

State of the Judiciary
Chief Justice Mark E. Recktenwald, Hawaii Supreme Court
Message to the Hawaii Legislature
February 2013, in Honolulu, Hawaii

Aloha. I'm Chief Justice Mark Recktenwald, and I'd like to thank you for joining me for Hawaii's first State of the Judiciary address to be delivered via social media. I deeply appreciate having this opportunity to speak with you.

The State of the Judiciary address traditionally is delivered to the state legislature, and I'd like to welcome those legislators who are watching. I'd like to thank House Speaker Joseph Souki, Senate President Donna Mercado Kim, and the members of the House and Senate for their support of the administration of justice, as well as Governor Abercrombie for his support and cooperation.

The tradition of Hawaii's Chief Justice presenting a report to the legislature has been in place for at least 160 years. This long tradition acknowledges an important fact: although the judiciary, executive and legislature are separate branches of government, we are united by the common purpose of serving the public, and doing so in a way that is open, accountable and transparent. Occasions such as this also help make the judiciary more accessible to the people we serve, which is something we continually strive to do through innovation, efficiency, and improvements in customer service.

We are working toward accomplishing these goals in a number of ways. For example, we recently completed a year-long strategic planning process, where we obtained input from hundreds of court users, employees, and other stakeholders to shape a vision for where we want to be by the year 2020, and for how we want to get there. We have also continued our efforts to convert our courts to electronic case filing, which makes us both more efficient and more accessible to the public, and we recently brought our district court criminal cases online.

And, we've been taking the supreme court out into the community by holding oral arguments at our high schools. We held our first such argument last February at Farrington High School, and then went to Baldwin High School on Maui in December. Prior to the court convening on campus, students had the opportunity to learn about the judicial system and the appellate process, and to participate in or observe a practice argument involving the actual case that was being argued before the Court.

Almost 500 students from seven high schools attended our oral argument at Baldwin. As far as we can tell, this was the first time that the Supreme Court held argument on Maui since 1846, and it certainly was the largest audience I've seen attend an oral argument. Afterward, the members of the court met with students to answer questions, and then joined them for lunch. The response from students and faculty was incredibly positive.

We deeply appreciate the support of the Maui County Bar, the William S. Richardson School of Law, the Hawai'i State Bar Association, and the Kamehameha V Judiciary History Center, which enabled us to provide this unique educational opportunity for so many students. We are excited about this program, and will bring it to other high schools across the state in future years.

Such events are important because they foster understanding of the judiciary's mission of providing equal justice for all. That mission starts in our courtrooms, but it doesn't end there. We resolve cases, but we also help to solve problems — healing families that are being torn apart, making our communities safer, and bringing closure to disputes between our citizens. And finally, it is our obligation to be accountable for the scarce public resources that have been entrusted to us, and to use those resources effectively.

The portion of the state's budget attributable to the judiciary has declined in the last few years and is now only about 2.3%. Our operating budget is about 10% less than it was in 2009. Yet we've been able to accomplish results beyond what might be expected. We've done that through two main strategies: first, by innovating to find new solutions to long-standing challenges, and second, by bringing people together to address those challenges collaboratively.

Let me give you an example. Every week, hundreds of citizens come before our courts who cannot afford a lawyer to represent them in their civil legal cases, including divorces, actions to obtain a restraining order to prevent domestic violence, and foreclosures or collections cases. Here on Oahu, for example, we had more than 4,000 divorce cases filed last year — in nearly 60% of them, neither party had an attorney, and in an additional 26%, only one party had legal counsel.

For a non-lawyer, representing yourself in court can be daunting. Most people are uncertain about where to go, and what is expected of them. Fortunately, we have many individuals in Hawai'i who are volunteering their time and expertise to help ensure that our citizens have meaningful access to the civil legal system. Just over two years ago, a group of about 20 people met in a conference room at the capitol to talk about a new idea -- opening something called self-help centers in our courthouses, where attorneys would volunteer their time to provide information about court procedures to those individuals who could not afford an attorney and who therefore had to represent themselves in court. From that humble beginning, the idea caught fire. One year later — in fall of 2011 — the first such center was opened in our courthouse on Kauai. Since then, we've opened centers in Hilo, Honolulu, Wailuku, and at our family court in Kapolei.

We now have self-help centers operating in every circuit of the state. In two short years, we've gone from an idea being talked about by a small group of people, to a network of centers from Hilo to Lihue providing information and assistance to people whose voices might not otherwise be heard. So far, these centers have helped more than 1,000 people.

The cost to the public? Almost nothing. The judiciary's main contribution has been the rooms used for the centers. Members of the bar have been contributing their time, the Legal Aid Society of Hawai'i and AmeriCorps have provided training and administrative support, and the Hawai'i State Bar Association has provided insurance coverage and supplies. All of these efforts would not have been possible without the support of the Access to Justice Commission, particularly its chair, Judge Daniel Foley, and his predecessor, Justice Simeon Acoba, and all of its members, including legislative representatives Senator Clayton Hee and Representative Della Au Bellati. From its inception in 2008, the Access to Justice Commission has provided sustained focus and leadership and has exceeded even the most optimistic of expectations. Although there is still a long way to go, the opening of these centers is an encouraging step forward.

The judiciary also is innovating and forging partnerships to bring people and resources together to meet other challenges. Our juvenile drug court is a great example: judges, prosecutors, public defenders, probation officers and counselors all work as a team, with one goal in mind: to help these kids choose a drug and alcohol-free path and reach their full potential. At our most recent juvenile drug court graduation ceremony, an 18 year old girl whom I will call Vivian and her mother spoke about how drug court had helped to heal their family. Vivian had started drinking and smoking marijuana at age 12, using meth at 14, and would run away for months at a time. Her mother said that she had nowhere else to turn, that she thought she had lost her Vivian, and believed that Vivian would end up dead on the street.

Drug court was a long road for Vivian, but she made it. She started participating in the Lawakua martial arts program run by Matt Levi, earned a blue belt, completed drug court, obtained her high school diploma, and now has a job and hopes to continue with her college education.

We have many other programs that perform miracles in family court, including Girls Court, which meets the unique needs of teenage girls who come into the juvenile justice system. Since Girls Court was established in 2004, it has produced dramatic results, including 88% fewer law violations, and 89% fewer runaways among its participants. Our seven Girls Court staff members have been in temporary positions since its creation, and we are respectfully asking that the legislature recognize the outstanding results that have been achieved by making these positions permanent. The women's legislative caucus has chosen Girls Court as its featured program this year, and we deeply appreciate their support.

We are also working to ensure that the 30,000 cases that are filed in our family courts annually are resolved promptly and fairly. Despite the challenges posed by budget restrictions and furloughs, we partnered with the family law section here on Oahu to have volunteer attorneys serve as masters to help settle cases or get them positioned for trial, and with the bar on Kauai to establish a divorce mediation program that has resolved scores of cases. And our judges and staff have pulled together to have "adoption days" on Oahu, where as many as 50 families experience of joy of adoption in a single afternoon.

There are common threads that run through all of these efforts -- innovation and partnerships, led by judges and staff who bring people together to come up with new ways to keep families intact when we can, lessen the pain when we can't, and protect our keiki. We deeply appreciate the support we have received from the legislature, including the creation of a new family district court judgeship on Oahu. That position will enable us to assign a third judge to help the two who are presently handling thousands of cases each year in our special division, where judges face a calendar of up to 20 hearings in a morning, including individuals seeking restraining orders against the alleged perpetrators of domestic violence.

We have applied these same principles of innovation and partnerships to our criminal justice system, by asking one key question: is the system keeping us as safe as it possibly can, or are there things we could change to enhance public safety? That's the premise behind the Justice Reinvestment Initiative, which involves all three branches of government working cooperatively to review data from our criminal justice system, to see where it can be made more effective in protecting public safety. That effort has already yielded

substantial results, including legislation enacted last session that will reduce delays in determining whether defendants can safely be released on bail before trial, so we can focus our resources on those defendants who pose the greatest threat to public safety.

JRI reflects a new approach to making informed decisions about the criminal justice system. I'd particularly like to acknowledge Governor Abercrombie for his leadership and commitment in this effort.

JRI is very consistent with work that was already underway in the judiciary. For example, under our HOPE program, defendants on probation receive swift, sure consequences when they test positive for drugs or violate other conditions of probation. With the assistance of the legislature, we've expanded this program to all of our circuits. The program has garnered national and international notice, and variations of it are being employed in 15 different states.

We have been looking for other ways to improve the system to more effectively protect the public. Every year, dozens of people lose their lives in Hawai'i because of drunk drivers — many of whom have prior convictions for operating a vehicle under the influence of an intoxicant, or DUI. We need to enhance our ability to get habitual drunk drivers to face their addiction and get the treatment they need to become clean and sober. We've obtained funding from the National Highway Traffic Safety Administration to launch a pilot project here in Honolulu that addresses that need. In partnership with the University of Hawai'i John A. Burns School of Medicine, Defendants will be provided with case management services that include alcohol and drug testing, and individual and group counseling. We believe this comprehensive approach to addressing the problem of drunk driving will increase public safety.

In addition, we need to recognize that veterans who come into the criminal justice system with substance abuse and/or mental health issues face unique challenges related to their military service. A solution that has proven to be effective across the country is the establishment of veterans treatment courts, where services and intensive supervision are provided through a collaborative effort that involves prosecutors, public defenders, treatment providers and court staff. These courts also provide veterans with peer mentors, who share similar military service experiences. We obtained a federal grant to begin this court on a pilot basis here on Oahu, and I am excited to announce that we accepted the first three veterans into the court earlier this month. The Department of Veterans Affairs has committed to providing our court team with a Veterans Justice Outreach Specialist, as well as a Mentor Coordinator. We are respectfully asking the legislature to provide funding to enable us to expand this program to reach more veterans. This Veterans Treatment Court represents an important step to help those veterans who have gotten off track to get back on course.

I'd also like to mention an essential ingredient of an effective judicial system that is often overlooked — ensuring that our courthouses are safe and secure. We need to be certain that our buildings are up to date and that the sheriffs have the resources they need to protect them. The deputy sheriffs who provide security in our courthouses do a great job, but they are stretched too thin, and so we are supporting a request by the Department of Public Safety for an additional 16 deputy sheriffs statewide to help ensure our courthouses are safe.

We also are respectfully asking for funding to build a new courthouse in Kona. We are currently holding court in three different locations there, in buildings that were not designed for that purpose, and that accordingly present challenges to secure. The need for a new courthouse has been clear for decades. We have done a detailed environmental study, selected a site on state-owned land near the county's civic center, and are moving forward with design work. The time has come to provide Kona with a secure, efficient and modern court facility.

The innovations that I have talked about today would not be possible without the judges and staff of the judiciary, and the hundreds of people who volunteer their time with us. Last fiscal year we had over 900 volunteers, including several who volunteered nearly 2,000 hours. The fact that we have so many individuals willing to give so much of their time highlights a simple fact — that people are passionate about the cause of providing justice in our community. That is a passion that is shared by our judges and staff, who we have called on repeatedly to step up during these difficult times, and who have always met the challenge. I thank them for their dedication.

Finally, as I mentioned earlier, we recently completed a strategic plan, which offers six strategic issues and forty recommended actions for the judiciary. The recommendations include a wide range of initiatives that will continue the judiciary's tradition of providing justice in a way that is effective, efficient, and accessible to those we serve. For example, we will be looking at standardizing court forms, with the goal of simplifying court processes, in particular for those who cannot afford an attorney. We also will be looking at court calendaring procedures and the possibility of permitting parties to appear by phone in certain types of proceedings, to ensure we are using court time, and the public's time, effectively. In addition, we are requesting increased funding for employee training, so that our judiciary workforce is equipped to use new technologies efficiently, and to serve the public as effectively and professionally as possible. The strategic plan is available now on the Judiciary's website, and I hope that you will take the opportunity to view our plans for the future. I'd like to thank the Co-Chairs of the Strategic Planning Committee, Justice James E. Duffy and Judge Lawrence M. Reifurth, as well as the members of the Committee, for all of their hard work in developing such a visionary plan.

In closing, these are promising times for the cause of justice in Hawai'i. We face significant challenges on many fronts, but we can meet those challenges by innovating, by forging partnerships, and by being open and accessible to the people we serve. We are profoundly thankful for the trust that has been placed in us, and for the support that we receive every day from so many people in our community. We will do everything in our power to live up to that trust, and to provide justice for all.

Aloha and mahalo.