

State of the Judiciary  
Chief Justice Leroy R. Hassell, Virginia Supreme Court of Appeals  
Message to the Judicial Conference of Virginia, Virginia  
2005

I am honored to report that Virginia's judicial system remains strong, innovative, and well positioned to confront the many challenges that await us as we continue our journey to improve the quality of justice for our fellow Virginians.

I thank my colleagues – Justice Elizabeth Lacy, Justice Barbara Keenan, Justice Lawrence Koontz, Justice Cynthia Kinser, Justice Donald Lemons, and Justice Steven Agee. Their wisdom and guidance have been invaluable to me.

One of the most important developments that has occurred since our last Conference was the appointment of Karl R. Hade as the Executive Secretary of the Supreme Court of Virginia.

The Office of the Executive Secretary was created in 1952, and Karl is only the fourth person to serve as Executive Secretary. The Office of the Executive Secretary provides administrative services to the Supreme Court, the Court of Appeals, 326 circuit, general district and juvenile and domestic relations district courts, and over 125 magistrate offices. The Executive Secretary assists over 4,500 judicial branch employees who participate in the resolution of more than four million proceedings annually in our courts. During his brief tenure as Executive Secretary, Karl's service has been exemplary. I thank Karl for his friendship and counsel.

Even though the General Assembly has not yet approved a budget for the biennium that will commence on July 1, 2006, it is our belief that we will experience tremendous success. Both the House of Delegates and the State have approved new funding that will enable us to hire a significant number of new personnel for our district court clerks' offices. All court personnel, including judges, will receive raises of 4%. New funding will be made available for drug courts.

We will receive additional funding for technical advisors who will provide services to the circuit and district courts, new funding for educational training, and funding for a thorough evaluation of Virginia's magistrate system.

Among our many accomplishments during the past session of the General assembly was the enactment of legislation that established a Judicial Information Technology Fund.

Virginia's judicial system collects over 1.2 billion dollars annually for the Commonwealth and her localities, and the Department of Judicial Information Technology must account for these funds.

The Department of Judicial Information Technology completes over three million transactions daily. This department serves the Supreme Court, the Court of Appeals, the Office of the

Executive Secretary, the Law Library, the Sentencing Commission, the Judicial Inquiry and Review Commission, 326 courthouses and 125 magistrate offices.

The information technology fund will generate substantial new revenue that will be used to enhance our information technology capabilities. We will shorten our replacement cycle for over 5,000 personal computers so that we can provide you with better equipment. We will increase our bandwidth to improve response time to you. Enhanced bandwidth will also improve response time to you. Enhanced bandwidth will also enable us to provide additional services to our judges and court personnel. We will improve the reliability of our network redundancy features to prevent telecommunications outages; and we will enhance network security. We will also acquire new videoconferencing units, and we will expand videoconference usage in our courts.

We will use our information technology to implement electronic filing in our courts. Electronic filing will enable us to operate more efficiently, reduce personnel costs, and decrease space requirements.

We will install case management systems in all circuit courts, and these systems will be owned and managed by the Supreme Court. Such technology already exists in our district. Courts. Case management systems will enable our circuit courts to operate more efficiently and will enhance the Supreme Court's ability to collect and analyze data, thereby improving the administration of justice.

We have revised the educational program for new judges. All new judges will receive computer training. We will provide tutorial services for judges at all voluntary and mandatory meetings of this Conference. Additionally, we will sponsor regional training sessions for judges who desire to acquire greater information technology skills. Any judge who wants one-on-one tutorial sessions in chambers with our information technology trainers will receive this help by simply making a request.

As our judicial system becomes more reliant upon information technology, we recognize the tremendous responsibility that we have to protect confidential data within our information technology system. We will adopt protocols and implement security measures designed to insure that our technology network is secure.

We remain concerned about unfettered public access to confidential data about our citizens. For example, our court records contain the most sensitive financial information about almost everyone in this room. Your social security numbers, bank account numbers, credit card numbers, parent's full names, your home addresses, telephone numbers, and other data that you would not want in the public domain, are contained in court records. We have a responsibility to those who use our courts to protect this information in this age of identity theft and computer fraud.

Judge Leslie Alden is chair of a committee that will make a recommendation to the Judicial Council of Virginia and, ultimately, to the Supreme Court for the adoption of rules that will make this confidential data secure. We must balance the rights of the public to access and view

court records with the rights of our citizens to be safe from unscrupulous persons who would extract confidential personal information for improper purposes.

The ensuing 12 months will be characterized by introspection and change. As you are aware, last year, I appointed a second commission to study the future of Virginia's judiciary: "Virginia's Courts in the 21<sup>st</sup> Century: To Benefit All, Exclude None." This commission is chaired by an outstanding Virginian, Anne Marie Whittemore.

This commission is examining all facets of Virginia's judicial system. The commission has had numerous meetings throughout Virginia and will conduct public hearings this summer. The commission will issue its final report in the fall of 2006 and that report will be the basis of our efforts to plan strategically to insure that our judicial system has the necessary funding and programs to meet the needs of our citizens during the next decade.

We remain committed to improving the quality of Virginia's criminal justice system. An integral part of this improvements includes better funding and training for our public defenders and court-appointed counsel who represent indigent criminal defendants.

Unfortunately, Virginia remains last among the 50 states in terms of compensation for court-appointed counsel. We should not and cannot be proud of this statistic.

The Supreme Court requested an additional 25 million dollars to improve compensation for court appointed counsel. It is imperative that we continue our efforts to improve compensation for lawyers who represent indigent criminal defendants.

I am pleased to report that in April 2006, the Supreme Court of Virginia and the Virginia State Bar sponsored its second annual educational seminar for experienced public defenders and court appointed counsel. This is the only program of this type sponsored by a Supreme Court in the United States. The training session, which was attended by over 600 lawyers in Richmond, and Abingdon, was a resounding success. Steven Benjamin serves as the chairman of the commission that plans the annual seminars, and we are indebted to him. We will also expand training opportunities for public defenders and court appointed counsel.

In December 2005, the Supreme Court and the Virginia's State Bar sponsored a conference on Virginia's mental health statutes and the involuntary commitment process. This multi-disciplinary project included judges, magistrates, sheriffs and other law enforcement personnel, mental health practitioners, mental health patients, their families, and friends.

During the mental health conference in December, we discussed a variety of important topics: the desirability of a comprehensive evaluation of the Commonwealth's mental health statutes; improvement of the civil commitment process; better community capacity to provide intensive crisis intervention services for people who suffer with mental illness; alternative methods of transportation for mentally ill persons to the courts; new processes that encourage and facilitate voluntary treatment of mental health patients who are in crisis or experiencing deteriorating conditions; intensive stabilization services for mentally ill persons in the absence of dangerous behavior or threats; and greater respect and protection of patients' rights and dignity.

According to the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, 5.4% of Virginia's adult residents between the ages of 18 and 69 suffer from a serious mental illness. The Virginia Department of Corrections estimates that a significant percentage of Virginia's prisoners have some form of mental illness or mental disorder.

Virginia's courts are a key component in the provision of services and treatment for persons with mental illnesses in this Commonwealth. In 2004, the last year for which complete statistics are available, there were 45,369 involuntary commitment hearing in the general district courts in Virginia, and 2,024 proceedings in the juvenile and domestic relations district courts.

In view of the approximately 48,000 mental health proceedings in our courts each year, the judiciary has taken a leadership role in reforming Virginia's mental health statutes and procedures. I have appointed a committee chaired by Dr. Richard J. Bonnie, who is the Director of the Institute of Law, Psychiatry, and Public Policy at the University of Virginia. This committee will perform a comprehensive evaluation of Virginia's mental health statutes and related judicial proceedings. Gregory Lucyk, the Chief Staff Attorney of the Supreme Court of Virginia, has been invaluable in this effort.

We are pleased to report that Caroline Kirkpatrick is our new Director of Education. Carolina, who has a doctorate in education, has been with the Office of the Executive Secretary for several years.

Caroline's appointment is significant because it coincides with the Supreme Court's plans to provide greater educational opportunities for our judges and court personnel. We will make available to all judges expands training for your disposition of capital murder cases. We will also provide more educational training on scientific issues, complex litigation issues, and habeas corpus proceedings. We will make greater efforts to communicate with you to ascertain educational courses that will be beneficial to you.

Additionally, the Virginia-Federal Judicial Council will provide joint educational conferences for State and Federal judges. These conferences will enable State and Federal judges in Virginia to share ideas and discuss common problems as we seek to better serve our citizens.

As you may recall, a year ago, we implemented a program called. "Journey Through Justice." The purpose of this program is to educate Virginia's school age children in public and private schools, and children who are home-schooled about the role of Virginia's judicial system.

Judge Rosemarie Annunziata serves as chair of this commission. This commission is developing pilot programs in Virginia Beach, Arlington, and Washington County. The judicial system must be vigilant in its efforts to teach the public about the role of courts in our democratic form of government.

Justices Barbara Milano Keenan serves as the chair of the Judicial Performance Evaluation program. Judge James W. Benton, Jr. Judge Janice Wellington, Judge R. Edwin Burnette, and Judge Jane Marum Roush, serves as members of the commission. The Honorable David A. Bell,

Daniel H. Cardwell, Cynthia Hudson, and Frank Dozzi are nonjudicial members of the commission. Judge Suzanne K. Fulton serves as the Director of the Judicial Performance Evaluation Program.

The Survey and Evaluation Research Laboratory of the Virginia Commonwealth University has been selected as the contractor that will provide technical assistance to the Commission. The contractor will collect and analyze information, prepare a report for each evaluated judge, and make recommendations that will improve the program. Once the Judicial Performance Evaluation program is fully operational, all judges, including appellate judges, will be evaluated.

We remain confident that the Judicial Performance Evaluation program will be beneficial to Virginia's judges. During the 2003- 2004 pilot program, 27 judges were evaluated. Twenty five of the 27 judges were assessed at the high end of the evaluation instrument. The two judges who scored at the lower end of the evaluation instrument believed that the information from the evaluation process was helpful to them, and they were positive about the process. We must be mindful that the Judicial Performance Evaluation program is a tool that enhance our ability to be better judges. This program is administered by judges for judges, and if the program fails to assist our judges, we will modify the program or we will discontinue the program.

We have undertaken significant efforts to improve the security of Virginia's courthouses for the benefit of judges, court personnel, and citizens who enter our courthouses each day. We have worked very closely with the Virginia Sheriffs Association, the Virginia State Police, and the Capitol Police.

We have developed courthouse security assessment standards and procedures. Sheriffs have received training that will enable them to better assess security threats and needs. Every judge in Virginia who desired a security assessment of his or her courthouse or home will be able to receive such assessment. We have obtained the funding necessary to implement this new service.

The Office of Executive Secretary maintains a database of all threats or perceived threats that judges and court personnel report to use. We will monitor all reports of threats to ensure that the appropriate law enforcement agency assesses and responds to each threat.

We have an obligation to the citizens of this Commonwealth and to our court personnel to ensure that our courthouses are safe. We will make every reasonable effort to achieve this important objective.

This year, we celebrated the 400<sup>th</sup> anniversary of the signing of the Charter of the Virginia Company of London, which culminated in the establishment of Jamestown and, subsequently, the birth of Virginia.

The Virginia Company of London received its Charter on April 10, 1606. The Charter authorized the creation of two colonies, and Great Britain asserted her title to approximately 200 square miles on the continent of North America.

The seeds of democracy in America were planted in this Charter. For example, the Virginia Council elected its own presiding officer. Significantly, the Council was empowered to try all civil cases, and also certain criminal cases. A jury was convened to resolve serious criminal offenses.

Under the administration of Sir George Yardley, who was the Royal Governor of Virginia from 1619- 1627, the Charter of Privileges, Orders, and Laws, became the oldest written constitution associated with America. Also, during Governor Yardley's administration, a commission was created which led to the establishment of the General Assembly of Virginia. Which was the first legislative body to convene on North American soil.

The seeds of Virginia's judicial system were planted in the Charter of the Virginia Company of London because the colonists in Jamestown were given certain legal rights, and among those rights was the resolution of their disputes with a trial by jury. And, as we all know, Virginia's Constitution, which predated the constitution of the United States, safeguards the right to a jury trial, which was one of the protections set forth in the Charter for the Virginia Company of London.

No one would have dreamed, no one would have dared to envision, that 400 years ago this year, when the Charter for the Virginia Company of London was granted, that this legal document would ultimately give birth to the creation of Virginia, the Constitution of Virginia, and Virginia's judicial system.

As judges who comprise of America's oldest judicial system, we must never forget that we are the face of justice to over four million litigants who seek vindication of their legal and constitutional rights each year in our courts. Virginia's courthouses are forums of hope for our fellow Virginians when they have no other resources. We are called upon to resolve their most personal and intimate disputes.

In the discharge of our solemn responsibilities, we must never be too busy that we cannot listen; we must never be too confident that we cannot learn; and we must never forget the importance of humility. I hope that we will always seek to exhibit attitudes of patience and respect to the litigants who appear before us. And let us never forget that we must temper with mercy.

We are symbols—symbols of the rule of law, symbols of impartiality, symbols of fairness, symbols of hope, and symbols of justice.

During my tenure as your Chief Justice, I have traveled thousands of miles throughout Virginia. I have met with judges in Blacksburg, bar associations in Northern Virginia, school children in Norfolk and Virginia Beach, citizens in Winchester, lawyers in Lee County, legislators in Chatham, college students in Charlottesville, and law students in Grundy. I have learned that Virginians have great confidence in our judicial system. And I can state with confidence that Virginia's judges are among the finest in America. I am humbled and honored to serve as your Chief Justice. On behalf of the citizens of this great Commonwealth, I thank you for your dedication and commitment to the rule of law.

May God bless this Commonwealth and our Honorable courts.