State of the Judiciary
Chief Justice Norman S. Fletcher, Georgia Supreme Court
Message to the Legislature
January 16, 2004, in Atlanta, Georgia

Lt. Governor Taylor, Speaker Coleman, President Pro Tern Johnson, our friends of the legislative branch and the executive branch, fellow members of the judicial branch, ladies and gentlemen.

I have been blessed with the great privilege of serving on my home state's Supreme Court for a long time. As I begin my 15th year, there is no place I had rather be today, than right here, talking with you state leaders about our judicial system; about the things that are working well, about our needs, and about those things which, if implemented, will make our justice system work even better. Of course, we know that it has been your support that has enabled us to improve the delivery of justice in this state. I thank you for your strong support in the past. And, hoping to remain in your good graces again this year, I have attempted to greatly reduce the length of my address. During this session if you desire more in-depth information on any subject affecting the judiciary, please contact me or the AOC and we will be happy to provide such information as you need.

Today I am going to briefly tell you of (1) important initiatives of the past year; (2) update you on programs that continue to work well; and (3) bring to you the requests and inform you of the needs of the judicial branch. However, once more, hopefully the last time it will be necessary, my primary focus will be on indigent defense. You did the right thing last year and I remain confident you will follow suit this year.

I turn first to important initiatives.

COURT FEES STUDY

I informed you of the on-going Court Fee Study the past two years. I am pleased to report that our current Court Fee Program has brought about enhanced efficiency in calculating, collecting, and remitting court fees across all levels of our courts. Training classes and court visits play major roles in accomplishing these improvements. In the past year 25 training classes on court fees have been conducted in 12 cities for 519 court officials, from municipal courts to superior court clerks and probation officers, and assistance has been provided as requested through 32 court visits since July.

In September the AOC entered into an agreement with the Brain and Spinal Injury Trust Fund Commission to act as the receiving and monitoring agent of the 10% surcharge on DUI fees. Early signs indicate a much higher participation rate by the courts and a much higher collection rate, as evidenced by the fact that one delinquent court recently remitted three years' collection of fees totaling nearly $218,000. Much more has been done to tum around the past deficiencies and the on-going assistance and educational programs are being accepted very well throughout the state.

SUPREME COURT COMMITTEE ON TECHNOLOGY

For several years a number of you have expressed concerns about the status of court automation. While the Georgia Courts Automation Commission has made considerable progress with limited resources, we acknowledge the current status of court technology does not provide us with all that we desire and need in this technological era.

In 2003 the AOC commissioned a study through BearingPoint, a widely acclaimed national consulting firm, to assess our current status, address needs and make recommendations. The study was completed last summer and made available to all interested parties.

Because of the interest and vital need, in December your Supreme Court created its Committee on Court Technology. Its charge is (1) to make recommendations for a statewide technology governance structure for court technology; (2) to study e-filing guidelines and make recommendations on their applicability to the Georgia courts; and (3) to develop a strategic plan with a time-line for implementation. Bill Ide of Atlanta, former ABA President, serves as Chair and Judge Tim Pape of the Floyd County Juvenile Court and current Chair of the Georgia Courts Automation Commission serves as Co-Chair. This broad based Committee of 28 members includes judges from every level of court, clerks, court administrators, a court reporter, district attorney, public defender, and state bar leaders. Additionally, we are creating an advisory committee composed of designees and representatives of the executive and legislative branches. It is our hope that the creation of this Committee will assure you that we take very seriously your concerns about court technology.

I have great expectations of the work and resulting report of this well-balanced Committee and for the future of our court technology in Georgia. We anticipate that a report and recommendations will be completed in time for your consideration at the 2005 session.

ON-GOING SUCCESSFUL PROGRAMS

We are pleased that a number of innovative initiatives continue to serve our courts well. The work of the Alternative Dispute Resolution Commission providing for mediation and arbitration for courts in 96 counties containing approximately 70% of the state's population continues to expand, with referrals increasing nearly 61 % since calendar year 1997. The Commission on Interpreters has expanded its role of qualified interpreters and our professionalism program remains the role model for the country.

The drug court movement is steadily progressing with widespread interest by judges across the state. These programs have resulted in savings to the public sector while still requiring accountability from the offenders.

The proposed pilot project providing for a business court will soon be on the table for consideration. Likewise, the study and recommendations relating to revision of our jury panels will shortly be forthcoming.

REQUESTS AND NEEDS

Turning now to our requests and needs. Some are repeats from last year.

Our probate judges and district attorneys still desire non-partisan elections, as do our magistrates. I once again endorse their requests as the judicial branch is no place for partisan politics.

Based on caseload studies, last year the Judicial Council recommended creation of two new superior court judgeships, one in the Cherokee Circuit and one in the Gwinnett Circuit, but no legislative action was taken. This year the Judicial Council again recommends those two judgeships as well as an additional judge for the Coweta Circuit, Flint Circuit, and Southern Circuit, and a second additional judge for the Gwinnett Circuit. These new judgeships are sorely needed.

Proposals for Certainty in Sentencing was a key part of my address last year. While no action was taken last session, there is still much interest and urgency for sentencing reform. While setting minimum and maximum limits of punishment for crimes is a legislative function, your judges need the flexibility to see that the sentences imposed are fair and just considering the totality of the circumstances of each case. Additionally, it may well be time to consider whether it is in the best interest of the state to decriminalize certain traffic offenses.

There also remains keen interest in and need for funding the Legal Loan Forgiveness Program for attorneys entering public service as prosecutors, public defenders, and positions with the state law department. While I realize this is not likely to be the year for state funding, I request you to urge Congress to extend loan forgiveness under the Stafford and Perkins loan program to lawyers working in the public sector.

And last, but certainly not least, the judicial branch is most concerned about suggested reductions in our already meager budgets. Sharing in across the-board cuts hurts the judiciary disproportionately because the judicial system is personnel heavy and has very little spending flexibility. The population explosion in this state is straining our judicial system, and any budget reductions would have an adverse effect on the efficiency of our courts. Additionally, it has been far too long since our judges, prosecutors, and other court personnel have received any salary increases, with the disparity between public sector salaries and private sector salaries continuing to escalate. We understand the budget shortfalls of recent years; however, these salary concerns need to be addressed as soon as reasonably possible.

INDIGENT DEFENSE

Finally, I tum to the most important issue facing our courts today -- indigent defense. Dr. King reminded us, "It is always the right time to do that which is right." I can't praise you highly enough for stepping up to the plate last session and doing the right thing, both morally and constitutionally, for indigent defense. Because good folks understand fairness, what you did was favorably reported and you continue to be praised throughout this state and this country. The act you overwhelmingly passed is an outstanding example of the good that can be accomplished through bipartisan efforts.

The 11 member Georgia Public Defender Standards Council, appointed by Governor Perdue, Lt. Gov. Taylor, Speaker Coleman, Chief Judge J. D. Smith and me, is a diverse, dedicated group with representatives from our superior courts, local government, former legislators, academia and the bar. They have been diligently working since early August focusing on standards, budget, transition and leadership. After an extensive search and interview process, the Council selected Michael Mears as the full time director. He is a lawyer with broad experience in administration and public defense, having served as the Director of the Georgia Multi-County Public Defender's Office since 1992. He will not require on-the-job training as we start up this new, much needed structure for meeting the Sixth Amendment constitutional requirements in this state. And Mike has already selected two fine key members of his team, both former legislators, Gary Parker and Jim Martin.

The Governor and I have made all of our appointments to the 49 judicial circuit local selection committees as have most of the circuit chief judges. I anticipate the other appointing authorities will soon complete their appointments so that the local circuit committees can commence the process of selecting the circuit public defender, who in turn will be responsible for having the local offices operational on January 1, 2005. Much is also going on locally in anticipation of the new programs. For example, Walker County, which was my home for many good years, is already taking steps to provide facilities for the new public defender and the office staff.

As you can see, we are on schedule and well on the way toward fulfilling the dictates of your legislation. I implore you not to tamper with this legislative act during this session. Making changes, exceptions, or modifications in the act or allowing variations for individual circuits at this stage might well destroy the contemplated uniform, accountable systems before they even start up. Your legislation was well thought out and provides great structure. After the circuit offices are up and running for a few years, if the need for improvements comes to light, appropriate adjustments can then be made .

The only thing remaining to be done in order "to finish the drill" and claim the victory is to fund the program your legislation calls for. Your leaders endorsed this reform legislation and Governor Perdue signed it into law understanding that it would be and intending that it be fully operational by January 1, 2005. Your leaders have diligently searched for the best and most reliable way of providing the required funding. I trust you, your leaders and our Governor. I know together you will find the best method and that this great legislative body will appropriate the funds requested for indigent defense in the judicial budget. This state has acknowledged the deficiencies of the existing system, concluding that it does not meet Sixth Amendment requirements. If funding is delayed any longer, we run the grave risk of having the courts create a system managed by an outside court appointed auditor, rather than having this great system designed by you, led by our people and operated by public defenders locally selected who are part of the community in the respective circuits.

This session is the right time to once more do what is right, and I know in my heart you will, that you will fully fund the long awaited system you wisely created last year. I thank you for doing the right thing again this year.

May God continue to bless you and this state as you conduct your business this session.

Thank you for allowing me to talk with you about your courts again this year.