

State of the Judiciary Address
Chief Justice Pascal F. Calogero, Louisiana Supreme Court
Message to the Louisiana Legislature
April 15, 2003, in Baton Rouge, Louisiana

Mr. President, Mr. Speaker, members of the House and Senate, colleagues, distinguished guests, ladies and gentlemen:

Good afternoon. On behalf of the Louisiana Supreme Court, thank you for this opportunity to speak to you on the state of the judiciary. It is an honor to appear before you once again. I sincerely appreciate the courtesies shown by the President, the Speaker, and all of you for scheduling this address and for being here today.

I am joined today by other members of the Supreme Court, including Justice Kitty Kimball, who is next in line to serve as Chief Justice of the Supreme Court. Other members of the Court present today are Justice Jeffrey P. Victory from Shreveport, Justice Jeannette Theriot Knoll from Marksville, and our newest Justice, John L. Weimer, from Thibodaux. Unfortunately, Justice Bernette Johnson from New Orleans and Justice Chet Traylor from Winnsboro were unable to attend.

This is my fifth "State of the Judiciary" address. I look forward to speaking to you every two years. My regularly-scheduled remarks represent a relatively new tradition, although prior to 1996, Chief Justices occasionally addressed this esteemed body. I believe our presence here serves a dual purpose of updating you on the performance of the state judiciary while serving as a reminder of the functions and nature of our respective branches of government.

My own experience and that of the other Justices is an appreciation and deep respect of your role in our state government. This bicameral legislature is inferior only to the Constitution of Louisiana as adopted by the people of our state. As legislators, you pass the laws for our state. Under the state Constitution, we are required to respect, interpret, and apply those laws, and on occasion, to determine whether a law that you pass comports with our state and federal constitutions.

Last week I marked my 13th year as your Chief Justice, and I thank each of you for your courtesy and your friendship over the years, and for the respect you accord the Supreme Court and its Justices. I also would like to thank all of you and Governor Mike Foster for your assistance and cooperation.

I especially commend you for providing the funds to complete the renovation of 400 Royal Street to house the Supreme Court and the Fourth Circuit Court of Appeal. I promise that this precious landmark will become one of the great jewels in this state's rich treasury of historic buildings, and a fitting symbol for justice in Louisiana.

Since I last spoke to you, we bade a fond farewell to Justice Harry T. Lemmon of Luling who retired in May 2001 after 21 years of distinguished service on the Court. John L. Weimer was elected in the fall of 2001 to succeed Justice Lemmon and to complete his unfinished term. In the

fall of 2002, Justice Weimer was re-elected from the Sixth Supreme Court District to a full ten year term. We were also saddened by the loss of retired Supreme Court Chief Justice John A. Dixon, Jr. of Shreveport who died just last month.

Much has occurred both in the world and in the state judiciary since I last appeared before this body. We all experienced the horror and the aftermath of the terrorist attacks on September 11, 2001. The historic courthouse in Pointe-a-la-Hache was destroyed in a tragic fire. Tropical Storm Isidore and Hurricane Lili disrupted court dockets and courthouses throughout the state. Every district judgeship was up for election in the fall of 2002, and we welcomed many fresh faces to the bench. The Supreme Court traveled from one end of the state - Nicholls State University in Thibodaux - to the other end, University of Louisiana at Monroe - for oral arguments, and several Canadian judges from Quebec traveled to New Orleans to participate in our annual Fall Judges Conference last year. In response to your request that funding for state drug courts be channeled through the Supreme Court, we created a Supreme Court Drug Court office which is responsible for the disbursement of state funds to district courts that are operating drug courts with the goal of sustaining and improving the operation of the drug court. I am pleased to report that this effort is proving quite successful.

In 2001, the Court also completed its work on the issue of permanent disbarment of attorneys. Months of study and deliberation culminated in the issuance of an Order codifying the Court's ability to disbar an attorney permanently in the most egregious cases and to ban him or her from applying for readmission. Another long-standing and much debated issue which came to fruition since we last met was the adoption of uniform Court Rules for the district courts throughout the state with appendices which respect some necessary local situations. These Court Rules for civil and criminal proceedings have been in effect since April 1, 2002. And in a continued effort to be accessible and "user friendly" to attorneys and the public, the Supreme Court launched a redesigned website which can be found at www.lasc.org and I invite you to visit our site.

The fall 2002 judgeship elections saw the newly created Judicial Campaign Oversight Committee in action throughout the state. In response to a request by the Oversight Committee, 216 incumbent judges and judicial candidates signed a Campaign Conduct Acknowledgment form, in which they acknowledged that they had read, understood and were bound by the judicial campaign ethical provisions of the Louisiana Code of Judicial Conduct. The Oversight Committee also conducted six comprehensive and lengthy educational presentations statewide which focused on the restrictions on judicial campaign activities enumerated in the Code of Judicial Conduct.

During the fall judicial elections, the Oversight Committee received 32 complaints concerning judicial campaign conduct, and issued one public statement. The 15 member Oversight Committee, chaired by New Orleans attorney Harry Hardin, worked tirelessly and did an exceptional job. In my view, the general tenor of this year's judicial campaigns was much improved over past campaigns, and I look forward to the continuing involvement of the Oversight Committee in future judicial campaigns.

The Supreme Court has also continued to comply with the Judicial Budget and Performance Accountability Act of 1999. We have completed Strategic Plans at all court levels, and each year

we submit an Operational Plan to you. Also, each year, we issue a State of Judicial Performance report, which is entitled "Justice at Work". And since passage of the Act, we have conducted four successive annual Performance Audits, including review of state courts' compliance with the Americans with Disabilities Act; review of state courts' compliance with the Adoption and Safe Families Act; review of our Attorney Disciplinary system; and the most recent audit, a review of the Court's Judicial College.

Despite these examples of progress in the state judiciary, we have also seen some missteps. Some say our state judiciary, much like our society in general, has recently witnessed untoward events. Over the last two years, five members of the judiciary have been suspended from their offices, two on an interim basis. One judge was removed from office, while another recently pleaded guilty to criminal charges. The number of judicial discipline cases has the Judiciary Commission working overtime. Some commentators and pundits will, no doubt, make much of these facts to argue that our system is broken and needs to be fixed. My view is just the reverse. I believe that the increased number of prosecutions in the judicial discipline system, as well as the bar discipline system, demonstrate that both systems are working quite well. These systems are staffed with highly competent administrators and highly dedicated judge, attorney and lay volunteers who have more than proven to be up to the challenges presented recently.

About a decade ago, we first started using the terms "professionalism" and "civility", and there seemed to be an outcry that the legal profession was no longer either civilized or professional. The litany was that the legal profession, once held in such high esteem, had fallen below the rank, in reputation, of a used car salesman. However, over the past ten years, because of the work of both the bench and bar, I have seen a dramatic increase in attention and dedication to the improvement of our legal profession from within. This commitment has been directly proportionate to the growing increase in numbers in our ranks. Today we have approximately 20,000 attorneys in Louisiana, which is up from 18,000 only a few years ago. The legal profession, in spite of the jokes and aspersions cast upon it, continues to be an attractive profession. Surely college students and others considering law school are well aware of the significant proliferation of lawyers. But perhaps they believe the truism that "there are never enough good lawyers."

And so they enter this profession today from all walks of life -- rich, poor, young, old, black, white, Hispanic, Asian, etc. The legal profession is no longer a reflection of the privileged and educated upperclass. Rather, it has become reflective of the society that we live in. As the ranks of the legal profession have become more open and diverse, so too have the ranks of the judiciary. Take our Supreme Court. We are a Court of seven members, four male justices, three female justices, one African-American, Democrats and Republicans (although I will refrain from noting how many of each), with an age spread spanning almost 1/4 of a century from myself as the oldest to our newest elected Justice, John Weimer, who, at 48, is the youngest. I am encouraged by this growing diversity in the state judiciary, and I believe this diversity is good for the system and for the public in general.

Turning now to another matter, I would like to thank you, the Legislature, and the Governor for accepting my request two years ago for "all three branches to examine the issue of the current state of our juvenile justice system and to take bold steps to improve it." Your immediate action

and commitment to this endeavor was impressive and of great credit to this body, and in a recent resolution adopted by the Supreme Court, we officially and unanimously acknowledged and commended the Louisiana Legislature for creation of the Joint Legislative Juvenile Justice Commission and its Advisory Board.

I want to thank the 12-member legislative Commission who served with such diligence and dedication: Rep. Mitchell J. Landrieu, Chair; Senator Donald R. Cravins, Vice - Chair; Senators Diana E. Bajoie, Charles D. Jones, Arthur J. Lentini, Willie Landry Mount, and Michael J. Michot; and Representatives Willie Hunter, Jr., Billy Montgomery, Charles A. Riddle, III, Daniel R. Martiny, and not the least, especially in enthusiasm for this project, Diane G. Winston. I would also like to thank the Advisory Board, the Planning Team, and the Annie E. Casey Foundation for developing and recommending what is, in my opinion, a comprehensive and sound approach to the reform that I and many others had hoped for.

I would also like to recognize and thank Justice Kitty Kimball who traveled with a delegation from Louisiana to review the Missouri correctional system and who has dedicated much time and energy in promoting the improvement of our juvenile justice system.

I also want to thank the following organizations for their advice and support throughout the project: the National Conference of State Legislators; the American Bar Association; the Juvenile Corrections Program of the LSU Health Sciences Center; the LSU Office of Social Service Research and Development; the universities comprising the Research Team; the National Center for Juvenile Justice; and the Child Welfare League of America. I would also like, globally, to thank the groups, too numerous to mention, who have already endorsed the recommendations of the Juvenile Justice Commission.

Finally, I want to thank the hundreds of other organizations and individuals who participated in the public hearings, completed the survey forms, or contributed materials to the Commission. I know that this information has been extremely helpful.

On the basis of the excellent work of the Commission and all those participating in the Commission's process, you now have before you an Omnibus Juvenile Justice Reform Bill, an Omnibus Juvenile Justice Reform Resolution, and other affiliated legislation. I am informed by the Commission's chair and by others that a remarkable consensus has been reached on the need for reform and on the general vision, goals, and strategies proposed by the Commission in this legislation. Whatever disagreements remain, I am told, are primarily over means and not ends and over the timing of implementation. Let us hope that this analysis is true.

I wish to speak to you today on this issue, not as a spokesperson for the Supreme Court, not even as a Justice, but as a concerned citizen and parent who has been deeply involved in the judicial and legal process for many years - a concerned citizen and parent who is horrified by gang shootings and murders in our schools, and who sees reform of our juvenile justice system as perhaps preventing such future violence by ensuring that juveniles in the system do not just bide their time there waiting for their release and learning how to become hardened criminals.

It is now decision time in Louisiana. And the whole nation is watching to see whether we will truly deliver comprehensive juvenile justice reform.

There are those who may recommend that you enact only cosmetic changes this session and not tackle the full scope of reform. There are those who may ask you to postpone consideration of the entire package until the next session. And there are those who may recommend delays in the implementation of the reform until further studies or pilot programs are completed. But I am here to urge you to support the reform bills and resolution this session essentially as presented.

The success of the entire reform effort rests upon the adoption of two key recommendations. These key recommendations, in my opinion, are first, the establishment of a Department of Children, Youth and Families, which will ensure greater coordination, communication and collaboration among those who deal with the needs of children, youth and families. A single Department will facilitate a more effective system of delivering services to our juveniles through a single point of entry and decentralization of service delivery through community-based, school-based and regionally based organizations. A single Department will also save money by eliminating redundancies. Such savings can be reinvested into local and regional treatment programs. Further, a single Department can concentrate on developing a more appropriate culture and system for implementing all reforms relating to youth corrections.

The second recommendation of the reform effort is to begin the process of developing a balanced juvenile correctional system as quickly as possible. A balanced system will place more money into initiatives at the front end, such as prevention and early intervention, rather than back-end services such as secure detention. It will also place considerable resources into sanctions for juvenile delinquency that are more effective and less expensive than incarceration. Finally, a balanced juvenile correctional system will use smaller secure detention facilities located in local areas for local youth with a continuum of services for rehabilitating offenders.

We need to reduce juvenile incarceration rapidly, providing for those offenders who can be moved to more effective and less expensive alternatives, and reinvesting the savings into prevention, early intervention, and other alternative sanctions, as an abundance of national research recommends, until we have achieved the right balance of services and sanctions. Failure to enact these two critical recommendations - establishment of a single Department of Children, Youth, and Families and development of a balanced juvenile correctional system - will, in my opinion, significantly reduce the effectiveness of all other of the Commission's recommendations and will constitute a failure to achieve reform in this session.

Some may say that more time is needed to study these issues. But the Commission has already spent two years doing just that. It has conducted 21 public hearings in which more than 2,000 people participated. It has surveyed more than 500 people on the principles of the comprehensive strategy. It has also received advice and information from some of the best national think tanks in the nation as well as from local university researchers. And, from what I have read and understand, the Commission has built into its recommendations more than enough time for planning and studying these issues during the process of implementing them.

Others may say that these reforms are too comprehensive to address during an election year and that we should wait to consider these issues at the next session with a new governor. But what better time is there to debate and decide this issue? We have momentum, consensus, media and popular support, and national attention. Furthermore, the people of Louisiana have waited long enough. The reform will take years to achieve. But let us not delay its beginning. The time to begin is right now and the place to begin is right here.

The purpose of a judicial system is justice. I have been part of the judicial system as a justice for 30 years and I can say with conviction that we are not doing justice by our children, or for our society at large, because the juvenile justice system is terribly flawed. It must be changed. It should be changed now.

CONCLUSION

In conclusion, let me again say what an honor and privilege it is to be before you today. I would be remiss if I did not mention the employees of all of our state courts, their relatives, and the employees, relatives and friends of you, the members of the Legislature, who are at this moment fighting in a distant land to promote, protect and preserve the freedoms and democracy that we enjoy, and which give us the opportunity to be here today, participating so actively in our state government. On behalf of the state judiciary, thank you to our soldiers, especially our Louisiana sons and daughters. May all of you return safely home soon. And thank you, the dedicated members of our state Legislature, for opening your chamber to us today, for your attention to my remarks, and for your unfailing devotion to the people of Louisiana.