

STATE OF THE JUDICIARY ADDRESS

CHIEF JUSTICE S. BERNARD GOODWYN
SUPREME COURT OF VIRGINIA
May 2023

Good morning, judges of the Commonwealth and honored guests. Welcome to the 2023 Judicial Conference of Virginia. I am Bernard Goodwyn, Chief Justice of the Supreme Court of Virginia, for those of you I have not had the opportunity to meet.

It was nice to see many of you at last night's Welcome Reception. It is good to be back in person again this year. We all know that the opportunity for us to be together and to build new relationships and foster existing ones is an extremely valuable part of this conference. We also hope that you will find great value in the educational components of this conference; the Educational Services Department has, as usual, worked hard to bring you relevant and important content that will be helpful.

I appreciate the opportunity to be before you to discuss the state of the judiciary in Virginia. I know that all of our justices, judges, and staff have contributed many, many hours of hard work to ensure that our judiciary remains strong. And it does remain strong.

At the outset, I would like to relay some wise advice that Franklin D. Roosevelt said about giving speeches: "be sincere, be brief, and be seated." I have a lot of information to share with you today, but I will do my best to follow that advice. I will try not to talk too long. They say "it is best to leave your audience before your audience leaves you."

Since our last conference, I am pleased to report that the General Assembly elected two new justices to the Supreme Court of Virginia. Justice Wesley G. Russell, Jr., from the Court of Appeals of Virginia, and Justice Thomas P. Mann, from the circuit court bench in Fairfax County. My colleagues on the Supreme Court and I are honored to serve the Commonwealth alongside both of them. Justice Russell and Justice Mann filled vacancies left by the retirements

of former Chief Justice Donald W. Lemons and Justice William C. Mims, who, I am glad to say, have both re-joined the Court as Senior Justices.

I would also like to acknowledge, with great appreciation, the other justices on the Supreme Court of Virginia: Justice Cleo E. Powell, Justice D. Arthur Kelsey, Justice Stephen R. McCullough, and Justice Teresa M. Chafin. I am deeply grateful for their support, assistance, and advice as we work together in our efforts to guide the Judicial Branch of government in Virginia.

I also want to note the invaluable advice and contributions of our Executive Secretary, Karl R. Hade, and the hard work done by the staff of the Office of the Executive Secretary. As you may have heard, Mr. Hade's commitment to the judicial branch and to improving the lives of the Commonwealth's employees and citizens has been rightfully recognized by his election as President of the Conference of State Court Administrators. This national conference has, and will continue to, benefit greatly from Mr. Hade's leadership and guidance. The work that Mr. Hade and his staff perform is integral to the operations of the Supreme Court and the judicial branch of government in Virginia, and I very much appreciate his dedication and excellence.

Our judicial branch has now operated for over a year with the Court of Appeals' expanded jurisdiction. As you all no doubt recall, the jurisdiction of the Virginia Court of Appeals was expanded to include all appeals involving civil matters. This expanded jurisdiction has increased the Court of Appeals' docket, up from 28 panels before the jurisdiction expansion, to 44 panels in 2022. For this year, their docket has been increased further, to 48 panels scheduled, as a result of the additional appeals filed in the Court of Appeals. As you might imagine, it has taken and will continue to take an extraordinary effort to effectively and efficiently make the administrative and logistical adjustments necessary because of the

reorganization of the Court of Appeals. Chief Judge Decker and the Court of Appeals judges and staff have been doing an excellent job of guiding the Court of Appeals, and I would like to take this opportunity to thank Chief Judge Decker, the Court of Appeals judges, and their staff, for the dedication and hard work they have provided throughout this transitional period.

And to all of the circuit court judges, thank you for your efforts in working to clear the backlog of cases and jury trials created by the COVID restrictions. I know that effort is, for some jurisdictions, ongoing; we appreciate your continuing to provide efficient and effective access to the courts for our citizens. If there are particular problems that you believe the Supreme Court or the Office of the Executive Secretary can help you to address, please let us know. We want to do whatever we can to support you in your efforts, which we all greatly appreciate. The state of our judiciary is strong, in large part, because of the judicial officers and staff in every court of this Commonwealth who work hard every day serving the citizens of Virginia.

The state of our judiciary is also strong because of our ongoing efforts to improve training and provide support for our judges and staff.

The Educational Services Department of the Office of the Executive Secretary has, in recent years, been increasingly focused on self-improvement initiatives for judges. For newly elected judges during their critical first year, Educational Services provides mentoring by a trained sitting judge. In addition, as part of the Judicial Performance Evaluation program, Educational Services assigns a retired judge facilitator to assist each evaluated judge through the evaluation process.

Educational Services has also developed and implemented a Peer-to-Peer Coaching Program to assist judges in reaching their peak performance. Many judges throughout the

Commonwealth have been trained and certified as coaches. They are ready to collaborate, in a confidential setting, and to provide support and insight related to issues both inside and outside the courtroom, for any judge. Being a judge is a stressful and often isolating job, and it can be helpful to have reliable guidance and assistance in dealing with the myriad issues that are inherent in being a judge, regardless of your age or years of experience. I encourage you to take advantage of peer-to-peer coaching and invest in yourselves, enhance your skills, and improve your well-being. If you are interested in being paired with a judicial coach, please reach out to our Wellness Coordinator, Hetal Challa.

Also regarding support for judges, the Judicial Ethics and Advisory Committee issued an advisory opinion a few months ago, with the approval of the Supreme Court. I would like to remind all of you that the Judicial Ethics and Advisory Committee exists to help you with questions about whether proposed future conduct complies with the Canons of Judicial Conduct. The process is confidential, and the opinions do not identify the name of the requesting judge. Once approved by the Justices, the posted opinions provide all judges with a resource to help interpret the Canons.

Over the past year, the Department of Judicial Services in the Office of the Executive Secretary has made improvements to further the just, prompt, and economical resolution of disputes. For example, the Department has implemented the J&DR District Court Appeals interface in 55 localities. The goal of this interface is to simplify the appeals/transfer process between the juvenile & domestic relations district courts and the circuit courts, while fostering efficiency in the clerks' offices. This project has the added benefits of aiding timeliness in familial cases and saving costs through paperless processing.

The Department of Judicial Services also administers the new Hope Card Program, pursuant to legislation passed in 2022. The Hope Card Program assists victims of abuse by providing them with wallet-sized cards that contain essential information about final protective orders issued in Virginia that are for 12 months or longer. In 2022, a total of 2,253 hope cards were issued across the Commonwealth.

Another important task that the Department of Judicial Services performs is foreign language services. Virginia courts consistently provide meaningful access to those with limited English proficiency. This is as important to the diverse communities our courts serve as it is to the court staff who are dedicated to public service. Qualified staff linguists collaborate regularly with court personnel to determine the best way to minimize any challenges related to language access. They have employed technology to make language access in courts as seamless as possible. Language services include the interpretation of spoken words by staff or vendors, as well as translations of documents, forms, and media files. Court system personnel work diligently to ensure all served by Virginia courts can meaningfully participate during their court case.

The Department of Judicial Services also promotes dispute resolution services. Throughout the Commonwealth of Virginia, mediation and other dispute resolution services continue to reap benefits for both courts and litigants. These services reduce the case backlog in our courts by offering parties the opportunity to craft their own agreements in a confidential setting, at no cost to them.

Recalled, retired judges continue to provide valuable service in our circuit courts through the Judicial Settlement Conference Program. These judges work with parties to sort through

legal issues and develop agreements without the expense of protracted, formal litigation. In fiscal year 2022, the Program's judges served litigants in more than 1,000 circuit court cases.

Virginia's specialty dockets also continue to expand. Last year, three more drug treatment court dockets were approved, along with three behavioral/mental health dockets and one veterans' treatment docket; a number of additional courts are also planning to request approval for specialty dockets. To assist with the operation of our specialty dockets, the General Assembly has provided funds for two additional staff positions to review compliance with best practice standards for these dockets. The Department of Judicial Services continues to provide training, to distribute funds to dockets in a grant process, and to maintain a statewide database to generate annual reports which monitor the efficiency and effectiveness of these dockets.

This year, the annual Specialty Dockets Training, supported by the Highway Safety grant, is scheduled for September 18th through 20th, in Norfolk. This year's theme is *Building Bridges to Connect Communities & Courts*.

The Department of Judicial Services also applied for and received a grant to host its first Virginia Behavioral Health Summit, being planned for later this year.

Additionally, the Court Improvement Program in the Office of the Executive Secretary, led by Sandra Karison, has done a great deal of meaningful work in the past year on improving access to, the quality of, and engagement in child dependency proceedings, by expanding access to educational opportunities through trainings, e-learning seminars, and via printed publications for juvenile and domestic relations judges and clerks and child welfare attorneys.

The Court Improvement Program also administers the Guardian Ad Litem Program. It maintains current lists of qualified guardians ad litem for children and for incapacitated persons, and has also enhanced the online lists of approved continuing education programs for guardians

ad litem. In 2022, the Program responded to over 1,300 telephone and email inquiries from qualified guardians ad litem and members of the public.

Also in the Office of the Executive Secretary, the Department of Magistrate Services continues its work in supporting Virginia's magistrates as they provide around-the-clock essential services to the Commonwealth. The department has focused on increasing the amount of in-person training events for magistrates, and is once again able to host live regional trainings each June. It also worked with the Department of Educational Services to host a Magistrate Conference in the fall of 2022. The Department of Magistrate Services also increased the amount of in-person instruction in the magistrate certification school. New magistrates now receive three weeks of live instruction at the Virginia Public Safety Training Center in Hanover, plus two weeks of virtual training, prior to taking the magistrate certification exam.

Bills have been introduced in the past two General Assembly Sessions to return the supervision of the magistrates to chief circuit court judges. The Court has opposed these bills. If you have concerns about the current structure of the Magistrate System, please let us know so we can try to address them.

The Executive Secretary's Department of Judicial Information Technology continues its nationally recognized work, including efforts in the area of cyber security and improving system and network architecture, aiming to stay ahead of ever-evolving cyber security threats. The Security Awareness training year wrapped up in February, with an average 81% completion rate.

Another reason our judiciary remains strong is its commitment to improving access to justice.

The Supreme Court of Virginia's Access to Justice Commission continues its work coordinating and promoting access to justice efforts across the Commonwealth. Justice

McCullough assumed the role of Commission Co-Chair in September 2022, and is doing an excellent job co-chairing the Commission alongside John Whitfield of Blue Ridge Legal Services.

The Commission continues to propose and present on access-related topics at mandatory judicial conferences. It has proposed that the Supreme Court adopt plain language forms in the General District Courts, and a study group is being appointed to examine the issue. The Commission also facilitated an effort to provide scholarships for Legal Aid attorneys to the National Trial Advocacy College. Five attorneys attended the 2022 program free of charge, with the hope this effort will continue into future years.

Additionally, the Commission is working on the second annual iteration of the Pro Bono Recognition project, which recognizes lawyers engaged in closing the access to justice gap by giving of their time, talents, and resources.

Last year, 1,102 Virginia attorneys achieved inaugural Commission honors across four categories of recognition for pro bono contributions made in the 2020–2021 Bar year, as reported on their Virginia State Bar Annual Dues Statements. Ten distinguished attorneys were recognized as “Pro Bono Service Champions,” each contributing more than 550 hours of pro bono service. Fourteen lawyers were recognized as “Pro Bono Investment Champions,” each contributing at least \$10,000 in donations to nonprofit legal service providers. One thousand forty-three Virginia attorneys made the Pro Bono Service Honor Roll by reporting contributions of at least 40 hours of service, and 132 Virginia lawyers made the Pro Bono Investment Honor Roll by reporting donations of \$1,000 or more to legal services programs. All 2022 honorees were included by name and circuit in the June issue of *Virginia Lawyer* magazine, a publication that reaches 40,000+ members of the Virginia State Bar.

We hope to see the number of attorneys who engage in pro bono work increase each year. The Access to Justice Commission is working on a project to market pro bono work to different communities of lawyers to inspire a culture of pro bono service in Virginia. It is also considering helping to create local access to justice committees to provide guidance and consider steps that can be taken on a local level to improve pro bono activity and to tailor local access to justice improvements to individual jurisdictions. The Commission is also working on a project to get posters about access to justice placed in Virginia law schools in time for the fall semester.

The state of our judiciary is strong because of its dedication to expanding access to the court system. And I would like to mention a particular piece of legislation that could enable our judiciary to become even stronger—the budget.

Negotiations in the General Assembly are ongoing on the amended budget for the 2022–2024 biennium. On the topic of compensation, included in last year’s approved spending plan is a 5% statewide salary increase for the judiciary, including judges. This 5% increase will be effective July 1, 2023. Both the House and Senate budget proposals include an additional 2% statewide salary increase for the judiciary, including judges, to make the total increase 7% in fiscal year 2024. If this proposal is adopted, the effective date would likely be pushed back, due to the extended budget negotiations.

Other compensation issues vary by the house of origin: the House of Delegates’ proposed budget includes a 0.5% increase, that is for targeted compensation actions for full time salaried employees whose salary is not specified in the state budget, to address turnover, vacancies, compression or excellence. The Senate proposed budget offers a \$1,000 bonus to all salaried employees, including judges, and also includes an additional 2% salary increase for clerks and

deputy clerks, on top of the proposed 7% statewide salary increase, for a 9% salary increase for district court clerk's office staff.

Other items approved by both houses include three additional staff positions for the Court of Appeals of Virginia due to the expansion of its jurisdiction in 2022, two additional Human Resources positions and one additional Fiscal Services position, an additional General District Court judgeship in the 22nd Judicial District, and a \$3.5 million increase in funding for specialty dockets.

Both houses have also approved a well-deserved and long overdue increase in the retired and recalled judges per diem, from \$250 to \$400. This would be a 60% increase. To all the retired judges, thank you for your service and for helping cover dockets in courts that have vacancies and for assisting with conflict cases.

The two houses of the General Assembly have differing budget proposals on several other items also. As to jury duty per diem, the House has proposed an increase from \$30 to \$50, while the Senate has proposed an increase from \$30 to \$100.

The House version of the budget includes funding in the Criminal Fund to provide two attorneys as court appointed counsel for those charged with Class 1 felonies. The Senate version includes language to increase substitute judge per diem payments from \$200 to \$400, along with funding for changes to the computer system used by the courts to extend the time period that collection activity on unsatisfied court costs may commence after adjudication or incarceration.

In recent fiscal years, the Justices, working closely with Karl Hade, have focused the judiciary's budget on two major priorities: staffing and compensation in our district courts. Two years ago, our operations lacked funding and staffing for roughly 280 needed deputy clerk positions. Over the last two fiscal years, we received over \$16 million in funding for 275 new

deputy clerk positions. In addition to the statewide salary increase, district court clerks and deputy clerks received a \$2,000 increase last summer.

I would like to thank Karl Hade, Eddie Macon, Alisa W. Padden and the Legislative and Public Relations Department, and the rest of the Office of the Executive Secretary for their tremendously successful and continuing work in ensuring that the judiciary receives the resources and funding it needs to serve the Commonwealth to its fullest potential.

The Department of Judicial Information Technology has given me updates on other numbers: general statistics from fiscal year 2021–2022. In that year, 1,501 cases were processed by the Supreme Court of Virginia; 1,694 cases were processed by the Court of Appeals.

In the circuit courts, 368,610 cases were filed, and 369,052 cases were concluded. In the general district courts, 1,664,396 cases were filed, and 1,808,490 cases were concluded. And in juvenile and domestic relations courts, 396,872 cases were filed, and 414,857 cases were concluded.

Statistics from the magistrates show that in fiscal year 2021–2022, 33,716 search warrants were issued, and 304,448 arrest warrants were issued. Emergency protective orders issued totaled 58,544; and temporary detention orders and/or emergency custody orders issued totaled 36,427. The magistrates processed 422,656 requests for bail.

To summarize, our judiciary has been busy this past year. But judicial branch employees have remained dedicated to serving the people of the Commonwealth with excellence, and we are committed to continuing to improve our judicial system going forward.

Finally, I would like to recognize Caroline Kirkpatrick and the Educational Services Department for their excellent work this past year, and in organizing this conference.

In conclusion, the state of our judiciary continues to be strong. As we labor with the difficult legal issues and the difficult circumstances we encounter as we do our jobs, let us remember that as justices and judges, we perform an integral part in the protection of the rule of law and in the administration of justice. Let us remember that our society cannot function without the proper enforcement of laws, and it cannot flourish without the proper protection of individual rights like the rights to life, liberty and property. We are the only ones tasked with monitoring the balance between the competing interests of those citizens whose rights are implicated and the state's rightful need to enforce the laws of the Commonwealth.

I urge you all today to continue the excellent work you do for our Commonwealth, and to always do your work with attention paid to its importance. Thank you for your service to the Commonwealth. And thank you for this opportunity to speak with you today.