

State of the Judiciary Address
Chief Judge Robert M. Bell, Maryland Court of Appeals
Message to the Maryland General Assembly
February 1, 2005, in Annapolis, Maryland

Governor Ehrlich, Lieutenant Governor Steele, President Miller, Speaker Busch, ladies and gentlemen of the 2005 General Assembly, Attorney General Curran, Treasurer Kopp, distinguished guests, my fellow Marylanders all.

For the seventh time now, I have been invited to report to you on the state of the Maryland Judiciary. I am pleased to accept, for I do not often or willingly, miss any opportunity to extol the good work being done by, and in, the Judiciary. My “executive summary” is that, while there have been, and continue to be, significant challenges, the Maryland system is sound and, moreover, poised, even anxious, to continue to deliver the high quality service to which an ever increasing number of citizens have come to expect. Everyone in the Maryland Judiciary, its judges, administrators, clerks, support staff, are working hard, collaboratively and cohesively, to achieve the goal of full and fair justice, consistent with constitutional and legislative mandates.

I am also gratified to have this open line of communication between our branches. Perhaps its use in this way will open and, hopefully, facilitate, other, equally effective, opportunities.

It is not by accident, but by design that ours is a government of three independent and co-equal branches, checking and balancing each other’s power and authority. Such an arrangement places a premium on cooperation and collaboration – only when all work together can that natural tension be directed to achieving the greater good. The genesis of many of the initiatives I will mention today can be traced to a spirit of cooperation, acted upon, and collaboration and, indeed, they would not have been possible, otherwise.

Before I begin, please allow me to introduce an extraordinary group of men and women, my colleagues on the Court of Appeals. In order of seniority, they are: Judge Irma S. Raker, Montgomery County; Judge Alan M. Wilner, Baltimore County; Judge Dale R. Cathell, Worcester County; Judge Glenn T. Harrell, Jr., Prince George’s County; and Judge Lynne A. Battaglia, Howard County; Judge Clayton Greene, Jr., Anne Arundel County. Their counsel, collectively and individually, is invaluable. Moreover, each of us comes from a different appellate circuit and each has accepted and discharges significant responsibilities related to the administration of those circuits.

In addition to my Court of Appeals colleagues, I rely on the Judiciary’s leadership team, recently named “the Judicial Cabinet.” That team, you may recall, consists of the presiding officers of the four courts that make up the Maryland Judiciary, and the State Court Administrator. This year, in addition to Chief Judge Joseph F. Murphy, Jr., of Baltimore County, Chief Judge of the Court of Special Appeals, and Frank Broccolina, State Court Administrator, both of whom you have met at prior State of the Judiciary addresses, there are two newcomers: Judge William Missouri and Chief Judge Ben

Clyburn. Although new to the Cabinet, I believe both, by virtue of appearances before Legislative Committees, are known to many of you.

Judge Missouri of Prince George's County, the Circuit Administrative Judge for the Seventh Judicial Circuit, a judge for nearly 20 years, one of them as an administrative judge on the District Court, is the newly elected - by his peers - chair of the Conference of Circuit Judges. In addition, Judge Missouri chairs the Judicial Conference's Legislative Committee, a responsibility he has discharged since 2001. He succeeds Judge Danny Long from Somerset County and the Circuit Administrative Judge for the First Judicial Circuit, who held that position for the last two years. Judge Long is here to receive your, and my, thanks for a job well done.

James Vaughan, Chief Judge of the District Court of Maryland since 2001, reached mandatory retirement age on December 29, 2004. During his tenure, Judge Vaughan brought a unique brand of leadership to the District Court – selfless, dedicated, example-based, effective, implemented with humor and with vision. Since this is the first opportunity I have had to commend his accomplishments to you and ask that you recognize them, I invited him to be here today. Please join me in acknowledging his significant contributions to the Judiciary.

Judge Clyburn is Judge Vaughan's successor. A veteran of the District Court of Maryland, sitting in Baltimore City, he brings more than 10 years experience, eight of them as Judge-in-Charge of the Eastside Court. In addition, Judge Clyburn was instrumental in the development of the First-Time Offenders Diversion Program and the Early Resolution program. He already has been baptized by fire; he has participated in budget hearings, both in the Senate and the House.

I have in the past identified the Judiciary's guiding principles, fuller access to justice; improved case expedition and timeliness; equality, fairness and integrity in the judicial process; branch independence and accountability; these principles guide, and will guide, all that we do, or have done, programmatically, and all of our initiatives. In the same connection, I have spoken of the importance of the public's trust and confidence in our system of justice. This combination is appropriate, even natural, for the anticipated result of compliance with the guiding principles will be measured in terms of the public's trust and confidence. That, in turn, simply recognizes the wisdom of the observation of United States Supreme Court Justice Thurgood Marshall: "We must never forget that the only real source of power that we as judges can tap is the respect of the people."

The Judiciary's legislative package emphasizes this year access and expedition and timeliness.

Permeating the guiding principles and critical to public trust and confidence – indeed, implicit in both – is a highly talented, motivated and committed Judiciary, performing in a consistent manner. In my first State of the Judiciary address, I said of the Maryland Judiciary:

“Maryland is blessed with, and fortunate to have, some of this nation's most respected, competent and hardworking judges. Men and women of the highest character, they bring integrity, dedication, understanding, and humanity to a calling that, speaking charitably, is difficult, often thankless, and too often frustrating. Day-in and day-out these extraordinary men and women cope with and dispose of huge and ever increasing caseloads, often characterized by complex and multifaceted issues with, if not unfailing enthusiasm, dedication and remarkable stamina and with a real and full commitment to the fair and even - without bias or prejudice - dispensing of justice consistent with the laws that this body has seen fit to enact. Upon becoming a judge, having elected to serve a public calling and to forego any opportunities for much greater personal financial gain, these men and women are required to set aside personal preferences and act only in the public interest. Moreover, from that time forward, their actions, their decisions, and, indeed, the results of their deliberations have an awesome impact on the basic fabric of our society. Chief Justice John Marshall, one of the greatest of the chief justices of the United States Supreme Court, observed, more than 160 years ago, that “[t]he judicial department comes home in its effects to every man's fireside; it passes on his property, his reputation, his life, his all.” That is as true today as it was then. Consequently, unlike many other public employees, they, like Caesar's wife, must always be above reproach.” This has not changed. Indeed, our judges are working even harder and under ever more difficult conditions; despite the implementation of innovative management reforms and creative programs, the volume and complexity of caseloads, stress and responsibilities continue to increase. I am confident, in short, that we have the best Judiciary money can't buy.

That this is so is not entirely obvious to all, including many of you, I know. But that, in and of itself, is proof of the quality of our judiciary: consider, the Maryland system handles nearly two and a half million cases each year with quiet efficiency and skill with a minimum of controversy, which, by the way, is what captures attention.

Some things affecting our judges have changed. Exclusive of any COLA, Maryland judges have received only two pay increases in the last 10 years. The real pay of Maryland judges has decreased over the years. Our regional rankings have declined, and significantly so. Moreover, there has not been an increase in the overall number of judgeships since 1998. Given the economic condition of the State, we have not requested additional judgeships since 2002, although there has been a demonstrated and certified need each year. This year that need has been certified at 33. Our caseloads have been managed, with considerable and increasing difficulty, through the use of innovative case processing measures and the use of retired judges, some working without pay.

Recognizing the quality of the Maryland Judiciary and its critical importance to an ordered society, the Judicial Compensation Commission, created by this distinguished body in 1980, consistent with its charge, has recommended salary increases, to be phased in over four years. I urge favorable consideration of those recommendations. Maryland judges deserve pay that is fair, equitable, and competitive and sufficient to permit them, as the Compensation Commission legislation requires, to “serve without unreasonable economic hardship.”

I would be remiss if I did not thank Governor Ehrlich for his support; for the second year he has included in his budget the funding for the first phase of judicial pay raises.

Believing the hard work of our judges has earned them the addition of full time, permanent assistance, no more may, or should, be asked of our retired judges, the Judiciary is requesting, as a part of its legislative package, 13 new judgeships and associated staff support, seven in the Circuit Court - one each in Anne Arundel, Baltimore, Montgomery, Washington and Worcester Counties and two in Baltimore City; and six in the District Court - in Baltimore City, Anne Arundel, Calvert, to be shared by Calvert and St. Mary's, Worcester and Prince George's Counties, the latter receiving two. As indicated, we have certified a need for 33 additional judges.

Our legislative package also contains a bill pertaining to the termination of parental rights statute. We are proposing for the third time the Permanency for Families and Children Act, to reorganize the TPR statute.

The Circuit Courts Real Property Record Improvement Fund, which partially supports the operation of our Clerk offices and funds the rollout and maintenance of our electronic imaging system for land records, soon will sunset. We are seeking to extend its life until 2011.

The bill creating a District Court theft offense, passed last session, did not permit issuance of a citation. That oversight we ask you to correct this session. This bill, and one proposing creation of a new crime – Offensive Contact – deal with the serious issue of increased Circuit Court caseloads due to jury trial prayers.

The Judiciary is concerned about the impact of contentious judicial races on public trust and confidence in the Judiciary and its independence. Although no bills on the subject are being proposed by the Judiciary - the Conference of Circuit Judges undoubtedly will support some of the measures addressing contested elections already, or soon to be, introduced - we are pursuing the creation of a judicial campaign conduct advisory group to promote civil campaign conduct. George Beall and Steve Sachs, both former United States Attorneys, have signed on as co-chairs and Sherrilyn Ifill, a University of Maryland law professor and member of the National Ad Hoc Advisory Committee on Judicial Campaign Conduct, has agreed to be the group's reporter.

The budget submission also reflects our guiding principles. In that regard, we are committed to the problem solving approach, that is modification of our traditional role in order to provide an effective justice system response to common societal problems. We are responding, where appropriate, by shifting the focus from an adversarial one to one of problem solving. The value, and, in fact, the goal, of this approach is that the issues underlying the behavior that brings offenders to court is addressed.

We are seeking to expand drug treatment court programs for adults and juveniles throughout the State. Since the establishment of the Drug Treatment Court Commission in 2001, the six drug treatment courts operating in Maryland have been joined by 12

others treating adults, juveniles, or CINA's. The number of jurisdictions have increased from three, Anne Arundel County, Baltimore City, Harford County, to nineteen, now including Baltimore, Calvert, Caroline, Cecil, Charles, Dorchester, Frederick, Howard, Montgomery, Prince George's, Queen Anne's, Somerset, St. Mary's, Talbot, Wicomico, and Worcester.

A DUI/Drug Court pilot began in October 2004. A collaboration between the Drug Treatment Court Commission, the District Court Drug Courts, State's Attorney's Office, Office of the Public Offender, Department of Parole and Probation, Health Department, private treatment providers, and community organizations, the pilot sites are in Anne Arundel, Harford and Howard Counties.

Both Harford County and Baltimore City have established mental health diversion programs that seek to reduce the recidivism rate of offenders who commit crimes due to mental illness and substance abuse issues.

Last session, at the urging of Delegate Norman Conway, legislation was enacted to create the Truancy Reduction Pilot Program, in which the court, using a problem solving approach, is charged with helping to curb truancy in Wicomico County. Migration to other Counties, initially most likely those in the First Circuit, is contemplated and will occur if funded.

I want to give you a few updates. In 2002, I reported on the creation of the Racial and Ethnic Bias Commission, chaired by Judge Cathell. It presented its final report to the Court of Appeals last June. That report contained 19 recommendations based on feedback received from the series of public hearings held across the State and questionnaires sent to 10,000 randomly selected litigants. The report is an excellent piece of work, perceptive and incisive and worthy of implementation. Just as he did in shepherding the work of the Commission, I am sure that Judge Cathell will see that it is implemented.

Also in 2002, I reported on the start-up of the Business and Technology Program, an initiative inspired and urged by you and implemented with your input. The capabilities of the judges in that program are being expanded, as is the program's value. Maryland has joined with Ohio and California to form the Advanced Science and Technology Adjudication Resource (ASTAR) program, a consortium that initially will train 45 resource jurists. In addition to advanced science and technology adjudication skills, those judges will be prepared to adjudicate cases that arise from the challenging advances in the life sciences, genetics, biomedicine, biotechnology, and the neurosciences as well as assist others in doing so. The idea is that those judges will not only be able to handle cases involving their specialized expertise, but will be a resource for other judges who do not have that expertise.

Public trust and confidence in the Judiciary is only enhanced when the public has faith in the legal profession. We addressed the issue by the formation of the Professionalism Task Force, chaired by Judge Battaglia. After a year of town hall meetings, at which lawyers reflected on and discussed the state of professionalism among attorneys, the Task Force

issued its recommendations. One of them, the most notable, the creation of a Professionalism Commission, was adopted by the Court. Again chaired by Judge Battaglia, it is hard at work on the implementation of the recommendations.

Soon, the Judiciary will launch two additional pilot programs, this time in the area of technology. This Spring, Prince George's County District Court will begin utilizing Internet technology to test an electronic filing system for high volume landlord/tenant litigants. And a collaborative effort between the Court and the State Police seeks to bring E-ticketing to the state.

There, you have some of what we have been doing and what lies ahead for the Judiciary. Whether we can accomplish what we have undertaken depends, in part, on the continuing collaboration of our three branches of government. In that regard, acknowledging and endorsing the separation of powers, I also endorse and again commend to you what former United States Chief Justice Charles Evans Hughes said to Congress on its 150th anniversary: "[I]n the great enterprise of making democracy workable we are all partners." With your help, we can achieve the greater good.

Thank you for your support of the Judiciary. I wish for each of you a most successful and productive session.