

State of the Judiciary Address
Chief Justice Hugh P. Thompson, Georgia Supreme Court
Message to the Legislature
February 5, 2014, 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 for inviting me to come before you to deliver the State of the Judiciary address and report to you our accomplishments and the challenges that still lie ahead. All of us in the judicial branch are grateful for this annual tradition that reflects your interest in – and your support of – our state’s judges and all those whose lives are devoted daily to upholding the rule of law. Although the executive branch, the legislative branch, and the judicial branch are three separate branches of government, we are united as one in our service to the people of this great state.

I am honored today to bring you greetings from this state’s judges, many of whom are here. They include my friends and colleagues on the Supreme Court: Presiding Justice Harris Hines and Justices Robert Benham, Carol Hunstein, Harold Melton, David Nahmias and Keith Blackwell. Also here are Chief Judge Herbert Phipps and the judges of the Court of Appeals, and judges from all over the state representing all classes of courts. As your Chief Justice, I am privileged to represent you. Would all judges please stand and be recognized.

I also want to recognize someone else who is very important to me: my bride of more than 46 years, my wife, Jane.

Most of us grew up saying the Pledge of Allegiance at school, in which we promised “liberty and justice for all.” I don’t believe we ever meant, “liberty and justice only for those who can afford it.”

Equal justice for all is the promise embodied in our Constitution as envisioned by our forefathers. Supreme Court Justice Lewis Powell called equal justice, “perhaps the most inspiring ideal of our society... [I]t is fundamental that justice should be the same, in substance and availability, without regard to economic status.”

As Georgia continues to grow in population and diversity, access to justice is a challenge requiring the commitment and hard work of us all.

Georgia’s judicial system is sound, and it is strong – for those who can afford a lawyer. But to safeguard its future, we must guarantee access to justice for all people, as our laws were not made for just a few. Too many Georgians cannot afford legal representation, and too many go without civil legal services.

Today, nearly 2 million Georgians – or about 19 percent of our population – live below the poverty line. Their legal needs involve fundamental rights, such as safety for the woman who needs a protective order to shield her children and herself from an abusive husband; or

guardianship for the young children of a single dad who's dying of cancer; or education and disability benefits promised to the wounded warrior returning from war in Afghanistan. The elderly have many legal needs involving their safety, their health care, and their recourse when they are defrauded of everything they own.

I am very proud of the Atlanta Volunteer Lawyers Foundation, the State Bar of Georgia, and the many attorneys in our state who offer their services pro bono, or at no cost. But these voluntary efforts do not fill the gap. According to the Supreme Court's Committee on Civil Justice in 2008, only 9 percent of low-income Georgians with a legal need were able to get help from a lawyer. Many did not know where to go for help or that legal assistance was even a possibility for their housing, health or employment problems.

In Georgia, two non-profit law firms, the Georgia Legal Services Program and the Atlanta Legal Aid Society, provide the most comprehensive civil legal services to poor people. Some of their funding comes from interest on lawyers' trust accounts (often referred to as IOLTA), which they receive in grants from the Georgia Bar Foundation. But since the beginning of the recession in 2007, those interest revenues have declined by more than 90 percent.

Today, there are potentially 13,000 clients for every lawyer employed by these legal aid organizations. As a result, these lawyers must of necessity turn away many desperate people. The lack of legal services is amplified in rural areas. According to a study by the University of Georgia, nearly 40 percent of the South's persistently poor counties are right here in Georgia. Seventy percent of our state's lawyers work in the five-county Metropolitan Atlanta area. Sixty-two counties have 10 or fewer lawyers. And six of Georgia's counties have no lawyers at all.

In South Dakota, where 65 percent of attorneys practice in five cities, the Chief Justice of their Supreme Court warned that the large populated areas in his state were becoming what he called "islands of justice in a rural sea of justice denied." Now I submit to you that Georgia's lack of legal services in rural areas is every bit as severe as South Dakota's, if not more so. We must take steps to correct the imbalance.

As a result of the lack of adequate legal services, our courts are seeing a growth in the number of people representing themselves. Judges worry not only about clogged dockets as a result of these pro se litigants, but more importantly, about unfair trials and unjust results. Our legal system is an adversarial system of justice. The reality is that poor people who represent themselves often lose.

The current President of the American Bar Association puts it this way: "Americans without lawyers often go without justice."

Chief Judge Adele Grubbs of the Cobb County Superior Court recently told me that the greatest challenge her court faces is the dramatic increase in pro se litigants in the domestic relations field. This includes divorce, child custody, and petitions for temporary protective orders.

Chief Judge Michael Karpf of Chatham County Superior Court wrote me a letter saying that the complexity of divorce cases involving children means that pro se litigants are being cut off from justice. With the advent of Georgia's new child support requirements and the need for a parenting

plan, many low income parties are finding it difficult to comply.

Our judges take an oath guaranteeing a fair trial to all parties, but as State Court Judge Jason Thompson of Fayette County said, the process is very time consuming when a jury trial involves pro se litigants. Where one party has a lawyer and the other side does not, judges find it difficult to believe that justice has in fact been done.

And yet the resiliency, the creativity and the commitment of our judges never cease to amaze me. A few years ago, Chief Magistrate Judge Patricia Barron of Athens-Clarke County created with the University of Georgia School of Law a program that pairs law students with pro se litigants to help mediate disputes in which people have been evicted from their homes or sued for other debts. These mediations have saved courts time and money.

The Gwinnett County Probate Court recently launched a Pro Bono Clinic that brings in local attorneys for four hours once a month to meet with pro se parties regarding their legal concerns. Probate Judge Christopher Ballar calls the program a “resounding success.” A number of court systems, including DeKalb County’s, have developed self-help centers providing legal forms for such actions as divorce complaints, petitions for temporary protective orders, and modification of child support.

I applaud all these achievements, but we need to do better than depend upon piecemeal efforts to plug the dam from a flood of pro se litigants. “Equality before the law in a true democracy is a matter of right,” said the late United States Supreme Court Justice Wiley Rutledge. “It cannot be a matter of charity or of favor or of grace or of discretion.”

In addition to poor people, those who do not speak English are entitled to justice as well. Georgia’s population now makes us the eighth largest state in the country. We are growing rapidly, and just as our medical profession is gearing up for our future growth by ensuring we have enough doctors and hospitals; and just as our state government is looking ahead to ensure we have enough water, schools, modes of transportation and trained workers; likewise, the judicial branch must prepare for the future.

We in the courts are as happy and as proud as you and the Governor are that Georgia was just named the Number 1 state in the country for doing business. We want to keep it that way. One way to do that is to ensure that businesses have speedy access to the courts for resolving their disputes.

Toward that end, my colleagues, Justices Robert Benham and David Nahmias, are working in the Atlanta area with judges, including Mel Westmoreland, and with attorneys such as Bill Barwick, to enhance a business court that handles complex business litigation.

We are home to an international airport – the largest in the world – and we will continue to attract individuals and businesses from many different countries. To prepare for the future, Georgia’s courts need an army of trained, certified interpreters.

Nationally, almost 21 percent of our population speaks a language at home other than English. In

Georgia, the Administrative Office of the Courts estimates that more than a half million people do not speak English or they speak only limited English.

Providing interpreters is an ongoing challenge in courts across the state. The Lawrenceville Municipal Court schedules a Spanish interpreter eight court sessions a month, but they have found they also need Korean, Bosnian and Russian interpreters. In the last month, DeKalb County State Court Judge Dax Lopez has taken criminal pleas with the use of Thai, Korean and Burmese interpreters. Judge Lopez and other judges have found that even identifying the language a defendant is speaking can be a challenge.

Currently, Georgia has only 149 licensed court interpreters, and they speak only 12 languages. That is not enough. Under the able leadership of my colleague, Justice Harold Melton, the Georgia Supreme Court's Commission on Interpreters has increased the number of certified interpreters, and the variety of languages they speak. But interpreters must do more than simply speak the language. They must also understand legal terminology and their obligation to protect the confidentiality of their clients. As Justice Keith Blackwell, our newest justice, takes over the role of working with the Commission, we are hopeful that in the near future, the Commission will roll out continuing education requirements to ensure that Georgia has certified interpreters who remain the very best they can be.

Access to justice also means giving those who break the law the sentence they deserve. It means not automatically sending some people to prison when their true crime is being addicted to drugs, or failing to take medication for their schizophrenia, or not paying child support because they've lost their job.

Those of you who have been in the legislature for the last three years have built a legacy in criminal justice reform. With the extraordinary leadership of Governor Deal, Lt. Governor Cagle, Speaker Ralston, and many others, you have made this state a model for the rest of the country. The Council on Criminal Justice Reform has been ably led by Court of Appeals Judge Michael Boggs and former Executive Council for the Governor, Thomas Worthy. I particularly want to acknowledge my friend and colleague, Justice Carol Hunstein, and also Representative Wendell Willard, who nearly four years ago traveled to Alabama to see how this could be done in Georgia.

The stars were truly aligned in bringing together the leaders of all three branches of government to bring this reform to fruition. It is still in its early stages, and we will need to be sure we have the proper standards and gauges for measuring its effectiveness. But we already know we are headed in the right direction.

One of the crowning achievements is the specialty courts – what some call “accountability courts.” Governor Deal, and you in the General Assembly, issued a challenge to the trial courts to increase and enhance the work of accountability courts.

Our judges have taken up that challenge. They have stepped forward eagerly and embraced the opportunity to create and then preside in drug courts, mental health courts, veterans' courts, family dependency treatment courts, juvenile drug courts and DUI courts. All over this state,

judges have met and exceeded the challenge, putting people on a path to good citizenship, good lives, and safer communities for every one of us and for generations to come.

Here's how Superior Court Judge Samuel Ozburn of the Alcovy Judicial Circuit put it to me: "We are seeing lives marked by incarceration and disappointment transformed into lives with promise, hope and stability." In Judge Ozburn's circuit alone, four specialty courts have been created in the last year.

In Rockdale County, State Court Judge Nancy Bills is creating a Domestic Violence court, using the accountability court model. Georgia has the 10th highest domestic violence rate in the country. And these courts can help save women's lives. I am so proud of Judge Bills.

Cobb County soon will have its first Veterans Court, led by Superior Court Judge Reuben Green, himself a U.S. Marine. A Veterans Court also opened for business last month in the Macon Judicial Circuit. The Douglas County State Court has just started a DUI Court that already has 45 participants, including a woman addicted to prescription pain medication, whose husband thanked the program for, "giving me my wife back."

The juvenile court in Douglas County has two Family Drug Treatment Courts that have a special focus on the children of addicted parents. Judge Peggy Walker, who will be sworn in this year as President of the National Council of Juvenile and Family Court Judges, says she considers their greatest accomplishment the birth of six drug-free babies born to parents who participated in their program.

Thanks to the Governor's support and your appropriation of more than \$11 million – by spring, we will have 102 accountability courts with more to be unveiled. Thanks to Superior Court Judges Jack Partain and Jeff Bagley, who chair the Accountability Court Funding Committee, more than \$9 million of that money has already been granted to local programs.

Upon graduation from these courts, 85 percent of the participants are employed. Three years after graduation, 93 percent of all accountability court participants remain free of criminal charges. The undeniable truth is: These courts work. They keep our communities safer. They save lives. And they save the state money. At any given time, there are about 1100 people participating in accountability courts who would otherwise be in the state prison system. These specialty courts save Georgia more than \$20 million a year in state prison costs.

As your Chief Justice, I personally thank you for your support of these courts and your partnership with us in helping to fulfill our Constitutional mandates.

We at the Supreme Court of Georgia have also benefited from your support, most recently with the addition of a death penalty law clerk. And I am happy to report that we finally have a full-time employee to answer the phones and greet people in our main office. Our staff is small, and it remains smaller than it was a decade ago. I doubt there are many others in state government who could say that. When you told us to get lean, we got "real lean," as my colleague, Presiding Justice Harris Hines, recently said. Perhaps we have punished ourselves. We continue to play catch-up, and this year we are asking for two more staff attorneys to help us deal with cases that

are far more complex than when I first came to the court.

And yet, I am very proud of the work we have been able to accomplish. In 2013, we issued 429 written opinions. That's 61 per justice. A few years ago, you may recall that a national study ranked the Georgia Supreme Court as the most productive high court in the nation, and that was based on 58 opinions per justice. I am also proud of our Court of Appeals and confident that it is also among the most productive intermediate appellate courts in the nation.

Our opinions resolve disputes among people, and inform the parties and the public about our reasoning. That's important, because as the state's highest court, it is our job to bring predictability, uniformity and consistency to the law, so that people and businesses know the rules they must live by.

We are an open court, and we are among the first in the country to offer live streaming of all our oral arguments. Whether you are here at the Capitol or traveling in Timbuktu, as long as you have Internet, you can watch our court in session.

One reason our court is so productive is we have become far more efficient through the electronic filing of cases. Just a few years ago, our court operated much as it did in the early 1900s. But the era of big paper is coming to an end, saving everyone involved both time and money. Soon we will have no more box loads of paper records. Last year, you gave both appellate courts funding to make it possible for trial courts to transmit the entire court record to us electronically. We have nearly completed that project, and we are close to going live. This will greatly speed up the appeal process.

The next step for the entire judicial system will be to design and build a statewide e-filing system. The Judicial Council is currently requesting funding to achieve that final piece.

Again, I thank all our judges for their patience and commitment toward bringing our judicial system into the modern electronic era.

I hope you in the legislature know your local judges and the fine work they are doing. If you do not, I urge you to reach out to them because the courts, more than most institutions, have an immediate, direct and personal impact on your constituents.

As Chatham County Superior Court Judge Louisa Abbot said, nobody becomes a judge for the money. I must note, however, that other than a few cost-of-living adjustments, Georgia's judges have not received a state pay raise for 15 years. Let me say that again: For 15 years, we judges have not received a state pay raise. While we acknowledge that nothing will be done to change that fact this year, please understand that we need to work together on this going forward.

I began today by asking our judges to stand. I end by acknowledging one judge in particular.

In an historic event two weeks ago, Fulton County Superior Court Judge Ural Glanville presented to our court – and to the Court of Appeals – an American flag that recently flew in our honor in the combat zone of Afghanistan.

I suspect that most of you do not realize that in addition to Judge Glanville's regular job in Fulton County, where he has served as a judge for nearly 18 years, he is also one of this nation's heroes.

Brigadier General Ural D. Glanville has served for 30 years in the United States Armed Forces, both in active and reserve service. Today he is Chief Judge, IMA, of the U.S. Army Court of Criminal Appeals. During his three decades in the military, he has received many awards, including the Bronze Star and the Legion of Merit.

In September 2012, he was promoted to Brigadier General in the Army Reserve while serving a one-year tour of duty in the combat zone in Kabul, Afghanistan. While in Kabul, he was a U.S. Commander and a NATO Commander, and he got to know many Afghan judges, whom he served as an advisor. Those judges, he said, were very conscientious people, but along with prosecutors and defense attorneys, they did their jobs at their peril. Daily they were targets for the enemy. Judge Glanville got to thinking that those of us who take an oath value how important our job is to the citizens we serve. And that made Judge Glanville think of our courts and our country's system of justice. He thought about how our rule of law dictates our governance and makes us a free society. And he wanted to express his appreciation for his brothers and sisters in the law. So at his base in Afghanistan, he had an American flag flown in honor of the Supreme Court of Georgia and one flown for the Court of Appeals. I believe that 100 years from now, these flags will still be cherished by our courts.

Judge Glanville is just one of some 1400 judges in our state. But he represents the high caliber of people serving in our judicial system.

At this time, I ask you to join with me in thanking Judge Glanville, who represents all the great judges of Georgia, for his service to our courts and to our country. Ladies and Gentlemen, I present to you Judge Glanville.

Thank you, Judge Glanville. Thank you, all of our judges. And thank you to the members of the General Assembly for your support of the judiciary and for having me here today to deliver this address.