Chief Justice Ron George  
State of the Judiciary Address to Legislature  
March 25, 2008

Having spoken about the need for flexibility in managing our resources, I want to turn for a moment to a proposal that is intended to help the California Supreme Court do just that. Each year, our seven-justice court reviews more than 9,000 petitions for review and original relief and typically issues opinions in 110 to 115 cases. The nine-justice United States Supreme Court has issued about 70 opinions each of the past few terms. Only appeals from judgments of death come directly to the California Supreme Court. Twenty to twenty-five of the opinions issued by our court each year are in these very lengthy and time-consuming capital cases. We also dispose of another 30 or so related habeas corpus petitions in death penalty cases each year, involving the preparation of lengthy internal memoranda addressing the multiple issues presented.

The court has improved and expanded the selection of counsel and shortened the time for filing briefs in our court. Our efforts have met with some success—at present, we have approximately 80 fully briefed appeals from judgments of death pending in our court, and another 100 fully briefed capital habeas corpus matters. The records in these cases are routinely 10,000 pages long, and sometimes several times that length, and involve numerous issues. Considerable staff and judicial time must be expended on each case.

Earlier this year, the Supreme Court proposed a constitutional amendment, endorsed by all the justices of the court and backed by the administrative presiding justices of the Courts of Appeal, that would allow the Supreme Court to transfer certain fully-briefed cases to the intermediate appellate court for argument and preparation of an opinion. After the Court of Appeal's decision, the Supreme Court would carefully review all cases, and proceed with oral argument and a written opinion if there is an important question of law or a conflict between Courts of Appeal on a matter of law, or if the Supreme Court finds that the lower court may have committed an error in reaching its decision.

This proposal does not concern the merits of the death penalty; it is strictly about process. The proposal arose out of a grave concern that the death penalty caseload in the California Supreme Court is consuming too large a portion of the resources needed by the court to perform its basic constitutional role of deciding significant issues of law in civil and noncapital criminal cases in order to provide guidance to the lower courts, government, business, and individuals.

To effectively handle these difficult matters, adequate resources must be allocated to every part of the justice system—prosecution, defense, and the Courts of Appeal. In view of the budget situation, I have asked that our proposal not be advanced at this time. I shall, however, at a more propitious time, seek your consideration of this constitutional amendment, and in the meantime we are interested in hearing the Legislature's ideas about how to best address the difficult issues of delay and workload presented by the Supreme Court's backlog of death penalty cases.