State of the Judiciary
Chief Justice Leroy R. Hassell, Virginia Supreme Court of Appeals
Message to the Judicial Conference of Virginia
2002

I would like to welcome you to this year's Judicial Conference. I appreciate the opportunity and responsibility of serving as your Chief Justice. We are blessed in Virginia with a judiciary that is second to none.

As I look around this room, I see many outstanding judges before whom I appeared prior to my service on the Supreme Court. I had the pleasure of having tried cases before Judge Randall Johnson, Judge Markow, Judge Clarkson, Judge Hughes, Judge Gates, Judge Townsend, Judge Kulp, and a host of others, all who are outstanding trial judges.

Since my election as Chief Justice, I have met extensively, with judges from most geographical regions of our Commonwealth. I have met with the judges of the Court of Appeals, the circuit court judges in the City of Virginia Beach, the circuit court judges in the City of Richmond, the circuit court judges in Henrico County, the circuit court judges in Fairfax County, and circuit court judges in the 27th, 28th, 29th, and 30th judicial circuits. I have met with general district court judges and juvenile and domestic relations court judges throughout the Commonwealth.

I have initiated a dialogue with the Governor, leaders of the General Assembly, members of the Bar, court personnel, and citizens throughout the Commonwealth.

I initiated these dialogues because I am committed to making a strong judiciary even better. I plan to elicit your ideas and your suggestions as we work together to improve the quality of justice in Virginia. I plan to continue this exchange of ideas, and I will visit each circuit to meet with you.

The state of our judiciary is strong; as judges, we do a good job; we enjoy widespread public support. We have dedicated, loyal, and outstanding court personnel. I proudly accept the responsibility of building upon the solid foundation constructed by those who have preceded me. And while I intend to embark in different directions, implement changes, and pursue new ideas, there will be a strong sense of continuity, commitment, and purpose that guide my course of action.

As judges, we must always remember that we occupy special and unique positions of trust and responsibility within our society. In our form of government, no other group shares the responsibilities that we must fulfill.

We decide whether an individual who has been sentenced to death in a capital murder trial will live or die. We decide whether to enforce or invalidate a person's will. We decide whether to dissolve a marriage and which parent will have physical custody of children born during that marriage. We determine whether government can take an individual's property.

The power that our citizens have entrusted to us is immense and often immeasurable. Each time we make a decision, irrespective of how seemingly insignificant, routine, or mundane, we affect the lives of human beings; we affect the lives of our citizens.

Therefore, we must act thoughtfully, decisively and timely; yet we must act with dignity, respect, and compassion. We must always be mindful how we exercise this tremendous power that has been entrusted to us. We must remember that as judges, we are public servants who are mere stewards of the public trust.

As stewards of the public trust, we must always be courteous and respectful to the litigants, lawyers, jurors, witnesses, and others who appear in our courtrooms. We must not forget that when we direct the litigants, the lawyers, and the witnesses to appear in court at a designated time, we too must arrive timely. We must be mindful that no litigant should have to wait unreasonable periods of time before his or her case is resolved.

Accessibility, fairness, timeliness, and accountability for public resources are among the many factors that shape the public's view of the judiciary. These same factors determine how the judiciary is perceived and supported by the General Assembly and the Governor.

As judges, we often discuss our expectations of lawyers who appear before us. We complain about the decline in the level of professionalism that has occurred during the years we have been members of the Bar. We say, with much truth, that the practice of law has changed drastically and that lawyers are not as civil or respectful to each other and to the court as they should be.

The time has come when we must do more than complain about this problem. As judges, we have the duty; we have the responsibility; and we have the authority to establish the minimal, acceptable levels of professional conduct, and we must require that lawyers comply with these minimal standards. As judges, we simply cannot permit rude or unprofessional conduct to occur in our courtrooms. The time has passed for us to merely complain. Now, we must act.

I am very concerned about the level of compensation for judges in our Commonwealth. In view of inflation and the increased costs in health and life insurance, we have actually witnessed a decline in compensation. A brand-new lawyer, who has never spoken to a client or even drafted a legal document, can join one of the largest law firms in Richmond or Northern Virginia and earn almost as much or more than a general district court judge. Some new lawyers earn more than a circuit court judge. Assuming that same new lawyer at a major Richmond law firm was taught by the dean of a state-supported law school, that dean earned about $275,000, twice as much as the salary of a Justice of the Supreme Court of Virginia. A full-time federal magistrate judge, the lowest official in the federal judicial system earns $142,324, which is more than the salary of a Supreme Court Justice.

I will work hard; I will work tirelessly; and I will work zealously, to improve judicial compensation for our judges, as well as our retirement and insurance benefits.

Judicial independence is a critical and basic precept in our form of government. The judicial branch of government is neither subordinate to the executive branch or the legislative branch.

The judiciary is not a state agency. Rather, the judicial branch of government is an equal and coordinate branch of government. I will do all within my power to protect and preserve the independence of the judiciary. I have had conversations with the Governor and the leadership of the General Assembly, and they have assured me that they are committed to protecting and preserving the independence of our branch of government.

As you are aware, the General Assembly made changes to the process it utilizes to reelect judges. When I learned of these changes, I immediately contacted Delegate Bob McDonnell, Chairman of the House Courts of Justice Committee, and Senator Ken Stolle, Chairman of the Senate Courts of Justice Committee. I raised certain concerns about the process. Delegate McDonnell and Senator Stolle were very helpful and instrumental in the implementation of a better process, and I thank them for their assistance.

Since the General Assembly has adjourned, I, along with Justice Keenan and Chief Judge Fitzpatrick, have met with a subcommittee of the Senate and House Courts of Justice Committees to discuss the judicial reelection process and the criteria for the reelection of judges. I am happy to report that the meetings have been very productive, and I believe that you will ultimately be pleased with the process that will be implemented.

The Supreme Court has begun its pilot program for judicial performance evaluations. As you may recall, a few years ago the General Assembly requested that the Supreme Court study the feasibility of a judicial evaluation program. The purpose of this program is to assist judges in the career-long objective of self-improvement and to instill greater public confidence in the judicial process without diminishing the independence of the judiciary.

If the pilot program is successful, the judicial performance evaluation program will be implemented on a statewide basis, and it will include all judges and Justices. The first evaluation that every judge receives will be confidential and will be used solely to assist the judge in his or her development. Subsequent evaluations, even though confidential, will be shared with members of the Senate and House Courts of Justice Committees.

Even though some trepidation existed when this program was discussed several years ago, I, along with many members of the judiciary, have concluded that a fair and impartial performance evaluation system, administered by judges for judges, will be a useful tool in improving the quality of the judiciary while maintaining the independence of our branch of government. Even though the judicial performance evaluation process will not be perfect, I believe that it will actually help judges during the reelection process.

Justice Barbara Keenan will chair a commission that consists primarily of judges, and this commission will have oversight responsibility for the implementation of the pilot program.

We live in the age of electronic government. The use of technology can make the judiciary more efficient. While I am pleased with the application of technology that exists in the Court system today, we must do more to improve the technology infrastructure. We must provide state-of-the-art applications throughout the Commonwealth.

We are actively pursuing electronic filings, electronic payment of fines and costs, and access to certain court forms via the internet. Our ability to improve our technological capacity, however, has been hampered by the lack of adequate funding.

The judiciary cannot function properly without sufficient financial support. While the economy of our Commonwealth has suffered, the Governor and the General Assembly have worked hard to minimize the economic impact upon the judiciary, and I am grateful. The Governor and the leadership in the General Assembly have been very helpful. However, the judiciary continues to have significant unmet financial needs.

The judiciary lacks sufficient funding to hire additional positions for our clerks' offices and magistrates. The judiciary lacks sufficient funding to finance our increased technology and security needs. The judiciary has been forced to curtail and, in certain cases, eliminate judicial education.

I will continue to communicate our financial needs to the Governor and the General Assembly. The judiciary is a core governmental function which should always receive adequate funding, even in bad economic times.

It is time, once again, to assess the immediate, as well as long-term needs of the judiciary. What are the strengths of the judicial branch of government? What areas are in need of improvement? What are the projected needs of the judiciary during the next decade? How do we best assess and plan for our future needs? These are questions which demand answers. Therefore, I will create a second commission on the future of Virginia's judicial system. Introspection and planning now will minimize future problems and strengthen our judiciary.

We must also reassess how we resolve domestic relations cases in this Commonwealth. We must reevaluate the process that we utilize to adjudicate domestic relations disputes. We have tremendous responsibilities in our disposition of domestic relations cases. We make decisions in a very emotionally charged environment and those decisions have far-reaching consequences upon spouses, children, and their families.

I will appoint a commission of judges and other interested participants to consider how we can be more effective and efficient in the resolution of the domestic relations disputes. This Commission shall also reexamine the concept of the establishment of a family court.

Every day in courtrooms throughout this Commonwealth, pro se litigants appear in domestic relations cases and they contest issues of child custody and support. Unfortunately, even though many of these pro se litigants need legal advice, they cannot afford a lawyer. I do not believe that a parent, who is in need of an attorney when a court determines which parent will be awarded physical custody of a child, should be required to proceed without legal advice.

Additionally, judges in the juvenile and domestic relations courts as well as circuit court judges, have voiced similar concerns to me. These judges have also emphasized that they do not wish to be perceived as advocates for a specific parent during these important, but yet, emotionally charged proceedings.

I plan, with the help and cooperation of the organized bar associations and law firms throughout this Commonwealth, to create a statewide pro bono program so that lawyers will be available to assist certain litigants in domestic relations cases.

Virginia's judiciary has an outstanding reputation, characterized by excellence and integrity And, unlike many states, we have a judiciary free of taint and scandal.

I will build upon our proud heritage, while strengthening the judiciary's foundations. We will critically plan for the future so that we can fulfill all Virginians' expectations of the judiciary; those expectations being a judiciary that provides equal access and justice to all who appear in the courts of this Commonwealth.

I appreciate the magnitude of the challenges that lie ahead. With your support, with your help, we will resolve the challenges that confront us, and we will exceed even our highest expectations. Thank you.