

The State of the Judiciary
Chief Justice Leigh I. Saufley, Maine Supreme Court
Message to the Maine Legislature
January 30, 2007, in Augusta, Maine

Thank you President Edmonds and good morning to everyone: Governor Baldacci, President Edmonds, Speaker Cummings, members of the 123rd Maine Legislature, members of the Maine Courts, colleagues from the Probate and Tribal Courts, and, as always, my family.

It is an honor and a privilege to have the opportunity to appear before you to present an update on the State of the Judiciary.

My message to you today is twofold:

First, the State of the Judiciary in Maine has been steadily improving over the last several years and 2006 brought additional and substantial improvements.

Second, unfortunately, all of these improvements will be overshadowed if we fail to make the courthouses safe.

Because the safety of the men, women, and children seeking justice in our court buildings is so critical, I begin today with that point.

Here are the basics. We have forty court facilities throughout the State.

Each of those facilities has the equipment, metal detectors, and some x-ray machines, to screen for weapons at courthouse entrances.

We have sufficient security staff to provide marshals for active courtrooms. However, we have no security for hallways or entrances, and we have no staff dedicated to screening for weapons at the front doors.

Without entry screening, we cannot be sure that people aren't bringing weapons into courthouses, into the volatile, high conflict, and dangerously close contact settings that exist in the courtroom. We are among the few states in the nation that have failed to provide full weapons screening at our courthouses.

Michael Coty, our Director of State Judicial Marshals, has done everything he can to increase the presence of entry screening. Whenever a court session is canceled, or a case concludes early, or when we can fill in with available marshals and temporary help, entry screening is undertaken.

However, of the total number of court days in 2006—8,820—entry screening was done on 420 days, representing just under 5% of the time.

The availability of entry screening is sporadic, unpredictable, and woefully inadequate.

- With just that limited capacity to do entry screening, over the course of 2006:
- twenty-seven guns or bullet clips were discovered,
- more than 5,000 knives were stopped at the door,

- eleven people were found holding drugs or drug paraphernalia,
- 258 people turned around rather than go through the entry screening.
- If that many weapons were stopped at the door during the very modest number of days that entry screening was run last year, imagine what is going into our courthouses every day!
- The incidents of violence breaking out in the courtrooms is increasing. In 2006, the Marshal's Office recorded thirty-two separate incidents of outbursts or violence, four attempted escapes and twenty-nine weapons related incidents.
- In Cumberland County, the District Attorney reports that a defendant in a domestic violence case attacked the domestic violence investigator. Fortunately the defendant did not have a weapon, because on that day, no entry screening was available. The advocate will recover from her concussion, but it is only a matter of time before a tragedy of much more horrible dimensions occurs.
- I have heard from members of the public who have to go into our District Court in Dover-Foxcroft regarding their fears at being in the very close quarters of a tense courtroom, when no one has been screened for weapons.
- The tension that now exists in our courtrooms is reflected as well in violence outside the courthouses. Attorney General Steven Rowe reports that, for the years 1996 through 2006, 219 people were murdered in Maine. 105 of those murders, fully 48%, were, by the Attorney General's estimate, related to domestic violence. Now, imagine having to sit in a courtroom with a person who has threatened to kill you and wondering whether you will survive the very process that was designed to help protect you.
- And a new element of concern has cropped up as the State's Probate Courts are increasingly called on to hold contentious, sometimes volatile hearings related to child custody.

Ultimately, in the face of competing demands for scarce resources, government has certain basic responsibilities. One of those responsibilities must be: never to place our citizens in harm's way.

So let me get directly to the question many of you have asked me:

How much will safety cost?

I will give you three proposals.

- Entry screening in Maine's forty court facilities could be completed at the 100% level with total annual funding of \$3.7 million.
- Incremental improvement of 50% coverage could be made at an annual cost of approximately \$1.8 million. Even that would be a huge step forward.
- Finally, we could assure coverage between 30% and 40% of the time, and at a minimum during high conflict dockets, for just over \$1 million a year.

You have taken steps to improve safety through criminalizing the act of bringing a gun into a courthouse, and through finding a small amount of funds to allow us to hire temporary staff to help with security.

I implore you, help us take the next step to make our courthouses safe.

PROGRESS

Now, I turn to the improvements we have already achieved within the Judicial Branch.

With the bi-partisan support of the Legislature, the guidance and support of the Judiciary Committee, and its Chairs, Senator Hobbins and Representative Simpson, with the support of Governor Baldacci, and with the extraordinary work of the men and women in the Judicial Branch, we have come a long way.

If we continue this progress, we will be able to say to the people of this great State, we listened and we acted.

The Road Map

To give you context regarding the progress made in the last several years, it is critical to understand the road map we are following.

- In 2002, we established case type priorities involving:
 - personal and domestic violence,
 - children and families' needs, and
 - serious crimes.
- In 2003, our Judicial Resource Team provided a blueprint for reorganizing resources and improving case scheduling throughout the state.
- By fall of 2004, the District Court had completely reorganized its scheduling in order to assure that priority cases received first resources and to eliminate wasteful gaps in timing.
- Through 2005 and 2006, we implemented a system of objective statistical analysis that is beginning to provide us a more complete understanding of delays within the system.
- By April of 2006, we had implemented a regionalized scheduling system.

At the same time that we have been working toward improved case processing, we undertook a review of our budget, our use of facilities, and the coordination of Judicial Branch resources with other branches of government.

- We launched an overdue fines collections program,
- Identified facilities that were no longer cost effective,
- Created a system for consolidating clerks' offices, and
- Began work with the counties and Department of Corrections regarding coordinated expenses.

These efforts have substantially improved the ability of our trial courts to reach cases in a timely and effective manner, and have improved our use of scarce dollars.

CASE MANAGEMENT

Our efforts to improve case management have proved both encouraging and successful.

Coordinating Judicial Resources

- Much of the improvement is a direct result of the improved coordination of resources between and among judges. As our District and Superior Court judges have begun to coordinate their dockets and work together to address backlogs, the use of judge time has substantially improved.
- Unlike most states where administrators take the lead in case scheduling, in Maine, our judges have had to step up to the plate to undertake these administrative responsibilities, without relief from their everyday work.
- Later this spring, you will hear from the independent Judicial Compensation Commission with recommendations regarding pay for our judges. I hope you will consider their proposals carefully.

Here are just a few specific improvements that have been accomplished.

Family Matters

Our Trial Courts have achieved a dramatic improvement in the treatment of family matters.

- In 2001, judges were only able to complete family cases representing 47% of the cases filed in the same year, thus creating an ever- increasing backlog.
- By 2006, however, the courts were fully keeping up with the new filings in family matters, clearing cases at a rate of 100%.
- And more importantly, the time in which family cases are reached for resolution has been cut almost in half.
- At the end of 2001, family matter cases had been pending an average of 323 days. A year is a very long time in the life of a child.
- By 2006, that number had been cut to 189 days. The judges are reaching and resolving family matter cases on average, in just over six months.
- Also, between 2002 and 2006, the average age of pending juvenile cases has been reduced from nearly seven months to just over four.

Although we have much to do to accomplish similar improvements in other dockets, including our strained criminal dockets, these improvements in family case management tell us that when judges work together and we focus our resources efficiently, great progress can be made.

Budget, Revenue, and Overdue Fines

We have also seen significant improvement in fiscal areas.

- The total general fund allocation to the Judicial Branch in 2006 was \$55 million, representing 1.9% of the total State General Fund.

- On the other side of the ledger, the total revenues collected by the Maine Judicial Branch from fees and fines hit an all time high of \$42 million for FY 2006. That is the highest amount ever collected, and represents \$3.7 million more than was collected in 2005, a nearly 10% increase. Much of that increase represents payment of long overdue fines.

- In 2006, we undertook the first full year of the improved overdue fine collections program.

- Clerk's offices sent out more than 39,000 letters to people who had ignored their responsibility to pay a fine and had not come to court to explain that failure. License suspensions and bench warrants followed if the defendant failed to come to court or pay the fine.

- I am pleased to report that the defendants have responded.

\$2.5 million in overdue fines were collected in 2006 as a direct result of this improved system, and the increased collections continue today.

- Ultimately, the net cost to State Government for a complete system of justice in 2006 was only \$13 million.

For comparison, you should understand that we continue to fall way behind our frugal neighbor New Hampshire, where a General Fund total of more than \$76 million was allocated last year for the same judicial services that we provided with a budget of \$55 million.

And we have taken every step we can to make our dollars go as far as possible.

- We have already closed two courthouses.

- We have consolidated ten clerks' offices.

We will propose further reductions in the number of court facilities in our long-term facilities plan, which follows up on the funds you allocated in the last session for planning. In that plan, we will propose three more courthouse consolidations, eliminating a total of four buildings that would have to have, for example, separate entry screeners, separate video equipment, and separate internet lines.

The proposal will address buildings in:

- Machias, a court facility that already contains both the District and Superior Courts;

- Houlton, where the District Court has recently been consolidated into the Superior Court building, constituting the third courthouse closing in three years;

- Dover-Foxcroft, where we will propose a small new consolidated building; and

- Augusta, where we will propose consolidating three separate court facilities into one courthouse.

Inter-Branch Coordination

We have also worked with other branches and entities of government to conserve resources.

Maine taxpayers do not care whether it is state government, county government, or municipal government that is reaching into their pockets. They expect all of us to work together to reduce the number of times we have to engage in that reach.

- We have worked closely with the administrators of county government, and with the Executive Branch agencies to identify those areas where Judicial Branch practices and procedures may create unnecessary costs in other areas of government.
- We have worked with the Corrections Alternative Advisory Committee to improve pre-trial processing with the goal of reducing jail costs and maximizing resources for court-appointed counsel.
- Several years ago, we learned from conversations with county officials that some of their greatest expenses were connected to transporting prisoners to and from the courts.
- We initiated a video arraignment project to reduce transportation costs substantially and improve security. We already have twenty- two courthouses equipped with video-conferencing capacity. By the end of next month, thirty-seven of our forty locations will have the ability to conduct video arraignments.

IMPROVEMENTS IN ACCESS TO JUSTICE

Other improvements came in the area of access to justice.

Law Court Sitting in Local Schools

Expanding on the success of our Law Court session at the Caribou Schools, arranged through the efforts of Senator Martin, we asked you to let us know whether it might be helpful in other schools. Senator Rotundo and Representative Eberle spoke right up for their districts. In October of 2006, the Law Court sat in the Lewiston School facilities and at my alma mater, South Portland High. These events were among the most rewarding of our year.

We again invite those of you who would like to undertake the effort of coordinating with your school districts to let us know where we might travel in October of 2007.

Assistance to Litigants with Limited English Proficiency

In another access related improvement, responding to the growing immigrant population in Maine, the Court this year issued guidelines for the determination of eligibility for court-appointed interpretation and translation services. Court clerks and judges received intensive training about the new procedures and how to best assist those needing services.

Provisions of Legal Services for the Poor

2006 also brought encouraging progress in our ability to provide legal services to poor Maine citizens who cannot afford their own lawyers.

- In matters involving housing, child and family problems, and services to the elderly and to our growing immigrant population, legislation you approved last session made more than \$300,000 in additional funds available.
- In 2006, the private fundraising campaign known as the Campaign

for Justice raised more than \$380,000 for legal services for Maine's poor through the generosity of more than 1500 lawyers and judges.

- We should take great pride in the fact that Maine's lawyers are second in the nation for their generosity in donating both money and time for those in need. This is a remarkable achievement, but

we must continue to find new ways to provide meaningful access to lawyers for Maine's citizens.

Business and Consumer Docket

No discussion of the improvements of 2006 would be complete without mentioning Maine's new Business and Consumer Docket which the Governor and the 122nd Legislature helped us create through bi-partisan efforts.

With the addition of the four new judges that you have just confirmed, we will be able to bring the Business Court to life within the next several months.

I particularly want to thank Senator David Hastings and former Speaker of the House John Richardson for their time and efforts throughout the last several months as we have worked to design the new docket.

And today, I am pleased to make the announcement that some of you have been waiting for—

The names of the first two judges to sit on the Business and Consumer Docket.

Those judges, who have had the substantial administrative experience necessary to create a new docket, and who command the respect of the bench, bar, and public are: Chief Justice Tom Humphrey & Chief Judge John Nivison.

Please join me in thanking them for their willingness to tackle this challenging project!

PLANNING FOR THE FUTURE

The progress that we have made through the last several years has occurred as a result of the joint efforts of all three branches of government. But we cannot stop here.

You remember the old Will Rogers' comment:

Even if you are on the right track, if you don't keep moving,
you'll still get run over.

We must keep moving.

Here are several areas where we have identified the need for further progress and have begun that work.

- Magistrates. We must streamline and improve the Family Division process with the Magistrates. My thanks go out to Senator Tardy and Representative Mills for their assistance with the Task Force that will report back to us shortly.

- Child Protection. We must continue to improve training and communication in child protection matters. Working again in a cross-branch efforts we are pleased that Senator Plowman and Representative Dunn have been willing to give us their time.
- Guardians Ad Litem. We must improve our system of Guardians ad Litem to assure that they have the training, screening, and institutional support so necessary to assuring that children receive the help of respected and competent advocates.

Within the Judicial Branch we continue to work on improvements.

- MEJIS. We must continue to upgrade our Information system. Created on an Oracle data base foundation, by our own staff, and paid for over 10 years at a cost to the General Fund over that entire time of less than \$2 million, the MEJIS system is one of the best bargains in government. If we are to avoid having to purchase an expensive, off the shelf product, as other states have done for their court systems, we must have the resources to upgrade and maintain that system.
- Problem-Solving Courts. We must find a way to ease the moratorium on new Problem-Solving courts. Resource limitation caused us to freeze in place the few Domestic Violence courts; the Adult, Juvenile, and Family Drug Treatment Courts; and the fledgling Mental Health/Co-occurring Disorder Court. We are hopeful that, without new dollars, the addition of the new judges that you just confirmed will allow us to expand, modestly, the number of areas where problem-solving courts may be put into effect.

FINALLY, A REAL INDICATION OF PROGRESS

As I have talked to you over the past several years, I might have mentioned the fact that Maine is last in the nation, that is 50th out of 50 states, for providing resources for its system of justice. I might have mentioned it early and often, I might have mentioned it more often than you would have liked to have heard it.

I can report to you today that, with your help, the latest available national statistics indicate that we have moved into a tie with Iowa for 48th in the nation, for providing people to deliver justice.

It is progress. Obviously more is necessary.

THE FUTURE

You can help us continue the forward movement toward a sound foundation for justice by doing just two things:

- Visit the courthouses of this state. We have prepared for each of you a packet inviting you to visit the courts, setting out the court facilities in your district, and providing you with the names and contact numbers to arrange a visit. Come see what your constituents experience in our courts. Tell us what else we can be doing to make the Maine court system the best system of justice we can.
- Second, help us find the money to make our courthouses safe. The time has come to stop talking, stop hoping for the best, and do the right thing.

Maine citizens can be very proud of the work that has been done to improve the delivery of justice in this state. You can be proud of the work that you have done with us to create these improvements.

There is much remaining to be done, but the progress is real, it is ongoing, and I thank each of you for the vital role that the Maine Legislature has played in assuring justice for the people of Maine.