

State of the Judiciary Address  
Chief Judge Robert M. Bell, Maryland Court of Appeals  
Message to the Maryland General Assembly  
January 26, 1999, in Annapolis, Maryland

Governor Glendening, Lieutenant Governor Townsend, President Miller, Speaker Taylor, Ladies and Gentlemen of the 1999 General Assembly, Attorney General Curran, distinguished guests, my fellow Marylanders all.

Thank you for inviting me to address you on behalf of the judicial branch of government. Delivering a State of the Judiciary Address serves at least two (2) important purposes. The first, and the most obvious, is the opportunity it affords the Judiciary to inform you of the state of the judicial branch, to report what has occurred in the Judiciary since the last such address and to share with this Body and with the Governor its vision and agenda. The second, equally important, is symbolic, it reminds us that the Judicial Branch of Government is constitutionally independent, not just another statutory agency and, at the same time, demonstrates and, indeed, underscores, the practical interrelationship of the Judiciary with the other two Branches. It is for both of these reasons that I have determined to break tradition and, with your concurrence, address you each year, rather than every other year.

Two years ago, when I last addressed you, I announced that, while not perfect, [the Maryland Judiciary] is in excellent functional condition. That continues to be the case. The most critical resources of the Judiciary, as is true of any institution that serves the public, are its human resources. Governor Glendening has continued to appoint outstanding and dedicated women and men to every level of court. Consequently, we continue to be blessed to have people-ing our courts, some of this nation's most respected, competent, and hardworking judges, supported by dedicated, hardworking, and knowledgeable employees. In addition to appointing highly qualified persons to judgeships, Governor Glendening has, by his appointments, ensured that the Judiciary reflects the diversity of the "one Maryland," to which we all aspire. This is relevant and significant in connection with the public's perception of the Judiciary. Maryland's Judiciary is poised, well prepared to enter, and meet the challenges of, the 21st Century.

Speaking of the new millennium, I am pleased to report that the Judicial Information Systems staff is slated to achieve Year 2000 compliance by July 1999. Moreover, the Judiciary is an active participant in the state-wide Y2K compliance efforts.

Before proceeding any further, permit me to acknowledge the presence of my esteemed colleagues. In transcending order of seniority, they are: the Honorable John C. Eldridge of Anne Arundel County; the Honorable Lawrence F. Rodowsky of Baltimore City; the Honorable Howard S. Chasanow of Prince George's County; the Honorable Irma S. Raker of Montgomery County; the Honorable Alan M. Wilner of Baltimore County, and the Honorable Dale R. Cathell of Worcester County. I am truly fortunate to have such talented and capable jurists and fine human beings as colleagues. They have all been helpful and supportive, quick to offer advice whenever it has been requested and whenever it should have been, but was not.

Two colleagues deserve special mention. Our senior judge, Judge Eldridge, celebrated on January 7, 1999, twenty-five years of exemplary service on the Court of Appeals, which a reliable source—Judge Eldridge—tells me makes him the longest serving member of this Court in this Century.

It is with considerable regret that I inform you that this State of the Judiciary Address is the last one that Judge Chasanow will attend as a member of this Court. He has advised the Court that he will be retiring at the end of this Court term after nine (9) years on the Court. He is, and has been throughout his tenure, a valuable member of the Court who will be sorely missed; while we wish him well, his retirement will leave a void that will not be filled easily. While a member of the Court, Judge Chasanow authored 215 opinions—175 for the Court, 19 dissents, and 21 concurrences the best of which were written, or so it seems, when I was on the opposite side of the issue. In addition, Judge Chasanow wrote three majority opinions while a member of the Circuit Court for Prince George's County and specially assigned to this Court. Evident in all of Judge Chasanow's opinions are his passion for, and dedication to, the law, his considerable intellect and his understanding and respect for the legal process. I repeat, he will be missed.

I wish also to acknowledge the presence of the Judiciary's leadership team. They are: Joseph F. Murphy, Jr., Chief Judge of the Court of Special Appeals, Judge Paul H. Weinstein, Chair of the Conference of Circuit Judges, and Martha F. Rasin, Chief Judge of the District Court of Maryland.

Judge Murphy and Judge Rasin were introduced to you two years ago. At that time, they were newly appointed heads of their respective courts, filling admirably the huge shoes of their esteemed predecessors. They continue to do so, in the process placing their own unique gloss on the court and making positive changes.

Still doing double duty as Chair of the Rules Committee, Judge Murphy has demystified the appellate process for both the bar and the trial bench by, respectively, requiring that the authors of all opinions of the Court of Special Appeals be identified and by inviting more trial judges, District and circuit, to sit on the appellate court.

Long a model for trial courts of limited jurisdiction in other states, the District Court's high reputation for service to the public continues under Judge Rasin's leadership. Consistent with the Judiciary's commitment to providing access to all, Judge Rasin and her staff are providing clerks specially trained to handle domestic violence cases, forms that are easily understood, automated records accessible by computer 24 hours a day, an 800 number that allows a caller to find out the date, time and place of a traffic case anywhere in Maryland, and for the payment of tickets by credit card over the telephone.

Judge Weinstein, Circuit Administrative Judge of the Sixth Judicial Circuit, consisting of Frederick and Montgomery Counties, long has been a member of, and active in, the Conference of Circuit Judges. The Conference, recently revitalized, is charged with working with the Chief Judge of the Court of Appeals, the Court of Appeals and other judicial branch agencies in all circuit court matters to the end of enhancing the administration of justice in those courts. I look forward to working with Judge Weinstein on the development of programs and practices that will enhance the administration of the circuit courts, in determining and acquiring their resource needs, and on legislation affecting the circuit courts and the Judiciary in general.

Two years ago, I acknowledged that the Maryland Judiciary, like courts in other states and government in general, was suffering a crisis of confidence, that there was a gap between the public's perception of the courts and their performance and the reality of what courts do and how they actually perform. I identified three things that the courts could do to bridge that gap and acquire the public's trust and confidence: 1) engage in greater public outreach, consisting of

educating the public as to its structure, function, and so forth, and better communication with respect to what we are doing and why, 2) provide more and better services for court users, and 3) make the courts more accessible to those who are unable to afford lawyers or lengthy proceedings.

The Maryland Judiciary was, two years ago, and is today, committed to regaining the trust and confidence of the people of the State of Maryland. Toward this end, we have pursued public outreach beyond the courthouse walls to show Marylanders that the Judiciary is accessible, affordable and fair. This effort began in 1997, shortly after I spoke with you. In June of that year, pursuant to recommendation of the Public Awareness Committee of the Maryland Judicial Conference, the Court Information Office was established. Responsible for planning, designing and executing programs to inform and educate the public and Judiciary employees, about Judiciary services, programs and activities, as well as public relations, the Court Information Office is headed by Ms. Sally Rankin. She has brought energy, commitment, and creativity to the office and her efforts, and those of her staff, have made the Judiciary's outreach initiative not simply a goal, but a reality. As a result, we have been successfully informing and involving the public in the court system and its services.

The Court Information Office has initiated and successfully implemented a number of projects. Notable among them are a Speakers Bureau, through which community and other groups are able to invite judges and other court officials to address them on various court related topics and a quarterly newsletter entitled, Justice Matters, to improve our internal communication with respect to court activities, programs, and events. The office was instrumental in putting together the first Bench-Bar-Media Conference, bringing together judges, lawyers and journalists, to promote understanding among these often adversarial groups. It also contributed, in the process, to the development of an excellent resource, The Journalist's Guide to Maryland's Legal System. In addition, to better understand our citizens' perceptions of the court system, the Judiciary conducted a statewide telephone survey to get their views about the legal system in Maryland. Although preliminary results are in and are encouraging, it is likely that additional telephone surveys and citizen fora will be conducted as we build our blueprint for the future.

Other projects are currently underway, but not yet complete. One such project, co-sponsored by the Maryland State Bar Association, involves the production of brochures on every courthouse in Maryland to give citizens an overview of the court system and pertinent information about their local courts. Also in development, using grant-funded equipment and volunteer local talent, is a series of cable access television shows to educate the general public about specific court-related topics. The first show will explain the importance of jury service and is expected to be ready for broadcast on public, educational, and governmental (PEG) channels statewide in the next several weeks.

The Judiciary has also sought to provide more services to court users and to improve, where possible, those that we already offer. In that regard, with the adoption of the family division rules by the Court of Appeals on January 13, 1998, effective July 1, 1998, we have established family divisions in each of the five largest jurisdictions and, with your help, provided family services, including a family services coordinator, in every jurisdiction.

The impetus behind family courts and family divisions, concepts that have been the subject of serious discussion in Maryland since at least 1974, was fueled at least in part by the desire of the proponents to insure that family, domestic, and juvenile matters are accorded the degree of

seriousness they deserve, at least on a par with other civil and criminal cases, and by the belief that creating such courts or divisions would improve the manner in which such cases are processed in our courts, thus benefitting the users of those courts and providing for them swifter, and hopefully, a higher quality of, justice. The Ad Hoc Committee on Family Divisions, composed of circuit administrative judges, court administrators, clerks of court, and family services staff from each family division court and co-chaired by Judge Weinstein and Judge Clayton Greene, Circuit Administrative Judge for the Fifth Judicial Circuit, was formed to advise me on the proposed family division rule and to guide implementation of family divisions in Maryland. It now is in the process of considering how best to achieve those goals. In dialogue with judges and practitioners, it hopes to reach consensus on what is minimally required within the family divisions to meet the needs and demands of family law practice in the State. The Ad Hoc Committee currently is addressing the extent to which the family division operations and personnel the rule mandates the kinds of cases to be heard ought to be uniform, a matter that we are aware is of some concern to you. To date, the Ad Hoc Committee has set a uniform term for family division judges, a minimum of one year and 75% of their time devoted to family matters. Still on the table for decision are proposals to achieve greater uniformity among judicial masters and to adopt a uniform case management system. The former proposal is contained in a report by the Ad Hoc Committee to Study the Master System, a copy of which has been provided to you.

With the establishment of family divisions in the circuit courts, it was inevitable that jurisdictional and service-related issues would arise between the District Court and the circuit courts in connection with domestic violence cases, over which the courts share jurisdiction. This was especially so given the fact that funds were appropriated to provide services in the family divisions, while no such funds were provided to the District Court. To address the issues thus generated, the Ad Hoc Committee on Domestic Violence was formed. Chaired by Judge Emory Plitt of the District Court of Maryland, sitting in Harford County, the Committee has been asked to identify the relevant problem areas and to make recommendations on appropriate improvements to the Ad Hoc Committee on Family Divisions and to me. The Committee is now in the information gathering stage.

In recognition of the special role that courts play in dealing with the problems of children in distress, the Foster Care Court Improvement Project, chaired by Montgomery County Circuit Court Judge Patrick Woodward, was formed to identify factors that contribute to the delay in moving children rapidly through the foster care system, including delay by the juvenile court system in processing termination of parental rights petitions within the statutorily mandated 180-day period. Its report entitled Improving Court Performance for Abused and Neglected Children contained 37 recommendations. An Implementation Project, also under Judge Woodward's leadership, is focused on revising the Children in Need of Assistance statute.

The Judiciary oversees the Protection Order Advocacy & Representation Project, a unique initiative funded through a federal grant that provides legal assistance to victims of domestic violence seeking ex parte and civil protective orders. Initially established in the District and Circuit Courts of Baltimore City and Prince George's County, the project provides on-site courthouse legal services through partnerships with the House of Ruth and The Women's Law Center of Maryland. We are seeking State funding in FY 2000 so that, with the federal grant funding, we can expand this project to two additional family division jurisdictions.

One additional initiative deserves mention. In response to your request, the Council on Juror Use and Management is being formed to determine how to achieve greater uniformity in the process of selection and assignment of jurors, including length of service. Allegany County Circuit Judge Fred Sharer chairs this effort.

In addition to our efforts to improve public outreach and services, the Judiciary has undertaken initiatives designed to ensure that the courts are accessible to all Marylanders. One approach has been to explore the expanded use of alternative dispute resolution mechanisms. This is being done by the Alternative Dispute Resolution Commission, a 39-member multi-disciplinary body, which I appointed last year. Its charge is to investigate expansion and creation of new dispute resolution services and educational initiatives that will increase the public's access to justice, make the courts more efficient and user friendly, empower people to manage their own disputes and promote a more peaceful and civil society. The Executive Director, Ms. Rachel Wohl, is highly motivated and deeply committed to the appropriate use of ADR in Maryland and to facilitating its wide-spread acceptance.

The Commission has just recently completed research on the current state of ADR in Maryland and it has reviewed the best practices nationally. It is in the process of building a state-wide, consensus-based "Practical Action Plan" for advancing the appropriate use of ADR in Maryland, not simply in the courts, but in neighborhoods, by businesses, schools, local and State government and even by prisons. The plan may require legislative action; if so, it will be sought during the next session.

Other initiatives to increase access to justice include creation of the Maryland Judicial Commission on Pro Bono, to promote and encourage pro bono legal services for those unable to afford them and to increase access to the civil justice system for low and moderate income persons, and the Judiciary's participation in the development and implementation of the Maryland Legal Assistance Network, an initiative of the Maryland Legal Services Corporation, designed to, among other things, provide a statewide centralized intake system for the legal services network. Under the Chairmanship of Judge Deborah Byrnes of the Court of Special Appeals, the Pro Bono Commission is expected to recommend and monitor policies and procedures to govern pro bono legal practice.

Finally, our commitment to equal access is further demonstrated by our efforts to facilitate greater uniformity and standard qualifications for sign and spoken language court interpreters. Those efforts and the recommendations for implementation are contained in the Report of the Advisory Committee on Interpreters submitted to the Joint Chairmen this past November.

There have many a number of press accounts about the trial delays and backlog in Baltimore City. Those stories have not furthered our quest to inspire the public's confidence in the Judiciary. In point of fact, they have significantly undermined our efforts in that regard and raised the bar that we must hurdle. Of course, the public has a right to be concerned when it receives reports of trial delays and the backlogs that such delays cause, particularly when case management deficiencies have contributed to the problems and, as a result, cases, some quite serious, are dismissed.

To be sure, the criminal caseload in the Circuit Court for Baltimore City has increased significantly in the last ten years. In 1989, 14,352 criminal cases were filed in that court. Last year, FY 1998, almost 25,000 (24,733 to be exact) such cases were filed, an increase of over

72%. A similar trend exists when we focus on felony case filings. In calendar year 1989, there were 4,951 new felony defendants in the Circuit Court for Baltimore City. In 1998, there were 8,504, an increase, again, of more than 70%. Eighty percent of these felony cases involved drugs. Nevertheless, case management deficiencies have contributed to the problems in Baltimore City and case management efficiencies largely will solve them. That has been recognized from the very beginning. And, as we speak, the circuit court is aggressively addressing the problems. Acting on recommendations developed after interagency consultations, which are on-going, a consultant's report, and a bench committee's deliberations, Judge David Mitchell, the Judge in Charge of Criminal, has begun to implement procedural improvements.

These include centralized arraignment of felony cases, which permits and encourages expedited pleas and early case terminations, a stricter postponement policy, and the use of retired judges to try or otherwise resolve the oldest cases in the inventory first.

Managing its dockets more effectively is not the complete answer, however. This problem mandates the cooperation of the State's Attorney's Office, Office of the Public Defender, Pre-Trial Release, Police, the Department of Public Safety and the private defense bar. The criminal justice system is just that, a system, which can not perform optimally until all of its components are in sync. For example, in addition to a court to try the cases, there must be sufficient prosecutors to prosecute and sufficient defense counsel or public defenders to provide adequate representation. It is critical that all parts of the system have the resources necessary to fulfill their respective roles. The Baltimore City situation crystalizes the point, and graphically so.

I have reported that the circuit court is moving swiftly and decisively to attack its backlog and to reduce trial delays. The other members of the criminal justice system agree and, thus far, have fully cooperated.

Unfortunately, not all of them have the resources to respond as swiftly or decisively as needed. While the Public Defender desires to staff the new arraignment courts, he is unable to do so with current staff, whose average caseload in September 1998 was 65 open cases, including, on average, five (5) murders and one (1) rape, compared with just three years ago, when it was 27, with four (4) murders and a rape. The State's Attorney, too, advises me that she likely will need additional prosecutors and support staff if she is to maintain her commitment.

I mentioned earlier the practical interrelationship between the branches of government. As you will no doubt agree, the delay problem in Baltimore City further underscores the point. Furthermore, it brings us back to a reality that we all recognize as desirable, but too seldom act upon, that a system wide approach to criminal justice is the most efficient and most likely to benefit the public, whom we serve. I am committed to pursuing and implementing such an approach. You will hear more from me on this subject in the future.

Finally, although I have certified the need for eleven judges, seven (7) circuit and four (4) District, I have requested only two (2), both in the District Court, for Frederick and Prince Georges Counties. I have neither certified the need for, nor requested, additional judges for Baltimore City, believing that it is appropriate that we bring hard work and innovation to the table before seeking additional judgeship resources. Moreover, that court's efforts to date are reasonable short term steps to attack the backlog and delay problems. If successful, those efforts will have a positive impact on the court's ability to handle its felony docket. In any event, experience will inform us of the extent to which criminal justice wide resources will be required.

In closing, I thank you and the Governor for your support of the Judiciary and wish for each of you a very successful legislative session.