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# California State Assembly



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## STATE OF THE JUDICIARY

Address by

The Honorable Tani G. Cantil-Sakauye  
Chief Justice of California

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Assembly Chamber  
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## STATE OF THE JUDICIARY ADDRESS

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SACRAMENTO, CALIFORNIA

MARCH 17, 2014

## CHIEF JUSTICE TANI G. CANTIL-SAKAUYE

Thank you, Speaker Pérez and also President pro Tem Steinberg. I thank you for inviting me to once again address the State of the Judiciary. It's an honor to be here with my colleagues on the California Supreme Court.

I'd like to take a moment of personal privilege to recognize and congratulate Justice Joyce Kennard on her 25 years on the California Supreme Court and her retirement from our Bench.

And just a few words on that. I'd like to say first that Justice Kennard is an extraordinary jurist and a wonderful mentor, role model, and friend. She's also a private and modest person who does not want me up here saying these things, but I'm going to anyway.

Justice Kennard came here as an immigrant, worked her way up to become an attorney, and then through the courts—municipal court, superior court, the appellate court, and the California Supreme Court. She possesses uncommon intellect, integrity, and courage. I speak for all of us when I say we'll miss you Justice Kennard, and thank you!

It's a pleasure to be here with members of the Legislature, as well as my colleagues from the Courts of Appeal, Superior Courts, and the Judicial Council. I'm happy to see attorneys from the State Bar, the Bench Bar Coalition, the Open Courts Coalition, and of course, the executives from the AOC (Administrative Office of the Courts). And I'm grateful that my family is here: My husband, Mark, our daughters, Hana and Claire, my in-laws, and my mother, Mary Cantil.

This occasion causes me to think about two values that our branches have in common, and that is fairness and collaboration, and how those values inspire us and connect us all in service to the public. So let me give you an example.

As you know, this year marks the 50th anniversary of the Civil Rights Act. This Act, as you know, prohibits discrimination on the basis of race, color, sex, religion, and national origin. This Act was the first significant civic legislation after the Civil War after Reconstruction. I would argue that this Act has transcended the law, and it has become part of our core values, our principles—it's in our DNA—it's our heritage.

For me and my family, this act is beyond historic—it's personal. But it was also the fair thing and the right thing to do, and it required collaboration.

Congress created the Act; the president signed it into law. But it also took collaboration with the federal judicial branch, because that branch was set up to hear challenges and to test the law and to be the final arbiter of its constitutionality. It didn't take long for the test to come. Why? Because laws once enacted are not self-executing. The law is

applied to people, and its meaning is challenged, and that challenge leads you to court, and in court the law is tested.

Well, the Civil Rights Act was tested very soon by a motel owner in Atlanta who argued that the law forced him to rent to African-Americans. He argued that the law was unconstitutional. He argued that Congress had no authority to force him to rent rooms to blacks. He also argued that the Civil Rights Act violated the 13th Amendment, the law that abolished slavery. Because according to him, he argued that he was forced into involuntary servitude because he was required to rent to blacks. Well, it didn't take long, frankly, for the United States Supreme Court to dispense with those arguments and uphold the constitutionality of the law. It was the fair thing to do and it was the right thing to do. And that's how an effective democracy works—all three branches in collaboration.

Congress or the Legislature creates the bill, the executive branch signs it into law, and the judicial branch interprets that law as it is applied to people. Even two hundred years ago, as Alexander Hamilton said in *The Federalist Papers*, "Laws are a dead letter without courts to expound and define their true meaning and operation." As it was two hundred years ago, so too, it is today.

We commemorate significant acts like the Civil Rights Act because those are anniversaries that remind us that we cherish fairness and we respect fairness. In fact, next month President Obama and three former presidents will travel to Texas to the Lyndon B. Johnson Library to commemorate the history of the Act.

We cherish fairness; we respect fairness; and fairness was the topic of a short but inspirational film by the National Association of Women Judges. It's online; it's about seven minutes long. I urge you to watch it. This film makes the point that nowhere in the Constitution will you find the word 'fair', but it argues that our Founding Fathers created a branch of government devoted entirely to fairness: the judicial branch. But fairness animates all of us here. And in order for fairness to be true and accessible, like all great things, it requires collaboration. And that's what I want to talk to you about today.

I want to talk to you about some of the branch's collaborative projects that we seek to do to achieve fairness, and the first is collaborative courts. These are also called problem-solving courts. California has been a leader in developing these kinds of courts for many years. These courts strive to achieve a different outcome for victims, communities, and defendants. They seek tangible results, like safer families and getting veterans back on their feet.

Seventeen years ago, when I was a superior court judge in Sacramento, I started one of the first collaborative courts there dedicated to the prevention of family domestic violence. Seventeen years ago: that's how long these courts have been around in Sacramento.

These courts are only successful because of collaboration: The Legislative support; the executive support in grant funding; the local county, with community programs that support the folks who go through these collaborative courts; the lawyers and law enforcement for their expertise; and the judges and staff at the AOC that help develop these projects and facilitate best practices—so these courts need not reinvent the wheel every single time they operate.

Another collaborative project that the branch works on to achieve fairness are the self-help centers. Just like the name sounds, self-help centers are located in courts to help people who come to court with a problem, but without an attorney. These centers last year helped over a million people of all economic levels, cultures, ethnicities, and in their native language.

Seventeen years ago, in 1997, there was only one self-help center in California, but thanks to a collaboration with you, the Legislature, the executive branch, and the Judicial Council, we now have over one hundred of these kinds of centers. At least one in each of our 58 trial courts.

Self-help centers also make courts efficient, because they prepare a self-represented litigant for his day in court on critical issues. And what it means is that by the time that self-represented litigant gets to court, his paperwork or her paperwork is in order, and they know what to expect. So it permits the judge to focus on fixing the problem instead of fixing the paperwork. These centers only work because of collaboration, not only with government, but with the self-help attorneys, pro bono and legal aid attorneys, as well as the volunteers who staff the self-help centers.

Speaking of the volunteers who help staff the self-help centers, I'd like to mention JusticeCorps. JusticeCorps is a unique national service program. It started when the AOC obtained a grant in Los Angeles to start JusticeCorps. It's been so successful we've expanded it to San Diego and Bay Area courts.

This is what JusticeCorps is and what it does: It goes to our state campuses and it recruits students and graduates to staff and volunteer in the self-help centers—it takes about 250 of these recruits; 70 percent of them are bilingual. They help people who have problems in court. They help prepare people for court, and last year they helped 16,000 people in their native language actually navigate the courts. JusticeCorps is in its 10th year; it's their ten-year anniversary. And I only want to say happy birthday, and that the fact that they're called JusticeCorps makes them sound like they're superheroes. Which they kind of are, in my view, because they help people understand the judicial system and find their way through it. It reminds me that the judicial system's strength relies on the public's understanding of us.

So I want to tell you a little bit now about the work that's done on that front. As a judge, as a justice, and as a Chief Justice, I've been promoting democracy and how it works to the public for many years. Every year now, for many years, I dutifully attend Ms. Cooperman's seventh grade class at Sutter Middle School in Sacramento to talk about democracy and how the judicial branch fits into that.

As Chief Justice, I have the opportunity to visit high schools and colleges and law schools to talk about the three branches, and to talk about democracy, and how the judicial branch works with its sister branches.

I'm grateful to Superintendent Tom Torlakson for our partnership in civics K through 12, as well as what we call our Civics Learning Award. We're in our second year of partnership, and we have an award that we give out to public high schools that have made civic learning a priority. And this year, like last year, I will go to visit those schools to bestow the award upon them.

When I go there, I'll tell them how we all work together, and how it is that we have a judicial branch that's 17 years young. And I'll tell them that the reason we're 17 years young is because, with the help of the Legislature and the executive branch and the voters, we were able to condense and transition from over 220 disparate courts into 58 efficient superior courts. And still be the largest judicial branch in the country and the largest law-trained judiciary in the world. When I tell students about this, I also look at the students, and I look at the ratio of the class, and I think to myself that civic learning includes civic engagement about keeping kids in school. And that's another project that we in the branch are working on: keeping kids in school and out of court.

Last year, I shared with you some data that you are all familiar with now that indicates suspensions and expulsions. These kinds of exclusionary disciplinary policies fall heaviest on minority children. That is, African-American students, American Indian students, foster students, and disabled students. We also know that a child who is suspended or expelled is more likely to enter the juvenile justice system, and from there, the adult criminal justice system. We can't sit idly by and look at these numbers and not try to get involved somehow to make things better. So I asked a group of jurists and the AOC to find some grant funding and bring together some stakeholders—multi-disciplinary teams of teachers, juvenile court judges, probation, law enforcement, social workers—to gather together at our respective county tables and talk about solutions and best practices and what's needed to change and improve the outcomes for these students.

In December, we held a summit called, "Keeping Kids in School and Out of Court," and over 32 disciplinary teams of 8 to 10 came to Anaheim, out of the 58 counties, and we presented to these groups of people, talking about—for the first time—talking together about solutions for students.

I thank Superintendent Tom Torlakson, Attorney General Harris, President pro Tem Steinberg, and Assemblymember Dickinson for coming to that summit, presenting to those teams, and inspiring them to do more and better.

I spent a few moments telling you about some of our outward, ongoing programs that are struggling a bit but are still persevering. What I want to talk about next are some of our developing, introspective policies and programs. As a public official, I feel that it's important to regularly self-assess, "Are we doing it right?" I firmly believe the status quo can always be improved. So in 2011 when I was the new Chief Justice, I immediately tasked a group of jurists, retired and also currently sitting, as well as experts on courts and experts on government, to come together, volunteer, and to do a top-to-bottom programmatic evaluation of the AOC, our staff agency. That wasn't an easy thing to do, because the AOC serves as the staff to the California Supreme Court, the Courts of Appeal, the Habeas Corpus Resource Center, trial courts on an as-needed basis, as well as the Judicial Council. And also the AOC staffs our 22-plus advisory committees that make recommendations to the Judicial Council. Well, this group of volunteers took over a year, and they delivered to the Judicial Council over one hundred directives or recommendations on what we could do to improve. The Judicial Council accepted those directives, and of the 151 that were made, we are 70 percent completed on those directives.

There's also a new rule being contemplated by the judicial branch. Based on interest expressed last year, I asked the five internal committee chairs of the Judicial Council to accelerate or speed up our open meeting rule. The rule being contemplated now will likely be the most transparent judicial branch open meetings rule in the country. I can guarantee two outcomes. One: for some, the rule won't go far enough. And for others, the rule goes too far. But we're working on that balance. It's our first time out. It'll be our first year for the largest branch, the California judiciary, and also the most transparent, but we're working on it.

I'm also gratified to tell you about something that's developing now in open meetings—in regional meetings across the state—and that is our California Language Access Plan. Forty percent of Californians speak a different language other than English at home. We also know that in California, over 200 different languages and dialects are spoken. And if you come to court and you don't have language access—you might as well not come at all—if you cannot understand that the self-help center or JusticeCorps is trying to help you to prepare your case, or what the judge may say. So we have in the developing stages a comprehensive language access plan for California. And I understand that the plan may come to council in December for all to review and for us to work on improving.

In addition to those projects, we have new responsibilities in the judicial branch under criminal realignment. These are new laws, and so to that end, we've created in the AOC a specific office devoted entirely to criminal justice court rules and laws and issues. This office in the AOC is tasked with researching, educating, and training judges and staffers on all the new laws under criminal realignment. They take data, they take surveys, and they share best practices. They give legal advice, and next month, in April, the Judicial Council will have an open meeting with a presentation on criminal realignment bringing together counties, sheriffs, the executive branch, and the judicial branch to talk about criminal realignment—where it's working, where it may not be working, and how to improve that. I urge you to listen to that April meeting, where we'll have this public discussion and presentation of criminal realignment in California.

The next phase of self-assessment will be, funding allowable, a commission on the future of the branch. This commission needs to take a hard look at the dynamics of the legal system and how to improve them to make them more efficient, but also balancing due process. Just like the bill supported by the California Judges Association to reduce peremptory challenges in misdemeanors, the commission will be looking at balancing equities, due process, and other interests in changing the dynamics of the legal system. Justice Carol Corrigan has agreed to head up our commission.

Many of you keen listeners out there may notice that I have not said anything yet about fully funding the judicial branch, but let me just say this: We have a lot of catching up to do, and we want to be a partner in fair and collaborative solutions, just like we were a partner in the last five years in reductions and those solutions—approximately one billion dollars to the judicial branch and approximately 450 million dollars in ongoing cuts.

My *Three-Year Blueprint for a Fully Funded Judicial Branch* lays out our costs, and it also is a reminder that court closures have deprived at least two million Californians access to a local court—a one-way, three-hour trip to a courthouse can't be fair in anyone's book.

As you know, the reductions have fallen hardest on the processing of civil cases. And so we face astonishing and harmful delays in urgent family matters, in business contracts, wrongful termination, discrimination cases, personal injury cases—across the board. Nevertheless, we continue to persevere. But it's tragic that 50 years after the enactment of the Civil Rights Act, California faces a different type of civil rights crisis. It's not about the law. It's about access to it. We will continue to persevere and do all that we can and provide the justice that we can, even though the Supreme Court, Courts of Appeal, Habeas Corpus Resource Center, and the AOC are still on our fifth year of furlough. Some trial courts are still on furlough; Kings County has furloughed its employees 21 days in this fiscal year. And while most of the state public workers have or will receive a very modest COLA (cost-of-living adjustment), judicial branch public workers have not received a COLA in seven years.

As I began my address to you, I talked about fairness and collaboration, and how those values connect us and inspire us in service to the public, and those are the same values that inspired the Civil Rights Act. We can trace the Civil Rights Act movement directly to the work of Dr. Martin Luther King, Jr. A few months before the president introduced the Act, Dr. King sat in jail in Birmingham. He was being criticized by his fellow clergymen for bringing the civil rights movement to Birmingham, and Dr. King wrote them a letter. In the letter he said this famous quote: "Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly." I would argue that that quote, 50 years later, is relatable to the three branches of government and how we operate, and how we collectively serve the public.

I thank you for your time and Happy Saint Patrick's Day.

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