

Remarks by Judge William J. Lavery, Chief Court Administrator
Judges' Annual Meeting
June 26, 2006

Thank you all for coming to Stamford for this year's annual meeting. I appreciate your taking the time to travel here and hope that you enjoy the meeting.

Budget

I would like to start my remarks by providing you with a report on the Judicial Branch's budget. The Branch faced a very difficult financial situation throughout this current fiscal year in that we had a \$10 million shortfall in the budget line item that pays for the salaries of judges and employees. With the assistance of OPM Secretary Robert Genuario, this deficiency was reduced by more than \$6 million through various administrative remedies. Nevertheless, we faced a substantial \$4 million problem that we managed through a year-long policy of limited outside hiring, instead relying on internal promotions and transfers to fill key vacancies. The exceptions to this policy included the hiring of probation officers and judicial marshals, as a result of specific legislative earmarks. Most recently, the General Assembly authorized the hiring of 57 probation officers for a variety of specialized units targeting specific probationers including sex offenders and technical violators.

Our hiring constraints are expected to continue through the coming fiscal year; however, I am confident that the structural funding problem will be resolved in the next biennial budget, which will take effect in July of 2007. I can report to you today that our efforts have paid off and we will finish this fiscal year as we always have - in the black.

Facilities

I would now like to address a matter of great interest to all of you – our facilities. I am pleased to report that we have made significant progress over the past year. Our accomplishments include:

- The identification of land for purchase for a new 160,000 square foot courthouse in Torrington that hopefully will be completed in 2009 or 2010.
- The long-delayed new juvenile detention center and courthouse in Bridgeport is finally moving forward. Demolition of the old buildings on the site has been completed and the new facility should open in late 2008.
- A major restoration and renovation of the Kendrick Avenue courthouse in Waterbury was completed in March of 2006. It now houses the Juvenile Matters Court.
- A phased \$30 million renovation and restoration effort is underway at the Geographical Area courthouse at 121 Elm Street, in New Haven.

Looking forward to the next fiscal year, I intend to concentrate my efforts on siting two long-delayed Juvenile Matters court facilities in Norwalk and Middletown. Finding adequate and appropriate space for a new juvenile facility in Norwalk is my number one priority. The existing facility is inadequate by any measure. Middletown juvenile is an equally outmoded location. In both cases, the state's leasing process has failed to find a suitable site.

I will work closely with the Department of Public Works Commissioner to find a solution. Additionally I intend to proceed with planning for a new annex to the Milford courthouse, based on a legislative authorization received last year.

Legislation

Speaking of legislation, I will now turn to the 2006 Legislative Session. Because of the vagaries of the calendar, this year's session was as short as it could possibly be – a mere 85 days. They proved to be a very eventful 85 days, however.

The session began with hearings on 36 judges who were up for reappointment. The process went fairly smoothly. There were a couple of bumps along the way, but everything turned out well in the end. In addition, the governor nominated 8 attorneys to be appointed as judges. I am happy to report that all 8 individuals are among our numbers here today!

This year the Legislature also created several committees, boards and task forces that include among its members judges and Judicial Branch employees. They are **Juvenile Jurisdiction Planning and Implementation Committee, Families with Service Needs Advisory Board, and Connecticut Sentencing Task Force.**

Juvenile Issues

Issues regarding children and youths were among the most significant matters debated by the Legislature. I paid particular attention to these discussions because, as you may know, my top priority is to provide adequate services for the children and youths in our state.

I must tell you that I am gravely concerned about two legislative initiatives that will adversely impact children, youth, families and the Court, if adequate planning and funding are not put into place.

The first is the intention of the Legislature to raise the age of juvenile court jurisdiction, and the second relates to Public Act 05-250, *An Act Concerning Children of Families with Service Needs*, which will prohibit the detention of children who violate court orders in relation to a Families with Service Needs petition.

While the Branch takes no position on the setting of public policy, for it is the Judicial Branch's charge to implement policy, not make it, the Branch must be vocal in advocating for the needs of those children, youth and families who come before the Court and will be affected by these critical legislative changes. The Judicial Branch supports efforts to protect young people, but to implement this change incorrectly will only harm children and youth.

It is assumed that the rationale for raising the age of juvenile court jurisdiction is to afford youth under the age of 18 the benefit of the juvenile court philosophy provided to children under the age 16. The juvenile court focuses on the needs of the child while also protecting the community. The scientific research of the last few years clearly demonstrates that youth are not yet developmentally adults due to their immaturity and underdeveloped ability to reason, judge consequences, and control their impulses. The Legislature has acknowledged these developmental differences and the inherent immaturity of youth.

The benefit of the juvenile court process is that youth will be afforded the same protections as children, in regards to confidentiality, erasure of record, protection from stigma and labeling, and access to rehabilitation and guidance to support a successful transition to adulthood. Given this rationale, it appears that the Legislature intends that youth will have access to developmentally appropriate treatment and services, and that the juvenile court philosophy will be applied to the youth population.

Such an intention not only requires an allocation of resources to fund age-appropriate programs and services, but also requires the necessary staff for the juvenile court to provide the type of individualized and family-focused case approach that is the cornerstone of juvenile justice.

In addition, once youth are considered juveniles, they must be separated from adult offenders, by both site and sound, under federal law. No longer will youth and adults be allowed to share holding cells at the courthouses, or share facilities such as Manson Youth Institution or York Correctional Institution.

Let me be clear....the changing of the age of jurisdiction is not an academic exercise. It impacts real youth, real families, real victims and real communities. This is not a “sea change”, but a “tidal wave” in its impact to the functioning of the Court and the administration of justice. Without appropriate planning and resources, children and youth will be hurt, not helped by this legislative initiative.

It is a fallacy to believe that staff and services provided in the adult court can simply be transferred to the juvenile court. The philosophical differences of the criminal and juvenile courts, and the Legislature’s rationale for raising the age, require that the juvenile court be provided the necessary resources to deliver on the promise of handling youth in the juvenile court.

There needs to be an infusion of resources that do not exist today. In 2004, an inter-agency committee studied the impact of the change in the age of juvenile jurisdiction. Some legislators and advocates say that the estimates of needed staff, facilities and services is over-inflated by the Judicial Branch, the Office of the Chief State’s Attorney, the Office of the Chief Public Defender, the Department of Correction and the Department of Children and Families. I do not believe this to be true.

The study reflects an honest effort and an honest appraisal of the impending reality of this coming tidal wave. If you don't agree with the conclusions, then let's discuss it. The Judicial Branch welcomes any dialogue on this matter because only together can we plan effectively for this change.

Without the answers to the following three (3) questions prior to implementation, the Legislature's intention will not be realized, youth will be hurt and communities will not be protected. So the questions needing an answer are:

- 1) What services are needed?
- 2) Where will these cases be heard?
- 3) And, where will the youth be detained or incarcerated?

It is estimated that the volume of referrals to juvenile court will almost double with the raise in the jurisdictional age. The number of juvenile court referrals will increase from approximately 14,000 to 24,000 children and youth. Currently, the criminal justice system does not provide services for 16 and 17 year old youth, and so services cannot be transferred from one system to the other. There is:

- No inpatient substance abuse facilities for detoxification, evaluation or treatment;
- No inpatient psychiatric evaluation or treatment facilities (Riverview Hospital cannot handle the demand of children as it is);
- No mental health services (Neither DMHAS or DCF provide services to this population. They are too young for DMHAS and woefully underserved by DCF.);
- One residential treatment facility (The Transitions Program in Bridgeport provides substance abuse treatment and education services.

There is an average of 30 youth waiting admission at any time and the average length of wait is 2 months.);

- No community-based services, such as alternative education programs, vocational training and job placement programs, or individual or family therapy programs; and
- No residential treatment facilities designed for youth.

The juvenile justice system does not have these much needed services for youth either. New services that are developmentally appropriate for 16 and 17 year olds must be funded, developed and delivered. A continuum of developmentally appropriate services will cost approximately \$28 million.

Given the overwhelming increase in referrals, our courthouses and staff cannot accommodate the impact, which means that resources must be provided to allow for the functioning of the juvenile justice system.

The facilities and staff are needed upon implementation, not after the implementation occurs. Resources have to be in place when the law goes into effect, not years down the road. Additional courthouses, judges, prosecutors, public defenders and support staff are needed. If five (5) regional courthouses are established for the youth population, the following addition of staff is needed:

- 5 Judges, 30 Judicial Marshals, 5 Courtroom Clerks, 10 Data Terminal Operators, 5 Deputy Chief Clerks, 5 Deputy Juvenile Matters Clerks, 10 Office Clerks, 5 Court Recording Monitors, 5 Interpreters;
- 8 Prosecutors, 2 Supervisory Prosecutors, 5 Investigators, 5 Secretaries;

- 19 Public Defenders, 12 Social Workers, 10 Investigators, 10 Clerical Staff;
- 99 Juvenile Probation Officers and 13 Probation Clerical Staff.

In terms of juvenile probation, it is important to note that Juvenile Probation Officers are assigned to each case in juvenile court, not upon a sentence of probation like in the adult court. Juvenile Probation Officers have smaller caseloads, averaging about 50 cases, though the ideal is 35 cases.

In addition, Juvenile Probation Officers handle about 40% of the referrals to juvenile court through the non-judicial process, where the Probation Officer meets with the child and family to resolve the matter and divert the child from the court process. The impact of these fundamental differences from the adult court is significant and cannot be ignored.

In terms of pre-trial detention, the juvenile detention centers currently do not have space to accommodate youth. Unlike the adult court, the juvenile court does not provide for release on bail. A 150-bed pre-trial detention facility is needed and requires 170 staff.

A 150-bed facility is also needed for those youth who will be sentenced to incarceration. A facility separate from adult offenders and children must be available. At no time, should children, youth and adults be mixed. It is unsafe to create environments where children fall prey to youth, or youth fall prey to adults.

For those youth returning to the community after incarceration, 30 additional DCF Parole Officers, 5 Parole Supervisors, 1 Program Supervisor, and 2 Office assistants will be needed to provide community-based supervision. The need for these required resources cannot be ignored.

As for Public Act 05-250, *An Act Concerning Children of Families with Service Needs*, which will prohibit the detention of children who violate court orders in relation to a FWSN petition, I also fear for the lives of children for whom the juvenile court will have no recourse to protect them from themselves and those who may prey upon them.

Status offending children who are beyond the control of their parents and beyond the control of the Court will no longer be detained. Without detention and without services, children may run away, associate with predatory adults, and put themselves in harm's way. At-risk girls, in particular, may run away, fall victim to rape and prostitution in order to survive, because the Court will no longer be able to protect them.

When the use of detention is taken away on October 1, 2007, the following resources must be available to the Court, to children and to their families:

- Gender-specific secure shelters – failure to provide these shelters will put extremely troubled children in harm's way,
- Intervention counselors to respond to referrals within two (2) to 48 hours,
- Family mediation services,
- Comprehensive assessments of family dynamics, mental health and substance abuse issues, educational needs, trauma impact, and protective factors,
- Strengths-based case management services including treatment planning and ongoing care coordination,
- Educational consultation and advocacy,
- Mentoring,

- Parent training, and
- In-home family therapy (e.g., Brief Strategic Family Therapy, Multidimensional Family Therapy, Multi-systemic Family Therapy, Functional Family Therapy).

Other jurisdictions have found this complement of services to be effective in meeting the needs of status offenders and their families. Without these services, the juvenile court will not be able to serve FWSN complaints or to keep children safe.

I am concerned for the future of Connecticut's children and youth. I am concerned for the Court which will be given an impossible responsibility for administering justice when no resources are available. I am concerned for the Legislature's noble intentions falling extremely short and children, youth and communities ultimately being harmed.

Connecticut Judges' Institute/Family Support Magistrate Coverage/JTRs

As you all know, with the help of many judges, the 2006 Connecticut Judges' Institute was a great success, and I would like to offer a special thank you to all of the judges and staff who made it possible.

During the 2006-2007 academic year, 16 courses were offered including the civil/family and criminal basics programs that were held in the Fall for judges new to these areas. Programs on civil unions, collateral estoppel, Lois law.com and permanency planning also were offered.

In addition, a training courtroom was established at 100 Washington Street that combines a classroom experience with a replica of a courtroom, thus providing new judges the opportunity to role-play in a courtroom.

Additionally, the Continuing Education Office arranged various training programs for judge trial referees and judges on family support dockets to assist in providing coverage when family support magistrates are unavailable. These judge trial referees have received special training in this complicated area of the law, and I would like to take this opportunity to thank them and the family support magistrates who work so hard to handle the support enforcement dockets in the state.

Along those lines, I would like to thank all of our judge trial referees for the work they do. We all know that the adjudication process would slow down dramatically without them. Their work is one of the state's great assets. Please join me in a round of applause.

Child Protection Sessions/Regional Family Trial Docket

To further my goals of doing everything we can to help the children in our state, I have added child protection session dockets in Danbury and Willimantic to assist the juvenile courts statewide with managing their termination of parental rights and child protection trial dockets. I have also opened a second Regional Family Trial Docket in Waterbury to handle custody and visitation matters. This docket is being coordinated through the Regional Family Trial Docket in Middletown.

Criminal

Changes have occurred in criminal matters as well. I am pleased to report that the Judicial Branch is working closely with other agencies to expand specialized domestic violence dockets to the GA courts in New Britain, New London and Norwalk. These dockets enhance victim safety and provide for continued judicial oversight of defendants.

Other changes in criminal matters tie in directly to our enhanced technological abilities. For example, an interface with the civil e-filing system was completed to feed information directly to the Protection Order Registry. Additionally, the implementation of the Paperless Rearrest Warrant Network (PRAWN) continues. The rollout to the state police troops and other state agency police has begun and will be completed by the end of 2006.

E-filing/Technology

Regarding technology, I am certain that you are all familiar with our e-filing initiative. The E-filing program continues to expand. As of February of this year, 85% of all civil cases were e-filable. The growth of this program in the past several months has been extraordinary.

I also would like to mention our Judicial Branch website, which has received a total of seven national awards. As the website has grown so too have the amount of visitors. Since July 2005 individual daily visits to the Judicial Branch website have doubled from about 9,000 to just over 18,000.

Accreditations

Another area of success has been demonstrated by the accreditations of the judicial marshal academy and our adult probation program and the re-accreditation of the Branch's juvenile detention centers.

The Commission on Accreditation for Law Enforcement Agencies granted the judicial marshal training academy accreditation status in July of 2005. Accreditation of the academy is a culmination of a three-year effort. The judicial marshal academy is one of only 7 law enforcement training academies in the nation and is the only one dealing exclusively with courthouse security to receive accreditation.

The American Correctional Association has accredited the Judicial Branch's adult probation services, making it only the 12th probation program in the country to obtain this national recognition.

Finally, I am happy to report that our juvenile detention centers were recommended for reaccreditation by the American Correctional Association.

Contracted Services

I would like to highlight two other important areas – the attorney assistance program and the community service program that is operated out of the alternative incarceration network.

Last year, the Judicial Branch contracted with Lawyers Concerned for Lawyers, Inc. to provide services that include crisis intervention and referral assistance for attorneys who suffer from alcohol, substance abuse or gambling problems, or behavioral health

problems. These services are provided with the assistance of an advisory committee. I am confident that these services will benefit attorneys who are in need and, ultimately, will better the entire bar.

On the community service front, crews operating out of the alternative incarceration network have performed over 220,000 hours in 2005. Efforts include the building of four handicap accessible playscapes; service of thousands of hours at all Special Olympic events in Connecticut; rebuilding the boardwalk at Ocean Beach in New London; consistent maintenance in state parks; assistance with medical fund-raising for agencies like the American Cancer Society; and numerous local projects.

Sitting in Stamford

I would like to now turn to an area of great concern to me. The single largest request on assignments on the location was “not Stamford.” Stamford has, as you can see, a beautiful facility with twenty-two courtrooms and a great deal of business.

It is not fair for judges from lower Fairfield County to spend their entire judicial career in Stamford. We do not have enough judges in lower Fairfield County to staff Stamford. If we didn’t have judge trial referees who work full caseloads, we would really be in trouble. Two of the judges in Stamford are near retirement age.

I have spoken to the Governor, the Governor’s counsel and the entire Judicial Selection Commission about the need for more judges in lower Fairfield County and Windham County which is the largest county in area and has one resident judge.

On the other hand, it is unfair to the judges in the New Haven areas, lower Naugatuck Valley, Bridgeport and Danbury areas not to sit in Stamford and experience the unique legal challenges presenting there.

The staffing of the Stamford courthouse with judges from diverse locations must take place. It is a given that that is a tough traffic problem. The Judicial Branch has vans which pick up judges and judicial employees and delivers them to and from the railroad stations. It is a problem that has to be faced and met.

At my meeting with the entire Judicial Selection Commission, the members told me that everyone that comes through their door says that they will accept assignment at any location. I understand that there are individual hardships due to unanticipated illnesses to a family member and that will and should be taken into account for assignment purposes.

Otherwise, all judges are subject to assignment in Stamford and vice-a-versa. From Greenwich to the New Haven area, to lower Naugatuck Valley to Danbury, will accommodations have to be made? Yes.

Since we are a collegial body, I am going to appoint a committee of judges from these areas to make recommendations on how to implement this policy. I am appointing Judges Linda Munro and Michael Shay to co-chair this committee. The other members of the committee are: Judges Resha, Huddock, Frankel, Black, Bellis, Robinson, Everleigh, Radcliffe, Turner, Wilson, Tyma, Iannotti, Dolan, Brian Fischer, and Vitale. I expect them to make recommendations to me by November 15th. This Committee is representative of all of these mentioned areas and I will provide staff to assist them.

Judge Pittman/Judge Mullarky

I would now like to introduce Judges Pittman and Mullarky, who will provide a brief overview of the criminal and civil jury instructions.

Judge Pittman