

State of the Judiciary Address
Chief Justice Carol Hunstein, Georgia Supreme Court
Message to the Legislature
February 7, 2013, in Atlanta, Georgia

Lt. Governor Cagle, Speaker Ralston, President Pro Tem Shafer, Speaker Pro Tem Jones, members of the General Assembly, my fellow judges, ladies and gentlemen:

Thank you once again for the opportunity to deliver to this distinguished body the State of the Judiciary Address. Your annual invitation to the Chief Justice to give a candid review of our goals, accomplishments and challenges ahead is a reflection of the honor and support you have extended to the judicial branch of government. On behalf of the judiciary, I thank you for your support.

I am privileged to stand among some of the finest judges this country has. And today, some of them are here. They include my friends and colleagues on the Supreme Court of Georgia --- Presiding Justice Hugh Thompson, Justices Robert Benham, Harold Melton, David Nahmias and our newly appointed Justice, the Honorable Keith Blackwell. Justice Harris Hines is under the weather and not here today. Also here are the esteemed judges of the Court of Appeals of Georgia, including Chief Judge John Ellington. In addition, we are honored to have in the gallery judges from around the state. Just as you have always welcomed us, we too welcome you to visit our courtrooms and our chambers at any time.

I particularly want to welcome the legislators who are new to the Georgia General Assembly. I had the opportunity to meet some of you recently at the University of Georgia for the 28th Biennial Institute for legislators. All of us in the judicial branch look forward to working with you in our common mission to serve the people of this state to the very best of our abilities.

It is said that “leadership is the capacity to translate vision into reality.”

I am grateful that during the almost four years I have been Chief Justice, I have had the privilege of working closely with true leaders who were elected to this body of lawmakers – people who have had a vision, and begun to translate it into reality.

The work that has begun in this state on criminal justice reform is extraordinary. Thanks to your leadership, the leadership of our governor, Nathan Deal, and the leadership of this state’s judges, two years ago all three branches of government came together united in our effort to enhance citizens’ public safety while protecting their tax dollars from runaway prison costs.

In 2011, Representative Jay Neal introduced legislation creating the Special Council on Criminal Justice Reform. I could not be more proud of the work of the Special Council, of which I have been privileged to be an active member, along with Judge Michael Boggs of the Georgia Court of Appeals who today co-chairs the council, Senators John Crosby and Ronald Ramsey, Representatives Wendell Willard, Mary Margaret Oliver and Jay Powell, and a number of others,

including co-chair David Werner, the Governor's Deputy Chief of Staff, and Thomas Worthy, the Governor's Deputy Executive Counsel.

The Special Council on Criminal Justice Reform has worked diligently, and last year the Georgia General Assembly passed House Bill 1176, a comprehensive set of measures proposed by the council to divert non-violent and low-level offenders away from costly prison beds and into more effective drug and mental health courts and treatment programs. Our goal from the beginning has been to create a safer Georgia through lower recidivism rates while saving millions of taxpayer dollars. Less than a year later, we already have begun to see the fruits of our labor.

Recently, Corrections Commissioner Brian Owens announced that after years of steady growth, Georgia's prison population appears to be leveling off, putting us on track to save \$264 million in five years. The number of inmates sitting in county jails as they wait for state prison beds is declining, and there has been a real reduction in the number of inmates waiting in local jails for beds in Probation Detention Centers. These are important changes that represent real savings.

One of the most significant achievements has been the beginning of a new way of handling long-term inmates who have served many years – sometimes decades – in prison. The fact is that 95 percent of this state's 57,000 prison inmates will eventually walk out of prison; only 5 percent will die there. We want to be sure that when they come out, they remain crime-free and are prepared to integrate safely back into society as wage-earning, tax-paying citizens. Yet a significant number of our most institutionalized prisoners will "max out." That means they will serve every day of their sentence in prison, but they will then be released into our communities with no parole officer or supervision of any kind.

That is beginning to change. Rather than turning them out the prison gate with a bus ticket, \$25 and a "good luck" wish, the State Board of Pardons and Paroles has begun assigning these long-term prison inmates to transitional centers some six months before their final release date to help them transition back into society. This change alone should significantly improve public safety by making these inmates less likely to return to a life of crime.

Also in the last year, thanks to your appropriation, 12 new drug and mental health courts have been created, along with a number of new substance abuse and mental health treatment centers.

But the best measure of our success is counted in the many individual lives that are being changed daily as a result of these accountability courts. I have been privileged this past year to participate in several drug court graduations, as I know some of you have. I have been blessed to meet families who have been reunited by the courts, mothers and fathers who are once again truly functioning as parents and as tax-paying citizens who are showing up for work, on time and sober. And I have been honored to receive personal letters from a number of the graduates. One graduate wrote: "On October 31st, I went to court and regained full custody of my 6-year-old son, Nicholas. It was the happiest day of my life other than the day he was born. I am so grateful for the opportunity of giving back when I, for so long, took away."

Another wrote: "I just wanted to say thank you for giving me a second chance to change my life and to start over." And a third: "Because of Drug Court, I have my life back."

All three were charged with crimes. All three got second chances. And all three have gone from being tax burdens to taxpayers.

One year ago, when I last addressed this legislature, I asked you to consider that perhaps these reforms we have begun putting into place for adults should begin with children.

Again, I am proud of the work of the Special Council on Criminal Justice Reform, which has spent its second year studying how this state handles youths who break the law.

Today, we as Georgians – and as a nation – stand at a crossroads in juvenile justice history. We have learned, just as we did with adult criminal justice, that cracking down on juvenile crime is not enough. We must also be smart about juvenile crime and take action to reduce it.

Right now, nearly 2,000 children are in a Georgia facility other than their own home: They are in youth prisons, youth jails, or residential programs, such as group homes. More than half of these children were sent there for committing non-violent offenses; 40 percent are considered low risk; 25 percent are there for having committed a misdemeanor or status offense, which would not be a crime if committed by an adult.

It costs this state \$91,000 a year to house a child in a youth prison. By comparison, it costs \$19,000 a year to house an adult. The difference in cost is based on young people's educational and other needs that must be met under state and federal laws.

But consider the return we get on every dollar spent housing these juveniles: Of the 619 children in our youth prisons, nearly 65 percent will commit another offense within three years of getting out – and nearly every one of them will get out.

If we thought the poor return on our investment in the adult arena warranted criminal justice reform, surely the poor return on our investment in children warrants juvenile justice reform. We know one thing for certain: Spending \$91,000 a year to lock up a juvenile and getting 65 percent recidivism in return is not working. We can be smarter with taxpayer dollars. More importantly, we can produce a safer Georgia.

The research shows that our reliance on incarceration for young people does not reduce their likelihood to reoffend. Indeed, it may do just the opposite, exposing low-risk young people to violence and abuse, and putting some on the path to adult criminality. At the same time, we have evidence of what does work: community-based programs that offer mental health and substance abuse treatment, anger management programs, family counseling, education and employment programs, and probation supervision.

This year, as last, I have heard from judges across our state. Many juvenile judges have said the same thing: State budget cuts, particularly in the area of mental health, have left them with few alternatives but youth jail or prison for many of the children who come before them. As one judge explained, it is almost impossible to get mental health services for clearly disturbed

youngsters unless they threaten suicide or homicide. “We wait for the explosion, and it will come.”

What does a judge do with a chronic runaway girl who comes before him with untreated mental health problems and a history of being sexually exploited while living on the streets? What does a judge do with the boy who repeatedly is charged with shoplifting but whose family is seriously dysfunctional? Most juvenile judges say they do not want to send these children to locked facilities, but with no community resources and fearing for the children’s safety, they feel they have no alternative. As one juvenile judge recently wrote, without resources at home, detention becomes a default “when the hammer is the only tool in the toolbox.”

You now have before you the final Report of the Special Council on Criminal Justice Reform. I encourage each of you to read the report. It contains a number of concrete recommendations for your consideration. Just as with adults, we want to reserve our youth prison beds for the most serious offenders while providing alternatives for those who are low-risk and non-violent.

Just as the success of adult drug courts depends on the availability of community treatment programs, the key to the success of our juvenile courts in handling troubled youths who have not yet committed serious crimes is the availability of programs that can intervene before it’s too late.

Of course, community resources cost money, at a time when we as a state and nation are still struggling to crawl out of the most protracted recession since the Great Depression. But other states have come up with a brilliant way to reinvest dollars spent on juvenile incarceration into community-based programs.

In Ohio, counties get an annual allocation from the state for handling youthful offenders. The allocation is based on what it used to cost the state to incarcerate that county’s youths in state facilities. It is now up to the county to decide whether to use the allocation on costly out-of-home beds or to develop less costly community-based options.

Think about it. This is a wonderful financial incentive. Instead of spending \$91,000 per child on incarceration, counties can reinvest that money into more economical and effective community programs.

Under a similar program, the state of Illinois has seen a reduction in the commitment of youths to state institutions that has resulted in \$11 million in savings in two years. Texas also has developed a pilot program similar to Ohio’s.

And now – under Governor Deal’s leadership – Georgia stands at the threshold of possibly becoming the next state to pilot this reinvestment of funds to make our state safer by giving communities the ability to tailor their juvenile justice programs to meet their specific needs. The Governor has proposed allocating \$5 million to the top Georgia counties that account for more than half the kids in juvenile detention.

Those of us who are judges are sworn to uphold the law and order of this state. I want to emphasize that no one is urging Georgia to become soft on crime. Some of our juvenile offenders have committed heinous, violent crimes, and must be treated as adults and locked away from society.

But they are the minority. For our citizens' sake, we must do better with the majority.

The fact is, many of our juveniles deserve second chances. When did we stop believing that some young people deserve second chances?

When did we start believing that a sixth grader should be suspended because she brought a Tweety Bird wallet to school that was attached to a 10-inch chain?

When did we stop believing that children are different from adults and that teenagers do stupid things, act impulsively and consider themselves immortal? When did we forget what we were like as teenagers?

I have not forgotten what I was like. It is not a good memory. Not all of us who are judges, or lawmakers, or leaders of government took the path our parents tried to steer us down, consistently got good grades, never got into fights at school, never drank or drove recklessly or broke the law. But for those of us who did those things, we got second chances.

Let me tell you about someone here today who got a second chance. He was 13 years old when one day during school, two friends dared him to rewire a fire door that was supposed to remain open except for an emergency. He took the dare, succeeded in overriding the system, and got the door to close. But what he didn't realize was that once the door closed, the fire alarm would go off with a vengeance. In addition to fire trucks, police swooped down upon the school. Very quickly, they identified him as the perpetrator. He heard the police in the principal's office saying they were going to arrest him. And at that moment, his world shattered. In his 13-year-old mind, he was certain he was going to jail, and that he would never again see his mother, father, sisters or brothers. But then he heard something else. He heard his principal urging them not to arrest him. The principal assured them the boy would suffer consequences. And at that very moment, the boy learned a lesson in mercy and forgiveness. It was a defining moment in his life.

He grew up, enlisted in the U.S. Navy, became a lawyer, and today is a juvenile judge in Clayton County where he has never forgotten a principal who once gave him a second chance. With every case that comes before him, he asks himself: "What would I do if the child before me were my own?" And whenever possible, he draws a delinquent child's parents into the rehabilitative process.

Today he is an advocate for youth, a proponent of alternatives to unnecessary detention, and a leader in the field of juvenile justice, not only in this state but nationwide. In his own county, to interrupt the "pipeline from school to prison," he has brought together school leaders, police, prosecutors and social service providers to steer disruptive school children away from court and detention into cheaper, more effective alternative responses to their behavior.

As a result, from 2004 to the present, the number of kids arrested in Clayton County schools has dropped 83 percent. As he says: “The juvenile court should be reserved for children who scare us, not for those who make us mad.”

Ladies and gentlemen, if you do not already know him, it is my honor to introduce to you Clayton County Presiding Juvenile Judge Steven Teske.

I began today by telling you that I am proud to stand beside some of this nation’s finest judges. As I said last year and the year before, the entire judicial branch operates with less than 1 percent of the state budget. That means that for every Georgia citizen’s tax dollar, less than one penny goes to funding the entire judicial branch of government.

Budget cuts have been difficult for everyone, the judiciary included. But I am proud that this branch of government has worked with the governor and you legislators to meet the demands of the budget shortfall.

As judges, we are sworn to dispense justice, uphold the law and protect constitutional freedoms. Our duties are simple but profound. They are fundamental to our democracy and a core function of government. We have no choice but to respond to all problems and conflicts that come before our courts.

Despite the economic challenge, our judges have always worked hard to move forward.

- In Barrow and Jackson counties, judges have leveraged federal funds to create not just one, but four drug and mental health courts.
- The Commission on Interpreters has forged ahead with a pilot project to provide constitutionally mandated interpreting services to courts in outlying areas.
- In the area of domestic violence, Georgia ranks a dismal 10th in the nation for the rate at which men kill women. But thanks to the leadership of Representative Edward Lindsey, prosecutors have been given more tools to hold abusers accountable. And thanks to Judges Stephen Kelley and Peggy Walker, we now have a comprehensive plan that offers a road map for how to significantly reduce family violence in Georgia.
- We also continue to make progress in the electronic filing of legal documents. Our E-Filing Committee, chaired by my colleague, Justice Harold Melton, is persevering in its goal to develop a statewide electronic filing system that is compatible with all courts.

I have mentioned a number of things today that the judiciary has accomplished, even in the face of challenging economic times. There is one more significant accomplishment that I would like to draw to your attention. In many ways, it is tied directly to juvenile justice reform because for many juveniles, justice means never coming into the criminal justice system.

For 12 years, my colleague, Justice P. Harris Hines, has quietly chaired the Georgia Supreme Court’s Committee on Justice for Children. Justice Hines has lent rock solid support to the

mission of improving the civil process involved in child abuse and neglect cases. This committee's work, under Justice Hines' leadership and the staff leadership of Michelle Barclay, has contributed to a reduction in the number of children in foster care who fall through the cracks and never get out of the system. With the Cold Case Project, we have improved the likelihood of finding children permanent homes before they age out of the system as adults with no families and no support. We know from research that those who age out of foster care are less likely to get an education and a job, and more likely to be homeless and enter the criminal justice system. This past year alone, the Committee reviewed the files of 245 children as part of the Cold Case Project, and it is committed to finding all of them families they can call their own.

Just like so many of you, Georgia has among its judges many strong leaders who have managed to do more with less while translating a vision into reality.

So in conclusion, I want to say it has been an honor and a pleasure to represent these judges as Chief Justice of the Supreme Court of Georgia. And I want to pay special tribute to one judge in particular.

When I came onto the Supreme Court in 1992, the first Chief Justice I served under was the honorable Harold G. Clarke, Jr., who also served in the Georgia legislature. Justice Clarke is ill right now and I would ask you to keep him in your thoughts and prayers. He is not only a great jurist but he is a quiet, strong leader of principle and the kindest man I have known.

Finally, I am confident that when my term concludes later this year, my friend and colleague, Presiding Justice Hugh Thompson, will move seamlessly into the position.

I recognize that you as lawmakers have difficult decisions ahead. But I am supremely confident in your leadership and courage.

I thank all of you for your support of the judiciary and your service to this state.

God bless you, and God bless the people of the great state of Georgia.