

MAINE STATE LEGISLATURE

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**STATE OF THE JUDICIARY ADDRESS
OF
CHIEF JUSTICE LEIGH INGALLS SAUFLEY
JANUARY 27, 2004**

A New Design for the Delivery of Justice

Thank you President Daggett, Speaker Colwell.

And good morning Governor Baldacci, Members of the 121st Legislature, Judicial colleagues and family.

I should note that my parents, Jan and Dick Ingalls are here this morning, along with my husband - my best friend - Bill Saufley, and my daughter Jenny.

There is a family member missing in the gallery, however. My son Ben has gone away to college. He is in college outside of Maine. And so, like many Maine parents, I listen carefully when Governor Baldacci talks about his plan to create an economic environment that will bring our children home to Maine.

Ben will be in that job market soon. No pressure Governor. Just make it happen quickly.

INTRODUCTION

It is truly an honor for me to address you today on behalf of Maine's Judicial Branch of Government. It has been a year of substantial changes and progress toward our goal of redesigning the way we deliver justice in the State of Maine.

The demands on the courts in Maine have undergone a fundamental transformation during the last decade, and those changes have been echoed throughout the nation as government has looked for new ways to address the problems of drugs, violence, and children living in turmoil.

But I don't need to tell you that. You have worked on these challenges here in the chambers of the State House and, I am very pleased to say, you have come to the courts to see for yourselves the changes that have affected the courts and the public.

Therefore, I begin with a personal thanks to those of you who have taken time from your very busy lives to visit courtrooms, to meet with judges and clerks, and to meet with me.

More than 50 members of this Legislature have visited courtrooms and judges this year. This willingness on the part of legislators to see firsthand the experience of members of the public who seek justice

in our judicial system has been very heartening. What you have observed is a system that is stretched too thin, with staff and members of the public conducting business in sometimes impossible conditions. Both the public and our staff have noticed and responded positively to your presence.

Many of you have even taken the time to follow up with letters and calls to me and to the other judges to give us suggestions, support, and feedback. Your assistance has been greatly appreciated.

That commitment to addressing the public's needs in our courthouses has been shared by the Executive Branch. I have been gratified by the Governor's willingness to meet with me to discuss the issues affecting the court system, our aspirations for the future, and the urgent nature of the Judicial Branch's resource restrictions.

Inter-Branch Independence

All of this is a compelling testament to the fact that we work hard in Maine to cooperate between branches of government, and all of us recognize the importance of three co-equal independent branches.

And it demonstrates your respect for a strong and independent Judiciary that is ready to apply the laws you work so hard to create.

The universal striving for a system of justice that addresses disputes according to a system of law, honor, and standards exists throughout the world.

These principles and practices by which we have created a judicial system that is independent, accessible, and trusted by the public have become beacons for other emerging governments.

The Russian information exchange program, which I know you have assisted in recent years, provides a compelling example of that goal. When I talk with our Russian judicial colleagues through the Archangel program and the Rule of Law program, I am always struck by their passion for the development of an independent and trusted Judiciary.

And I come away each time with a renewed commitment to assuring the availability of prompt, accessible, credible justice in Maine.

Overview

And so, mindful of the opportunities and responsibilities we have been given by the people of the State of Maine, let me tell you what we have accomplished in the Judicial Branch in this last year.

- < Today, I will describe the progress that the Judicial Branch has made toward a new design for the delivery of justice that will be more responsive to the personal, social, business, and criminal justice needs of Maine's people.
- < I will also lay out the challenges ahead.
- < And I'll tell you what you can do now, this session, to help Maine citizens find the access to justice that they so desperately need.

INNOVATIONS AND SUCCESSES

I begin with this simple message. Maine's state courts are doing an extraordinary job with the limited resources available, and we are constantly looking for ways to do better.

A New Model for Scheduling

One of the most exciting changes in the way we administer justice is unfolding right now. Last year, after establishing the case types that must receive priority attention, the Supreme Judicial Court announced the formation of the Judicial Resource Team, which was asked to make recommendations for improvement in the way we allocate the limited resources available to us.

We put the Team on a tight timeframe. Led by Supreme Court Justice Jon Levy, and guided by the skills of Superior Court Chief Justice Nancy Mills, Deputy Chief Tom Humphrey, District Court Chief Judge Vendean Vafiades, and Deputy Chief Bob Mullen, the Team developed an inspiring set of recommendations.

The Supreme Judicial Court immediately accepted those recommendations and took steps to require their prompt implementation.

The extraordinary men and women who are the judges of the District and Superior Courts have already begun working with our clerks to create an entirely new regional structure for the scheduling of Maine's court cases. All of the District and Superior Courts located in a region will coordinate the scheduling of their cases and the allocation of their judges, clerks, and other resources.

We will be working with community partners as well, including the bar, the prosecutors, local law enforcement, and others affected by changes in our system.

The New Model calls for the adoption of case completion standards and other objective measures to assure that dockets are administered efficiently. We are confident that clearly defined expectations as to the timeframes for the completion of cases will improve the delivery of justice.

What will these changes mean for members of the public? There will be greater certainty that:

- < Court hearings will be conducted when scheduled.
- < Continuances will be kept to an absolute minimum.
- < Priority cases will receive the attention they deserve.
- < And cases will be reached and decided in a timely manner.

Not since the completion of the new District Court system in 1966 has the system undergone such fundamental changes. By this summer, Maine citizens will begin to see substantial improvements in the way court cases are scheduled as a result of the New Model for Scheduling.

Administrative Changes

Complementing those changes has been our substantial reorganization of the Administrative Office of the Courts. Now, lest you worry, let me assure you that the reorganization was created without the addition of a single new position.

We have moved from an administration that viewed the state in four separate quadrants to a system where all of our resources and responses will be viewed on a statewide basis. These changes will allow us to move resources to meet the public's needs and to assure a consistent approach throughout the state in facilities, procedures, and staffing.

As you can imagine, this was not a simple transition, and a number of people have had to work double and triple duty to accomplish our goals. Ted Glessner and the members of his staff have managed to move the Maine courts from an outmoded organizational structure to one that will take us through the next decade.

New Faces

Our centralized and streamlined administration now boasts some of the most talented people I've had the pleasure to work with. Among that group are two new faces. Leah Sprague, a former Judge from Massachusetts, with deep roots in Maine, brings a depth of experience in dealing with difficult resource problems. Her expertise and enthusiasm have already

proven invaluable in planning for the New Model for Scheduling.

And the second new face may not be so new to some of you. The role of Director of the Clerks of Court requires someone with exceptional skills. We found that person in Sue Bell. She is both a former three-term legislator and a veteran of the Executive Branch, and we are very fortunate to have convinced her to complete the cycle of government service by working with us in the Judicial Branch.

Please join me in expressing appreciation to Ted and the members of his Administrative Team who have worked so hard to accomplish these improvements, and in welcoming Leah Sprague and Sue Bell to the Maine Judicial Branch. Ted, Leah, and Sue would you please stand.

Problem-Solving Courts

At the same time that we have been reorganizing for greater efficiencies, we have continued our innovative efforts in the courtrooms.

Adult Drug Treatment Courts

Several years ago, you authorized the creation of Adult Drug Treatment Courts in Maine. It turned out to be the beginning of a new way of addressing substance abuse wherever it appears in the court system.

Drug treatment courts hold defendants accountable for their actions and, through frequent drug and alcohol testing, they enhance public safety. Those who fail find themselves serving lengthy prison sentences. But those who are able to obtain and maintain sobriety are assisted in their efforts to return to the work place, to compensate victims of their crimes, to return to their families, and avoid prison.

In the two years that this program has been offered, 354 Maine citizens have been accepted into the program, 107 have graduated, and 129 are now actively involved in the program. Each of those individuals faced months or years in our jails and prisons. The savings in lives, reduced crimes, and taxpayers' dollars is substantial.

But academic descriptions of problem-solving courts don't tell the whole story. Let me tell you about an individual who has turned his life around with the help of the Washington County Adult Drug Treatment Court Program.

Troy Socoby

When Troy Socoby was 19 years old, he was indicted on a charge of Class A robbery, assault and theft. The crime occurred in May of 2001 when Troy

and two others stole prescription narcotics from a local drug dealer. At the time of the incident, Troy was an opiate addict and high school dropout.

Troy pled guilty to the charges. His sentence of 5 years in prison was suspended except for 9 months, and he was placed on probation for 6 years on the condition that he "complete drug court successfully."

Now let me digress for just one moment. We have learned, to our surprise, that some defendants will choose a lengthy jail sentence over the opportunity to participate in drug court. Drug court is not easy, it requires a complete commitment on the part of the individual, not just to sobriety today, but to a change of lifestyle, a change of environment, often even a change of friends. In many instances, it requires people to give up the life that they have known for years.

Troy chose to give it a try, and he was admitted to the Washington County Adult Drug Treatment Court in July of 2002. He successfully finished the program and became the first Native American graduate in August of 2003.

While Troy was in drug court not only did he fulfill the basic requirements of facing the judge every week for a year, going to weekly counseling, staying clean, making new friends, and going to more than 300 AA or NA meetings, he also completed his GED, and paid his restitution in full. He then did so well in two courses at the Unobsky School, a local community college, that he was admitted as a full-time student at the University of Maine in Orono.

Troy plans to pursue a degree in Occupational or Physical Therapy. He expects to spend his February vacation working in a homeless shelter.

Troy is here today, and I am going to ask him to stand and accept our congratulations.

Judge John Romei, who presided over Troy's participation in the drug court, says that this program has given him hope for the first time in his judicial career. The work that he does affects lives, not just individual lives, but the lives of entire communities.

Similarly, Justice Roland Cole, the judicial director of the Adult Drug Treatment Courts, has shown an extraordinary commitment to the program and been instrumental in keeping Adult Drug Treatment Courts going with no new judicial resources.

Judge Romei and Justice Cole, would you rise and accept our appreciation for all of the work that you have done.

The courts are making a real difference in the lives of Maine people, but we could do so much more.

Family and Juvenile Drug Courts

And, in fact, wherever we have been able to, we have expanded the reach of our problem-solving courts. Encouraged by the success of the Adult Drug Treatment Courts, similar efforts are now underway in our juvenile and family courts.

Using a small federal grant focused on Waldo, Lincoln, and Knox Counties, Judge John Nivison has created a problem-solving approach for parents suffering from addictions that have brought them within the purview of the Department of Human Services.

The program's focus is to help the parents find sobriety and return to effective and loving parenting for their children. This small program holds enormous promise, as do the Juvenile Drug Treatment Courts which begin with the treatment of the juvenile but reach out to family, school, and community to provide support for those juveniles.

Domestic Violence

In another area of the law that has continued to plague the State of Maine as it does every other state, we have created innovative programs for addressing the scourge of domestic violence. In York and Cumberland Counties, working in concert with the district attorneys' offices, the defense bar, and the domestic violence advocates, and with the persistent leadership of Judge Joyce Wheeler, programs are underway that address all of the judicial aspects of domestic violence in a single family's life.

Civil and criminal cases are coordinated, community service providers work with the court system, and offenders are held accountable and are returned to court regularly to assure compliance with court orders. This innovative judicial approach will be expanding to Kennebec and Somerset Counties this year.

Addressing another aspect of the courts' response to domestic violence, Deputy Chief Judge Mullen and Family Crisis Services developed a curriculum for bail commissioners to address best practices for the critical and dangerous hours just following the arrest of an individual on charges of domestic violence.

Youth Courts

Another kind of innovation takes concepts of justice and personal accountability directly into our adolescent community. Judge Paul Cote, of Auburn, and Richard Kendall, the chairman of the Lewiston-Auburn Youth Court Advisory Board, have worked extensively with a group of volunteer citizens including teachers, law enforcement officials, the district attorney's office, defense attorneys, and others to create the Lewiston-Auburn Youth Court.

Sponsored by the Auburn Police Department, the Lewiston-Auburn Youth Court operates on a recognized National Model for Youth Courts and is active in both Edward Little High School and Lewiston High School. These programs address early criminal behavior through methods designed to keep youth from re-offending, using a restorative justice approach.

The cases tried in Youth Courts address real criminal activity that would have been addressed through the juvenile criminal law process. With the guidance of adult volunteers, a number of youth act as judges, prosecutors, and defenders. When a youthful defendant is sentenced by a panel of youth judges, that adolescent will find him or herself facing multifaceted consequences, including public service work, apologies to victims, and restitution.

The Lewiston-Auburn Youth Courts have been surprisingly effective. 33 cases have been tried, and the recidivism rate now stands at only 10%, compared with an expected rate of 30 to 40%.

In other words, the Youth Courts are effective in preventing new criminal behavior, without the need for jail or institutional sentences.

These new approaches to justice that build on concepts of personal accountability, diversion from further criminality, restorative justice, and community involvement, all hold great promise.

We Could Do More

Our experience with problem-solving courts has taught us much. With these innovations and effective partnerships with other agencies, we have accomplished more than we thought possible several years ago, and have done so in large part without additional dollars for the Judicial Branch.

But we could do so much more.

Family Drug Treatment Courts are limited by treatment funding to 3 counties. Adult and Juvenile Drug Treatment Courts are limited to 6 counties. The crucial work of the Domestic Violence STOP projects is available in only four counties, and the loss of District Attorney positions threatens to limit the newly focused domestic violence responses throughout the state. These programs should be available in every county in the state.

Partnering for Better Access to Justice

Another area where innovations outside of the Judicial Branch itself are making a difference is in providing access to justice to low-income Mainers. Increasingly, we see Maine citizens drawn into the

court system without the ability to hire lawyers to help them.

Although we are doing everything in the courts that we can to make the courts understandable for people who cannot afford lawyers, this is not a good long-term solution to the problem.

As you know from working with Maine laws everyday, Maine statutes are filled with many subtleties and complexities. We simply should not leave our citizens who are not trained in the law to represent themselves in court.

I am grateful to the lawyers of the State of Maine who give their time to volunteer their legal skills. Not only do Maine lawyers step forward to provide legal services at very low rates in criminal and child protective proceedings, but they also donated more than 10 thousand hours of free legal services to low-income Mainers in just this past year. That constitutes over one million dollars of free legal assistance.

In addition, I am pleased to recognize a partnership about to be launched between Maine lawyers and the legal organizations who provide free and low-cost legal services to low-income Mainers. Leading the way in this initiative are Mert and Harriet Henry. Some of you may recall that Harriet was the very first woman ever appointed to the Maine courts. Under the Henrys' leadership, the Campaign for Justice will kick off a united fund-raising effort, with the goal of increasing the availability of lawyers for low-income Mainers in many walks of life, including the elderly, families lacking resources, and our immigrant community.

Perhaps most exciting is the development of a program known as Kids Legal, which is sponsored by Pine Tree Legal Assistance. The brainchild of Alison Beyea, Kids Legal takes a problem-solving approach to children's legal issues. It will provide a voice for low-income children around the state, and has already been successful in finding housing for homeless children, working with schools, addressing medical issues, and responding to the multitude of problems that families face in today's world. It is a wonderful undertaking, and I hope the first of many like it.

CHALLENGES AHEAD

As you can see, there are many innovations in the works.

But some of our biggest challenges lay ahead of us.

During the last several years, the responsibilities of the Judicial Branch have increased, while the resources for carrying out those responsibilities have been restricted.

The responsibilities of the Judicial Branch must be met through a budget that remains among the lowest in the nation.

< The Judicial Branch budget for fiscal year '04 has been reduced to \$52.4 million, representing only 2% of the state's total budget.

< When the funds for constitutionally required attorneys are set aside, we are left with approximately \$42 million to address a consistently overwhelming caseload. In 2003 alone, 281,000 new cases were filed.

< But you'll be pleased to hear that revenues collected by the Judicial Branch are projected to hit almost \$38,000,000, an increase of \$6 million over last year. Those revenues do not come to the Judicial Branch. Approximately \$30 million of this year's \$38 million will go directly into the General Fund. The remainder will be allocated to special accounts, such as Inland Fish and Wildlife, Victims Funds, the Highway Fund, and the jails.

We have also worked consistently to assure the best use of the limited budget available for the provision of justice in Maine.

Over the past two years, we have responded to the state's budget problems with every available efficiency. We have:

- < Eliminated paid overtime
- < Refinanced bonds
- < Eliminated pay increases for staff and judges
- < Recommended consolidation of two small courthouses
- < Restricted jury pools
- < Maintained more than 20 vacancies
- < And even reduced our printing budget by making better use of our web page

But the lack of sufficient funding takes a real toll on our citizens and the strain is showing in delays, frustration, and an inability to expand effective problem-solving courts.

Many challenges remain.

As we plan for the future, we must address these challenges.

1. First and foremost, we must stop weapons at the courthouse door.

Our courthouses are the only courts in New England that fail to provide the public with safe buildings for resolution of their disputes.

We require our citizens to come to the courthouses to resolve their disputes, and even to seek

protection from violence in their own lives, and yet we cannot assure them of safety when they arrive.

With your help, we have obtained the equipment that will stop weapons at the door.

We cannot fail to take the next step to provide the staff for that equipment.

To insure safety to the public and our staff we must do more.

2. We must provide better support to families drawn into the court system.

A healthy and prosperous state begins with healthy children. Preventive services, and prompt judicial attention to the cases that enmesh children in the turmoil of their parents' lives, are crucial components to creating healthy children.

Child-related cases now consume at least one-half of the District Courts' time, and it is still not enough. Families must wait too long for their day in court and when they arrive, they find overloaded Case Management Officers and crowded judicial dockets.

Maine's children and their parents deserved better than harried clerks, hurried judges, and increasing backlogs.

We must do more.

3. We must find a way to meet the needs of the business community.

Because cases that do not involve violence or families in desperate need of attention must wait too long for their day in court, we are failing our business community. Currently, small claims cases and collection proceedings must take a back seat to the urgent priorities you have helped us establish.

The Superior Court, where contract and complex business disputes are usually heard, has seen many of its resources reallocated to a criminal caseload that has increased extensively as we have had to shift much of the criminal caseloads away from the crowded dockets of the District Court.

And our vision of a Business Court remains on hold.

In a time when the need for a strong economy is crucial, ignoring the needs of small businesses throughout this state is counterproductive. We must do more.

4. We must expand prison and jail diversion programs.

In contrast to defendants whose substance abuse has brought them into the criminal justice system, there currently exists no prompt coordinated program for providing alternative placements for defendants with serious mental illnesses or dual diagnoses. We must build on the successes of our current jail and prison diversion programs by including defendants who are suffering from mental illnesses and those who struggle with a combination of addictions and mental illness.

Having learned from the drug treatment courts that success is possible when the community comes together, it is time to take the next step.

We can do more. The Judiciary stands ready to work with the Administration and the Legislature to create an appropriate diversion program for defendants with mental illness and those with dual diagnoses.

In addition, the Commission to Improve the Sentencing, Supervision, Management, and Incarceration of Prisoners will be reporting to you this month. Among its many recommendations, that Commission will be proposing an assessment and diversion program particularly focused on breaking the cycle of chronic return to incarceration.

Along with several related proposals addressing mental illness and substance abuse, these recommendations build on what works.

Working together, we can make a difference.

WHAT YOU CAN DO TO HELP US THIS SESSION

Finally, I promised to tell you exactly what you can do, this session, to help Maine citizens find better access to justice.

Here is what I ask:

1. Make the necessary financial commitment to stop weapons at the courthouse doors.

This year, I have asked for a modest sum of approximately \$340,000 to allow us to create a team of security screeners who will be available on an unannounced basis to go anywhere necessary in the State of Maine to staff metal detectors at the courthouse doors.

This very modest amount is only a start, and, although we recognize that the state has serious fiscal constraints, the provision of safe access to justice is a fundamental responsibility of all three Branches of Government. When the Second Supplemental Budget is presented, help us find a way to fund that modest effort.

2. Continue to visit the courts.

This will be a year of change, and change is never easy. As we implement the improvements that are necessary to reach our goals, we appreciate your continued commitment to learning about the courts. They are your courts, and we welcome your presence and your support for our efforts to achieve our goals of redesigning justice for Maine.

3. New responsibilities must come with new resources.

Please be vigilant when you consider adding new responsibilities to the Judicial Branch, and only do so when you can give us the resources necessary to address those new responsibilities.

The understaffing of our 42 separate courthouses was exacerbated by the budget cuts last year, leaving us with more than 20 positions we have been unable to fill. In our smallest courthouses, where the entire clerk staff is composed of only one or two people, a single vacancy can mean the community will lose access to its courthouse on a day-to-day basis.

Another consequence of the staffing shortages is the reality that every new responsibility that you place on the Judicial Branch this session will effectively bump something else.

Of course, the best answer is to fund the court system so that vacancies can be filled and all cases can receive priority attention they require.

THE FUTURE

With the new design for delivering justice in Maine, we have come a long way, but we could do so much more.

Working together, we can create a judicial system in which:

- < Courthouses are safe places where people are treated with dignity.
- < Families receive focused judicial attention and children have a voice in the courtroom.
- < All litigants can obtain prompt resolutions to their disputes.
- < The judicial system is accessible to everyone regardless of their income, abilities, or native language.

We have accomplished so much. We are making a difference in the lives of Maine people.

If we work together, we can accomplish things that seem impossible today.

I look forward to working with members of the Legislative and Executive Branches to accomplish these goals.

Thank you for your time and all of the work that you do on behalf of the people of the State of Maine.