

“STATE OF THE COURT ADDRESS - OCTOBER 20, 2000”

I am quite grateful that our Bar Liaison Committee has no Local Rules and is willing to grant me a hearing this afternoon. Seriously, I want to thank the Committee and all of you who worked so hard in planning and implementing today’s program. Special thanks are due again this year to James Nolan, who first conceived of this federal bench/bar conference more than two years ago. Jim, we are indebted to you and all the members of this year’s organizing committee. I hope this conference continues as a biennial event because I genuinely believe that we all, judges perhaps more than practicing lawyers, learn much from our candid, informal exchanges. The older I get the more I appreciate the importance of learning to listen - without, I must add, losing the will to decide.

Much has happened since our first conference two years ago. Three of our distinguished judges have passed away: Judge Murray, Judge Howard, and Judge Murnaghan of the Fourth Circuit. Several revered members of our constituent agencies have retired, including Gary Sapperstein, John Burrell, Nancy Brooks, and Augie Cage of the Clerk’s Office, and Joe Slert of the Probation Department. We have gained a new Clerk of Court, Felicia Cannon, who has brought caring, courageous leadership - “tough love” in the vernacular - to her office, as well as a new chief deputy, John Cerino. We also have added a new magistrate judge - Beth Gesner - to the ranks of what I have no hesitancy in saying is the far and away the finest group of magistrate judges in the country. I do not

believe in hyperbole but I can honestly say that the district court could not function without Chief Magistrate Judge Schulze, and Judges Bredar, Connelly, Day, Gauvey, Gesner, Grimm, and Klein, and our two part-time magistrate judges, Tom DiGirolamo and Vic Laws who regularly sit here in the southern division as well as in their home turfs on the Eastern Shore and in Western Maryland.

We continue to have ten active district judges, as we did two years ago. Each one of us carries both a civil and criminal caseload, using an individual assignment system but backing one another up for trials when circumstances require. One of our senior judges conducts rearraignments and presides over sentencings stemming from those rearraignments. On the civil side, one of our senior judges carries a 25% caseload and the others assist the active judges on an ad hoc basis.

There are four bankruptcy judges who must handle one of the heaviest dockets in the nation. 31, 183 cases are pending before them. In the district court we have 608 criminal cases and 2,503 civil cases pending. The judges in the southern division take their proportionate share of civil cases filed by prison inmates, and the active judges in the northern division take 25% of the civil cases filed in the southern division in order to assure that there is an even distribution of assignments among the judges throughout the district. The court is a large operation. We have a budget of almost \$29 million and 470 employees.

We manage our docket with great efficiency. Every six months we must file a public report

stating the number of cases pending for over three years and the number of motions pending over six months. For the period ended September 30th, collectively we had 68 only cases pending for over three years and only 18 motions pending for over six months. This is a truly remarkable performance. It could not be achieved without the hard work and conscientiousness of my colleagues. Let me take this opportunity to thank them. I am chief judge only by coincidence of age and seniority but that does not diminish my pride in having the privilege to speak on behalf of a group of such dedicated and public-spirited women and men.

I am not sure that we can sustain this level of performance for the next six to twelve months.

The first reason for this is one in which we sadly rejoice. As I am sure you all know, Judge Andre Davis has been nominated by President Clinton to a seat on the United States Court of Appeals for the Fourth Circuit. Regardless of the outcome of the election, he would be a splendid appointment. But if he does join those who review our work, there will be a period of time in which there will be a vacancy on the district court. Since there are only ten active judges, this vacancy will inevitably have an impact upon our ability to remain current on our docket.

The second factor that is having, and will continue to have, a substantial adverse effect upon us is the spiraling increase in social security appeals. Beginning with 1998 those appeals have increased from approximately 100 per year to 300 per year, and are conservatively estimated to continue to

increase by at least 15% next year.

Without question, however, the greatest threat to our ability to manage our civil docket is effectively is the expanding federal prosecution of street crime. During 1999, there was a 72% increase in indictments of felon-in-possession cases under "PROJECT DISARM" compared with 1998. During the first nine months of 2000 there has already been a 56% increase in such prosecutions compared with all twelve months of 1999. Moreover, the impact of these cases upon our docket is even greater than these statistics suggest. Because the penalties are high, defendants in felon-in-possession cases are less likely than defendants in some other kinds of cases to plead guilty, resulting in a higher incidence of criminal trials. Further, since felon-in-possession prosecutions usually arise from warrantless arrests, they frequently involve time-consuming detention and suppression hearings.

While preparing these remarks, I happened to glance at my trial calendar for the two week period beginning December 4th. It illustrates the impact that felon in possession cases are having. I am starting a three week white collar criminal case that counsel advise me almost certainly will go to trial. I also have scheduled a bank robbery trial (estimated to last four days), four civil cases, and five felon in possession cases. Obviously, some of these cases will be resolved by plea or settlement. However, my other active colleagues and I are becoming overwhelmed by the sheer volume of felon in possession cases. They are hitting us at the same time we are being required to try other lengthy criminal cases,

including not only multi-defendant drug prosecutions (that long ago became a staple of our diet) but also capital crimes, mortgage flipping frauds, food and drug violations, and the like.

I personally plan to try to get through the crisis by holding “morning/afternoon double headers,” that is simultaneously conducting two trials, one from 9:00 a.m. to 1:15 p.m., and one from 1:30 p.m. to 6:00 p.m. I anticipate that several of my colleagues will do the same. That, however, cannot be a long-term solution. It will create inordinate stresses on court personnel and the Marshal’s Service. Over time judges themselves will not be able to withstand the strain, particularly since we are also properly expected to handle motions in our civil cases promptly and well.

I hope more vigorous prosecution of firearms offenses by local authorities will result in the decrease of the number of federal felon in possession charges that are instituted. If that does not occur, either the number of federal judges in the district will have to be substantially increased or the civil docket will become congested and stagnant.

Enough gloom. Although our short-term prospects are somewhat bleak, I am confident we will weather the storm. In my own immodest view, the federal court is being asked to carry more than its fair share of the load precisely because it is such a fine institution that operates so efficiently. Judicial independence and reform has become an issue of worldwide interest, and under the leadership of Judge Messitte the District of Maryland has become a host court for many visiting judges from foreign

countries and a model for them to follow. Over the past two years delegations from Russia, Brazil, Israel, Azerbaijan, Pakistan, the United Arab Emirates, and Moldavia, to name just a few, have visited the district. A delegation from China will be here in Greenbelt next week.

Let me also talk a little bit about facilities. With great assistance from the Bar Liaison Committee, particularly Herb Better, and Mary Widomski, we have beautiful attorney conference rooms both in Greenbelt and Baltimore. It is appropriate that members of the bar have a comfortable and dignified place to meet in our courthouses since you, just as much as us who wear robes, are part of the justice system. Many more disputes are resolved in a reasonable and fair fashion by settlement or plea than by trial. We depend upon your professionalism and civility.

Those of you who have been to the Baltimore Courthouse within recent months know that the Sugarman sculpture has returned. This has renewed - how shall I say it? - some murmurs of discontent. There are, however, some of us, a minority though we may be - who have developed an affection for "Baltimore Federal." George Sugarman may have been ahead of many of us in perceiving that a courthouse should be welcoming to the citizens it serves. Glenn McNatt - the art critic for the Baltimore Sun - has written, "The work's true meaning lies in the openness and accessibility of its forms, and the variety of experiences they allow." Standing near the entrance of the courthouse, it reminds us that law draws life into its more rigid contours. In any event, the Sugarman sculpture has become part of the

history of the court, and to my untrained eye at its new location on Hanover and Lombard Streets, it brings needed color to an otherwise drab and dreary corner.

I hope that by our next conference two years from now, there will have been further improvements to the interior of the Baltimore Courthouse. Two of the seventh floor courtrooms are due to be entirely renovated. By next September we hope a new conference room on the second floor will have been completed. It is designed to provide a dignified meeting place and to display documents, furniture and objects from the court's history. Our most prized possession is a pardon signed by President Lincoln that the State Archivist, Edward Papenfuse, is restoring and preserving for us.

When the conference room has been completed, we will be able to rehang all of our portraits of judges, some of which have been in storage for many years. I hope that we will be able to place in courtroom 1A the portraits of the judges who sat on the district court during the tenures of Judge Northrop, Judge Kaufman, Judge Harvey, and Judge Black, as chief judges. Looking to the future, I hope that we will be able to expand the second floor conference room to establish a museum that emphasizes the relationship between life and the law. Piracy and shipping, the Civil War, the civil rights movement, and anti-war protests during the Vietnam era provided the context for many of the most significant judicial decisions made in this district, and their portrayal might attract substantial public interest, particularly among younger people, in the processes of the law.

As I envision the future of the Baltimore Courthouse, I realize that our spirit has been refreshed by our friends and colleagues here in the south. The judges and the members of the bar have made this beautiful courthouse a venue for the display of work of local artists and a place of community involvement. Unfortunately, the courthouse was too small by the time it was completed and within just a few years will not be sufficient to accommodate all of the judges who will be sitting here. By next year we anticipate that the Probation Department will be moving to an office across the street. The U.S. Attorney's Office has also indicated that they intend to vacate their offices in the courthouse in the near future. These moves will provide needed office space. However, new courtrooms are also required, and one of the highest priorities for the district is the construction of a substantial addition to the Greenbelt courthouse. Because of certain irrationalities in the formula that the Judicial Conference and the Administrative Office use in setting priorities for courthouse construction, we will probably need direct congressional assistance to be successful in obtaining the necessary funding.

I should say, however, that the Administrative Office has been extremely helpful in helping us resolve one facilities issue of great concern. The courtroom used by our part-time magistrate judge and bankruptcy trustee in Salisbury is on the second floor of the old post office and is accessible only by stair. If we were a state court, the federal government would have instituted suit against us for violation of the ADA. I am glad to say that plans are now being implemented to move the courtroom to vacant

space on the first floor of the building.

There is one structure that is notable by its absence: a federal pretrial detention facility. We have needed one for over twenty-five years, and the fact that it has not been constructed represents a failure of political leadership and will. At least our pretrial detainees are no longer being housed at the Baltimore City Detention Center where in the past they were subjected to assault and totally inadequate medical care. The alternative detention facilities now being used have their own deficiencies, however. At Supermax detainees are confined in their cells too many hours a day, and attorneys routinely complain that the visiting facilities are so poor that they cannot confer with their clients effectively and in confidence. The facilities in Charles County, on the Eastern Shore, in Western Maryland, at Northern Neck, Virginia are far distant from our courthouses and the cities and towns in which the members of our bar practice. This presents almost insurmountable problems for the members of our CJA panel and the Marshal's Service. I could go on and on but I will say no more about this issue other than that it is one that deserves the serious attention of all members of the bar. Our society cannot have it both ways. If it wants to solve the crime problem by locking more people up, it must provide for more prisons and for pretrial detention facilities that permit adequate access to counsel.

Let me close by saying what a great honor it has been to serve as the chief judge of this court for the past six years. My term of office expires next October. I am extremely grateful to all of my

colleagues for the support they have given me over the years. The court has experienced tremendous growth and significant changes, including the opening of a new division, reorganizations of our constituent agencies, the reconstitution of our CJA felony panel and formalization of our CJA policies and procedures, and the advent of new technologies. I think we have fared reasonably well.

This due to the fact that we have worked together. The business of the court is done through our committees composed of district, magistrate, and bankruptcy judges as well as representatives of the constituent agencies. We could not do our job without the superb assistance of our staff attorneys and Donna Shearer, our CJA supervising attorney. Our four unit chiefs, Felicia Cannon, Richard Donovan, Dave Johnson, and Bill Henry all provide tremendous support for the court and leadership to their agencies. Special acknowledgment is also due to Judge Blake, whom the court selected to serve as administrative judge in April of 1999. With characteristic selflessness, she now coordinates the court's operations and will provide continuity and leadership in the coming years.

Thank you all again for having come today. Let us now enjoy ourselves a bit.