

STATE OF THE JUDICIARY ADDRESS
TO A JOINT CONVENTION OF THE CALIFORNIA LEGISLATURE
CHIEF JUSTICE RONALD M. GEORGE

Sacramento, California

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Good afternoon. It is a great pleasure to be here today. I want to thank Senator Lockyer and Speaker Bustamante for their invitation to address you on the State of the Judiciary. I also extend congratulations to Senator Burton and Assembly Member Villaraigosa on their new leadership posts. And I want to acknowledge the presence and contributions of members of the Supreme Court, of the Judicial Council and chairs of its advisory committees, and leaders of the Bar who are with us today.

Most of all, I want to begin by expressing my great appreciation to you—the leaders and members of both Houses of the Legislature—as well as Governor Wilson, for the extraordinary contributions you made last year to the administration of justice in our state. The enactment of the Trial Court Funding Act in the final moments of last year’s legislative session inaugurated a fundamental alteration in the structure of the Judicial Branch. It constitutes one of the most important reforms for the California courts this century.

Your efforts have made it possible for the Judicial Branch to look forward to the next century confident that a stable and adequate source of funding will enable us to provide fair and accessible justice for all Californians. The strong leadership of Senator Lockyer, Assembly Member Escutia, and then-Minority Leader Pringle guided this historic change. But, momentous policy changes such as these require the prolonged efforts of many. In this case, it was a team effort in which many of you played roles that were essential to attaining this important goal. On behalf of the Judicial Branch and those we serve, I congratulate you and thank you for your farsighted and public-spirited action.

When I last spoke to you just over a year ago, I was in the midst of my visits to the courts in each of the fifty-eight counties of our state. I completed my journeys last August, one year after I began them, having met with judges, court administrators, staff, members of the bar, and often local officials, in each county. I also visited the justices and staff of the six courts of appeal and the two active native american courts in our state. These unprecedented visits provided me with a unique and personal look at courts across the state, their needs, and their accomplishments.

There are two main impressions from these visits that have stayed with me and that I want to share with you. First, the history of inadequate and uncertain funding all too often has substantially hobbled the ability of courts to serve the public at the level it deserves. My visits heightened my resolve to work unceasingly to make adequate and stable state funding a reality—and now that this top priority has been achieved, to ensure that it is implemented in a way that fulfills its promise. We must work together to provide the necessary resources for California’s courts to provide the finest administration of justice necessary to protect and serve the public.

Second, and perhaps more importantly, I learned from my meetings that, despite significant barriers and challenges, the creativity,

dedication, and commitment of those who serve in the Judicial Branch has been and remains our most valuable asset. It is with great pride that I assure you that these individuals, whether from tiny counties like Alpine with only one superior court judge and one municipal court judge, to enormous Los Angeles with hundreds of judicial officers, stand ready, willing, and able to make the most of the opportunities available to them in serving the public.

Judges and staff up and down the state work in conditions that demand fortitude, courage, and selflessness. In a one-judge court in San Luis Obispo, I visited a court that had been the site of an armed hostage confrontation a few years before. Since then, no funds have been available to provide an adequate security system. So, today stacks of law books placed in front of the bench serve not as a research source but as a protective barrier. Unfortunately, such measures are not unique—judges in other counties have had to resort to similar steps for protection.

Security is a significant issue up and down the state. Some courts have no metal detectors. In others, equipment is standing idle because there are no funds to operate it. In some courts, handcuffed defendants must be transported through the clerk's office or through public hallways where litigants, witnesses, jurors, and the general public await court proceedings.

In some counties, there are not enough bailiffs to protect every courtroom. This is a particular problem in family law courts, where the greatest incidence of in-court violence has occurred over the past several years. Witnesses, parties, judges, and lawyers, all have fallen victim to in-court violence. Our courts, which should be a haven for reasoned dispute resolution, too often are sites where dangerous emotions flare. The public, litigants, staff, and judges must be protected and feel secure. Our courthouses must be bastions that protect public safety in every sense, not locations where people are at physical risk of harm.

I found many courts struggling to keep their doors open for a five-day week because of the inadequacy of funds available for staffing. Hopefully, this situation will not recur now that state trial court funding has been enacted. I encountered several courts whose employees had not had cost-of-living raises for extended periods, and were attempting to cope with the extra burden created by numerous vacant positions. I saw the Chambers of a Plumas County judge that had been fashioned out of a converted mop closet. And in Huntington Park's courthouse in Los Angeles County, I found one individual, Commissioner Gilbert Lopez, whose situation in many ways symbolizes how the best of our system can rise above the worst.

On the downside, the much needed additional courtroom occupied by Commissioner Lopez had to be created from the jury assembly room, and his Chambers were fashioned from space appropriated from a public restroom. When this reconstruction was completed, no money was left to furnish either area, and this is where some of the best comes in. The Commissioner, in his home workshop and at his own expense, built the jury box, bench, and bailiff's desk for his courtroom, and the furniture for his Chambers. His can-do spirit and concrete contribution provide a tangible symbol of the willingness of judicial officers and staff

to take that extra step far beyond their job descriptions to make sure that the system can function and the public can be properly served.

As we begin implementation of trial court funding, the next major enterprise will be to provide adequate physical facilities for the courts. Court facilities—like safe schools and highways—are a vital part of California's infrastructure. The Public deserves not only to be safe, but also to see its business transacted in a setting that comports with the importance that the proceedings bear to the lives of so many individuals. The public deserves courthouses in which access to the effective, orderly administration of justice is a given, not a challenge.

AB 233, The bill creating the state funding plan, provides for a task force to survey current courthouse facilities and recommend necessary improvements and additions. I anticipate—from my personal observations—that this task force will discover that these needs are great. Basic facilities have been neglected to an extent that many courts are severely hindered in their ability to administer justice. In fact, some court facilities are in such poor shape they are in imminent danger of being flattened by the next major earthquake.

My mention, a moment ago, of the Commissioner's courtroom carved out of a jury Assembly room highlights another grave difficulty for our courts and for the public's perception of the Judicial Branch—indeed of the public's perception of government as a whole: The poor way jurors frequently are treated under our current system. The pervasive message too often is that we neither respect the contributions of jurors, nor value their time. Inadequate facilities are only one part of problem.

When I obeyed a jury summons and reported for duty in a Los Angeles County courthouse last June, I took my seat on the floor with others as we waited for the jury assembly room to open up. And I observed in my courthouse visits across the state that juror facilities frequently are too small, do not provide basic services for those waiting, and may not even be clean. There are very few individuals who would willingly spend day after day in a molded plastic seat under fluorescent lights with no place to relax, receiving scant information about what is expected of them or why they must wait. Nor do those subjected to such conditions leave with a sense of a judicial system that is attentive to the public's needs.

The Judicial Council's Commission on Jury System Improvement, with a diverse membership from the courts and the public, has provided a wide-ranging series of suggestions for improving the experience of those called for jury service and increasing the number of individuals who respond to a jury summons ready and willing to serve. The Judicial Council has adopted some of the Commission's suggestions and has sought your help in creating the statutory changes required to enable others to be implemented.

The need to increase the number of our citizens participating as jurors is clear—in one county the response rate to summons dipped as low as six percent. That situation is simply unacceptable and has disturbing ramifications for our concept of participatory democracy and may help explain some of the unexpected jury verdicts that we hear about.

A variety of measures to increase and improve the level of participation by our citizens in jury duty already are being explored. Although the telephone on-call system used by some courts, including the one to which I was summoned, is far superior to requiring the juror's

presence at the courthouse for up to two weeks at a time, it still makes it impossible for jurors and their employers to plan with certainty. The approach that I favor is called the one-day-or-one-trial system used in many courts: A juror, once summoned, appears at the courthouse. If selected for a jury, his or her service for that trial satisfies the juror's obligation for the year. If not selected for a trial that day, the juror is excused and the one-day appearance fulfills the juror's obligation for the year.

One improvement that courts cannot achieve without your assistance involves increasing juror pay from the measly statutory \$5 per day now available—a low among the states—to a more meaningful figure. Other steps urged by the Council, such as providing reimbursement for child or dependent care if necessary to enable the juror to serve, paying adequately for meals, parking, and transportation, or, as San Diego and Stanislaus counties already have done, arranging with local mass transportation providers to offer free service to and from the courthouse to anyone who displays juror identification, can have a tremendous impact by reinforcing for the public the fact that we in government consider jury service to be an important public duty.

Some years ago, jury exemptions, which then applied haphazardly to numerous classes of individuals, were wiped off the books by the Legislature. You did so recognizing that our justice system requires jury pools that are truly representative of our population.

Lack of necessary support for the fundamental jury structure in county after county has undermined that message. Many courts are taking the steps they can without statutory authority or additional resources to improve conditions.

But they can go only so far. That is where your role comes in. I am pleased that you have before you bills that would enact some of the reforms that I have just recommended. I urge you to consider providing adequate funds and authorization to ensure that our jury system becomes more representative of the people of our state, treats those who come to serve with respect, and ultimately enhances the public's confidence in our entire system of government.

For many individuals, jury service is their primary contact with government, and they base their attitude toward our entire system on their experience with that process. In short, this is not simply a court problem—it is a state government problem.

Another aspect of jury service that the Judicial Council presently is reviewing is jury instructions. Often, the instructions given to jurors by the judge at the conclusion of the trial are couched in arcane, antiquated language. Jurors must spend unnecessary time and effort determining what the instructions mean before attempting to apply them to the particular case.

I have appointed a special task force to review instructions given in both criminal and civil cases, and to translate them into clear, accurate, and easily understandable language. As legislators, each day you are confronted with the challenge of using language carefully to obtain the result you intend as you draft and amend bills. I am certain you can appreciate the difficulty and delicacy of our task and how important it is that the job be done properly.

Language is important in another way as well. More than 200 languages are spoken in our state, and over 120 require translation in our courts on any given day. Adequate court interpreter services are

fundamental to providing access to the courts and crucial to the integrity of judicial proceedings. Basic comprehension of the system that judges your fate is fundamental to our notion of justice. But in many counties, courts are stymied by the lack of available, qualified interpreters and consider this to be their number one problem.

We have request funds through a deficiency appropriation to cover the cost of growth in interpreter services this year, and have asked for further funding for next year's anticipated growth, and to permit a much deserved raise in rates that will make them more competitive with what is paid for interpreter services in the federal courts in this state. Let's make use of our increasingly multi-cultural society and attract young people into this vital profession.

Another facet of facilitating court communication, both internally and with the public, involves improving the ability of courts to utilize available technology. To plan effectively for the future of our judicial system, we need data that right now is unavailable. When you enter a local department store, they can tell you how many pairs of pants in a particular size and color are available within the store and in all stores in the chain across the United States. Commonplace inventory control and tracking easily provide the specific information retailers use to make projections and meet needs.

Walk into a courthouse and ask how many third-strike cases are pending on the criminal docket, and you most likely will be told that the information you seek is not available. Nor does cumulative data on a statewide level exist. This situation is further complicated by the incompatibility of much of the technology that is in place. In some locations, modern technology is a fact of life. In others, it is a distant dream.

The inconsistent development of data systems throughout the state frequently makes it impossible for courts to communicate within their own courthouse walls, with other courts, with the Judicial Council, with other public safety agencies, or with the public. The Judicial Branch often finds itself hampered in its planning process, and in assisting your Legislative Analyst and the Governor's Finance Department in their planning efforts, by our inability to provide you with meaningful caseload data.

Changes are underway to help cure this major barrier to effective planning and to responsive access for those we serve. A Judicial Council task force on technology is developing uniform data standards to improve our ability to collect information and to communicate among different systems. Techniques, such as document-scanning and creating records on computer discs, will facilitate case processing at every level.

We must have a plan for rational use of the available tools or we will not be able to realize their potential. Instead we will increase the risk of creating a twenty-first century, electronic version of the Tower of Babel.

When they can, courts are using technology to communicate directly with the public. State and local electronic bulletin boards allow litigants and lawyers to learn the status of a case or acquire general court data rather than requiring them to locate and interrupt a court clerk. The Judicial Council's website contains information about our statewide court system and provides instantaneous access to just-filed published California appellate court opinions.

Courts are providing interactive kiosks at which litigants and members of the public can obtain forms and information about how to

proceed in a particular legal action. In some counties, in up to sixty percent of family law cases one party lacks legal representation and in another thirty percent neither side has Counsel. The need to assist unrepresented defendants in a number of areas, including obtaining protective orders in domestic violence cases, was a theme I heard repeated by courts, local government and Bar leaders, and citizens across the state.

You have placed a great deal of trust in us by establishing a system of state funding—now I hope you will ensure that we possess the tools necessary to responsibly discharge our obligations and to provide you and the people of our state with a truly fair and accessible justice system in every venue, every day.

The judicial system is not relying on the wonders of technology alone to improve communication internally and with outside constituencies. Courts increasingly have realized that the duty to administer justice requires extending activities beyond the courtroom door.

The courts have realized the importance of ongoing dialogue with our sister branches of government and with the public. A Judicial Council task force on court-community outreach currently is exploring ways for courts to communicate more effectively with the public. It has held statewide hearings, and its recommendations and findings will provide the groundwork for an upcoming local court-community planning conference to more effectively involve the public in their courts.

I have participated in community forums in various parts of the state, including one in Orange County at the request of Assembly Member Bill Morrow and one in South Central Los Angeles at the request of Assembly Member Kevin Murray. And others from the Judicial Council are now visiting courts and communities around the state, to listen and learn.

The Judicial Branch has been a leader in studying problems arising from bias—real or perceived—in the court system, based on gender, ethnicity, race, sexual orientation, and disability—undertaking these studies at its own initiative. Not only have we had task forces studying these issues, but the Council has a permanent access and fairness advisory committee committed to learning more about these matters and providing the means to ensure that all Californians receive fair and equal access to our courts. We have focused on implementing the recommendations of our task forces so their reports do not merely gather dust on the shelf.

Courses based on findings and recommendations from the various studies are part of the developing core curriculum of the center for judicial education and research, which provides education for judges and court staff. Ensuring appropriate and effective communication with litigants, witnesses, and the public within the courts themselves is a principal aim of these efforts.

Relationships between the Judicial Branch and the Legislative and Executive Branches also have been a focus for our Branch. As one of three co-equal Branches of Government, the Judicial Branch appreciates the need to cooperate with, to inform, and to work with you in as many areas as possible.

Of course, the Judicial Branch differs in some fundamental ways from its sisters branches. The Legislative and Executive Branches are necessarily and properly political in nature, and responsiveness to the public and to political pressure are basic tenets of the role you play. The

framers of our Federal and State Constitutions provided the Judicial Branch with a very different role. The Judiciary interacts with the people's will only through the medium of the statutes and constitutional provisions that have been crafted by others, and the facts and arguments litigants bring to us in their actions.

It is only natural that each Branch of our State Government eyes the other two Branches through the lens of its own experience and obligations—and that this circumstance sometimes results in confusion or misunderstanding about particular actions or motives. Improved communications help all of us to better appreciate the different, complementary, and both independent and interdependent roles that we play in our democratic system of government.

Improved communication among our Branches in recent years has contributed to the enactment of many additional measures that are of particular importance to the Judicial Branch. Assembly Bill 195, effective in January of 1997, made substantial changes in the procedure for certification of the record in death penalty appeals. This important bill by Assembly Member Bill Morrow, is helping attack a root cause of delay in the processing of automatic appeals from death penalty judgments—the second of my priorities after trial court funding.

The Judicial Branch has been developing strategies to make the most effective use of this new provision, including a recent training program on the new requirements put on by Supreme Court staff for 150 participants. In addition, a project is now underway to ensure accurate reporting to you on the implementation of the bill by the trial courts.

Another major cause of delay in death penalty appeals remained even after enactment of AB 195, however. In the last legislative session, you and the Governor adopted a measure that will help solve a problem that has proved most intractable and troubling: Providing counsel for those under sentence of death. More than 160 individuals remain on death row without legal representation and therefore with cases that cannot be processed. The result is delay that unfairly affects the families and loved ones of victims, and defendants as well, and invariably reflects negatively on the integrity of the entire justice system.

Senate Bill 513, authored by Senator Lockyer, will make a difference. By increasing the pool of attorneys available to handle these matters and enhancing their compensation, the bill directly addresses some of the impediments to processing death penalty appeals in a timely fashion.

We have been working diligently to fully implement this legislation. Change will not occur overnight—the problem is complex and difficult—but I am confident that it will occur soon.

Another area in which you recently have been responsive is in providing the first new judgeships in almost ten years. In addition to the new judgeships created in 1996, forty new trial court positions were authorized last year but remain to be funded this year. Filling these positions is a vital step toward improving the administration of justice.

The fact that the courts have been able to stay as current as they have without much in the way of added resources during the past several years can be credited to their ability to break free of entrenched tradition and practice and adapt to current circumstances. I refer specifically to the tremendous progress that our Municipal and Superior Courts have made toward coordinating their use of all available administrative and

judicial resources under existing statutes and court rules adopted by the Judicial Council.

Many county court systems are now fully coordinated: In those courts, administrative duplication has been eliminated, procedures have been streamlined, and all judges are now available for assignment where they can be most productive and effective. In most remaining counties, major strides toward increased coordination have been made, and progress continues.

On the ballot in June is Senate Constitutional Amendment 4, now designated as Proposition 220. It will permit courts, on a county-by-county basis and upon a majority vote of the judges of each level of Trial Court, Municipal and Superior, to fully unify. Unification will dispense with all distinctions between these courts, thereby providing better service to the public and savings to taxpayers. SCA 4 is the final logical step in the move toward increased coordination that the Legislature has urged since its enactment of the Trial Court Realignment and Efficiency Act of 1991.

One critical area for the courts that you can expect to hear me discuss in the years ahead is the tension developing between private judging and the public courts. A variety of concerns have arisen as the use of private judges has expanded. Does the availability of these alternative mechanisms siphon off too much of the support needed for the maintenance of an efficient and viable public judicial system? Some fear the perception of a two-track system of justice where those who can afford it will pick the private judge of their choice and obtain a fast-track resolution of their dispute, relegating to our public courts those persons unable to afford private judges and those defendants and victims involved with criminal offenses.

There will always be a place for a variety of alternative methods of dispute resolution such as arbitration, mediation, and private judging. Nonetheless, an effective public justice system is absolutely crucial. By affording equal and fair and accessible justice to all, it knits together the diverse strands of our society. By issuing published opinions that establish precedent, it guides the actions of business entities and individuals as they go about their daily lives. It provides predictability and stability. It is part of the bedrock of our society that we must protect lest it be undermined.

We have not yet seen a thorough evaluation of the impact on the judicial system of the growing use of alternative dispute resolution methods. Tomorrow, I will announce appointment of a special task force to begin studying issues such as the difficult one of whether, how, and by whom private judging should be regulated and to report its findings and recommendations to the Judicial Council.

Private judging has had an impact on another aspect of the administration of justice—the retention of experienced judicial officers within our judicial system. In conjunction with the group studying alternative dispute resolution, I am also appointing a committee to study issues relating to how we can keep our most experienced judges from leaving the bench prematurely, to enter private judging or some other pursuit, thereby requiring us to pay not only their retirement benefits but the salary of the new judges who take their place.

I strongly believe that our court system should not serve merely as a training ground for a career in the private sector. It should maintain its

role as the place of service to which our finest legal talent aspires as the culmination of a career.

As you can see, the variety of issues that our system is addressing is enormous. Whether it is implementing trial court funding, improving the use of technology, or enhancing communication with you and with the public at large.

The duty of the Judiciary was described well by Chief Justice John Marshall of the United States Supreme Court when, in the early years of our republic, he remarked that the Supreme Court had an obligation not to “usurp power” and an equal obligation not to “shrink from its duty.” Our Branch is constantly seeking to maintain the appropriate balance—our duty is to serve the public in applying the law, and to perform the judicial function with integrity, care, and discretion. With your support, our Branch will continue its quest to meet these goals and to serve the public.

I am deeply honored to serve as the 27th Chief Justice of California. The individuals I have been fortunate to meet, both within and outside the Judicial Branch, the creativity and dedication I have encountered among judges, court staff, and lawyers, the commitment to public service and the public good that pervades our courts, all are proof of a vibrant system focused in the right direction. I know that working together, we can ensure that California’s Judiciary remains in the forefront of providing fair and accessible justice to all Californians.

Thank you again for your essential support in the time that I have served as Chief Justice. I look forward to demonstrating that the Judiciary is worthy of your trust and confidence, and to cooperating in new ways to enhance the administration of justice in our state for the benefit of the public we all serve.

I hope you will be able to join me and members of the Judicial Council and the A.O.C. staff at our annual reception for the Legislative and Executive Branches which will shortly follow this event, at the basement level of the Capitol Rotunda, and which will offer more information about the many activities in our courts. Let me close by wishing you all a productive legislative session.

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Chief Justice of California