

State of the Judiciary  
Chief Justice Ronald M. George, California Supreme Court  
Message to the California Legislature  
January 14, 1997, in Sacramento, California

Good afternoon. I want to begin by thanking Senate President Pro Tem Bill Lockyer and assembly speaker Cruz Bustamante for their kind invitation to jointly address both houses of the legislature as you begin a new legislative session. I am very pleased and honored to see so many of my colleagues present from the Supreme Court and the Judicial Council, as well as leaders of the bar and other special guests.

As Chief Justice of California and leader of the judicial branch of government, I very much appreciate the opportunity to speak to you today about its successes, and the challenges that currently confront it. For me, preparing for this important occasion has provided a time to reflect upon the implications of the actions that we in government contemplate today and the consequences of those actions for the world we will live in tomorrow.

Dwight Eisenhower once observed that the history of free men is never really written by chance but by choice – their choice." there are many important choices for us to make about the administration of justice in our state in order to ensure its continued independence and effectiveness.

California is known for being in the forefront of changes that cut across all aspects of our society. And California's court system has shared that distinction. Over the past ten years, case filings in our superior courts have increased by 31 percent. The mix of cases has changed, and the disparity in caseload in various counties has increased as new laws have come on the books.

While the ever-increasing diversity of the population we serve represents a great strength and resource of our society, it has required courts to deal with the more than 200 languages spoken in our state - as well as the different understandings and expectations about the administration of justice that individuals bring from every corner of the globe.

The ebb and flow of economic tides have brought more and more unrepresented litigants into our courts, particularly in the family courts, which resolve critical matters such as marital dissolution, child support, and child custody. I was astonished to learn that in an average of 60% of such cases, one party does not have a lawyer, in another 30% neither side has A lawyer, and in only 10% of such cases are both sides represented by counsel.

Accompanying the many changes affecting our system is the heightened publicity surrounding court cases. That, in turn, has increased the public's scrutiny of the courts, often unaccompanied by much-needed education about the important role that an independent court system plays in our society.

The judicial branch has actively responded to the new challenges invoked by these and other changes in society. It has done so in the face of a fundamental factor in the governmental landscape that has affected every aspect of court operations – fewer resources in the face of

increased demands. Yet I believe our judicial system has still been able to be very responsive, in part due to the strong cooperation and assistance it has received from the legislative and executive branches of government.

The underlying theme that flows through all of the judicial branch's efforts is a simple one: to keep our courts accessible so they can continue to serve the people of California by providing a fair and objective forum for the adjudication of disputes. With your much appreciated help, our steps to meet this goal have taken numerous paths.

Last year, for example, you created twenty-one new trial court judgeships and five new appellate court judgeships. These were the first new judicial positions in almost ten years. The budget also provided funds to establish a "three strikes relief team." this designated group of retired judges has been specially trained to provide assistance to courts that have seen increasing backlogs due to the impact of three strikes legislation. Beginning this month, I will be assigning 22 relief team judges to nine courts for periods lasting from four weeks to four months.

The Judicial Council's Court Profiles Committee extensively reviews court operations statewide to assess the need for new judgeships. Last year, it identified a need for 61 positions, and we were pleased that the judgeships that were created tracked the priority set by the committee's recommendations. An acute need for additional trial court judgeships remains, and this year you will be asked to consider creating the remaining 40 of these most needed new positions.

With your help last year, the ballot information regarding appellate court positions was reformed. As promised, the judiciary is developing methods to provide useful, easily available supplemental information to the voters.

Last year saw enactment of assembly member Bill Morrow's AB 195, a bill designed to expedite the record correction process in capital appeals, which are brought directly to the Supreme Court. Our court is very concerned with the problem of unrepresented defendants on death row-147 at last count-and we hope that in the coming session you will carefully consider measures coming before you that can help alleviate this problem.

The legislature also has played a critical role in setting the stage for what has proved to be a highly effective development in court reorganization. The trial court realignment and efficiency act of 1991, together with amendments and refinements to that act and the Judicial Council's adoption of extensive rules, provided impetus to instituting comprehensive coordination efforts statewide. Local courts have been required to determine how best to coordinate the use of all available administrative and judicial resources across superior and municipal court lines.

Some 18 counties are substantially fully coordinated. For example, in Sacramento, Riverside, San Mateo, Marin, San Bernardino, Napa, and Solano, the superior and municipal courts share court administrators and clerks' office employees. They use the cross-assignments of judicial officers from each level of trial court, under the direction of a single presiding judge, to perform the entire range of judicial functions, as needed.

The benefits are clear. Coordination eliminates redundant case processing. It reduces costs for

courts, litigants, and taxpayers alike. Coordination enables courts to best use all resources, helping them to better weather budget cuts, and affording greater flexibility. At the same time, because fashioning a coordination program is a local enterprise, the governing statewide standards and guidelines allow accommodation to local conditions.

Senator Lockyer's SCA 4, which has been placed on the ballot for June 1998, will, if enacted, take the next step and permit courts in each county to completely unify on majority votes of the municipal and superior court judges.

Overseeing the coordination process is the Judicial Council, which is the constitutionally created entity charged with oversight of the judicial branch. It has responsibility for adopting rules and procedures for the courts. As Chief Justice of California, I chair the council, and I am joined by 14 additional judges, four members of the state bar, and two legislators. Last year Senator Charles Calderon and assembly member Bill Morrow provided valuable insight and information as your designated members on the council. Court administrators and others play a vital role as advisory members.

The staff arm of the Judicial Council is the Administrative Office of the Courts. It provides a wide range of support to the Judicial Council and the courts. The AOC is very ably led by its talented and dedicated director, Bill Vickrey, who along with staff from the AOC's office of governmental affairs, led by our very capable Ray Lebov, are known to most of you as frequent visitors to your offices on behalf of the courts.

The council relies on the work of several specialized advisory committees, whose members are drawn from the ranks of the judiciary, the bar, and the public. Over 300 volunteers devote substantial time and expertise to studying and making recommendations about diverse facets of the practices and procedures governing our judicial system.

I have had firsthand exposure to the success of the coordination efforts statewide, not only from my vantage point as chair of the council, but also due to a commitment I made soon after becoming Chief Justice. I resolved to visit the courts in every county – something, I am told, that no prior Chief Justice of our state had set out to do. There are those who have suggested that perhaps I should be commended for having made such a commitment, but by the end of 1996, I had journeyed to 20 of the 58 counties. I hope to visit the courts in the remaining 38 counties by the end of this year. It has been a truly invigorating and inspiring enterprise.

Although before becoming Chief Justice I had served 24 years as a judge at all levels, from municipal court on up, I embarked on this outreach effort in order to gain a more direct sense of the issues facing the courts statewide – and to share with the courts my vision for the future of our branch of government. As part of this undertaking, I also have met with legislative leadership and the governor and others in the executive branch, as well as different constituencies in the bar – prosecutors and criminal defense, plaintiffs' bar and civil defense, representatives of county government and the press. As a former president of the California Judges Association, it has also been important to me to forge a close working relationship between that important organization and the Judicial Council. My overall goal is to foster continuing, active, informed dialogue about how we can ensure that California's judicial system will be prepared to serve our citizens into the

next century.

In addition to my efforts, members of the judicial Council will be personally visiting different court locations to learn more about court activities across the state. They will also be sending written updates on the council's efforts to the courts in their area. We hope to enhance and encourage the free flow of information to and from the Judicial Council and all interested sources.

Those are only a few of the actions our judicial system has taken to ensure it remains responsive and capable of anticipating and meeting the challenges that face it. We have moved ahead with many other initiatives as well. The council's operations cover subjects that range from court interpreters to cameras in the courts. Its educational arm, the center for judicial education and research, along with the judicial administration institute of California, offers an ever-broader list of courses on substantive and administrative skills. A statewide court community planning workshop scheduled for September will bring together – from each county-teams of judges, administrators, bar members, and members of the public. They will learn about innovative programs and how to plan for the future of the local courts. The goal is to increase community involvement in court planning and operations.

In cooperation with the state bar, the council Also is working to increase pro bono representation by California's attorneys. I could go on at greater length – but mercifully will not – listing the many activities of the council, the AOC, and our local courts. Our focus is to create statewide standards that accommodate local differences. The idea is not to micro-manage the local courts, but to provide a framework for improvement and service to the public. With these goals in mind, I would like to turn to what lies ahead.

Harry Truman once stated: "we don't propose, like some people, to meet today's problems by saying they don't exist, and tomorrow's problems by wishing that tomorrow wouldn't come." the judicial branch has shown that it too is committed to dealing with the problems of today, anticipating and planning for what lies ahead, and looking forward to tomorrow – all with the understanding and assistance of our sister branches of government.

One area that clearly needs improvement is information management. The courts utilize an incompatible, insufficient mix of data processing and hand-collected information systems. Discordant and too often non-existent capabilities make it difficult to collect and manage the information that all three branches of government need in order to accurately plan for the future of the courts - or to assess the impact of changes once made.

After completing a review of automation systems used in courts across the country as well as in California, the Judicial Council's advisory committee on technology has laid out a plan to bring the courts into the 20th and 21st centuries. Local county plans have been completed during the past year. Data standards will be adopted this summer. It is essential that we seize the opportunity now to advance in this area. If we do not, our courts will be locked in a tower of babel, unable to effectively learn from or communicate with one another – or to provide the legislative and executive branches and the public with complete and up-to-date information concerning the operations of our courts and their caseloads.

Another critical area that needs attention is the confidence of the public in our courts. Public perceptions about the courts are colored not only by press reports on sensational cases, but also by the experiences of citizens called to jury service – the only direct contact that most citizens have with our court system. It has become increasingly clear that the call to jury service frequently is ignored and - when answered – may breed only frustration and resentment. Adverse experiences with the jury system too often can prolong the resolution of cases and lead to disrespect for all parts of our government.

The Judicial Council's Blue Ribbon Commission on jury system improvement identified a host of ways to enhance the experience of jurors. The report revealed that the overall yield of jurors reporting for service ranged from a low of five percent in one major metropolitan county (a figure I understand has somewhat improved more recently) to over 60 percent in some of our more rural counties. Over 1.6 million citizens report for jury service every year.

Some proposed measures will cost the state money-increasing juror compensation, paying for mileage, reimbursing parking, meal, and child and dependent care expenses. Others, such as encouraging local officials to negotiate with local transportation providers to offer free public transportation to jurors already have been tried with some success in counties as disparate as Stanislaus and San Diego. The cost is minimal to the transportation company, while the benefit to the system in good will is high.

One approach successfully used in several venues is to limit service to one day, one trial. Once a juror appears, he or she needs serve only on one case, and if not selected that day, is dismissed for the year. Another possible initiative would be to encourage public and private employers to continue to pay salaries while employees serve on juries. Some employers already do. An increasing number do not. For private employers, offering reasonable tax credits or similar inducements – acknowledging their contribution to the public benefit – may prove persuasive. We must explore and encourage implementation of these and related measures that will restore the public's willingness to participate and its confidence in our jury system. Senate Bill 14, introduced by Senator Calderon, and the governor's budget each contain a number of these proposals.

As I mentioned earlier, the underlying theme of the judicial branch's efforts is providing a fair and accessible system of justice. This past year saw the release of the council's report on the implementation of recommendations to address problems involving gender bias. The council's special advisory committee on race and ethnic bias will make its report and recommendations to the council this month.

On an ongoing basis, the council's advisory committee on access and fairness continues to gather information and formulate appropriate responses to problems involving all forms of bias, including adequate access for the disabled.

Meaningful access also is implicated by the increase in litigants without counsel who appear each day in our courts. "Family Court 2000" is a program developed by the Judicial Council's Family and Juvenile Law Advisory Committee. It includes proposals to simplify procedures

while protecting the parties' rights, to increase access to legal services, and to encourage settlement of disputes through alternative means such as mediation, negotiation, and arbitration when possible. The committee will submit recommendations to the council in 1997.

Already, Ventura County is experimenting with providing a user-friendly information kiosk and easy to understand forms to assist litigants in family court.

For the past three years, the council has focused on another aspect of family law: domestic violence. Just a few days ago, the council held the second annual reunion of its original state conference on family violence and the courts. This conference brought together – and continues to unite – representatives from district attorneys' offices, battered women groups, probation departments, social workers, police officers, and other professionals in the field to work with courts to formulate coordinated programs to prevent family violence and to address it comprehensively when it does occur.

Similarly, Court-Appointed Special Advocate – or CASA – programs provide a model of how new approaches can reap important benefits. CASA projects provide court-appointed lay community volunteers who assist children and the courts during the long and often confusing dependency process.

The troubling problem of juvenile delinquency also is being reviewed. The Judicial Council's family and juvenile law advisory committee is exploring access to possible alternative dispositions, and providing appropriate care, treatment, and guidance consistent with holding youngsters accountable for their behavior and protecting the public.

The actions our judicial branch has taken and will continue to pursue are intended to continue the tradition of a responsive, fair, and accessible system of justice for the benefit of the people of California. We are heeding Lord Macaulay's admonition: "reform, that you may preserve."

You have heard just a few of the many initiatives that can produce major effects on the future operation of the courts. Although the judicial branch is focusing on several individual areas of reform, the one reform necessary for success in preserving our fundamental system of justice is ensuring a stable, adequate source of funding for the courts.

Historically, funding for California's court system developed on a piecemeal basis. Before 1988, the state funded only basic benefits for trial court judges, and a few selected programs. Starting with the Brown-Presley Trial Court Funding Act of 1988, the state committed to increased funding through block grants based upon the number of judicial positions in each county.

The Trial Court Realignment and Efficiency Act of 1991 provided increased state funding, with a goal of an increase of five percent each year to 70 percent by 1995-96. That percentage has yet to be met. Last fiscal year saw the state providing only approximately 35 percent of court funding – and this year saw the dramatic decline in the state general fund contribution reach 65.5 percent, plummeting from \$507 million in fiscal year 1990-1991 to \$175 million today.

In 1992, the Trial Court Budget Commission, under the supervision of the Judicial Council, was

established to oversee the trial court budget development process and to prepare an annual state court budget, the process has been refined, and a functional budgeting process was launched in 1994-95. Through the work of the trial court budget commission, the council for the first time collected statewide data on costs and expenditures.

But the effective use of the commission's work has been stymied. Over the years, the bifurcated system that divides responsibility for court funding between the state and the counties has led to more and more problems, with the courts sometimes falling between the cracks. The budget process has become a full-time burden for the courts, which must deal with two separate, uncoordinated systems with neither having clear funding responsibility. Planning – both local and statewide – of necessity is often piecemeal and tentative. There is no one mechanism to hold courts accountable for the administration of justice statewide and no flexibility for courts to address urgent needs.

The administration of justice is perhaps the most fundamental service provided by government. I firmly believe that the quality of justice cannot and must not be allowed to vary county to county, dependent upon the ability and willingness of each county to adequately fund its courts in the face of the other growing demands upon county government.

During the last legislative session, a remarkable consensus was achieved, together, you – the legislature – the governor, the counties, the courts, law enforcement, and the various segments of the bar, hammered out an agreement not only on the concept of state funding for the trial courts, but also on a precise mechanism by which to achieve it.

AB 2553, introduced last year, would have embodied this solution. Under this proposal, the state agreed to assume full responsibility for funding the trial courts –including future growth-and capped county payments, required counties to continue funding certain functions, and provided further assistance to small counties.

Some new revenues were to be obtained through civil filing fees that were acceptable to various components of the bar. Cities and counties agreed to split the growth in fine revenues.

In the final hours of the legislative session, however, the Bill failed because of disagreement over an issue relating to meet-and-confer requirements for court employees. The Judicial Council, along with many others in the judiciary, the counties, the bar, and our sister branches of government, has been actively seeking to resolve this problem in a manner acceptable to all parties involved. The Judicial Council is working on a rule of court, which would be adopted by the council pursuant to statutory direction in the trial court funding bill. We firmly believe this would be just as enforceable as a statutory provision and would, while protecting the fair and reasonable expectations of court employees, reasonably preserve the ability of the courts to manage their own affairs.

We should not and must not halt the momentum toward fashioning a much-needed, permanent long-term solution. We must for once and for all put an end to the yearly crisis plaguing all 3 branches of government caused by the courts having to run to you for more money as they face the imminent closing of the courtroom doors.

A letter I received last month from the alpine superior court anticipates that this month will see “a total shutdown of the courts in our county until such time as state funding becomes available. We have no money for jury trials, court reporters, courthouse and courtroom security, [and] interpreters ...; shortly after the first of the year we will have no funds with which to meet payroll.”

The Judicial Council anticipates the courts in as many as 8 counties possibly closing this month and sending layoff notices to employees. Courts may close in 8 more small to medium sized counties in February. By mid-March, the situation will be critical, with the courts in another 11 counties in jeopardy, and by April the courts in 24 additional counties – or a possible total of 51 out of 58 counties – will be in a crisis situation.

Last year saw the need for enactment of a supplemental emergency appropriation for the courts – SB 99 – which was used to bail out not only the courts in smaller counties but those in large counties as well, including Los Angeles. The renewed threat of closed courts must not be taken lightly. It is a real and imminent threat to the fundamental functioning of government and thus to the well-being of the public we serve. And such a hand-to-mouth existence is no way to administer justice in our great state.

Bills now pending in both houses of the legislature, introduced by Senator Lockyer, Senator Johannessen, and Assembly member Pringle, would revive the agreement reached last year and translate it into reality. I pledge, personally and on behalf of the Judicial Council, to continue to work unceasingly to see state funding implemented.

A justice system that must focus not on what is deserved and required by the people we serve, but simply on keeping its doors open day-to-day, cannot effectively perform its functions. An independent judicial system is one in which the courts are able to decide the cases that come before them, free of external influences or fear of fiscal or political retribution. An independent judicial system is the cornerstone of our democratic system of government. Insufficient, inconsistent, and uncertain funding for our courts threatens to erode that foundation.

You possess the tools to strengthen that system and to ensure the highest quality administration of justice for the people of California. We have the largest judiciary in the western world (almost 1,600 judges - almost double the size of the federal judiciary) and I believe the finest judiciary anywhere. Yet the total segment of state funds dedicated to supporting the courts this year amounts to less than 1 %, of the state budget. The structural reforms necessary to provide reliable state support for the courts are before you. We must not let this opportunity pass. We must not fail in our collective responsibility to ensure the stability of one of our three co-equal branches of government.

I know that together we can ensure the successful operation of our court system far into the future. On behalf of the judicial branch, I thank you for the many actions you have undertaken to assist our branch in fulfilling our mandate to serve the public. I appreciate the time that many of you have given me and others to discuss the concerns and aspirations of the judicial branch, and that you have spent visiting your local courts and meeting with our judges. For those of you who



have not yet participated in our day on the bench program, I urge you to do so – it can be a real eye-opener.

I look forward to working with you in the years ahead. I know that together we can and will continue to preserve and enhance the ability of our courts to render accessible justice to all.

I am grateful for your invitation to speak to you today. I hope you will be able to join me and members of the Judicial Council, the bar, and the AOC 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 offer more information about the many activities in our courts. Let me close by wishing you all a productive legislative session and a happy, healthy, and congenial new year.