

State of the Judiciary
Chief Justice Ronald M. George, Supreme Court of California
Message to the California Legislature
March 12, 2002, in Sacramento, California

Good afternoon. I want to thank Senate President Pro Tem John Burton and former Speaker of the Assembly Bob Hertzberg, as well as the new speaker Herb Wesson, for the invitation to speak to you. I am delighted to be here to address you concerning the state of our judicial branch—and am pleased to be joined by my colleagues on the California Supreme Court. Justice Brown, who is out of the country, sends her regrets.

As you already know, this past year saw a change in the personnel on the Supreme Court. Justice Stanley Mosk died in June after serving on the Supreme Court for 37 years—almost one-quarter of the court's history—in addition to serving 16 years as a Los Angeles Superior Court judge. His contributions to the law have been nationally recognized, and those of us who served with him on the courts or worked under him during his service as attorney general—as did Senator Burton and I—feel a deep sense of loss, both professionally and personally.

Although filling Justice Mosk's seat on the court was a daunting task, Governor Davis appointed an individual of outstanding ability who already has demonstrated that he too will make major contributions to the work of our court and to the development of the law of our state. Justice Carlos Moreno has immersed himself in his new responsibilities with energy and enthusiasm. In the five months that he has served so far, he has demonstrated a host of admirable qualities—not only as a jurist but as a collegial member of our court. His fellow justices, as well as the people of the state of California, are most fortunate to have him on the Supreme Court.

Momentous events since I last spoke to you, occurring far beyond California's borders, pose profound challenges for our society, our state, and our courts. The tragedy of September 11 and its aftermath have demonstrated once again, to us all, that peace and justice are not guaranteed and that they must constantly be protected and renewed. For those of us serving in the courts, these events have reinforced at the most basic and personal level the critical role of the rule of law in our democratic society, as well as our duty to protect and preserve it.

California's strength arises in large part from its tremendous diversity. In confronting the challenges to our national and state security, our obligation is to adhere to the rule of law and to respond not blindly but justly—we must seek to act not out of fear, but out of reason. Our state and our nation are meeting these challenges, and our judicial branch is committed to continuing to ensure that we do so as well.

Another major challenge for all of us in government has been to continue performing our core functions despite the constrained resources available in a period of economic downturn. The judiciary will fully meet its responsibilities within our existing resources and will not be seeking funds for new programs or major program expansions. And we are making responsive adjustments to this year's and next year's budgets.

Our court system has been able to carry out its functions in these difficult times thanks to the excellent cooperation between the judiciary, the Legislature, and the Governor during the past few years. The judicial branch has been afforded a stable and reliable source of funding that, for the present, has allowed it to lessen the adverse impact of these recent events, while still continuing to serve the public's growing needs.

Two factors have been critical: first, the shift from county to state funding of our trial courts—made possible through legislative action in 1997—and second, the impact of the unification of some 220 superior and municipal courts into a single level of 58 superior courts, one in each county. Unification followed adoption of a constitutional amendment that you placed before the voters, who approved it in June 1998 by an almost two-thirds vote.

Unification represents the culmination of an historical development that began shortly after the Judicial Council was created by the voters' approval of a constitutional amendment in 1926. At that time, some 800 separate trial courts existed in California; there were then 8 different types of court below the superior court, including district courts, county courts, city courts, probate courts, recorders' courts, class A and class B township courts, and police courts—court relics that persist in some other states but no longer in California.

Unification and state funding have combined to enable our 58 trial courts to more efficiently redirect administrative and judicial resources. The resulting reconfiguration provides our system with the ability to meet new needs and undertake innovative and effective projects while using existing resources—although this reallocation will not sustain us indefinitely. And, as promised, these changes have resulted in greater accountability on the part of the judicial branch to the Legislature and the Governor.

Working in close cooperation with the Department of Finance and the Legislative Analyst's Office, the Judicial Council and its staff arm, the Administrative Office of the Courts, are implementing a financial system that will allow us for the first time to track accurately and comprehensively the costs of the court system and to set budget priorities, taking into account long-term goals as well as the state's current economic condition.

To support the statewide implementation of Judicial Council policies and to meet the needs of local courts, the Administrative Office of the Courts recently established three regional offices located in Los Angeles, Sacramento, and San Francisco, headed by highly qualified and respected former trial court executive officers.

We thus are doing our part, in a number of ways, to assist you and the Governor in reducing state expenditures—without compromising services essential to the public.

Our courts continue to expand alternatives to traditional court proceedings in order to meet the needs of particular populations of litigants. For example, we are providing more domestic violence services, with the cooperation of district attorneys, public defenders, probation departments, and social services agencies and other institutions.

In some counties, individuals used to face a long journey to get to a superior court facility to seek the necessary domestic violence restraining order. Now that separate municipal court locations have been transformed into unified superior court locations, help is easier to obtain for many. And the Administrative Office of the Courts' Center for Families, Children & the Courts has developed a broad array of materials, including informational booklets and videotapes available in several languages, to assist those seeking such orders.

Starting last year, Proposition 36 mandated a new approach to drug offenses. The Judicial Council and judges with experience in the growing drug court movement in this state collaborated with all those involved in implementing this measure to provide a structure to make it work. The courts have made a remarkably smooth transition to accommodate and implement the requirements of Proposition 36.

Other programs, such as peer courts for teenagers and juvenile mental health courts, continue to provide alternative forums to administer justice that look beyond the current charge in order to prevent future crimes. I have visited several collaborative court sessions and have come away hopeful and very impressed by the dedication of the persons who work in these programs.

In a completely different response to the need to improve access to the courts, we have had great success with the pilot programs established in six counties to provide specialized handling for complex civil cases.

Another effort designed to make the court system more user-friendly is an ongoing Judicial Council task force project to write new model jury instructions in lay language rather than arcane legalese. And by the end of this month, the one-day-or-one-trial system for jury service, which you helped us to adopt, will be in place in virtually every part of the state. This innovation has been greeted with enthusiasm by members of the public summoned to serve as potential jurors.

The judiciary is not restricting its focus to changing courtroom structures and procedures. We are pursuing other avenues in our ongoing effort to provide fair and accessible justice. For many individuals, retaining an attorney in order to vindicate one's rights simply is not possible, and as a result, their ability to make full and fair use of our justice system is limited. Over the years, I personally have participated in a number of efforts to encourage increased pro bono contributions by attorneys. I am pleased to say that many counsel have answered the call and provide assistance that every year truly makes a difference in the lives of countless Californians.

There still remain many individuals who need help. Neither pro bono contributions nor available legal services programs are sufficient to meet all the legitimate needs. One area of the law that has the fastest growing caseload and affects the most fundamental relationships among our residents—family law—has the greatest number of unrepresented litigants. For many individuals, their only substantial encounter with the courts involves the dissolution of their marriage, issues of child custody or child support, a domestic violence restraining order, or a juvenile court proceeding. Without help to navigate the legal system, resolving such matters can be intimidating and confusing.

Courts are working in a number of ways to aid those who lack legal representation. With your assistance, we have placed child support facilitators in every courthouse. With the funds that you have provided to improve legal services, many courts have formed partnerships with local bar and legal services associations to furnish basic services to unrepresented litigants. Increasing numbers of courts have installed self-help centers at the courthouse to guide litigants through the process.

Another area in which we have been working actively is improving interpreter services for the many individuals who come to court needing assistance in understanding the proceedings. With your assistance, we have increased compensation and expanded training and certification programs to broaden the pool of available interpreters.

In a recent opinion, the California Supreme Court observed that some 224 languages are spoken in our state and that 4 percent of our residents speak no English. The court explained that "a recent sample of superior courts in nine counties indicates that in one fiscal year, the courts provided court interpreters for 64 or more languages 'literally from A to Z (Albanian to Zapotec).' It is estimated that more than 100 languages are interpreted in the courts of California." Access is meaningless without the ability to understand the proceedings. A continuing priority of the Judicial Council is to provide qualified interpreters for those persons who need them.

In addition to an extraordinary array of programs initiated in individual courts across the state, the Judicial Council placed online last July a self-help legal website that has generated tremendous interest and enthusiasm. In the first several weeks after it was launched, the site received more than one million hits. The website displays a menu of information about support and other family law matters, juvenile court proceedings, guardianships and conservatorships, traffic court, small claims procedures, and domestic violence assistance. By clicking on the subject of interest, the user is provided with background information and step-by-step directions explaining how to process a case.

The domestic violence section, for example, contains an easy-to-follow format for seeking a restraining order and for responding to a request for such an order. But it does far more: it offers information on forming a safety plan—as well as the telephone numbers of hotlines and other resources providing assistance or aid for children and teenagers—and an overview of domestic violence proceedings and the criminal justice system. We are translating this information online into Spanish, Chinese, and Vietnamese to extend its reach into other segments of the community.

Overall, the website provides more than 900 links to other sites, including information on where to turn for low-cost or free legal and social services assistance, other sources of legal information, alternative dispute resolution options, and general information on the courts—local and branch-wide. Although, when it comes to the new technology, my own personal abilities are rather Neanderthal, I am very enthusiastic about this new tool.

A self-help website will never take the place of legal representation by an attorney, but for some individuals it may mean the difference between being able to participate in the process in a

meaningful way and having their rights and interests overlooked in a system that simply may be too complex for them to penetrate effectively. Perhaps the greatest testimonials to the excellence of our website are the reports we have received of a significant number of lawyers, librarians, and journalists who have logged on—not out of curiosity, but to obtain information.

I have described in years past many of the other innovations undertaken to improve public access to the courts, and I want to bring you up to date on some recent developments. Last December, the Judicial Council expanded public access to electronic trial court records while protecting the right of privacy. The balanced plan adopted by the council was the product of a multiyear study that broadly surveyed a range of interests and considered the implications of adopting different approaches.

Questions involving the scope of access to information on the Internet permeate our society. This extraordinary tool has enormous potential—but not all of it is beneficial. The courts are carefully weighing the needs of the public and the interests of litigants. Disclosure that may seem reasonable in one context may have far different implications in another.

The Judicial Council's adoption of rules for electronic public access to court-record information places our state on the cutting edge of the debate. Other jurisdictions look to us as a model in this, as in so many other areas. We will be carefully monitoring the impact of the rules that have been adopted to see whether changes are appropriate.

Using a more familiar electronic medium, the California Supreme Court has permitted some recent oral arguments to be televised publicly. And we have taken our show on the road, as well. Last year, in addition to our regular oral argument sessions in San Francisco, Sacramento, and Los Angeles, we met in special session in Orange County, as we have done in previous years in San Diego, Riverside, and Ventura. A session will be held in Fresno this fall.

Attendance at these proceedings is not limited to those present within the courtroom. The courts and the bar in Orange County carefully planned the event in cooperation with our court and invited local schools to participate in a number of ways. Students were rotated in and out of the courtroom, and the session was televised by closed circuit to auxiliary locations, where teachers encouraged discussion about the process and the issues.

In Fresno, we are planning to televise the arguments up and down the Central Valley on the local public access station. In cooperation with local school officials, the broadcast of one of the morning sessions will be made an optional part of the curriculum. Local judges and bar members will be asked to assist in classrooms and will be provided with basic materials on the cases to be argued.

Some of our Courts of Appeal have undertaken similar programs of their own. This exposure to the courts in operation, along with guided discussions to help students gain insight into the process, is yet another vital step in educating young people about the courts, their role in our society, and why our nation's legal and judicial process is so important to their lives. Similarly,

trial courts all over California are engaging in outreach programs, on an ongoing basis, with students at every level in their communities.

The Supreme Court, as well as the Courts of Appeal and many trial courts, can now be reached online. The latest appellate opinions appear electronically within moments of filing. Our court's minute orders and weekly summary of opinions also are available immediately. Information on an individual case can now be found by case name or case number, and the docket sheet can be viewed online. And a person can register to receive electronic notification of activity in a particular case.

In addition, working with the Legislature, we have made unpublished opinions of the Courts of Appeal available online for a reasonable period of time. And the judicial branch is deeply involved in the Attorney General's committee to develop a fully integrated technology for the criminal justice system. In short, we are enthusiastically embracing the use of new tools to broadly disseminate information about court proceedings.

Our cooperation with you, the Legislature, reaches into many other areas as well. At your behest, the Judicial Council convened a panel of experts to advise the council on crafting a code of ethics for private arbitrators, to be completed by July first of this year.

Legislative staff members were of great help on the Supreme Court's advisory Task Force on Multijurisdictional Practice, which explored the implications of proposals to allow lawyers not admitted to practice in California to join the bar without the necessity of passing our bar examination, or to undertake certain legal tasks under specified conditions. The court will be appointing an implementation committee in the very near future, and we hope once again to have the benefit of input from legislative staff.

The Judicial Council and the State Bar also convened a committee to consider issues that you had raised about the tripartite relationship among insurers, insurance defense lawyers, and insureds. The group reached consensus on modifications to a rule of professional conduct which presently are being circulated by the bar for comment. The Supreme Court and the Judicial Council have been working closely with the bar on a number of other issues, and this increased coordination has proved beneficial to us all.

The California Supreme Court has been evaluating its handling of death penalty appeals and has taken a number of steps to maintain the high level of legal representation generally afforded those defendants in this state while reducing unwarranted periods of delay in the process. Supreme Court staff have been meeting regularly with the entities charged with providing legal assistance to defendants on death row in order to solve the difficult problem of the large number of such individuals lacking counsel for an extended period of time following their conviction.

We already have made several internal changes at the Supreme Court to streamline and improve our processing of capital cases, and the defense entities have been working on the problem from their end by improving training and conducting more outreach to the defense community to attract attorneys willing to handle these difficult cases. In addition, you enabled us to hire a new

group of five attorneys who will form the nucleus of a capital case central staff—headed by a very experienced member of the court's staff—that initially will assist the court in handling motions and capital-case-related habeas corpus petitions.

I now want to turn to a subject of increasing concern to the judicial branch—courthouse facilities. As part of the 1997 Trial Court Funding Act, you created the Court Facilities Task Force, composed of representatives from all three branches of government. As part of the task force study, experts visited every court location in the state to report on facility conditions and needs.

The sponsoring legislation recognized the need to get a process under way for the transition from county to state ownership of the 451 courthouse facilities in the state of California—facilities that are owned by the counties but that support programs that are the responsibility of the state. The current governance structure is unworkable. The counties are responsible for facilities and staff authorized before 1998, and the state for those authorized after that year. This split in responsibilities guarantees that future needs will remain unmet unless a change occurs.

It is essential that we provide safe, secure, and adequate facilities for those who work in the courts and those who have business there. On Independence Day in 1898, Judge J. E. Prewett spoke at the dedication of the Placer County courthouse. His words capture the spirit of the courthouse in our community: "It is our temple of justice. It is the repository of our titles, the fortress of our personal and property rights, the fountainhead of our school system, the registry of our births, marriages, and deaths, and its inmates stand guard by day and night over the peace and good order of our communities."

Unfortunately, far from being temples of justice, many of the courthouses in our state pose dangers to those who come to them for justice. Security is inadequate, sometimes making a court appearance a hazardous experience for litigants and witnesses. Some courthouses have no assembly room for jurors, who must wait in hallways. Or—as I observed during the visits I made to the courts in every county my first year as Chief Justice—sometimes jurors are seated on concrete steps in stairwells, waiting to perform their civic duty. At a courthouse located in the city of San Bernardino, the threat of collapse during a moderate earthquake hangs over the heads of all who work in or visit the facility. Basic maintenance has been deferred in many locations, creating safety and health risks. And often, inadequate wiring makes using modern technology a challenge.

What message is conveyed about the value we place on justice when the structures in which it is rendered lack basic amenities? Our judicial system does not need, want, or expect palaces. But it does deserve facilities that are secure, well maintained, and adequate to serve the public's needs.

The report of the Court Facilities Task Force was lodged with the Legislature and the Governor last fall. And in a related forum, I was fortunate to be a member of the Governor's Infrastructure Task Force on Building California for the 21st Century so that I could convey to the many other participants the integral role that courts—and courthouses—play in our state's overall infrastructure.

Senator Martha Escutia has introduced Senate Bill 1732, which we hope will serve as a vehicle for ensuring responsibility for adequate courthouse facilities in California. Our goal is to lay the groundwork this year for a transfer of responsibility to the state in fiscal year 2004-2005. We have had preliminary discussions with your leadership and with the Governor's Office about the need to focus on this long-term objective. We look forward to working with you to achieve a practical and affordable means of providing the people of our state with the court facilities they require and deserve.

The judicial branch is moving ahead on a number of fronts and is using all the tools and resources available to us. As, however, I have found in the time I have been privileged to serve as a judge in the courts of this state—a period of service that next month will reach the 30-year mark—the greatest asset of the judicial branch is the people who work in and with the courts: judicial officers, court administrators, and staff. Their creativity, enthusiasm, intelligence, and commitment have been the most vital factor in the recent successes of the judicial branch in improving and expanding its service to the public.

I could describe a host of additional programs and initiatives we have taken. But the most important message I want to deliver is that by working closely with you—the Legislature—and with the executive branch, with the bar, and with the community, the judicial branch intends to continue without pause its efforts to administer justice fairly and accessibly to all. Our partnership with you already has enabled us to implement unprecedented measures that make a real difference in the operations of our courts and in the daily lives of Californians. Those of us who serve in the judicial branch are grateful for your support and assistance in this endeavor.

We all are well aware that we live in changed times. Uncertainty has become our daily companion. The inclination to stand fast and to resist change is natural and is something we have had to overcome in the judiciary. But this is not the time to abstain from action and innovation. Only by remaining committed to progress, by leading instead of reacting, and by looking forward with hope, with dedication, and with caring, will we preserve the values that have made our state and our nation great.

With your continued help and leadership, I am confident that the judicial branch will continue to fulfill its role in serving the public and preserving the principles that we all cherish.

In conclusion, I thank you again for the opportunity to address you today. I hope that you will join me and members of the Supreme Court and the Judicial Council and its committee chairs, as well as Bill Vickrey, the Director of the Administrative Office of the Courts, and members of his staff, on the first floor of the Capitol rotunda at the reception that will begin shortly. It will provide an opportunity to learn more about the activities of the judicial branch.