

State of the Judiciary Address
Chief Justice Catherine D. Kimball, Louisiana Supreme Court
Message to the Louisiana Legislature
April 28, 2009, in Baton Rouge, Louisiana

Good Evening! I am delighted to be here with you this evening, and I greatly appreciate your giving me the opportunity to address you on the state of the judiciary in Louisiana. Joining me today are Justice Bernette Johnson from New Orleans; and Justice Chet Traylor, from Winnsboro. This is the last state of the judiciary address Chet will attend as a justice because he is retiring from the court at the end of next month to return to the private practice of law. Also here from the Court are Justice Jeannette Knoll, from Marksville; Justice John Weimer from Thibodaux; and I would like to introduce you to our newest Justice, Greg Guidry from Jefferson Parish who has served on the court since January of this year. Unfortunately, Justice Jeff Victory from Shreveport is unable to attend.

It was suggested to me by some of the members that I should keep my remarks brief. I will try to do that, but please know that I do not speak as fast as Governor Jindal. On the other hand, I don't speak as slow as Francis Thompson. But I must tell you that there are so many good things happening in our branch of government that I could speak to you for several hours and not cover all of them adequately. However, out of respect for you and for fear of a possible uprising, I will endeavor to limit my remarks to only a few of the numerous things we are involved in right now.

Vision for the Judiciary:

Immediately after my Induction ceremony, our court met to set a direction for this year and beyond. We adopted a vision statement for our court. Though not profound, this simple statement is the standard by which we intend to measure our judicial system and the standard by which we intend to effectuate the change necessary to bring this vision to reality.

Three weeks after I became Chief Justice, I had occasion to meet with the Speaker. His first question to me was, "have you completed your five year plan?" While we may need a little more time to get there, I believe our vision statement demonstrates the direction in which we're headed. That vision is as follows: We envision hard working judges, that treat all within their purview with kindness, fairness and respect, and who require that same treatment by his or her employees and the attorneys who appear before the court; a judiciary that is recognized by our state and nation as having those qualities. We envision a judiciary that handles its work efficiently and appropriately and cares as deeply about the disposition of a child abuse, a juvenile, or a custody case as it does about a high profile civil lawsuit.

This vision is shared not only by these justices and our court but by many hardworking judges at all levels of our state's judiciary. And we have begun throughout our state judiciary to implement measures to make our vision a reality.

Improved Case Management:

Our court's first implementation priority is "improved case management" at all levels of the judiciary. We want to understand why some courts and some judges' dockets are handled quickly and efficiently and some are not. We will examine those issues and afford assistance to any courts who need help with managing their dockets. We believe very strongly that the court system should be run for the convenience of the users of the system. To demonstrate our emphasis on these issues, we decided to begin the examination with our own court. We are in process of finalizing a contract with the National Center for State Courts whereby the Center will examine the case management processes of the Louisiana Supreme Court and advise us how we might handle the public's business in a more efficient or timely manner. We are also reviewing all departments at the Supreme Court to improve efficiency and competency. We have instituted management training so that our managers may better handle their supervisory functions and responsibilities and assist our staff in achieving their top job performance. We have also implemented some insightful suggestions made by our employees to improve our internal communications.

We are not alone in this self-examination. I am proud that several of our lower courts, in anticipation of, and embracing the inquiries that will be made, have already taken steps to examine their own case management operations and other improvements they may undertake to perform their jobs more efficiently. We will continue to encourage this type of examination.

Financial Disclosure:

At the Supreme Court, we have recently taken other steps towards judicial reform. Last year, we implemented stringent rules requiring financial disclosure by our state judges. The first reporting deadline is May 15th of this year, although recent judicial candidates were already required to file their disclosure reports. We also revised and strengthened Canon 6 of our Code of Judicial Conduct governing the receipt of gifts by state judges. These new rules have been a source of many inquiries from state judges as they seek to comply with the new requirements, but I am encouraged that our judges are in fact acting in accordance with these new rules and are in the process of preparing their financial disclosures.

Judicial Education:

We are also concentrating on improving the competency of our judges by improving the judicial education we offer. Our State District Judges Association has undertaken a universal "best practices" effort to discover and then implement the best methods of handling cases in our court system. Last December, about twenty of the best and brightest

members of the state judiciary gave up a week of their time and countless hours of preparation to present a week of “New Judges Training” for the newly elected judges on how to begin their career in a competent and knowledgeable way. We also recently held mandatory training for all judges who handle capital cases. And our Supreme Court Conference has recently authorized representatives of the Judicial College to examine successful judicial education programs in other states so that we may further improve our own education curriculum.

Reapportionment:

Our court realizes that soon you will look at reapportioning yourselves and others as we learn from new census results what our state now looks like. We recognize the possibility of new imbalances among our supreme court districts as population shifts have occurred. Although there has never been a United States Supreme Court pronouncement requiring reapportionment of the judicial branch of government, we nonetheless embrace the idea of balance in our system. The courts of appeal, as well, recognize the very real implications of caseload imbalance on the workloads of their judges and on the speed with which the public’s business is handled. We will work with Glenn and others at the legislature and will present a plan to you at the appropriate time for a re-structuring of supreme court districts. The courts of appeal have created a committee of their judges and will present to you as well a plan to improve their workload distribution and a method of re-structuring, if necessary, to ensure the most efficient handling of the appeals in our state.

Negative Perceptions:

In the pursuit of making our vision of the judiciary a reality, we are concerned about the public perception of our branch of government. We have read, as have you all, disparaging articles about our legal system from some national organizations. We want to know the bases of these criticisms. If any are valid, we want to address them and if not, we want to work to quell them. To that end, the court has appointed a committee to analyze these articles and to address them. I believe our committee is one of the most diverse and distinguished that we have ever appointed. It consists of representatives from the Governor’s office, including the executive counsel and senior policy advisor, members of the Legislature, including Senators Marionneaux and Amedee, and Representatives Harrison and Abramson; representatives from the Conference of Court of Appeal Judges and the Louisiana District Judges Association; and representatives from LABI, labor, the defense bar, and the Association of Justice, as well as the State Bar Association. We are encouraged by the enthusiasm and interest of this group in improving the image of Louisiana’s legal system. Though there are many diverse interests and ideas among this group, we all share a love of our state and a commitment to try to improve its image.

Pro Se Litigants:

On the national stage, we are seeing an increase in the numbers of pro se litigants that are

using the court system. These are litigants that seek to file suit or pursue relief from a court without the assistance of an attorney. This national trend is also evident in Louisiana. Obviously, as the cost of litigation continues to be high and as the economy weakens, more and more of our citizens who must utilize the courts are trying to handle their legal matters on their own. The Supreme Court, in concert with the Louisiana State Bar Association, has formed a committee to explore methods of assisting those pro se litigants in navigating the legal system. In states such as ours where poverty might play a widespread yet unfortunate role in the lives of our citizens, it is imperative that we move in this direction. We must and we will do more to make our courts available and accessible to all of Louisiana's citizens, no matter what their means.

Other advances:

I would like to quickly mention some of the other advances we have and are making at our court. As you may know, we "live stream" our oral arguments so anyone can watch them from a computer; our Court website is now translatable into 31 different languages; and we will soon be kicking off an e-filing system where court filings can be made via e-mail. Our domestic violence registry is unique in that it reports directly to the FBI and has been recognized by the FBI for its outstanding work. Our security staff, under the supervision of Justice Traylor, is one of the best in the country, and we participate in training with the secret service. We will ask you this year to afford our court security officers "peace officer" status.

Adult Criminal Justice:

We have and will continue to work with you and the executive branch to do our part to address the problems in criminal justice, both in the adult and juvenile areas. In the adult arena, you may know that one in 26 adults in Louisiana is under correctional control - one in every 55 Louisiana residents is incarcerated. Even more sobering is our recidivism rate - just under 50%. In 2009, approximately 15,000 offenders will be released from prisons back to Louisiana's communities. They will face huge obstacles such as finding a job, a place to live, and treatment for physical or mental health issues. I applaud Secretary LeBlanc's commitment to try to reduce this recidivism rate through reentry programs - preparing an offender for his return to society before he is released from prison. The Secretary and I have spoken about the critical importance of pre-release preparation and the associated cost benefit to the citizens of Louisiana when an offender successfully reenters our communities and becomes a productive, law-abiding and tax-paying citizen. Perhaps more important in reducing recidivism is an examination of our sentencing and correctional policies. You recently reenacted the Louisiana Sentencing Commission, which I understand will undertake the task of examining this state's sentencing policies. I commend you for that step, which will go a long way toward controlling the growth of Louisiana's prison population, and which will work in tandem with Secretary LeBlanc's reentry initiatives.

We have worked with you to develop one of the most extensive drug court programs in the country because we know these programs work, and a successful drug court graduate

contributes to society rather than drains it. Our drug court judges devote many, many, hours to these programs in addition to their regular dockets. Most of them do their staffing each week early in the morning before they start court for the day. They put in this extra time because they realize the value of these programs.

We have also started to explore other kinds of specialty courts such as DWI courts and mental health courts. While I recognize the potential benefit of “problem solving” courts, I believe we need to proceed cautiously and deliberately to ensure uniform standards, accountability measures, and monitoring mechanisms. To this end, we just recently applied for a federal grant to add expertise in these areas and explore the appropriate standards and best practices for our judges who are willing to take on yet additional “problem solving” court programs. We want them to have the best training and employ the best methods possible to these new kinds of judging. Ideally, these programs will have the ultimate effect of reducing the long term costs of incarceration.

Another method of reducing long term costs in criminal justice and one that is required by both the United States and Louisiana Constitutions is our obligation to provide, and your obligation to fund, adequate representation for indigent defendants. While not usually considered, perhaps, as a cost savings method, adequate counsel prevents in many cases, particularly in death penalty cases, exorbitant costs associated with reversal and re-trial. In addition to the monetary costs, can you imagine the human costs expended when a defendant that has been sentenced to death must be re-tried and the families of the victim and the defendant must re-live all of the emotions connected with a capital crime? Adequate resources for indigent defense can significantly reduce the likelihood of delay and provide a better initial trial experience. I urge you to continue what you started in reforming indigent defense and providing it with adequate resources to perform its constitutional functions in criminal justice.

Juvenile Justice Reform:

I'd like to turn now to a subject that is very near to my heart, Louisiana's juvenile justice system. As many of you were not here in 2001 when this effort began, I will give you a very brief history of where we were and how far we have come.

Just a little over ten years ago, in 1996, the U.S. Department of Justice wrote the Governor of Louisiana, informing him of life-threatening and dangerous conditions at the state's juvenile facilities, and noted that 28 children from the juvenile facility in Tallulah had been sent to the hospital for evaluation and/or treatment of serious injuries, including fractures, suspected fractures, and serious lacerations in need of suturing. Eventually, the Department of Justice filed a lawsuit over conditions at Tallulah, accusing the State of Louisiana, widely believed to have the worst juvenile prisons in the nation, with failing to protect youthful inmates from brutality by guards and providing inadequate education, medical and mental healthcare. In reporting on the situation, the first line of a blistering article in a national newspaper read, “Here, in the middle of the impoverished Mississippi Delta is a juvenile prison so rife with brutality, cronyism and neglect that many legal experts say it is the worst in the nation.”

At that time, Louisiana's recidivism rate for juvenile offenders was close to 70 percent, one of the highest in the country, while the recidivism rate of the State of Missouri's rehabilitative model was minimal. Louisiana locked up more children per capita than any other state in the nation.

The tide started to turn several years ago. In 2001, you were asked to take steps to reform the juvenile justice system, and to create a joint commission to develop a vision and a plan for reform. You responded in an unprecedented inter-branch effort that resulted in the Juvenile Justice Reform Act of 2003, which closed the juvenile prison at Tallulah, and the creation of the Juvenile Justice Implementation Commission, as the chief vehicle for reform. I serve as Vice-Chair of the Commission. We started to look closely at alternatives to our present system, especially Missouri's rehabilitative system, and we made some real progress. According to a recent article by Professor Eric Trupin of the University of Washington School of Medicine, by 2006 Louisiana's system was hailed by both local advocates and the Justice Department as a progressive model for the rest of the country. National experts have helped the state develop programs that enhance youth strengths and build a positive peer culture. Both the Casey Foundation and the MacArthur Foundation have invested substantial funds in creating comprehensive systems change initiatives in support of the strides we have made in reforming our juvenile justice system. The system will now emphasize the importance of providing essential services in the community.

Our improvement of the juvenile justice system has been significant, but there is still much work to be done. We need to keep moving forward. We need to continue with the reforms that have been set in place. We need to continue to work together so that our shameful past does in fact remain in the past. Louisiana's youth deserve our continued efforts.

Judicial Council:

Before I end my remarks, I would like to thank you, the members of the Legislature, for the courtesies you have shown to the Court throughout the years. You have provided adequate funding for the state judiciary to be effective both in its adjudicative and its administrative responsibilities, even as they have increased over the years. You passed legislation requiring that requests for new court costs or the creation of new judgeships be reviewed by our Judicial Council, and we appreciate your confidence and trust. We hope you have found us responsive to your requests for advice and information. We stand ready to continue to provide assistance in this area.

Judicial Discipline:

One particular area where you provided requested funding was to implement a procedure by which we could speed up the disposition of judicial discipline cases. Judicial discipline continues to be one of the Court's top priorities and concerns. As with any profession, unfortunately, there are some members who engage in misconduct and abuse the public's trust. We take such action and abuse very seriously. Following the dictates of

our state constitution, we have endeavored to act swiftly and thoughtfully on recommendations of judicial discipline that come to us from the Louisiana Judiciary Commission. Since 2002, we have removed 6 judges and two justices of the peace from the bench, and issued a suspension without pay or other action in 31 instances. Thanks to your budgetary support, we have worked to speed up this system. We recently established a procedure where selected retired and active judges will serve as Hearing Officers on certain Judiciary Commission complaints. In only its first year of implementation, formal charges regarding 10 different judges were referred to the hearing officers. Of these 10 cases, 2 judges and 1 justice of the peace resigned or retired rather than proceed to hearings, and hearing dates were promptly set in the 7 other cases. This demonstrates that one of the predominant reasons for using hearing officers seems to be bearing fruit – matters are being resolved more rapidly, which insures to the benefit of the public.

I believe our judicial discipline system is effective and strong. In the words of my colleague, Justice John Weimer, speaking for the Court in an opinion he authored: “The judiciary of this state is not defined by the inappropriate acts of an infinitesimal few. The strength of our judiciary lies in the vast, overwhelming number of judges who diligently discharge the duties of the office. The strength of our judicial system lies in its intolerance of those who are unfaithful to the oath administered to all judges, unfaithful to the constitution, and unfaithful to the code of judicial conduct which governs judicial behavior.”

Conclusion:

In conclusion, as I close this, my first State of the Judiciary Address, I believe we have a strong and sound judiciary. However, we can, and we will, make it better. We appreciate the assistance of you, the State Legislature, in our pursuit of making our vision of a competent, compassionate, and efficient judiciary a reality.

Thank you.