State of the Judiciary
Chief Justice Ronald M. George, California Supreme Court
Message to the California Legislature
March 28, 2000, in Sacramento, California

Good afternoon. I want to thank Senate President Pro Tem John Burton, Assembly Speaker Antonio Villaraigosa, and speaker-elect Bob Hertzberg for inviting me once again to speak with you about the state of the judiciary. Before I begin, I want to note the presence of members of the Judicial Council and its advisory committees, and the bench-bar coalition, as well as representatives of the council's staff, the administrative office of the courts — including Bill Vickrey, administrative director of the courts.

This is the fifth occasion on which I have had the privilege of addressing this assemblage, and as I looked back over my previous remarks, I was reminded of the enormous changes that the judicial system of our state has seen in the four years since I became chief justice of California — a judicial system, by the way, that is the largest in the world, surpassing even our federal court system nationwide.

In those few years, the basic structure of California's trial court system and the funding mechanism that supports it have been fundamentally altered. These accomplishments were the culmination of efforts that began many years ago and succeeded only through the contributions and cooperation of many individuals from each of our three branches of government.

The legislature in particular has played an indispensable role in these achievements. Following your adoption of the necessary measures in the very last minutes of the 1997 legislative session, state funding of the trial courts became a reality in January 1998. Since that time, the judicial branch has concentrated on successfully making the transition from a bifurcated funding system — with responsibilities split between the state and the individual counties, and burdened with separate fiscal cycles — to a system fully funded in the state budget. Too often in the past, the quality of justice that was administered varied widely from county to county, depending upon the ability and willingness of each county to adequately fund its courts in the face of competing needs. Gone now are the days of court closures, lay-offs, and cut-backs in service.

The legislature's provision of state funding, establishing a stable, adequate, and consistent source of revenue, is proving essential in enabling our courts to better serve the public, and to make the most effective use of all available resources.

The second major systemic reform for the judicial branch was the electorate's enactment of proposition 220 by an overwhelming majority vote in June of 1998. This constitutional amendment, which you placed on the ballot, authorized the judges of our trial courts, on a county-by-county basis, to vote whether to merge the existing municipal and superior courts into a single unified superior court.

The response from the trial courts was overwhelming and swift. Within a matter of months, courts in more than 50 of the 58 counties had elected to unify. Two months ago, the courts in Los Angeles joined their sister courts in 54 other counties in voting to unify, and I want to commend the hundreds of judges in Los Angeles County's 25 courts for overcoming the unique difficulties they faced in order to merge their courts into a single entity. Only three counties have not yet unified their courts. Monterey and kings counties are awaiting pre-clearance from the united states department of justice as required by federal law. The remaining county, kern, voted against unification but is reviewing its options and may take another vote. Among California's nearly 1600 judges, only 34 municipal court judges (from those three counties) remain — arguably qualifying them for inclusion on the endangered species list.

Both state funding and trial court unification remain works in progress. Both already have begun to demonstrate the substantial benefits they provide to the public. State funding has brought California's courts out of a crisis mode and into planning cycles. A comprehensive branch-wide planning and budget process enables us to determine more effectively where trends are developing and where common needs must be met. A statewide approach encourages better intra-branch and interbranch communication, helping us to set standards and goals that move the overall system in the right direction — while allowing for local variation, adaptation, and experimentation. We are continuing to develop a comprehensive budgeting system to make our case persuasively for the funding required to meet the public's needs.

In less than two years, the unification of almost all of our trial courts similarly has demonstrated tangible and positive results. Several presiding judges have chronicled the specific savings they have seen, and reports from counties across the state suggest that the flexibility afforded by unification has made believers out of many skeptics.

The presiding judge of the San Diego Superior Court, Wayne Peterson, wrote last year to inform me that unification allowed his court to open a family violence solutions center in a facility formerly occupied by the municipal court. Two more judges have been assigned to family court and two more to juvenile court — a reallocation of judicial resources he described as made possible only by unification. Judge Peterson noted the consolidation of additional functions resulting in savings of more than $400,000. At the same time, a drug court coordinator position was created without the need for additional resources.

Presiding Judge Philip Sarkisian of Alameda County Superior Court also wrote me last year, extolling the benefits of unification. Alameda added 1 and 1/2 judicial positions to juvenile court, one to family law, and yet another to the civil law and motion calendar. The addition of 2 judges to hear felony jury trials ameliorated a long-standing backlog of serious cases.

Assistant presiding Judge Thomas thrasher in orange county reported that, despite some past trepidations about the consequences of unification, "courts are still conveniently located all over the county and they are giving people a wider array of services than they were in the past." in Santa Clara, presiding Judge Jack Komar reports that unification allowed the court to organize a separate five-judge panel that deals exclusively with drug cases. Overall, by taking advantage of the flexibility afforded by unification and other measures, Santa Clara in the past 20 months reduced its backlog of felony cases awaiting trial from almost 1000 cases to about 400 cases.

As the judicial system uses these new tools to reorganize and streamline its operations, our constant focus remains on the service we provide to the public and specifically on fulfilling our long-standing primary goal of improving access to justice in a multitude of ways. As Justice Thurgood Marshall observed: "we must never forget that the only real source of power that we as judges can tap is the respect of the people." we are working hard to earn and preserve that respect.

Access to justice means more than an open door at the courthouse. It requires meaningful access. There can be many impediments. Your physical presence in a courthouse is of no use if you cannot understand what is expected of you, or cannot understand the courtroom proceedings in which you are involved. Competent court interpreters are vital to ensuring fair proceedings, and on any given day we may have more than 100 languages being interpreted in the courts of California.

Interpreter services have been greatly improved by our creation of a certification program to help ensure that those translating have the necessary skills. During the past few years, you have provided funding to permit us to substantially increase pay for certified interpreters, and a more uniform pay scale has been adopted statewide. We also are developing regional plans to meet the needs of smaller counties. Nevertheless, there still are far too few certified interpreters, and delays because no interpreter is available are common. Unless our state courts pay interpreters at a level more commensurate with the federal courts and private industry, we will experience more and more difficulty in handling our caseload fairly and efficiently. We therefore are asking for additional funds to increase rates to ensure access to a certified interpreter for all who need one.

Even those who are fluent in the English language may lack meaningful access to the courts. For those with disabilities, physical barriers can make access impossible. We are seeking one-time funding to address urgent facility needs such as Americans with disabilities act compliance, jury facilities, and child victim waiting areas. In addition, the task force on court facilities is developing standards for A.D.A. compliance for all future courthouse construction and remodeling.

On another front, complicated procedures can intimidate the lay person, and the cost of legal services often places the assistance of a lawyer out of reach for middle-and-lower-income individuals. This problem is particularly acute in family law matters, where decisions involving support, child custody, and the division of property — rulings that deeply affect people's lives — often are made by courts without an attorney assisting any litigant involved in the matter. In fact, in many parts of the state, both parties are represented by a lawyer in only 10% of these cases.

For a number of years, several of our courts have been working closely with local bar associations and legal services organizations to improve this situation. Until recently, California was one of 15 states that provided no funding for legal services. A partnership among the legislative, executive, and judicial branches, begun only last year, already has made a difference. You created the $10 million equal access fund, which is administered by the state bar legal services trust fund commission in conjunction with the Judicial Council.

$9 million of this fund is being used to support the efforts of 108 legal services organizations that serve low-income individuals. $1 million is being used to help establish self-help programs in partnership with local courts. Experimental projects in domestic violence, family law, landlordtenant disputes, and general civil litigation are developing models that can be used in different courts. These programs are being coordinated with family law facilitators, who are now located in every superior court to help with child support collection.

The Los Angeles Superior Court, at the urging of Judge Michael Nash and in partnership with public counsel, the private bar, and service agencies, is overcoming other kinds of obstacles and delays by facilitating the adoption of thousands of children in foster care who otherwise would have to wait years before becoming a permanent part of a family.

This project brings together volunteer lawyers and adopting parents to quickly process paperwork that otherwise would take months to complete. Next is a court date — set on a Saturday in November — during which a couple dozen judges and court staff volunteer their time to preside over the adoptions. They are ably assisted by an impressive collection of donated teddy bears, each available for immediate adoption by a child. I had the great honor and pleasure of participating in adoption Saturday last November by conducting 10 of the 400 adoption hearings completed that day, and I intend to participate again this year. Sacramento superior court has a similar pro bono program, and other courts are ready to follow.

The need to improve access to justice extends to other parts of the community as well. In an opinion written in 1942, Justice Felix frankfurter wrote: "no court can make time stand still." some would argue, however, that at times courts certainly can make it seem that way. The implementation of appropriate procedures and effective alternatives can help courts meet, in a timely and efficient way, the needs of those who seek their assistance.

For example, complex litigation cases pose unique challenges for litigants and for the courts. Pilot projects for handling these matters are beginning or underway in six counties — Alameda, Contra Costa, Los Angeles, Orange, San Francisco, and Santa Clara. These projects have been made possible by funds provided by you and the governor and will be used to develop best practices for handling complex civil litigation, including specialized training and a manual to be published next month, as well as the assignment of a single trial judge to handle the course of the entire litigation. The Judicial Council will submit a report to the governor within two years describing the overall impact of these projects, measured by objective criteria.

You also have made additional resources and an implementing statute available to establish pilot projects evaluating the use of mediation in civil cases. Pursuant to this statute, the Judicial Council selected 2 superior courts, San Diego and Fresno, which have been authorized to make mandatory mediation referrals to a mediator provided by the state, and 2 superior courts, Contra Costa and Sonoma, to establish voluntary mediation programs. These programs began just last month, and a report evaluating them will be made to you within three years.

We also are increasing the use of what are now termed "collaborative courts." so far we have established such courts to deal specifically with drug and domestic violence offenders. Typically, expanded court proceedings include close and continuing judicial supervision, cooperation with local treatment providers, and individualized requirements that the defendant must meet in order to succeed (often including seeking and maintaining employment). The hope is to stop the revolving door that captures so many offenders in a cycle of drug use and violence. And increased funding will permit the expansion of drug courts to juvenile and dependency cases.

Another innovation involves the creation of family courts in which all legal proceedings affecting a family can be handled in a single setting. Matters that might have been distributed among delinquency, dependency, criminal, and family law courts are brought together. The whole picture is viewed and treated globally and comprehensively, rather than in bits and pieces spread across the system with one judge perhaps being unaware of another proceeding — ongoing in a nearby courtroom — affecting members of the same family.

Courts also are doing their part to get young people invested in the justice system, by exploring new ways to educate students on the rule of law and to have them become participants in making the system work. For example, youth court programs in San Diego, placer, and orange counties provide a forum for juveniles charged with minor offenses to be judged by their peers. And a first-impressions program in Los Angeles brings lawyers and elementary school students together in an interactive educational experience focused on the legal system. Additionally, I shall be exploring with the governor the feasibility of conducting an education summit conference to consider issues related to youth and the role of law in our society, for without confidence in a fair and accessible judicial system, young people are less likely to grow up as law-abiding citizens.

Let me turn now to a totally different impediment to access to justice. Too many of our courts have antiquated information systems that slow case- processing and impede court planning efforts, driving up costs for the courts themselves and for litigants and lawyers who cannot gain easy access to essential information. Those technological innovations that we have been able to make have proved very beneficial to users of the courts.

For example, the Judicial Council website contains assorted information about the judicial system and offers immediate internet access to appellate decisions. Twenty seconds after a Supreme Court opinion is available at the clerk's counter on the customary filing days of Monday and Thursday at 10:00 a.m., it is available on the web. Court of appeal decisions are available almost as quickly. Additionally, the first district court of appeal has recently made case status information available on-line. Within its first month of operation, this service registered some 44,000 hits.

The Judicial Council's advisory committee on technology is developing statewide standards for technology. We are seeking to reduce the risk of developing and implementing incompatible technology, and to leverage the state's buying power in this area — thus reducing costs. Moreover, this kind of collaborative effort will help us develop the standards our branch will need in order to more effectively share data with the entire justice system and with the public, as well as with the legislative and executive branches in our budget planning process.

Although we can improve access to our courthouses, access to interpreter services, and access to effective information systems, all these efforts will not succeed in providing our citizens with access to justice if a judge is not available to hear one's case or if the judge who is available does not inspire confidence.

The essence of a strong and independent judicial system — and, ultimately, what lies at the heart of the justice that the system seeks to dispense — is the quality of the men and women who decide the issues brought before them by the public. We in California have been fortunate over the years to have by and large an exceptionally fine group of jurists serving on our courts. But today our system is losing its ability to attract the best lawyers to join the bench, and to retain them once they are there.

During the past 20 years, the compensation of judges has fallen substantially behind that of public sector lawyers. Not only is it becoming increasingly difficult to attract individuals to the bench from the private sector, but it also has become harder to attract them from the ranks of public attorneys.

We all might start from the premise that the type of seasoned legal practitioner we would want to be considered for appointment to the superior court should not be faced with the necessity of accepting a judicial salary substantially below the salary paid by good law firms to first-year associates fresh out of law school. Nor is this simply a gap between public and private wage levels. Perhaps even more difficult to understand is the circumstance that in many areas of California, a deputy district attorney or deputy public defender earns more than the superior court judge before whom he or she is pleading the case.

The Judicial Council's task force on the quality of justice conducted surveys and studies to determine factors that affect the recruitment and retention of well qualified jurists. The task force worked from the premise that the public is best served by judicial officers who possess exceptional experience, training and temperament, and who reflect the diverse backgrounds of California's present-day population. Adequate compensation was determined to be the major stumbling block in achieving this goal. Many individuals who wish to participate in public service and to contribute to their communities cannot do so because of the adverse financial impact of a judicial career on their families.

In an eloquent letter to the chair of the task force on the quality of justice, Judge Enrique Romero, a nine-year veteran of the Los Angeles superior court, explained last year why it was his last day on the bench. He wrote: " I love this job, but I leave because I cannot afford to continue serving as a judge." he added: " I can assure you that many judges who are similarly situated as I am, will leave the bench in the near future unless something is done with judicial salaries." Judge Romero's story is not an uncommon one. Surveys of sitting and retired judges and articles in the legal press reflect this trend. We have seen an exodus of experienced judges retiring from the bench at the first opportunity in order to earn more money as private judges. These departures only encourage the further development of a two-track system of justice in which the best and the brightest move to the private track rather than use their experience to serve the public.

Your action in this arena can help reverse the trend and make a substantial difference in the quality of justice rendered in our state. A good start in this direction is the amount placed by the governor in his budget proposal for the coming fiscal year earmarked for a judicial salary increase. I am hopeful that both the governor and the legislature will consider augmenting that amount when the may revisions to the budget are made and adopting other creative measures to encourage judges to remain on the bench.

Related to the need to provide a qualitatively adequate judiciary is the need to ensure a quantitatively adequate judiciary. We have documented the need for additional trial and appellate judgeships to enable the courts to promptly handle the ever-increasing workload they face. Last year, no new judgeships were created, and those created two years before that were the first in a decade. The need is there, it is documented, and it has not been disputed. Having a sufficient number of judges available to respond to the cases filed by Californians and their public and private agencies is a crucial component of access to justice.

I wish to turn now to one other area that also has an enormous impact on the public's confidence in our legal system — jury service. You have heard me speak of this subject before. And you responded by enacting the measure that provides for one-day-or-one-trial jury service, which became effective on January 1st of this year. This has been a very welcome development. The inadequate compensation provided for jurors, however, remains a further major obstacle to encouraging more citizens to answer the call to jury service.

At a recent meeting of the Conference of Chief Justices that I attended, the director of the center for jury studies at the national center for state courts reported that last year 10 million persons were summoned for jury service nationwide. 4 million reported for service, and 1.5 million actually served on a case. A recent poll revealed that 24% of Americans have been jurors. The right to trial by jury is one of our most treasured rights. 69% of the persons polled in the national center's study said that trial by jury is the most important aspect of the criminal justice system, and 78 % found it the fairest way to determine guilt or innocence.

Yet in California, in some counties, we have had response rates as low as 6% to jury summonses, with the non-respondents treating a summons like another piece of junk mail. Could it be that our failure to treat jurors with respect and to show our appreciation for their valuable service has led to their lack of interest in the process? After all, in California we pay $5 per day for jury service, the lowest amount in the United States, matched only by one other state. Jurors have not received a pay increase since 1957. Added to this poor treatment are jury facilities that often are woefully inadequate.

We must do better, and with your help we can. The proposed budget, as well as ab 592, authored by assembly members Migden and Baugh, would increase juror pay to $12 per day — not exactly a prince's ransom, but still enough so that most individuals will not be out-of-pocket when they show up for jury service. While our ultimate goal is $40 a day, this critical first step must not be delayed. A pilot program also is proposed to reimburse jurors for dependent care when having that assistance would make the difference in enabling someone to serve.

Nor is money the only answer. The one-day-or-one-trial system sends an important message that we value jurors' time. And we also are working to facilitate their contributions by writing new jury instructions that will accurately reflect the law in comprehensible, layperson's, language. Justice Carol Corrigan and Justice James Ward are heading these efforts and have done a tremendous job. About 200 hundred draft instructions in civil and criminal law will be released shortly for public comment.

The jury system is perhaps the most critical area where citizens interact with their government. Their service in our courthouses is an opportunity to either build confidence or breed cynicism. Together we must act to ensure the proper outcome.

Although I have covered a variety of topics today, there are many other exciting activities underway in the judicial branch that I have not touched upon. The task force on trial court employees, chaired by Justice James Ardaiz, has successfully dealt with the difficult personnel issues raised by state funding, and their unanimous recommendations await your action. The task force on court facilities, chaired by Justice Daniel Kremer, is conducting evaluations of each of California's nearly 400 state court locations and will be presenting a comprehensive series of recommendations for your consideration. The appellate process task force, chaired by Justice Gary Strankman, is engaged in a broad study of the ways the operations of the courts of appeal can be improved. Finally, the many advisory committees of the Judicial Council continue working to improve the administration of justice in all its aspects in ways too numerous to catalogue.

As I said at the outset, the phrase access to justice covers a lot of territory. But a strong and independent judicial system is one that is committed to listening to the public it serves, to actively seeking the resources it needs in order to provide the best service possible, and to deciding cases based upon law, precedent, and the facts, free of inappropriate influences.

The focus on access to justice greatly strengthens our judicial system by continually reminding us of the core values underlying the public service we provide. The judicial branch has experienced unparalleled change in a matter of a few years. In February, here in Sacramento, the Supreme Court celebrated its 150th anniversary. During the past century and a half, the judicial branch, like the rest of the public and private sectors of this state, has survived floods, earthquakes, colorful characters in power, wars, the industrial revolution, the horseless carriage, and now the new age of technological marvels. This experience has taught us, perhaps, that we should always expect the unexpected. But if we create and maintain a strong foundation for our institutions and keep ourselves focused on the values that have made our state and our nation great, working together our three co-equal branches of government can accomplish anything and accommodate any change.

Thank you once again for inviting me to speak with you today. I hope you will be able to join me and members of the Judicial Council and the administrative office of the courts in the basement rotunda for a reception that will begin shortly.