

State of the Judiciary
Chief Justice Robert Benham, Georgia Supreme Court
Message to the Legislature
January 16, 1998, in Atlanta, Georgia

Lt. Governor Howard, Speaker Murphy, officers and members of the Senate and House, constitutional officers, my colleagues on the Supreme Court and the Court of Appeals, members of the judiciary, fellow citizens and visitors,

I consider it a high honor and a distinct privilege to be invited to appear before a joint session of the Senate and House to deliver the State of the Judiciary Address.

I would like to begin today with a short poem by an unknown author which it seems to me places our shared responsibility as guardians of the law in proper perspective:

You are your country's keeper, Your government is but you,
You are the woof of the fabric, Whether she be strong or weak or true.
Yes, you are your country's keeper, And yours forever the blame,
Whether she rises in her glory, Or withers in her shame.

Quality of justice

My colleagues and I are here to report that the state of the judiciary is fine; the spirit of cooperation is at an all-time high, and our enthusiasm in performing our duties is boundless and beyond measure.

We are excited about what we do; we undertake our task with fervor and vitality, and we have no hesitation about manning the laboring oar when justice hangs in the balance.

This is my fourteenth appearance as a judge at the State of the Judiciary Address and my third appearance to deliver the State of the Judiciary Address as the Chief Justice of the Georgia Supreme Court. I am just as awed and humbled today by this occasion as I was 14 years ago when I served as a junior judge on the Court of Appeals. The awe and humility come not from fear or apprehension, but from my respect for the occasion, my abiding faith in the rule of law and the role of government in bringing about orderly change where necessary, and preserving tradition where appropriate through the democratic process.

Public service is a high calling. It requires integrity, fairness, honesty, truthfulness, respect for all citizens, and respect for the proper role of government in addressing societal concerns. We recognize that you are responsible for making the laws, and that we are responsible for interpreting them. We appreciate the sincerity with which you undertake your responsibility, and we solicit your prayers and support as we undertake ours. The better the laws you make, the fewer interpretations we will have to make.

Before I present the state of the judiciary, I would like to express our deep gratitude and thanks for the moral and financial support you have given the judicial branch during my term as Chief Justice. Your support has allowed us to address many significant issues in a forthright and realistic manner. We deeply appreciate what you have done for us in the past and we fervently solicit your support in the future.

It is customary on occasions such as this to give you not only general information about the courts, including statistics, but also to share our vision with you. While I will not deviate from custom and tradition, I will furnish you relevant statistical information in the written supplement to my address so that I can spend my limited time informing you about our vision and about some overriding concerns and considerations in the areas of resources, judicial independence, technology and modernization, access to the courts, fairness and diversity in the courts, and community involvement.

Initiatives

In my State of the Judiciary Addresses in 1996 and 1997, I discussed the need for adequate resources for the judicial branch, more judges for the Court of Appeals and trial courts, a comprehensive study of the judiciary, increased use of technology, and cooperation between the three branches of government. You responded by providing funding for some of these requests, and we appreciate the attention you gave to these important matters. I am also happy to report that we have been able to begin a comprehensive study of the judicial system without asking for financial support. We are well on the way to organizing a Blue Ribbon Commission to perform this comprehensive study.

In order to enhance the quality of justice and public service provided by our court system, this month we will name a Blue Ribbon Commission to perform a long-overdue examination of our system and make recommendations for improvement. In order for any long-range planning to be effective, the Georgia Supreme Court must be actively involved in the process and take a leadership role in identifying systemic problems and recommending comprehensive solutions to these problems.

Many of our trial court councils have a history of involvement in strategic and long-range planning through internal committees. These groups continue to develop and implement strategies to efficiently manage resources and respond to spiraling caseloads. I am confident that these planning efforts by the trial courts and other classes of courts, together with the work of the Blue Ribbon Commission under the leadership of the Supreme Court, and with the cooperation and participation of all classes of courts, will increase public understanding of and trust in the judicial process. Such effort will ensure that Georgia has a court system that is both functioning well in the present and ready to assume potentially greater challenges in the future.

Our goal is simple: make Georgia's courts the best in the nation. We must work to improve our system 'so that victims of crimes are protected, individual rights are guaranteed, due process is assured, and, meaningful access to the courts is a reality for all of our citizens. We must have a court system in which judicial independence is treasured and accountability is endemic. Additionally, we must have a court system in which judges are highly competent, administrators

are dedicated public servants, lawyers are competent, civil, professional and civic-minded, and citizens respect and trust the rule of law because fairness and justice abound.

Over the years the role of the court has changed although our commitment to justice has not wavered one bit. Courts often carry out their functions in the quiet atmosphere of a courthouse where adversaries present their competing interests while the courts seek to provide certainty, predictability and stability in the law. In carrying out our constitutional and statutory functions, we must sometimes do so with limited resources and personnel while caseloads continue to grow and the issues increase in complexity and profundity. Ordinarily, judges must be referees; sometimes we must be managers; on a few occasions we must be players. But whatever our role, we stay in the game and see the matter in controversy to a satisfactory conclusion.

Requests

Please allow me to turn my attention to several items on the legislative agenda of the judicial branch. Time will not permit me to mention all of the items; however, my failure to mention some of them should not be viewed as a lack of support for these items.

The most important resource to the judicial branch is, of course, judges. And we need more. The Court of Appeals continues to be one of the most overburdened appellate courts in the nation. Support for a fourth panel of judges on the Court of Appeals, as recommended by the Commission on Appellate Courts of Georgia, is imperative. Additionally, there have been no new superior court judgeships created since 1995. This year the Judicial Council, after careful consideration, recommended the creation of six new superior court judgeships.

It is impossible for the judiciary to meet the demands of burgeoning caseloads without additional judgeships on our Court of Appeals and superior courts. Attracting quality judicial candidates without minimum compensation standards is also very difficult. I urge you to provide the needed relief and thereby avoid a negative impact on the quality of justice for all Georgians.

This will be an exciting year in the courts, as we hope to take on our first pilot project for a court with non-uniform jurisdiction, made possible by the passage of enabling legislation two years ago. The Judicial Council has recommended that you approve and fund a family court pilot project in Fulton County. This project will provide a holistic approach to address and adjudicate all issues affecting the same family in a single court system, with emphasis on the best interests of children.

Under the present system, family matters are often split among several courts, resulting in fragmented services, delay and loss of efficiency. The expectation is that a family court will ensure that judicial resolution of family disputes will be comprehensive, quick and certain. Moreover, a family court may help to diminish the adversarial nature of the current system and more effectively address the interests of children and the family unit affected by the process. We seek your favorable consideration of our first pilot project request.

We appreciate the funding you have provided for the Georgia Appellate Practice and Educational Resource Center in the past, especially in light of the withdrawal of federal funding in the area of

habeas corpus relief. We are committed to bringing capital appeals to a just conclusion, but we cannot do so without adequate representation for defendants at critical stages of the proceedings. We urge you to increase funding to the Resource Center consistent with the budgetary recommendation so that we can process capital appeals fairly and expeditiously.

Domestic violence is a serious problem in this state. Its effects can be seen throughout our society in the form of increasing court caseloads, skyrocketing hospital costs, growing numbers of dysfunctional families, and plummeting school performance. The State Justice Institute recently awarded a grant to pilot an Internet-Based Domestic Violence Court Preparation System in Georgia. This project will provide online computer-assisted preparation of the court papers domestic victims need to obtain protective orders. The superior and magistrate court judges, shelter programs, and Legal Services Corporation are testing this online project and Douglas, Cobb and Gwinnett Counties.

The Judicial Council, in partnership with the State Bar, is tackling the problem of legal assistance for victims of domestic violence. In 1996 alone, it is estimated that over 530,000 Georgians were victims of domestic violence. Programs set up to assist these families are stretched thin and do not have the expertise to respond to their legal needs. Our budget this year will include a request to fund this public service. Please help us address this problem.

Last year our request for a lower age threshold retirement bill for appellate courts, similar to that of the trial courts, was referred for an actuarial study. We hope you will look on it with favor when it comes to you for consideration.

Accomplishments

Now let me turn to several ongoing projects initiated by the courts. A key component of a modern judicial system is the appropriate use of technology. The Georgia Courts Automation Commission (GCAC), under contract with the Georgia Tech Research Institute, has embarked on an ambitious project to create a statewide courts database. This database will compile detailed criminal and civil case information that will be accessible to all superior and state court judges. At the request of legislators, we are developing a similar database for the juvenile courts. Ultimately, these databases will help provide for annual case counting, electronic inquiries on individual cases, and compliance with the mandatory reporting requirements of state and federal agencies. They will also be a useful tool for providing crime statistics and trends in litigation, and will allow for better allocation of resources based on more accurate information.

Judges on the bench must have the ability to retrieve the most current information if they are to make reasonable and wise decisions. An automated criminal justice information system that integrates all court functions gives judges and court personnel the information they need to be effective. GCAC is available to all classes of courts to provide technical support and advice on automation. None of this would be possible without the budgetary and programmatic support that the legislative branch offers.

Our courts must be accessible to everyone. The Commission on Equality has developed a database of foreign language interpreters available to interpret court proceedings. It can be found

on the World Wide Web, linked to the Supreme Court website. The Supreme Court Commission on Equality has also been working on issues of access for the hearing impaired. The diverse nature of our population makes this kind of help crucial to the fair and impartial administration of justice. We must continue our efforts to assure that no person is treated in an unfair manner because of race, gender or ethnicity, and we must put in place mechanisms for addressing these issues in a timely and complete manner.

The Judicial Council has appointed a Committee on Pro Se Litigation. Because of the increased number of citizens acting as their own attorneys – a trend not unique to Georgia – we are developing court policies that will help court personnel deal with the influx of pro se cases. Ultimately, the work of this committee will promote more open access by pro se litigants to the court system and move these cases more effectively through the system.

Our Office of Alternative Dispute Resolution and Commission on Professionalism are considered the best in the nation, and serve as a model form any other state and federal courts in the creation of their programs. We appreciate your continued support of our efforts in this area.

The Supreme Court Committee on Substance Abuse is assisting courts throughout this state in addressing the staggering and perplexing problems generated by substance abuse. The Committee has contracted with the Metropolitan Atlanta Council on Alcohol and Drugs to operate a computerized referral database of treatment providers. The database is available on the World Wide Web and contains detailed and frequently updated information on over 600 agencies and programs throughout Georgia. Because of this innovative use of technology, and also thanks to the drug courts now operating in at least three or four counties, more of our citizens are getting the treatment they need. We hope to create at least five more drug courts in metropolitan areas in the next 18 months. We are beginning to address not only the social and criminal symptoms of substance abuse, but finally the problem of substance abuse itself.

In a cooperative state and federal effort, the Supreme Court Child Placement Project has recently launched several technology projects. The Fulton County Juvenile Court and the State Department of Family and Children Services are developing a plan for sharing part of the court's database with five satellite DFCS offices. DFCS caseworkers will be able to obtain client information without phoning or visiting the court. Additionally, Fulton, Rockdale, and Troup Counties are testing a computerized record-keeping system to help citizen review panels track the status of deprived children who come before them. We have developed a comprehensive study dealing with child placement and we will gladly make it available to you upon request.

We have only come to you for funding of various projects after we have exhausted all other available avenues. We realize that the state has limited financial resources; therefore, we first seek funding at the federal and private levels before we approach you for funds. We will continue to seek funding from outside sources whenever possible, but we hope you will continue to have a receptive attitude when we do come to you for assistance and guidance.

Conclusion

The judicial branch cannot address and cure all of society's ills. You must be willing to work with us in empowering our communities to address some of their problems and reserve only the most intractable problems for the court system. The founding fathers did not view the court system as a cure-all for society's problems, they viewed the courts as an avenue of last resort after all other avenues had failed. We ask you to help us encourage our communities to make an earnest attempt to address problems at the local level in a meaningful way with an eye toward resolution rather than aggravation. With your help communities can work toward establishing Human Relations Councils, Rites of Passage Programs, Domestic Violence Programs, Alternative Dispute Resolution Models and a host of other programs designed to address problems in a cooperative community setting rather than in an adversarial one.

We appreciate this opportunity to share our thoughts concerning resources, judicial independence, technology and modernization, access to the courts, fairness and diversity in the court system, and community involvement. We appreciate the spirit of cooperation you have shown in the past and we look forward to working with you in a cooperative and concerted effort to improve the quality of life for all our citizens.

We invite you to share in our vision to make the Georgia court system the best in the nation, where no one need leave the courts of Georgia in search of justice, for it abideth within, it shields us from wrongdoing, it defends us from evil, and it treats us equally without respect of person or position.

As we face the future we call to your attention the words of another unknown poet:

We ask that you not walk the smooth path,
Nor bear an easy load,
Pray for strength and fortitude
To climb the rocky road. Ask for courage
To scale the highest peaks alone,
So that we can turn stumbling blocks
Into stepping stones.