

Remarks of Chief Justice Robert P. Young
Senate/House Appropriations Committee Meetings
February 27, 2013

In the private sector, a popular performance metric is “ROI,” or return on investment. In essence, that is what these hearings are about, isn’t it?

While I hate the euphemism of “investment” to disguise the fact that we in government operate on the tax dollars our citizens are compelled to pay, the public is entitled to know whether their hard-earned taxes are being used wisely in the judicial branch.

You wish to know, on behalf of the Michigan public, what return, or benefit, there will be from this infusion of budget funds in the judicial branch. If we were in the private sector, you would also be taking a hard look at our branch’s past performance and whether it justified the investment.

So let me give you some highlights, not only of what we plan to do but what we have already done, and why these areas are critical for the judicial branch.

Being respectful of the public fisc entrusted to us, two years ago we asked you to reduce judgeships by roughly 10 percent. A unit of government requesting to be reduced is truly a unique event. Until your legislatively authorized reduction, no other state had reduced more than one or two judgeships. We have saved \$1.6 million annually so far and, when the reductions are complete, these cuts will save the state about \$6.4 million per year.

My Court has continued to promote more court consolidations by concurrent jurisdiction plans and other devices.

I would be happy to talk at length about our ongoing consolidation efforts, but streamlining and rightsizing our judiciary does nothing necessarily to improve their quality.

But today, and for the remainder of my term as Chief Justice, judicial quality reform will be my primary focus.

The vision we have set for reform in the Michigan judiciary is to transform it into a more efficient, effective and service oriented branch of government.

We judges don’t ordinarily think of ourselves as “service providers” or those that come before us as “customers”. But the reality is that, while we hope what we deliver is justice and the preservation of the Rule of Law, we can do so more effectively.

The private sector has been measuring its performance for years, but government has not been quick to adopt such practices. The National Center for State Courts pioneered the research and development of judicial performance measures a couple of decades ago and the Michigan Supreme Court embraced the idea almost immediately. However, only *now* have we begun implementing judicial performance measures. Again, as in the judicial reductions, Michigan's judiciary is on the cutting edge. We are recognized nationally as a leader in this effort.

EVERYTHING in our discretionary proposed budget is designed to foster implementation of these evidence-based performance criteria.

And there are three legs to our quality performance platform:

- Technology
- Innovation
- Problem Solving Courts.

None of these involve mere “tinkering around the edges”. They represent profound functional and cultural change for our courts.

There is nothing I am prouder of than this branch's efforts to become more responsive, more service-oriented. The Governor has recognized the importance of those efforts with his budget recommendations and I am hopeful that the Legislature will as well.

Technology

It may seem incredible, but when I joined the Supreme Court in 1999, the majority of our courts functioned pretty much entirely on paper. They were the dinosaurs in our otherwise rapidly-evolving technological world. Today we're trying to complete the evolution into the “age of mammals” by moving the state's trial courts off individual main frames and onto a Windows-based system. (Use of mainframes is about 25 years out of date. Soon, we will have to recruit mainframe programmers in nursing homes.)

This transformation is an enormous challenge. As you know, Michigan's court system is not a unified system as in some other states; our trial courts, apart from judicial salaries, are funded by local governments.

We have 245 trial courts in 323 locations.

Not surprisingly, when they entered the early technological age the trial courts tended to follow the lead of their funding units, using the same platforms. The result was an immense hodgepodge

of systems, made more manageable in recent years thanks to our IT division, JIS – Judicial Information Systems.

Currently, about 80 percent of Michigan’s courts use case management systems developed by JIS. The rest use various vendor and in-house systems.

The JIS case management systems are AS400/Cobol legacy systems—mainframe systems – that have served the courts well for more than 30 years. But they, and the other similar legacy systems, must be replaced – sooner rather than later.

Even more than that, we need to move the courts onto a single case information system – for better information sharing among the courts and from the courts to law enforcement and to the state. The trial courts exchange information with many state and local agencies -- the Departments of State, Corrections, Human Services, State Police, local prosecutors and law enforcement. Obviously, we should not be operating in silos. An effective new case information system ensures that we won’t be.

In 2008 JIS began developing a new, Windows-based system to replace our 30-year-old mainframes, the Michigan Court System, or “NextGen” as we refer to it. This is a case information system that will allow courts, and authorized users, to access, manage, and link case data and court documents throughout the entire judicial system and with agencies of Michigan and local law enforcement. The National Center for State Courts studied and supports our NextGen plan.

We began rolling out NextGen at our pilot court in Berrien County in August 2012. The system will be deployed to other courts that use the JIS systems beginning in mid-2014, so that we have 80 percent of court locations on this new system.

The Governor has recommended an initial one-time appropriation of \$2.5 million to begin implementation of NextGen in 264 trial court locations. Our implementation plan is a 5 year plan that will eventually require \$10 million a year to complete within that time frame.

I cannot over-emphasize the importance of this project nor how critical this initial appropriation is to that effort. We have an opportunity to do what the State Bar and National Center for State Courts have both recommended, and that is to move the trial courts onto a single information system. There really isn’t any long (or intermediate) term alternative.

This information will later pay huge dividends, not only in information sharing with other agencies – for example, law enforcement – but also in applications that benefit the public.

Illustratively, we currently have 79 courts that accept online payment of traffic tickets; a single case information system would make that possible for *every* court.

E-filing, now only offered by a limited number of courts, would also be possible throughout the state.

Court forms could be filled out and submitted online – no more standing in line at the court clerk’s counter.

The fact is, a single information system would make applications possible that we haven’t even contemplated yet, including mobile applications. So the Governor’s NextGen appropriation is critical for us at this time.

Performance metrics

As you know, the Governor has recommended \$4 million in one-time funding for a Trial Court Innovations Fund. Let me explain what this is and why it’s important.

Last year, Supreme Court launched an initiative styled “Courts working smarter for a better Michigan.” Briefly, “Courts working smarter” is a double-pronged effort: A court uses metrics – for such items as time to disposition, juror utilization rates, access and fairness – to assess their performance. The court then knows where it’s doing well and where it could improve, and is encouraged to innovate in order to address the weaker areas.

The private sector has already taken hold of performance measurement with a vengeance. If you so much as buy a cup of coffee, you are invited to take an online survey to report on the quality of your drink, how long you had to wait in line, and even whether the person who served you wished you good morning.

There is no reason we can’t apply performance measurement to the public sector, and as stated, court performance measurement is not a new idea. The National Center for State Courts published “CourTools,” a set of performance measures, including “timeliness,” “juror utilization,” “trial date certainty,” “reliability and integrity of case files” and “access and fairness,” among others.

Now you may be wondering just how we measure something as seemingly ineffable or subjective as “fairness.” Well, it can be done by asking questions that go to the experience of the person in court – questions like “When you reached the courthouse, did someone help you to get where you needed to go?”, “Did the judge listen to you?”, “When you left the courtroom, did you know what to do next?”

The Michigan trial court performance measures are based on CourTools, but also incorporate months' worth of focus groups, feedback, and analysis by judges, court administrators, prosecutors, and many others across Michigan.

Performance measurement was the focus of our September 2012 judicial conference in which all judges in our state participated. And part of this effort is to have each court publish its own online dashboard so the public can have that information.

Why do we need an innovation fund?

Obviously, money is a great motivator, but more importantly, by having a fund courts can apply to, we encourage them to pilot and pursue innovations that best address their local challenges.

We need the opportunity to pilot innovation to help create templates for other courts. And one aspect of this is that the courts will be competing for a share of that money – competing to innovate.

As I noted earlier, the Michigan judicial branch is not a unified branch in the sense that it is largely locally-funded. I don't have to remind you that Headlee precludes the state from mandating some kinds of change from on high without paying for it. And, even if we could, we realize that one size does not fit all. What works very well in my court may be unworkable in yours.

What kinds of innovations might this fund cover? Without being able to predict them all, I can tell you this: The courts won't be the primary beneficiaries.

Take, for example, the court that uses a grant from the innovation fund to buy videoconferencing equipment.

Now that court's criminal division can hold hearings by video conference with criminal defendants still in lock-up, and without the security risk and costs involved in transporting them, and without requiring two law enforcement officers to spend their time accompanying the detainee when they could be doing something else.

Just to give one instance, the Kalamazoo County Circuit Court estimated cost savings of more than \$160,000 in 2012 for the Department of Corrections and the County Sheriff's Department through the use of video conferencing equipment.

We envision remote preliminary exams by police officers using video equipment in their cruisers. Today, a relatively inexpensive iPad becomes a linkage unimaginable even five years ago. But we need to ensure that there is a linkage on the other end – in the court.

Or suppose that a court wants to remake its juror notification system so that jurors, instead of repeatedly calling a phone number to find out if they have to report for jury service, can receive a text message, e-mail, or automated call to their cell or landline.

Or a court can invest in a self-help touch-screen kiosk for court visitors trying to get information about their cases, or create a customer satisfaction survey.

In each of these examples, the efficiency or service benefits someone other than the court – ultimately, the public.

This innovation fund ties back into our “Courts working smarter” initiative. As Chad has told the trial bench many times, this isn’t about working harder, but working smarter. Following the same routines, but with greater effort, isn’t going to result in high-performing courts, so if we expect high-performing, service-oriented courts, we have to encourage innovation.

The innovation fund removes a major obstacle to innovation, creating incentives for trial courts which cannot get additional resources from their cash strapped local funding units. The courts that succeed will in turn become models for other courts.

The question is, do we want broad change or not? If we are serious about smarter courts, not for their own sake but for the impact on public service and accountability, then the Governor’s recommendation is critical – not for two or three years down the road, but *now*.

Problem-solving courts

The Governor’s recommended budget includes \$5 million of increased funding for specialty courts – \$3 million for drug courts and \$2 million for mental health courts. This is another area that well deserves investment.

You have a lot of information in your budget booklet about these programs. But let me give you a real-life example of how they and other problem-solving courts work.

Two weeks ago today, 11 men graduated from the veterans’ court in the 17th District Court, Redford. Just about every branch of the service was represented – Army, Air Force, Navy and Marines – in fact, every branch of the service except the Coast Guard. They had served in wars ranging from Iraq to Vietnam. They had been in tanks, intelligence, special ops, and infantry. They had all served their country. And they had, in one way or another, run afoul of the law.

Now, in another time, they would have been sentenced, likely jailed or imprisoned, and that would have been that. Probably many of them would have continued to be regular customers of the courts, for a variety of reasons: drinking, drugs, mental health issues.

But this program aims to break that cycle by putting the veteran into an intensive program that includes check-ins, treatment, and counseling, all with the threat of jail time for those who don't follow the program. It is no walk on the beach, nor should it be.

The goal, using evidence-based therapies, is to return these people to productive and law-abiding lives. The Redford program had, according to the accounts of these veterans, saved at least one participant's marriage and made others again employable, to say nothing of reducing the likelihood that these gentlemen will ever again need to be incarcerated.

I tell this story to illustrate why these programs – and we have about 170 problem-solving courts in Michigan – make good *fiscal* sense. An investment in mental health courts, for example, deals up-front with a problem that, left unchecked, will certainly result in huge costs for our corrections system.

We know – and a study commissioned by the Department of Community Health and the Department of Corrections supports this – that we can achieve better outcomes and save money by treating offenders' mental health issues up front as compared to letting their cases be processed in the traditional judicial manner.

We now have several studies evaluating the eight pilot mental health courts that the judicial branch, and DCH, started in 2008. Among other matters, one study found that almost every mental health court participant, upon graduation, was taking his or her medications as prescribed and that they had significant improvements in mental health and quality of life during the program.

Many of the participants had better job or educational prospects than before. Also, the study indicates that the state will pay far more in incarceration and treatment than it would in supporting mental health courts.

There is an expression: "Pay me now or pay me later." In our business, paying later is always more expensive. Either we try to divert folks to these problem-solving courts, or we can continue to fill up our jails and prisons at many multiples of the cost of early diversion.

The FY 2013 budget includes funding of \$2.1 million for the original eight pilots and a new mental health court in Saginaw as part of the Governor's Public Safety Initiative. The additional \$2 million is expected to provide funding to an additional five to ten mental health courts.

It would be penny-wise and pound-foolish to not invest in these evidence-based programs. They have proven to be cost-effective. The beneficial ripple effect spreads beyond the offenders themselves to their families and neighborhoods.

Problem-solving courts take many different forms: drug courts, DWI courts, mental health, veterans, domestic violence, child support, and many others. The lion's share are drug and

drunk-driving courts, and the Governor's \$3 million recommendation contemplates that these programs will not only be expanded but also be *regionalized* so that offenders can participate even if such a program is not available where the offender lives.

Public Act 306 of 2012 made it possible for offenders with ignition interlock vehicles to drive to a wider variety of court-ordered rehabilitation services, so this also make regionalization desirable and possible.

Swift and Sure Sanctions Probation Program

A related diversion program is the Swift and Sure Sanctions Probation Program. The judicial budget includes \$6 million for a Swift and Sure Sanctions Probation Program to assist eligible courts in implementing and operating a swift and sure sanctions intensive probation supervision program.

The program is an alternative to traditional probation, focusing on high-risk, felony offenders. The program aims to improve probationer success by providing intense supervision and promptly imposing sanctions for violations of the terms of probation.

For FY 2013, twelve circuit courts have received grants under this program.

Conclusion

This is just a brief overview of some ways that we have provided, and plan to continue, providing a good return on the Michigan public's investment in the courts.

I am happy to take your questions.

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