

State of the Judiciary  
Chief Justice Ronald M. George, California Supreme Court  
Message to the California Legislature  
February 28, 2006, in Sacramento, California

Good afternoon. I would like to thank President Pro Tem Don Perata and Speaker Fabian Núñez for inviting me to speak with you today, and to express my great appreciation to the members of both houses of the Legislature for the resolution of commendation that you just presented to me as I approach the tenth anniversary of my appointment as Chief Justice of California.

With us are the Associate Justices of the California Supreme Court—with the exception of Justice Ming Chin, who is recuperating from a recent medical procedure, members of the Judicial Council of California—the constitutional body responsible for the statewide administration of justice, and Chairs of the Council's advisory committees and task forces, and participants in the Bench Bar Coalition. Also here are William Vickrey, the Administrative Director of the Courts, Ron Overholt, his Chief Deputy, and other Judicial Branch leaders from our courts and the Administrative Office of the Courts—the staff arm of the Judicial Council. Their presence here and in meetings held throughout the day in the Capitol reflects the Judicial Branch's commitment to coordinating with its sister branches in efforts to better serve the people of California.

Nearly 10 years ago, after 24 years' service on the Municipal Court, the Superior Court, the Court of Appeal, and as an Associate Justice on the California Supreme Court, I took office as the 27th Chief Justice of the State of California. Just two weeks later, as one of my first official acts in that position, I delivered my first State of the Judiciary Address to the Legislature in what has since become an annual event. I have very much appreciated this opportunity over the years to share with you the Judicial Branch's achievements and plans for the future, and to speak about what we can accomplish for the public through our continuing collaborative efforts to improve the administration of justice in California.

In that first State of the Judiciary Address, I made a commitment to visit the courts in each of our state's 58 counties. After completing that journey, some 12,000 miles and 12 months later, it was apparent to me that three fundamental structural changes were needed if the judiciary was to be able to continue to dispense fair and accessible justice across the state, and to do so in a consistent manner, as opposed to the piecemeal system of justice that had evolved county-by-county over decades.

In partnership with scores of legislators and three Governors, we have accomplished each of those three major reforms. First, the switch from county funding to state funding of our trial courts, along with subsequent improvements in our budget process, has helped provide us with stable and predictable resources that can be more equally distributed to the courts as we struggle to overcome years of chronic underfunding by the counties. Second, the unification of 220 municipal and superior courts into 58 superior courts, one in each county, has brought about great efficiencies in our operations, while at the same time improving and expanding the services

provided by the courts to their local communities. Third, passage of legislation transferring over the next several years the ownership and management responsibility for California's courthouse facilities there presently are more than 450 is furthering our court system's ability to comprehensively deliver justice to all Californians. It is now truly functioning as a separate and coequal—and accountable—third branch of government.

Dramatic changes in the operations of California's court system have occurred during the last decade. Accompanying these fundamental structural changes—and to a large degree made possible by them—are many innovations at both the statewide and the local level that have enabled us to better perform our mission of providing fair and accessible justice to the people of California. A partial list of programs conceived and implemented by judges and court staff includes jury reform and specialized courts focused on societal problems such as drug abuse, domestic violence, mental health problems, and complex litigation. Courts have created self-help centers, and a much-used Judicial Branch website assists the growing segment of our population that cannot afford to hire an attorney to handle matters such as family law and landlord-tenant disputes. Programs deal with the special problems of juveniles and children caught up in the court system. To assist in these endeavors, we have expanded judicial and staff education, uniform rules and procedures, the use of technology, and enhanced interpreter services—a necessity, given the more than 100 languages being spoken in California's courts.

In light of the substantial improvements to our court system that have occurred since my initial round of court visits 10 years ago—visits that I still continue—it would be tempting for our branch to rest on its laurels and be content with this verbal victory lap around the set of accomplishments just recited.

But unfortunately, that cannot be. Some of the problems that 10 years ago were hampering the ability of judges to provide the public with access to justice still plague our judicial system and have become even worse with the passage of time. I shall devote most of my time with you this afternoon discussing what our three branches of government, working together, can do to remove two of the remaining major obstacles to the ability of our courts to provide fair, efficient, and accessible justice to all Californians.

As most of you recognize, our state's vast growth in population and the problems that accompany it are outstripping the ability of the courts to dispense justice. First, we cannot keep up without a long overdue increase in the number of judicial positions. Second, we cannot provide necessary service to the public if our state's courthouse facilities are not included in your plans to revitalize California's aging and unsafe infrastructure.

As we attempt to meet these two urgent needs, I want to stress that I am not asking for something designed to benefit our judges or the courts where they sit. I am requesting your help in providing the public with adequate forums for the fair and efficient resolution of their rights. Without these changes, intolerable delays and unsafe surroundings despite our best efforts all too frequently will make it difficult or impossible for the public to obtain justice in a meaningful way.

The breadth of the problem affects the lives of the estimated 15 million of California's 36 million residents who come into contact with the courts during the year. More than 12 million persons are parties in some 8 million case filings annually. Each year, 4 1/2 million individuals report for jury service, and 300,000 children come before the courts as a consequence of abuse, neglect, delinquency, or child custody disputes.

The consequences of a failure by our judicial system to meet the needs of the public extend far beyond the disappointment and disillusionment of the parties who seek to come before the court. As Alexander Hamilton observed [in number 17 of the Federalist Papers], "the ordinary administration of criminal and civil justice . . . contributes *more than any other circumstance*, to impressing upon the minds of the people, affection, esteem, and reverence toward[] the government." What Hamilton recognized in 1787 that the ordinary administration of criminal and civil justice is vitally important to how people regard their government is even more apparent today.

Since 1988, our state's population has increased by 30%. During that period, however, only 41 new judgeships have been added in the trial courts, an increase of less than 3%. In the fastest growing areas of our state, the Central Valley and the Inland Empire, the need for additional judicial positions is critical. In Riverside County, population is up 150% since 1980. San Bernardino County has seen 100% growth in the same period. Yet these areas have one-fourth the number of judges per 100,000 population compared to adjacent coastal areas.

For the second year in a row, because of insufficient judicial resources, the courts in Riverside County recently were forced to suspend all civil trials in order to handle their growing criminal case backlog. Under the law, criminal cases would have had to be dismissed if not brought to trial within a specified time. Delays such as this adversely affect individuals, businesses, and other institutions. The Administrative Office of the Courts recently heard from a man in his 80's complaining that for the past two years, his civil lawsuit has been taken off the court's calendar. He wonders whether it will be brought to trial in his lifetime. In many parts of the state, the great progress made by the courts during the last decade in reducing the time for processing cases has been severely undercut by the lack of a sufficient number of judges to handle the cases that are filed.

Courts cannot simply hang a sign announcing: "Full. No more filings accepted." We cannot tell prosecutors not to file criminal charges, or inform injured parties that there is no forum in which they can vindicate their rights. And society cannot function as it should if families are left in suspense about their future, businesses remain uncertain about their obligations and their rights, and the courts are not available to help people resolve their disputes in a peaceful manner.

Having enough judges to hear matters in a timely fashion is a fundamental precept of access. The right to a fair hearing is an empty promise if there is no one to preside over the courtroom.

A study recently completed by the National Center for State Courts concluded that the caseload of California's courts warrants the addition of 355 new judicial positions. We have focused on the most desperately needed 150 positions, urging that 50 new judgeships be created in each of

the next three fiscal years. The Governor has endorsed this proposal, including in his proposed budget funding sufficient for the creation of the first 50 judgeships for the last month of the 2006-2007 budget cycle, effective June 1, 2007.

In addition to adding new judicial positions, this proposal would permit the conversion of 161 court commissioner positions—created for the most part in an era when the counties were attempting to fill the gap in the creation of much needed judgeships—into full fledged judicial positions when these commissioner positions become vacant. This transition probably would take 10 years to complete, but it would help deal with the anomaly that in counties with far too few judges, subordinate judicial officers handle cases that should be heard by judges, including even multimillion-dollar civil litigation and serious criminal cases such as death penalty matters.

Those court commissioners who are qualified to handle such significant proceedings should be appointed as judges, be able to preside without requiring the stipulation of the parties, and have to stand before the voters every six years like their judicial colleagues. Such a shift costs very little. Staffing and other overhead costs for commissioners and judges are basically the same, and the salary differential is minimal—court commissioners generally are compensated at the rate of 80 to 90% of the salary of a judge.

I am pleased to say that there has been bipartisan support for SB 56, a bill that would create the new judgeships and permit conversion of commissioner positions. We hope to work with you to see this measure adopted into law this session to prevent further delay and frustration for litigants and more erosion in the administration of justice.

The second of the two impediments to accessible justice, as I mentioned earlier, is literally a structural deficiency the unsafe and insecure condition of the majority of California's courthouse facilities.

The great British Prime Minister Winston Churchill observed that "We shape our buildings, thereafter they shape us." I would add, so it is with California's courthouses. When the Placer County Courthouse was dedicated on Independence Day in 1898, the judge presiding observed that the local courthouse embodies the ideals of our democratic society. He proclaimed in true 19th century prose: "It is our temple of justice . . . 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 [occupants] stand guard by day and night over the peace and good order of our communities."

Unfortunately, few visitors to a California courthouse in the 21st century would describe it as a temple of justice, and as fortresses most court facilities are woefully lacking in protection for their inhabitants. During my visits around the state, I have observed jury assembly rooms with leaky ceilings and insufficient furniture to seat the waiting jurors. Some courthouses have no jury assembly room at all forcing jurors awaiting a summons to a courtroom to be seated on the concrete steps of a stairwell, at times having to move aside while shackled prisoners are brought down the stairs. Gang member defendants, their victims, and victims' family members frequently share close quarters with each other and with waiting jurors in crowded courthouse hallways.

Security often is abysmal—outdated designs and insufficient resources render many courthouses severely deficient in screening equipment or security personnel or both. Incidents of courthouse violence are not confined to recently publicized events in other states; they have been all too common in California and sometimes are fatal. During a visit to a small rural courthouse that had been the scene of an attempted hostage-taking, I expressed my admiration for the apparent scholarship of the judge who had case books piled around the bench, only to learn that the purpose of this endeavor was to have these tomes substitute for the metal shield that the county could not afford. It was only mildly comforting to me to learn that the casebooks were federal court reports and not those of the California courts.

More troubling was my visit a few years ago to the main courthouse in downtown Los Angeles, where I observed the facility staff mopping up the blood outside the door to a family law courtroom after a physician fatally shot his wife over a marital dispute. Several years earlier, several blocks away at another courthouse, during a short recess in a criminal jury trial over which I was then presiding as a trial judge, an elderly juror in the case was shanked to death standing at a urinal in the public restroom across the hall from the courtroom. Many judges could recount similar incidents in their courthouses. The Los Angeles County Sheriff recently presented a display at a meeting of the Judicial Council showing hundreds of weapons of many varieties collected from local courthouse visitors.

It is a basic fact of life that emotions often run high in court proceedings. As a society, however, we cannot afford to see courthouses become another venue for violent encounters between victims and perpetrators, rival gang members, or enraged parties in domestic relations matters. A courthouse must be a place of safety and reason.

Providing safe and secure facilities in which judicial proceedings take place is a matter of great urgency for all of us. Courthouses serve as cornerstones of our society and are where individuals have the most direct contact with government. Your constituents are entitled to a safe haven in which to have their most important and contentious problems resolved. The existence of a secure, accessible facility in which the rule of law guides the resolution of disputes is a not a luxury. Yet, even beyond the problems caused by insufficient security measures, current conditions in more than 90% of our court facilities jeopardize public and staff safety every day.

Two-thirds of present courthouse space is seismically deficient. I am informed that some facilities, like the main courthouse in San Bernardino, could pancake in a moderate earthquake. Other courthouses are believed to contain toxic mold. I realize that this is an issue for many other types of state buildings. But the problem is compounded by the circumstance that 68% of our courthouses do not meet basic fire and life-safety standards. In 75% of our facilities, we cannot provide adequate access for persons with physical disabilities. Most courts do not offer safe children's waiting areas.

The addition of new judgeships should not compound the current problem of inadequate court facilities. As they have done to date, courts will work creatively to provide space. Frankly, this is one problem that we would love to have. The immediate solution may, where necessary, involve temporarily adding to the 23 courtrooms already housed in trailers which, I can attest from my

early career as a Municipal Court Judge—from trailer court to Supreme Court—can be superior to the worst of our regular courtrooms. Or it may mean following the lead of the Los Angeles Superior Court Commissioner, now Judge, Gilbert Lopez, whom I encountered some years ago. Space for his courtroom was squeezed out of a jury assembly room and a restroom. A skilled carpenter, he built his own judge's bench, jury box, and other courtroom furniture at his own expense in his home workshop.

We cannot, however, make carpentry skills a prerequisite for appointment to the bench. The enormous creativity and devotion of members of the bench and court staff already make up for many deficiencies. Nevertheless, there is a limit to our ability to rely on those attributes. We are at a crossroads. Taking action to ensure safe and accessible courthouses for the public simply cannot and should not be further delayed. Putting off the inevitable serves only to escalate the financial costs to the state and to leave in jeopardy the 21,000 court officers and employees and the millions of court visitors who enter these unsafe structures.

Our goal is to correct the deficiencies in court facilities by 2017. We know what needs to be done. We have master plans for all 58 counties, 183 projects planned as part of our five-year capital outlay project. The first courthouse transfers from county to state ownership have been made. Currently, we are working with 30 counties on negotiations to transfer additional court facilities to the state, as provided for in the Trial Court Facilities Act you enacted in 2002. The process of transferring courthouses from county to state ownership is accelerating and is poised to expand further.

As we approach the 100th anniversary of the great San Francisco earthquake of 1906, we are reminded that democracy flourishes where the foundation for the exercise of democratic principles is strong. Strengthening the physical foundation of our judicial system is more than metaphor. Courthouses are as vital a part of California's infrastructure as bridges and highways. It is time to adequately fund this fundamental component of government infrastructure. Public safety and the interests of 36 million Californians require it. We are committed to working with the Legislature and the Governor to ensure that our courthouses, which are vital to the rights of all Californians, are incorporated into the infrastructure bond package to be presented to the voters.

I am hopeful that when the public's need for additional judicial positions and safe and secure courthouses is assessed, political and institutional differences will be put aside and the three branches of government will agree on the importance of removing these existing obstacles to adequate, accessible, and secure justice.

I have focused this afternoon on highlighting these two systemic necessities—providing for additional judicial positions and safe and secure courthouse facilities. As many of you know from discussions with me and with other Judicial Branch leaders, there are many other parts of our legislative program aimed at ensuring access to justice. I am personally committed to working with the Legislature to obtain the resources required to enable our courts to increase funding for legal services for low-income Californians, to meet the critical need to expand self-

help services for those persons unable to afford counsel, and to provide language interpreter services in various civil proceedings.

In response to widespread concern about the handling of conservatorships and foster care in our state, and in furtherance of long-standing goals of the Judicial Council, I have appointed broadly representative task forces to solicit input and develop recommendations in those areas for possible changes in statutory law, court rules and practices, funding, education, and training. We must work together to protect the most vulnerable persons in our communities.

I must mention that the creation of new judgeships will be less than fully successful in meeting the public's needs if we cannot attract the best in the legal profession to apply for judicial positions and retain these individuals for a lengthy career on the bench. Some of you have pointed out even before I could bring up the subject in our conversations that this is a growing problem in your districts. With this situation in mind, we are strongly urging that changes be made to the judicial retirement system and to the level of judicial compensation.

This year, the Judicial Branch also is exploring a possible revision of the judicial article of the state constitution, Article VI. We are in the process of refining this proposal, which thus far has received widespread support. This constitutional revision does not make major changes in the status quo. Its overall purpose is to protect the right of future generations of Californians to enjoy access to fair and effective courts in good times as well as bad.

My message is straightforward. Courts provide some of society's most vital services. Every day, the media features stories from countries in which justice is denied and the courts cannot or will not provide remedies or relief. We need to look no further than the evening news to see what happens when individuals feel they have nowhere to go to air their grievances or to have them fairly heard. We have seen the impact on other societies when their judicial systems are marginalized and people lose faith in the courts' ability to protect individuals and institutions.

Ours is a system evolved out of—and nurtured by—devotion to the rule of law. To maintain the strength of our state and our nation, we must ensure that we have a court system with integrity—one that is fair and objective, that hears and resolves disputes in a timely fashion, that is open and truly accessible to all, and finally that is worthy of the respect and confidence of the public we strive to serve.

I know that as legislators, you have many needs and demands to balance. I know too that the courts may not always spring to the forefront in the minds of individuals worried about taxes, education, or homeland security. We look to you as leaders in government for assistance in protecting these fundamental rights of all Californians. The people of our state indeed have been fortunate during the past decade to have strong support from our sister branches of government for our efforts to improve our judicial system. Working together, we can further strengthen the administration of justice for all Californians.

I now invite you to join me, other justices of the California Supreme Court, members and staff of the Judicial Council and the Administrative Office of the Courts, and other leaders of the Judicial

Branch and the Bar at a reception to be held in the Capitol Rotunda. I hope to see you there, and to have further opportunities to speak with you in the months and years ahead. Thank you for your invitation to address you today.