

State of the Judiciary
Chief Justice Ronald M. George, California Supreme Court
Message to the California Legislature
March 1, 1999, in Sacramento, California

Good afternoon. I want to thank Senate President Pro Tem John Burton and Assembly Speaker Antonio Villaraigosa for inviting me to speak with you today about the state of the judiciary. I also want to acknowledge the presence of some members of the Judicial Council and its advisory committees, and key staff from the Administrative Office of the Courts, including Bill Vickrey, Administrative Director.

I will have served as Chief Justice of California for three years on May 1. Looking back over my tenure, I am truly gratified, and even somewhat astonished, at all that has been accomplished with your support and assistance. Looking ahead, I intend to do my best to continue to work cooperatively with you and the Governor to provide the finest administration of justice for the people of our state.

This is a time of great challenge for all of us in government. Many members of the public lack confidence in our institutions. Cynicism and mistrust about government and those serving in it are all too prevalent. At times, we in government service may have the impulse to try to further insulate ourselves from an all too dissatisfied and vocal public - rather than reaching out to understand and respond.

I have been in public service since graduating from law school some 35 years ago - and my great respect and admiration for those I have encountered in government have remained steady. But the times demand not only renewed commitment to the principles that led so many of us into public life in the first place - they also demand that we extend ourselves further in order to restore confidence and respect.

There is a basic tenet that guides the conduct of judges as they preside over cases - we strive not only to avoid impropriety and unfairness, but also to avoid even the appearance of impropriety and unfairness. The challenge that confronts us all today is not only to do the right thing, but also to ensure that what we do is accurately perceived and understood.

On behalf of the judicial branch, I want to touch upon some of the steps we are taking that we hope will help restore and increase trust in the court system - and thereby, in all institutions of government. Our branch has a uniquely delicate task. On the one hand, we want to respond appropriately to the public's needs. On the other, we are doing so against the background of our branch's fundamental obligation to remain impartial, strong, and bound by the rule of law - and not by the rule of the majority of the day.

As Chief Judge Judith Kaye of New York stated in a 1996 address at the Hofstra School of Law: "While the judiciary, as part of government, is fully accountable to the public, there are crucial differences between the judiciary and the other two 'political' branches of government. One crucial difference is that those public officials are supposed to be responsive to the popular will.

Judges are not. . . . Their sworn duty is to impartially apply the law, which may at times be counter majoritarian; it may at times not be to their liking."

The judicial branch then has a different role to play than you do: although we must be cognizant and responsive to the public will, at the same time we must remain faithful to existing law - law that encompasses not only the statutes you enact, but also the federal and California Constitutions which themselves embody the ultimate public will. To the extent that judges are successful - not only in achieving this balance, but also in educating the public about its value to them - we become more effective partners with you in strengthening our democratic institutions.

There is a great deal of change going on in the judicial branch. This past year has seen the most comprehensive innovation that has taken place in California's courts this century. State funding of the trial courts became a reality in January 1998. The transition from a county-centered funding system to state assumption of responsibility for the operation of our trial courts went remarkably smoothly in view of the scope of the changes.

Consider the complexity of the system involved: two levels of trial courts operating in 390 different locations were affected. The impact fell on counties with two judges, as well as our largest county with more than 400 judges; on courts serving urban, suburban, and rural populations; on courts that had fared well because their counties had been fiscally healthy and on courts that had struggled for years to keep their doors open. All this activity took place against the varied landscape of the 58 individual counties that make up California - and the continuous dedication and hard work of the almost 1,500 judges who serve on the trial bench, and of the staff who support them.

The transition to successful state funding is not complete. Last year, several immediate problems were solved with your help and with the appropriation of essential supplemental funding. Last year also saw some major disappointments, including the failure to provide the funding promised for the trial court Efficiency and Modernization Fund.

That fund constituted an important factor in encouraging courts to support the change in the funding structure. The money it was to provide is essential to addressing critical technological problems, such as the effect on the courts of the year 2000 computer glitch and the integration of court automation systems - funds without which we cannot effectively move forward.

The problem is so severe that in some courts, records of dependency, placement, and other proceedings are kept manually. There is no way to transmit information concerning criminal dispositions to the California Department of Justice, and incompatible systems make it impossible for different parts of the court system to communicate. In addition, the Modernization Fund is intended to provide much needed money to assist the trial courts in special projects, such as essential training for judges and staff on a variety of topics, including fairness training and compliance with recent legislation facilitating the expeditious preparation of transcripts in death penalty appeals.

The Judicial Council, which I chair, is responsible for overseeing the budget process that brings to you the needs of the trial courts and the appellate courts and ensures that the appropriations

that you provide are spent wisely and for their intended purpose. The council's Trial Court Budget Commission has been engaged in an ongoing process to establish a budgeting structure that will enable us to accurately and consistently evaluate the needs of the courts - and to provide the legislative and executive branches with the kind of fiscal information that compellingly makes the case for our budget needs.

The budget for the entire judicial branch amounts to less than 2.5 percent of the budget for the state of California. Although the Governor's proposed budget does not match the level approved by the Judicial Council as necessary, it does provide a good foundation for the upcoming budget discussions. We hope to address with you several of the still unresolved critical issues affecting access to justice.

I want to recognize that the Governor has placed \$10 million in the budget for the Modernization Fund. Although this is only 20 percent of what was promised to the courts by the Legislature and Governor for last year, it is a first step toward rectifying the complete failure to provide funding during the last session. I realize that there are new players in both branches - but I hope that all of you will take a close look at the very important commitment that was made to the judiciary and the severe impact that any failure to honor it would have on the operations of the courts.

The funds that we seek will improve access to the courts across California. The administration of justice in California is a statewide obligation - perhaps one of the most significant - and I urge you to consider the courts as a vital part of California's infrastructure, like its highways and bridges. Those individuals who come to court must be able to obtain relief in a timely and efficient fashion, whether they are in Lassen or Los Angeles.

One part, then, of the judicial branch's efforts to better serve the public, to improve access to justice, and to restore public confidence has been to encourage and make necessary changes in the court's fiscal system. These efforts will modernize and rationalize our budget structure and make the best use of available resources. And we shall continue to seek the funding required to enable us to discharge our constitutional obligations effectively.

Yet another unprecedented development last year affected the structure of the judicial branch itself. In June, the voters of our state overwhelmingly adopted Proposition 220, permitting the municipal and superior courts - the local trial courts - on a county-by-county basis, to fully merge their operations and become one superior court. As a result, judicial officers and fiscal and staff resources are being used more flexibly. Duplication in everything from clerk's office functions to ordering supplies, from jury summons procedures to computer systems, has been reduced, freeing resources to meet the public's constantly growing demands and saving taxpayer dollars.

The response of the courts to Proposition 220 was quick and decisive. By the end of last year, court systems in 50 out of 58 counties were unified. Two counties have thus far been added this year - just last Friday, the judges in Tuolumne County voted to become the 52nd county to unify its courts - and progress toward unification is being made in other counties. The choice still remains that of the courts in each individual county - but the strong and immediate response of

so many venues provides further indication that courts are eager to embrace innovations that will enable them to provide better service to the public.

We are also pleased that SB 1184, authored by Senator Murray, has been introduced to add 50 new trial judgeships and 12 new appellate court positions.

In addition to streamlining its structure, the judicial branch is focusing on making improvements that have a more direct and visible effect on the public. Jury service, for example, is a major area of activity.

As I have stated before, jury service for many individuals provides the only point of direct intersection between the citizen and not only his or her court system, but government itself. In fact, a recent American Bar Association poll revealed that more than three-quarters of those surveyed considered the jury system to be the fairest way to determine guilt or innocence, and 69 percent cited juries as the most vital component of the justice system.

Nevertheless, recent news articles also confirm that far too many individuals ignore a jury summons with scarcely a second thought. Those who appear complain of grossly inadequate compensation, misspent and wasted time, and poor facilities. Interestingly, those who actually have a chance to sit on a jury generally have a much more favorable overall view of the system.

Reform of the jury system has been a priority of mine and the Judicial Council's for several years. Reforms are needed at every stage of the jury process - how we summon jurors and what we expect of them when they appear, what they encounter during the process of questioning once they have been called into a courtroom, how they are to conduct themselves during the trial, and finally, the language used to instruct them on their duties once they enter the jury room.

Legislation enacted last year took a major step forward in addressing the problem of misspent hours in jury assembly rooms, by providing that by January 1, 2000, each trial court will use a procedure under which an individual will be summoned to serve for one day or the duration of one trial. Twenty-four counties already have implemented this system, and the Administrative Office of the Courts is working with national experts to lend technical support and guidance to the remaining counties in a series of workshops.

Last year, a bill to increase jury fees was vetoed by the Governor. The Judicial Council is very pleased, however, to sponsor Assembly Bill 592, which increases jury fees to \$15 a day after the first day of juror service and reimburses required child and dependent care costs that otherwise would cause a financial hardship. Fifteen dollars is three times the meager statutory \$5 paid to jurors today - the lowest amount paid by any state system. Assembly Members Carol Migden and Scott Baugh are the co-authors of this measure. AB 592 certainly would be an improvement - but only the first step in rectifying a situation that suggests to jurors that the state does not consider their contributions worthy of significant recognition.

The Administrative Office of the Courts is working in collaboration with California State University, Sacramento, to encourage courts and counsel to adopt a variety of additional methods to better use and manage jurors' time. I have appointed a Task Force on Jury System

Improvements, a 16-member group comprising judges, attorneys, court administrators, and community members, to provide recommendations to the Judicial Council regarding implementation of a number of jury reforms.

Individual courts, in response to information disseminated by the Judicial Council, are instituting procedures modeled in part on what has proved successful in other states. For example, some courts are providing jurors with written materials that help them organize, understand, and recall large amounts of information. Other courts are allowing jurors to submit clarifying questions to witnesses through the trial judge.

And we are looking at what happens once the jury is ready to decide the case. The Task Force on Jury Instructions, with 24 members divided into civil and criminal working groups, continues to focus on its task of creating instructions for jurors worded in more easily understandable, less legalistic language.

Finally, the ongoing statewide study of California's 390 court facilities which the Legislature has authorized - a subject I expect to speak more about in the coming years, once information has been gathered and recommendations formulated - is incorporating into courthouse specifications suitable space for summoned jury panels as well as deliberating jurors.

All of us here today learned in our basic high school civics courses about the critical role played by the jury system in preserving our freedom and democracy. The challenge now is to invest those catch phrases with substance and to make improvements that will demonstrate to those who are called to jury duty that we truly respect and appreciate their contributions.

This multi-level approach to jury service illustrates how courts can respond to the public without in any way compromising their independence - while at the same time fostering greater public confidence in the judicial system and government as a whole. This endeavor also highlights the fact that efforts to improve various aspects of our justice system often will require the cooperation of all three branches of government. While you as legislators can provide money, authorization, and direction for some aspects of the process, the courts must continue to build on their own experience to modify a wide range of practices. Working together on problems such as these, we can have a tremendous beneficial impact.

Jury service is but one part of the structure. Another is court interpreters, who every day in California's courts translate more than 100 languages. The ability to understand what is happening in court, whether you are a victim, a defendant, or a witness, is so basic as to need no explanation. There can be no access without comprehension. Yet in the last few years, we have seen a 30 percent decline in the number of available interpreters, and we constantly are waging a losing battle to retain those we have, in the face of far greater compensation paid by the federal courts and the private sector. The Judicial Council has established standards for certifying qualified court interpreters to assist those in need of translation services. Their important role needs to be recognized by adequate and competitive compensation. If we cannot do so, we will continue to experience delays in hundreds, if not thousands, of cases caused by the absence of available interpreter services.

On yet another front, the Judicial Council has followed the recommendations of its Special Task Force on Court/Community Outreach to adopt new standards and rules that encourage judges to participate in collaborative court/community efforts and educational activities whenever possible. By opening avenues of communication with the community and providing additional sources of education and information about the courts, we hope to increase knowledge about what individuals can expect from their courts, about how they can best use court services, and about what courts do for the community as a whole.

These are but a few of the ongoing activities of the Judicial Council and our individual courts. In the Supreme Court, we have adopted comprehensive changes to our policies and procedures concerning death penalty appeals in order to process these cases more efficiently and effectively. And the court's order imposing a fee to fund the State Bar's disciplinary functions while we await a legislative determination on more permanent changes was designed to strike a proper balance among the role of our sister branches, the Supreme Court's ultimate responsibility for attorney discipline, and the need to protect the public.

I have appointed a task force that is reviewing the entire appellate process to determine where it can be refined and revised to meet modern demands. Next week the Judicial Council will discuss the task force's interim report. In addition, a committee chaired by my colleague Justice Joyce Kennard has crafted and circulated revised rules of appellate practice and procedure for public comment.

Judicial Council advisory committees and task forces are developing and implementing programs to address difficult challenges in many areas, such as juvenile and family law. In fact, immediately following this address, there will be a reception in the downstairs level of the rotunda at which you can learn more about the activities of the judicial branch and meet some of the members of the Judicial Council, its committees, and staff of the Administrative Office of the Courts who can tell you more about projects being undertaken by the judicial branch. I hope you will join us.

Let me close by observing that for years the Judicial Council's primary goal has been improving access and fairness in the courts. We have focused on creating structures that will aid us in fulfilling our core constitutional roles, while integrating appropriate community concerns into how we function.

In 1849, when the first Constitutional Convention in California established our familiar tripartite form of government, no one in attendance could have pictured the complex and diverse world, endowed with technological wonders, that we inhabit today. Yet the basic system created by the drafters of our Constitution still works and works well. It is up to us to ensure that it remains indispensable and effective and responsive in the years ahead. I know that, together, we shall do just that. Thank you again for your invitation to speak to you this afternoon.