

Welcome to the state of the judiciary for circuit court. My name is Penney Azcarate, and I am the current chief judge of Fairfax Circuit Court. Now if you were here last year, you may recall I equated Circuit Court to the Titanic. I am happy to report I am in a much better place this year – a good year – back to our new normal.

One of the books I read this year was Sweetness of Water by Nathan Harris, great book by the way, I recommend. There is a quote where a character visualizes decisions as a tree. “The tree, upon doing good in the world, could grow strong and thick, but with each poor decision, rot would start to sprout -- gnarled roots at its base, limp branches that snapped with the lightest touch. At the end of any given period -- a month, a year -- it was wise to consider the growth of one's tree, and the decisions you had made that led it there. It was yours to let grow or die.”

That is how I see being chief in Circuit Court. I inherited a tree. It was here before I got here, and it will be here long after I am gone but right now it is our tree and our decisions can make it stronger and our decisions can make it weaker; so we have to go back and take stock of

the tree on occasion and make sure we are keeping it healthy and growing.

When I inherited this tree, it had a very strong foundation, it was a little worn from the pandemic, but it was strong. So, what I am going to do today is take stock of the circuit court tree. What branches have we already built and fortified, what branches are we building and growing, and what branches have we trimmed to keep the tree healthy.

Let's start with that one first: **Branches we have trimmed:**

Prior to the pandemic we had 224 civil cases pending and 66 criminal cases pending. Two years ago, we had 1472 civil trials pending and 417 criminal trials pending. Last year you may recall we had not moved the backlog for civil cases much with 1432 civil cases pending and 264 criminal cases pending. You may also recall, due to this, we shut down continuances in most cases except for extreme reasons. Unfortunately for you, it worked. We are now down to 913 civil cases pending and 127 criminal cases pending. So that means we cut over 500 cases from our civil backlog and 150 from our criminal backlog. This

goes to show how hard our judges and clerks have been working this year. To make this cut in the backlog and still handle over 27,000 new filings this year is a credit to our great public service team and our dedication to the Bar and the community. Of course, by being this efficient we are seeing more filings from surrounding counties since we can move a case through the system faster than our counterparts. But we accept the challenge and look forward to making this the year we can catch up on our backlog and put the pandemic somewhat behind us. This also means we will continue with our continuance policy for the next year, and we will also be going back to scheduling cases for trial within a year of service and criminal cases within the two-month term.

Some more trimming this upcoming year, well actually a branch that is breaking unfortunately for us is John Frey is retiring after 32 years as Clerk of the Court. To say he will be missed is an understatement. His guidance of this Court for decades and his public service to Fairfax County is unwavering. The roots he has cultivated to our tree will last well into the future and we are so grateful to have had the honor to serve with him and on behalf of the entire bench I wish him well in his retirement.

In addition, we are losing two judges to retirement this year, Judge Carroll, and Judge Smith, who would want me to mention he has been a judge in Fairfax for 33 years. Both will be missed as friends, scholars, and colleagues. The Court is losing a great deal of institutional knowledge.

Branches we have maintained and fortified:

1. Scheduling conferences are still not coming back.

- a. **Term Day** – You can notice your case for term day or after a few months we will send you an invitation. If you haven't been to term day recently, we have Qr codes for the calendar. Starting in December, scheduling orders will be electronic. We are taking paperless seriously.
- b. **Online Scheduling System (OSS)** – We have a new system, and it is very easy to navigate. 24/7, you don't have to come see me. Last year, the on-line system only saw about 8 cases a month, currently, approximately 50 cases get set on OSS monthly. I still handle about 200 cases on term day so there is room for improvement.

c. **Dismissed** – Notices for term day will tell you if you do not appear on term day or use OSS prior to, your case will be dismissed. It is important to understand the notices for term day will be sent to the information you provided when you filed your complaint. If you move offices or change emails, please update the clerk's office in writing with the new addresses. If you don't show up for term day, I am not going to call you. I am going to have my law clerk check to make sure you receive notice, then I am going to dismiss your case.

2. Calendar Control

a. Calendar Control remains call in only and is only used now to continue a case. You cannot set a new case or motion in Calendar Control. The exception would be an emergency motion or a motion that will require more than 30 minutes to try, which means you need to present evidence.

- b. Also, Calendar Control handles long brief requests, search warrant requests and remote testimony requests.
- 3. Criminal Term Day**
 - a. Defendants' appearances at term day are waived unless straight indicted.
- 4. Judge Assignments**
 - a. Assignments are set weekly on Wednesday for the following week.
- 5. Friday Motions**
 - a. Motions have not changed, just no virtual docket option due to nonuse. You can still request a virtual motion through the judge assigned to that motion.

Branches we are growing:

A new chapter and branch for Circuit Court is our new Clerk of Court. Chris Falcon will be joining us as the new clerk, and we are excited to see where we go from here and the direction he will take the clerk's office. On thing

is for sure as we progress, we will be standing on the foundation so solidly built by the judges and the clerks that have come before us. I for one am looking forward to being a productive partner with Chris and to continue leading our Court into the future.

6. Specialty Dockets

- a. The Veteran Treatment Docket currently has 12 participants in Circuit Court and 46 graduates to date.
- b. Drug Court has 25 participants, which is the maximum we can have and 17 graduates to date. Exciting news for Drug Court is we applied for and received funding through an opioid response grant from Fairfax County which allows us to hire an additional treatment coordinator. State probation has already assigned a second probation officer to the team so we will be able to start a second track of Drug Court in the Spring focusing on young adults ages 18 to 24.
- c. I want to thank all the Judges that are involved with these dockets. Judge Bugg, Judge Carroll,

Judge Shannon, Judge Saylor and our newest addition Judge Leary.

7. Interpreters

- a. Spanish Interpreters – We are still working with the Supreme Court on this issue. They did fill one position for us, and we do have the county position created by John Frey. It is better but still room for improvement.
- b. American Sign Language – With the assistance of Sen. Surovall, we were able to get the code changed so that we no longer are only dependent on Richmond to fulfill our needs but can also reach out to local contractors if Richmond can not timely fill our requests.

8. Judicial Racial Equity Committee

- a. We continue to work with the community and the Bar with our committee. Again, we had our 21-day challenge in February, and it was well-attended, but I know we can get better Bar participation this year. Please consider attending We have in person options and on-line options as

well and it is a beneficial program. I strongly encourage you all to participate. These conversations are hard but needed. As Martin Luther King Jr said – “in the end we will remember not the words of our enemies but the silence of our friends.” Please be on the lookout for information on the 21-day challenge and make a commitment to yourself to participate.

9. Access to Justice Committee

- a. Chief Justice Goodwyn wrote to each chief judge to encourage circuits to establish a local access to justice committee. In Fairfax, I have appointed Judge Tran and Judge Shannon to head this committee. They have already had two quarterly meetings and have begun to work on projects to improve our access to justice in many areas. To accomplish this, they are working with all three courts and many stakeholders. One of the first projects is to work to get kiosks throughout the courthouse and remote locations such as public libraries in low-income areas to assist individuals with filings and hearings. These kiosks would be in various languages and will also have an AI bot which will get smarter as time goes on and will

also provide a website component as well. The committee is also looking into ways to expand the Self-Help Center in the Bar library.

10. Judicial Learning Center

- a. Judge Shannon has begun working on a judicial learning center which will temporarily be located in 4C and 4D once they are renovated but will someday be permanently located in the historic courthouse. The learning center will be a place student tours can go to learn about the judiciary and historical information about the Fairfax bench. It is a very exciting long-term project which will be a huge benefit to our community and will give visitors and students to the courthouse an enriched educational experience.

11. Capital Renewal Project

- a. This project is ongoing and all courtrooms other than 4C and 4D are high tech and open. I encourage you all to get training with IT and use the electronics available to you. We now have funding to complete 4C and 4D. One of those courtrooms will be a Court of Appeals courtroom

for oral arguments so maybe you won't have to go to Fredericksburg or Loudoun for your arguments. Other improvements will be continued elevator replacement and security upgrades.

- b. The Campus Redevelopment 20-year Plan is still in motion. Building One will break ground in 2025 and will be next to the courthouse. It will be home to all judicial services and the Commonwealth Attorney's office. The wings of the historic courthouse will be demolished next year as part of the plan as well.

12. E-filing

- a. E- filing is offered for all civil cases. We are working on looking to expand this to criminal cases and offering it free for certain entities.
- b. Paper civil files are no more. Judges have been trained in full-court and have a new screen in the courtroom where the digital files can be accessed. Let me say I have led them to the

water, whether they choose to drink is up to them.

- c. After meeting with our new clerk, I know the clerk's office will be working to provide case information for free accessible by the web.

13. Digital Evidence

- a. We are working to begin a program to provide the opportunity to submit digital evidence both in criminal and civil cases. We are currently working with vendors and cloud space alternatives.
- b. We have started an e-signing program for our judges, and it will be up and running with all our judges soon.

14. Voice to Text technology

- a. We are working with the County and a vendor to set up voice to transcript in the courtrooms allowing parties who can't afford a court reporter to be able to get an uncertified transcript of their hearing.

I know the Bar is anticipating updating the Circuit Court practice manual this Spring. It hasn't been updated since 2018 but we will get that to you in 2024.

So, as you can see, we have been busy both on and off the bench. Nothing of significance is ever accomplished alone and the tree is healthy thanks to the entire team at the Circuit Court and the amazing Bar we are humbled to be a part of - 27,000 new filings; 650 backlogged cases cleared; new programs and committees; new technology and access to justice; all accomplished by a dedicated team of judges and clerks. Leaders one and all.

So, as we take stock of the tree it is clear it is growing and adding to an already strong foundation. Ladies and Gentlemen, I am honored to report, as keeper of the tree, the state of your judiciary from the roots to the growing branches is solid and thriving and I am truly humbled to be the chief of this Court and I cannot wait to see how we grow this year. Thank you.