

# MESSAGE FROM CHIEF JUSTICE LEO E. STRINE, JR.

In this, my first Annual Report message as Chief Justice, I want to stress how comforting it is to succeed an outstanding leader, Myron T. Steele. Chief Justice Steele's passionate and effective leadership leaves us with the happy task of trying to make a strong judicial system an even better one. And the state of our judiciary is sound. Our cases are usually disposed of in a timely manner, the relationship between the Delaware Bar and our courts is excellent, and entrepreneurs and business executives around the world continue to view Delaware as the domicile of choice for business entities.

Our Judiciary's expert resolution of corporate and commercial disputes is an important reason for the success of what is now Delaware's most important industry – entity formation and the larger legal industry.

But, our continuing ability to effectively handle cases that are vital to Delawareans – matters like criminal cases, sensitive family disputes, will contests, and neighborhood disputes – is every bit as important to the high regard in which our courts are held.

But we did not get to where we are today by contentedly accepting accolades. We got here because our predecessors prepared us to meet the challenges of the future they faced. We must do the same. The legacy they left us comes with the corresponding responsibility to act as stewards for future generations. During my first six months as Chief Justice, I focused on talking with as many people – judges, attorneys, and justice system partners – as possible, to get their insights into the most important future challenges facing our Judiciary. Through those conversations – and continuing discussions – the following goals for the Judiciary have emerged:

- Involving the Bar and the Courts' constituents in setting and implementing our agenda
- Meeting the business world's need for cost-effective and timely dispute resolution
- Maximizing the use of limited resources
- Identifying flexible funding solutions for Judicial Branch needs
- Investing in court employees, infrastructure, and the smart use of technology
- Improving access to justice for all Delaware citizens
- Addressing work/life balance issues for attorneys



*Chief Justice Leo E. Strine, Jr.*

Bench and Bar collaboration is a hallmark of Delaware's legal tradition, and Bar Presidents Greg Williams and Yvonne Saville and the courts have pledged to make that collaboration even more effective.

To kick-start that effort, the Delaware Chapter of the American College of Trial Lawyers (which is composed of our State's finest trial lawyers) and the Delaware State Bar Association (DSBA) (which has identified practice leaders from other key areas such as Family Law and Administrative Law) are in the process of conducting a survey to give attorneys and community members the chance to provide confidential input about how the court system is doing in key practice areas and to suggest systemic changes. The

survey process, and resulting recommendations, are expected to be completed by the summer of 2015.

Maintaining and growing Delaware's reputation for being the premier venue to address the business world's need for cost-effective and timely dispute resolution is a top priority. Our immediate focus is on addressing business needs for mediation processes - and appropriate physical space for mediations - in the Court of Chancery. In addition, the Judicial Branch has been working closely with the Executive Branch and the Corporate Law Section of the DSBA to develop a new approach to providing businesses with a rapid, efficient, and cost-effective method for dispute resolution. We anticipate that legislation implementing this approach will be brought up for consideration by the General Assembly and the Governor in 2015.

Another key on-going challenge we face is the likelihood that state revenue growth will continue to be modest. For our Judiciary, that means that we must expect to do the important work entrusted to us with, at best, stable resources. We must be open to new ways of doing business by rethinking old processes and using technology wisely. Consistent with the Judiciary's recognition that we must use taxpayers' dollars judiciously, we have established a partnership with the University of Delaware's Alfred Lerner College of Business and Economics to commit to a single, high-quality approach to process improvement for at least a decade. Leadership training for high-level Judicial Branch managers and representatives from the Governor's Office, Attorney General, Public Defender, Department of Correction, and Division of Youth Rehabilitative Services, was completed in the fall of 2014. Training for staff at all

levels on process improvement techniques has begun and is slated to continue. This approach will help us promote openness to innovation, delivery of high quality services, and invest in our employees. The ability to streamline and rethink old processes is a critical first step in our efforts to implement a single electronic case filing system for all criminal and civil cases in Delaware courts by the end of 2016. Our plan to implement one, high quality e-filing system for our civil and criminal caseloads will improve the ease of practice for litigants, minimize archiving and staff costs, and maximize the sharing and accessibility of information, while allowing us to take full advantage of related technology.

Another initiative to help us manage our limited resources more effectively is the Criminal Justice Council for the Judiciary, which was established in October 2014 under co-chairs Superior Court Judge William Carpenter and President Judge Jan Jurden, to establish consistent, statewide standards for operations in problem-solving courts based upon objective criteria, and to recommend ways to effectively deploy scarce treatment resources to reduce recidivism. This group is also charged with addressing the proliferation of an unwieldy, overlapping group of criminal justice commissions, committees and boards of many names. The group's goal is to identify smaller groups of effective bodies to make better and more timely policy decisions.

We have also been working on a number of initiatives to enhance the overall effectiveness of justice system operations. For example, a new videophone protocol was adopted in the Court of Common Pleas downstate in September 2014, which resulted in a 55% increase in videophone usage in Kent and Sussex Counties during its first few months of operation. This is producing substantial cost savings for the Department of Correction – and an average of 50 less inmates being transported from the prison to those courts each month.

We are committed to investing in our employees and our infrastructure. Remaining mindful of the State's fiscal realities contrasted with our critical resource needs, we are seeking more autonomy and flexibility with Judicial Branch funding and looking for ways to fund initiatives without increased reliance on the General Fund. Most important to our operations are our employees, who have suffered from increasing workload demands, limited resources, and compensation rates that have fallen far behind inflation. And a long-standing inequitable situation must be addressed: almost half of Judicial Branch employees receive less take-home pay than other similarly situated employees solely because they work in the City of Wilmington. Those employees must pay for parking, unlike state employees who work outside of Wilmington and do not have to pay for parking. The typical \$1,500 annual cost of parking in downtown Wilmington represents a material drain on resources that could otherwise be available to employees and their families, especially because many court employees make \$35,000 or less per year. We recognize that this inequity affects all state employees who work in Wil-

ilmington and are working in partnership with the Attorney General and the Public Defender in trying to eliminate this unfairness. We stand ready to work with the other branches of government to address this unfair treatment through the budget process.

We also need to address our deteriorating technology and capital infrastructure. Some of our basic technology hardware, such as servers and switches, are far beyond their projected "end of life," placing court operations potentially at risk. An example of the dysfunction, inefficiency, and excess cost that results from a lack of stable funding for technology is our existing storage area network, which was more than five years past its end of life and close to maximum utilization when we were finally able to replace it. Because we currently do not have an on-going source of sufficient funding to replace outdated technology, the Judiciary is forced into a cycle of intermittently needing large sums of money to replace entire systems. This is not how well-run businesses fund their use of technology. Private sector businesses plan for replacement of technology to achieve cost-savings by purchasing technology in a careful way, taking advantage of scale. We continue to look for all opportunities to address our technology needs.

Safe and dignified courthouses are essential to doing justice. Some aspects of our capital infrastructure – specifically the downstate Family Court facilities – are woefully inadequate. To be blunt, the Kent and Sussex Family Court facilities were built in very different times. They are unsafe. They are undignified. They are unworthy of our state's reputation for having an excellent judicial system. The Court Facilities Improvement Working Group, which convened in the fall of 2014 to consider solutions to the downstate Family Court facilities issues, determined that the need to address existing security and operational inadequacies in Family Court's Kent and Sussex Courthouses is critical. The Group's report, issued in January 2015, analyzed four options to addressing that need, and indicated the Group's preliminary support for plans providing for two new courthouses – one in Dover and one in Georgetown. In addition, now is also the time to secure the ability to cost-effectively address the needs of the New Castle County Courts for the long-term. Long-term fiscal responsibility requires foresight and prudent current investments, including in real property.

In considering access to justice, we must view it in the larger sense of making sure that our nation's promise that each of us is endowed with certain fundamental rights and entitled to equal respect is honored. It is in that context that the Delaware Access to Justice Commission was established by the Delaware Supreme Court to identify any barriers to access to justice that may exist, and to develop recommendations designed to improve access to justice for the citizens of Delaware. To increase its accountability, the voting membership of the Commission is comprised entirely of private citizens – outstanding community and business leaders, lawyers, and other professionals from across the state, who have the flexibility to make whatever

Continued on next page

## A MESSAGE FROM THE CHIEF JUSTICE



Bryan Stevenson, Executive Director of the Equal Justice Initiative and author of *Just Mercy*, addresses the Delaware Access to Justice Commission at the Kick-Off meeting on December 15, 2014 at Arsh Hall, University of Delaware.

policy recommendations they believe will be best for Delaware. We wanted to make sure that the Commission was not merely another high-falutin' sounding body committed to all generalized good things, but is instead one that gets real things done that help real people. Consistent with deepening the involvement of the Bar, Greg Williams and Yvonne Saville are chairing this important Commission. Working through subcommittees, its initial focus is on four important access to justice needs in Delaware: the efficient delivery and adequate funding of legal services to the poor; Judicial Branch coordination in helping pro se litigants; the need to increase the pool of legal advisors to help litigants of limited means; and fairness in the adult criminal justice system. The Commission held its kickoff meeting on December 15, 2014, and its subcommittees have hit the ground running since then. The subcommittees will conduct research, hold public hearings and make recommendations throughout the two year period allotted for the Commission's initial work. A vital aspect of the Commission's work will fall under its Subcommittee on Fairness in the Adult Criminal Justice System, which was created in recognition of the fact that approximately 22% of Delaware citizens are black, but nearly 60% of the male prisoners held in Delaware prisons are black. That subcommittee will study the causes of disparity between the percentage of Delawareans who are black and the percentage of those incarcerated in Delaware's prisons who are black, and recommend measures to reduce any inequities not based upon sound criminal justice policy.

Because of the courts' overarching relationship with access to justice, we may be brought into areas beyond our typical daily duties. For example, in 2014, the Administrative Office of the Courts and I were involved in efforts to ensure that unaccompanied immigrant children, who arrive in the United States alone, have legal representation as they seek immigration relief to allow them to lawfully live

and remain in the United States. Delaware Senator Tom Carper brought this need to our attention and we assisted Catholic Charities, Delaware Volunteer Legal Services, Community Legal Aid Society, Inc., and others, in obtaining and training attorney volunteers to assist these children in seeking immigration relief. I am immensely proud of the exceptional response of the Delaware Bar -- more than 145 Delaware attorneys volunteered to help and participated in the training. Efforts continue to match these children with volunteer attorneys and arrange for interpreters, when needed.

Finally, I am aware that if courts can help lawyers to strike a better work-life balance, we can improve the legal practice overall and lessen the need for lawyers to make stark choices between professional success and personal and parental fulfillment. We are considering Judiciary-wide initiatives to advance that goal including ways judges can help such as by abstaining from the issuing of opinions in most non-expedited cases after 5 p.m. from Monday through Thursday and after 2 p.m. on Fridays.

Fiscal Year 2014 has been a year of transition for all of us. We have focused on developing a set of concrete goals to guide our efforts in the coming decade. The next steps are harder. We must take the information we will obtain through our ACTL survey, ATJ Commission, the Criminal Justice Council of the Judiciary and process improvements to develop specific plans to achieve these goals.

We are grateful for the support of the other branches of government and the Bar in helping us achieve our goals. I think all of us are united in understanding that the Courts play a fundamental role in ensuring Delaware's vitality -- to provide an efficient and effective forum for its citizens -- and for the broader business world to resolve disputes. I am honored to have the ability to help the judicial system move towards that vision and meet its challenges head on.



Chief Justice Leo E. Strine, Jr., and other members of the Subcommittee on Fairness in the Criminal Justice System listen as concerns are discussed about racial disparity in Delaware's prison population.