JUDICIARY COMPUTER AND TITLE IV-D OF THE SOCIAL SECURITY ACT

I link these two subjects because the enormous Title IV-D task resting upon the courts is one of many examples showing the need for a Judiciary-managed computer. One of the service obligations of the courts is to ensure compliance with Title IV-D, which is in turn relevant to some \$10,000,000 of federal funds contributed to the aid of families with dependent children welfare program; without state compliance these federal funds would be lost and corresponding additional burdens cast upon the State.

On January 4, 1975, Congress approved P. L. 93-647 creating Part D of Title IV of the Social Security Act. This amendment, entitled "Child Support and Establishment of Paternity," became effective in New Jersey as of August 1, 1975, upon approval by the federal government of a state plan. The ultimate aim of the program is to reduce the outlay of public funds in the form of aid to families with dependent children by establishing more effective enforcement of child support obligations owed by absent parents. The legislation seeks to achieve this goal by providing financial incentives to state and local agencies, provided that they adhere to federal requirements and cooperate to establish paternity, obtain support orders, locate absent parents and enforce delinquent support obligations.

In New Jersey, the administering agency is the Division of Public Welfare of the Department of Human Services. In light of existing statutory provisions and intergovernmental relationships, however, the Division of Public Welfare has entered into a contract with the Administrative Office of the Courts under which the latter assumes responsibility for the administration of this program on behalf of the Judiciary and to monitor the performance of the 21 county probation departments in their support enforcement activities. Under the terms of that contract, the Administrative Office of the Courts is obligated to perform a number of services, including:

1. To establish uniform staffing standards for the 21 county probation departments to ensure a sufficient staff for adequate support enforcement activities.
2. To provide technical assistance to and monitor the performance of the probation departments.

3. To receive and review all expenditure reports of the probation departments in connection with the Title IV-D program, to certify them to the Division of Public Welfare and to receive from DPW all moneys received as federal reimbursement and remit such funds to the counties.

The Administrative Office of the Courts is also responsible under its contract with the Division of Public Welfare to ensure that the county probation departments provide the following services:

1. Collection of support payments in all AFDC-related cases.
2. Enforcement of all court orders for child support in AFDC-related cases, including prompt identification of delinquent payors and use of the Parent Locator System when required.
3. Assistance in establishing support orders in AFDC-related cases.
4. Offer of the same services to non-AFDC cases.
5. Maintenance of all required records and the furnishing of all statistical reports required by HEW or DPW.

Since January 1, 1977, the Department of Health, Education and Welfare has been in the process of auditing all state plans and agencies to ensure compliance with the federal statute and regulations. A finding of non-compliance could result in a penalty being levied against the state in the amount of five percent of the state's annual federal allotment of funds for Aid to Families with Dependent Children. Patricia Timlen, Esquire, Chief of the Bureau of Child Support and Paternity Programs of the Division of Child Welfare, testified before Judge Muir in the Application of Warren County Probation Department against the Freeholders of Warren County that this penalty would result in a loss of approximately \$10,000,000 in 1977.

In addition, a finding of non-compliance could result in the withholding in whole or in part of federal reimbursement for expenditures incurred by the Administrative Office of the Courts and the probation departments in implementing the

Title IV-D program. Since the inception of the program, the federal government has reimbursed to the extent of 75 percent salaries and fringe benefits of the personnel engaged in Title IV-D activities. The total so reimbursed for those expenditures by the Administrative Office and the 21 county probation departments from July 1, 1975 through June 30, 1977, is \$9,985,558.16. It was originally the understanding that indirect costs such as space, rental, equipment, supplies and the like would be similarly reimbursed, but HEW has subsequently ruled that such indirect costs are not reimbursable under a provision of the statute excluding "the ordinary administrative costs of the judiciary." This ruling is currently under appeal. If the appeal is successful, an additional payment of \$1,544,352.47 will be due as reimbursement for the period from July 1, 1975 through June 30, 1977. This indicates that indirect costs are approximately 15 percent of direct costs which are expected to increase as all county probation departments succeed in building their respective staffs to the levels prescribed.

The total cost of enforcing the Title IV-D program in New Jersey during 1976 amounted to some \$8,000,000.00. In fiscal 1977, however, the processing through probation departments of child support orders yielded almost \$84,000,000.00. Generally speaking, it is believed that for each federal-state dollar expended, three dollars are recovered from errant parents, which saves that much in public welfare expenditures and is therefore manifestly cost-effective. Child and family support orders processed through the probation departments of the State in the court year 1975-76 amounted to 104,000 cases.

I have digressed to mention this program and its complexity only in order to illustrate our need for a Judiciary-managed large-scale computer to do our job, including our Title IV-D responsibilities which are only prototypes of many other similar burdens of case tracking, recording and reporting, which are necessary to an efficient court operation. It has been suggested that Judiciary needs could "make do" with a fragmented share, available when convenient to others, of access to one of the 11 computers presently in operation in the Executive branch of government. Our experience so far

has been unsatisfactory, and the ability of the courts to fully serve the public has been diminished.

It has never been supposed that the obligation of the Judiciary to keep its own dockets, records, files, transcripts and other items of judicial information could be invaded or taken from it by the Executive or Legislative branch. Understandably no desire to do so has ever been expressed. In this technological age, when these elements become computerized rather than manual, there would seem to be no constitutional justification for a different rule. Encroachment on judicial responsibilities was rejected on constitutional grounds in 1974 by the Supreme Judicial Court of Massachusetts. We in the New Jersey court system do not desire such a confrontation and I do not think that it is necessary or advisable.

The Constitution is quite plain in its reposition of responsibility for the administration and practice in all courts in the Chief Justice and the Supreme Court. Granted this, the relationship between computer management of judicial information and that responsibility is apparent.

Modern judicial administration is dependent in the first instance upon judicial management information and the enormous volume and complexity of judicial responsibilities require a judicial data center and large-scale dedicated computer. I have previously referred in this message to matters in which a computer capacity is indispensable, such as sentence disparity, probationer tracking, juvenile statistics, support and custody confidential information, attorney-trial calendar conflicts, confidential disciplinary matters affecting lawyers and judges and the like.

A lack of computer information on a need-to-know basis about the operations of the courts and their calendars makes effective management and administration extremely difficult. The increased number of case filings has resulted in a proportionate rise in the volume of paperwork to be recorded and filed, and the addition of more clerical staff to keep records current. Increases within the court system are reflected in the following workload trends:

	<i>Court Years Ending August 31</i>	
	<i>1973</i>	<i>1977</i>
Cases Added .....	488,204	555,371
% Change from 1973 .....	.....	23.9
Cases Disposed of .....	454,516	541,211
% Change from 1973 .....	.....	19.1
Pending Backlog .....	132,555	167,811
% Change from 1973 .....	.....	26.6

These figures show the obvious need of the New Jersey courts for the most efficient utilization of court time and resources.

All major jurisdictions with even one-half of New Jersey's appellate volume are turning to computers. The National Conference of Appellate Court Clerks is developing in its Committee on Technology in Appellate Courts a strong recommendation for the operation of such computers under exclusive court management. The administrative expedition by the Chief Justice of "speedy trial" in our 21 counties would certainly be made more efficient if he had at his fingertips a computerized reference to the precise situation in the field.

I hope that early next year suitable legislation can be developed confirming entitlement to Judiciary-dedicated computer resources. Planning can then begin for acquisition and location of the hardware and data center personnel in the planned Justice Complex, which I shall mention later. About three years lead time will be available, so that resources will only be immediately needed for the "requirements analysis" and "system design" phases of the statewide program which should begin as soon as authorized. These phases can be most efficiently and economically accomplished in the light of a prior determination to design a statewide judicial management information system in support of a fully unified and state-funded judicial system. Standardized court records, budget, fiscal and personnel systems will assure uniform, economical and efficient judicial service to the public in all courts in all counties. An example of the enormous savings available upon achievement of these interrelated goals is the expected elimination of duplicate filing of paperwork of the Superior Court at both state and county levels.

In urging the Governor to consider a Judiciary-managed computer, I once mentioned to him:

It was the desire of the people of New Jersey in 1947, and I think it still subsists, that the New Jersey court system should be outstanding in the nation in its administration and efficiency. Making computer support fully available to the court system, accomplishable only in the way I have described, would help fulfill this desire and I believe, not only presently but years from now, the people would be grateful.

In a very fair response, but without prejudging the issue, the Governor suggested preparation of a specific plan, and we are seeking budget support for the specifics which I have mentioned. The Governor also advised that in the current planning of New Jersey's new Justice Complex, space would be set aside in the new building for a potential Judiciary computer, so that the issue would not be indirectly and prematurely resolved against the Judiciary position. The Supreme Court is grateful for this very fair attitude, and further commends the Governor and State Treasurer for moving forward with unprecedented expedition to construct the Justice Complex. It will serve New Jersey well in the century to come.

### THE JUDICIARY BUDGET

In our constitutional framework, the operation of the court system depends upon budget provision of necessary resources. The relationship between such resources and the administration of justice is an important dimension of the ability of government to act in the interest of the people. Our total budget request for fiscal year 1979 is \$26,672,557. Of this sum, \$24,495,907 is for general operation of the Judicial branch and \$2,176,650 is for state aid to counties basically for 40 percent reimbursement for county court judges' salaries.

With respect to the \$24,495,907 request for general operation of the Judicial branch, this sum represents an increase of \$5,402,151 over the adjusted appropriation for fiscal year 1978.

This increase of \$5,402,151 over the adjusted appropriation for the present fiscal year must be considered in the light of our requests and appropriations over the past few years: The

present grave budget situation did not just happen, but rather it developed as the result of continuous underfunding and understaffing over the years in the face of ever-increasing workload, as follows:

*Underfunding*

<i>Year</i>	<i>Requested</i>	<i>Adjusted Appropriation</i>	<i>Decrease</i>
1976 . . . . .	18,237,895	15,013,496	3,224,399
1977 . . . . .	19,557,092	16,957,066	2,600,026
1978 . . . . .	20,501,900	19,093,756	1,408,144
1979 . . . . .	24,495,907	.....	.....

*Understaffing*

<i>Year</i>	<i>Requested</i>	<i>Approved</i>
1976 . . . . .	154	16
1977 . . . . .	202	0
1978 . . . . .	214	115
1979 . . . . .	202	..

We are not critical of these developments, understanding that they occurred in a period of financial recession, but merely point out the effect on the administration of justice. That causal relationship is important to the level of efficiency the people demand of their court system.

Over the years the expenditures for the Judicial branch have been approximately one-half of one percent of the total state expenditures. In terms of dollars, the sum has been equated with the cost of building a five mile stretch of a four lane highway. On the other hand, the revenues to the State from the Judiciary have been increasing. During the past fiscal year the revenues turned over to the State amounted to more than \$8,000,000.

Among the major categories in the \$5,402,151 increase in the request for fiscal year 1979 over the adjusted appropriation for the current fiscal year are the following: (1) salaries, \$3,314,543 (\$2,289,138 for 202 new positions); (2) materials and supplies, \$413,475; (3) services other than personal (travel, per diem court reporters, data processing, staff training, etc.), \$1,532,313.

Among the requested 202 new positions are 23 positions mandated by statute to judges assigned to the Chancery Division (*N. J. S. A. 2A:11-7* and *N. J. S. A. 2A:11-19*), 40 positions of Official Court Reporters and 43 positions for the Clerk of the Superior Court, wherein the gravity of the problem due to understaffing is of such nature that the various county bar associations have found it necessary to pass resolutions requesting that remedial action be taken.

Let me mention but one illustration of the relation between the budget requests and service to the public. For fiscal 1978 the Legislature granted 37 positions for personnel in the office of the Clerk of the Superior Court. Twenty-three of these persons (together with five more experienced employees) comprise a "night shift" in that office made necessary by space shortage. Other employees work overtime on Saturday, and they all confront an unprecedented backlog in equity filings, particularly on the matrimonial side.

In this single instance it can be seen that as we gradually work off this backlog, the quality and availability of justice are enhanced. If in fiscal 1978 these positions had been denied, or had certain unexpended balances not been available to pay such overtime, the quality and availability of justice would correspondingly be diminished. Similar examples are legion and I shall not trouble you with them.

But as you can see, adequate budget support is indispensable to the administration of justice.

## JUDICIAL COMPENSATION

The comprehensive material already contained in this Message is intended as a report to you and the people of New Jersey of the condition and needs of the finest court system in the nation. I think we all want it to remain so. The recommendations for legislative and executive action will be taken up, I hope, early in the new legislative year.

The subject I am about to discuss, however, is so serious and urgent that a failure to act in this session of the Legis-

lature could foreshadow, indeed almost invite, a beginning deterioration in the New Jersey court system. I do not want to see this happen—I do not believe either you or the people want it to happen. But ominous signs of change are apparent, none of which are in the interest of the State. Several of our finest and most experienced judges have been forced to resign to adequately support their families. The greatest difficulty has been encountered by the Governor in persuading able and experienced lawyers with children in college, for instance, to accept appointment to the bench. I have been advised informally that many other judges will be leaving, not by choice, for most judges love the bench, but out of economic necessity and for the sake of their families.

I hope that such attrition in the membership of this fine New Jersey court system can be stopped. It is beyond my power to do so however—only the Legislature and the Governor can do that by promptly upgrading judicial compensation.

At the beginning of the present Administration in 1974, it had been legislatively intended that the salary of the incoming Governor would be increased by \$15,000, that salaries of certain executive officers would be increased, and that there would be an across-the-board increase in judicial salaries in the amount of \$9,000 per year. All of this was deemed then to represent a minimal increased compensation justified by inflationary pressures on the cost of living. It happened that the federal government, through the Cost of Living Council, was recommending against high percentage raises in compensation generally, in order to slow the rate of inflation. Consequently, Governor Byrne elected to accept the \$15,000 increase in his compensation in three yearly stages. The Legislature therefore determined that only the "first stage" (\$3,000) of the other salary raises should be authorized. But it was the stated intention of the Senate Judiciary Committee, as indicated by its chairman, Senator Dugan, that these additional installments would be forthcoming over the following two years, which would amount to an addition of \$6,000 in the case of judges. The State then fell on evil times financially because of the continuing recession, and therefore the intended increases were never granted.

As a result, and according to factual evidence which will be placed before you and which I hope will be convincing, the situation regarding judicial compensation in New Jersey is presently in a shambles. Even the \$6,000 raise intended in 1974 has, by now, become hopelessly inadequate. Here is the evidence which will be produced before your committees: the average trial judge in 1970 was paid \$37,000, when the Consumer Price Index stood at 116.3. In 1974, as I have stated, that salary became \$40,000. But as of July 1977 the Index, representing the purchasing power of judges the same as everyone else, had risen to 182.6. The present \$40,000 salary would therefore have to be \$58,000 to provide today equivalent real income or purchasing power. This inexorable rise in the cost of living has been recognized, as it should be, as to other state employees. Since 1970, they have received cost-of-living increases (in addition to seven annual 5 percent increments which judges do not receive) totaling 29.5 percent, plus another 5 percent payable July 1, 1978, or a total as of that date of 34.5 percent. In that interval, by contrast, judges received but 8.1 percent.

The cumulative real income loss to the average trial judge from 1970 to 1977 totals \$60,390 in relation to the Consumer Price Index, or \$51,379 (as of July 1, 1978) in relation to an equivalent state employee who received cost-of-living increases since 1970. These comparisons are not in any way aimed at any other state employees. Of course they are entitled to their increases and everyone supports them. A first principle of social justice is very old but still true,—“The laborer is worthy of his hire.” The trouble is that somehow the judges have fallen by the wayside and have not received the benefit of this ancient truism.

Traditionally our judicial salaries have paralleled the per capita income position of New Jersey in relation to other states. Current statistics place New Jersey at the second highest per capita income level of the 50 states. Yet, the National Center for State Courts' survey now ranks New Jersey judicial salaries as 11th in the nation. Forty-seven of the states, since New Jersey judges' last raise of June 24, 1974, have increased their state's judicial salaries—that's right, 47 of the states. In February 1977, all federal judges received a \$12,500 raise, increasing trial judges to

\$54,500 and appeals judges to \$57,500. I hope this present Legislature will provide a similar \$12,500 raise for New Jersey judges. Without in any way exhibiting less than high respect for judges of other jurisdictions, I will tell you that no judge, anywhere, in any jurisdiction, works harder than the average New Jersey judge. "The laborer is worthy of his hire."

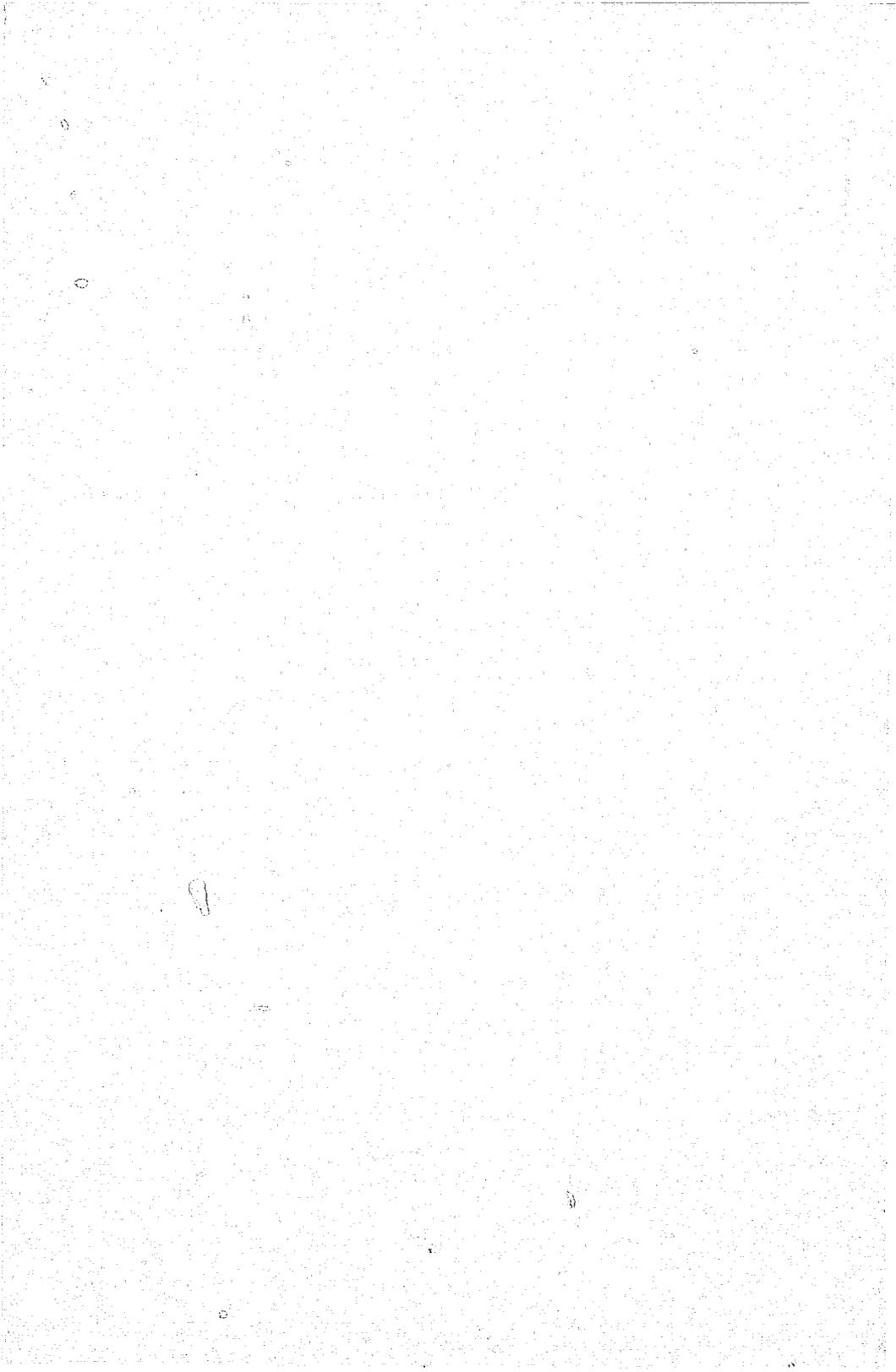
Moreover, I would hope that the Legislature will provide that judicial salaries in the future will increase automatically on a par with cost-of-living increases granted all other state employees. That would not only be just but sensible, for it would mean that never again would an appeal have to be made, such as I am making today, for judicial pay increases needed to preserve a court system which we all cherish and want to survive.

In any legislation adopted by you to fortify the interest of this state in maintaining the national stature of the New Jersey court system, and the consequent benefit to our citizens, I hope you will not forget the judges of the Workers' Compensation Courts. These judges, to be sure, are in the Executive branch of government, but their decisions come before us for review and therefore involve the judicial process and the well-being of the people of New Jersey in the dispensation of justice to the employees and employers in the State. Such full-time judges should receive compensation adequate to keep and attract the finest type of Workers' Compensation judge.

Finally, I will remind you that in this problem of judicial salaries, I am something of an expert witness. In 1957, with nine children and grocery, tuition and other bills as well as a mortgage to pay, I was forced to leave the bench—judicial work that I dearly loved. The consequence to the State of New Jersey was problematical. Not only did it lose my judicial service, but later it had to tolerate me for eight years as Governor. Lest a trend of resigned Superior Court judges becoming Governor sets in, let us see that no judges *have* to resign for economic reasons, but rather can fulfill their destiny as judges and so serve the State and their fellow man. This depends now, exclusively and emergently, on you. Under existing law, failure to face this decision before the new legislative year in January 1978, would disqualify every lawyer

in the new Legislature from judicial appointment during his or her elective term of office. This, quite unnecessarily, would react to the disadvantage of the State.

Let me say now, as I have said many times before,—I trust the people—I trust their representatives—I believe both will do their full duty to the State.



## SCHEDULE "A"

### NUMBER OF FULL-TIME TRIAL JUDGES ASSIGNED TO CRIMINAL AND CIVIL CASES ON OCTOBER 3, 1977\*

	<i>Total Judges Available</i>	<i>Assigned To Criminal</i>	<i>Assigned To Civil**</i>
VICINAGE #1			
Atlantic	5	2	3
Cape May	2	2	0
Cumberland	4	1	3
Salem	1	1	0
	—	—	—
Vicinage Total	12	6	6
VICINAGE #2			
Bergen	25	5	20
VICINAGE #3			
Burlington	7	2	5
Ocean	7	2	5
	—	—	—
Vicinage Total	14	4	10
VICINAGE #4			
Camden	14	6	8
Gloucester	5	1	4
	—	—	—
Vicinage Total	19	7	12
VICINAGE #5			
Essex	34	16	18
VICINAGE #6			
Hudson	23	10	13
VICINAGE #7			
Hunterdon	2	0	2
Mercer	8	2	6
Somerset	6	2	4
	—	—	—
Vicinage Total	16	4	12
VICINAGE #8			
Middlesex	20	8	12
VICINAGE #9			
Monmouth	13	6	7
VICINAGE #10			
Morris	11	2	9
Sussex	2	1	1
Warren	2	2	0
	—	—	—
Vicinage Total	15	5	10
VICINAGE #11			
Passaic	19	9	10
VICINAGE #12			
Union	21	9	12
STATE TOTAL	231	89	142

\* Does not include Supreme Court, Appellate Division of Superior Court and Assignment Judges.

\*\* "Civil" includes all other than criminal, involving a wide range of court responsibility, chancery litigation, matrimonial, custody of children, Juvenile and Domestic Relations Court matters and the like.

## SCHEDULE "B"

### 1976-77 COURT DEVELOPMENTS

#### APPELLATE DIVISION OF SUPERIOR COURT

Appeals filed in the Appellate Division of the Superior Court increased by 8.2% over the previous year to a record 5,198. Appellate Division judges disposed of 4,237 appeals (24.2% more than the court year ending 1973). Nevertheless, appeals pending at the close of the 1976-77 court year stood at 5,707—20.3% more than last year. The dramatic increase in the Appellate Division's workload shows no signs of diminishing. The 5,198 appeals filed this year represent a 35.6% increase over appeals filed in the court year ending 1973.

#### LAW DIVISION—CIVIL

Despite an increase of 2,252 civil cases disposed of for a total of 33,011 dispositions, Law Division civil cases pending increased 13.1% over the previous year to a total of 53,084. Civil cases added to the calendars totaled 39,143, an increase of 5.9% over the previous year and represent the highest level of civil filings ever reported. Due to lack of judicial resources, both the number and age of active civil cases pending increased: as of August 31, 1977, 50% of all active civil cases were over one year old.

#### LAW DIVISION—CRIMINAL

Criminal cases filed totaled 25,748 during the year, a 6.9% decrease in indictments and accusations filed from the previous year. During the 1976-77 court term, a greater proportion of criminal cases was referred to Pre-Trial Intervention programs. Of all active cases pending as of August 31, 1977, 3.3% represented defendants enrolled in Pre-Trial Intervention under R. 3:28. The total number of cases disposed of during the year was 24,648, leaving 29,824 cases pending at the close of the year. Twenty-four per cent of these active cases pending were one year old.

## CHANCERY DIVISION—GENERAL EQUITY

General Equity cases added increased by 4.9% to 4,130 during the year. However, General Equity cases disposed of reached an all-time high of 4,328 (an increase of 10.7% over the previous year), resulting in a 7.4% decrease in cases pending to 2,486. The percentage of active General Equity cases pending over one year old was reduced from 20% to 17% during the year.

## CHANCERY DIVISION—MATRIMONIAL

Matrimonial cases added during the year totaled 22,170, a 5.2% decrease from cases added the previous year. There were 22,098 matrimonial cases disposed of, leaving 7,020 matrimonial cases pending at the end of the year. Of the cases pending, 34% were over one year old.

## APPEALS TO COUNTY COURT

Cases added, disposed of and pending at the end of the year all decreased significantly. The 573 criminal appeals pending at the end of the year represent a 32.3% decrease from the number of criminal appeals pending at the beginning of the year.

## JUVENILE DELINQUENCY

Juvenile delinquency complaints filed decreased by 3.3% to a total of 73,400 during the year. Juvenile complaints disposed of totaled 72,986, resulting in 12,316 cases pending at the close of the year. A greater proportion of all juvenile complaints filed was referred to Juvenile Intake Units throughout the State as the number of counties with Juvenile Intake Programs established increased from 12 in the court year ending August 31, 1976 to 16 at August 31, 1977.

## JUVENILES IN NEED OF SUPERVISION

Cases added, disposed of and pending all increased slightly during this year. As with the juvenile delinquency complaints, a greater proportion of JINS complaints was referred to Juvenile Intake Units as the number of counties with these programs increased.

## DOMESTIC RELATIONS AND RECIPROCAL SUPPORT COMPLAINTS

The number of complaints filed increased by 12.3% to a record 69,474 this year. Complaints disposed of also reached an all-time high of 67,707 (a 10.2% increase), leaving 6,503 cases pending at the close of the year. Despite the record number of dispositions, the 6,503 cases pending represent a 37.3% increase over the number of domestic relations cases pending the previous year.

## COUNTY DISTRICT COURT

Cases added and disposed of were reported in record numbers as 303,057 cases were filed and 299,048 cases were disposed of in New Jersey's highest volume court, the County District Court. The 48,863 cases pending represent a 8.9% increase over the prior year; however, only 4.5% of the cases were over one year old.

## SCHEDULE "C"

### SUSPENSION OF CIVIL CALENDARS

Since 1975 there have been periods of suspension of the civil calendar in Atlantic, Gloucester, Mercer and Passaic Counties. In addition there have been significant reductions of the number of judges hearing civil matters in Burlington, Camden, Essex and Monmouth Counties. Less drastic curtailment of civil trials has occurred in other counties. Some long-pending civil matters filed in Hudson County have been transferred to other counties for trial.

The statistics do not show dramatically diminishing civil dispositions. They do show, however, vastly increased backlogs in Law Division civil matters and in matrimonial, juvenile and domestic court cases. The result is that it now takes 2½ years for a civil case filed in Essex County to be reached for trial and 2 years in Union County. Everywhere the age of pending cases has increased significantly. State-wide, of all pending civil cases, 50% are over 1 year old. In Gloucester 65% of the pending cases are that age and in Camden 63% are.

Suspensions of civil trials in the last 3 years have been ordered as follows:

Gloucester—all civil trials halted between April 1 and September 12, 1977.

Mercer —civil jury trials ceased from September through December 1975.

Passaic —except for proceedings in lieu of prerogative writs, there were no civil trials between December 31, 1976 and the end of March, 1977.

Atlantic —civil calendar had been suspended from the beginning of June through September each year from 1973 until this year. District Court calendars had been suspended from November 1975 until November 1976 except for 12 days of trials. In November 1976 a retired judge heard District Court matters for 1 month and, in all of 1977, such cases have been heard for a total of only 14 days.

The backlog in Burlington has increased 25% between October 1976 and October 1977, in Middlesex it has gone up about 14%, in Passaic about 12%, and the pattern prevails throughout the state. See attached supporting data gathered from the 21 counties.

**LAW DIVISIONS OF THE SUPERIOR AND COUNTY COURTS  
STATUS AND AGES OF CIVIL CASES PENDING AS OF:**

August 31, 1977

County/ Vicinage	Total Active Cases Pending	Active Cases Over 1 yr. Old		Active Cases Over 2 yrs. Old		Active Cases Over 3 yrs Old	
		No.	%	No.	%	No.	%
Atlantic	1,047	502	48%	99	9%	7	0.7%
Cape May	224	76	34%	19	8%	1	0.5%
Cumberland	570	200	35%	38	7%	0	0%
Salmon	119	55	46%	14	12%	0	0%
Total	1,960	833	43%	170	9%	8	0.4%
Bergen	5,918	2,026	34%	133	2%	27	0.5%
Burlington	1,465	723	49%	66	5%	3	0.2%
Ocean	2,295	1,121	49%	116	5%	9	0.4%
Total	3,760	1,844	49%	182	5%	12	0.3%
Camden	4,596	2,895	63%	1,352	29%	169	4%
Gloucester	1,248	811	65%	423	34%	155	12%
Total	5,844	3,706	63%	1,775	30%	324	6%
Essex	8,693	5,251	60%	1,270	15%	40	0.5%
Hudson	4,901	2,838	58%	709	14%	11	0.2%
Hunterdon	271	109	40%	11	4%	4	1%
Mercer	2,157	1,331	62%	510	24%	41	2%
Somerset	1,051	543	52%	96	9%	6	0.6%
Total	3,479	1,983	57%	617	18%	51	1%
Middlesex	5,721	2,421	42%	449	8%	4	0.1%
Monmouth	4,171	2,087	50%	121	3%	8	0.2%
Morris	1,609	468	29%	22	1%	7	0.4%
Sussex	313	119	38%	22	7%	3	1%
Warren	243	82	34%	11	5%	2	0.8%
Total	2,165	669	31%	55	3%	12	0.6%
Passaic	2,265	862	38%	14	0.6%	2	0.1%
Union	3,345	1,577	47%	187	6%	20	0.6%
State Total	52,222	26,097	50%	5,682	11%	519	1%
*Total							
1 Year Ago	46,023	21,428	47%	3,834	8%	335	0.7%

\* As reported in the 1975-76 Annual Report. Subsequent recounts indicated 109 fewer cases pending as of 8/31/76.

SOURCE: Monthly Reports of the County Clerks.

SCHEDULE "D"

County of Hamilton

COURT OF COMMON PLEAS  
JUVENILE DIVISION  
222 EAST CENTRAL PARKWAY  
CINCINNATI, OHIO 45202

DAVID E. GROSSMANN, JUDGE  
PHONE 632-8020

OLIVE L. HOLMES, JUDGE  
PHONE 632-8022

September 28, 1977

Mr. Melvin Axilbund  
American Bar Association  
1800 M. Northwest  
Washington, D.C. 20036

Dear Mr. Axilbund:

I am writing in response to your request for information regarding Hamilton County Juvenile Court's Restitution Work Therapy Program.

Essentially, our program is county-wide, providing a means for juveniles to make restitution to the victims of their offenses while receiving additional supervision and counseling in areas of education, professional goals, and community responsibilities.

I have enclosed two Exhibits which further outline the philosophies and structure behind this vital Court program. Besides repaying the victims, juveniles gain work experience, and the responsibility of paying restitution is shifted from parent to child.

The youngsters work in maintenance and beautification projects in area parks during the summer months and in our County Courthouse, District #1 Police Station, and our Youth Center at 2020 Auburn Avenue during the school year. The juveniles' work is also valuable in that it saves tax dollars by performing tasks which otherwise might not be accomplished due to limited financial resources or manpower.

Presently we are expanding our worksites as our program has become an increasingly popular dispositional option.

If I may be of further assistance, please do not hesitate to call again or write. Many thanks for your interest in our program.

Very truly,

STUART A. FABB  
*Director of Work Details*  
(513) 632-8095

SAF:elg  
Encl.

## SCHEDULE "E"

### EXCERPTS OF TESTIMONY OF CHIEF JUSTICE HUGHES before ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

March 25, 1977

This constitutional amendment, if approved by the people, would accomplish a step toward a truly unified court system, the merger of the County Courts into the Superior Court system. This result would be a final step sought unsuccessfully by those dedicated workers for court reform who acted in 1947. They laid before the people of New Jersey a choice between the antiquated and overborne court system we had under the 1844 Constitution, and that modernized and efficient judicial system created by the 1947 Constitution. Some of those advocates of the public interest are here today, and I think will be able to recreate for you, much better than I could, the history of the political miracle which occurred in 1947, particularly the reasons why the Constitutional delegates would not then agree, under some political pressure, to the merger of the County Courts that these Resolutions would seek.

After many years of effort which began even in the last century, the constitutional voice of the people of New Jersey, at long last, by adopting that 1947 Constitution, created a modern and flexible court system. To this day, that system stands unrivaled among the nation's jurisdictions. Administrators and judges come to New Jersey from as far away as Japan to find out how our court system works. It is totally nonpolitical and independent, and that is the way, of course, it should always stay.

There was no ambiguity or doubt about the people's intention in 1947. The central core of the Constitution was the judicial provision, Article VI. That Constitution was adopted by a vote of three and one-half to one, 653,096 votes to 184,632, which was then an almost unprecedented majority for the approval of any public question or the election of any state-wide candidate for office.

So it was that the people of New Jersey abandoned the 1844 court system, which had been created when this State was a

largely agricultural community with a population of less than 400,000. That antiquated system had become a hydra-headed monster of confusion for litigants and lawyers alike. The distinctions between the courts were ambiguous and their jurisdictions were overlapping. Each judge was king, holding court at his pleasure with no supervision or effective administrative control of any kind. Calendars were clogged and litigants faced interminable delays just to get into court, or into the correct jurisdictional court. It was not uncommon to have to wait two to four years for a decision, with some decisions delayed more than ten years, and there was not a thing in the world that a litigant, lawyer or anyone else could do about it. The judicial machinery in New Jersey had broken down, giving rise to the sarcastic epithet "Jersey justice," a symbol of scorn. When the new Constitution was adopted, an editorial in the Journal of the American Judicature Society stated: "The people of New Jersey are exchanging America's worst court system for America's best."

Now, if I can be personal, I would like to mention my own credentials as a witness. I have been a lawyer for 45 years. I practiced under that old system. I knew it very well. By coincidence, I was the last judge appointed under the old system. I was sworn in as a Common Pleas Judge in Mercer County on September 13, 1948, only two days before the effective date of the new court system. I then worked for ten years, first as County Court Judge and then as Superior Court Judge, under Chief Justice Arthur T. Vanderbilt.

Now let me tell you about him. He fought for at least 17 years consecutively for the new court system. When a constitutional proposal failed miserably in 1944—I think it was about one million to two hundred thousand votes against—most people thought that court reform was dead, but not Vanderbilt. He continued the fight and when the people finally spoke in 1947, a dedicated Governor, Alfred E. Driscoll, secured his stature in the history of New Jersey by selecting Arthur Vanderbilt to be the architect and guide of this great judicial structure in its beginning years. Chief Justice Vanderbilt worked, and administered, and judged, and fought for the decent administration of justice in the interest of the people until he died, literally in action like a soldier, in 1957. His last thought, aside from family, was for his work, and thus for all the people. I once read that in the ambulance

he tried to get up and wanted to get to his office. Not long after that, he died. A clergyman, in eulogy, prayed over him as follows: “. . . that we may continue the things he did so well, that we may keep the ground he has gained.” That is the purpose, Mr. Chairman, which brings me here today.

The indelible stamp of excellence which Arthur Vanderbilt implanted upon the new court system was continued and burnished by his successor, Chief Justice Joseph Weintraub, who so recently has left us. His scholarship and integrity were nationally acknowledged. And I have not the slightest doubt that Chief Justice Pierre P. Garven, but for his untimely death, would have carried forward the same thrust—the same idealism for the courts.

So, from this you can see that I have some illustrious forebears. They were not silent men who stood aside when small-minded people attacked this great system of honest and uncorrupted and independent administration of justice. They were fighters for justice—and thus for the people. And, I intend to do the same within the limits of my own ability.

The Resolutions before you mean a step toward unification of the courts in the interest of the people. When political pressures at the 1947 Convention spoiled the unification plan by withholding merger of the County Courts into the system, Dean Roscoe Pound of Harvard Law School sympathized with Vanderbilt, more or less on the theme of being reconciled to the gap, particularly in view of the great advances otherwise made. Now, 30 years later, we have another chance to seek the public voice in support of a step toward a fully unified court system by inclusion of the County Courts. The political pressures of yesteryear have lost their former relevance—they don't seem nearly as important now—and I, myself, would not have the slightest doubt that the people, not having changed so much since 1947 in their interest in the decent administration of justice, will again support the obvious economies, good sense, and integrity embraced by the inclusion of the County Courts recommended by these Concurrent Resolutions. Under the 1947 Constitution, as you know, the Supreme Court is vested with large responsibility, to “make rules governing the administration of all courts in the State and, subject to law, the practice and procedure in all such courts.” By the same token, the Chief Justice is designated

as "the administrative head of all the courts in the State." You can therefore see that the new Constitution unmistakably created in the Supreme Court and the Chief Justice that indispensable key to good government in any branch, "accountability," and it is our purpose to fulfill that constitutional obligation in full measure.

Unfortunately, because of the separate operation and financing of the County Courts, our judicial system is still subject to splintered financing and somewhat fragmented administration. For example, while the State provides supporting staff and accommodations for the Supreme Court and the Appellate and Chancery Divisions of the Superior Court, the counties provide facilities and support services for the Law Division of the Superior Court, the County Courts, the County District Courts, and Juvenile and Domestic Relations Courts.

With caseloads increasing in both size and complexity—as Judge Simpson, our great court administrator can tell you later—the need for achieving the ultimate goal of a fully unified and state-funded judicial system has taken on a new sense of urgency. The standards of the American Bar Association and the National Advisory Commission on Criminal Justice Standards and Goals both conclude that a fully unified and state-funded court system is necessary in order to provide quality justice in all the courts of any state.

A number of other states have moved or are now moving toward the goal of court unification. Colorado attained a unified structure in 1965. By 1970, that system was fully state-funded. A national survey completed in January 1976 for the Law Enforcement Assistance Administration's National Institute of Law Enforcement and Criminal Justice, reported that 15 other states had either undertaken or planned unification programs since 1973. New York, Connecticut and North Dakota have enacted legislation providing for court unification.

The New Jersey Supreme Court has established as one of its high priorities the seeking of a fully unified and state-funded system for all trial and appellate courts. The general purposes of unification are to eliminate overlapping and fragmented jurisdictions, to increase judicial efficiency and economy, and to afford equality for all full-time State court trial judges who, under a general assignment order promul-

gated each year, by me, are assigned to hear and dispose of all types of cases in the various courts. Additionally, the Governor of New Jersey has asked the Judicial Branch to develop a detailed blueprint and plan of action to accomplish full unification and state funding, and that project is presently going on. Judge Simpson will be able to tell the Committee—if it wishes—just what its status is at the present time. But, the key to its success—the thing that should be accomplished now—will be the merger of the County Courts into the Superior Court system.

The unification project represents a major step toward fulfillment of the ideals of court management and court reform which inspired such men as Dean Roscoe Pound, Chief Justice Vanderbilt, retired Justice Nathan Jacobs, former Judge Alfred Clapp, and so many others. As Dean Pound advised the 1947 New Jersey Constitutional Convention:

“In this process of making over and simplifying the organization of courts, the controlling ideas should be unification, flexibility, conservation of judicial power and responsibility.

“Unification is called for in order to concentrate the machinery of justice upon its tasks. Flexibility is called for to enable it to meet speedily and efficiently the continually varying demands made upon it. Responsibility is called for in order that some one may always be held and clearly stand out as the official to be held responsible if the judicial organization is not functioning the most efficiently that the law and the nature of its tasks permit. Conservation of judicial power is a sine qua non of efficiency under the circumstances of the time. There are so many demands pressing upon our state governments for expenditures of public money that so costly a mechanism as the system of courts cannot justify needless and expensive duplications and archaic business methods.”

I think the words of Dean Pound, Mr. Chairman, are just as relevant today as they were when originally spoken and I think they would be conclusive to any fair mind as to the wisdom of taking this first step toward unification, namely the inclusion of the County Courts. I know that all people are nervous about money these days, but I think the assumption by the State of the counties present share of the cost of main-

taining the County Courts would not cause a governmental earthquake. In the first place, they would merely transfer those costs to the State from the county taxpayer, and probably reduce them in the long run by increased efficiencies and economy. In any event, the present Judiciary budget request, which Judge Simpson is fighting for with the Appropriations Committee, is in the range of \$20 million, representing about one-half of one percent of the whole State budget. Now, this is for a coequal branch of government. We have one-half of one percent of the State's whole budget. The current Highway budget, for instance, would be in the range of \$140 million this year. The assumption of the county costs by the State for operation of the County Courts would be the rough equivalent of the construction of a few miles of highway, and would seem to me to be entirely justifiable. In 1976, five miles of a four-lane highway cost the State approximately \$16 million. So, you can see that the figures would indicate that this investment in court unification would be justified.

Finally, let me be candid, Mr. Chairman, and members of the Committee, with regard to my own conception as to my constitutional duty in the face of similar questions which might be arising in the future and which would affect the preservation, or, on the other hand, threaten the erosion or collapse, of our present court system. I intend to fight, as did my predecessors, for the integrity of that court system, whether it involves confrontation with a political effort to tie its hands and interfere with its carrying out the constitutional duties imposed on it by the people, or to encroach in any way upon its constitutional obligations, or to damage it by repulsing decent and provably justifiable judicial compensation adjustments, or otherwise.

With all humility, I would like to paraphrase the words of the great Winston Churchill: "I did not become Chief Justice of New Jersey to preside over, nor to silently permit, the slow destruction of its court system or its falling into second place or, much less, a mediocre position."

If this is to be avoided, communication is vitally necessary. I intend at every stage to lay the full facts before the Governor, the Legislature and the people so that if, in the end, the people wish to permit their courts and the administration of their justice to fail or diminish, at least they will know what they are doing.

I have gained, in a rather long and busy life, an abiding confidence in the wisdom of the people. I am convinced that they have pride, in family, in community, in right, and in compassion and tolerance. I am sure they have no less pride in the administration of justice and in their court system and I am confident that they will sustain and support them. Therefore, I recommend the concept of ACR 41 and 66, as combined and worked out—as Assemblyman Spizziri has suggested—with the hope and belief that when this question, in whichever form, is presented to the people, they will respond as they did in 1947 by saying “we want the best court system and administration of justice in the land.”

## SCHEDULE "F"

### NATIONAL COLLEGE OF THE STATE JUDICIARY

The Four Week Residential Session at the University of Nevada conducts classes five days a week, 8:00 a.m. to 9:00 p.m. The teaching methods include lectures, panels, workshops, demonstrations, role playing, video-tape playback, problem presentations and case studies. Group discussions among the judges is stressed and employed to stimulate and achieve the greatest possible exchange and comparison of ideas, experiences, methods and procedures from the judges themselves.

The objectives of this educational program are for new judges seeking an intensive awareness of the judicial process and for experienced judges desiring to keep up to date on recent legal developments, to review their decisional procedures and to acquire information on newer trial methods. These objectives are achieved by: (1) developing and increasing the confidence of the relatively new judge by giving him a deeper understanding of his role as a judge and of the entire judicial process, and an opportunity to learn methods of judges from other jurisdictions; (2) letting the experienced judge reexamine his judicial approaches to decision-making, court administration and other court problems in an educational environment with the assistance of his peers; and (3) encouraging the use of the latest techniques in order to increase the efficiency of trial courts, to decrease the number of reversals and new trials and to bring about speedy trials; and exploring ways of explaining the judicial function to the general public. These sessions rely heavily upon small group discussion with faculty advisors leading discussions and serving as catalysts. The participating judges engage in a provocative exchange of methods, experiences, ideas and procedures with judges from all parts of the United States.

Course coverage includes court administration, civil proceedings before trial, judicial discretion, family law, evidence, judicial problems, jury, courts and the community, sentencing, criminal law, civil law, inherent powers of the courts and the communication process.

## SCHEDULE "G"

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## SCHEDULE "H"

### JUDICIAL CONFERENCE DELEGATES

Justices of the Supreme Court  
Presiding Judges of the Appellate Division  
Assignment Judges  
Chief Judge of the United States District Court for the  
District of New Jersey  
General Equity Judges of the Superior Court  
Matrimonial Judges of the Superior Court  
Law Division Judges  
Judges of the County Courts  
Judges of the Juvenile and Domestic Relations Courts  
Judges of the County District Court  
Municipal Court Judges  
New Jersey Senators  
New Jersey General Assemblymen  
Attorney General  
Public Defender  
Administrative Director of the Courts  
Clerk of the Supreme Court  
Clerk of the Superior Court  
Chairman of the Board of Bar Examiners  
Deans of New Jersey Law Schools  
County Prosecutors  
County Surrogates  
Chief Probations Officers  
Representatives of Agencies Providing Services to the Poor  
Officers of the New Jersey State Bar Association  
Representatives of the County Bar Associations  
Representatives of the General Public

**SCHEDULE "I"**  
1978  
**SUPREME COURT COMMITTEES**

AOC OR SUPREME  
COURT STAFF PERSON  
ASSIGNED

Advisory Committee on Professional Ethics (R. 1:19)  
County Ethics Committees (R. 1:20-1)  
Advisory Committee on Judicial Conduct (R. 2:15-2)  
Committee on the Unauthorized Practice of Law (R. 1:22-1)  
Board of Bar Examiners (R. 1:23-1)  
Committees on Character (R. 1:25)

Trustees—Clients' Security Fund (R. 1:28-1)  
R. 1:35-1(d):

Committee on Relations with the Media  
(Justice Sullivan, Chm.)

Committee on Judicial Salaries and Pensions  
(Justice Clifford, Chm.)

Criminal Practice Committee (Judge Scalera, Chm.)  
Committee on Juvenile and Domestic Relations Courts  
(Judge Apter, Chm.)

Robert E. Cowen  
Robert E. Cowen  
Robert E. Cowen  
David E. Johnson, Jr.  
Stephen W. Townsend  
Stephen W. Townsend  
Emerald L. Erickson  
Michael H. Prindeville

Peter Carter

Arthur J. Simpson, Jr.

Ira Scheff  
Steven Yoslov

AOC OR SUPREME  
COURT STAFF PERSON  
ASSIGNED

Committee on Probation (Judge Loftus, Chm.)

Fred D. Fant,  
Carolyn Evans  
Philip G. Miller  
Harlan I. Ettinger

Committee on Municipal Courts (Judge Scott, Chm.)  
Committee on Model Jury Charges, Criminal  
(Judge Marzulli, Chm.)

Civil Practice Committee (Alfred C. Clapp, Chm.)  
Committee on Relations with the Medical Profession  
(Judge Blake, Chm.)

Colette A. Coolbaugh  
Colette A. Coolbaugh

Committee on County District Courts  
(Judge O'Donnell, Chm.)

Rocky Peterson

Committee on Model Jury Charges, Civil (Judge Morgan, Chm.)  
Committee on Judicial Seminars/New Jersey Judicial College  
(Judge Botter, Chm.)

Rocky Peterson  
Richard L. Saks

Other:

Investment Advisory Committee (R. 4:57-3(a))  
Juvenile Conference Committees (R. 5:10-2)  
Medical Expert Panels (R. 4:20-2 & R. 4:21-2)

Michael F. Kocan  
Steven Yoslov  
Colette A. Coolbaugh

## SCHEDULE "J"

### CIVIL PRACTICE DIVISION

The Civil Practice Division of the Administrative Office of the Courts consists of an Assistant Director and supporting legal and clerical staff. This Division provides a wide range of services which embraces Supreme Court committee support, special projects, legal research and general administrative duties.

The Division provides legal staff support to all Supreme Court committees that consider matters relating to civil procedure, including the Committee on Civil Practice. This committee, which has participation from members of the New Jersey bench, bar and Administrative Office of the Courts personnel, is a standing committee of the Judicial Conference that proposes rule amendments for adoption by the Supreme Court. The work of the committee also includes legislative and general practice recommendations to the Court. It is the function of this Division to provide legal research, rule preparation and other staff support for this committee, as well as for the Committees on Relations with the Medical Profession, District Court Practice and Civil Model Jury Charges. The Division also provides staff support for the Task Force on Mental Commitments, the Judicial College and the Matrimonial, District Court and General Equity Judges' Association.

The Civil Practice Division is also responsible for the development and implementation of various special projects. The most ambitious of these has been the procedural revision and the physical regionalization of the Civil and Juvenile Mental Commitment Program. In 1974, the Supreme Court revised the mental commitment procedure in order to assure legal due process to all patients guaranteeing their access to the courts and representation by counsel. In response to the needs of the State and other involved hospitals, all court proceedings are presently held at the hospitals; this has greatly decreased the travel burden upon hospital staff time. Subsequent to this change, this Division is now implementing a regionalized inter-county court hearing system, which will greatly diminish unnecessary travel time by the judiciary, thereby increasing the utilization of available judicial manpower.

Another special project has been the expansion of the Medical Malpractice Subpanel Program to include osteopathic as well as medical physicians. This court-created program provides an alternate forum for the disposition of medical malpractice claims and seeks to settle meritorious claims and discourage frivolous malpractice litigation. Where the claim is found to have a reasonable basis, medical experts are provided the claimant in cooperation with the New Jersey Medical and Osteopathic Societies. To date, over 400 case files have been processed. Similarly, the Division provides administrative support for the appointment of impartial medical experts in civil litigation. Other important projects include recommendations to reduce matrimonial case backlogs; comprehensive research relating to the duties, functions and reporting responsibilities of District Court constables; a study of the present provisions for legal services for inmates in civil matters; a report to the Legislature on all New Jersey statutes that have been voided by the courts; an annual Municipal Court Visitation Program; recommendations on the availability of court records on satisfactions of judgment; the establishment of the civil case module of a computerized Judicial Management Information System.

At the request of Counsel to the Governor or of the Legislature, the Division also researches and prepares proposed Judiciary comments on pending legislation that affects the courts. Included in this research are surveys of court personnel and the recommendations of the various Supreme Court Committees.

The Civil Practice Division has various administrative duties, which are handled on a continuous basis. In the forefront, the Division serves as liaison with the Trial Court Administrators in order to assure uniform implementation of administrative policies of the Chief Justice and Supreme Court throughout the judicial system. Other duties include responding to numerous inquiries from attorneys and other governmental agencies both from within and without the State, investigation and response to all complaints by litigants and the public as to civil case matters, contributions to the Administrative Office of the Court's Monthly Bulletin Letter to all judges, investigation and reports on applications for general fee waivers by legal service organizations and partici-

pation on the Suggestion Awards Committee. The Division also summarizes for the New Jersey Law Journal all civil case opinions approved for publication by the Supreme Court's Committee on Opinions. In addition, the Division has participated in the design of a weekly time report to monitor the duties and functions of all professional employees within the Administrative Office of the Courts. It is presently analyzing these reports to increase efficiency and economy in judicial administration.

## **SCHEDULE "K"**

### **ADDITIONAL ACTIVITIES OF THE ADMINISTRATIVE OFFICE OF THE COURTS**

#### **CRIMINAL PRACTICE SECTION**

This section provides support services and judicial support personnel to Supreme Court Committees, studies improvements and upgrading in the rules of criminal practice, prepares manuals such as to assist in sentencing, researches legal issues, responds to inquiries and complaints relating to criminal procedure and assists in planning the Judicial College and judicial seminars.

#### **JUVENILE AND DOMESTIC RELATIONS COURT SERVICES**

This unit prepares manuals such as with regard to Juvenile Intake, Juvenile Conference Committees and the like on behalf of judges and other personnel of the Juvenile and Domestic Relations Court. It undertakes studies for the Administrative Director and works on rule proposals and reports for the Supreme Court's Committee on Juvenile and Domestic Relations Courts.

#### **COURT REPORTER SUPERVISION**

This service assigns and supervises the performance of all 183 official and an average 170 per diem court reporters, who report all trials in the Superior and County courts as well as formal proceedings before ethics committees, the Advisory Committee on Judicial Conduct and the Committee on Character and Fitness.

#### **JUDICIAL MANAGEMENT INFORMATION SERVICE**

Development of statistical, managerial and operational systems required to assist the Judiciary in evaluating, managing and planning court workloads and operations and in allocating judicial resources.

#### **PERSONNEL SERVICES**

This is a comprehensive personnel management system, including employee relations, organizational structure, affirmative action, salary administration and fringe benefits.

## FISCAL SERVICES

The fiscal section carries out budgeting and accounting duties for the entire Judicial branch.

## PURCHASE, PRINTING AND OFFICE SERVICES

Formulates plans, supervises and directs purchasing, property management, printing, office services and leasing. Its activities for the Supreme Court, the Superior Court and the Appellate Division, as well as the Administrative Office of the Courts, are rendered in 12 locations involving 130 people in 30 units.

## TRUST AND SPECIAL FUNDS

Responsible for accounting, auditing and administrative work involved in Superior Court Trust Funds, Title IV-D and other federally-funded programs.

## LIBRARY SERVICES

Installs and maintains all research law libraries for the Supreme Court, judges of the Appellate and Chancery Divisions and the Administrative Office of the Courts.

## JUDICIAL INFORMATION SERVICES

This section prepares reports, including the Annual Report of the Administrative Director of the Courts, and other materials so as to provide a flow of information to engender public understanding of the court system and the problems confronting it.

## COURT PLANNING

This unit is directly responsible for developing and supervising all federally-funded programs in the Judicial branch of government. During the court year 1976-77, the Administrative Office of the Courts applied for and received some \$1,038,873 in federal funds, including a court unification study, our sentence disparity program, our consolidated pretrial services unit, judicial information services; and over \$191,000 in various judicial education grants, such as for the New Jersey Judicial College and the National College of the State Judiciary.

## SOUND RECORDING

This section of the Administrative Office of the Courts supervises the installation and operation of the sound recording equipment used in all Municipal Courts, Juvenile and Domestic Relations Courts, and County District Courts, and trains personnel in the use of such equipment. All transcripts produced from sound recording in cases on appeal to the County Courts are tracked and evaluated to assure timely filing and accuracy.

## SCHEDULE "L"

### REACTIONS TO LIFERS' PROGRAM

Dear Sir,

On June 6, 1977, I escorted three juveniles to Rahway State Prison. These three young men were nothing but trouble, but after Rahway, these same people have stayed out of trouble with the law. I received a letter from one of these boys on July 1, 1977. In it he stated that going to Rahway was the best thing that ever happened to him. His father has also contacted me and said that he now has the son he lost a few years ago. The other two boys are brothers. Their father and mother both said that they have two different boys in their home.

I am looking forward to bringing our School Board to Rahway so that they can see first hand the Lifers Program and maybe get more support from our Township. The men you have in the program deserve a lot of credit as to trying to help juveniles to be better citizens.

Very truly yours,

\_\_\_\_\_ Twp. Police Department

Juvenile Bureau

Dear Judge Nicola:

I am happy to report that since our visit in April to the Rahway State Prison's "Lifer's Club" not one of the participating youngsters has been in serious trouble with the law again.

The program is an excellent one in that it deals with the young people involved on a very emotional level. Too often our approach to children, especially delinquents, tends to be sterile, "professional," and, all too often lately, almost totally ineffective.

In my professional opinion the type of young person brought to Rahway could use a little of the "kick in the tail" approach rather than the conventional and accepted mode of "treatment" used by many of us in the field of delinquency prevention.

Please keep up your valuable and timely support of the "Lifer's Club"!

Yours truly,

Counselor,

\_\_\_\_\_ Youth Resources Center

