

2011 State of the Judiciary Address

August 8, 2011

Virginia Beach, Virginia

My colleagues, judges of our General District Courts and Juvenile and Domestic Relations District Courts; members of the General Assembly; staff from the Office of the Executive Secretary of the Supreme Court of Virginia, the Clerk's Office, the Chief Staff Attorney's Office, and the State Law Library; and guests. It is a distinct honor to stand before you today to deliver this State of the Judiciary address.

According to statistics gathered by the National Center for State Courts, year after year, more than 95 percent of all cases commenced in the United States are filed in state courts. That fact alone demonstrates the important role that state courts play in the administration of justice and, therefore, demands that we all be active in drawing attention to the fact that Virginia's judiciary is a separate and equal branch of government essential to securing the blessings of liberty. In that regard, I want to thank the Virginia Bar Association and the Virginia Trial Lawyers Association for their joint letter released to the press in response to a memo from some members of the General Assembly to judges who will stand for re-election in 2012. Those organizations took a strong stand in defense of the judiciary and its status as a separate, equal branch of government.

Before addressing the topics that are probably foremost on everyone's mind, judicial vacancies and the study concerning the judicial boundaries in the Commonwealth, I must mention just a few of this past year's developments within the judiciary that will enable it to better serve the people of Virginia:

1. Starting in 2010, the Office of the Executive Secretary began posting and maintaining on the judicial system's website the Rules of the Supreme Court of Virginia. Previously, the Rules, along with the Code of Virginia, were posted on the General Assembly's website, but the Rules were updated only twice yearly. Now, when revisions are made to the Rules, those revisions are posted promptly on the judiciary's website.

2. The Office of the Executive Secretary is currently in the process of upgrading judicial branch computers to Windows 7 and Office 2010.

3. Work has been completed on rewriting the circuit and juvenile and domestic relations district court case management systems into a new language. The new, browser-based systems have been implemented in 116 circuit courts that use our case management system, and in 32 juvenile and domestic relations district courts. The system will be installed in additional juvenile courts during the year. The new case management system for general district courts is in the design phase, and we anticipate that it will be deployed as a pilot by early 2013.

4. A case imaging system, which electronically stores images of all case papers and is a precursor to electronic filing, has been developed and installed in approximately 50 circuit courts. It is also being piloted in a handful of general district courts.

5. Work continues on the electronic filing project. The current focus is on developing the necessary interfaces for electronic filing with the various systems such as case management.

6. Officer of the Court Remote Access, which provides secure remote access to scanned images of case papers for certain qualified and preapproved officers of the court, was developed as an enhancement to the case imaging system at the request of a circuit court clerk and has since been installed in several circuit courts. This program won the 2010 Governor's Technology Award Honorable Mention.

7. Work is ongoing with the Virginia Department of Corrections and pilot circuit courts to develop a method to transfer sentencing and revocation orders to the Department of Corrections. This project will eliminate the need to fax such orders to the Department of Corrections.

8. Online payments of pre-court and post-court fines and costs in general district courts are now averaging 44,000 transactions, totaling \$6.2 million, each month. Approximately 25 percent of all traffic payments are made online. Even in trying economic times for the Commonwealth, the revenues generated by the work of the judiciary continue to exceed the cost to taxpayers of operating the judicial branch of government.

9. With regard to the judiciary's budget, \$2.9 million was kept in place to fund drug courts, and the General Assembly approved budget amendments to cover projected shortfalls in the Criminal Fund and the Involuntary Mental Commitment Fund. However, in the fiscal year for 2010-2011, the judiciary was required to give back to the general fund approximately \$9.5 million. In the current fiscal year, 2011-2012, the judiciary must return approximately \$7.5 million. So, as you can see, the economic downfall is still adversely affecting the judiciary, meaning we have to assess every decision in terms of its financial impact.

As you know, the 2010 General Assembly included language in the budget that froze the filling of all vacant judgeships until July 1, 2012. Despite the difficulties those vacancies caused, especially in some districts and circuits, the judiciary worked together to insure that the administration of justice in the Commonwealth did not suffer. I thank all the judges, both active and retired, for your tireless efforts. But as judges, we all know that the judicial branch could not function without the court system's employees, those persons one representative in Alaska called the judiciary's "unsung heroes." I concur and also thank all of them.

Despite the efforts of everyone within the judicial branch, we knew that if the vacancies were not filled, the administration of justice would suffer. We all know the adage, "Justice delayed is justice denied." Earlier this year, we had projected that we would have a minimum of 37 judicial vacancies across the Commonwealth by June 30, 2012. We are pleased the General Assembly also understood the gravity of this problem and authorized funding to fill 21 of those vacancies, two of which will result from mandatory retirements in this fiscal year. The General Assembly left 16 judgeships unfunded. In other words, the filling of those vacancies and any others that might occur is still frozen. As of this date, of the 21 vacancies that the General Assembly funded, it has elected judges to fill nine existing circuit court vacancies and one future mandatory vacancy, three general district court vacancies, and one juvenile and domestic relations district court vacancy. In electing circuit court judges for those vacancies, the General Assembly elevated seven district judges, thereby creating seven more vacancies, of which only three were filled. And, as all of you know, the General Assembly elected two people to fill the vacancies on the Supreme Court of Virginia and also filled the two vacancies created on the Court of Appeals of Virginia.

With regard to the vacancies that were not funded, some in the General Assembly expressed the view that economies can be realized by redrawing the judicial boundaries initially drawn in the early 1970s. Toward that end, Senate Bill 1240 and House Bill 1990 were introduced during the last session of the General Assembly. Those bills would have realigned the judicial boundaries in the Commonwealth, reduced the 31 judicial circuits and 32 judicial districts to 19, and reduced the total number of judges from 402 to 382. The House passed House Bill 1990, but the Senate did not act on either bill in order to give the judiciary an opportunity to study the issue. In a letter to me, the Honorable Henry Marsh, Chairman of the Senate Committee for Courts of Justice, stated: "Although these bills did not pass, it was not for lack of support, but in deference to the Court and a desire to receive the input of the Court prior to passage." Accordingly, Senator Marsh requested the judiciary to study the judicial boundaries and make recommendations as to boundary changes and the number of judges to serve in each circuit and district. We will submit that report to the General Assembly on November 1, 2011. On behalf of the judiciary, I express my gratitude for this opportunity to have input and a meaningful dialogue with the General Assembly about the issue.

To conduct the study, I appointed a 22-member committee, comprised of a judge of the Court of Appeals; judges of circuit courts, general district courts, and juvenile and domestic relations district courts; clerks from those various trial courts; a chief magistrate; and representatives from three state-wide bar organizations. I sought to have a committee of manageable size but with representation from all aspects of the judiciary and from across the geographic expanse of the Commonwealth. I thank those committee members for their willingness to serve and especially The Honorable Thomas Horne, Chief Judge of the

Twentieth Judicial Circuit, for agreeing to chair the committee. I also thank Karl Hade and his staff, in particular Katya Herndon, Director of Legislative and Public Relations, and Cyril Miller, Director of Judicial Planning, for commencing work on this study immediately, gathering information even before the committee had its first meeting.

I initially sought information from circuit and district judges and clerks, as well as numerous other affected entities across the Commonwealth, with regard to the facts, issues, or circumstances that the committee should consider in realigning judicial boundaries. In response to the initial request that was sent to judges and clerks, we received many insightful comments and suggestions. The committee subsequently requested more in-depth information about scheduling, dockets, and weekly activities. I know it was additional paperwork for you. I thank you for taking the time to compile the requested information, which was absolutely necessary to enable the committee to complete its task. Whatever recommendation the judiciary makes to the General Assembly regarding judicial boundaries, we must have the information and data to make our case and tell our story.

The committee formed four subcommittees to address the multitude of issues related to redrawing the judicial boundary lines. There is a statutory subcommittee, an implementation and fiscal impact subcommittee, an interagency impact subcommittee, and a chief judge duties subcommittee. Based on the data collected, the committee proposed alternative plans for consideration. These proposals were presented at the regional public meetings held last month across the Commonwealth. The committee has received valuable input from judges, clerks, magistrates, attorneys, bar associations, sheriffs, and other local officials, as well as representatives from other affected entities regarding the alternative proposals. The committee will meet later this month to finalize its recommendations, which

will be presented to a joint meeting of the Judicial Council and the Committee on District Courts. The final plan will be reviewed by the Supreme Court of Virginia for approval before it is submitted to the General Assembly in November.

My charge to the committee at its first meeting was to look beyond mere caseload per judge and determine the actual workload in the present circuits and districts. Using that information along with geographical considerations and other relevant information that is provided by affected entities, I asked the committee to determine to what extent judicial boundaries need to be redrawn and to develop a plan that effectively utilizes our resources without jeopardizing the quality of justice in the Commonwealth.

If you have questions about the committee's proposed alternative plans, I will be glad to try to answer them. Also, Karl Hade is here and available for questions.

Whatever legislation regarding judicial boundaries that the General Assembly ultimately enacts will affect the judiciary and the administration of justice for many years to come. Thus, it is of vital importance that the judiciary's report to the General Assembly is accurate, complete, and well-documented. In the end, the three branches of government must coordinate their separate constitutional duties to ensure that all people receive equal justice under the law.

I have one final thought that I wish to share in this inaugural address. As judges, we stress the importance of professionalism to the members of the bar. But, we must never forget that it starts with us. We set the example, and we must set that example high with regard to our promptness in opening court and deciding cases; courtesy to lawyers, litigants, and staff; preparation for cases; management of our dockets; and, in all things, demeaning

ourselves professionally. Because our predecessors and colleagues have brought honor to the judiciary by their comportment, I am proud to be numbered among the judiciary of this Commonwealth, as I know each of you is. May we each now recommit to preserving the rightful esteem in which our judiciary is held.

I appreciate this opportunity to discuss with you both the accomplishments of the judiciary during the past year and the challenges facing us in the year to come. May God richly bless the Commonwealth and its judiciary.