



STATE OF THE
JUDICIARY
ADDRESS



CHIEF JUSTICE
MARK MARTIN

justice for all

WEDNESDAY, MARCH 4, 2015
LEGISLATIVE BUILDING
RALEIGH, NORTH CAROLINA



2015 STATE OF THE JUDICIARY ADDRESS
to the
NORTH CAROLINA GENERAL ASSEMBLY
by
CHIEF JUSTICE MARK MARTIN

WEDNESDAY, MARCH 4, 2015, AT 4:00 PM

President Forest, Speaker Moore, President Pro Tem Berger, Members of the General Assembly, my colleagues from the Supreme Court and Court of Appeals, distinguished guests, and the people of North Carolina. It is a great honor to have Governor Pat McCrory with us today.

I am pleased to share that we also have with us this afternoon leaders from our justice system. I would like to recognize a few by name, and respectfully ask that those in the gallery please hold your applause until I have named them all: Chief Bence Hoyle, Chief of Police for the Town of Cornelius and President of the North Carolina Association of Chiefs of Police; Clerk Archie Smith, Clerk of Superior Court for Durham County and President of the North Carolina Conference of Clerks of Superior Court; Kimmel McDiarmid, Official Court Reporter for District 15B, Orange and Chatham Counties, and President of the North Carolina Association of Official Court Reporters; District Attorney Andrew Murray, District Attorney for the 26th Prosecutorial District, Mecklenburg County, and, President-Elect of the North Carolina Conference of District Attorneys; Judge Robert Rader, Chief District Court Judge for the 10th Judicial District, Wake County, and Past-President of the North Carolina Conference of District Court Judges; Magistrate Rudy Locklear, Magistrate for District 16B, Robeson County, and the Magistrate Representative on the State Judicial Council; Sheriff Asa Buck, Carteret County Sheriff and President of the North Carolina Sheriffs' Association; Judge Osmond Smith, Senior Resident Superior Court Judge for District 9A, Person and Caswell Counties, and President of the Conference of Superior Court Judges; Catharine Arrowood, President of the North Carolina Bar Association; and Ron Gibson, President of the North Carolina State Bar. Finally, would all those here today who are currently working in

the justice system please stand so that we can recognize you. Please join me in thanking these justice system leaders for all their hard work. Finally, I especially want to recognize my wife Kym and daughter Susanna.

It is my distinct privilege to renew the tradition of reporting to you on the state of the Judicial Branch of Government. It is particularly meaningful to renew the tradition this year, when we celebrate the 800th anniversary of Magna Carta. As Speaker Pro Tem Stam has so often reminded this body, Magna Carta is foundational to our liberties and form of government, as it was the first governing document to place limits on the power of the English King. In Europe, at the time of our country's independence, judges typically remained in office only if their rulings pleased the Crown. Our founders saw the need for an independent judiciary—a judiciary not left to the control of a monarch but instead a separate and equal branch of government, accountable to the people, as expressed in their Constitution. The founders recognized that the Judicial Branch's solemn duty to preserve the Rule of Law was best achieved in this way. And so on this special occasion, I am reminded of our generation's stewardship of this sacred duty of government—preserving justice for all.

Earlier this morning, thousands of school children across our great State pledged allegiance to the flag and recited the words “with liberty and justice for all.” Those same children are learning—and we hope they are paying attention—that our State has three co-equal branches of government: the Legislative Branch, which is responsible for making our laws; the Executive Branch, which is responsible for executing these laws; and the Judicial Branch, which resolves disputes arising under those laws. And for the Judicial Branch, ensuring “justice for all” is the most important thing that we do.

The Judicial Branch comprises more than 6,000 public servants. Our Unified Court System includes 7 Supreme Court Justices, 15 Court of Appeals Judges, 112 Superior Court Judges, 270 District Court Judges, 100 Clerks of Superior Court, and 44 District Attorneys. The Administrative Office of the Courts provides our elected judges, clerks, prosecutors, and courthouse personnel with assistance in personnel management and compensation, purchase and delivery of equipment and technology systems, and specialized judicial and staff training. In states without a unified court system, these jobs are duplicated in every local jurisdiction.

The Judicial Branch handles just under three million cases each year. We are grateful for the support that this General Assembly has shown for our justice system. This General Assembly's recent Business Court Modernization Act is an excellent example. We know that a stable and predictable legal system is a key driver of economic development in a globally competitive marketplace. As this General Assembly has wisely recognized, strong courts are good for business.

Likewise, in 2011 this General Assembly passed the Justice Reinvestment Act. That legislation was designed to improve public safety and conserve resources. By enacting the Justice Reinvestment Act, the General Assembly has safeguarded public resources, while investing in programs that decrease crime, provide mental health treatment, and strengthen our communities.

In both of these examples, the General Assembly has partnered with the Judicial Branch and other stakeholders to ensure the fair and impartial administration of justice in our courts.

We all know that like a business, the administrative operations of the Judicial Branch must be run efficiently in order to be effective. We understand this, and we fully appreciate that in partnering with the Legislative Branch, the Judicial Branch must be a good steward

of its resources. I want to take a moment to tell you about the justice system's efforts to promote savings in recent years.

When the Great Recession began nearly eight years ago, it placed tremendous strain and pressure upon the General Assembly to keep the budget balanced. Like the Executive Branch and the Legislative Branch, the Judicial Branch did its part. Our operations budget has been reduced significantly, as has our budget for personnel. However, even before the start of the Great Recession, in 2007, North Carolina ranked 49th out of 50 states in terms of per capita spending on the judicial branch. Five years later, in 2012, we ranked 45th out of the 50 states using the same source data as corroborated by the highly-respected National Center for State Courts.

We have eliminated positions and currently have workforce deficits in courthouses across our State. Under the metrics used by the National Center for State Courts, our Judicial Branch is now understaffed by 536 positions. That is approximately 9% of our workforce. It is clear that we are asking our justice system employees to do more with less. Our dedicated Judicial Branch staff has picked up the slack from these vacancies, while their own families' finances are still feeling the strain of economic hardship. I am told that Assistant Clerks and court employees are taking second and even third jobs to make ends meet. Magistrates and assistant clerks of court pitched in to help each other when they did not have enough staff to get the work done. Deputy Sheriffs and security guards also lent a hand while vigilantly protecting our courthouses from those who would do us harm. Judicial officials and employees across our State have carried out countless acts of diligence, compassion, and hard work that so often went unpublicized during these challenging economic times. We will continue to do our part to manage expenses.

In response to the Recession, not only did we lower expenditures through workforce reductions, we also re-engineered our operations to capture efficiencies. For example, we improved our centralized procurement system for statewide supply purchases and deliveries to generate \$350,000 in annual cost savings. In addition, in 2007 the Administrative Office of the Courts moved to a leased commercial office facility. Prior to this, the AOC was scattered in seven different locations. In 2009 with the Legislature's support, the AOC was able to buy this property during the Recession. Purchasing this facility saved taxpayers \$13 million over the life of the lease that was in place at the time.

We also effectively used technology to create operational efficiencies. Specifically, we have launched web technologies and browser-based systems to communicate with our employees who are distributed among all 100 counties throughout the State. Web-based solutions are also used to recruit employees, provide mandatory training, facilitate new employee orientation, and manage transactional business such as paying traffic tickets online. We are committed to continuing our efforts to find efficiencies in these areas.

Not only did we cut costs, find efficiencies, and go the extra mile to cover staffing shortages, we continued to find innovative ways to fulfill our mandate to deliver justice. For instance, we now have two Veterans Treatment Courts serving those who have paid the price to protect our freedom. Governor McCrory, we were all very pleased to hear the positive comments in your State of the State address about our Veterans Courts in Harnett and Cumberland Counties. Some of those who have served this nation find themselves involved with the legal system for minor offenses, and Veterans Courts play a vital role in helping them to choose the path of rehabilitation instead of recidivism, ensuring that men and women across this State who have served our country have the resources they need to thrive as civilians.

Specialty courts such as the Veterans Treatment Courts enable us to do more with less. Along with drug courts, family courts, mental health courts, and sobriety courts, our specialty courts have enabled Judicial Branch personnel to administer large numbers of cases while ensuring that people in crisis receive the help that they need. For example, in 1999, the first family courts were established by the General Assembly. Now, family courts are operating in a fourth of the state, providing effective case management to almost half of the State's citizens. The median age of a pending domestic case in a Family Court District on December 31, 2014 was 113 days as compared to 392 days in non-Family Court Districts. Family Courts are an example of specialty courts that are working to process cases through the court system in a timely manner, while helping bring closure and stability to families.

Our courts in Alamance County offer another prime example of efficiency through innovation. That Judicial District offers a unique option for domestic violence victims. They can electronically file for a protective order and have a remote video hearing with a judge, all from a safe and secure location. Protective orders are then sent electronically to the Sheriff for service on the alleged abuser. This project has already won two national public sector innovation awards.

Magistrates across the State are also using remote video technology to save time and costs when issuing search warrants or providing the initial appearance to a criminal defendant. Traditionally these exchanges required law enforcement officers and criminal defendants to appear in person before a magistrate. Now, over one hundred law enforcement agencies in more than forty counties are using technology to facilitate these proceedings. Law enforcement officers may even apply for search warrants using the laptop in their patrol vehicle. If the search warrant is approved, it can be processed electronically in the NCAWARE system, and the search can proceed. In rural counties where a magistrate is on-call for a 24-hour shift, this technology may eliminate the need to travel to a courthouse. Investments in this type of technology pay off many times over, especially for law enforcement officers who have more time to ensure the safety of our communities.

An initiative that we will soon be undertaking involves civics education. Our citizens must understand the vital role that courts perform in protecting our democracy. This dialogue must begin in our schools with our youngest citizens. Thus, I have asked two of my colleagues on the Supreme Court to work with the State Board of Education and the Department of Public Instruction to enhance our State's civics education curriculum. In addition, we will develop a speakers bureau of judges and attorneys who can talk to community groups and school classes about the importance of civic values. In order to ensure that young people understand the fundamental principles of our society, this work must continue.

As our economy improves, we are also exploring ways to bring about innovation in electronic filing to further invest in the efficient administration of justice. How many of us have children or grandchildren who cannot function without their smartphones? Many of us now fall into that category as well. As a judge at the Court of Appeals and now as a justice at the Supreme Court, I have seen firsthand the benefits of technology. We were national leaders when our Supreme Court instituted an electronic filing system almost twenty years ago. Our business courts have also benefited from e-filing. Recently, our neighbors to the north and south, Virginia and South Carolina, began moving forward with statewide e-filing in their trial courts.

Now, we are developing a master plan for instituting e-filing statewide. In order to innovate in a prudent manner, we will prepare a strategic action plan outlining how to

implement e-filing and virtual courtroom technology in all 100 county courthouses. We will be deliberate in our approach, and our plans will benefit from technological expertise in the private sector, from studying the best practices of other states that have been administering e-filing systems for several years, and from practical insights of the numerous stakeholders within our own system.

In sum, we have all learned to “do more with less.” But while these efforts at efficiency and innovation in our justice system have helped ease the crisis, they are not enough. Many of you are business owners and understand that a business cannot bring itself out of the red through efficiencies and innovation alone; it needs investment if it is to succeed. The same is true for the Judicial Branch.

We are now approaching a challenging phase in terms of the Judicial Branch’s operational needs. Our operations budget is under tremendous stress, and we have been forced to rely on money available from vacant positions to cover shortfalls for basic functions such as payments to jurors, court reporters, and expert witnesses. If we cannot pay for these basic services, we cannot conduct timely trials. The resulting delays erode public trust and confidence in the integrity of the justice system, because they impair our ability to promptly apprehend offenders and see that they are tried and appropriately sentenced. We all know that “justice delayed is justice denied,” and we are confronting a situation where the justice system is unable to promptly serve those who turn to us for help.

The justice system is in many ways a complex chain, and we all know that a chain is only as strong as its weakest link. In order to bring a felony criminal case to trial, among other things, a grand jury indictment must be returned and often times lab results must be obtained. I am told that delays of more than a year have become the norm, rather than the exception, for lab results of blood-alcohol tests in DWI cases and DNA analysis in serious felony cases. These delays undermine the ability of our criminal justice system to deter crime and do justice. Even when cases proceed after these delays, many never go to trial because defendants enter into agreements with the State, where the defendant pleads guilty to a lesser offense in order for the State to avoid expenses associated with trials. Especially when resources are limited, this strategy allows prosecutors to cope with their heavy caseloads. If a case makes it to trial, a jury has to be selected and a court reporter scheduled. Defendants who are found guilty can appeal to the Court of Appeals and also seek further review in our Supreme Court. There are many steps in the process from the time a criminal defendant is arrested until the time that the case is finally resolved. The entire system must work correctly from start to finish, and this requires adequate resources.

Our State Constitution guarantees that courts shall be open and that justice shall be administered without delay. Think about what it will mean if the people of this great State cannot rely on us to promptly administer justice. How can we explain that to the victims of violent crime and their families? How can we explain that to the small-business owners who need a contract dispute resolved in order to keep their store open and avoid bankruptcy? How can we explain that to the family that lost a loved one because of a drunk driver? We must be able to provide them with justice.

In order to do this, we need the help of this General Assembly. We all know how important education is to the progress of this great State. By way of illustration, one county’s annual budget for the public school system in Fiscal Year 2014-15 is nearly \$1.5 billion. The entire justice system budget, for all 100 counties, is only \$464 million. This means that the entire Judicial Branch budget is less than one-third of the Wake County Public School System’s budget. The funding-related problems we are now facing have been decades in the

making. It is not the fault of any particular General Assembly. Over the past twenty-five years, our State's commitment to the judiciary has not exceeded 3% of the state budget. That's less than 3% for a co-equal branch of government. If we are to right this ship, the Judicial Branch will need sufficient investment from this General Assembly to ensure that we adequately fund the basic operations of the court system, provide modest pay increases for our personnel, and move forward with critical technology infrastructure to support the rapidly-increasing demands on our county courthouses across the State. I look forward to working with the General Assembly on the details of this budgetary request.

As I have mentioned by way of the earlier examples, the Judicial Branch will be a good steward of this investment. Indeed, to further our accountability to this body and to the general public, this spring I will convene a multi-disciplinary commission to undertake a comprehensive evaluation of our justice system, and to make recommendations for how we can strengthen our courts within the existing administrative framework. We will be inviting participation from the General Assembly. The commission will also include key leaders from the private sector and stakeholders from within our justice system.

This multi-disciplinary commission will continue to ensure that the Judicial Branch conserves its valuable resources and will make recommendations for how we can strengthen our courts to the greatest extent possible through re-engineering and capturing efficiencies. My sincere hope is that the work of the commission will be available for the start of the 2017 Long Session, and that it will provide a road map to assist the General Assembly in its efforts to ensure the integrity of our justice system.

There will come a day when our time in public service will be over. Our legacy—good or bad—will be part of history. I hope there will be many achievements of which we will be proud and for which we will be remembered. Our ancestors paid the price so that we would have the benefit of the best justice system in the world. Let's work together to ensure that we do our part, that we keep our communities safe, and that we preserve the integrity of our courts.

Thank you again for inviting me to speak with you today. Having the Chief Justice deliver a State of the Judiciary Address is an important tradition in North Carolina. I look forward to partnering with this General Assembly to ensure that our justice system has the resources to ensure "justice for all."

Thank you, and may God richly bless this State that we love.



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