

An Inadequately Funded Judiciary is a Denial of Justice
By Charles W. Daniels, Chief Justice of the New Mexico Supreme Court

For over a half-century since the height of the Cold War our nation has set aside May 1 as Law Day in recognition of America's national commitment to the rule of law in our constitutional system of free self-government. Over the years, the importance of our commitment to providing equal justice under law has been tested and reconfirmed in the face of serious internal and external challenges.

Regrettably, one of today's greatest threats to the rule of law has come not from foreign aggression and antidemocratic ideologies but from our own failure to preserve and protect our American justice system. In New Mexico, the underfunding of our judiciary has created a constitutional crisis that will not be resolved without some serious soul-searching and a shared recommitment to preserving the rule of law for ourselves and for those who will follow us.

To do so, we must recognize that no self-governing democracy, no civilized society of any kind, can survive without a functioning justice system. Without courts that are open to resolve disputes and apply the law, we are left to the lawlessness of the streets and the brute force of the jungle. A government that cannot enforce its own laws and protect the rights of its citizens simply cannot survive.

And we must recognize that we cannot have a functioning justice system without adequate funding. All the laws on the books and all the rights guaranteed by the constitution are just empty words on paper if our courts do not have the basic resources necessary to enforce them.

In New Mexico, the justice system created for us by the founders of our constitution over a century ago is failing because of a lack of necessary funding that has gone well beyond economizing and belt-tightening. We are long past the point where we can pinch pennies and get by a little longer by coping and hoping.

When the legislative session began a few months ago, the judicial branch, which is appropriated less than three percent of the state government budget, was running out of funds to pay the costs of basic constitutional guarantees like trials by jury, speedy trials, and access to the courts.

The two branches of government with the constitutional authority to obtain and appropriate funding recently addressed the most immediate consequences of our long-term underfunding, for which we are grateful. We staved off for now the necessity of canceling all jury trials for lack of funds to pay jurors as required by law and of locking the doors of some courts and sending employees home without pay. But without a fundamental change in the way we continue to systematically shortchange justice, New Mexico is doomed to repeat the dysfunctional cycle of crises and short-term fixes.

The judicial branch must stay out of the political decisions that are the province of the legislative and executive branches, such as how necessary revenues should be raised and which optional government services should be provided. But we do have a clear responsibility to stand up and speak out when the constitution itself is being violated. It is no defense to a constitutional violation to say our state is unwilling or unable to pay for constitutional government. And I am confident that we as a people would never be willing to let our justice system fail. If we are to continue as a free self-governing people, if we are to truly honor the rule of law, if we are to live up to our constitutional obligation as citizens to guarantee justice for all, we must commit to providing the resources necessary to make the constitution more than a hollow

promise. Anything less will destroy our American system of justice and democratic self-government more surely than any foreign enemies could ever do.