



Supreme Court — THE JUDICIARY • STATE OF HAWAII

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CHIEF JUSTICE

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State of the Judiciary
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President Kim, Speaker Souki, Governor and Mrs. Ige, Lieutenant Governor Tsutsui, members of the Senate and House, Governor and Mrs. Ariyoshi, Governor and Mrs. Waihe'e, Governor and Mrs. Cayetano, Chief Justice Moon, fellow justices, judges, and judiciary staff, members of the Consular Corps, members of the Royal Order of Kamehameha, distinguished guests and friends, good morning and aloha.

On behalf of the Hawai'i State Judiciary, I thank the legislature for giving me this opportunity to report to you and to the people of Hawai'i. We enjoy a strong working relationship with the Senate and House, and we appreciate your support for the administration of justice. I would like to send a special aloha to Representative Mele Carroll, who is unable to join us today, and we all wish her the best.

I also want to extend our appreciation to our many partners in the executive branch. Governor Ige knows our operations well from his decades of service at the Legislature, and we share his commitment to making government more efficient. We are excited to work with him, Lt. Governor Tsutsui, and their outstanding new team in the years ahead.

The mission of the judiciary is to deliver justice for all. We do that in many different ways, both in the courtroom and in the community. We ensure that people are treated fairly, whatever their background. We uphold the rights and protections of the constitution, even when doing so may be unpopular. We provide a place where people can peacefully

resolve their disputes, as well as opportunities for them to move forward from the circumstances that brought them before the courts. And we are often called upon to help address deep-rooted social problems, from substance abuse to domestic violence.

There is nothing more fundamental to our democratic system of government than our citizens' trust in our courts. As chief justice, I see the power of that trust every day, and I'll share two examples with you. Just over two years ago, thousands of people gathered in the courtyard just outside this chamber to bid aloha to the late Senator Daniel K. Inouye. Several months later, Mrs. Irene Inouye visited my office, and presented the judiciary with a very precious gift: the Senator's original 1953 law license, which is now on display at the Judiciary History Center. Like many of his fellow soldiers in the 442nd Regimental Combat Team, the 100th Infantry Battalion, and the Military Intelligence Service, the Senator returned from war with a passionate commitment to building a more equal and just society. Many of those soldiers chose a career in the law as a path to that end. Of course the great irony is that the very legal system that they chose to join as officers of the court had just failed them, by sanctioning the internment of Japanese-Americans. But rather than despair or disengage, they chose to commit themselves to making the legal system live up to its promise of fair treatment and equal justice.

Senator Inouye received his Hawai'i law license on July 24, 1953. There was another person admitted to the Hawai'i bar that same day who used her law license to fight unequal and unfair treatment in our society: Representative Patsy Takemoto Mink. She recently received our nation's highest civilian honor, the Presidential Medal of Freedom. She too had been subjected to discrimination, both because of her race and because of her gender. And she too, chose to put her faith in the system rather than turn her back to it.

The passion for equality and justice that inspired Senator Inouye and Representative Mink is shared by everyone at the judiciary, and I'd like to thank them for their dedication and service. This same passion is also shared by the many people throughout our community who help us achieve our mission every day. In 2014, more than 1,300 people volunteered their time at the judiciary--that's an extraordinary outpouring of support. Many others assist us by serving on our commissions, or through organizations such

as the American Judicature Society. Quite simply, we cannot do what we do without them.

Today, I will highlight four of our most significant efforts to provide justice for all in our community. I will discuss our initiatives to ensure that people's voices are heard in our courtrooms, even if they can't afford a lawyer, how we are working to find more cost-effective ways to keep our community safe, how we are protecting our children and families when they are in crisis, and our plans to meet the challenges of the future.

I. Access to Justice

I will begin with access to justice. Our judicial system exists to provide equal justice for all, but that ideal is compromised if people can't meaningfully participate. When that happens, some of the most serious legal problems that a person can face--whether they can stay in their homes or face eviction, whether they can see their children after a divorce, or whether they can be protected from domestic violence--are decided without their voices being fully heard. That's an outcome that we simply cannot accept.

In Hawai'i, there are thousands of people who must represent themselves in civil cases in our courts each year because they cannot afford an attorney. Here on O'ahu, we had almost 4,000 divorce cases filed in 2014--in nearly 65% of them, neither party had an attorney. Of the landlord-tenant claims filed in 2014 throughout the state, at least one of the parties did not have an attorney in 96% of the cases.

A key milestone in our efforts to address these challenges has been the establishment of the Access to Justice Commission. The Commission has achieved amazing results with extremely limited resources. The Commission's web of support and stakeholders continues to grow and build momentum as more people have come to understand the need, and how they can help meet it.

One great example of the Commission's work is the opening of self-help centers in our courthouses. Volunteer attorneys provide information at the centers to individuals who are representing themselves in civil legal cases. For a lay person, civil litigation can be daunting, with requirements that are not always intuitive. The information that people receive at the centers enables them to more effectively tell their side of the story. We opened the first such center on

Kaua'i in 2011, and now have six centers operating, in every circuit in the state. More than 7,600 people have been assisted, at almost no cost to the public.

We're also using technology to reach people who might not be able to visit these brick and mortar centers. The judiciary partnered with the Legal Aid Society of Hawai'i to develop interactive software that asks the user plain-language questions about their case, and then utilizes the responses to prepare the most commonly-used legal forms. The software is now available at workstations in six courthouses, and on our website.

We are also extending our outreach into the community--in particular, to the public libraries where so many of our citizens go when they need information. The software is now available in 50 libraries statewide, on almost 1,000 computers. We are very excited about this new partnership, and we are already seeing a significant spike in usage of the software. In just a few months, more than 2,500 people have used it.

With the help of the legislature, we have also made great strides in addressing other challenges, from increasing support for our legal services providers whose attorneys and volunteers help thousands of people each year, to meeting the needs of court users who do not speak English as their first language. We now offer interpretation services to all court users, at no cost, in every type of case.

What we're doing is important, and it's being noticed across the country. The National Center for Access to Justice recently completed an independent study of each state justice system across the country. Hawai'i was ranked among the top five for expanding access to justice. We were rated number one for providing services to litigants who represent themselves, and tied for first in providing support for people with disabilities. These are results that we can all be proud of.

I extend my heartfelt appreciation to everyone who has worked towards the mission of providing justice for all in Hawai'i. We have with us here today many people and organizations who have been instrumental in that effort, including members of the Access to Justice Commission, led by chair Judge Daniel Foley and his predecessor Justice Simeon Acoba; the Hawai'i State Bar Association and county

bar associations; the William S. Richardson School of Law; the Legal Aid Society of Hawai'i and other legal services providers; and the Hawai'i State Public Library. We also have many individual attorneys who generously volunteer their time at our self-help centers and elsewhere in our community. There is much work left to be done, but we've come a long way thanks to all of these individuals and organizations. Can you please join me in acknowledging them?

II. Enhancing Public Safety

The second issue that I'd like to discuss is enhancing public safety by making our criminal justice system work more effectively. This is another area where Hawai'i has been leading nationally, through programs such as HOPE probation, which was founded by Judge Steven Alm. HOPE is based on a simple premise: when defendants who are on probation violate the rules that the court sets for them, they must face swift and certain consequences. The results have been dramatic. After ten years of experience with HOPE, research has shown that individuals who participated are 20% less likely to be arrested for new crimes. This is a huge impact, in terms of lives rebuilt for the participants, suffering avoided by the potential victims of crime, and money saved by the taxpayers.

We are looking for new ways to apply the principles developed in HOPE. A pilot project is underway to apply the same HOPE strategies to defendants who have been charged with crimes and released on conditions prior to their trials. By having defendants confront their drug use or other challenges earlier in the process, we can increase their chances of success and protect the community.

As important as it is to have the structure that a program like HOPE provides, we cannot lose sight of the fact that each defendant is an individual. To help them move in a new direction, we have to be able to reach out to them as individuals. Nowhere is this more evident than in our Veterans Treatment Court. The court is designed to meet the challenges faced by those who have defended our freedoms, but have had difficulty readjusting to civilian life and then find themselves in the criminal justice system. This court was started on O'ahu two years ago by Judge Edward Kubo, and has recently expanded to the Big Island, thanks to the leadership of Judges Ronald Ibarra and Greg Nakamura.

A key element of the court is mentoring by fellow veterans, who can help lead them through this one additional battle.

With us today is retired U.S. Navy Petty Officer Dastin Hernandez and his wife Lauren. He has volunteered with the program since it started, and is currently mentoring two veterans. The team of volunteer mentors work with the veterans on a daily basis to listen, provide guidance, and support them; from driving them to their next appointment to getting them housing or the VA benefits they've earned. Petty Officer Hernandez says he volunteers because he was taught in the military to never leave anyone behind. Petty Officer Hernandez, would you please stand, so that we can thank you for your service to this country and for your continued service to your fellow veterans.

Programs such as the Veterans Treatment Court and HOPE are important initiatives. But we also need to step back and take a critical look at the system as a whole. We must ask one fundamental question: are we as safe as we can be, given the limited resources at our disposal, or can we do better?

III. Protecting Hawaii's Children and Families

Here in Hawai'i, the executive, legislative, and judicial branches came together to form the Justice Reinvestment Initiative to consider this important question. Governor Abercrombie's administration strongly supported that effort, and the legislature passed a comprehensive package of reforms in 2012. Those reforms put more resources into drug treatment and other rehabilitation programs, gave judges more discretion in sentencing, and required prisoners to pay increased restitution to their victims. We are working with the executive branch to implement these reforms, and will continue to look for other ways to make our community as safe as possible.

We also recently partnered with the legislative and executive branches to take a hard look at the results we have achieved in the juvenile justice system. This is another area where Hawai'i has been innovating, by developing alternatives to detention for our young people who violate the law. Reform legislation was passed last session that enables us to continue those efforts by investing more resources in rehabilitation and prevention.

Another example of innovation is the Girls Court program. Girls Court was started here on O'ahu by Judge Karen Radius, and will be expanding to Kaua'i next month, thanks to the leadership of Judges Trudy Senda and Randal Valenciano. The purpose of Girls Court is to reach young women who are at a crossroads in their lives, to help them break the cycle of destructive behavior. I attended a Girls Court graduation ceremony and learned of one young woman's remarkable turnaround. She was bright and full of potential, but had run away from home repeatedly and gotten involved with drugs. After months of intensive rehabilitation, mentoring from strong female role models, and family counseling, she got her GED, a full-time job, and stopped violating the law. Her mother wept that day in Girls Court. She said she thought her daughter was going to die on the streets, and thanked the court for bringing her back.

Juvenile justice is part of our family court, which is the third area I'd like to focus on today. Family court has a profound impact on our community. In the last year, our family courts handled more than 10,000 divorce cases, more than 2,000 cases involving alleged abuse or neglect of children, more than 7,500 cases involving juvenile offenders, and almost 6,000 cases involving domestic violence.

Those are staggering numbers, but they only tell part of the story. For example, we literally have children who come to the court's attention at birth, because their mothers were abusing drugs or alcohol while they were pregnant. Our Zero-to-Three Court, as the name suggests, is designed to meet the unique needs of infants and toddlers whose parents are suspected of abuse or neglect. Research has shown that time is of the essence in these cases because the children are developing so quickly. Our Zero-to-Three Court was established several years ago with funding from grants, but those funds are coming to an end, and we will be respectfully asking the legislature to consider funding it on a permanent basis.

At the other end of the spectrum, we are also focusing on the needs of kids who are "aging-out" of foster care at age 18 without ever having received a permanent placement with a new family. We have established a permanency court in the first circuit to provide special assistance to these children, and are also participating in the Imua Kakou program, which was developed in collaboration with the Department of Human Services, with the support of the

Legislature. The program makes extended foster care services available to many former foster youth beyond their 18th birthday.

Another area where family court can make a huge difference is when families go through the trauma of divorce. Our family courts seek to minimize the impact in many ways. Our Kids First program provides group support and counseling to kids whose parents are going through divorce, and in 2014 alone, reached more than 6,000 people.

In sum, we are continuing to find meaningful ways to take care of Hawaii's children and families when they are at their most vulnerable. We have many partners who help us in that effort. We thank those agencies who we work with on issues such as preventing domestic violence and child abuse, as well as the Legislature, which has provided additional funding for those vital programs.

IV. Preparing for the Future

Finally, I'd like to focus on the challenges of the future and how we can evolve to meet them, while remaining true to the values that make Hawai'i unique.

In partnership with the Hawai'i State Bar Association, we have been working to find ways to make litigation more efficient. Over the past three years, the HSBA has sponsored bench-bar conferences that brought hundreds of lawyers from across the state to meet with our chief judges and court administrators. These conferences have led to some significant innovations, such as making it easier for attorneys to appear by telephone or videoconference in lieu of traveling to court.

We're also encouraging litigants to use mediation, so that they can try to resolve their conflicts on their own terms, at less cost. In the past year, over 7,500 individuals utilized our mediation services, and in one survey, more than 90% said they would recommend mediation to others. One great benefit of mediation is speed. From the time the parties agreed to mediate, it was an average of only ten days before they were sitting down to resolve their dispute. We have new mediation programs underway, including a divorce mediation program on Kaua'i and a paternity mediation pilot project on O'ahu. We are also seeking to augment our appellate mediation program.

In addition, we are implementing our strategic plan, which provides us with a roadmap for the next five years. The plan's objectives range from improving our services through the use of technology, to increasing staff training opportunities and improving our infrastructure.

And we are establishing the new environmental court. This will be only the second statewide environmental court in the United States. It is a complex undertaking since it involves both civil and criminal cases, in both our circuit and district courts. My colleague Justice Michael Wilson has been working with the community and other government agencies to ensure that this undertaking is truly collaborative, and we will have the court up and running as scheduled on July 1st.

Improving infrastructure is a key component to building for our future. Currently in West Hawai'i, court proceedings are being held in three different locations, in buildings that were not designed as courthouses, which in turn has led to severe security, logistical, and operational problems.

To address these concerns, we have proposed building a centralized courthouse in Kona. We thank the legislature for committing \$35 million thus far to fund construction. This session, we will be respectfully seeking the remaining \$55 million needed to build the courthouse. We believe that the time has come to provide the residents of West Hawai'i with a safe and secure courthouse that can meet the needs of this growing community.

Lastly, we have been investing in our future generations through civics education. We launched the Courts in the Community outreach program in 2012, which gives high school students the opportunity to go beyond textbooks, and experience an actual Supreme Court oral argument in person. Volunteer attorneys help to teach the students about the judicial system and the case, and conduct a practice oral argument with the students acting as justices and counsel. By the time the Supreme Court arrives on campus, the students know the facts and the law, and they are engaged listeners. After the argument, they have the opportunity to participate in question and answer sessions, first with the attorneys, and then with members of the court.

These exchanges are exciting, both for the court, and for the students. When we visited Baldwin High School on Maui, my colleague Justice Sabrina McKenna passionately spoke to

the students about how Representative Mink, who was born and raised on Maui, had opened doors for her and countless other women through the passage of Title IX--and the students broke into cheers.

We have many partners who assist us with this program: the attorneys from the HSBA and county bar associations who visit the classrooms; the Hawai'i State Bar Foundation, which provides lunch and buses for the students; and law students from the William S. Richardson School of Law, who work with our Judiciary History Center to develop the curriculum.

In total, nearly 1,500 students from 28 schools have participated in this unique opportunity to see the Hawai'i Supreme Court in action, and we are looking forward to holding two oral arguments each school year going forward. To date, we have convened the court at Farrington and Mililani high schools on O'ahu, at Baldwin on Maui, and at UH-Hilo and Kealahou on the Big Island; and we are headed to Kaua'i this year. We have with us today from Waiākea High School, which hosted us in Hilo, Ms. Donna Tanabe and Student Body President Katelyn Shirai; and from Mililani High School, our most recent host, Principal Fred Murphy, Lt. Col. Timothy Schiller, Dr. Amy Perruso, and students from two of Dr. Perruso's classes. If these outstanding students, teachers, and administrators would please stand, I'd like us all to thank them for their commitment to real life civic education.

We have received enthusiastic comments from the students who attend these arguments, many of whom have suggested that they would consider careers as attorneys as a result. Some have noted that the same questions that they raised during their practice oral arguments were asked by justices during the actual argument. Others have observed how rigorous and fair the process is, and one expressed surprise to me that the justices asked tough questions to the government attorney in a criminal case.

To me, that last comment sums up the rule of law better than any textbook could. It doesn't matter who you are, or whom you represent: when you come before the courts of this state, you will get a fair shake.

And that is the foundation of everything we do at the judiciary.

I'd like to thank the more than 1,800 justices, judges, and judiciary staff who put their hearts and souls into making equal justice for all a reality each and every day, as well as all of our volunteers and partners in the community and the other branches of government who assist us in that undertaking. And once again, I extend my deep appreciation to the Senate and the House for giving me this opportunity today.

Aloha, and mahalo.