

State of the Commonwealth's Courts
Chief Justice Ronald D. Castille, Pennsylvania Supreme Court
Written Message
May 1, 2008

There have been many changes in the Unified Judicial System of Pennsylvania in the past year. While this report is designed to look toward the development and expansion of innovative programs and the impending launch of new ones in the future, it also provides an opportunity to reflect on changes, to outline goals and to take note of positive trends in our courts.

No change was more notable than the decision of Chief Justice Ralph J. Cappy to retire in 2007 after 29 years of judicial service on the Common Pleas Court and the Supreme Court. For all those who served with him on the Supreme Court, it was an honor to have him as a colleague, and it remains so to have him as a friend.

Chief Justice Cappy's leadership for the last five years has been recognized by the National Center for State Courts, the Pennsylvania Bar Association, the Philadelphia Bar Association and many other civic and legal organizations, all of which have cited him with their highest awards. That recognition reflects positively on our entire court system. Among the many initiatives he advanced were statewide judicial automation, specialized treatment courts, a program for certified interpreters, improved services for self-represented litigants, inter-branch governmental cooperation and upgraded judicial education programs.

As Pennsylvania's new chief justice, I intend to continue those programs and to begin other programs in keeping with the Supreme Court's constant commitment to improve the administration of justice.

In a broader context, it is my hope and goal that the Supreme Court will always be viewed with respect by attorneys, litigants, legal scholars and citizens for the quality of its legal thought and the coherent body of law that it passes down through its opinions.

In our democracy the strength and independence of the courts depend directly on the confidence of the people. This intangible trust—the belief that the third branch stands entirely apart from politics, and that the individuals who sit as judges decide matters fairly and impartially—is vital to our system of government and to the many freedoms we enjoy as Pennsylvanians and as Americans.

I believe the public has clearly expressed its trust in our judiciary. Dozens of judges last year were unfairly targeted for defeat in retention elections across the Commonwealth. Last summer and fall, the Pennsylvania Bar Association, along with bar leaders across the state and the Judicial Independence Commission, made a concerted effort to educate the public on why we have the retention system and why it was important to keep experienced and qualified judges on the bench. As part of that effort, retired U.S. Supreme Court Justice Sandra Day O'Connor came to Harrisburg and spoke at a luncheon about the importance of judicial independence. Her speech was reported in newspapers around the state.

When the retention elections arrived, the public roundly rejected the irrational threat aimed at the judiciary and stood behind its judges. We appreciate that confidence, but we do not take it for granted. To have lost so many qualified judges, with more than 800 years of accumulated judicial experience, would have done immeasurable harm to our court system. It is important that judges at every level continue to show cause for public confidence. Every litigant who comes into our courts must feel assured that justice will be done in his or her cause.

Change in the Appellate Courts

The Supreme Court not only has a new chief justice, it has two newly-elected members, Justices Debra M. Todd and Seamus P. McCaffery. With my colleagues, Justices Thomas G. Saylor, J. Michael Eakin and Max Baer, we welcome our two newest members and look forward to a collegial relationship and to scholarly jurisprudence.

The Superior Court and Commonwealth Court of Pennsylvania have become national showcases for the advancement of women in the judiciary.

For several years women have comprised a majority of the members of Commonwealth Court. This year the Superior Court also is made up of a majority of women with the addition of three newly-elected judges, Cheryl Lynn Allen, Christine Donohue and Jacqueline Shogan. Further, both of these intermediate appellate courts are led by women in President Judge Kate Ford Elliott of Superior Court and President Judge Bonnie Brigance Leadbetter of Commonwealth Court. Few states can make such a dramatic showing for the advancement of women in the courts. In Pennsylvania this has occurred as an expression of the public will. We can see the workings of a diverse and open democratic society.

The Strategic Plan

A first-ever strategic plan for the Unified Judicial System was published in December 2007, outlining specific goals for the judiciary with recommendations for achieving each goal during the next five years. The transcendent objective of this plan is to build greater public trust and confidence in the judiciary.

The strategic plan was developed by the Judicial Council of Pennsylvania, an advisory body to the Supreme Court made up of judges, lawyers, lawmakers and citizens. The plan identifies four areas of focus in which it sets goals:

- Access to Justice. This includes making courts more understandable and user-friendly, simplifying court procedures and continuing to expand the use of technology.
- Unified, Secure and Supported Infrastructure. This focuses on the ongoing effort to achieve structural and administrative unification of Pennsylvania's courts as envisioned by the 1968 state Constitution.
- Excellence in the Judiciary and the Judicial Branch. Here, the goals are to attract men and women of the highest caliber to the bench and to recruit top-flight, professional court administrators and staff.

- Independence and Accountability. This is directed at maintaining the independence of the judiciary, insulating judges from outside influence and ensuring full accountability to the public.

Our efforts to achieve the goals of the strategic plan, all of which are important to our growth as a progressive judicial system, ultimately promise to pay dividends in the confidence we hope to engender in the citizens of the Commonwealth.

Statewide Jury List

A dramatic improvement will take place in Pennsylvania this year in the dissemination of jury lists. More potential jurors than ever before are expected to be identified through lists made available by the Administrative Office of Pennsylvania Courts (AOPC) and asked to do their civic duty by serving on juries.

Officials in some counties find it difficult to develop jury lists that fully reflect the diverse make-up of the population. A new statewide jury information system, administered by the AOPC, will enable Pennsylvania's 67 counties to make use of a significantly expanded pool of names from which to summon jurors. The system is designed to provide more inclusive lists, drawing from a broad array of databases. It was created by statute at the request of the AOPC in the summer of 2007.

The jury information system establishes a cooperative information-sharing arrangement between the executive and judicial branches of government. Lists of all tax filers, driver's license holders, registered voters and welfare and food stamp recipients will be provided to the AOPC by the state departments of Revenue, Transportation, Welfare and State. The AOPC will combine those lists—some with as many as eight million names—and electronically "scrub" them to eliminate duplication of names. The resulting master list will be broken down on a geographic basis, county by county, and the AOPC will make available to each county the names and addresses of prospective jurors living within that county.

Each county will retain the option of using the data provided by the AOPC or using its own data to identify and summon prospective jurors. The lists provided by the AOPC will be updated annually. This statewide jury information system promises a major improvement for the jury summons process through the use of information technology and inter-governmental cooperation. Ultimately, it is hoped this system will enhance justice through juries that more accurately reflect the diversity of the population.

Outreach through Video

An increasingly important role for every judge is that of being an educator. Judges must find time, and take time, to speak and write about what they do as judges, what the courts do and why a strong and independent judiciary is essential to freedom and democracy. A lack of understanding of how our government works and the loss of civics as a component of basic education is potentially the most serious threat we face when we speak of threats to judicial independence.

To foster understanding of the courts, the AOPC has commissioned a 15-minute video, titled "Pennsylvania's Unified Judicial System," that describes simply and clearly how the court system is structured and how various types of cases advance through the system. The video is targeted to a broad public audience. It is designed to be shown in jury assembly rooms or used by judges when making presentations in schools, at community meetings or when giving speeches. The video is a valuable educational tool, one that can enhance public understanding of the judiciary. It has been distributed to the president judges of all 60 judicial districts in the Commonwealth and is being distributed to others beyond the judiciary. We hope it will be shown widely in order to educate the citizens.

Problem-Solving Courts

A decade ago the Philadelphia Municipal Court began its drug court on an experimental basis.

It was the first "problem-solving court" in Pennsylvania. Today, more than 50 problem-solving courts are operating around the Commonwealth. These include adult drug courts, juvenile drug courts, DUI courts, mental health courts and others. Still more problem-solving courts are planned. In varying degrees, these courts remain experimental. Their operations and performance continue to be monitored and studied. But they have significant potential for rehabilitating offenders, reducing prison populations and generating cost savings for the criminal justice system.

The idea of the problem-solving court is that it can break the cycle of offending behavior by channeling a nonviolent offender into a treatment program. Successful "graduates" of problem-solving court programs are given a chance for a fresh start, often with a clean record. In the best circumstances, they turn away from the behavior that brought them into the criminal justice system, and they can become productive citizens.

Studies of drug court programs have shown dramatically reduced rearrest and conviction rates among individuals who have completed treatment programs. In addition to the individual and social benefits, there is a tremendous economic benefit, both for taxpayers and for the justice system. The cost of a drug court program has been shown to be far less than the cost of incarceration. A July 2007 study on the impact of one drug court in Oregon found a total system savings of more than \$79 million over a 10-year period.

Mental health courts are a more recent phenomenon. At the end of 2007, five of these courts were operating in Pennsylvania. A substantial number of prison inmates—estimated to be from 16 to 38 percent—are diagnosed with some type of mental illness. Mental health courts are designed to divert nonviolent individuals with certain mental illnesses from the criminal justice system into treatment programs. While these courts appear promising, they remain experimental. Much research remains to be done to demonstrate their effectiveness, although a study by the RAND Corporation of the mental health court in Allegheny County has provided encouraging preliminary findings. The Allegheny County court also was the focus of a feature article on mental health courts in U.S. News & World Report in February 2008. There is a great deal of interest in and hope for the success of these and other problem-solving courts in Pennsylvania.

Benchbooks

A new professional tool was introduced in the Unified Judicial System during the past year: benchbooks for judges. These books are sophisticated user guides designed to assist judges with questions that arise in rarely applied areas of law or in complex areas where the law has many facets or is rapidly changing.

The first benchbook, released early in 2007, was the Public Health Law Benchbook. This book is intended for use by Pennsylvania judges in the event of a pandemic or other public health emergency. It was produced by the AOPC under the direction of Court Administrator of Pennsylvania Zygmunt A. Pines and Common Pleas Court Judge John M. Cleland of McKean County. The book is designed to give judges information and guidance necessary to maneuver through a maze of public health law, much of it outdated, and to enable them to make decisions quickly in critical situations. Such matters as quarantine orders and proper methods of expediting judicial procedures are addressed. The Public Health Law Benchbook has been widely distributed to judges and court administrators around the Commonwealth. It also has been cited by the Centers for Disease Control as a model for courts in other states.

Another benchbook, the Sexual Violence Benchbook, was issued early this year. This book is designed to help trial judges keep cognizant of the complex and changing body of law relating to sex crimes. The Sexual Violence Benchbook provides an overview of Pennsylvania's sexual offense laws. It reviews sex-offender registration laws, discusses victims' rights, examines the physical and psychological impact of sexual assault on victims, provides information on victim services and offers a list of experts on sex-offender behavior and Web links for agencies that assist in the management of sex offenders. The principal author of the book was Superior Court Judge Jack Panella, who worked in collaboration with the Pennsylvania Coalition Against Rape and others to produce the book.

One other benchbook remains, for the moment, a work in progress, but is certain to become a useful tool for the largest group of judges in our system. This is a benchbook for magisterial district judges. As planned, the book will be a ready reference guide, covering the broad range of legal issues that confront these judges daily in their work. Areas to be covered will include district court jurisdiction, contempt powers, protection from abuse, summary offenses, landlord-tenant matters and small claims. The benchbook is being developed by the AOPC in consultation with the Publications Committee of the Special Court Judges Association of Pennsylvania. We look forward to the completion of this benchbook and anticipate that magisterial district judges will find great value in it.

Automation

Pennsylvania continues to be a national leader in statewide judicial automation. Through our Unified Judicial System Web portal, case and docket information is made available to the public on a scale that would have been unimaginable only a few years ago. Few other states have gone so far in so short a time in achieving this access to court-related information on a statewide level. The dockets and published opinions of all our appellate courts are online as are criminal dockets

of the Common Pleas Courts and dockets of the magisterial district courts. Beyond serving the public and the legal profession, our judicial automation programs provide tremendous benefits to law enforcement agencies and to the internal functions of the court system. Arrest warrants issued locally, for example, are now accessible statewide online to court officials and law enforcement authorities, making it difficult for a defendant wanted in one jurisdiction to avoid arrest if stopped by authorities in another. A quick online check will turn up an outstanding warrant anywhere in the state.

We now have begun to implement the second generation of technology in the magisterial district courts. These courts were first automated with a state-of-the-art case management system in 1992. That system has become outdated. A redesign was launched in 2007 that is intended to enhance the performance, flexibility and accessibility of the computer technology used by nearly 550 magisterial district judges and more than 3,000 employees of these courts. The project is expected to take five years. One of many benefits of the updated technology will be that the public will be able to pay fines and court costs via the Internet with credit or debit cards.

Security

A continuing goal of the Supreme Court is to provide for the safety of judges, jurors, witnesses, crime victims and all others in the courthouses and courtrooms of Pennsylvania. A series of initiatives recommended by the Committee on Judicial Safety and Preparedness of the Judicial Council have been implemented by the AOPC.

The court facilities of magisterial district judges have been equipped with security equipment, including courtroom surveillance cameras and duress alarms, shatterproof safety glass at transaction counters and improved restraints for defendants in custody. Further, nearly all counties have acquired some form of security equipment for their courthouses such as X-ray machines, duress alarms, magnetometers or card key entry systems.

More than 600 incidents of threats or violence in the courts have been reported to the AOPC since 2005 through Pennsylvania's Judicial Incident Reporting System (PAJIRS). The statewide electronic reporting system is the first of its kind in the nation. The harassment of a Common Pleas Court judge in Northampton County, an angry traffic offender's threat against a court employee in Indiana County, a teenage defendant's vow to kill a magisterial district judge in Allegheny County—details of these events would have remained isolated in the past, unknown beyond the communities in which they occurred. With the incident reporting system, all threats and violent incidents now are electronically reported to the AOPC, reviewed by the Judicial Security staff, recorded in a statewide database and followed up when necessary to ensure that law enforcement has been contacted or that guidance has been provided to local court staff. The incident reporting system is expected to become increasingly valuable in the future as more and more data is collected. From this expanding database, the AOPC staff will be able to identify trends and weaknesses in court security and offer assistance to court personnel to address problems.

Another security advance is the installation of equipment to enable magisterial district judges to conduct preliminary arraignments by video conference. Many of the district courts presently are

able to conduct arraignments by video conference when defendants are in jail or being held at remote police stations. The AOPC this year will provide equipment and training to 155 courts that previously did not have that capability. Significant savings are expected from this technology, including reduced costs of transporting prisoners to and from court for arraignments.

Experience and Innovation

Pennsylvania's courts are served by more than 1,000 judges and hundreds of administrative and professional staff. Flowing from this talent pool, many innovative programs have been created to assist litigants, improve efficiency and streamline the legal process. A sampling of these programs gives a suggestion of the creative thought and dedication to public service that can be found within the judicial system.

The Commonwealth Court operates a mediation program through which workers compensation cases, zoning disputes, tax assessment challenges and other appeals are settled by negotiation rather than by litigation. The program, in operation since 2000, allows parties to resolve their own disputes, avoiding the uncertainty of a third party ruling; brings cases to conclusion more quickly and reduces legal expenses. It also spares valuable resources for the court to allocate to other cases. More than 1,600 cases have been assigned to the Commonwealth Court's mediation program. About half are settled.

The Superior Court also has begun a pilot mediation program. After a year's operation, this program also has shown promising results and is now in its second year.

The Superior Court operates a special program designed to expedite cases in which children are directly affected. Matters involving adoptions, child custody or visitation, child support, dependency or termination of parental rights are assigned to the court's Family Fast Track Program. When a case on appeal is assigned to this program, the filing of the trial record and attorneys' briefs are expedited and the appeal is given a priority listing for hearing. On average, appeals assigned to the Family Fast Track Program are resolved within 180 days, substantially exceeding standards set by the American Bar Association.

Innovative programs also are operating in the Common Pleas Courts, ranging from an early disposition program to reduce the criminal dockets in Allegheny County to a court-sponsored employment program for probationers and parolees in Lancaster County to a guardianship monitoring program in Dauphin County to e-filing programs—planned or in progress—in more than a dozen counties. There are many others. The goals expressed in the five-year plan—access, excellence, trust—are embodied in programs such as these.

In Conclusion

There are certain to be many challenges facing the Unified Judicial System in the coming year and in the years ahead. I am certain that our Supreme Court and all of us within the judicial system will rise to meet the challenges. Our court will continue to press the reforms instituted in recent years. We will continue to fight vigorously for the independence of the judicial branch. We will pass upon disputes that come before us by faithfully applying the Constitution of this

Commonwealth and the laws that govern our society. Above all, it is my goal that the Supreme Court will be known as one that decides cases knowledgeably and fairly, and that the court will be held in high regard by the citizens of Pennsylvania.