

The State of the Judiciary  
Chief Justice Leigh I. Saufley, Maine Supreme Court  
Message to the Maine Legislature  
February 24, 2015, in Augusta, Maine

Thank you very much. I love your spontaneity. Thank you, President Thibodeau. Good Morning, Governor LePage, Speaker Eves, Honorable Members of the 127th Maine Legislature, Probate Judge Dubois, and citizens of the great State of Maine.

I have to tell you, my incredible husband, Bill Saufley, is sitting in the Gallery today. We all refer to him as the "long-suffering" Bill Saufley, and he's suffering even more this morning because in the effort to get everything that I have to pack into the car done this morning, he hit the ice, sliced his hand open, and bled on my speech. So, if anything sounds off as I go through the morning, it's his fault. It's sort of the story of his life, right my love? And with him are my parents, Jan and Dick Ingalls, who have through all these years been incredibly supportive, and have taught me so much about the value of hard work and collaboration, and I'm so happy they're able to be here today.

And, of course, with me are the members of the Supreme Judicial Court and the Trial Court Chiefs. I can't tell you what an honor it is to work with this extraordinary group of people every day.

It is also a particular privilege to be presenting this report this year, in 2015.

Eight hundred years ago today, in 1215, in a field in Runnymede, England, King John set his seal to the Magna Carta, the document that created some of the most important concepts of liberty and justice that we follow today.

Now, you may all be aware that the Magna Carta is understood to have been one of the foundations of our Rule of Law. What you may not be aware is that Justice Donald G. Alexander was actually there when it was signed! I'll pay for that. I just want you to know that.

Before I get to the State of the Judiciary, many of you have not have had an opportunity to meet the newest member of the Supreme Judicial Court, so I want to take a moment to introduce Justice Jeffrey Hjelm, and I'm going to ask him to stand, and he begged me not to and I'm going to do it anyhow because I'm just that mean. Justice Hjelm, if you would stand.

Justice Hjelm served as a trial judge for 22 years before his appointment to the SJC last fall. He has extensive experience with jury trials. He's already sitting down, isn't he? Yes? And, given his earlier work in the Criminal Division of the Attorney General's Office, he brings a wealth of experience in criminal process and sentencing. He is well known for his thoughtful and thorough work, and responses to the Chief Justice's requests, and I am delighted to have him working with us.

I want to take just a moment this morning to say goodbye to one of my heroes.

This past December, we lost Chief Justice Vincent McKusick, who died at the age of 93. The Chief, as we all called him, had a very full career in private practice before serving as Chief

Justice from 1977 to 1992. And, it's particularly fitting to salute him today because, as Chief Justice, he had a special focus on the relationship among the branches of government.

For those of you who are historians, where are you Senator Cushing? He always knows these things before I do, so I just want to keep an eye on him. We understand that the first Chief Justice to present a report to the Legislature on the State of the Judiciary in Maine was Chief Justice Armand Dufresne, in 1977. CJ Dufresne was also our very first Franco-American Chief Justice.

Then Chief Justice McKusick became Chief, and he noted the value of communication among the branches, and helped to make a tradition. He was the first Chief who was regularly invited to speak to the Maine Legislature, eventually providing the annual presentation that brings us here today.

The Chief was a man of towering intellect, and more than that, he was a gentleman. His non-partisan, collegial, and respectful approach to cross-branch relationships helped make my presence here today possible. Many of you remember his kind, warm style, and I will always be grateful for the support he provided me as I took on a job he had done so well.

And with that, I present you-the State of the Judiciary in Maine.

Now, some of you have noted how large the notebook is, and I do want to tell you that I will finish before sunset, so settle in.

But the truth is, and I know that some of you are almost as old as I am, I've gotten to the point where I can really only have about five words on a page if I'm going to see them and speak to you. So it does take a bit more pages.

Let me begin with a little bit of context. For more than a dozen years, I have talked with Maine Legislators about the need to support a solid system of justice for the Maine people. During that time, the Judicial Branch has had to address the chronic underfunding of justice in Maine.

Ten years ago, in 2005, the resource limitations on the provision of justice were so severe that I dispensed with the ordinary annual report and made a direct appeal to this august body. I told Legislators then that the resources for providing justice in Maine were "woefully inadequate."

The result of that underfunding was evident throughout the system:

Many courthouses were in disrepair; Too many were physically inaccessible; Court safety was non-existent;

Reduced budgets had resulted in vacancies that created unconscionable delays.

The situation was truly dire.

Given this background, I am particularly pleased, and grateful to all of you, to be presenting this year's report on the State of Maine's Judiciary, because today I bring you good news.

I am pleased to report that, with legislative support, and the support of Governor LePage, we are turning the corner.

Over the last several years, we have been able to improve facilities, accomplish consolidations, redirect resources, and implement changes that make the Judicial Branch more efficient and more responsive to the public.

Although much remains to be done, and I will give you a road map for some of that later this morning, I first want to take a moment to celebrate some of the accomplishments.

First and foremost, our courthouses are safer. Thank you.

Entry Screening has been instituted in courthouses throughout the State of Maine, and the final steps are at hand to make it available nearly every day in every court.

We must be able to tell everyone coming to court in tense and dangerous situations, including victims of domestic violence, that, at least within our courthouses, they are safe.

We are almost there. Your support for that aspect of the Governor's budget will make it a reality.

Second, there have been substantial improvements in many courthouses.

In renovating and repairing Maine's courthouses, we have taken the opportunity to consolidate facilities.

Ten court buildings in four cities have been consolidated into four buildings in Houlton, Dover-Foxcroft, Bangor, and Augusta.

The resulting consolidations provide much more effective public service. The buildings require only one team of marshals for entry screening, one team of clerks, and they allow for much greater collaboration among trial judges. Public confusion about which courthouses to go to has been eliminated.

In the past 12 years, we have reduced the number of court facilities from 47 to 39, without sacrificing access to justice in our rural regions. Every one of the consolidations improves efficiency and public service. Projects in Oxford, Franklin, York, and Waldo Counties, where three of the county courthouses are more than 100 years old, are next on the drawing board. And we'll be talking to you about those needs very soon.

At the same time, we have consolidated most of our clerks' offices so that 42 formerly separate units are now organized into 27 units. And that has allowed us to use existing positions much more effectively.

We have been able to repurpose some of those positions to create a central phone bank of highly trained, customer service oriented staff to respond to questions that come into the courts by phone. The public response has been uniformly positive, and the goal is to expand the Service Center statewide.

And, with the support of the 126th Maine Legislature and the Governor, this year we will begin the digital upgrade to create eFiling for Maine's courts.

This has taken months of planning, including learning what other states have done right, and what they have done wrong. We've involved representatives of state government and other stakeholders to assure that we're creating a system that will be integrated and effective

throughout the state. And soon we'll be ready to publish the RFP and issue the bond that was approved by the 126th Legislature.

Finally, regarding efficiencies, let me tell you about the extraordinary improvement in public service that will be demonstrated in the brand new Capital Judicial Center, which opens for business next Monday. Justice Jabar has taken the lead on guiding the work for this new building.

The Capital Judicial Center will consolidate all trial court functions in Augusta under one roof, and thanks to KVCAP, a new bus stop will provide public transportation directly to the courthouse door.

In addition to the trial courts, all of the Augusta based Judicial Branch administrative offices, including the technology center, will be in the new building.

Like the old Kennebec County Courthouse, which opened in 1830 (two years before this very State House) the new courthouse, fit for the State's Capital, is designed to serve the public for generations to come.

It's filled with natural light, and, from the public spaces, the view of the Kennebec River, the lifeblood of the region, will be featured everywhere.

There are multiple mediation and conference rooms, wide corridors for safety, and a more private space for domestic violence documents.

It's built, in great part, with Maine's natural resources: the beautiful granite is from Jay, much of the lumber is from Maine's forests, and the woodwork was milled in southern Maine.

Most of the businesses and individuals who worked on this building were from Maine. During the height of construction, more than 100 people were employed daily on site.

It will be LEED certified and energy efficient, taking advantage of the new natural gas lines and a design that makes the best use of southern exposure.

And, it's attached by a sky-bridge to the venerable county courthouse, so that the beautiful old courtroom, which will now be upgraded for ADA compliance and technology, will be a seamless part of the new courthouse. Maintaining that historic courtroom, which we could never replicate today, was a very high priority.

This project represents the best of bi-partisan government collaboration. It was initially proposed in the 124th Maine Legislature, and was approved by Governor Baldacci. Each successive Legislature and Governor LePage have continued to support the project.

The end result is a building that has been completed on time, and on budget, and will stand as a symbol for justice in the State's Capital for the next two hundred years.

We will have a grand opening on May 1st, and I hope all of you will join us.

As the Capital Judicial Center opens, and the Washington County Courthouse addition and renovation in Machias are completed later this year, we are well on our way to a cost- efficient, solid facility infrastructure for the next century.

At the same time that we've been laying the groundwork for a more efficient and productive infrastructure, we have undertaken several projects to reform court process.

So, why are we focusing on court process? You have all heard the phrase:

Justice Delayed is Justice Denied.

And though it sounds like a platitude, it is truly a description of reality.

If you are a victim of a crime who must wait for trial so long that the witnesses no longer recall the events with accuracy, if you are a ten-year-old waiting to learn what school district you will attend while your parents' divorce remains pending, if your plans to expand a business gets tangled up in court,

You know what Justice Delayed really means. And I would add to that phrase:

Justice that is too expensive is no Justice at all.

Justice that is financially out of reach of the litigants can't be tolerated. Any court process that includes non-productive trips to the courthouse creates an impediment to achieving the Justice we all want.

Therefore, we are working to improve all court procedures to streamline process.

A good example of improved process can be found in the Business and Consumer Docket, which now handles more than 100 complex cases every year. As a result of intense judicial management, cases accepted into the Business and Consumer Docket benefit from an average completion time of less than eleven months-less than eleven months for a complex business case that once required somewhere between three and five years to complete!

The latest court project to streamline proceedings is the Unified Criminal Docket. We began that as a pilot project in 2009 in Cumberland County, and it was expanded into Bangor in 2011. In the last year, several more counties have streamlined their criminal process, and by July 1, 2015, this year, the Unified Criminal Docket will be implemented statewide.

By eliminating the old two-tiered system, we've created a system where the schedule of every court event in a criminal case is produced on the very first day that the defendant appears in court. This process respects the serious aspects of criminal law, while at the same time ending the practice of requiring crime victims, witnesses, lawyers, and defendants to appear repeatedly without resolution.

This docketing change has substantially reduced the time for resolution of criminal cases. And I am grateful for the skills of Justice Gorman, who has been the primary architect and judicial guide for this docketing innovation.

The focus on criminal process is critically important right now and leads me to address the challenges we face and further improvements that are necessary.

In Fiscal Year 2014, almost 56,000 new criminal cases were filed in the trial courts.

Despite the consistent effort of law enforcement, victim advocates, the court system, and the Governor himself, the Attorney General reports that 21 homicides occurred in 2014 and fourteen

of those homicides involved domestic violence. As you heard during the State of the State, eight of those who were murdered were children.

We have to do better.

We also know from the Attorney General that there is another tragedy affecting Maine's children every day. In 2012, 779 babies were born into a world where their first experience was detoxifying from drugs.

That number climbed to 927 in 2013, and last year saw a new record of 961 drug affected babies. That's almost 8% of the live births in our small state—one out of every twelve babies born in Maine is affected at birth by drug abuse. That's a tragedy of enormous proportions.

It is clear that our efforts to eliminate drug addiction and address family violence must be redoubled. The Drug Treatment Courts for families, veterans, and people with mental illness will need your support this session. Please help.

In addition, the pending proposal for four new judge positions could not come at a better time.

The trial judges' ability to reach the relentless arrival of new criminal cases is strained to the maximum right now.

To assist the trial courts, the Supreme Court deferred its own caseload in January to allow Supreme Court judges to assist with trial court caseloads. Justice Alexander led the SJC in assisting the trial courts in that unceasing caseload, and we're very hopeful that these efforts will help the entire system, but more judges are necessary if we are to keep up with the demands.

Another impediment to the access to justice in Maine, as in every other state, is the inability of so many people, even those with modest incomes, to afford legal assistance.

Even the best, most efficient court proceedings require the expertise of lawyers to assist the litigants. We do not expect people to diagnose and treat their own illnesses, nor should it be acceptable that they are unassisted in critical, life-changing legal proceedings.

We are very fortunate to have Justice Mead leading the efforts to improve access to justice, and working with a legal profession that is among the most generous in the country.

Maine lawyers donated more than \$2 million dollars in free legal services to Maine people in 2014, and Maine lawyers and judges reached deep into their own pockets to give more than half a million dollars to the Campaign for Justice, which provides funds for legal services for the low-income and elderly.

Justice Mead will be here with you next week in the Hall of Flags with the civil legal services lawyers to provide you with more information that may help you as you assist your constituents.

Finally, in keeping with our efforts to reform process, I am very pleased today to launch a new initiative:

All three branches of government have come together to create

The Maine Task Force on Pretrial Justice Reform.

Context is helpful.

In 2005, the Legislature asked the Corrections Alternative Advisory Committee to obtain a study of Maine's pretrial case processing. The Committee reported back in 2006 with recommendations for changes and improvement throughout the criminal justice system: in the jails, with law enforcement, in the courts, with our bail commissioners, and with the lawyers.

Some changes have been accomplished, and the reduction in the criminal backlogs accomplished by the Unified Criminal Process is one significant improvement. But many recommendations have yet to be addressed.

At the same time, I know I don't have to tell you that the costs of Maine's jails is ever increasing.

We know that 60% of the people held in county jails, 60%, are in pretrial status.

Some are serious flight risks, others present a very real risk of danger in their communities;

But, some are there because they failed to appear in court to address an unpaid fine;

Some are there because they failed to appear for a charge that would not itself have resulted in them going to jail;

Some are there because they don't have the necessary funds to post cash bail;

Others are waiting for beds in treatment facilities;

And, many struggle with mental illness and are unable to control their behaviors long enough to stay out of jail.

Defendants who present a risk of flight or violence need the attention and resources of the jails. But many others could be better addressed with the focused attention of less costly resources.

We are not the only state that is struggling with these challenges. In the last several years, there have been a number of efforts throughout the country to address overcrowding in community jails.

The goals are simple:

Reduce the financial and human costs of unnecessary incarceration without compromising individual or community safety or the integrity of the criminal justice system.

There is a growing body of research that tells us that reaching those goals is actually possible.

The research supports the adoption of effective practices such as:

Enhanced risk assessment;

Diversion of non-violent offenders into community-based programs;

Development of supervised, meaningful community services programs;

Case management and diversion that require acceptance of personal responsibility, sobriety, and continued employment.

At the same time, these new evidence-based practices can also help identify offenders who pose a serious risk of violence. This allows a critical focus on enhancing public and victim safety.

In Kentucky, a pilot project demonstrated a 15% reduction in pretrial violence while achieving a substantial reduction in the costs of local jails. The Kentucky study also demonstrated that improved risk assessment can be "highly accurate" at identifying that small group of defendants who are at an elevated risk of committing violence if they're released.

The national research demonstrates long-term benefits of risk assessment and better attention to suitability for pretrial release. Objective risk assessments also provide an additional means for assuring that neither a person's poverty nor their ethnicity lead to unnecessary pretrial incarceration.

And there is more emerging information:

The initial research indicates that pretrial incarceration of low- risk offenders creates a higher risk of later recidivism.

But the pretrial incarceration of high-risk offenders, those who may be violent, appears to actually reduce recidivism after conviction.

So, let me just put this bluntly, without better up-front assessments, pretrial detention may actually make less dangerous people more dangerous, and we may be missing the need to detain people who currently present a serious threat for violence.

The Maine Legislature has already mandated risk assessment for domestic violence charges. Applying similar tools to other charges could be equally effective.

Therefore, in collaboration, the Judicial, Executive, and Legislative Branches will bring together some of the best minds in Maine on issues of criminal justice. Justice Robert Mullen will Chair the Task Force, bringing a wealth of experience in both trial courts and with the bail commissioners.

We will ask the Task Force to study the research that has been undertaken nationally, look at what's working and what is not working in Maine and in other states, and make proposals for improvement in time for consideration in the second regular session.

I am grateful for the support of Governor LePage, President Thibodeau, Speaker Eves, and Minority Leaders Senator Alford and Representative Fredette, and Attorney General Mills. They have each agreed to name members to serve on this Task Force. We have also received the commitment of the prosecutors, of the Chiefs of Police, the Sheriffs' Association, Victims' Advocates, and the defense bar.

It is time for us to take on this challenge.

Working together, we could make real, lasting improvements for the State of Maine.

Finally, I remember a governor saying to me, "If you've said 'finally' five times, people will begin to throw things at you." So, please don't this is the last page. Finally, as I said when we began, we are beginning to turn the corner, but we have an enormous amount of work ahead of us.

Here are the things that you can do to make sure your constituents have safe, prompt access to justice when they need it:



First, support the Governor's budget that's proposed for the Judicial Branch. Safer courthouses are critical to our efforts, more judges are desperately needed, jurors should be appropriately compensated for their time and for the miles they drive to perform their civic duties. Second, visit the courthouses. Many of you have, I hope many of you will. Mary Ann Lynch will make arrangements for you to shadow a judge, to see a courthouse that serves your District, and to spend time watching justice in action. Talk with us about the High School Appellate Arguments. Last year, we had terrific experiences at the Presque Isle High School, at Mattanawcook, and in Yarmouth. This year, in October, we will sit in Hermon, at Senator Gratwick's invitation, at Mt. Blue in Farmington, at the invitation of the very patient Senator Saviello, and at Scarborough High School, at the invitation of Senator Volk. I hope that many of you will be able to join us for those arguments. Finally, keep working with us on innovations. While I will admit that the courts are not an institution that changes on a dime, we want to be responsive to the justice needs of your constituents. Please keep talking to us.

Thank you for your time and attention, and thank you for your support for Justice in the State of Maine.