



Court Rules

Indiana  
Legislative  
Council

INDIANA SUPREME COURT

# Annual Report

July 1, 2002 - June 30, 2003



*Indiana State Supreme Court Justices*

Left to Right: Justice Frank Sullivan, Jr., Justice Brent E. Dickson, Chief Justice Randall T. Shepard, Justice Robert D. Rucker, Justice Theodore R. Boehm





## I. Introduction

This Annual Report provides information about the work of the Supreme Court of Indiana. Included with the statistical data is an overview of the significant events of fiscal year 2002-2003 (July 1, 2002 through June 30, 2003) and a description of the activities of the Court and its affiliated agencies. Section II, Significant Events of Fiscal Year 2002-2003, includes brief highlights from the past fiscal year. Additional details on many of the items found in Section II can be found in the sections that follow. For more information about the Court, its history, and its various agencies and programs, visit our web site, [www.IN.gov/judiciary](http://www.IN.gov/judiciary). ■

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## *II. Significant Events of Fiscal Year / 2002-2003*

### **Constitutional Change Unshackles Supreme Court Docket**

Freed from the flood of mandatory direct criminal appeals, the Supreme Court in the past year tackled a wealth of important cases that directly affect the lives of the citizens the Court serves.

The constitutional change approved in the fall of 2000 removed the requirement that every case with a sentence of greater than fifty years be appealed directly from the trial court to the Supreme Court. Those mandatory direct criminal appeals had been consuming a greater and greater share of the Court's docket, which limited its ability to focus on other areas of the law and other Court duties. As the few remaining "direct criminal appeals" moved off the Court's docket, the past fiscal year became the first since 2000 in which the Court was able to focus nearly 100 percent of its energy on important civil cases and those criminal cases that truly need the attention of a court of last resort.

Elimination of the direct appeal requirement meant that in the past fiscal year, the Supreme Court was able to issue 198 majority opinions, many of which touched the lives of millions of Hoosiers. The Court's opinions covered a wide range of issues and included decisions on the legality drunk driving roadblocks, the boundaries of City-County Council districts in Marion County, non-smoking areas in restaurants, random drug testing for certain high school students, the posting of photographs of convicted sex offenders on the Internet, the Constitutional scope of "special legislation," and whether a physician could be held responsible for the birth of child after he had performed a sterilization procedure. The constitutional change has also enabled the court to hear even more oral arguments, which are now a regular feature of nearly every Thursday morning. In the past fiscal year, the Court heard 58 oral arguments.

For the long term, the freedom to identify the important legal issues that are most vital to the citizens of Indiana will increase the level of service provided by the Court.

### **State of the Judiciary**

Indiana's Constitution, Art. 7, § 3, requires the Chief Justice to deliver regular reports on the state of the judiciary to the Indiana General Assembly. In the remarks he delivered in early 2003 to a joint session of the Indiana House and Senate, Chief Justice Randall T. Shepard urged the legislature to approve a long-delayed pay raise for the state's judicial officers. He pointed that a high-caliber judiciary can aid economic development by ensuring that courts are a place that businesses can go to get disputes resolved efficiently and justly. He also shared the Court's accomplishments in public education and helping families. His address, "Judges Building A Stronger Indiana" was videotaped and posted on the Internet.

### **Outreach and Communication**

In addition to dispensing justice in the form of the opinions it hands down, the Supreme Court has continued its effort to connect the work it does with the community through technology and the Internet and through new partnerships outside the legal system.

In an effort to take advantage of the latest technology that makes the appellate courts more accessible to the public, the Court has installed the latest "webcast" technology in the Supreme Court Courtroom in the Fall of 2000. This equipment, which includes four remotely operated cameras, enables every oral argument to be webcast live on the Internet and then archived for later viewing. Since the project began, every Supreme Court oral argument in the State House and several Court of Appeals arguments have been webcast on the Internet. The equipment has also been used to

webcast admissions ceremonies for new attorneys, public hearings, and to create training videos.

A major piece of the "Oral Arguments Online" project is the "Courts in the Classroom" program, directed by Elizabeth Osborn, special assistant to the Chief Justice for Public Education and Court History. For selected Supreme Court and Court of Appeals arguments, lesson plans that enable high school teachers to more easily teach their students about a legal issue or the system itself have been posted on the Internet. During 2003 it is expected that the "Courts in the Classroom" pages will receive 60,000 hits.

The "Courts in the Classroom" project has been recognized by the National Center for State Courts as a model for educating the public about the judiciary and it also received a national award from the Center for Digital Government.

As a further part of its commitment to reach out to the community and to teach Hoosiers about the Court's history, the Supreme Court partnered with the living history group known as Freetown Village to produce a dramatic production of the 1855 fugitive slave case, *Freeman v. Robinson*. The production premiered in the Supreme Court Courtroom in early 2003 and then traveled across Indiana for dozens of repeat performances. It tells the story of how John Freeman, a free black Indianapolis businessman, was able to retain his freedom through the legal system despite the unscrupulous efforts of a Missouri slave owner who wrongfully tried to claim that Mr. Freeman was actually his runaway slave. The "Courts in the Classroom" site hosts a video of the production as well as other educational resources.

The Court also hosted the mock trial of Susan B. Anthony as part of the annual Spirit and Place celebration and later partnered with the Benjamin Harrison Home to host a ceremony to offer a "pardon" to the late Supreme Court Clerk who was unceremoniously stripped of his office by the Supreme Court during the civil war. Both events, and extensive educational materials, are also available on the "Courts in the Classroom" web site.

In a partnership with the national Center for Civic Education and Indiana University's Social Studies Development Center, "Courts in the Classroom" webcast and archived the Indiana finals of the "Project Citizen" competition, which works with middle schools to develop interest in identifying and addressing public policy issues.

To foster education about Indiana's trial and appellate courts, "Courts in the Classroom" worked with the Purdue University Cooperative Extension Service to produce two work books containing curriculum information and activities that provide Indiana-specific information about the court system.

But perhaps the most public effort at outreach came on September 11, 2002 when the Indiana Judicial Conference met in Fort Wayne for its annual gathering. To commemorate the events of the

year before, the Court invited 400 Allen County school children to join the Indiana judiciary in an hour-long celebration of patriotism and the American spirit.

### **Judicial Technology and Automation Committee**

With continued support from the General Assembly, the Indiana Supreme Court expanded a project that will have far-reaching positive consequences for Indiana government and Indiana citizens. The Judicial Automation and Technology Committee (JTAC) is chaired by Justice Frank Sullivan, Jr. JTAC's goal is to assist county governments with the development and installation of an integrated case management system that can share information with other groups that need information from the justice system, such as the

Family and Social Services Administration, the State Police, the Bureau of Motor Vehicles and other county judicial systems.

After an extensive search that involved examination of the proposals of more than 30 different vendors, JTAC selected Computer Associates International, Inc. as the company that will partner with JTAC in developing an integrated

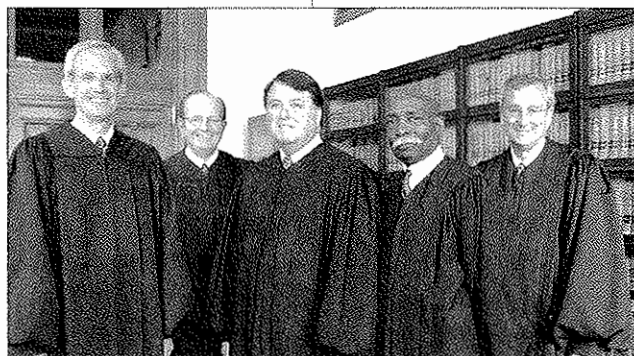
information management system for Indiana's justice system. A pilot project that will help develop methods for spreading this effort to every county in Indiana was opened in Marion County in 2003

Much of the funding for JTAC comes from court-filing fees and grants. However, the General Assembly has also provided necessary additional funding.

### **Access to Justice**

The Court has continued its efforts to make sure the courthouse doors are open for all. In a unique partnership with the Indiana Bar Foundation and the Indiana State Bar Association, the Court has fostered the growth of the Indiana Pro Bono Commission and 14 local pro bono organizing committees. The 21-member Commission reviews pro bono plans developed by the local committees, each led by a trial judge, and then submits funding recommendations to the Indiana Bar Foundation. In 2003, the Commission recommended that the local committees receive a total of \$400,000. Funding comes from the state's Interest On Lawyer Trust Accounts (IOLTA) program. Even in a low interest environment, the IOLTA program, managed by the Indiana Bar Foundation, has continued to generate significant income for the pro bono programs. To date, \$1.3 million in grants has been distributed to local pro bono committees. In its most recent annual report, the Pro Bono Commission reported that 20 percent of Indiana's active attorneys handled 6,600 pro bono cases.

With its statewide pro se project, the Court has also helped people who cannot find an attorney or who prefer to represent themselves. Chaired by the Hon. David Holt of the Greene Superior



Court, this program helps educate trial court and clerk staffs and library personnel about the best ways to assist self-represented clients. The committee has also prepared a number of commonly used legal forms and posted them on the Internet. Several forms and instructions have been translated into Spanish and posted on the Internet as well. At times, the legal forms page has been among the most popular of the Supreme Court's many webpages.

### **Access to Indiana's Law Schools**

In an effort to enrich the range of voices in the Indiana legal system, the Supreme Court initiated the Indiana Conference on Legal Education Opportunity (Indiana CLEO) in 1997. During the past fiscal year, the seventh class of law students for the Indiana CLEO program were selected. These 31 students spent the summer of 2003 at Indiana University School of Law-Indianapolis in a six-week summer institute that is designed to prepare them for the rigors of law school. Each student who completes the summer institute will receive a stipend of \$5,000 to \$7,000 for each year of law school. Indiana CLEO seeks to diversify the Indiana legal community by making it easier for people of differing backgrounds to succeed in law school. Indiana CLEO also promotes a number of additional programs, including career assistance, job placement, summer employment, networking opportunities, and assistance with preparation for the Indiana Bar Examination. Indiana CLEO fellows have begun moving into positions of leadership. Several work as law clerks for the Supreme Court and one Indiana CLEO fellow was tapped by Gov. Frank L. O'Bannon to fill a vacant City Court judgeship.

### **The Jury Rules Project**

A two-year effort to review and amend the rules that govern jury trials in Indiana was completed during the past fiscal year. Following a series of public meetings across Indiana and surveys of hundreds of court users, the Supreme Court approved a number of changes to the manner of jury selection and jury service. The new rules limit jury service to either one day of service or one trial per year and direct trial judges to inform jurors they have the right to ask questions during a trial. The new rules went into effect January 1, 2003 and to date reports about the rules have been largely positive.

### **The Race and Gender Fairness Commission**

Co-chaired by former Supreme Court Justice Myra C. Selby and Indiana Court of Appeals Judge Ezra R. Friedlander, the Commission on Race and Gender Fairness continued to work to improve the operation of the legal system by eliminating bias. Following public hearings held in six cities during the summer of 2001 and additional research, the Commission issued a sweeping set of recommendations to improve the reality and perception of the judicial system as it relates to bias. Those recommendations are currently under advisement by the Supreme Court.

### **Family Court Project**

With fresh funding from the Indiana General Assembly, the Court's Family Court Initiative expanded into a second phase by supporting additional family court projects in several more counties. The mission of the Family Court Initiative is to provide better services to children and their families who are involved in the judicial system. It promotes an open, common sense approach to the resolution of legal issues affecting the safety and stability of children, within the parameters of due process of the law. A key focus is on the special needs of families who have multiple cases pending before several judges. The Family Court Initiative also helps indigent or at-risk families receive vital services. A \$400,000 appropriation from the legislature in 1999 allowed the Supreme Court to open family court projects in Johnson, Monroe and Porter counties. In July 2001, an additional \$400,000 allowed expansion of the Family Court Initiative into Marion and LaPorte counties. It also authorized the first multiple-county family court project in Montgomery and Boone counties. Putnam County and Owen County also joined together as a family court project to provide affordable mediation services in custody and juvenile law cases. In 2003, the Court will be presented with a further expansion of the Family Court Initiative that would include the addition of new pilot counties, expansion of mediation to indigent parties, and the development of innovative partnerships between drug and family court programs.

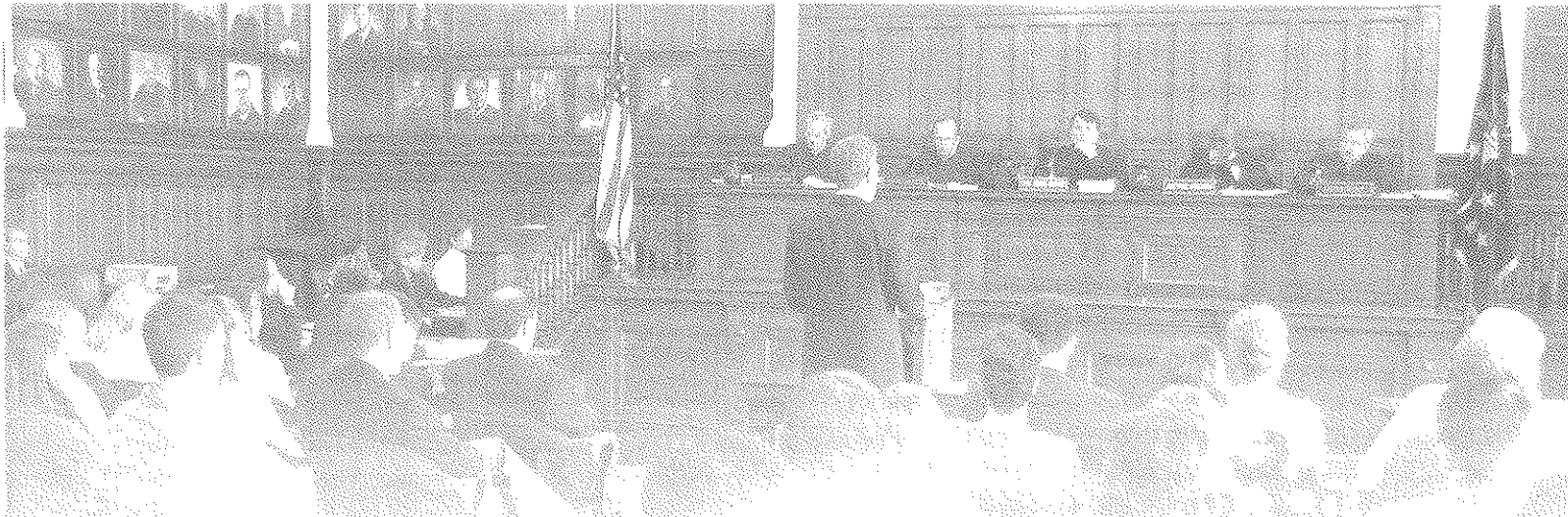
### **Members of the Court as Part of the Community**

Members of the Court continued to be recognized for their contributions to the law and the community. Each of the members of the Court are involved in a wide range of activities and projects. For example, Chief Justice Randall T. Shepard was appointed by ABA President Alfred P. Carlton to serve on the ABA Standing Committee on Ethics and Professional Responsibility Judges Advisory Committee. In addition, he was nominated to become the First Vice-President of the Conference of Chief Justices, which puts him in line to be president of the organization that includes chief justices from 55 jurisdictions in 2005.

Justice Frank Sullivan Jr. received the Indiana State Bar Association's Rabb Emison Award for, according to the award citation, "the significant contribution made in advancing opportunities for minority lawyers in legal employment and the legal profession."

Other Justices make regular contributions to the community and the legal system. Justice Brent E. Dickson for many years has been an Adjunct Professor of Law at Indiana University School of Law at Bloomington, where he teaches an evening course on Indiana Constitutional Law. Justice Theodore R. Boehm serves as chair of the Indianapolis Commission on Cultural Development and Justice Robert D. Rucker serves as chairman of the Lake County Judicial Nominating Commission and was recently appointed by Governor Frank L. O'Bannon to the Commission on Juvenile Law, a prestigious new committee that will examine Indiana's juvenile justice system in great detail.





## III. *The Indiana Supreme Court*

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### *A. Brief History*

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The Indiana Supreme Court is the highest Court in Indiana. It was established in 1816 when Indiana became a state. During territorial days, a general Court of three judges had served and they, with the Governor, enacted the laws of the Indiana Territory. The new Court first sat at Corydon on May 5, 1817, and consisted of three judges appointed by the Governor to seven-year terms.

Controversy over the State's bonded debt was the driving force behind the Constitutional Convention in 1850. At the convention, delegates also decided to reorganize the Supreme Court. Under the new Constitution adopted in 1851, the judges would be elected by the people, and their number would be "not less than three, nor more than five judges." Their terms were to be "for six years, if they so long behave well."

Shortly after that, the General Assembly acted to prescribe that four judges would serve on the Supreme Court. Four Judges, representing four geographic districts but elected by statewide ballot, began their terms on January 3, 1853. The Court's caseload grew to such an extent that the General Assembly acted in 1872 to increase the number of judges to five.

The current Supreme Court has as its foundation a Constitutional Amendment ratified by the people in 1970. The Amendment took effect January 1, 1972 and represented an almost complete rewriting of the 1851 Constitution's Judicial Article. It removed members of the Supreme Court from partisan elections and established a process for voter confirmation before retention in office. The incumbent Justices, as they are now called, are subject to statewide yes-or-no votes on the question of their retention in office. With approval by the electorate, they begin ten-year terms, and are subject to identical retention votes at ten-year intervals in the future. Under current law, retirement is required at the age of seventy-five years.

Should vacancies occur on the Court, the Constitution requires that a seven-member Judicial Nominating Commission recommend to the Governor three qualified persons for each vacancy. The Governor must make his appointment from the three, and that person serves as a Supreme Court Justice for a minimum of two years before becoming

subject to a retention vote at General Election. If approved, the justice begins a ten-year term.

To be eligible to serve on the Supreme Court, a person must have practiced law in Indiana at least 10 years or have served at least five years as a trial court judge. Candidates for appointment presented by the Judicial Nominating Commission must be the "most highly qualified candidates," under Public Law 427 of 1971. Considerations include the candidate's legal education, legal writings, reputation in the practice of law, physical condition, financial interests, and activities in public service.

### *B. The Case Work of the Indiana Supreme Court*

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As evidenced in the section of this report titled, "Significant Events of Fiscal Year 2002-2003," the Court is very active in providing leadership for the judicial branch of government. However, a principal business of the Court is deciding cases.

One of the main tasks of the Court is deciding petitions requesting transfer of jurisdiction from the Court of Appeals. This process involves reviewing the record of proceedings, the briefs filed before the Court of Appeals, the Court of Appeals' opinion, and the materials submitted in connection with the request to transfer jurisdiction. Each justice reviews each case individually and votes on whether to accept transfer. If even one member of the Court requests it, the case will be discussed at a conference involving all five justices. If a majority of the Court votes to grant transfer, an opinion will be written, circulated for a vote and ultimately issued.

The Court also has a considerable direct appellate caseload. The Court exercises direct appellate jurisdiction over all cases in which a sentence of death or life imprisonment without parole has been entered. In addition, the Court has direct jurisdiction over cases involving attorney or judicial discipline, original actions, review of the decisions of the Tax Court, certified questions from federal courts, mandate of funds cases, and review of certain final decisions of the Board of Law Examiners.

A complete statistical summary of the Court's activities can be found in the Appendix of this Annual Report.

**Randall T. Shepard** of Evansville, was appointed to the Indiana Supreme Court by Governor Robert D. Orr in 1985 at the age of 38. He became Chief Justice of Indiana in March 1987. A seventh generation Hoosier, Shepard graduated from Princeton University cum laude and from the Yale Law School. He earned a



Master of Laws degree in the judicial process from the University of Virginia. Shepard was Judge of the Vanderburgh Superior Court from 1980 until his appointment. He earlier served as executive assistant to Mayor Russell Lloyd of Evansville and as special assistant to the Under Secretary of the U.S. Department of Transportation. Chief Justice Shepard was also chairperson of Indiana's State Student Assistance Commission and trustee of the National Trust for Historic Preservation. He served as chair of the ABA Appellate Judges Conference and of the Section of Legal Education and Admissions to the Bar. Shepard is First Vice-President of the National Conference of Chief Justices and will serve as the group's President in 2005. He is married and has one daughter.

**Brent E. Dickson** was appointed as the 100th Justice of the Indiana Supreme Court on January 4, 1986, after seventeen years as a general practice and trial lawyer with a small law firm in Lafayette, Indiana. Born in Gary, Indiana, in 1941, he was educated at public schools in Hobart, Indiana; Purdue University (B.S. 1964);



and Indiana University School of Law at Indianapolis (J.D. 1968). In 1996 he also received an honorary Doctor of Letters degree from Purdue University. Active in various national, state, and local judicial and bar organizations, Justice Dickson teaches part-time as an adjunct professor at Indiana University School of Law. He is a member of the American Law Institute. He was married in Milan, Indiana in 1963. Justice Dickson and his wife have three adult sons and four grandchildren.

**Frank Sullivan, Jr.** was appointed to the Supreme Court in 1993 by Governor Evan Bayh. Born in 1950 in South Bend, Indiana, he attended Dartmouth College (A.B. cum laude, 1972) and Indiana University School of Law - Bloomington (J.D. magna cum laude, 1982). In 2001, he earned a Master of Laws in the Judicial



Process degree from the University of Virginia School of Law. During the 1970's, he served as administrative assistant and staff director for former U.S. Representative John Brademas. During the 1980's, he practiced law in Indianapolis, concentrating his practice in corporate and securities law. In 1989, he was appointed by Governor Bayh as

Indiana State Budget Director, an office he held through 1992. He is co-chair of the American Bar Association's Judicial Clerkship Program, which encourages minority law students to seek judicial clerkships. He and his wife are the parents of three sons.

**Theodore R. Boehm** was appointed to the Supreme Court by Governor Evan Bayh in 1996. He grew up in Indianapolis, received his A.B. from Brown University in 1960, summa cum laude, and graduated magna cum laude in 1963 from Harvard Law School, where he was an editor of the Harvard Law Review.



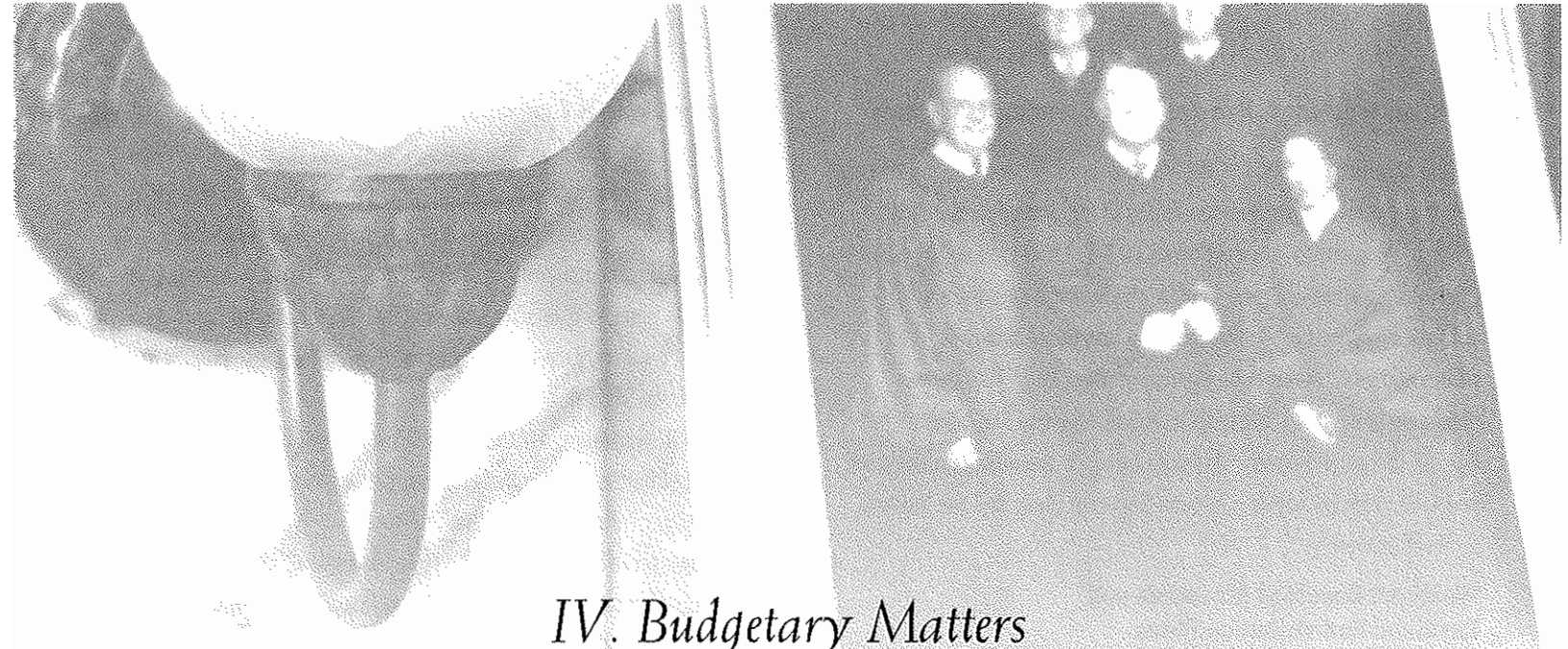
He served as a law clerk to Chief Justice Earl Warren of the United States Supreme Court. In 1964 he joined the Indianapolis law firm of Baker & Daniels where he became a partner in 1970 and managing partner in 1980. In 1988 Justice Boehm joined General Electric as General Counsel of GE Appliances and in 1989 became Vice President and General Counsel of GE Aircraft Engines. In 1991 he joined Eli Lilly Company and then returned to Baker & Daniels in 1995. Justice Boehm was Chairman and CEO of the organizing committee for the 1987 Pan American Games in Indianapolis, and was the first President and CEO of Indiana Sports Corporation. He is currently chair of the Indianapolis Cultural Development Commission. He is a Trustee emeritus of Brown University and a member of the American Law Institute. He is married and has four grown daughters and four grandchildren.

**Robert D. Rucker** was appointed to the Indiana Supreme Court by Governor Frank O'Bannon in 1999. He grew up in Gary, Indiana, and is a decorated Viet Nam veteran. Justice Rucker is a graduate of Indiana University (B.A. 1974) and the Valparaiso University School of Law (J.D. 1976). In 1998 he earned a



Master of Laws degree in the judicial process from the University of Virginia Law School. Prior to his appointment to the Indiana Supreme Court, Justice Rucker served as a Judge on the Indiana Court of Appeals, having been appointed to that position in 1991 by Governor Evan Bayh. While on the Court of Appeals, Justice Rucker served as vice-chair of the Indiana Commission for Continuing Education. As a lawyer, Justice Rucker served on the board of directors of the Indiana Trial Lawyers Association and on the board of directors of the Northwest Indiana Legal Services Organization. He also served as a deputy prosecuting attorney for Lake County, City Attorney for the City of Gary, and engaged in the private practice of law in East Chicago. Justice Rucker is a member of the American Bar Association, the American Judicature Society, the Indiana Judges Association, and a Fellow of the Indianapolis Bar Foundation. He also serves on the Judicial Council executive committee of the National Bar Association. Justice Rucker is married and has two sons and a daughter. ■





## *IV. Budgetary Matters*

During the reporting period, the Supreme Court operated under a biennial budget for the period from 2002-2003 previously approved by the General Assembly. The Court has continued its efforts to provide greater service at reduced expense through efficiency. ■

## *V. Activities of the Affiliated Agencies and Divisions of the Court*

### *A. Division of Supreme Court Administration*

#### **Douglas E. Cressler, Administrator**

The Division of Supreme Court Administration serves the Indiana Supreme Court in the management of the Court, working generally at the direction of the Chief Justice. Indiana Code §33-2.1-7-4 provides that "[t]he division of Supreme Court Administration shall perform such legal and administrative duties for the justices as are directed by the justices." The complex legal administrative tasks with which the Indiana Supreme Court must deal keep the attorneys and professional clerical staff members in the administration office busy.

The office is responsible for the fiscal administration of the Court, including the processing of payroll, the payment of bills, the preparation of expense vouchers, and the administration of employee benefits. The office also assists the Chief Justice with the preparation of the Court's budget. The office accumulates Court statistics and prepares reports about the work of the Court. The staff of the office often serve as the Court's liaison to its various agencies, the practicing bar, and to the general public. In addition, much of the physical handling of cases reviewed by the Court is managed by the administration office.

The lawyers of the Division of Supreme Court Administration also serve as the Court's central staff counsel. In fiscal year 2002-2003,

the office produced hundreds of substantial legal memoranda on a myriad of topics to assist the Indiana Supreme Court in its role as the court of last resort in Indiana. The various miscellaneous motions and other matters requiring ruling in cases pending before the Court are presented to the Chief Justice and to the Court through the administration office. Finally, the administration office has specific duties prescribed by the Indiana Trial Rules with regard to original actions, which are proceedings which challenge a trial court's jurisdiction and which may be taken directly to the Indiana Supreme Court.

The five attorneys of the Division of Supreme Court Administration are also very active in legal education and in providing service to the profession through, among other things, involvement with the Indiana State Bar Association.

### *B. Division of State Court Administration*

#### **Lilia G. Judson, Executive Director**

The Indiana Supreme Court Division of State Court Administration (the "Division") is an administrative office of the Chief Justice of Indiana. The Division assists the Chief Justice and the Indiana Supreme Court in the administration and management of Indiana's judicial system and its officers (I.C. 33-2.1-7-3). State statutes, Supreme Court rules and Supreme Court policies define the duties and authorities of the Division and its Executive Director.

## **Judicial Workload, Receipt and Expenditure of Funds**

One core responsibility of the Division is the collection of statistical information concerning the operations of Indiana's courts and their offices. Pursuant to Indiana Code 33-2.1-7-3 and Indiana Supreme Court Administrative Rules 1 and 2, the Division collects and publishes information on the caseload and fiscal activities of all courts and probation offices throughout the state. This data is published annually in The Indiana Judicial Service Report and The Indiana Probation Report. This data provides the empirical basis for policy decision by both the Indiana Supreme Court and the Indiana General Assembly.

## **Weighted Caseload Measures and Caseload Redistribution Plans**

Following a two-year study beginning in 1994 conducted by the Judicial Administration Committee of the Indiana Judicial Conference, the Division, and an independent consultant, Indiana developed a system for measuring trial court caseloads based on weighted relative times for cases. This Weighted Caseload Measures System examines only new cases filed in trial courts. The measurements provide a projection of the average judicial time necessary in the state, any given district, county, or court, to handle the cases being filed during a given period of time. These weighted statistics provide the Indiana Supreme Court and the Indiana General Assembly with the information necessary for allocation of judicial resources.

Trial courts also use these statistical measures to develop district and county caseload plans which seek to reduce disparity in caseloads and judicial resources so that all courts in a county fall within a 25% variance range of the average county caseload.

During 2002 the Division worked once again with the Judicial Administration Committee of the Indiana Judicial Conference to conduct an update and validation of the Weighted Caseload Measures System. Since the study was first conducted, the addition of new case type designations and procedural and substantive changes necessitated an update of the original study. The results of the update to the Weighted Caseload Measures were completed in the fall of 2002, were approved by the Indiana Supreme Court, and have been included in the calculations for this report.

In anticipation of these changes, the Division began collecting data under new case categories in January 2002. The data represented in this report includes the updated categories and weights.

## **Judicial Technology and Automation**

In the latter part of 1999 the Indiana Supreme Court established the Judicial Technological and Automation Committee ("JTAC") and

appointed Supreme Court Justice Frank Sullivan, Jr. as its chair. The Supreme Court asked Justice Sullivan and JTAC to develop a long-range strategy for technology and automation in Indiana's judicial system, including the funding and implementation of a judicial information case management system, judicial data processing, electronic filing, and related technologies. The Supreme Court assigned the Executive Director of the Division to assist JTAC in the performance of its duties.

Since its inception, JTAC and the Division staff have helped the Supreme Court move Indiana's judicial system into the modern age of technology. Through Justice Sullivan's leadership and JTAC innovations, the Supreme Court (1) provided e-mail and the necessary hardware to every Indiana trial court judge and clerk of court; (2) provided the trial court judges and clerks free access to automated legal research through a contract with Lexis/Nexis; and (3) provided free training on basic computer skills in a structured educational setting through a contract with Ivy Tech State College.

In mid-2002, the Supreme Court embarked on the key project of this automation initiative, the deployment of a case management system for Indiana's courts and the connection of individual courts with each other and with users of court information such as the State Police, Department of Revenue, Family Social Services Agency, Department of Correction, Bureau of Motor Vehicles, and the prosecuting attorneys system, ProLink. The project is one of unprecedented complexity, breadth, and expense for the Indiana judiciary.

After reviewing 35 proposals from around the world, JTAC unanimously recommended to the Indiana Supreme Court the selection of Computer Associates International, Inc. ("CA") to provide Indiana with a 21st Century case management system "CMS". Following that decision, in mid-2002, the Division executed a contract with CA for the development and deployment of the Indiana CMS and for the interface of the CMS with other state systems. The Supreme Court announced a policy that will guide the deployment of the CMS. Under the policy, the CMS will be made available to any county wishing to install the CMS. A county that elects, at its own expense, to upgrade substantially an existing or acquire a new case management system, other than the statewide CMS, may do so only with written permission of the Division.

Funding technology initiatives in the judicial system has been a daunting issue in Indiana due to the organizational structure of Indiana's trial courts, which are funded primarily through county funds. However, in 2002, the Indiana General Assembly provided funding for a large portion of JTAC's initiatives by establishing a designated judicial technology fee and making some specific

appropriations. Other funding sources for the technology initiative include federal grants awarded through the Indiana Criminal Justice Institute.

These technology initiatives necessitated the addition of new space and staff to the Division. During 2002, the Division leased additional office space to house the already growing JTAC staff, which is anticipated to reach twenty-five full time employees. The new office space contains a technology training center equipped with Internet connected work stations.

Hundreds of Indiana judicial officers, lawyers, court employees, clerk and clerk staff, members of state agencies, and other stakeholders have and will participate in the development of the Indiana CMS. CA and JTAC project teams have already completed an intensive learning process through numerous discovery sessions. The goal of the discovery process is to customize the CA core case management system to meet Indiana's needs and practices. Over 240 people from 52 counties participated in the discovery process, and over 126 people from 15 counties participated in the design review process. As of the writing of this report, the JTAC team is embarking upon on-site visits to approximately 26 counties during which the team will conduct a more in-depth presentation of the system and an analysis of local resources and needs.

Members of the Judicial Administration Committee of the Judicial Conference and the Supreme Court Records Management Committee are embarking upon a standardization of Indiana's Chronological Case Summary entries. Under the leadership of Supreme Court Justice Brent Dickson, members of the Records Management Committee have been joined by representatives of the press, victim advocates, and numerous other organizations to work on a policy of public access and privacy to court records, including the automated records that will be available through the CMS.

Through this automation project, the Indiana Supreme Court plans to provide all Indiana courts with technology that will (1) allow Indiana trial courts and court clerks to manage their caseloads faster and more cost-effectively, (2) provide users of Indiana court information with more timely, accurate, and comprehensive information, and (3) reduce the cost of trial court operations borne by the counties.

### **Legal Responsibilities**

The Supreme Court and the Chief Justice assign the majority of the



legal responsibilities of the Division. The Division legal staff serves as counsel to the Supreme Court in matters involving attorney discipline and requests for the appointment of special judges, special masters, and senior judges. In fiscal year 2002/2003, the Division

legal staff assisted the Supreme Court in disposing of 108 disciplinary matters. As part of this disciplinary function, the Division staff conducts preliminary investigations of disciplinary grievances filed against members and staff of the Indiana Supreme Court Disciplinary Commission, attorneys who are serving as hearing officers in disciplinary cases, as well as requests for review of decisions by the Disciplinary Commission and the Indiana Commission on Judicial Qualifications.

Supreme Court rules governing the method of special judge selection call for the establishment of local rules for such selection

and certification to the Supreme Court in certain unusual circumstances. The Division monitors local rules establishing plans for special judge selection and processes requests for the appointment of special judges by the Supreme Court. In fiscal year 2002-2003, the Division received 139 new requests for special judge appointments.

Various federal and state laws, rules and regulations, as well as U.S. Supreme Court decisions affect the administrative responsibilities of trial judges. Since 1996, one of the Division attorneys with experience in labor law has been designated to provide advice to trial judges on employment law issues. Additionally this attorney has provided training for judges and their staff on a wide variety of issues such as Sexual Harassment Sensitivity Awareness, the Americans With Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, Effectively Disciplining and Terminating Problem Employees, and Effective Use of Policies and Drug Testing.

Since 2000, a Division legal staff member has served as staff counsel to the Board of Law Examiners. In addition, that Division attorney has been appointed by the Supreme Court to represent the interests of the Board of Law Examiners in appeal hearings brought by bar applicants who have been denied admission to practice law.

### **Rule Amendments and the Supreme Court Committee on Rules of Practice and Procedure**

The Executive Director of the Division serves as Executive Secretary of the Indiana Supreme Court Committee on Rules of



Practice and Procedure and assists the Committee and the Supreme Court in drafting and promulgating amendments to the Indiana Rules of Court.

The more notable rule amendments promulgated during 2002 include an amendment to Indiana's long arm jurisdiction rule, Trial Rule 4.4; an amendment to Trial Rule 26, which allowed electronic transmission of discovery documents; and an amendment to Evidence Rule 1002, allowing digital signatures on records of the Indiana Bureau of Motor Vehicles. In addition, Indiana's jury reform project resulted in the Supreme Court adopting a new set of jury rules, effective January 2003. Among the new provisions, Indiana jurors now may ask questions and are drawn from a wide array of lists of names. During 2002, Division staff and a special Judicial Conference Committee chaired by Clay Circuit Court Judge Ernest Yelton, assisted Indiana's trial judges in establishing ways to implement the new jury rules.

### **Judicial Qualifications / Nominating Commission**

Pursuant to IC 33-2.1-7-3(a)(4), the Division provides legal and administrative staff support to the Indiana Commission on Judicial Qualifications and the Indiana Judicial Nominating Commission. The Qualifications Commission investigates and prosecutes allegations of ethical misconduct by Indiana judges, judicial officers, and candidates for judicial office. The Commission staff is available to advise judges and others about the Code of Judicial Conduct, and the Commission periodically issues formal advisory opinions about judicial ethics. The Nominating Commission selects the Chief Justice of Indiana from among the five Justices, and it solicits and interviews candidates for vacancies on the Indiana Supreme Court, the Indiana Court of Appeals, and the Indiana Tax Court. The Nominating Commission also certifies former judges as Senior Judges.

During fiscal year 2002-2003, the Nominating Commission convened for four meetings. It certified 21 new Senior Judges, re-certified 82 Senior Judges, and declined to certify one applicant for Senior Judge status.

The Qualifications Commission convened for nine meetings in the fiscal year 2002-2003. It had on its docket 284 allegations of misconduct. Of this number, 234 were dismissed summarily as not establishing ethical misconduct. In response to seven of those complaints, the Commission sent advisory letters to the judges. The Commission inquired into or formally investigated 49 complaints against judges. Seventeen cases were dismissed with findings that no misconduct occurred.

The Commission issued 20 private cautions to judges in fiscal year 2002-2003, and issued three public admonitions in lieu of filing formal

disciplinary charges. Three complaints from the prior year were resolved when a judge agreed to resign after a hearing and a report from the Masters concluding he committed misconduct. Another case in which the Commission filed formal charges in the prior year was resolved when the judge and the Commission agreed to a public reprimand from the Supreme Court. The Commission filed formal charges against one judge in 2002-2003. Three Masters presided over a disciplinary hearing and recommended the judge receive a sanction of up to thirty days suspension without pay. At the end of the fiscal year, that case was pending before the Supreme Court on the Commission's recommendation that the Court impose the full thirty-day suspension. The fiscal year concluded with five inquiries or investigations pending.

A more detailed report about the Commission, its members, and activities is published separately in the Indiana Supreme Court Annual Report, and may be found at [www.in.gov/judiciary](http://www.in.gov/judiciary).

### **Senior Judge Program**

In 1989, the General Assembly enacted legislation allowing the Indiana Supreme Court to use the services of former judges who have been certified as Senior Judges by the Indiana Judicial Nominating Commission. The program, small at first, has grown into an invaluable resource of about ninety seasoned judicial officers who serve at minimal cost. During fiscal year 2002/2003, senior judges logged 4,258 days of service in trial courts and the Indiana Court of Appeals. In addition to the certification and review of requests for this program, the Division administers the payroll and benefits for the participants. During fiscal year 2002/2003, the Division staff processed 322 requests for senior judge appointments to specific courts.

### **Appellate Court Automation and Technical Services**

The Technical Services Section of the Division provides daily computer operations support to all appellate level courts and their adjunct agencies. Justices, judges, and staff now have available to them secure, remote access when traveling or at home. Also available to staff are enhanced connections with other state agencies including the State Budget Agency, the State Auditor's Office, the Department of Personnel, and the Department of Administration.

The Roll of Attorneys is now available to the public via the Supreme Court's Clerk's web site. The Quarterly Case Status Report (QCSR) entry forms completed by trial courts each quarter have been moved from the pilot phase to the production phase for all courts in a web-based format. Many courts choose this method of reporting as it improves efficiency. A QCSR inquiry web site into data dating back to 1989 was also developed and deployed. A companion web site with a simplified version of the weighted caseload is also now available.

Currently under development is a new graphical user interface (GUI) for the Clerk's electronic case history system. A prototype for e-mailing yearly attorney transcripts for continuing legal education is also being developed and tested.

### **Indiana Conference for Legal Education Opportunity (CLEO)**

Since its inception in 1997, the Indiana Conference for Legal Education Opportunity (CLEO) has continued to grow as the first state-sponsored legal education program. Through countless programs, initiatives and dedicated staff members, volunteers, and CLEO alumni fellows, CLEO continues to meet and achieve its objective of providing assistance to minority, low-income, and educationally disadvantaged college graduates as they pursue a legal education in Indiana and become members of the Indiana legal community. CLEO operates as a program of the Indiana Supreme Court under the supervision of the Division of State Court Administration.

An integral part of Indiana CLEO is an intensive six-week Summer Institute hosted by one of Indiana's four law schools. Each summer, approximately thirty students are selected as "Fellows" through a rigorous application process to participate in the Summer Institute. The Summer Institute prepares the fellows for the rigors of a law school education through concentrated class instruction and practical application. Summer Institute fellows are introduced to members of the Indiana judiciary and legal community through a variety of networking opportunities.

CLEO also co-sponsors a summer employment program with the state bar association each year. The Gateway to Diversity summer employment program focuses on linking first and second year law Fellows with internships, clerkships and summer association positions with Indiana firms, corporations, courts and state agencies.

To assist CLEO Fellows pass the state bar exam, CLEO began in 2001 to administer the Preparing Accomplished Students for Success on the Indiana bar exam (PASS) program to graduating CLEO Fellows. PASS is a supplemental bar exam program that utilizes mentoring and tutoring to prepare the Fellows for success on the written portions of the Indiana bar exam by providing practice exams and feedback six weeks. In 2002, CLEO Fellows had a 60% bar passage rate on the February exam, higher than the overall state passage rate of 57%. Additionally, for the July 2002 bar exam, CLEO Fellows passage rate

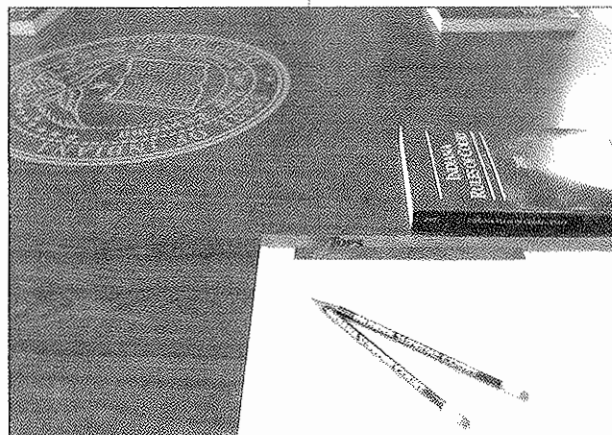
was 70%, just seven percentage points lower than the overall passage rate of 77%. First time bar examinees were successful on the July bar exam.

As of December 2002, there have been three graduating classes of Indiana CLEO Fellows totaling 68 students. Forty-eight CLEO Fellows have become licensed attorneys in the state of Indiana. CLEO looks forward to implementing and administering programs that will provide academic support programs, increased summer employment opportunities and bar exam preparation to current CLEO Fellows.

### **Civil Legal Aid Fund**

Since 1997, the Division has administered the distribution of an annual appropriation of \$1 million to aid qualified organizations providing legal assistance to indigent persons in civil cases. In fiscal year 2002-2003, the Division made distributions to ten organizations providing civil legal aid services to Indiana's poor. Distributions are

based upon an analysis of each county's civil caseload, as it relates to the caseload for the entire state, and the number of organizations serving each county. The Division staff structured and instituted a data collection system whereby service providers collect and report their caseloads in a uniform manner. An initial report based on the data was published in the fall of 2002.



### **Court Improvement Grant**

The Indiana Supreme Court, through its Court Improvement Executive Committee and with the benefit of federal funds, continued a Court Improvement Project. The gist of the project is to improve the disposition time and services in cases involving abused and neglected children. The Division serves as the project director and fiscal administrator.

Although the purpose and overall framework of the project are set by the U.S. Department of Health and Human Services and the American Bar Association's Center on Children and the Law, the Supreme Court and the members of an executive committee have guided the direction of the Indiana program. During the initial phase of this multi-phased project, the committee identified several areas of particular concern, which were targeted in subsequent phases. In the second phase, eighteen county level programs aimed at expediting CHINS cases were implemented. During a third phase, efforts were focused on larger, more comprehensive improvements in the delivery of services to children in the more populous counties of Lake, Marion,

Elkhart, and St. Joseph. In a fourth phase, funding was providing to assist in the design of two Family Court Pilot Projects. The projects, located in Putnam and Porter counties, use mediation/facilitation services in family court cases with CHINS involvement.

In 2001, a fifth phase funded eight counties that plan to replicate the successful programs in phase three. These include pre-hearing facilitation in CHINS cases, case manager services, and family court projects. These projects continued toward completion in late 2002. The Supreme Court anticipates that the innovative programs developed through this grant will markedly improve the delivery of services to Indiana's children.

### **Information Management**

At the time of creating the Division of State Court Administration, the Legislature directed the Division to examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving courts and make recommendations for necessary improvement. Since 1983, the Indiana Supreme Court has had in place a multi-disciplinary committee, which provides policy guidance to the Division on records management issues. The Records Management Committee, chaired by Justice Brent Dickson, has been charged to continuously study the practices, procedures, and systems for the maintenance, management, and retention of courts records employed by the courts and offices serving the courts.

As part of this records management function, Division staff worked with the Committee to develop a package of Administrative Rules, which have been promulgated by the Supreme Court. The rules govern various record keeping and management issues including reporting requirements, a system for numbering court cases, confidentiality of court records, a schedule for retaining and destroying court records, and standards for microfilming, video teleconferencing, and optical disk imaging. Much of the work in this area involves on-site visits and personal hands-on assistance to the court and clerk staff.

In 2002, the Records Management Section made 37 visits to 20 different counties, assisting them in: (1) review of microfilming procedures, (2) disposal of records, and (3) solutions to confidentiality and Protection Order problems.

The Records Management Section also worked closely with trial court judges and clerks in finding new ways to store court records. The basic scanning of court records raises permanency issues. However, in the last several years, vendors have developed a "hybrid" system that combines scanned images with microfilming, permitting full use of the scanning technology while permitting a permanent

record to be made. Division staff have worked with Floyd, Johnson, Morgan, and Vigo Counties to develop procedures and standards for the use of such systems.

### **Protective Order Proceedings**

The Indiana protective order statutes charge the Division with the responsibility to design and update the forms used in protective order proceedings. In response to numerous concerns and questions regarding the Indiana protective order process, the Supreme Court, in 2000, established a committee of the Judicial Conference of Indiana to explore ways to improve the process. Trial court judges and clerks comprise the membership of the committee, and the Indiana Judicial Center and the Division of State Court Administration provide staff support. The Honorable John Forcum, Judge of the Blackford Superior Court, chairs the committee, and the committee also has the assistance of Senior Judge Ruth Reichard, as a consultant.

The committee undertook and succeeded in having the Legislature pass a major revision of Indiana's protective order statutes. The Committee sought to accomplish the following objectives: streamlining and consolidating the Indiana Code's many references to "protective orders;" rewriting a single civil protective order act enhancing relief to people affected by domestic or family violence; writing a statute that would be consistent with recent federal mandates, such as the Violence Against Women Acts I and II; and using the Model Code on Domestic and Family Violence as the paradigm for this statutory reform.

Indiana's Civil Protective Order Act became effective July 1, 2002. A new comprehensive set of forms implementing the new act have been prepared and made available to the courts. The forms fall in to three categories: (1) protective orders, (2) no-contact orders, and (3) workplace violence restraining orders. Through this effort, Indiana has been able the streamline the multiple protective order process.

### **Standards for Preparation of Electronic Transcripts**

In promulgating a full-scale revision of the Indian Rules of Appellate Procedure, the Indiana Supreme Court directed the Division to establish standards for CD-ROM and disk size, formatting, transmission, and work processing software for the preparation of appellate transcripts. Pursuant to Appellate Rule 30, in 2002, the Division published and distributed a set of standards. The standards are published with the Appellate Rules and are also posted on the Supreme Court web site.

### **Accounts Management, Payroll and Claims, Judicial Benefits Coordination**

The Division maintains and administers 12 accounts, totaling for



fiscal year 2002/2003 approximately \$70,000,000. The administration of payroll and benefit program for all state trial court judges, prosecuting attorneys, and other judicial officials paid with state funds is part of this fiscal responsibility. The annual payroll account for this purpose is approximately \$56,000,000 and covers approximately seven hundred individuals. Also, as part of this "paymaster" function, the Division processes and pays in excess of 1,000 claims per year for special and senior judge service.

### **Indiana Office of GAL/CASA**

In 1989, the Indiana General Assembly established an office of Guardian Ad Litem and Court Appointed Special Advocate services to be administered through the Division. Through this program, counties are encouraged to provide appropriate GAL/CASA services to neglected and abused children by receiving matching state funding administered by the Division and disbursed pursuant to a statutory formula. In addition, the State Office of GAL/CASA ("State Office") provides training and support services for local GAL/CASA programs. The Indiana Supreme Court Advisory Commission on GAL/CASA ("Advisory Commission"), which includes program directors and judges appointed by the Indiana Supreme Court, provides guidance to the State Office. In state fiscal year 2002, 77 counties applied for and received state GAL/CASA funds. 68 counties in Indiana funded a volunteer-based GAL/CASA program, staffed by 127 paid personnel and 7 volunteer staff members.

In early 2003, the State Office collected data and compiled statistics for its 2002 annual report. Of the programs in Indiana, 94% responded to the request for submission of data. From the information gathered from those programs, the State Office determined that there were at least 2,060 active GAL/CASA statewide in 2002, including 557 newly trained volunteers. Even so, there were 1,615 children still waiting for a GAL/CASA volunteer to be appointed to their cases at the end of 2002.

The State Office once again received funding from the National CASA Association for the position of a program coordinator to assist the State Director in managing the State Office and supporting the local CASA programs across the State. The money given to Indiana from the National CASA Association is pursuant to a two year grant, which ends in June 2004. This grant has enabled the State Office to help establish CASA programs in counties that do not yet have active CASA programs, to assist programs that are in existence but need

growth and development, and to provide enhanced support services to thriving programs. Funding from the grant has also made it possible to publish a quarterly newsletter and to conduct quarterly regional training for local program directors and staff.

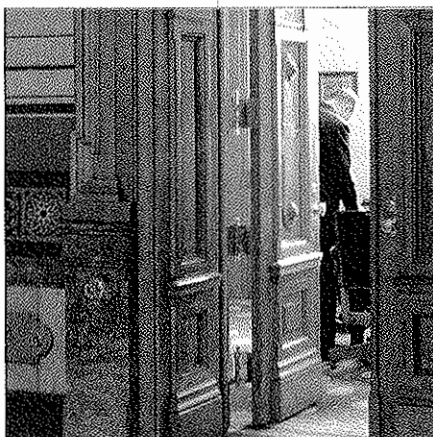
The State Office participated in two national conferences held in Indiana in 2002 sponsored by the National CASA Association. In March, the Program Coordinator of the State Office spoke at the Rural Initiative Conference, a conference that examined the unique problems faced by rural CASA programs across the United States. In August, the State Office and the National CASA Association co-hosted a three-day "Train the Trainer" conference for CASA program directors and staff to teach them how to facilitate the new national CASA training manual for new CASA volunteers. The State Office also participated in the Supreme Court's District Meetings in districts 1, 2, 3, 5, 6, and 13 and provided information to the trial court judges about the CASA program.

The State Director and Program Coordinator also attended the National CASA Association conference and the annual CASA State Director's conference. The Program Coordinator attended an advanced COMET facilitation training to better assist the programs in Indiana using COMET, the electronic case management tool that tracks cases in which a CASA is

appointed.

On November 1, 2002, the State Office held its annual meeting for CASA directors and staff. Additionally, on November 2, the State Office sponsored the Sixth Annual Indiana State GAL/CASA Conference. Over 100 local county directors and their staff attended the daylong staff meeting. Over 350 CASA volunteers, local program directors, service providers, board members, and local program staff attended the annual CASA conference. The State Office also conducted numerous other trainings for CASA program directors, staff, and volunteers; attended volunteer recognition ceremonies; and provided technical assistance to multiple CASA programs across the State of Indiana.

The State Office and the Advisory Commission recently decided that it would be beneficial for Indiana CASA programs to support and participate in a national effort aimed at assessment and quality assurance of CASA programs. As a part of this initiative, each local CASA program will participate in a self-assessment process developed by the National CASA Association. The self-assessment will be rolled out in four waves, with one wave every six months beginning in July of 2003. The State Office and the Advisory



Commission believe that the self-assessment tool and national quality assurance system will promote quality advocacy on behalf of children and will promote greater consistency and professionalism.

### **Family Courts Project**

2002 was an exciting year for the Indiana Family Court project. Five new counties (Marion, LaPorte, Boone, Montgomery, and Owen Counties) joined Johnson, Monroe, Porter, and Putnam Counties in establishing family courts to better serve children and families. Annual data collection from the family courts confirms that: (1) significant numbers of families have multiple cases pending in the court system; (2) both the "one judge-one family" and "information sharing between multiple courts" models are effective for coordinating multiple-case families; and (3) the Family Court Rules created specifically for the family courts enable more informed decision making regarding safety and stability issues for children and families.

Individuality has continued to be a hallmark of the Indiana Family Court project. Each family court is encouraged to develop case coordination models and service programming consistent with the needs and resources of the county. Some of the innovative programming developed this year include "judicial assistance" to help judges locate affordable services for indigent parties, direct case management or service referral programming for chronic and/or high-risk families, a "pro-se desk" run by volunteer attorneys to answer basic legal questions, "family focused" programming for children with truancy and other school problems, and coordination of protective orders procedures. There has also been an impressive expansion of alternative dispute resolution programming within the family courts this year, including the use of low-cost or pro bono attorney mediation and facilitation. Facilitation is a more versatile form of mediation that is particularly effective the pro se litigants in custody disputes, and in promoting case planning and permanency in CHINS and termination of parental rights cases.

2002 has also been a year to assess the merits of the Family Court Project. An essential truth has emerged from this process. The term "Family Court" in Indiana involves more than just models of case coordination or service programming. It is a concept based on the significance of family in our culture and our legal system. It recognizes the unique stresses and safety issues in family litigation, the role of the family in affecting individual behavior, and the particularized need for timeliness and consistency in judicial rulings involving children. The family court concept maintains that case coordination is required to avoid uninformed, inconsistent, or delayed rulings for families with multiple cases in the court system. It

emphasizes a holistic and non-adversarial approach to problem solving. The concept encourages judges and attorneys to fully disclose information about the family's legal cases in order to obtain a complete and long-lasting resolution to the family's situation. The concept eschews unnecessary adversarial tactics to the approach to the resolution of legal issues affecting the safety and stability of children, within the parameters of due process of the law.

Given the growing awareness of the family court concept and the success of the individual pilot courts, it is anticipated that Indiana will transition its family court efforts from the "pilot project" phase to a permanent initiative in the coming years. A statewide Family Court Initiative will continue to promote systems to better ensure efficiency and effectiveness for families in our courts.

### **Public Defender Commission**

The Division is responsible for providing staff support to the Indiana Public Defender Commission. The Commission sets standards for indigent defense services in non-capital cases and recommends standards to the Indiana Supreme Court for application in capital cases. The Commission administers a program of reimbursements to qualified counties under IC 33-9-14-4.

At present, 50 counties have comprehensive plans approved by the Commission for delivery of indigent services. Over fifty percent of the state's population resides in counties eligible to receive reimbursements in non-capital cases under the program. The Commission approved reimbursements to 6 counties in 10 separate death penalty cases during the first three quarters of the fiscal year 2002-2003. These reimbursements totaled \$342,464.

Also during the year, the Executive Director, pursuant to Criminal Rule (C)(1), adjusted the hourly rate paid in death penalty cases from \$90 to \$93 per hour. This was the first adjustment under the Supreme Court's amendments to Criminal Rule 24, which provide for adjustment of the hourly rate every two years.

In non-capital cases during the first three quarters of fiscal year 2002-2003, the Commission approved reimbursements to 47 counties. These reimbursements totaled \$5,371,364.

### **Sharing Information Through the Internet and Traditional Publications**

The Division publishes a newsletter, The Indiana Court Times, which serves as a communication link with the trial courts, their staff, the clerks of court, and all other entities involved in the courts' work. The Division designs and maintains the web site for the appellate level courts and their adjunct offices. In addition to court opinions, rule amendments, downloadable forms, summary statistical reports, a self help center, Indiana CLEO applications and advisory opinions

issued by the Indiana Commission on Judicial Qualifications, are now available on the web site. Also, Indiana's attorneys can now view and track their continuing education courses (CLE) over the Internet. The Division endeavors to provide a communication link between the appellate level courts, trial judges, their staffs, and the clerks of court.

### **Indiana Supreme Court Commission on Race and Gender Fairness**

Sparked by concerns about race and gender fairness in Indiana's justice system, the Supreme Court, through an administrative rule, created the Commission on Race and Gender Fairness in 1999. Representatives of Indiana's judiciary, the practicing bar, academia, state and local governments, public organizations, and law enforcement and corrections comprise the twenty-five member Commission chaired by former Indiana Supreme Court Justice Myra Selby. The Executive Director and staff of the Division of State Court Administration assist the Commission in the performance of its duties.

Initially, funding for the Commission's work came directly from the Supreme Court's budget. At the request of the Chief Justice, the Indiana General Assembly has twice appropriated distinct biennial budgets for the work of the Commission.

The Commission submitted its Executive Report and Recommendations to the Indiana Supreme Court on January 2, 2003. The Report is the culmination of three years of study and research on the part of the Commission. The process included research of work done by other similar bodies and also information gathered in Indiana. First, the Commission conducted eight community forums in seven Indiana cities during 2001. Trained facilitators led small group discussions designed to allow the Commission to hear the views of every person present. Second, the Commission retained the Indiana University – Purdue University at Indianapolis Public Opinion Laboratory to gather raw data by surveying opinions of seven groups associated with the court system. Surveys were randomly sent to judicial officers, court employees, attorneys, prosecutors, public defenders, law enforcement officers, and legal service providers. Third, the Commission hired ZQI, Inc. to conduct eighteen focus group discussions throughout the state. One hundred and twenty court users, court employees, law enforcement personnel, criminal lawyers,

and non-criminal lawyers were interviewed. This information was combined with data from law schools, government records, and other surveys to form the basis for the Commission's report.

In its report, the Commission makes six general recommendations in five specific areas: Makeup of the Profession; Language and Cultural Barriers; Criminal and Juvenile Justice; Civil, Domestic and Family Law; and Employment.

As of the date of this report, the Supreme Court had approved the first general recommendation, that the Commission be continued, and is in the process of addressing each of the other specific recommendations. The Commission will be continuing its work and will serve in an advisory capacity for the Indiana Court Interpreter program, discussed below, recommended by the Commission and approved by the Court.

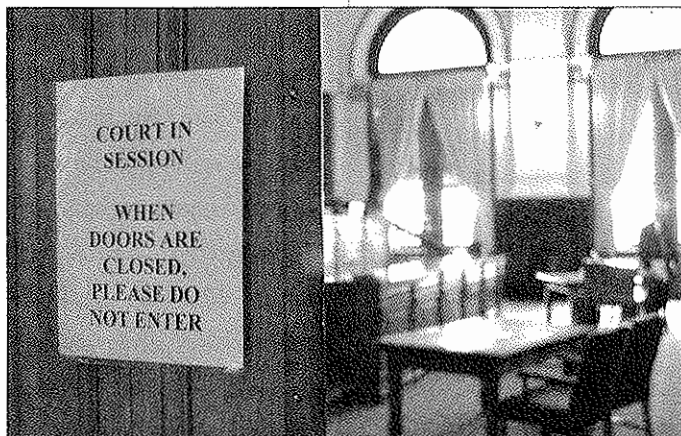
### **Certified Court Interpreter Program**

As a part of the study of Language and Cultural Barriers by the Supreme Court Commission on Race and Gender Fairness (see above), it became apparent to the Commission that Indiana is ill prepared to deal with persons who do not speak English or have limited understanding of English. The Commission's research indicates that Indiana's justice

system has no court interpreter system, but court interpreters frequently are needed in the state trial courts. Census figures show ethnic populations in Indiana have increased dramatically in the last decade, with the most significant increase occurring in the Hispanic/Latino population. Census figures show Indiana's Hispanic/Latino population grew from about 99,000 in 1990 to nearly 215,000 in 2000.

A survey conducted by the Indiana University Public Opinion Laboratory showed that approximately 90 percent of the responding courts had used foreign language translators during the preceding six months. The survey also showed some of those judges used interpreters more than 100 times during that six-month period. Eighty-five percent of the interpreters used by those judges translated between Spanish and English. Most compelling was the survey finding that thirty percent of the courts that responded had been unable to find an interpreter when one was needed.

As this need became evident in the course of the Commission's study, the Commission decided to make an interim recommendation





to the Indiana Supreme Court to institute a statewide court interpreter system. The Commission is not the first to call for competent court interpreters. The Indiana Commission on Hispanic/Latino Affairs previously recommended to Governor Frank O'Bannon the creation of a centralized system of expert interpretation in courtrooms for Hispanic/Latino individuals with limited English-speaking abilities.

In response, the Supreme Court authorized the Executive Director of the Division to join the National State Court Interpreter Certification Consortium through the National Center for State Courts and to implement an Indiana court interpreter testing system for Spanish. The court also approved in principle the concept for a code of ethics for interpreters and the concept for setting specific certification standards for interpreters. The Court will look to an Advisory Board to assist the court in developing these components.

In addition, the Supreme Court agreed with the Commission's assessment that a strong need exists for training and orientation of interpreters, judges and court staff. Because of the fiscal impact, the Court decided to implement this recommendation to the extent that it could be accommodated by the existing judicial education structure. The Court stopped short of mandating the use of certified interpreters and asked the Commission for further information.

In August 2002, Indiana joined the National Center for State Courts – Court Interpreter Certification Consortium. Indiana will begin the process of certifying court interpreters in 2003.

Availability of competent interpreters is a fundamental factor in providing access to justice for all. The Indiana Supreme Court has taken a decisive step in assuring such access to non-English speaking people.

### **Judicial District Business Meetings**

During early 2003, in conjunction with the Indiana Judicial Center, the Division helps sponsor the biannual judicial district business for Judicial Districts 4, 8, 9, 7, 10, 11, 12, and 14. Meetings were held in Lafayette, Indianapolis, Hagerstown, Bloomington, and Madison with a total of 136 judicial officers in attendance. Judges received updates on pay issues, Court of Appeals, and JTAC. Other items discussed included public records initiatives, the Weighted Caseload project, and GAL/CASA.

### **Committee on Local Rules**

At the request of the Supreme Court Committee on Rules of Practice and Procedure, the Supreme Court convened a special Local Rules Committee to examine the local court rules of Indiana's courts and to recommend a model structure for such rules. The Division administers, coordinates and provides staff to the new committee,

which is chaired by the Honorable Margret Robb of the Indiana Court of Appeals. The first task of the committee during the reporting year was the compilation of all existing local rules into one place. The committee expects to complete its work by the end of 2003.

### **Indiana Project on Self-Represented Litigants**

The Indiana Supreme Court's Pro Se Advisory Committee and Pro Se Project entered their second year of existence in 2002. This Advisory Committee was created by the Indiana Supreme Court in response to the growing national phenomenon of people choosing to represent themselves without lawyers. The Supreme Court appointed the Pro Se Advisory Committee to make recommendations to the Supreme Court on the issues of pro se litigation; to develop a comprehensive strategy plan for future pro se efforts; and to help trial courts respond to the growing numbers of the self-represented. The Committee consists of a variety of community members from the courts, legal associations, and other service providers.

The Pro Se Advisory Committee updated the Self-Service web site with even more valuable information for the self-represented. The site consistently ranked among the top 10 pages on the Indiana Judiciary Web Site throughout the year. This year, we started posting notices of seminars, conferences, pro bono sessions, and other events that empower people with legal information.

In addition to the nine pleading forms with instructions we had already made available, we produced the much-anticipated "Divorce with Children" court form that can be used by people representing themselves. We continued to travel around the state presenting training sessions to court staffs.

In the summer of 2002, the advisory committee submitted its initial report to the Indiana Supreme Court. In it, the Committee suggested that it be given authority to continue its previous work, broaden its scope of education for all involved in the pro se phenomenon, look at the issue of discrete task lawyering (unbundling), and look at the language concerns Hispanics encounter in our judicial system. The Court responded positively to the report. This coming year, we will add more information to the web site, create more court forms, translate more materials into Spanish, expand and multiply the education efforts, and review the discrete task lawyering issue.

The Committee continues to welcome suggestions and feedback. It is responding to the needs of the many people in the judicial system confronted with the growing numbers of the self-represented. By addressing these issues, the Supreme Court is improving access to and confidence in the justice system.

# *C. Indiana Supreme Court Disciplinary Commission*

## **Donald R. Lundberg, Executive Secretary**

The Disciplinary Commission is responsible for the investigation and prosecution of attorney discipline proceedings. The Commission is funded through an annual registration fee that is required of all lawyers who wish to keep their Indiana law licenses active and in good standing. During the Commission's fiscal year of July 1, 2002 through June 30, 2003, the Commission received \$1,650,231 in income, compared to \$1,490,903 budgeted, and incurred \$1,621,569 in expenses, compared to \$1,663,725 budgeted. The Commission's expenses included disbursements of \$184,500 for operation of the Indiana Judges and Lawyers Assistance Program.

The Disciplinary Commission publishes a detailed annual report of its activities, copies of which are available by contacting the Commission office or by accessing the Commission's web site at <http://www.in.gov/judiciary/agencies/dis.html>.

### **Case Dispositions**

During the reporting period, 1,545 grievances were filed with the Commission, a similar number of grievances as were filed in the previous year. Fifty-seven of those grievances were initiated by the Commission in its own name based upon information coming to its attention from a variety of reporting sources, including reports from lawyers and judges. Third-party complainants filed the balance of the grievances.

During the reporting period, the Commission filed thirty-seven Verified Complaints for Disciplinary Action with the Supreme Court. These Verified Complaints, together with amendments to pending Verified Complaints, represented findings of probable cause by the Commission in forty-six separate counts of misconduct.

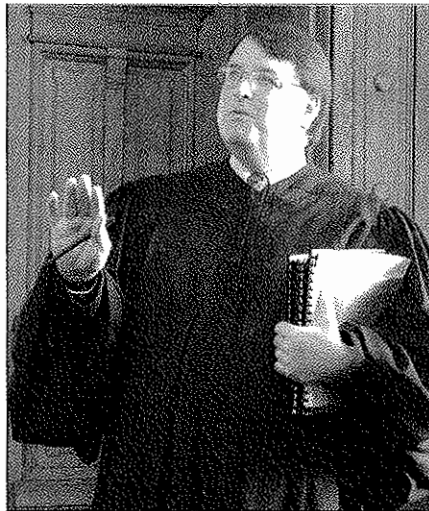
The Court issued eighty-eight final orders disposing of lawyer discipline cases, representing the completion of 134 separate matters. By disposition type, those cases were resolved as follows:

Private Reprimands.....	13
Public Reprimands .....	16
Suspensions with Automatic Reinstatement .....	14
Suspensions with Conditional Reinstatement.....	6
Suspensions without Automatic Reinstatement .....	18

Resignations Accepted.....	11
Disbarments.....	4
Orders of Injunction.....	2
Judgments for Respondent .....	2
Dismissals.....	2
Total .....	88

The Disciplinary Commission resolved twelve cases administratively through the issuance of private administrative admonitions. In addition to these concluded matters, the Court issued orders of temporary suspension in two cases upon the request of the Commission. The Court also ordered the suspension of the law licenses of thirty-four active lawyers and 2,200 inactive lawyers for their failure to pay annual attorney registration fees. Because this was the first time inactive lawyers had been charged an annual registration fee, it is believed that the large number of suspensions

was due to the fact that many inactive lawyers were unaware of their new obligation to pay an annual fee, in many cases because they had changed addresses without notifying the roll of attorneys. Subsequently, the Commission liberally granted waivers of late penalties to many suspended, inactive lawyers who thereafter reinstated their licenses to good standing by paying their registration fees. It is expected that the number of inactive lawyers who are suspended for non-payment of registration fees will be much lower in following years.



### **Reinstatements**

During the reporting period, three previously disciplined lawyers filed petitions to have their law licenses reinstated. The Supreme Court issued seven final orders in lawyer reinstatement proceedings, granting reinstatement on conditions in four cases and dismissing three cases.

### **Non-cooperation by Lawyers**

Effective January 1, 2001, the Supreme Court amended Admission and Discipline Rule 23(10) to provide for the suspension of a lawyer's law license upon a showing that the lawyer has failed to cooperate with the disciplinary process. The purpose of this rule was to promote lawyer cooperation to aid in the effective and efficient functioning of the disciplinary system. The Commission brings allegations of non-cooperation before the Court by filing petitions to show cause. Nineteen non-cooperation matters involving fifteen lawyers were disposed of during the reporting year.

## Trust Account Overdrafts

The Disciplinary Commission was notified by financial institutions of sixty cases of overdrafts on attorney trust accounts. The following are the results of overdraft inquiries during the reporting year:

Inquiries Carried Over From Prior Year.....	14
Overdraft Reports Received .....	68
Inquiries Closed .....	69
Reasons for Closing:	
Bank Error .....	17
Referral for Disciplinary Investigation .....	12
Law Office Math or	
Record-Keeping Error .....	10
Disbursement From Trust	
Before Deposited Funds Collected.....	6
Disbursement From Trust	
Before Trust Funds Deposited.....	6
Inadvertent Deposit of Trust	
Funds to Non-Trust Account.....	4
Overdraft Due to Refused	
Deposit for Bad Endorsement .....	2
Overdraft Due to Bank	
Charges Assessed Against Account .....	2
Deposit of Trust Funds to	
Wrong Trust Account .....	2
Inadvertent Disbursement of	
Operating Obligation From Trust.....	1
Non-trust Account Inadvertently	
Misidentified as Trust Account .....	0
Death, Disbarment or	
Resignation of Lawyer .....	0
Inquiries Carried Over Into	
Following Year.....	13

## Commission Members

Members who served on the Disciplinary Commission for all or part of the year were Hon. Grant W. Hawkins, Indianapolis; William F. Lawler, Jr., Anderson, Chairperson; David L. Hale, Kokomo, Vice-Chairperson and, later, Chairperson; Janet Biddle, Remington, Secretary and, later, Vice-Chairperson; Diane L. Bender, Evansville, Secretary; Robert L. Lewis, Gary; J. Mark Robinson, Charlestown; Anthony M. Zappia, South Bend; and Sally Franklin Zweig, Indianapolis. Mr. Hale's election as Chairperson marked the first time in the Commission's history that a non-attorney has served as Commission chair.

## D. Board of Law Examiners

### Mary Place Godsey, Executive Director

The Board of Law Examiners is responsible for the admission of attorneys to the Bar of the State of Indiana. During the period of July 1, 2002 to June 30, 2003, 862 applicants applied to sit for the bar examination. As a part of the application process, the Members of the Supreme Court Character and Fitness Committee conducted personal interviews with each applicant who applied to sit for the bar examination. There were 297 members of this Committee, which is made up of attorneys from each county in the state. Six new members were appointed to the Character and Fitness Committee during this fiscal year. Thirty-three applicants were required to appear before the full Board regarding matters of character and fitness and eligibility to sit for the examination or to be admitted.

Twenty-six individuals were referred to the Judges and Lawyers Assistance Program (JLAP) for evaluation or assessment and JLAP provided monitors for four individuals admitted on conditional admission under Admission and Discipline Rule 12, Section 6 (c).

The full Board held meetings on fourteen days. The Editing Committee met separately during two of these meetings. Bar examinations were given on eight days, including the extended time granted for special accommodations.

The Board wrote and graded two bar examinations administered to a total of 759 applicants. Eighteen examinees received special accommodations on bar examinations. Accommodations given included providing additional time, separate test areas and individual monitors. In July 2002, 515 applicants were tested. Following that examination, nine examinees requested review by the Board and three requested review by the Indiana Supreme Court. In February 2003, 244 applicants were tested. Following that examination, seven applicants requested review by the Board and three applicants requested review by the Indiana Supreme Court.

Five hundred forty-one attorneys were admitted to practice in the State of Indiana during the period of July 1, 2002 through June 30, 2003. Four hundred ninety attorneys were admitted on examination and fifty-one attorneys were admitted on foreign license. Four of the attorneys admitted on examination and one of the attorneys admitted on foreign license were admitted under Admission and Discipline Rule 12, Section 6(c). Thirty of the fifty-one attorneys admitted on foreign license were admitted in one other state prior to their admission in Indiana. Fifteen of the fifty-one attorneys were admitted in two other states prior to their admission in Indiana. Seven of the fifty-one were admitted in three states prior to their admission in Indiana. The frequency of the admission from jurisdictions is:

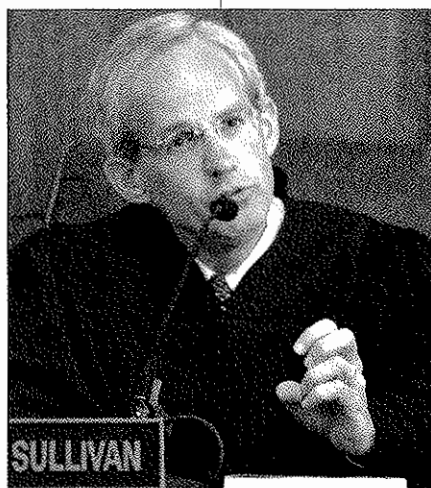


California .....	6
Colorado.....	3
Connecticut.....	1
Florida .....	2
Georgia .....	1
Illinois .....	22
Kentucky .....	3
Massachusetts .....	1
Michigan.....	6
Minnesota.....	1
Missouri.....	4
Montana .....	1
New Jersey.....	2
New York .....	5
Ohio.....	9
Oklahoma.....	1
Pennsylvania.....	1
South Carolina.....	1
Tennessee.....	1
Texas.....	1
Virginia.....	1
Wisconsin.....	2

*NOTE: An attorney admitted in multiple jurisdictions is counted in each jurisdiction he/she is admitted.*

The Board Committee on Foreign License reviews each attorney application and investigative report for admission on foreign license. If approved, a Member of that Committee prior to admission personally interviews the applicant. If not approved, the applicant must appear before the full Board. Nine applicants were required to appear before the full Board regarding the matter of their character and fitness and their eligibility for admission on foreign license. Twenty-two applicants were considered by the full Board regarding approval for renewal of their provisional licenses. In December of 2002 the licenses of sixteen foreign license admittees were expired.

On February 24, 2003 the Indiana Board of Law Examiners launched a new, improved, user friendly web site. For the first time, applications for the bar examination and admission on foreign license are available online. Additionally this new web site offers online access to applications to become legal interns and applications for the formation of Professional Corporations, Limited Liability Companies and Limited Liability Partnerships. The site posts timely



information pertaining to bar examinations and bar admission ceremonies. The new site has improved service to Indiana Bar Exam applicants and has also saved the Board of Law Examiners money by decreasing the costs associated with mailing applications to law schools and applicants. Links to Indiana law schools, bar review courses and other sources helpful to students and attorneys alike are also available on the improved web site.

In a continued effort to reduce paper files, the Board of Law Examiners sent 586 files to be microfilmed under the document reduction plan. Those files microfilmed were of attorneys admitted in the year 1997.

Two major Admission Ceremonies were held: one in November 2002 and one in May 2003. One other Admission Ceremony was held to accommodate those applicants who were unable to attend one of the main ceremonies. The May 19, 2003 Admission Ceremony marked the first time a Board of Law Examiners main Admission Ceremony was held in the historic Indiana Roof Ballroom. This venue offered a more formal setting, befitting the occasion of the admission of new attorneys to the practice of law in Indiana. Both major admission ceremonies and the additional ceremony were videotaped and copies were made available for purchase and for viewing on the internet.

Approximately 500 wall certificates were signed using the Autopen for the July 2002 and February 2003 examinees. Fifty-one were signed for provisional licenses and fifty-three were signed when permanent licenses were issued.

Under Admission and Discipline Rule 2.1, the Board is responsible for the certification of legal interns. The Deans of law schools advise the Board of those students who qualify academically, the date of their graduation, and the term of the internships. The supervising attorneys advise the Board regarding their willingness and ability to supervise the interns. If all requirements are met, the Board certifies

the legal interns and notifies the Clerk of the Supreme Court, Court of Appeals and Tax Court by forwarding a copy of the supervising attorney/legal intern agreement of the certification and the terms of the legal internship. Three hundred six students and fifty-nine graduates were certified to serve as legal interns under Admission and Discipline Rule 2.1.

The State Board of Law Examiners is responsible for providing applications and approving the formation and renewal of professional corporations, limited liability companies, and limited liability

partnerships for the legal profession. There were 578 active professional corporations, thirty-four limited liability companies, and ninety-nine limited liability partnerships. Forty-two new professional corporations, eight limited liability companies, and fourteen limited liability partnerships were formed. Eight professional corporations, one limited liability company, and one limited liability partnership were dissolved or became inactive.

The following individuals are serving currently on the Board of Law Examiners as officers: Kathryn A. Brogan, President, Professor JoEllen Lind McGuigan, Vice-President, Alonzo Weems, Treasurer and The Honorable Stephen R. Heimann, Secretary. The terms of these Officers run from December 1, 2002 to December 1, 2003. Other members are Arend J. Abel, Sheila M. Corcoran, Cynthia S. Gillard, Calvin D. Hawkins, Leslie C. Shively and The Honorable Marianne L. Vorhees.

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## *E. Commission for Continuing Legal Education*

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### **Julia L. Orzeske, Executive Director**

The Commission for Continuing Legal Education was created in 1986. It consists of eleven Commissioners and one liaison. The Commission's basic duties are to regulate the mandatory minimum continuing legal education requirements of each attorney admitted in Indiana, regulate education programs of mediators who serve Indiana Courts under the Indiana Alternative Dispute Resolution Rules, and regulate the Independent Certifying Organizations, which certify attorney specialists under Admission and Discipline Rule 30. The Commission employs a part-time Executive Director, three full-time secretaries and a full-time mediation services coordinator/office manager.

In fiscal year 2002-2003, the full Commission met a total of six times. The Commission reviewed 5,690 courses. Of these, 2,243 were courses for which an application for continuing legal education ("CLE") accreditation was made, and 3,447 were courses given by approved sponsors (where no application is required). 135 applications and 59 approved sponsor courses were denied accreditation. During fiscal 2002--2003, 13,691 attorneys reported CLE credits to the Commission. These attorneys reported a total of 194,266 hours of CLE credits, of which 22,863 were ethics credits.

In March 1997, an amended version of Admission and Discipline Rule 29 took effect. These amendments, among other things, imposed stricter requirements for attorneys who are suspended for CLE noncompliance to be reinstated. Additionally, these amendments allow attorneys to take a limited number of credits in non--legal subject ("NLS") areas in order to enhance their proficiency in the

practice of law. During fiscal year 2002-2003, 222 NLS courses were reviewed: 47 were by approved sponsors and 175 were by non-approved sponsors. 220 courses were approved and two courses (by a non-approved sponsor) were denied accreditation. Attorneys reported a total of 3,388 NLS credits during this period.

A recent amendment to Admission and Discipline 29 made attorneys admitted by exam after December 31, 1998 responsible for reporting continuing legal education January 1 of the year following admission. These newly admitted attorneys must complete programs designated by the Commission as appropriate for new lawyers. This amendment reduced the grace period for newly-admitted attorneys from three years to one year. The Commission also adopted guidelines for a required 6-hour Applied Professionalism Course for Newly Admitted Attorneys. In addition to adopting standards for this required course, the Commission made grants available to providers to allow them to give the course for little or no cost to newly admitted attorneys. 636 newly admitted attorneys attended these courses during this period.

During fiscal 2002-2003, the Commission approved 5,462 courses as appropriate for newly admitted attorneys. 2,107 of these courses were approved as a result of an application. Approved sponsors presented 3,355 courses.

As of September 2001, attorneys may now access their own CLE records via [www.in.gov/judiciary/cle/](http://www.in.gov/judiciary/cle/) with the use of personal identification numbers. As of June 2002, attorneys may search for approved courses by inputting the desired date, number of CLE or ethics hours; preferred geographic location and/or seminar topic at the same site.

The Commission was also active in the area of mediation. Because of substantial changes made by the Court in the Indiana Rules for Alternative Dispute Resolution, the Commission became responsible for keeping track of court-approved mediators in Indiana. Effective March 1, 1997, the Commission began a registry of approved court mediators. The first mediator registry was distributed to all registered mediators and Indiana judges in June 1997. In this initial registry, there were 235 listings for civil mediators and 110 listings for domestic relations mediators. As of June 30, 2003, there were over 600 listings for civil mediators and 400 listings for registered domestic relations mediators. The registry is now available at the Commission's Web Site.

Effective January 1, 2004, the Alternative Dispute Resolution rules have been amended in the area of advanced mediation training. The term "advanced mediation training" will be changed to continuing mediation education or "CME." Mediators will be allowed flexibility in selecting courses that can be counted toward their CME

requirement. Previous to this rule change, the CLE Commission required attendance at certain prescribed mediation courses. Additionally, the mediation cycle will be changed from a fiscal year to a calendar year. Attorney-mediators will be allowed to petition the Commission to align their mediation cycles with their attorney CLE cycles.

In fiscal year 2002-2003, 37 people were trained in basic civil mediation and 30 people were trained in basic domestic relations mediation. 19 people took Commission-certified advanced civil mediation courses and 25 people reported attendance at advanced domestic relations mediation courses. (These figures do not include courses offered the last week of June 2003.)

The Commission continues to partner with the Indiana Judicial Center ADR Committee to assess the need for rule and policy changes in the area of mediation. In conjunction with the Judges' Committee, the Commission assisted in conducting a survey in the area of civil mediation in 1998 and in domestic relations in 1999. The results of these surveys show that court-connected mediation is a highly successful settlement tool and when it is successful, it greatly reduces the number of days between filing and the final resolution of a case.

Since 1999, the Commission has hosted several workshops to consider mediation ethics issues, domestic relations mediation and civil mediation. Legislators, judges, ADR neutrals, trainers, academicians, attorneys and therapists attended these workshops. As a result of these ADR workshops, specific recommendations were made to the Supreme Court on rule, legislative and policy changes. Many of these recommendations have been approved.

In the area of attorney specialization, the Commission appointed a panel of experts to review testing procedures used by applicants for accreditation as Independent Certifying Organization. This panel consisted of law school professors and practitioners. As of June 30, 2003, there are over one hundred attorneys who are specialists in their particular areas of law.

The following individuals served on the Indiana Commission for Continuing Legal Education during fiscal year 2002-2003: John L. Krauss, Susan G. Gainey, Ronald P. Kuker, Professor Terry M. Dworkin, Jeffrey J. Newell, Professor Alysa C. Rollock, Norman G. Tabler, Jeanine M. Gozdecki, Honorable Melissa S. May, Robert J. Ewbank and Robert Houston, III. In 2002, the Supreme Court appointed Judge Nancy Eshcoff Boyer as a liaison to the CLE Commission.

## *F. Indiana Judicial Nominating Commission on Judicial Qualifications*

### **Meg Babcock, Counsel**

The Indiana Judicial Nominating Commission and the Indiana Commission on Judicial Qualifications is a seven-member commission established by Article VII, Section 9, of the Constitution of Indiana. It performs two distinct functions within the judiciary. The Nominating Commission appoints the Chief Justice of Indiana from among the five Supreme Court Justices. It also solicits and interviews candidates to fill vacancies on the Supreme Court, the Court of Appeals, and the Tax Court. The Nominating Commission selects three candidates for each vacancy, and the Governor appoints one of the nominees to fill the vacancy. (There were no vacancies in fiscal

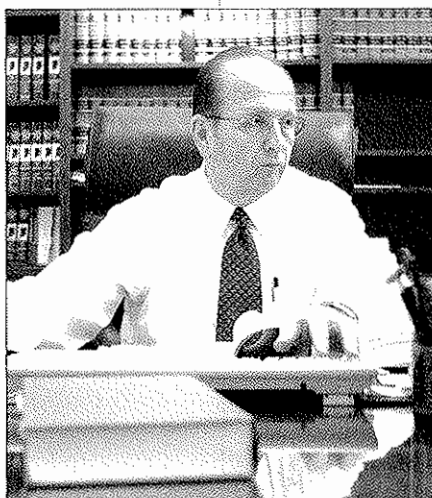
year 2002-2003.) The Nominating Commission also certifies former judges as Senior Judges to help qualifying courts with their caseloads.

The Qualifications Commission investigates allegations of ethical misconduct against Indiana judges, judicial officers, and candidates for judicial office. When appropriate, the Commission may privately caution judges who have violated the Code of Judicial Conduct; in the most serious cases, the Commission prosecutes formal disciplinary charges in public proceedings. These charges ultimately are resolved by the Supreme Court. Additionally,

the Commission and its staff provide judges and others with advice about their ethical obligations and, periodically, the Commission publishes formal Advisory Opinions.

The Chief Justice of Indiana, Randall T. Shepard, is the ex officio Chairman of the Nominating Commission and the Qualifications Commission. The Commission is comprised additionally of three lawyers, elected by other lawyers in their districts, and three non-lawyers who are appointed by the Governor, all to three-year terms. Other Commission members serving in 2002-2003 were Theodore Lockyear, Esq., Evansville; Judy Johns Jackson, Columbus; Donald W. Ward, Esq., Indianapolis; John Bartlett, Indianapolis; John O. Feighner, Esq., Fort Wayne, and Ann S. Borne, Fort Wayne. Terrance Smith, Esq., Highland, served until the end of his term on January 1, 2003.

The Nominating Commission met on four occasions during the fiscal year. It recertified eighty-two Senior Judges, certified twenty-one new Senior Judges, and declined to certify one applicant for Senior Judge status.



In fiscal year 2002-2003, the Judicial Qualifications Commission convened on nine occasions. The Commission had on its docket two hundred eighty-four complaints or allegations of violations of the Code of Judicial Conduct. The Commission summarily dismissed two hundred thirty-four complaints but, in response to seven, sent advisory letters to the judges. The Commission inquired into, investigated, or filed charges in response to forty-nine complaints. The Commission dismissed seventeen complaints after concluding no misconduct occurred. In twenty other cases, the Commission issued private cautions. The most common cautions related to ex parte contacts (6) and injudicious demeanor (5), followed by cautions about administrative failures or delays (3 each), then inappropriate political activity, failures to disqualify, and mistreatment of lawyers or litigants (2 each). (Some cautions related to more than one violation).

In lieu of proceeding to formal charges, the Commission resolved three cases by issuing Public Admonitions with the consent of the judges. The Commission issued Public Admonition of former Marion Superior Court Judge Webster L. Brewer on August 22, 2002, Public Admonition of the Honorable J. Steven Cox, Franklin Circuit Court, on March 21, 2003, and Public Admonition of the Honorable Kenneth R. Scheibenberger, Allen Superior Court, on December 17, 2002.

Three complaints from the prior fiscal year were resolved when the judge agreed to resign after formal charges, a hearing, and a report from the Masters concluding he committed misconduct. In re Kern, 774 N.E.2d 878 (Ind. 2002). The Masters in that case were the Honorable Diana LaViolette, Presiding Master, Putnam Circuit Court, the Honorable Phillip I. Adler, Vigo Superior Court 2, and the Honorable K. Mark Loyd, Johnson Circuit Court.

Another case in which the Commission filed formal charges in the prior year was resolved when the judge and the Commission agreed to a Public Reprimand. In re Danikolas, 783 N.E.2d 687 (Ind. 2003). The Masters assigned to that case were the Honorable Nancy E. Boyer, Presiding Master, Allen Superior Court, the Honorable Terry C. Shewmaker, Elkhart Circuit Court, and the Honorable Roland W. Chamblee, Jr., St. Joseph Superior Court.

The Commission filed formal charges against one judge in fiscal year 2002-2003. In re Spencer, 48S00-0210-JD-514, the Honorable Steven E. King, Presiding Master, LaPorte Superior Court 2, the Honorable Barbara L. Brugnax, Vigo Superior Court 5, and the Honorable James W. Rieckhoff, Elkhart Superior Court 5, conducted an evidentiary hearing on March 6, 2003. The Masters concluded the judge committed misconduct and recommended to the Supreme Court that it impose a sanction against the judge of up to thirty days suspension from office without pay. At the conclusion of the fiscal year, the case was pending before the Supreme Court on the

Commission's recommendation that the Court impose the full thirty-day suspension. The fiscal year concluded with five inquiries or investigations pending.

Finally, in fiscal year 2002-2003, Commission counsel responded to approximately five hundred fifty requests for guidance about the ethics rules. The Commission issued one published opinion, Advisory Opinion #1-02, concerning permissible judicial campaign speech.

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## *G. Indiana Judicial Conference Indiana Judicial Center*

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### **Jane Seigel, Executive Director**

The Judicial Conference of Indiana, through its agency the Indiana Judicial Center, provides a variety of services for judges, court personnel, and the public. The Conference provides continuing judicial education for Indiana's judicial officers, trains probation officers, administers the interstate transfer compact for probationers, administers the court alcohol and drug services program, provides oversight of Indiana's drug courts, and maintains a roster of juvenile residential placement facilities. Judicial Conference committees formulate policy on judicial administration, juvenile justice, probation and other topics. The committees also draft benchbooks, guidelines, and other materials. In cooperation with the Indiana Judges Association, they publish civil and criminal pattern jury instructions.

In fiscal year 2002-03, the Judicial Center presented twenty-three days and one hundred sixty eight hours of continuing judicial education instruction. Total attendance at these programs was 1,501. The educational conferences conducted in 2002-2003 for judicial officers included:

- 3 day** Annual Meeting of the Judicial Conference of Indiana in September;
- 2 day** City and Town Court Judges Annual Conference in October;
- 2 day** Pre-Bench Orientation for new Judicial Officers in December;
- 1 day** Winter Conference in December;
- 4 day** General Jurisdiction New Judicial Officer Orientation in January;
- 1 day** Orientation for New Juvenile Judicial Officers in January;
- 3 day** Spring Judicial College Program in April;
- 5 day** Graduate Program for Indiana Judges in June; and
- 2 day** Juvenile Court Judicial Officers Annual Conference in June



The Judicial Conference of Indiana, comprised of all full-time judges, both trial and appellate, magistrates, and senior judges, held its 2002 Annual Meeting September 11-13 at the Grand Wayne Center in Fort Wayne. The 2002 Annual Meeting offered an unequalled opportunity for education, collegiality, affirmation, and commemoration. The beginning of the Annual Meeting and the one-year anniversary of the events of September 11 occurred on the same day, so a special ceremony marking this anniversary was held at the opening session of the Annual Meeting. The audience also included members of the public and a large contingent of Allen County school children. Other highlights of the 2002 Annual Meeting included a discussion of JTAC's new initiatives and an update on the 21st century case management system; Indiana's new jury rules; review of the protective order legislation; the unveiling of the first Master's level course for experienced judicial officers; sessions dealing with ethical issues, including the impact of the Code of Conduct on the judicial family and the political process.

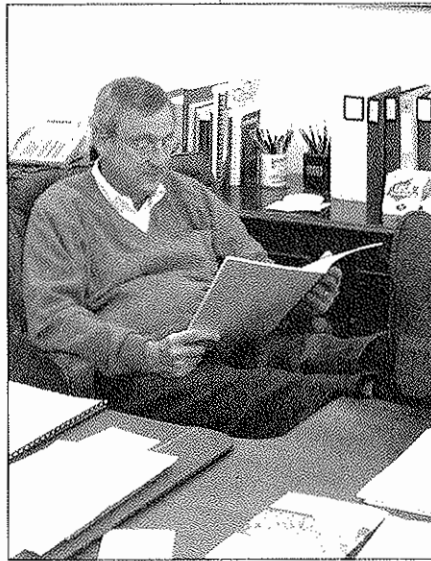
In December, the Center conducted a pre-bench orientation program for newly elected judicial officers. The program included information on employment and personnel concerns; discussion regarding the transition to the bench and impact of the Code of Judicial Conduct; and how to prepare for the first day on the bench.

In January, newly elected and recently appointed judicial officers returned to Indianapolis for a four day general jurisdiction orientation program. Topics covered included: courthouse, office and personal security issues; courtroom control; jury selection and management issues; managing the criminal, domestic relations, probate, limited jurisdiction and small claims caseload; understanding the application of the rules of evidence; dealing with pro se litigants; cultivating a positive relationship with county officials and the budgetary process, among others.

In its fourth year, the Spring Judicial College program received high marks for the program's emphasis on small, discussion oriented course offerings. Eighteen stand-alone courses ranging from 2.5 to 5 hours in length were offered during the 3-day Judicial College. Courses included: A Judge's Guide to Federal Laws Affecting Litigants and Employees Called to Active Duty; Evidence Workshop; ADR Techniques Beyond Mediation; Evaluating Youth Competence and Talking to Teens; The Guilty Plea Process; Adult Competence to Stand Trial/Evaluations and Outcomes; What Works in Reducing Recidivism

for Offenders; Relevance, Character & Hearsay Evidence; Life Online/Being a State Judge in a Networked World; The In's and Out's of Indiana Protection Order Laws; Domestic Violence and the Impact on Child Custody and Visitation Decisions; Double Jeopardy; Judicial Management of the Probation Department; and, Literature and the Profession. In addition, "hands-on" computer training classes were offered in JTAC's new computer lab and included the following courses: Beginner and Advanced Online Legal Research Training; Introduction to Excel; and PowerPoint.

Fifteen days of instruction were presented by the Center for probation officers, with a total attendance of 1,581 officers. The Center handled the transfer of 1,303 probationers into the state and 1,745 probationers out of the state, and also processed 11,025 written inquiries, replies, and reports concerning active interstate



probation compact cases (This year's figure does not include routine requests for progress reports, requests for financial status and reporting instructions). 128 runaways were also processed; however, 28 of these cases were court-ordered requisition returns. This time-consuming category has significantly grown from the 12 cases last year. In 2002-2003, the Center administered the probation officers' certification examination to 186 applicants.

In September 2002, the Judicial Conference Board of Director's adopted a revised minimum salary schedule for probation officers, effective January 1, 2004. Because of the salary increases in the revised schedule, the Board

directed the Probation Committee and Judicial Center staff to work with the Indiana General Assembly to find a way to help counties pay for the increases. The Probation Committee and several of the Judicial Center's staff attorneys worked with Senator Charles Meeks on the passage of Senate Bill 506. This bill raised probation user's fees, created a new administrative fee to be applied toward probation officer salaries, and in fact was the first major revision of Indiana's probation user's fees statutes since their inception in 1983.

Judicial Center staff also assisted Senator Zakas with Senate Bill 205. The passage of this bill made Indiana the 43rd state to join the new Interstate Compact for Adult Offender Supervision, which permits adult probationers to move from one state to another under supervision. Several provisions of the new compact have a direct impact on the Judicial Center. The executive director of the Judicial Center has a seat on Indiana's state council for interstate adult offender supervision, and will serve as chair of the council. The

Judicial Center will also staff the council and fund the expenses of the council through appropriations made by the General Assembly to the Center and with part of the fees paid by persons transferring under the new compact.

The Center continued to provide traditional research services to the judges in 2002-2003. Case Clips was only distributed by e-mail, and was available on the Court's web page. The Center's web page continues to be updated by providing benchbooks, committee minutes and other documents of interest.

The Center also continued to monitor the activities of the Indiana General Assembly, and published 10 weekly e-mail updates from January to May reviewing legislative changes to bills of interest to the judiciary, culminating in a final e-mail memorandum to judicial officers and chief probation officers of the "Top 33 Public Laws for 2003" passed by the Legislature.

The Indiana Judicial Center maintains a roster of in-state facilities that provide residential services to children in need of services and delinquent children. The roster continues to be available to courts with juvenile jurisdiction and chief probation officers. Updated information on over 110 facilities is provided on a monthly basis. The roster is available on the Internet at [www.courts.state.in.us/juvfac.nsf](http://www.courts.state.in.us/juvfac.nsf).

The Indiana Judicial Center continued its administration of the Court Alcohol and Drug Program in 2002-2003. Working with the Judicial Conference's CADPAC (Court Alcohol and Drug Program Advisory Committee) and its subcommittees, the Center and the Judicial Conference again revised its Rules governing these court programs adding upgraded substance abuse education standards for programs.

The Center approved Basic (12-hr.) and Advanced (20-hr.) substance abuse education curricula that were piloted for 20 months statewide. The certification staff of the Center and the CADPAC Certification Subcommittee began a second 3-year cycle of certification review of its 53 programs. CADPAC and the Center also continued the scholarship and grant programs for eligible court programs. In March, the Center hosted the 2003 annual meeting of court-administered alcohol and drug programs, with over 330 judges, program directors and court staff attending the meeting. Two 3-day semi-annual staff orientations and two semi-annual one-day Director Development trainings were well received by programs. The Center's semi-annual newsletter that updates judges and program staff on program issues and news went "on-line" with the help of JTAC staff. The Center worked with the CADPAC Policy Subcommittee and Judicial Qualifications Commission to develop improved safeguards for programs in the area of contracting policy and procedures.

Effective July 1, 2002, per IC 12-23-14.5, the Center commenced oversight of Drug Courts in Indiana. In October 2002, the Center hired its first state drug court coordinator who began collaboration with the CADPAC Drug Court Subcommittee to develop standards for developing, certifying, training and supporting drug courts statewide. Currently, there are 17 operational drug courts (13 adult, 4 juvenile) and 9 courts (6 adult, 3 juvenile) in the planning stages. On March 5, 2003, the Center hosted its first Drug Court Workshop Training and on March 21st, the Judicial Conference of Indiana adopted Drug Court Rules that will serve as the basis for certification of drug courts operating under IC 12-23-14.5. It is anticipated that drug court certifications will begin in the Fall 2003. In May 2003, Center staff assisted JTAC in applying for a federal drug court grant to provide specific data collection capabilities for drug courts statewide.

The committees of the Judicial Conference of Indiana were also extremely busy this year. Indiana's Judicial Weighted Caseload Update completed by the Judicial Administration Committee in October 2002 and distributed to the Supreme Court of Indiana. The committee continued work in this area by providing a framework for the development of standard CCS entries for JTAC's case management system. The Domestic Relations Committee completed its review of Indiana's Child Support Guidelines in 2003 and recommended changes. The Protection Order Committee recommended technical corrections to Indiana's Protection Order statutes which were enacted by the legislature and effective July 1, 2003. The new Jury Committee received a \$65,612 grant for the creation of an Indiana focused jury orientation video and juror exit survey. This committee also proposed Jury Rule amendments to the Indiana Supreme Court. They proposed Indiana Jury Orientation Program Minimum Standards that were adopted by the Judicial Conference in December 2002, and the committee continues to assist courts by providing sample forms relating to jury management, as well as assistance in complying with the Jury Rules, specifically in the areas of jury pool formation. The Probate Committee completed the Second Edition of the Probate Deskbook for distribution in the fall of 2003. The Criminal Instructions Committee will submit a complete revision of the two-volume Indiana Criminal Pattern Jury Instructions to the publisher, Lexis, in September 2003. The Board of Directors of the Judicial Conference of Indiana created a Criminal Law Policy Committee in June 2003 to study criminal justices issues and discuss policy questions in the area of criminal law and procedure, sentencing and corrections. It is anticipated that this committee will be able to provide valuable assistance to legislative committees, like the new Sentencing Policy Study Committee authorized by the General Assembly in 2003.

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## *H. Indiana State Public Defender's Office*

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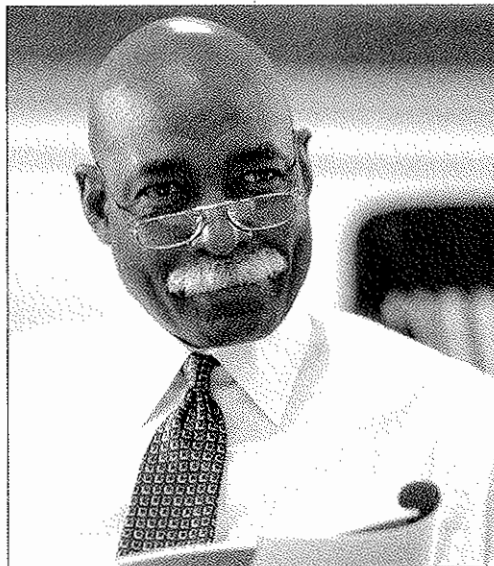
### **Susan Carpenter, Public Defender**

The State Public Defender's Office represents indigent Department of Correction inmates in state post-conviction relief actions under Ind. Post-Conviction Rule 1. In capital cases, representation begins within thirty days of the Indiana Supreme Court's decision on direct appeal. In all other cases, inmates must file a pro se petition and cases are investigated and litigated, if meritorious, on a first-come, first-served basis. The Office also provides representation in direct appeals in criminal cases at county expense on appointment by trial courts. The Public Defender is appointed by the Supreme Court of Indiana.

In capital post-conviction cases during fiscal year 2002-2003, five deputies handled one evidentiary hearing and relief was denied; presented oral argument in support of the trial court's grant of a new trial following a post-conviction relief hearing, which was affirmed; presented supplemental oral argument on another case which remains pending; and received two new cases following affirmance of convictions and death sentences on direct appeal.

Conflict counsel litigated one successive petition and the trial court found the petitioner ineligible for capital punishment; the Supreme Court also reversed the denial of another successive petition and remanded for a new penalty phase. In direct appeal cases the Supreme Court affirmed two cases, which are now, as noted above, in post-conviction; reversed one case and remanded for a new trial; and one appeal was terminated due to the appellant's death while in prison. Three individuals were sentenced to death and initiated direct appeals in fiscal year 2002-2003. Two individuals who had exhausted all state and federal procedures were executed in this fiscal year.

The Public Defender's Office continues its efforts to reduce delay in non-capital case review and litigation. In fiscal year 2002-2003, 179 cases were formally found to be without merit and in 116 cases clients agreed the case lacked merit and withdrew the petition or waived representation by this Office. Since July, 1991, 1,541 cases have formally been found without merit and in an additional 1,059 cases clients have agreed the case lacked merit. The number of pending unreviewed post-trial and appeal cases remains steady, at 499 in June, 2003. The number of pro se filings continues to be high (640 pro se petitions received in fiscal year 2002-2003, 632 in fiscal



year 2001-2002, 712 in fiscal year 2000-2001, 570 in fiscal year 1999-2000).

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## *I. Indiana Supreme Court Law Library*

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### **Terri L. Ross, Librarian**

The Supreme Court Law Library originated with an 1867 Act of the Indiana legislature which gave custody of the law books then in the State Library to the Supreme Court. The primary mission of the Supreme Court Law Library is to support the research needs of the judges, staff and agencies of the Supreme Court and the Court of Appeals. The Supreme Court Law Library also serves as the primary law library for many state agencies, the Office of the Governor, the legislature, members of the private bar, and the citizens of Indiana.

Terri L. Ross joined the Law Library as Court Librarian in October 2002, replacing Rebecca Bethel. Ms. Bethel retired from the Law Library in July 2002. She joined the Law Library in 1998.

The Law Library contains a comprehensive collection of legal materials which must be kept up to date. During the past fiscal year, the Law Library staff received and processed approximately 1569 volumes as additions to or replacements for volumes already in the library collection. Countless legal periodicals, supplements, and pocket parts also were received. Approximately 676 volumes were discarded from the library.

During the past fiscal year the Law Library staff responded to approximately thirty-five telephone or written requests from attorneys, other libraries, and members of the public from across the country for photocopy and/or fax copies of items in the library collection. A small fee was charged for each request filled. The Law Library also provides inter-library loan services through OCLC (Online Computer Library Center).

The Law Library is a repository for publications produced under grants from the State Justice Institute. Items received are catalogued and listed in the Indiana Court Times. These publications are made available to Judges throughout the state. The Law Library is also designated as a selective depository for United States Government publications.

## *J. Indiana Judges and Lawyers Assistance Program*

### **Terry L. Harrell, Executive Director**

The Indiana Judges and Lawyers Assistance Program (JLAP) was created in October 1997 when the Indiana Supreme Court adopted Rule 31 of the Rules for Admission to the Bar and the Discipline of Attorneys, Indiana Rules of Court. JLAP provides assistance to judges, lawyers and law students who may experience physical or mental disabilities that result from disease, chemical dependency, mental health problems or age and that could impair their ability to practice in a competent and professional manner. The purpose of JLAP is to assist the impaired in recovery; to educate the bench and bar; and to reduce the potential harm caused by impairment to the individual, the public, the profession, and the legal system. All interactions and communications with JLAP are confidential under Admission & Discipline Rule 31§ 9 and Rules of Professional Responsibility 8.3 (c). No information is ever released without the signed consent of the party involved.

The Supreme Court appoints a committee composed of five judges, seven attorneys, one law student, and two members that can be from either of the three categories — the Judges and Lawyers Assistance Committee — to oversee JLAP. The 2002-2003 Committee included: JLAP Chair Honorable Sally H. Gray, Greencastle; JLAP Vice-Chair Edward B. Hopper, II, Indianapolis; JLAP Treasurer Timothy R. Dodd, Evansville; JLAP Secretary/Law Student Representative Brita A. Martin, Indianapolis; Honorable Mary Lee Comer, Danville; Honorable Thomas F. Marshall, Rushville; Honorable Gary L. Miller, Indianapolis; Honorable Jane Woodward Miller, South Bend; Thomas A. Fara, LaPorte; David F. Hurley, Indianapolis; J. Frank Kimbrough, Fort Wayne; James L. Lowry, Danville; and Gaylon J. Nettles, Indianapolis. Committee members retiring from the Committee in December of 2002 included Honorable John T. Sharpnack, Indianapolis; Honorable Anthony C. Meyer, Aurora; and Vicki Battle-Cashwell, Gary. The full JLAP Committee met 9 times in the fiscal year 2002-2003 and subcommittees held additional meetings. The JLAP Committee employs a full-time Executive Director and a part-time Clinical Director.

Fiscal year 2002-2003 was marked by the reluctant departure of Susan B. Eisenhauer, the first full-time director of JLAP. She was Executive Director from the fall of 1999 through the fall of 2002. It was not without some regret that she left behind the agency that she had been so instrumental in developing to pursue new interests in Ohio. Following her departure, Terry L. Harrell, past JLAP Clinical

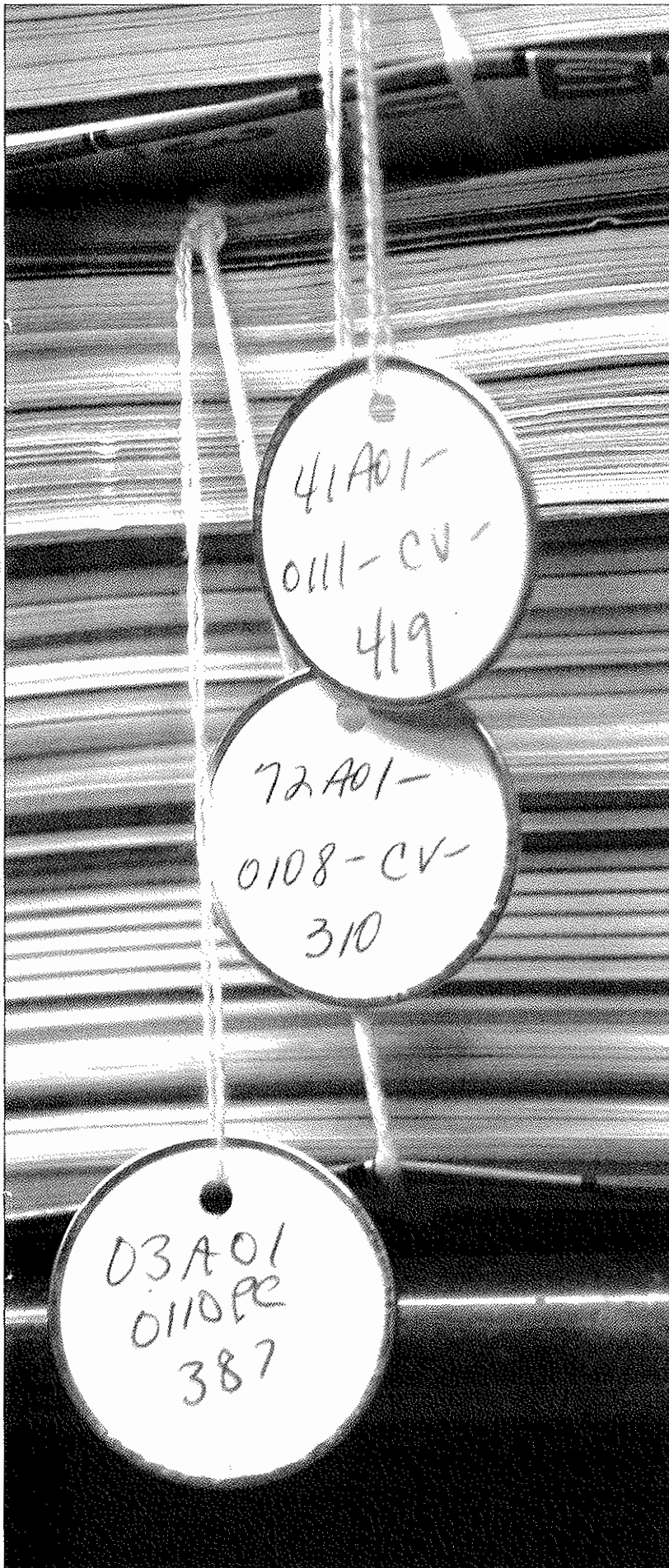
Director, was appointed to replace her as Executive Director and Timothy J. Sudrovech, a masters prepared psychologist with fifteen years of experience in the areas of mental health and substance abuse, was hired as Clinical Director. Both began in their new positions last fall.

JLAP continues to receive referrals in three ways — self-referral, third party referral and formal referral from a disciplinary or licensing body. In January 2001 JLAP began to compile statistics from our process of monthly case review and data analysis. For FY 2002- 2003 JLAP logged 130 Helpline calls. Calls ranged from a simple request for information to JLAP coordination of such activities as an immediate intervention (note: call numbers are strictly "calls for help" and do not include calls after a case file is opened, or routine calls received regarding JLAP's daily operations, outreach and education efforts). This year we had 64 calls for help with substance abuse related issues, 40 calls for help related to mental health issues, 7 calls for assistance with physical impairment issues, and 19 calls for assistance with issues related to aging or other miscellaneous categories. This last category included issues related to retirement, impairment due to disease such as Alzheimer's disease or other dementias, death of an attorney, and impulse-control issues such as gambling, and other non-substance related compulsive behavior problems. We want to note that many cases contain multiple issues (e.g. depression and alcohol dependence) but for purposes of tracking calls we use the primary issue identified in the initial call for help. The additional issues are often not identified until later in the process.

Not all calls help for help become a case. A simple call for a referral will not result in a case being opened. A case is opened when we meet personally with a client or determine that there will be ongoing contact with the client or with a third party.

On June 30, 2003 JLAP had 89 active cases. Active cases are those where we expect to continue ongoing contact with the client or a third party. Active cases included 29 referrals from the Board of Law Examiners including self-referrals in anticipation of a referral from the Board of Law Examiners, 13 referrals due to involvement in the attorney disciplinary system, 36 self-referrals, and 11 third party referrals. Third party referrals typically come from employers, colleagues, treatment providers, or family. Referrals from attorneys representing another attorney in the disciplinary process are categorized as disciplinary referrals rather than third party referrals. The JLAP Committee and staff are pleased with the number of self-referrals JLAP has received. Our ongoing goal is to reach those in need of JLAP services at the earliest possible opportunity in order to reduce the amount of harm caused the individual, their family and





friends, the public, and the legal community.

JLAP offers monitoring as a service and has developed several different kinds of monitoring agreements. Our most formalized monitoring agreements exist with the Disciplinary Commission, The Commission on Judicial Qualifications, and the State Board of Law Examiners. In these cases the participant signs a consent allowing JLAP to monitor their recovery program and make regular reports to the appropriate disciplinary or licensing body. This year we saw an increase in the number of attorneys seeking to enter into a monitoring agreement with JLAP in anticipation of disciplinary action, reinstatement, or issues that might surface during the character and fitness component of the Bar application process. We call these "interim-monitoring agreements" and monitor the individual's recovery program but make no reports until and unless the participant releases us to do so. Finally, we have developed monitoring agreements where JLAP reports to an employer or colleagues rather than a disciplinary or licensing agency. We think these agreements are a positive development in that the participant is generally in an earlier stage of impairment and less harm has occurred. We saw three attorneys successfully complete monitoring agreements this year. As of June 30, 2003 JLAP was monitoring 7 agreements and more than 10 monitoring cases were in various stages short of formalization, including agreements to monitor recovery programs for substance abuse, mental health issues and other compulsive behaviors.

JLAP continues to run a monthly Mental Health Support Group in Indianapolis and will soon be starting a similar Substance Abuse Support Group. These groups provide a confidential setting for members of the legal community to discuss mental health or substance abuse issues and support each other in the unique challenge of coping with these issues and working in the legal profession. Starting similar groups in other locations around the state is a long-term goal for the Program.

An important focus of the Program over the past year has been the recruitment and development of volunteers. Our volunteer network has continued to grow as we have actively recruited volunteers from all areas but particularly unrepresented areas of the state. Two volunteers in different parts of the state attended trainings on compulsive gambling to increase their ability to assist JLAP. JLAP works cooperatively with local lawyer assistance committees. The Indianapolis Bar Association has reenergized its Lawyers Assistance Committee. The Allen County and Evansville Bar Associations continue to run active committees.

JLAP continues to work with the Board of Law Examiners, the Disciplinary Commission, and the Commission on Judicial Qualifications on the issues of addictions, mental health, physical and

other impairments as they intersect with the bar admissions and disciplinary processes. A meeting continues with the Directors of these three agencies and a staff attorney from the Judicial Center to work on areas of overlap and develop protocols that best serve each agency's needs while maintaining JLAP's commitment to our client confidentiality. These meetings are invaluable, as each case we have seems to present new and unique issues for our agencies. Having a forum to discuss issues and develop protocols continues to be extremely helpful for JLAP.

In the past fiscal year JLAP made considerable progress in the area of increasing awareness of JLAP in the legal community. The JLAP web site went online this year with the assistance of JTAC. While the web site is not complete we think what is in place is excellent and we are grateful to JTAC for all the assistance. JLAP also sought and was awarded a grant from the Indiana Bar Foundation for the development and printing of a JLAP brochure to publicize JLAP's services.

Education and outreach are an integral part of the work done at JLAP and are keys to JLAP's effort to reach those in need early, before disciplinary or licensing agencies are involved. In JLAP's ongoing efforts to get the legal community to think about and discuss impairment issues and options for responding to them JLAP continues to provide presentations to numerous groups in the legal community. The Supreme Court Judicial Center has been exceptionally helpful in providing JLAP with a forum. Topics this year included Alzheimer's disease and other dementias, substance abuse, depression, planning ahead for temporary or permanent impairment and practice continuation, caring for oneself in a stressful profession and the basics of JLAP. Below is a list of our presentations:

- Allen County Bar Association
- Annual Meeting of the Judicial Conference of Indiana
- Dearborn and Ohio County Bar Associations
- Indiana Lawyer's "Women in the Law" Conference
- Indianapolis Bar Association – Aging
- Indianapolis Bar Association – Planning Ahead for Disability
- Indiana Supreme Court Judicial Center's New Judicial Officer Orientation
- Indiana Supreme Court Judicial Center's Annual Meeting of Court Alcohol & Drug Programs and Drug Courts
- Indiana Trial Lawyers Association (ITLA) Annual Institute
- Law Schools
- Professional Responsibility Classes – I.U. Indianapolis and I.U. Bloomington
- Career Day
- Marion County Prosecutor's Office Applied Professionalism Course

As part of our education and outreach efforts JLAP continues to contribute to the ITLA's Quarterly journal – The Verdict. This year's topics included a general update on JLAP, an article on how to use your legal skills for and not against your personal relationships, and the process of addiction.

JLAP thinks that involvement with law students is critical to our long-term goal of preventing harm through early intervention and assistance. With early intervention we may be able to prevent or reduce the abundance of losses that often accompany long-standing and untreated impairments such as alcoholism or serious mental illness. Many impairments first show up in early adulthood and can be treated very effectively if caught at that early stage. In addition, if we can provide every law student with information about JLAP we will increase the number of practicing attorneys who are aware of JLAP's services. We were pleased this year to participate in Judge Gary L. Miller's Professional Responsibility Class at I.U. Indianapolis and Donald R. Lundberg's Professional Responsibility Class at I.U. Bloomington. JLAP was also invited to participate at a Career Exploration Program at IU Bloomington and valued the opportunity to interact with more students in a less structured environment. The JLAP Law School Subcommittee is pursuing plans to increase JLAP's visibility at Valparaiso and Notre Dame Law Schools.

JLAP has continued to pursue contacts and build relationships with excellent providers in Indiana and nationwide. JLAP staff and Committee Member and Treasurer Timothy R. Dodd traveled to Chicago to tour the Rush Behavioral Health facility and meet with staff there to discuss how JLAP and the treatment center could work together more effectively. In addition to improving in quality our network of providers continues to become broader both geographically and in terms of the kind of service providers included.

Finally, JLAP staff continues to be involved in the national network of Lawyers Assistance Programs (LAPs) coordinated by the American Bar Association's Commission on Lawyers Assistance Programs (CoLAP). JLAP staff attended the CoLAP Annual Workshop in Portland, Maine and benefited immensely from both the formal workshop presentations and from sharing experiences with other LAP staff and volunteers. This past October William E. Livingston, the LAP Director from Michigan, came to visit with the express purpose of attending our mental health support group to observe how we operate our group. He met with many of our volunteers and spent several hours exchanging ideas and problem solving with JLAP staff. This network continues to be a valuable source of information, support, and inspiration. ■

A grayscale, halftone-style image of a stack of books. The books are arranged in a slightly curved stack, with the bottom book's spine clearly visible and embossed with the text "INDIANA SUPREME COURT". The word "Appendix" is overlaid in a large, bold, black sans-serif font across the center of the image.

# Appendix

## *Indiana Supreme Court*

### FISCAL 2002-2003 CASE INVENTORIES & DISPOSITION SUMMARY

	Cases Pending as of 7/1/02	Cases Transmitted in Fiscal 2002-2003	Cases Disposed of in Fiscal 2002-2003	Cases Pending as of 6/30/03
<b>Civil Direct Appeals</b>	1	1	0	2
<b>Civil Transfers</b>	87	324	327	84
<b>Tax Court Petitions For Review</b>	6	10	11	5
<b>Criminal Direct Non-Capital</b>	25	9	27	7
<b>Capital Cases</b>	5	7	11	1
<b>Criminal Transfers</b>	33	502	498	37
<b>Original Actions</b>	0	75	74	1
<b>Certified Questions</b>	0	1	0	1
<b>Mandate Of Funds</b>	0	0	0	0
<b>Attorney Discipline</b>	87	76	108	55
<b>Board of Law Examiners</b>	0	9	6	3
<b>Judicial Discipline</b>	4	1	4	1
<b>Rehearings</b>	6	28	30	4
<b>Other</b>	0	2	1	1
<b>TOTAL</b>	<b>254</b>	<b>1045</b>	<b>1097</b>	<b>202</b>



## TOTAL DISPOSITIONS: 1,097

<b>Criminal</b>	536	49%
<b>Civil, Tax and Other</b>	339	31%
<b>Original Action</b>	74	7%
<b>Law Practice</b>	108	10%
<b>Review Board of Law Examiners</b>	6	0%
<b>Judicial Discipline</b>	4	0%
<b>Rehearings</b>	30	3%

## MAJORITY OPINIONS AND PUBLISHED DISPOSITIVE ORDERS : 198

<b>Criminal</b>	70	35%
<b>Civil, Tax and Other</b>	52	26%
<b>Original Action</b>	0	0%
<b>Law Practice</b>	72	36%
<b>Judicial Discipline</b>	4	2%

	Direct Appeal Crim.	Direct Appeal Civil	Transfer Petitions Crim.	Transfer Petitions Civil/Tax	Original Action	Attorney Discipline	Judicial Discipline	Other	TOTAL
<b>SHEPARD, C.J.</b>	9	0	6	8	0	0	0	0	<b>23</b>
<b>DICKSON, J.</b>	8	0	5	7	0	0	0	0	<b>20</b>
<b>SULLIVAN, J.</b>	6	0	11	12	0	1	0	0	<b>30</b>
<b>BOEHM, J.</b>	7	0	2	10	0	0	0	0	<b>19</b>
<b>RUCKER, J.</b>	2	0	5	13	0	0	0	0	<b>20</b>
<b>BY THE COURT</b>	6	0	3	2	0	71	4	0	<b>86</b>
<b>TOTAL</b>	<b>38</b>	<b>0</b>	<b>32</b>	<b>52</b>	<b>0</b>	<b>72</b>	<b>4</b>	<b>0</b>	<b>198</b>

## MAJORITY REHEARING OPINIONS

	OPINION	ORDER	TOTAL
SHEPARD, C.J.	0	3	3
DICKSON, J.	1	7	8
SULLIVAN, J.	0	9	9
BOEHM, J.	0	7	7
RUCKER, J.	0	2	2
BY THE COURT	1	1	2
<b>TOTALS</b>	<b>2</b>	<b>29</b>	<b>31</b>

## NON-DISPOSITIVE OPINIONS

	Concurring	Dissenting	Concur/Dissent in part	Recusal Opinion	Total
SHEPARD, C.J.	0	2	0	0	2
DICKSON, J.	1	8	0	0	9
SULLIVAN, J.	1	5	1	0	7
BOEHM, J.	3	6	2	0	11
RUCKER, J.	3	1	0	1	5
<b>TOTALS</b>	<b>8</b>	<b>22</b>	<b>3</b>	<b>1</b>	<b>34</b>

## CERTIFIED QUESTIONS

	Pending 7/1/02	Received	Accepted	Rejected	Opinions	Pending 6/30/02
Federal District Court	0	0	0	0	0	0
Federal Appellate Court	0	1	1	0	0	1
<b>TOTAL</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>

## CAPITAL CASES

	OPINIONS					ORDERS		
	Direct Appeals	PCR	Interlocutory Appeals	Successive PCR	On Rehearing	Successive PCR	Rehearing	Other
<b>SHEPARD, C.J.</b>	1	0	0	0	0	0	1	0
<b>DICKSON, J.</b>	0	1	0	0	0	0	2	0
<b>SULLIVAN, J.</b>	1	0	0	0	0	0	1	0
<b>BOEHM, J.</b>	0	0	0	1	0	0	0	0
<b>RUCKER, J.</b>	1	0	0	0	0	0	0	0
<b>BY THE COURT</b>	0	0	0	0	0	5	1	1
<b>TOTAL</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>5</b>	<b>5</b>	<b>1</b>

## PETITIONS FOR EXTENSION OF TIME & MISCELLANEOUS ORDERS

<b>Petitions for Extension of Time Processed</b> .....	46
<b>Other Miscellaneous Appellate Orders</b> .....	426
<b>Special Judge Requests</b> .....	141
<b>Other Miscellaneous Disciplinary Orders</b> .....	21
<b>TOTALS</b> .....	<b>634</b>

# DISCIPLINARY, CONTEMPT AND RELATED MATTERS

## DISCIPLINARY CASES PENDING BEFORE HEARING OFFICER OR COURT ON JULY 1, 2002

Before the Court for Hearing Officer Appointment .....	4
Pending Before Hearing Officer .....	59
Briefing Stage.....	6
Briefed/Resignation Tendered/Conditional Agreement Tendered .....	14
No Verified Complaint Filed/Suspended Upon Notice of Conviction .....	4
Administrative Admonitions Tendered .....	0
<b>TOTAL CASES PENDING 7/1/02.....</b>	<b>87</b>

## NEW DISCIPLINARY MATTERS RECEIVED DURING FISCAL 2002-2003

Verified Complaints for Disciplinary Action/Notices of Conviction/Petitions to Determine Disability/Notices of Foreign Discipline Filed/Violation of support order/contempt ...	47
Administrative Admonitions Tendered .....	13
Petitions to Show Cause .....	16
<b>TOTAL .....</b>	<b>76</b>

## DISCIPLINARY CASES DISPOSED IN FISCAL YEAR 2002-2003

By Per Curiam Opinion .....	11
By Anonymous Per Curiam Opinions Imposing Private Reprimand.....	4
By Order Imposing Private Reprimand.....	9
By Order Imposing Public Reprimand .....	14
By Order Accepting Resignation.....	10
By Order of Dismissal .....	3
By Order – Judgment for Respondent .....	2
By Order Imposing Reciprocal Sanction.....	8
By Order – Denying Suspension .....	0
By Administrative Admonition .....	12
By Order of Suspension .....	24
By Order of Suspension Due to Disability .....	0
By Order Finding No Disability .....	0
Rejection of Administrative Admonition .....	2
By Order - Compliance to Show Cause .....	9
<b>TOTAL .....</b>	<b>108</b>

## DISCIPLINARY CASES PENDING 6/30/03

Before Court for Hearing Officer Appointment .....	3
Pending Before a Hearing Officer.....	35
Briefing Stage.....	5
Administrative Admonitions .....	1
Before Court/Briefed/Conditional Agreement Tendered/Resignations Tendered .....	8
No Verified Complaint Filed .....	3
<b>TOTAL PENDING AS OF 6/30/03 .....</b>	<b>55</b>

## OTHER DISCIPLINARY DISPOSITIONS

Orders Denying Reinstatement .....	0
Orders Granting Reinstatement .....	2
Orders of Temporary Suspension.....	1
Orders on Petitions to Reconsider/Modify/Stay .....	6
Orders Postponing Effective Date of Suspension .....	2
Orders Permitting Withdrawal of Petition for Reinstatement.....	0
Orders Dismissing Petition for Reinstatement.....	3
Orders of Suspension for Show Cause .....	0
Orders Releasing from Probation.....	1
<b>TOTAL .....</b>	<b>15</b>



# ANALYSIS OF SUPREME COURT DISPOSITIONS

## CRIMINAL CASES

Opinions on direct appeals .....	38
Direct appeal disposed of by order .....	0
Opinions on petitions to transfer .....	32
Opinions on rehearing .....	0
Orders on rehearing .....	18
Petitions to transfer dismissed, denied on appeal remanded by unpublished order .....	459
Denial of request for subsequent PCR .....	5
Other Opinions .....	0
<b>TOTAL</b> .....	<b>552</b>

## CIVIL CASES

Opinions and orders on certified questions .....	0
Opinions on direct appeals .....	0
Opinions on rehearing .....	1
Orders on rehearing .....	11
Opinions on mandate of funds .....	0
Opinions on Tax Court petitions for review .....	4
Dispositive orders on Tax Court petitions for review .....	7
Opinions on petitions to transfer .....	52
Petitions to transfer denied, dismissed or appeal remanded by unpublished order .....	277
Other opinions .....	0
Other dispositions, civil .....	1
<b>TOTAL</b> .....	<b>353</b>

## ORIGINAL ACTIONS

Opinions issued .....	0
Disposed of without opinion .....	74
<b>TOTAL</b> .....	<b>74</b>

## ATTORNEY DISCIPLINARY MATTERS

Opinions and published orders .....	72
Other dispositions .....	36
<b>TOTAL</b> .....	<b>108</b>

## PETITIONS FOR REVIEW OF STATE BOARD OF LAW EXAMINERS MATTERS

Petitions for review .....	6
<b>TOTAL</b> .....	<b>6</b>

## JUDICIAL DISCIPLINE MATTERS

Opinions and published orders .....	4
<b>TOTAL</b> .....	<b>4</b>

**TOTAL DISPOSITIONS** ..... **1097**

## CASES PENDING AS OF JUNE 30, 2003

	<b>Pending Cases as of June 30, 2002</b> <small>(does not include Pets. for Rehearing)</small>	<b>Pending Petitions for Rehearing</b> <b>as of June 30, 2003</b>
SHEPARD, C.J. ....	15	3
DICKSON, J. ....	8	1
SULLIVAN, J. ....	6	0
BOEHM, J. ....	11	0
RUCKER, J. ....	12	0
TO THE COURT .....	0	0
UNASSIGNED CIVIL CASES .....	62	
UNASSIGNED TAX COURT PETITIONS FOR REVIEW .....	2	
UNASSIGNED CRIMINAL TRANSFER CASES .....	21	
UNASSIGNED CRIMINAL DIRECT APPEALS .....	0	
UNASSIGNED CIVIL DIRECT APPEALS .....	0	
UNASSIGNED ORIGINAL ACTIONS .....	1	
UNASSIGNED CERTIFIED QUESTION .....	0	
UNASSIGNED OTHER .....	1	
PENDING BAR EXAMINATION REVIEWS .....	3	
ATTORNEY DISCIPLINE .....	55	
JUDICIAL DISCIPLINE .....	1	
<b>TOTAL</b> .....	<b>198</b>	<b>4</b>



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