

The State of the Judiciary
Chief Justice Leigh I. Saufley, Maine Supreme Court
Message to the Legislature
February 1, 2006

Governor Baldacci, President Edmonds, Speaker Richardson, esteemed members of the 122nd Maine Legislature, members of the Court, friends, and family, it is an honor and a privilege to appear before you today to present this report on the State of Maine's Judiciary.

Before I begin, I want to thank Governor Baldacci for joining us today. The loss of a brother is a tragic event, and I know that all of us extend our deepest sympathies to the Governor and his family. The Governor's presence with us this morning is another demonstration of his steadfast efforts to understand the public's need for justice and to work with us to restore balance for Maine's people.

So, to the business of Justice.

Last year, I brought you a straightforward and brief message.

That message was this:

The lack of judicial resources available to Maine's people is

Real,

It is Serious,

And we have a plan to address the problems in full.

I asked you to work with us to carry out that plan.

I am proud to report to the people of the State that the Governor and the Legislature, in bi-partisan efforts, took that message as seriously as it was intended, and worked with us in the last session to move the plan forward.

As a consequence, I am here today to say this:

The State of Maine's Judiciary is: struggling but improving.

PROGRESS, PROBLEMS, PLANS

To bring you up to date, I have organized my comments into three parts:

This morning, I will lay out for you:

- the progress we have made;
- the problems that continue to limit the public's safe access to justice; an
- the plans in place to address those problems.

And, as always, I preface my remarks with familiar cautions.

With a Fiscal Year '06 budget of just over \$55 million dollars, the State Budget Office expects that we will return nearly \$49 million in revenues. We will process over 280,000 new filings, and we will operate 40 separate courthouses.

And we'll do so with too few people by any standard. If I haven't mentioned it already, let me just mention it again—Maine is 50th in the country in per capita spending for the delivery of justice. We run the Judicial Branch on approximately \$15 million dollars less than our frugal neighbor New Hampshire. We have fewer judges and less security than New Hampshire, which is itself 47th in the country.

But we are realists. We understand the limitations on resources, and we have been working diligently to find greater efficiencies in our operations, to reduce unnecessary costs, and to focus our resources on priorities.

And I want to thank all of you who have taken the time to talk with us, to learn about your constituents' needs, to work with us on Task Forces, and to find ways to improve the delivery of justice in Maine.

So, on behalf of the hard working employees of the Judicial Branch, I begin my report to you with the good news—a review of progress.

PROGRESS We have achieved progress in: safety, access to justice, and efficiencies.

I. The First Area of Progress is in Improvements In Safety

First, Courthouses are Incrementally Safer.

- In 2005 you made it a crime to bring a gun into a courthouse.
 - With the sponsorship of Representative Rod Carr, you enacted LD 166 (P.L. 2005, c. 175, An Act to Prohibit Firearms in a Courthouse) which makes it a crime, surprisingly for the first time, to bring a gun into a courthouse.
 - Also in 2005, with funding you allocated for additional entry screening, we were able to provide 404 courthouse days of entry screening throughout the state. To put that in perspective, there are

more than 9,000 courthouse days in a year.

- That small improvement in entry screening.
 - Resulted in at least 309 times that people turned around upon seeing the security in place;
 - Prevented over 4,900 knives and sharp weapons from being brought into the courthouses;
 - Prevented 20 efforts to bring illegal drugs into a courthouse; and
 - Stopped four guns at courthouse doors.

Imagine what was happening at the courts without entry screening. These improvements are a great start, but we have a long road to travel before we achieve real safety in our courthouses.

Next, Online Bail Conditions Are Improving the Safety of the Public.

This system allows any law enforcement official to have immediate, 24 hour access to bail conditions set by judges and bail commissioners.

This advance, joining the online access to Protection from Abuse Orders, is improving the safety of our citizens, particularly in cases involving allegations of domestic violence.

II. The Second Area of Substantial Improvement is in Access to Justice

We Have Seen Real Benefits from Establishing Cases Priorities.

As a result of putting cases involving children, violence, stalking, sexual assault, or other serious crimes first in line for judge time, the backlog in family cases and murder trials has been greatly reduced.

For example, in 2005 the trial courts reduced the amount of time families and victims of violent crimes must wait for decisions:

- nearly 75% of all family cases statewide have been pending for less than nine months;
- less than 18% of the family cases have been pending for more than one year; and

- murder and manslaughter cases are ready for trial in an average of nine to twelve months from the filing of the charges.

Also, Problem Solving Courts are Providing Hope for Lasting Change.

In 2005, two new programs were initiated:

- The state's first Co- Occurring Disorders Court was established through the leadership of Justice Nancy Mills. This initiative provides needed supervision and services to individuals who struggle with both a mental illness and substance abuse. Participation requires a personal commitment to a rigorous program of intense treatment, testing, and supervision.
- The other new problem- solving court, a new Family Drug Treatment Court, has been established in Androscoggin County by Judge John Believeau.

These courts provide immediate attention to parents who have lost or are at risk of losing their children due to drug and alcohol abuse. Prompt access to intense treatment for parents can make all the difference in the world to children who are waiting for their parents to take them home.

We Have Worked to Improve Public Understanding of the Courts.

This year, to add to civic education in Maine, we experimented with a new idea aimed at introducing high school students to the work of the Supreme Judicial Court.

With the assistance of Senator John Martin, we arranged to sit for formal oral arguments at the Caribou Performing Arts Center. Before that day was over, more than 700 middle and high school students had had the opportunity to watch the Court in action.

In fact, Representative Bill Smith argued a case before us with an audience of teachers and students behind him.

Interestingly, the students were most animated by the land use cases. What do you mean I can't build a deck, a dock, or a business on my own land without the government's permission. It was an excellent example of advance preparation by the teachers and provided an indication of the interest our students have in the way government affects them and their families. And it was a very gratifying experience for us that we hope to repeat in other counties.

We Are Planning for Future Improvement in Public Access Through the Work of the Task Force on Electronic Court Records.

The very complex topic of public access to electronic records was undertaken by a Task Force, lead by Justice Andrew Mead, that included individuals from the courts, the media, advocacy groups, and both the Executive and Legislative Branches.

Some issues are straightforward—don't electronically release Social Security numbers to the public. Others are not so simple. For example, should your neighbors be able to sit at home in their jammies and Google your name to find the personal details of your divorce or other court case

Much remains to be done. The next step in the Task Force's efforts will be to sort through the policy issues and make recommendations to the Court for rules and statutes.

And the Provision of Access to Lawyers for Low Income Mainers is Improving.

The legal needs of Maine people living at or near the poverty level often go unmet. Through the cooperation of Maine lawyers, who frequently work for reduced or no pay, we are able to provide lawyers in critical cases.

In addition, last year, Maine lawyers and judges contributed more than \$300,000 to the Campaign for Justice, which helps legal service providers in their efforts to fund lawyers for those in need of civil legal services.

The efforts of the Maine legal community placed Maine at second in the nation for the generosity of its legal profession.

III. The Third Area of Progress is in Increased Efficiencies & Cost Saving

Our New Model for Scheduling Can Reduce Costs and Improve Public Service.

One of the most important aspects of our new approach to scheduling cases is called Event Certainty

- The concept means that the people involved in any case will know what the next court event will be, when it will occur, and that it will occur on the date scheduled.
- I understand from Commissioner Magnusson and the Counties that the implementation of this one change could save innumerable dollars throughout state government. It means cases are not rescheduled, witnesses do not come to courthouses repeatedly, and prisoner transportation for trials will occur only once.
- Implementing this concept in all case types will require more judges, but the benefits will be substantial.

The Consolidation of Clerks' Offices Has Achieved Greater Efficiencies.

We have now consolidated the Superior and District Court clerks' office in nearly half of Maine's counties.

In addition, single clerks serve multiple District Courts in Augusta/ Waterville and Madawaska/Fort Kent.

These changes have reduced the funding demands we must make on the General Fund and have assisted us in our efforts to stabilize our operations notwithstanding the limited number of clerks throughout the system.

We have also contained facilities costs through the consolidation of two of our smaller courthouses into the next larger courthouses, those were: Bar Harbor, which was consolidated into the Ellsworth District Court; and Livermore Falls, which was previously consolidated into the Lewiston District Court.

And this year, through your help, we will begin the construction of a new, consolidated courthouse in Bangor.

We Also Averted A Substantial Increase in Library Spending.

As a result of a dramatic increase in publishing costs, we were not able to purchase the statutory updates arising from your last session within the budget we had been allotted.

I don't need to tell you that the prospect of allowing Maine's judges to be without the current law is abhorrent to us.

Through the focused and creative work of Judges and Legislative staff, a new arrangement has been developed which, in 2005 alone, averted the need for an additional \$50,000 for book purchases for the Judicial Branch, and even greater savings were achieved for the Legislature.

Our Final Example of Progress in 2005 Will Both Reduce Costs and Improve Safety.

The Judicial Branch video conferencing project is moving from planning into reality.

- In two courthouses, we have established video conferencing for mental health hearings. This project:
 - Eliminates the need for patients to be brought into busy courthouses;
 - Respects the dignity of those patients; and
 - Eliminates the costs of transportation.
- In another setting, the first video criminal arraignments took place in Kennebec County last week. This project:
 - Allows the incarcerated individual to remain at the jail;

- Increases safety; and
- Reduces costs for the county government.
- Video conferencing may prove to be a money saver through many different uses. The final installation of video conferencing equipment for courthouses throughout the state will roll out over the next year and will reduce costs in many other areas in the years to come.

Thus, the Progress toward safer, more accessible, and more efficient justice has been substantial, and our efforts continue. We appreciate your support in all of those efforts.

THE PROBLEMS

But despite those successes, many challenges continue to exist, and efficiencies cannot solve all of the problems.

We must balance the need for frugal government against the very real need of Maine people to obtain justice.

Most of our challenges occur because, to put it starkly, there are simply not enough people in the Judicial Branch to do the job we have been asked to do.

There are four areas where these deficits continue to hurt our citizens.

The First is the Threat of Violence Inside Our Courthouses.

This problem is evident:

When you walk into a courthouse and see the metal detectors pushed back against a wall because there is no one to staff them that day; or

When you walk the hallways and see angry litigants, frightened witnesses, and sometimes even vulnerable children without a single court security officer in sight.

We must have more people to protect our citizens.

Next is the Inability to Reach All Family Matters in a Timely Manner. Although our Family Division has made great strides in reducing the backlog in family cases, there remain several areas of the State where we are still failing to reach these cases in time to prevent further hardships for the families involved.

In our courts with the highest volume of cases, there are as many as 200 family cases that have not been resolved within one year. For families waiting for stability, that year may seem like a lifetime. We must do better.

Next, in 2006 We Have Had to Institute a Moratorium on the Expansion of Problem-Solving Courts.

It is estimated that in 2005, drug-related deaths in Maine reached an all time high of 178 people. Drug and alcohol• related crimes take a terrible toll on Maine people and affect the lives of Maine's children.

Unfortunately, Drug Treatment Courts, described by Maine's judges as some of the most promising programs ever to be undertaken in Maine's courts, exist in too few counties.

- Adult Drug Treatment Courts are available only in five counties.
- Juvenile Drug Treatment Courts exist in only six counties.
- Family Drug Treatment Courts are available in only five counties.
- Domestic Violence Projects exist in only four counties.
- The new Co- Occurring Disorder Court exists in only one county.

Despite the promise of problem-solving courts, the Trial Court Chiefs have had to ask the Supreme Judicial Court to institute a moratorium on the establishment of new problem-solving courts. We have agreed to that request.

Until there are new judicial resources, the concept that has worked so well, but requires extensive judge time, cannot be expanded.

On a separate note, the Juvenile Drug Treatment Courts that do exist are in peril due to cuts in federal funding. The cuts will affect the prosecutors and case management providers much more than the courts, and I know that Attorney General Steve Rowe, who has been a tireless advocate for early intervention and prevention programs for our families and youth, will talk to you about those needs. I hope you will find a way to help.

Fourth, We Continue to Fail Our Business and Consumer Communities Because We Simply Do Not Have Enough Judges.

I make no apologies about establishing cases involving violence, sexual assault, other serious crimes, and cases involving children's needs as those that must get priority attention from the courts. And we will continue to impose those priorities.

But everywhere I go, I hear from the business and consumer communities that we are failing them. Small claims cases and collections proceedings are delayed, intermediate business cases are too expensive to pursue, and complex business cases take years to process. This will remain true if there is no increase in the number of Maine judges.

And so to THE PLAN

I told you last year that we had a plan.

You have helped us with the beginning of that plan.

I ask you now to address the next phase.

1. First Things First—Safety in the Courthouses

The math for providing entry screening throughout the state is not difficult: forty courthouses times two trained law enforcement officials at the doorway is a substantial amount of money. Whether those individuals are contract or State employees there is no getting around it—the fiscal need approaches \$3 million.

It sounds dramatic, but this is a critical part of the basic delivery of safety to our citizens. We must find a way to get there.

This year, we have asked you for an incremental increase of \$368,550 to allow us to hire an additional seven court security officers who will be available in multiple counties to improve safety. The Governor has included that amount in the Supplemental Budget.

Please support it.

2. One New Magistrate

Second, the eight Family Law Magistrates who must cover the entire state are struggling to fulfill their responsibilities. Last session, you began the process of approving one new Magistrate with staff to improve our ability to reach family cases quickly. You were unable to fund the modest cost to the General Fund of \$82,301 at the end of the last session. I trust that we will find a way to make it happen this session.

3. The Business and Consumer Unit

Finally, the ability of the Judicial Branch to address business and consumer related disputes in a timely fashion is critical to the health of Maine's economy. But we cannot address those cases until we can assure that the priority cases are being addressed promptly.

We have, therefore, proposed the addition of four judges, with the necessary staff.

Two of those judges will help us address the priority cases involving violence and children.

And with two of those positions, we would establish a business and consumer unit of the court system. Two judges would be assigned to that unit. Their responsibility would be threefold:

First, to establish a complex business and consumer docket,

with a centralized filing system,

expedited case management system, and

judges who travel to the parties throughout the state.

Second, to assure the prompt and less expensive resolution of intermediate business and consumer cases, and

Third, to assist the court's return to the prompt resolution of small claims, collections, and landlord/tenant cases.

This session, the Governor has placed the funding for four additional judges and staff in the Supplemental Budget. We greatly appreciate the support of Governor Baldacci and Speaker Richardson in moving this initiative forward.

The annual cost of this initiative is \$1.28 million. It is not an insignificant amount, but it is a fiscally responsible effort. It will help small business owners, improve Maine's economy, and assure attention to children and victims of violence.

It is necessary if we are going to balance efficiencies against the need for meaningful access to justice.

I close with this.

These are your courts. This is your system of justice.

Many of you have taken the time to come to our courthouses and see for yourself how and what we are doing.

We hope you will continue

to join us in the courthouses,

to improve the services that are so needed by Maine people, and to help us make our courthouses safe. Maine people deserve prompt, safe access to justice.

Help us make that a reality.

Thank you for your time and your support.