

By Maura D. Corrigan
Chief Justice, Michigan Supreme Court

Judicial Conference

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Opening Remarks, Plenary Session

Good morning! As we Irish say, a hundred thousand welcomes to you!

I am so pleased to see all of you here today at the Lansing Center. As many of you will recall, our last Judicial Conference, at Grand Traverse Resort, was held in the grim shadow of September 11. This conference is pared down—it will cost the taxpayers just about 10 percent of what we spent on the 2001 conference. Still, we have high hopes for its success!

So much has happened since 2001—in some ways, it feels like 100 years ago. Perhaps our attitudes have undergone a century's worth of change since then. Certainly, we have made some bold changes in the last two and a half years, some of them driven by new ways of thinking about our mission as judges. Others are driven by technology, and you will hear Judicial Information Services Director Marc Dobek speak about those shortly.

This morning, I will speak with you about our mission, what we are called to do in this state's judicial branch. You know what our mission is—simply this, as our oath of office states: to uphold the United States Constitution, the Constitution of the State of Michigan, and to do this as judges to the best of our ability. How simple a statement that is, and yet how challenging. Our system of ordered liberty depends for its survival and stability on courts of law, on us, on our faithfulness.

In recognition of our high calling, let me introduce the longest-serving judge here today, Judge John Hammond from the 2nd Circuit Court in Berrien County. He's been a



judge for 39 years. Please stand and be recognized. Since our 2001 Judicial Conference, we have had 73 new judges join the bench. The five newest, just named a week ago Friday, are with us today; I also ask them to stand and be recognized: Judge Mark Goldsmith of the 6th Circuit Court, Judge David Zelenak of the 25th District Court, Judge Michael Martinez of the 50th District

Court, Judge Thomas Slagle of the Dickinson County Probate Court, and Judge Stephanie Fekkes of the Barry County Probate Court.

From the most junior to the most senior, thank you for your service to the people of Michigan. My colleagues and I do know and appreciate what you do and how many demands there are on you. We are all members of Michigan's One Court of Justice, and we all recognize that justice can be done only if *all* of us do justice to our calling and the public trust. By coming here today, to learn how to do an even better job, you are serving the public trust.

Let me next introduce my colleagues on the Supreme Court. We depend on one another for support and encouragement in the discharge of our significant responsibilities. My fellow justices are here today, including Michael F. Cavanagh, Marilyn Kelly, Elizabeth A. Weaver, Robert P. Young, Jr., and Stephen J. Markman. In particular, we owe thanks to Justices Kelly, Weaver, and Markman, who were instrumental in planning and developing the conference agenda with the MJI staff and committee. Let me also introduce our Supreme Court staff: Chief of Staff Carl Gromek; our Legal Counsel, Mike Gaddola, and Deputy Legal Counsel Mark Gates;

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Administrative Counsel Debra Gutierrez-McGuire; and Public Information Officer Marcia McBrien.

Let me also welcome our guests from the other branches of government. We are honored to have you with us. Let me recognize Jim Howell, Chair of the House Judiciary Committee, and Representative Stephen Adamini, also a member of the Judiciary Committee. I also welcome the President of the State Bar of Michigan, Scott Brinkmeyer, and thank him for our partnership.

My remarks today were originally billed as being an overview of Supreme Court initiatives. Instead, I've decided to bill this as a Mini-"State of the Judiciary" address. In that vein, I'm going to keep to three main themes: first, court funding; second, the pervasive problem of federal executive branch agencies' intrusions on the operations of state government, especially in the judicial branch; and, third and finally, our relationships with one another in the judiciary and with other branches of government.

First, the budget. I have just participated in my seventh judicial branch budget submission. One of our branch's overriding concerns since 2001 has been finding ways to trim our budget without sacrificing needed services. Simply put, we cannot discharge our constitutional responsibilities without adequate funding. We already have 74 fewer judicial branch employees—about 15 percent—than we had in 2001. And our budget is down by nine percent since 2001. For us, fiscal health is not just a matter of cutting costs, but finding revenue sources that do not depend on general fund dollars. So we recommended increases in some civil filing fees, and assessments and costs in criminal cases. We did so because we recognized that the judicial branch shares, along with the other two branches of government, the responsibility for identifying appropriate revenue sources to fund our operations.

In some of our sister states, the courts are totally dependent on general fund dollars. Thus, in these states they are always stuck with fluctuations in the budget cycles because they depend totally on yearly tax revenues. Right now, we receive about a third of our funding from fees and another two-thirds from the general fund. As a veteran of

seven budgets, I think we ought to emulate the judges in Oklahoma, where the judges came up with a plan to decrease their courts' dependence on the general fund. Indeed, they have a book, a cookbook, on their approach, which their chief justice shared with me. Today, Oklahoma's district courts are totally funded by court fees and collections, and they contribute the excess to the rest of the judicial branch. We in Michigan should continue to work towards the goal of fiscal independence from the general fund.

Thanks to the spur of budget cuts, we've all become more focused on our core mission. In our budgetary goals, our mantra has been to cooperate with the other branches of government. We are very grateful for the assistance of the Governor's Office and the Department of Management and Budget, as well as our friends on the appropriations committees. You should know that our successful, cooperative budget approach in these bad budget times has attracted national attention. We have been invited to submit an article about budgeting for the summer 2004 issue of the *Judges' Journal*, a national publication. We can all be proud of the good work of our staff in negotiating through hard times.

Speaking of budgetary priorities, improving collections is high on our list. If the judicial branch isn't doing a good job of collecting the money, then it will not matter what we do with fees. I am pleased to introduce Beth Barber, the Supreme Court's Lead Auditor, who has just become the director of our new trial court collections project. This is a first for us: one full-time employee exclusively dedicated to helping courts increase collections. Some of you have bluntly told me that collections just isn't part of your job. Others of you understand that the responsibility for collections is part of the public trust imposed

on all of us, regardless of title. Vigorous collection efforts ensure that court orders are enforced and have consequences. Collections is one of our statutory duties.

The SCAO Regional Directors will shortly be calling on some of you who have a successful track record in collections, to help to imitate the State of Oklahoma, and to come up with local and regional plans to improve court collections. This will not be my plan, or SCAO's plan, but your plan. I hope you will help! I strongly encourage you, not only to cooperate with the regional directors and Ms. Barber, but to take advantage of all the help SCAO has to offer—best practices materials, a collections manual, and forms, all readily available on SCAO's website.

Second, let me speak about another troublesome administrative problem: federal intrusion into the operations of our judicial branch, with the threat of federal penalties or recoupment of federal dollars we have already expended. Our priorities are not freely established in the state courts; they are being driven by Washington. Think of the 19-year-long struggle of our statewide child support collection system to meet federal requirements. Well, Michigan did meet the deadline and our system is certified now, meaning that we avoided about \$147 million in penalties and received back \$35 million that the state had already paid.

But how did we get ourselves into that 19-year nightmare to begin with? Why didn't we work more effectively together to stop the penalty train before it was too late?

These are critical and pressing questions, because our state is once again threatened with massive federal penalties. Right now, we are undergoing an audit by the U.S. Department of Health and Human Services for our state's compliance with Title IV-E of the

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Social Security Act. Title IV-E provides states with federal funding for state foster care programs for abused or neglected children. Now that funding—about \$248 million in 2003—is at risk, and Michigan faces the risk of repaying that money to the federal government, not for one year only, but for every year for every child who has received IV-E money but who may now be disqualified. Why? Because the first orders removing children from their homes are not worded the way federal regulations said they should be worded, although Michigan uses the same calculus for eligibility that the State of California uses. The U.S. Court of Appeals for the Ninth Circuit, in a case entitled *Rosales v Thompson*, ruled in favor of California's approach. The Department of Health and Human Services lost their argument that California children were not qualified for Title IV-E foster care funds. HHS did not appeal the Ninth Circuit decision, so the Ninth Circuit ruling stands. Despite this—and I am quoting here from HHS' own website—"the *Rosales* decision applies only to states within the Ninth Circuit. . . states that are outside of the Ninth Circuit must continue to apply ACF's [Administration for Children and Families] existing policy when making Title IV-E eligibility determinations." In other words, the federal government is applying one standard for some states and another for the rest. HHS may call this litigation strategy, but I have another word for it—gamesmanship. This is a waste of our state and federal tax dollars and the time of everyone involved. I do not wish to be taken as saying that federal audits are not important or that they don't have a role; the taxpayers obviously have a right to know that their money is being spent lawfully. But I take issue with this specific audit's intrusion into the prerogatives of state judges

and the elevation of form over substance. I hope it's not too late to stop this train. I have called on our Governor and FIA Director Marianne Udow, and on our legislative leadership to help protect our state's interests.

These audits are such a serious concern for states that the Conference of Chief Justices has formed a task force, which I co-chair, to take issue with HHS' audits. I hope that the National Governor's Association will do the same. I pray that the huge consequences of the audit will not be visited on us and that we can keep the money Congress has allocated to us in this crucial area of the safety of our most vulnerable children.

Finally, I want to speak about our relationships among ourselves and with other branches of government.

I said earlier that the judiciary has a simple but challenging calling: to uphold the constitution that makes ordered liberty possible. All of us judges, you and I, are enormously privileged to serve the people of Michigan. Our goal is as the court rules say: the speedy and just resolution of disputes. Our daily fare is serving the broken and broken-hearted. Think about the broken families who make up two-thirds of the circuit courts' caseloads, the runaway foster children who our family courts help to find—in fact, thanks to the chief circuit judges' AWOLP dockets, I am proud to report to you that 73 percent of the children who were missing in 2003 were located.

So many broken people come before you, and so many lives are at stake.

You and I share a high calling. It demands the best of us, wounded and imperfect though we be. We need to constantly ask ourselves hard questions: Am I thinking of my work as just a job? Am I going through the motions? Am I really doing my best? Am I helping my

colleagues to do their best? Have I lost hope? And, if I have, what am I doing to get it back?

Governor Arnold Schwarzenegger spoke to the CCJ in late January. I didn't expect to like him, but I did. He told us he earned \$30 million on his last movie. Why would he take on the foolhardy task of serving as Governor of California with that state's huge problems? I was so struck by what he said: "tear down the mirror." If you do tear down the mirror, you will see all these people waiting to be served.

The poet Emily Dickinson called hope "the thing with feathers." But I prefer to think of hope as it is portrayed in Detroit's Focus Hope logo. Its symbol is clasped hands. As human beings, as human judges, we join with each other or die; our hope and our strength is in how much we help each other. You and I do not live and work in a vacuum; if we are, we're not serving the people of Michigan. We are One Court of Justice.

This conference challenges us to rededicate ourselves to our calling, to remember that we have a mission, not just an occupation. So take these two days to rekindle the flame and then let your light shine! And so I ask you all to stand with me and repeat, and renew in your hearts, our judicial Oath of Office:

"I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Michigan, and that I will faithfully discharge the duties of the office of judge according to the best of my ability." ♦

Maura D. Corrigan was elected to the Michigan Supreme Court in 1998 for an eight-year term. She was elected to a two-year term as chief justice in 2001. She was re-elected chief justice in 2003. She was an assistant prosecuting attorney in Wayne County, Michigan from 1974 to 1979; in 1979, she became chief of appeals in the United States Attorney's Office in Detroit. In 1986, she became the first woman to be Chief Assistant United States Attorney in Detroit; in 1989, she entered private practice as a partner in the firm of Plunkett & Cooney. She was appointed to the Michigan Court of Appeals in 1992 and became its chief judge in 1997. Corrigan graduated magna cum laude from Marygrove College in Detroit in 1969 and cum laude from the University of Detroit Law School in 1973.