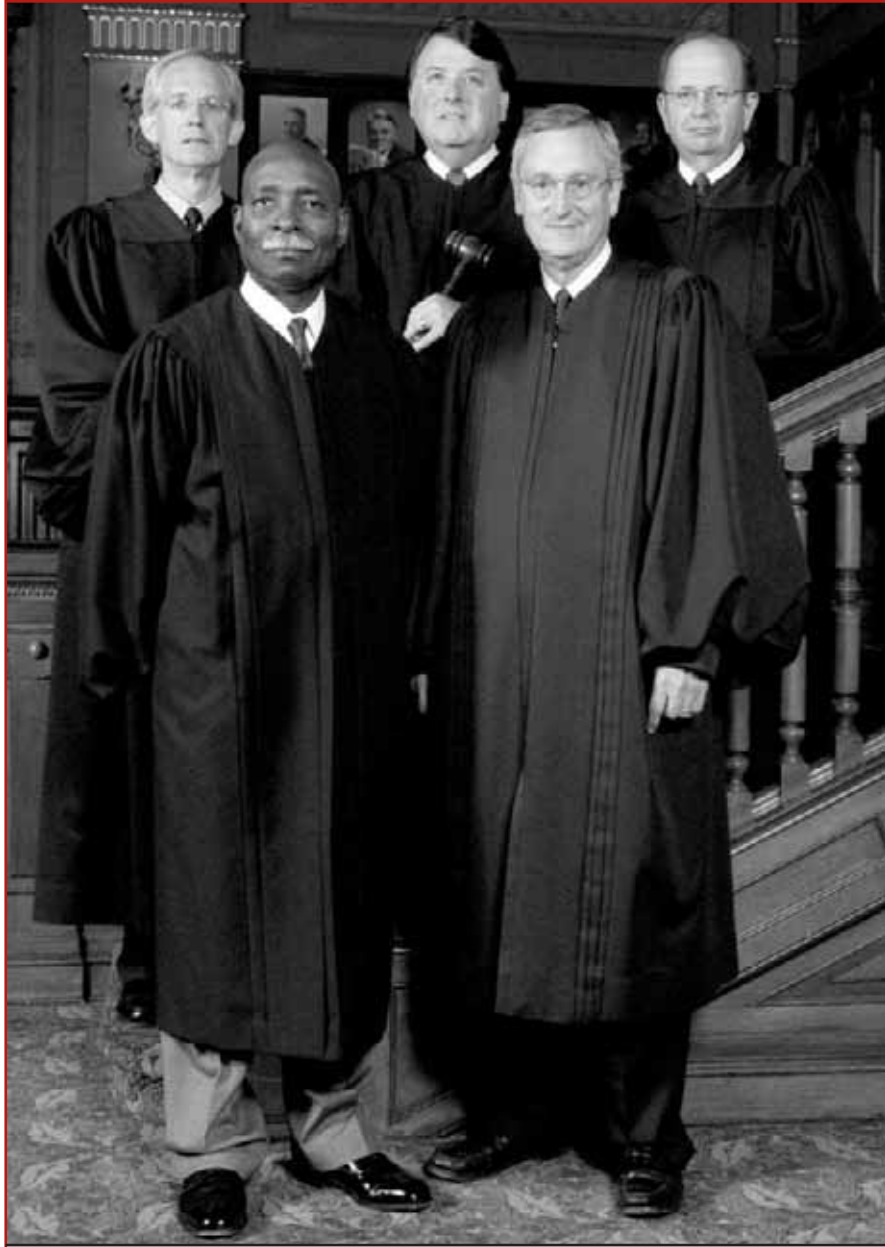


INDIANA SUPREME COURT

ANNUAL REPORT  2004-2005



Indiana's court of last resort: the Indiana State Supreme Court

Front Row Left to right: Justice Robert D. Rucker, Justice Theodore R. Boehm.

Back Row Left to right: Justice Frank Sullivan, Jr., Chief Justice Randall T. Shepard, Justice Brent E. Dickson



The cover photograph depicts historical restoration work completed on the Supreme Court's Courtroom ceiling in late summer 2004. This cover photo, as well as the others in the Annual Report, are by John Gentry.



INTRODUCTION

This Annual Report provides information about the work of the Indiana Supreme Court. Included with the statistical data is an overview of the significant events of fiscal year 2004-2005 (July 1, 2004 through June 30, 2005) and a description of the activities of the Court and its affiliated agencies. Section II, Significant Events of Fiscal Year 2004-2005, includes brief highlights from the past fiscal year. Additional details on many of the programs listed 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. ■

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II. SIGNIFICANT EVENTS OF THE FISCAL YEAR 2004-2005

TODAY'S SUPREME COURT

In the 2004-2005 fiscal year, the Indiana Supreme Court strove to deliver reasoned opinions in an efficient manner as well as manage the many programs and projects that benefit the people of Indiana. In addition to writing 170 majority opinions and published dispositive orders, a continuing and consuming effort by the Court over the past year was to advocate, successfully, for the first judicial pay raise since 1997.

JUDICIAL COMPENSATION

The Supreme Court worked closely with the leadership of the Indiana Judges Association to secure a compensation adjustment for the men and women of Indiana's judiciary. In the summer of 2004, the newly created Public Officers Compensation Advisory Committee, which included two members appointed by Chief Justice Randall T. Shepard and one appointed by the Chief Judge of the Court of Appeals James S. Kirsch, made recommendation for salary adjustments for all judicial officials and state elected officials.

Throughout the fall of 2004 and into the legislative session of 2005, members of the Court urged support for the raises based on those recommendations in public speeches, including the State of the Judiciary, and in news media interviews. The final compensation legislation for the judiciary was lower than recommended by the Commission. Still, with strong backing from the Indiana State Bar

Association and Governor Mitch Daniels, the measure passed with bipartisan legislative support and was signed into law in May 2005.

OUTREACH AND COMMUNICATION

In cooperation with Purdue University, the Supreme Court's award-winning "Courts in the Classroom" project produced a curriculum unit specifically tailored to Indiana's appellate courts. "Courts of Last Resort," funded in part by the Indiana Bar Foundation, was published in the summer of 2005 and distributed to hundreds of educators. This 31-page booklet contains information and activities and follows the publication of the Indiana trial court based booklet, "At A Courthouse Near You."

A key part of "Courts in the Classroom" includes the webcast of every Supreme Court oral argument and selected Court of Appeals arguments. In the 2004-2005 fiscal year, the Court webcast arguments in 60 cases. The Court also continued to visit other communities and held oral arguments in New Albany and Huntington.

Access to the Internet has proved to be an excellent vehicle to communicate with the public. The Court issued 49 press releases, in hard copy and on-line, and posted a number of publications as well. Traffic on the Indiana Judicial System webpages continues to grow. During the past year, there were nearly 14 million page and document hits.

THE FISCAL YEAR'S CASEWORK IN REVIEW

Perhaps the most noteworthy decisions of the Supreme Court during

the past year involved election law, tax law, and the death penalty.

In the case of *Pabey v. Pastrick*, the Court invalidated the results of a primary election for mayor and ordered a special election in East Chicago because of campaign conduct that the Court concluded made it impossible to determine which candidate had received the highest number of legal votes.

In four decisions, the Supreme Court reviewed requests from both individual and industrial property taxpayers that their property tax assessments be reduced. These appeals followed the Court's landmark 1998 decision, *State Board of Tax Commissioners v. Town of St. John*, in which it held that the cost schedules used by the State to determine property value were unconstitutional. In response, the method of assessing property in Indiana has been changed. In one of the cases decided this year, taxpayers sought to prevent the new system from taking full effect; in the three other cases, taxpayers sought to have the new system applied retroactively to reduce taxes paid in previous years. The Court's decisions denied all of these requests.

Also in the tax arena, in *Indiana Department of State Revenue v. Trump Indiana*, the Supreme Court ruled that a casino was not exempt from State use tax.

The court also reviewed thirteen matters involving death sentences, and three men were put to death after their appeals were rejected by the Supreme Court and federal courts – Gregory Scott Johnson for killing an elderly woman in her home and setting fire to it in Anderson in 1985; Bill Benefiel for killing a woman after a four-month period of confinement and multiple sexual assaults in Terre Haute in 1987; and Donald Ray Wallace for killing a couple and their two children during a burglary in Evansville in 1980.

Many of the Supreme Court's decisions during the past year involved important questions of civil law. In the area of tort law, the Court addressed such matters as the responsibility of a utility for illness from exposure to asbestos suffered by an employee of an independent contractor hired by the utility; the responsibility of an oral surgeon for failure to notify a prior patient of dangers from dental implants after a recall by the FDA; the responsibility of a stone mason for damages to other parts of a home that resulted from a defective stone facade installation; and the availability of damages to a driver injured in an automobile accident who had made insufficient efforts to find employment after the accident. An interesting real estate case examined whether a provision in a commercial lease that prohibited the landlord from leasing space to a grocery store was valid after the tenant for whom the provision had been originally written had ceased using its property for a grocery store. In the area of family law, the Court held in one case that where a divorcing husband and wife had originally agreed to the husband paying the wife a monthly maintenance obligation, the amount could not be modified by the court without the former husband's consent; in another, that the trial court had properly dismissed a paternity action where the alleged father did not have the minimum contact with Indiana required by the United States Constitution to give the court jurisdiction over him.

The Court also addressed several interesting but technical issues of procedure in civil cases such as the availability of the so-called "class action" to doctors challenging certain practices of a health insurance company; the recourse that a plaintiff has against a defendant for lost,

damaged, or destroyed evidence; and the ability of a parent to sue for loss of love, care, and affection for a child who died due to medical malpractice.

Much of the Court's work in the criminal law area during the past year was spent in interpreting and applying two landmark decisions of the United States Supreme Court to Indiana cases. One of these decisions, *Crawford v. Washington*, imposed new restrictions on the ability of states to use a person's testimony in criminal cases unless the person is available for cross-examination. The second of these, *Blakely v. Washington*, required that the jury be involved for the first time in certain sentencing decisions. After the Indiana Supreme Court held that *Blakely* prohibited the way in which enhanced sentences have been imposed in Indiana for the last quarter-century, the Legislature amended the State's sentencing law in an effort to bring it into compliance with *Blakely*.

Other interesting cases in the area of criminal law decided by the Court this year include a case examining the circumstances under which the police are permitted to search a person's trash without violating the person's constitutional right to be free from unreasonable searches and seizures, and a case in which a woman arrested for driving while intoxicated unsuccessfully sought to argue that her breath test results were invalid because she had a tongue stud in her mouth at the time of the test.

COURT ROOM RENOVATION

With the help of a federal grant, restoration work in the Supreme Court was completed in the late summer of 2004. The primary focus of the work was the ceiling, which many believe had not been painted since the 1940s or 1950s. Artisans from the Garland Guild, Inc., rediscovered the original colors and patterns in 2003, after rubbing away six or seven layers of paint. The cover of this Annual Report shows the exquisite work completed on the ceiling. The walls, too, were also painted in a replication of the original paint scheme, returning the Courtroom to its late 19th century grandeur. The picture on the preceding page provides a glimpse of the courtroom's restored walls. Plans were made for similar work in the Supreme Court Conference Room, Robing Room, and Library.

JUDICIAL TECHNOLOGY AND AUTOMATION COMMITTEE

The Supreme Court's effort to link all trial courts and agencies that use court data with a seamless case management system was recognized with an important award. The Judicial Technology and Automation Committee (JTAC) was cited by the Indiana Department of Administration and *Government Technology* magazine for its broad partnership with other agencies. For its efforts, JTAC received the Best Information Technology (IT) Collaboration Award. As part of its long-term efforts to build the system to link 92 counties, JTAC also conducted a thorough review of its work in the fall of 2004. The result of that effort resulted in a more sharply focused effort to enhance the case management process. JTAC also saw significant staff turnover in 2004. Long-time director Kurt Snyder left his position in the spring of 2005, although he continues to serve as a consultant to the project. To replace him, the Supreme Court tapped former Shelby Superior Court Judge and high-ranking executive branch official Mary DePrez to lead the agency.

CLERK OF THE COURTS

Legislation passed in 2004 will bring the Clerk of the Court's Office under the control of the Supreme Court in 2007, when the term of current Clerk David Lewis expires. At that point, the position of Clerk of the Court will be appointed by the Chief Justice instead of being elected by the voters. During the past year, the staffs of the Supreme Court and the Clerk's office have begun informal discussions about the transition.

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 fourteen local pro bono organizing committees. The twenty-one 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. The Commission recommended that the local committees receive a total of \$400,000, which was distributed in January 2005. Those grants were boosted significantly by the \$140,000 contribution from former Commission chair J. Philip Burt and his wife Barbara to the Bar Foundation.

Funding comes from the state's Interest On Lawyer Trust Accounts (IOLTA) program. Even in a low interest rate environment, the IOLTA program, managed by the Indiana Bar Foundation, has continued to generate significant income for the pro bono programs. To date, \$2 million has been distributed to local pro bono committees. To continue the growth in revenues, the Supreme Court ordered in November 2004 that all Indiana attorneys enroll in the IOLTA program by July 1, 2005.

In the Spring of 2005, the Supreme Court appointed Senior U.S. District Judge William Lee to chair the Commission for a three-year term.

In support of other pro bono work, the Supreme Court offered a 40-hour course in civil mediation for free to attorneys who agreed to do four free civil mediation 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 David Holt, Judge of the Greene Superior Court, this program helps educate trial courts, 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.

In a continuing effort to assist litigants without lawyers, Clerk of the Court David Lewis produced a manual to assist individuals who choose to pursue an appeal without using a lawyer. That appellate manual is also available online.

JURY RULES

In an effort to make sure that the venerable rules about how jurors operate remain viable in today's society, the Court continued to update the state's jury rules. Beginning on January 1, 2005, jurors would no longer hear the time-honored admonishment against talking about a case until deliberations begin. Instead, they are now told they can discuss the case as long as they do not draw any conclusions until all of the evidence has been presented.

ACCESS TO INDIANA'S LAW SCHOOLS

In order to enrich the range of voices in the Indiana legal system, at the urging of Chief Justice Shepard, the Supreme Court initiated the Indiana Conference on Legal Education Opportunity (Indiana CLEO) in 1997. During the past fiscal year, the ninth class of law students for the Indiana CLEO program were selected. These thirty students spent the summer of 2005 at Indiana University School of Law in 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 in the Indiana legal community. For example, Jenny Sarabia (Indiana CLEO 2000) served as the Executive Director of the Department of Workforce Development's Commission of Hispanic/Latino Affairs for former



Chief Justice Shepard, or "the C.J." as his staff affectionately refers to him, is the longest serving Chief Justice in Indiana's history.

Governor Kernan. Terry Tolliver (Indiana CLEO 1997) served as the Co-Chair of the Indiana State Bar Association's Committee for Racial Diversity in the Legal Profession for the second consecutive year. While in the northwest region of the State, Indiana CLEO Fellow Eduardo Fontanez, Jr. (Indiana CLEO 1998) completed a term as interim East Chicago City Judge in December 2003.

KEVIN SMITH NAMED SUPREME COURT ADMINISTRATOR

Following the departure of long-time Supreme Court Administrator Douglas Cressler, who left to take a position as Chief Deputy Clerk for the Tenth Circuit Court of Appeals in Denver, Chief Justice Shepard appointed Indianapolis attorney Kevin S. Smith as the new Supreme Court Administrator. Mr. Smith had been a law clerk for Chief Justice Shepard and Judge Alice M. Batchelder of the U.S. Sixth Circuit Court of Appeals before working for the Indianapolis law firms Bose McKinney & Evans LLP and Baker & Daniels.

THE COMMISSION ON RACE AND GENDER FAIRNESS

The Supreme Court's Commission on Race and Gender Fairness continued to work on many of the goals outlined in its January 2, 2003 report to the Court. At the Court's request, the Commission has prioritized the remaining recommendations and continues work on implementation. In particular, during 2004, the Commission partnered with the Women in Law Section of the Indiana State Bar Association and the Women in Law Division of the Indianapolis Bar Association to formulate a more detailed study examining perceptions and practices within the legal profession with respect to gender issues. The study was mailed to a random sample of 2,000 attorneys, both male and female. Of this sample, 940 surveys were completed. The Indiana University Public Opinion Laboratory is compiling those results and will present a detailed report in 2005.

The Commission also made preparations to host a Diversity Summit in October 2005 at the Madame Walker Theatre and Indiana University – Indianapolis Law School. The Diversity Summit will bring together representatives of the judiciary, law schools, bar associations, law enforcement, corrections, and other public organizations to discuss pertinent issues affecting race and gender in the legal system today.

COURT INTERPRETER TRAINING

A key recommendation of the Race and Gender Fairness Commission was to implement a court-based interpreter program that would set standards for the people who provide translations in court. The first training for court interpreters under this program began in the fall of 2003 and the first interpreters certified by this program earned their certificates in the spring of 2004. In March of 2005, Chief Justice Shepard delivered the oath of office, in Spanish, to the first five certified interpreters during a ceremony in the Supreme Court Chambers. In addition, for the second year in a row, the Supreme Court awarded over

\$100,000 to help trial courts develop their own interpreter programs.

FAMILY COURT PROJECT

With new funding from the Indiana General Assembly, the Court's Family Court Initiative expanded into a third phase in 2003 by supporting additional family court projects in several more counties. Currently, seventeen counties are involved in this effort. The mission of the Family Court Initiative is to develop case management and coordinated service delivery to better serve families in the judicial system.

The Family Court Initiative 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. A family court provides a structure for coordinating the family's multiple cases to avoid inconsistent and duplicative orders, and to insure informed decision making for the family. The Family Court Initiative also helps indigent or at-risk families receive vital services.

THE SUPREME COURT LAW LIBRARY

The Supreme Court Law Library now has a web-based catalog that went "live" in November 2004. It has over 4,970 bibliographic records that are accessible through the Indiana Shared Library Catalog consortium, a program of the Indiana Cooperative Library Services Authority.

MEMBERS OF THE COURT AS PART OF THE COMMUNITY

During 2004, Chief Justice Shepard began plans to assume leadership of the as president of the Conference of Chief Justices and as chairman of the board of the National Center for State Courts, based in Williamsburg, Virginia. In January 2004, he presided over the swearing-in ceremony for Ohio Chief Justice Thomas J. Moyer. He also received the American Inns of Court Professionalism Award for the Seventh Circuit.

Other Justices make regular contributions to the community and the legal system. Some examples of their work in this regard follow. Justice Dickson has been an Adjunct Professor of Law at Indiana University School of Law at Bloomington, where he taught an evening course on Indiana Constitutional Law. In April 2004, he delivered a lecture on "Recent Developments in Indiana Ethics" as part of the Indiana University School of Law-Indianapolis Law Reunion Weekend. Justice Sullivan chairs the St. Joseph Superior Court Judicial Nominating Commission. He also co-chaired the ABA Judicial Clerkship Program that encourages minority law students to seek judicial clerkships and served on an ABA task force that produced updated Judicial Performance Evaluations Guidelines. Justice Boehm serves as chair of the Indianapolis Commission on Cultural Development and is a member of Nominating and Governance Committee of the United States Olympic Committee. Justice Rucker serves as chairman of the Lake County Judicial Nominating Commission and was appointed by the late Governor Frank L. O'Bannon to the Commission on Juvenile Law, a prestigious committee that examines Indiana's juvenile justice system in great detail. ■



III. THE INDIANA SUPREME COURT

A. BRIEF HISTORY

The Indiana Supreme Court is the highest court in Indiana, and the court of last review when the issue is the meaning of the state constitution.

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

The Constitutional Convention in 1850, although organized to address the controversy over the State's bonded debt, also produced a reorganization of the Supreme Court. Under the new Constitution adopted in 1851, 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." 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. 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 serve ten-year terms, and are subject to identical retention votes at ten-year intervals thereafter. 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 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," per 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

As evidenced in the section of this report titled, "Significant Events of Fiscal Year 2004-2005," the Court is very active in providing leadership for the judicial branch of government. The principal business of the Court, however, 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, and those involving review of the decisions of the Indiana Tax Court.

In the course of its review of appeals, the Court maintains a deep appreciation for the high quality of work of the judges who sit on the trial benches of the state and on the Court of Appeals and Tax Court.

In addition, the Court has direct jurisdiction over cases involving attorney or judicial discipline, original actions, certified questions from federal courts, mandate of funds cases, and review of certain final decision of the Board of Law Examiners. Concerning its review of lawyer discipline cases, the Court views this work as a central part of its duties to police the legal profession so Hoosiers can be confident that when they consult a lawyer, they are consulting a man or woman who has passed scrutiny both as to substantive knowledge and as to character and fitness to practice law and who is subject to discipline for any violations of the lawyers' code of professional responsibility. Several times each month, the Court meets to rule upon disciplinary complaints filed against Indiana lawyers, imposing sanctions that range from private reprimands to disbarment, depending upon the nature of the offense.

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

C. BIOGRAPHIES OF THE JUSTICES

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. In fiscal year 2005-06, Shepard will serve as President of the National Conference of Chief Justices. He is married and has one daughter.



Randall T. Shepard

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 in Lafayette, Indiana. As a lawyer, he was certified as a Civil Trial Advocate by the National Board of Trial Advocacy. 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). He is co-founder of the Sagamore Chapter of the American Inns of Court in Indianapolis, a member of the American Law Institute, a registered mediator, and active in various national, state, and local judicial and bar organizations. Justice Dickson has also taught an evening course as an adjunct professor at Indiana University School of Law in Bloomington. Justice Dickson and his wife have three adult sons and five grandchildren.



Brent E. Dickson

Frank Sullivan, Jr., was appointed to the Supreme Court by then-Governor (now United States Senator) Evan Bayh in 1993. He chairs the court's Judicial Technology and Automation Committee (JTAC) that has undertaken a major project to equip every Indiana court with a 21st century "case management system" and to connect individual courts' case management systems with each other and with users of court information. Born in 1950 in South Bend, Indiana, he holds degrees from Dartmouth College (A.B., *cum laude*, 1972), Indiana University School of Law – Bloomington (J.D., *magna cum laude*, 1982), and the University of Virginia School of Law (LL.M., 2001). 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. An active



Frank Sullivan, Jr.

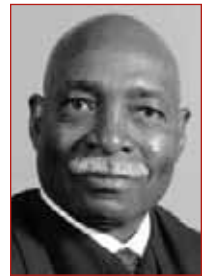
participant in bench, bar, and legal education activities, he is the American Bar Association Judicial Division's liaison to the ABA's Commission on Racial and Ethnic Diversity in the Profession and a member of executive committee of the Judicial Division's Appellate Judges Conference. He is a member of the Valparaiso University School of Law National Council and the Board of Visitors of the Indiana University School of Law – Bloomington. 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. After serving as a law clerk to Chief Justice Earl Warren of the United States Supreme Court, 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 and serves as Chair of the Nominating and Governance Committee of the United States Olympic Committee. 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 five grandchildren.



Theodore R. Boehm

Robert D. Rucker was appointed to the Indiana Supreme Court by Governor Frank O'Bannon in 1999. Born in Canton, Georgia, Justice Rucker grew up in Gary, Indiana, and is a veteran of the Vietnam War. He is a graduate of Indiana University (B.A. 1974) and 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 Legal 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 general practice of law in East Chicago. Justice Rucker is a member of the American Bar Association, the Indiana Judges Association, the Indiana State Bar Association, the Marion County Bar Association, and is 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. ■



Robert D. Rucker



IV. BUDGETARY MATTERS

The Supreme Court operated under a biennial budget, previously approved by the General Assembly, for the period from 2004-2005. 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

■ Kevin S. Smith, Administrator

The Division of Supreme Court Administration serves the Indiana Supreme Court in the orderly management of the Court, working generally at the direction of the Chief Justice. Indiana Code 33-24-6-6 provides that the Division of Supreme Court Administration “shall perform legal and administrative duties for the justices as are determined by the justices.” The complex legal and administrative tasks that come before the Indiana Supreme Court keep the attorneys and support staff of the administration office very busy.

The attorneys of the Division of Supreme Court Administration serve as central staff counsel to the Court. Each year, they produce hundreds of substantial legal memoranda on a myriad of topics to assist the Supreme Court in its role as the “court of last resort” in Indiana. The various motions and other matters requiring rulings in cases pending before the Court are also presented to the Chief Justice and the Court through the Division. Finally, the Court’s Administrator has specific duties prescribed by the Indiana Trial Rules with regard to original actions, which are proceedings that challenge a trial court’s jurisdiction and may be taken directly to the Indiana Supreme Court. The Divisions’ attorneys are very active in legal education and in providing service to the profession through, among other things, involvement with the Indiana State Bar Association.

The Division of Supreme Court Administration is also responsible for

the day-to-day fiscal administration of the Court, including the processing of payroll, the payment of bills, the preparation of expense vouchers, the administration of employee benefits, and oversight of its biannual general fund appropriation. It also assists the Chief Justice with the preparation of the Court’s budget. Further, it accumulates Court statistics and prepares reports about the work of the Court. Its staff often serves as the Court’s liaison to its various agencies, the practicing bar, and to the general public. Much of the physical handling of cases reviewed by the Court is managed by the Division, and the Division’s staff answers inquiries from attorneys and the public about the Indiana Supreme Court.

B. CITIZEN EDUCATION: “COURTS IN THE CLASSROOM”

■ Dr. Elizabeth R. Osborn, Asst. to the Chief Justice for Court History and Public Education

INTRODUCTION

The Indiana Supreme Court’s central education outreach program, “Courts in the Classroom,” was launched in Fall 2001 with the installation of “webcast” technology in the Supreme Court Courtroom. This equipment, which includes four remotely operated cameras, enables all oral argument to be webcast live on the Internet and then archived for later viewing. The “Courts in the Classroom” (CITC) project, directed by Dr. Elizabeth Osborn, assistant to the Chief Justice for Public Education and

Court History, has been recognized by the National Center for State Courts as a model for educating the public about the judiciary and is featured in its July 2005 *Modern Trends* publication. It also received a national award from the Center for Digital Government.

Over the last four years this program has grown from the initial idea of making the workings of the Court more accessible to Hoosiers through the broadcast of oral arguments, to including on-line lesson plans, scripted trials, museum-style exhibits and other resources for teachers. "Courts in the Classroom" continues to develop partnerships with education players around the state in the production of scripted trials for use in classrooms or small group settings, the publication of Indiana-based material about the workings of the trial and appellate courts, and in hosting a series of lectures and teacher workshops. As more and more resources and video have been added to the website, visits to the CITC webpage by teachers, students, and lawyers continue to grow. The Indiana Supreme Court, through its educational outreach programming, is playing a key role in citizenship education for Indiana teachers, students, and citizens.

WEBCASTING: IT'S NOT JUST ABOUT ORAL ARGUMENTS ANYMORE

"Courts in the Classroom," with the help of the Indiana Higher Education Telecommunications System (IHETS), was able to broadcast live an oral argument held at Huntington College in Huntington, Indiana. Oral arguments held in Fort Wayne and New Albany were also digitized and added to the archive on a "tape delay" basis. There are more than 300 oral arguments currently available on the court's website.

In addition to the webcast of oral arguments, CITC continues to broadcast a wide variety of other programs. When Indianapolis hosted the National Association of Women Judges conference in October 2004, for example, a roundtable session with a number of international judges was webcast from the courtroom. The swearing-in ceremony for the first court-certified interpreters was also broadcast with this equipment. All of the special events hosted by the court (see "Courtroom Events" below) are webcast live and archived as well.

When streaming technology first became available, many courts, including the Indiana Supreme Court, embraced it as a way to educate the public about the court by broadcasting oral arguments. In the fall of 2005, the Court will begin its fifth year of webcasting. The project has moved far beyond the original mission of webcasting oral arguments, and now includes the broadcast of scripted trials, dramatic presentations, public hearings, bar admission ceremonies, and other special events held in the courtroom.

A NEW LOOK AND NEW CONTENT FOR THE "COURTS IN THE CLASSROOM" WEBSITE

A major component of the "Oral Arguments Online" project is the creation of lesson plans for Indiana teachers and students. Some of this material is based on particular oral arguments, but other material is created to support the wide variety of special programming related to the Court history projects being developed by CITC. As a result of the increasing amount of materials being created by CITC and the large number of oral arguments now available, "Courts in the Classroom" outgrew its original website. Thanks to the efforts of Lindsey Borschel,

the "Courts in the Classroom" website now sports not only an entirely new look, but also an entirely new conceptualization about how best to organize all of the different types of material it contains. The reorganization and redesign makes it easier for teachers, students, lawyers and citizens to quickly locate the diverse resources created by the CITC project.

Two of the most widely anticipated additions to the website are the new searchable databases constructed by JTAC using material provided by CITC and the Indiana Supreme Court law library. As our collection of archived oral arguments started to grow, we looked for a way to make them even more useful to both lawyers and the general public. "Courts in the Classroom" recently launched a searchable database of these videos. End-users can search by keyword, cause number, or a party's name to identify particular oral arguments that might meet their educational or legal objectives. Keywords are created with both the lawyer and the student in mind, for example, both "driving while under the influence" and "drunk driving" are entered as keywords. A one-sentence summary of the Court's action regarding each case is entered once the case is resolved; this includes a link to the opinion or other action. The second searchable database provides information about all of the current and former Indiana Supreme Court justices. <http://www.indianacourts.org/apps/webcasts/>

In addition to these databases, new lesson plans, children's activities, a "Know Your Courts" section, and a "Court History Museum" have been added to the CITC website. In the "Court History Museum," users can explore exhibits focusing on the history of the Indiana Supreme Court, former Supreme Court Judge John V. Hadley, and Indiana's law schools. New exhibits will be added throughout the year.

The lesson plans and other materials created by "Courts in the Classroom" continue to provide links to other legal resources and are aligned with the state's social studies standards.

COURTROOM EVENTS

In keeping with its desire to be a forum for sharing information about Indiana's legal history, the Indiana Supreme Court, through "Courts in the Classroom" programming, seeks to bring students and citizens into its courtroom, not just to hear oral arguments in current cases, but also to learn about important cases from Indiana and the nation's past. The Indiana Supreme Court Courtroom hosts numerous such events each year.

In November 2004, as a part of the Court's continuing participation in Indianapolis' citywide civic festival, *Spirit and Place*, the Court hosted a second presentation of the scripted trial developed by "Courts in the Classroom" in recognition of the 50th anniversary of *Brown v. Board of Education*. More than forty students had speaking roles in the dramatization. Adult participants included Gilbert Taylor, curator of the Crispus Attucks Museum, and Judge Carr Darden of the Indiana Court of Appeals. This program was made possible in part by a grant from the Indiana Bar Foundation and will be repeated again during the 2005-06 school year.

In March 2005, "Courts in the Classroom" once again partnered with the Indiana State House Tour Office and the President Benjamin Harrison Home to celebrate the anniversary of the inauguration of Hoosier President, and former Reporter of the Indiana Supreme Court, Benjamin Harrison. The event included a stamp and coin contest, a dramatization of the famous Civil War case *Ex Parte Milligan*, and a discussion about

civil rights moderated by Judge Paul Mathias of the Indiana Court of Appeals. This annual event draws students from around the state. Approximately thirty students, chosen from members of the audience, made up the bulk of the cast for the scripted trial. The Indiana University School of Law-Indianapolis Alumni Association helped to provide financial support for this program.

In celebration of Women's History month, the Court hosted the second annual "Indiana Women Come to Court" lecture in the spring of 2005. The speakers presented material associated with three different legal issues important to Indiana women: property rights, employment discrimination, and the right to privacy. Featured speakers included Chief Justice Randall T. Shepard, Court of Appeals Judge Nancy Vaidik, and John Wood from Purdue University's History department. This program was sponsored by "Courts in the Classroom" in partnership with the Indiana Women's History Association, the Women and the Law Division of the Indianapolis Bar Association, and the Historical Society of the U.S. District Court for the Southern District of Indiana.

Another courtroom event involved the ongoing partnership between the national Center for Civic Education in Calabassas, California, and "Courts in the Classroom." The Indiana finals of the *We the People...Project Citizen* competition in May 2005 were webcast and archived. *Project Citizen* is a middle school civic education program designed to develop interest in public policy making as well as the ability to participate competently and responsibly in state and local government.

OUTREACH AND COMMUNICATION

In addition to dispensing justice in the form of the cases it hands down, the Supreme Court has continued its effort to connect the work it does to the people it serves through technology, the Internet and with new partnerships outside the legal system. "Courts in the Classroom," the centerpiece of the Court's outreach program, continues to provide live and archived feed, via the Internet, for all Supreme Court oral arguments. Besides providing access to oral arguments, "Courts in the Classroom" partnered with the Indiana Humanities Council, the Center for Civic Education, the President Benjamin Harrison Home, the Capitol Tour Office, the Indiana Department of Education, and Purdue University in developing a variety of educational materials for Indiana teachers and students. Some of these events, for example two scripted trials, include interactive performances in the Supreme Court's courtroom as well as a plethora of web-based supporting documents for teachers.

C. REPORT OF THE INDIANA SUPREME COURT 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 (Indiana Code 33-24-6-3). 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 operation of Indiana's courts and their offices. Pursuant to Indiana Code 33-24-6-3 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 decisions by both the Indiana Supreme Court and the Indiana General Assembly, and also provides important management information for individual courts.

WEIGHTED CASELOAD MEASURES AND CASELOAD REDISTRIBUTION PLANS

In 1994, the Judicial Administration Committee of the Indiana Judicial Conference, the Division, and an independent consultant began a two-year study to design a system for measuring trial court caseloads. The study resulted in a weighted caseload measurement system based upon relative times for various case types. This Weighted Caseload Measures System examines only new cases filed in trial courts. The measurements provide a projection of the average judicial time available in the state, any given district, county, or court, to handle the cases being filed during a given period of time. The weighted statistics provide the Indiana Supreme Court and the Indiana General Assembly with 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 set range of the average county caseload.

In 2002, the Division worked 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 and were approved by the Indiana Supreme Court.

Weighted Caseload measures are reported in this volume and are available at www.in.gov/judiciary/admin/courtmgmt/.

JUDICIAL TECHNOLOGY AND AUTOMATION

During 2004, the Indiana Supreme Court Judicial Technology and Automation Committee ("JTAC"), staffed by the Division, continued to work toward a 21st Century case management system ("CMS") for Indiana. The system will connect trial courts with each other and with other users of judicial information, such as the Indiana State Police, Department of Revenue, Department of Corrections, and others. The Committee, chaired by Justice Frank Sullivan, Jr., was created by Supreme Court administrative rule to conduct a continuous study of information technology applications for Indiana's judicial system and to develop a long-range strategy for technology and automation in Indiana's judicial system.

LEGAL RESPONSIBILITIES

Since 2002, JTAC has worked closely with our CMS vendor and hundreds of judges, clerks, prosecutors, and court and clerk staff on this project of unprecedented complexity and breadth. In late 2004, there was an interruption in work on the project while JTAC assessed previously unrecognized difficulties. Many of the issues related to automating financial processes handled by trial court clerks. JTAC is committed to providing a system that is cost-effective, easy-to-use, saves court personnel time, provides accurate information, and provides connectivity and standardization for all Indiana courts. JTAC will not offer this CMS to Indiana's courts and clerks unless and until we meet those high standards.

Work on the CMS has resumed in earnest and project activity includes:

- the Division engaging Crowe Chizek, an Indiana-based consulting firm, to provide additional technical expertise on the project;
- Reviewing of information previously gathered from the more than 300 court representatives from around the state who attended design and listening sessions to ensure that new work meets the needs of all end users;
- Changing the CMS to include the ability simply to download it to a PC instead of having a technician go onsite to install it on each individual computer;
- A new Governing Board structure that includes more clerks and judges, with representation from different areas of the state;
- Reconfirming previous functions planned for inclusion in the system in light of business needs or recent technology changes; and
- Having the highest ranking officers of Computer Associates International, Inc., the project's principal vendor, come to Indiana and these officials are working with JTAC to provide a high quality product that meets our specific needs.



Justice Sullivan discusses JTAC business with Lilia Judson, Executive Director of the Division of State Court Administration.

While the CMS project is JTAC's highest priority, other technology initiatives are helping judges and clerks do their jobs more effectively. Many counties have already taken advantage of JTAC's assistance to establish basic e-mail service and Internet access. LexisNexis legal research capability is provided free of charge to judicial officers and clerks. JTAC staff continues to provide computer-training during conferences for clerks and judges. JTAC pays for and coordinates training through Ivy Tech State College for judges, clerks and their staffs. An arrangement with Dell Computers allows court and clerks' employees to buy Dell computers for their internal business operations at a reduced cost. Finally, JTAC continues to provide "gently used," refurbished computers to clerk and court offices that need them.

The Supreme Court and the Chief Justice assign significant legal responsibilities of the Division. The Division's 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 2004, the Division's legal staff assisted the Supreme Court in disposing of 103 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 and attorneys who are serving as hearing officers in disciplinary cases.

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 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 2004, the Division received 118 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, a Division attorney has provided advice and assistance to trial judges on employment law issues. This function also includes training for judges and their staff on a wide variety of issues, such as sexual harassment awareness, the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, effective discipline and termination of problem employees, effective use of policies, drug testing, and appropriate business conduct for court employees.

Since 2000, a Division legal staff member has also served as staff counsel to the Board of Law Examiners and represented the Board

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 most prominent rule amendments adopted by the Court in 2004 dealt with a reworking of the Rules of Professional Conduct for Attorneys. The amendments adopted by the Court were inspired by the American Bar Association's Model Rules. Another significant change

resulted from the Court's adoption of the Indiana Judicial Conference's Committee on Jury Rules' recommendation to permit jurors to discuss cases among themselves before the conclusion of the case, so long as judgment was reserved until the case was finally submitted. In addition, rule amendments were adopted dealing with confidential information in court records, standardization of local trial rules, and procedures for continuing legal education through distance learning and in-house courses.

JUDICIAL QUALIFICATIONS COMMISSION AND JUDICIAL 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. Expert legal 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.

A more detailed report about the Commission, its members and activities is published later in the this report, and also may be found at www.IN.gov/judiciary.

SENIOR JUDGE PROGRAM

Since 1989, Indiana has been able to tap into an experienced pool of former judges to help alleviate the pressure of increasing caseloads. Small at first, the Indiana senior judge program has grown into a valuable resource of seasoned judicial officers who serve at low cost to the state and at no cost to the counties.

Enabling legislation provides that a former judge may apply to the Indiana Judicial Nominating Commission for certification as a senior judge under rules adopted by the Indiana Supreme Court. The legislation further provides that any trial court, the Indiana Court of Appeals, and the Indiana Tax Court may request that the Indiana Supreme Court appoint a senior judge to assist that court.

Pursuant to statute, senior judges who serve thirty (30) or more days per year may be considered state employees for purposes of health insurance benefits. This incentive makes senior judge service attractive to many former judges. In addition to the \$50 per diem, senior judges who serve more than 30 days per year are eligible for higher per diem compensation if funding is available. They are also reimbursed for

mileage and certain reasonable expenses.

In fiscal year 2004-2005, Indiana had 96 certified senior judges who served a total of 4,093 days. These days are equivalent to approximately 17 full-time judicial officers.

In 2003, the Indiana Supreme Court developed a comprehensive set of standards for the certification, service, appointment and payment of senior judges. The new standards enable the Supreme Court to allocate senior judge time to courts with the heaviest caseloads while still allowing all courts to have sufficient senior judge help (minimum of 10 days per year) to relieve trial judges during necessary absences from the bench.

The Division administers the senior judge program. This entails processing of certification applications and orders of certification, requests for appointments, weighted caseload comparisons, orders of appointment, administration of benefits, and processing of claims for payment of per diem expenses.



Justice Dickson discusses a point of law with his law clerks.

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 secure, remote access when traveling or at home. Also available 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 Section continued to refurbish and reload used computer equipment for use in the trial courts. After restoring the software on systems to their original configuration, the equipment is given to JTAC for distribution to trial courts and clerks.

As more research sites have become available on the Internet, it has become necessary to upgrade access to the Internet. The digital T1 line used to access the Internet for the past several years was replaced with a fiber optic connection. To take advantage of the higher speed Internet connection, the circuit connecting the two buildings of the appellate level judiciary was also upgraded from a T1 line to a fiber optic connection.

INDIANA CONFERENCE FOR LEGAL EDUCATION OPPORTUNITY (CLEO)

The Indiana Conference for Legal Education Opportunity ("Indiana CLEO") program emerged as a vision of the Chief Justice to help change the landscape of the Indiana legal and professional community to reflect the diversity for which Indiana is known. When the legislation for the Indiana CLEO program was passed in May 1997, Indiana became a leader in taking an active step to diversify its legal and professional

communities. The Division administers the program pursuant to statutory authority. Seven years, 126 Indiana law school graduates and 74 new Indiana CLEO Fellow attorneys later, Indiana CLEO continues to carry on the vision of Chief Justice Shepard to increase the number of attorneys in Indiana who come from minority, low-income, and educationally disadvantaged backgrounds.

The six-week Summer Institute continues to remain the cornerstone and starting point of the Indiana CLEO program. The Summer Institute is structured to prepare the selected student participants for the rigors of law school education by providing concentrated classroom instruction and practical legal applications. Additionally, the structure allows all Summer Institute participants an opportunity to begin to create a network base with Indiana legal professionals and law students to assist them once law school begins in the fall.

Indiana CLEO continues to invest in many of the programs that have helped past Indiana CLEO Fellows succeed in academics, acquire legal training, and pass the Indiana bar exam. Specifically, Indiana CLEO continues to sponsor academic support programs and workshops for Indiana CLEO Fellows throughout the academic year, participate with the Indiana State Bar Association's Committee for Racial Diversity in the Legal Profession in the joint summer employment program, known as Gateway to Diversity Summer Employment program, and, most importantly, collaborate with the Indianapolis Bar Association for administration of a supplemental bar review program known as Preparing Accomplished Students for Success on the Indiana Bar Exam ("PASS").

During fiscal year 2004-2005, Indiana CLEO increased its efforts to strengthen ties with Indiana CLEO Fellow alumni members in the state of Indiana and beyond. During the fall of 2004, the Indiana CLEO Corner Newsletter was introduced as a means to keep Indiana CLEO Fellow alumni and supporters of the Indiana CLEO program informed about the activities and achievements of the Indiana CLEO program. Additionally, during the fall of 2004, Indiana CLEO sponsored back to school picnics at each of Indiana's four law schools to reunite and acquaint current law students with alumni of each school. These picnics helped bridge the gap between current and former law students and sparked the beginning of meaningful mentoring and networking relationships.

Indiana CLEO Fellow graduates have gone on to work as deputy prosecutors, public defenders, deputy attorney generals, private practice attorneys, solo practitioners, corporate counsel, executive directors, judicial law clerks, JAG officers, law school admission directors, and human resource directors, among other positions, while carrying on the legacy of the Indiana CLEO program. In fact, in 2004, Ayoade O. Adewopo, an associate with the Indianapolis firm of Ice Miller and a 1999 Indiana CLEO Fellow and 2002 graduate of Indiana University School of Law – Indianapolis, became the first Indiana CLEO Fellow to successfully pass the Solicitors bar exam for England and Wales – in addition to his professional license in the State of Indiana. Indiana CLEO looks forward to continuing to change the landscape of the Indiana legal and professional community by continuing to select, educate, and nurture Indiana CLEO Fellows for years to come.

CIVIL LEGAL AID FUND

Since 1997, the Division has administered the distribution of an annual appropriation from the Indiana General Assembly of \$1 million

to aid qualified organizations providing legal assistance to indigent persons in civil cases. In 2004, 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 civil 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. The vast majority of these cases continue to involve domestic relations matters such as divorce, separation, custody, visitation, paternity, termination of parental rights, and spousal abuse.

COURT IMPROVEMENT GRANT

The Indiana Supreme Court, through its Court Improvement Executive Committee and with the benefit of federal funds, continued its Court Improvement Program. The focus of the grant is to improve the system for abused and neglected children in foster care. The Division serves as the fiscal administrator, with assistance from the Indiana Judicial Center in program administration.

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 the Executive Committee have guided the direction of the Indiana program. During the initial phase of this multi-phased project, the Executive Committee identified several areas of particular concern, including placing "Children in need of Services," or "CHINS," cases on a fast track, court technology, education and training, family court, pre-hearing facilitation, and service coordination and delivery. In the second phase, eighteen county level programs aimed at expediting CHINS cases were implemented. During the third phase, efforts were focused on larger, more comprehensive improvements in the delivery of services to children in the more populous counties of Allen, Lake, Marion, Elkhart and St. Joseph. In the fourth phase, funding was provided to assist in the design of two Family Court Pilot Projects. The projects, located in Putnam and Porter counties, use mediation or facilitation services in family court cases with CHINS involvement.

In 2002, a fifth phase funded eight counties that replicated the successful programs developed in the large counties during phase three. These include pre-hearing facilitation in CHINS cases, case manager services, and family court projects. These projects continued into early 2003, with several obtaining grant extensions through 2003 and into 2004. The Executive Committee also authorized \$50,000 per year for technology that would track cases involving neglected and abused children.

In 2004, the executive committee agreed to provide \$60,000 per year for two years to the Indiana Supreme Court Family Court Pilot Project, which has expanded into seventeen counties. CHINS facilitation projects and service referral centers also received continued funding. A new grant was provided to Marion county, the state's largest county, to compensate a part-time judicial officer to hear the backlog of termination of parental rights cases.

The Indiana Supreme Court anticipates that the innovative programs developed through this grant will markedly improve the delivery of services to Indiana's children.

INFORMATION MANAGEMENT

The Information Management Section assists trial court clerks and judges with application of Administrative Rules 6 through 14, and Trial Rule 77. The Administrative Rules set standards for records creation, maintenance, access, and disposal. Trial Rule 77 sets standards for case files, indexes, chronological case summaries ("CCS"), and records of judgments and orders ("RJO").

In 2004, the Section staff made 41 visits to 22 different counties to review microfilming programs for compliance with Administrative Rule 6, application of court retention schedules, and the use of optical imaging for judicial records. Staff continued working with Vigo County on their image recording process. Additionally, staff researched and rewrote former Administrative Rules 6 and 13 regarding microfilming and imaging standards, which the Supreme Court approved effective January 1, 2005. Staff examined and evaluated a number of software and hardware solutions offered to trial courts for compliance with Trial Rule 77(j) as detailed in Administrative Rule 13.

Section staff also responded to the needs and questions of the trial judges and clerks. The staff made presentations to the Association of Clerks of Circuit Courts of Indiana regional and annual meetings and to city and town judges.

The Supreme Court's Records Management Committee, which the Section staffs, met May 21, 2004 and November 5, 2004. Staff provided support for the Records Management Committee subcommittees and attended their meetings. In addition, staff worked with the Privacy and Public Access Task Force in researching and writing reference materials for implementing Administrative Rule 9 on the confidentiality of court records.

PRIVACY AND PUBLIC ACCESS

In late 2002, the Indiana Supreme Court recognized that advancing technology, and especially initiatives related to the Internet, presented new challenges and opportunities for access to court records. The Court also recognized that the changing methods of access could be problematic, as information that was previously accessible only from a particular courthouse could now be made available to anyone in the world who had access to the Internet. The Court placed responsibility for examining this situation with Justice Brent Dickson, who in turn convened a thirty-member task force to analyze and revise Administrative Rule 9.

Justice Dickson and the Public Access Task Force focused on Administrative Rule 9 for revision because it already contained some confidentiality and public access provisions, although it was not

comprehensive. As the Task Force began its work, it became obvious that confidentiality restrictions on information from court records could be found throughout federal law, state law, and even other court rules. This fragmentation resulted in public access and confidentiality issues being difficult to understand and also resulted in differences in access throughout the state.

The Indiana public access statutes encompass all public records, including court records. However, the statutes also provide that the Supreme Court may, by rule, designate particular court records as confidential. In addition to the specific statutory authorization, the Task Force relied upon the Court's inherent constitutional authority and duties to craft a policy that covers not only case records but also administrative records of the Judicial Branch of government.

The Task Force began its work by using a model public access policy developed by the Conference of Chief Justices and the Conference of State Court Administrators. The framework provided by the model policy

guided the task force as it began a nine-month process of regular bi-weekly meetings. During these meetings, the task force members modified and customized the sixty-page model policy to make it practical for Indiana practice.

The resulting Administrative Rule 9 proposal, which was adopted by the Indiana Supreme Court and which took effect on January 1, 2005, consists of ten sections starting with an assumption that all court records are publicly accessible unless otherwise excluded from public access by the rule or by a particular court action. In addition, the new Administrative Rule 9 pulls together confidentiality provisions from other sources so it can serve as a comprehensive source for judges, clerks, attorneys, and the general public who seek to access records of courts throughout Indiana.

In an effort to make the implementation of Administrative Rule 9 smooth and uniform throughout the state, the Division prepared a handbook for citizens, clerks, and judges, which was published both on the Internet on the Division's homepage and also in hardcopy. Additionally, the Division staff provided numerous training opportunities to interested parties, including teleconference training seminars and more than twenty in-person presentations and seminars designed to improve understanding of the new rules. The Division continues to update the handbook with Frequently Asked Questions, and to address Administrative Rule 9 questions as they arise.

PROTECTION ORDER PROCEEDINGS

The Indiana protection order statutes charge the Division with the responsibility of designing and updating the forms used in protection order proceedings. To fulfill this duty, the Division has been working



Although most people think of a Justice's work as taking place in a courtroom, much of a Justice's time is spent behind a computer drafting opinions and performing legal research.

closely with the members of the Protection Order Committee of the Judicial Conference of Indiana.

In 2000, in response to a rising crescendo of complaints, concerns, and questions regarding the protection order process in Indiana, the Supreme Court of Indiana established the Protection Order Committee through the Judicial Conference of Indiana to explore ways to improve the protection order process. Trial court judges, magistrates, and clerks of the circuit courts comprise the membership of the committee, and the Indiana Judicial Center and Division provide staffing support for the committee. The Honorable John Forcum, Judge of the Blackford Superior Court, chaired the committee from its inception in 2000 until October 2004, when the Honorable Thomas Busch, Judge of Tippecanoe Superior Court 2, became the Chair. The committee also has the assistance of Senior Judge Ruth Reichard, a nationally known expert in this very complex area of the law.

The committee has developed a comprehensive set of forms that fall into three main categories: (1) protective orders; (2) no-contact orders; and (3) workplace violence restraining orders. In 2004, the committee modified several of the existing forms and developed a few new forms as well. All the forms are located on a web site maintained by the Division.

During 2004, members of the committee directed their efforts in three main directions: (1) developing and distributing a deskbook on protection order procedures for clerks, magistrates, judges, and other interested persons; (2) working with the Indiana State Police to improve the operation of the statewide registry; and (3) designing and modifying forms.

The committee ended the year with the development and distribution of a survey that will help the committee develop a comprehensive list of best practices. The Protection Order Committee will use the responses to this survey to supplement the deskbook with a collection of best practices and develop an educational program to improve the administration of the protection order process. The committee will also use the survey to determine whether the protection order forms should be revised and whether additional legislation should be recommended.

ACCOUNTS MANAGEMENT, PAYROLL AND CLAIMS, JUDICIAL BENEFITS COORDINATION

The Division maintains and administers 12 accounts, totaling approximately \$80,000,000. The administration of payroll and benefit programs 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 \$59,000,000 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.

During fiscal year 2004-2005, the Division continued its efforts to inform its constituents about the payroll and benefit process, and to assist individuals navigating the open enrollment program for benefits.

INDIANA OFFICE OF GAL/CASA

In 1989, the Indiana General Assembly established an office of Guardian *Ad Litem* and Court Appointed Special Advocate ("GAL/CASA")

services to be administered through the Division. Through this program, counties are encouraged to provide appropriate GAL/CASA services in exchange for 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 2004-2005, seventy-four counties applied for and received state GAL/CASA funds. Sixty-one counties in Indiana funded a volunteer based GAL/CASA program, staffed by 136 paid personnel and six volunteer staff members. GAL/CASA volunteers statewide donated an estimated total of 349,716 hours in 2004. If GAL/CASA volunteers had been paid the rate of \$50.00 per hour (the rate commonly paid to non-volunteer appointed GAL), the volunteers contributed an estimated sum of \$17.5 million to the State of Indiana in 2004.

The latest reports from the GAL/CASA program indicate that Indiana had at least 2,025 active GAL/CASA volunteers statewide in 2004, including 571 newly trained volunteers. GAL/CASA volunteers advocated for 15,669 children involving 14,107 cases in 2004. Even so, there were over 400 children still waiting for GAL/CASA volunteers to be appointed to their cases at the end of 2004.

Since 1998, the State Office has received an annual grant 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 GAL/CASA programs across the State.

On September 24, 2004, the State Office held its annual meeting for GAL/CASA directors and staff. On September 25, 2004, the State Office sponsored the Eighth Annual Indiana State GAL/CASA Conference. Over 400 GAL/CASA volunteers, local program directors, service providers, board members, child welfare personnel, and local program staff attended the annual CASA conference. The focus of the 2004 conference, entitled "You Make a Difference," was educational advocacy and the role the GAL/CASA can play in improving educational outcomes for foster youth.

The State Office also held a two-day directors' retreat in 2004, which focused on cultural diversity, fundraising, and grant writing. The State Office conducted numerous other training sessions for GAL/CASA program directors, staff, and volunteers, who also attended volunteer recognition ceremonies. The State Office has a toll free hotline number and answers 12-15 calls per day. Through the hotline, e-mail, and a GAL/CASA listserv for directors, the State Office provides technical assistance to multiple GAL/CASA programs across the State of Indiana and addresses inquiries from the public.

In 2002, the State Office and the Advisory Commission decided to support and participate in the National CASA Association's quality assurance initiative. Through this initiative, each GAL/CASA program is undergoing a self-assessment process in which the programs answer questions and provide documentation that they are in compliance with national standards. The self-assessment process was rolled out in four waves from July of 2003 to June 2005, one wave every six months. The State Office played an active role in assisting local programs in each wave of the self-assessment by holding meetings for each wave and providing sample documents and extensive technical assistance.

FAMILY COURTS PROJECT

The Indiana Family Court Project has grown since 1999 when three pilot counties were selected by the Indiana Supreme Court to create model programs. The goal of the Family Court Project is to develop case management and other programs to better serve families and children in the court system. There is a particular emphasis on avoiding inconsistent orders and information gaps for families who have multiple cases pending before different judges.

To date, three phases of family court grants have been distributed to 17 counties. All of these counties continue to be actively involved in the statewide Family Court Project. They participate in annual meetings and submit regular data reports, project descriptions, and sample forms and orders.

Phase III of the Family Court Project, which began in 2004, brought some exciting innovations. The family court projects began utilizing the new Alternative Dispute Resolution (“ADR”) Plan legislation from Indiana Code 33-23-6-1 to collect an additional \$20 ADR Fund filing fee in all divorce and paternity cases. These funds provide mediation services to low-income families. Affordable mediation significantly aids courts with the rising number of *pro se* litigants, and provides a more “problem solving,” non-adversarial setting for family members to resolve disputes. To further promote mediation services for low-income families, in 2005 the Supreme Court sponsored a 40-hour domestic relations mediation training free for attorneys who agree to donate pro bono mediation services.

One of the most interesting new mediation projects utilizing the ADR Plan legislation is the Four-County Family Court Project in Bartholomew, Brown, Jackson, and Lawrence Counties. This project utilizes a “traveling” team to provide mediation and project administration to low-income families in divorce and paternity cases. The mediator conducts a “mass intake” once a month for parties who have been court-ordered to mediation. After advising all the parties in a large group session about the purpose and process of mediation, the mediator conducts an individual session with the parties in each case. The mediator helps the parties determine whether they need to set the case for a formal mediation in two weeks, or whether they are in agreement on all issues and simply need assistance with document preparation. When the parties are *pro se*, the mediator facilitates preparation of child support worksheets and written agreements. The mediator also aids the parties in filing the appropriate documents with the court to expedite disposition.

It is anticipated that Phase IV of the Family Court Project will begin in 2006 with applications for new counties to be distributed in the fall of 2005.

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. It is comprised of 11 members: 3 members appointed by the Governor; 3 members appointed by the Chief Justice; 1 member appointed by the Indiana Criminal Justice Institute; 2 members of the House of Representatives appointed by the Speaker of the House; and 2 members of the Senate appointed by the President *pro tempore* of the Senate. In capital cases, counties receive reimbursements of 50% of eligible

expenses. In other criminal cases, counties that meet certain standards and qualify receive 40% reimbursement of indigent criminal defense costs. The intent of the Legislature and the Court is to encourage counties to provide qualified indigent defense in criminal cases.

In 2004, appropriations to the Public Defense Fund, which is non-reverting, totaled \$8 million. As of the time of this report, 53 counties have comprehensive plans approved by the Commission for delivery of indigent services. Over 60% of the state's population resides in counties eligible to receive reimbursements in non-capital cases under the program.

The entire Commission meets periodically and reviews claims submitted by counties for eligibility and compliance with statewide standards. In fiscal year 2003-2004, the Commission dispersed \$6,029,926.16 for non-capital cases and \$478,221.29 for capital cases. Additionally, \$107,755.12 and \$2,238,318 were approved for the fourth quarter of the fiscal year for capital and non-capital cases respectively. These disbursements were paid in the 2004-2005 fiscal year.

Also, in 2004 the Executive Director, pursuant to Criminal Rule (C)(1), adjusted the hourly rate paid in death penalty cases from \$93 to \$96 per hour. The adjusted hourly rate became effective January 1, 2005. Criminal Rule 24 provides for adjustment of the hourly rate every two years.

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's JTAC staff also maintains the Indiana Supreme Court website for the appellate level courts and their adjunct offices. Court opinions, Rules of Court, 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 available on the website.

INDIANA SUPREME COURT COMMISSION ON RACE AND GENDER FAIRNESS

Dedicated to the principle that all persons having contact with the Indiana justice system should be treated fairly, the Supreme Court, through an administrative rule, created the Commission on Race and Gender Fairness in 1999 to examine issues involving gender and race in Indiana courts. The Commission is comprised of representatives of Indiana's judiciary, the practicing bar, state and local governments, and public organizations. Former Indiana Supreme Court Justice Myra Selby and Indiana Court of Appeals Judge Ezra Friedlander co-chair the Commission.

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.

After three years of study and research, the Commission submitted its Executive Report and Recommendations to the Indiana Supreme Court on January 2, 2003. In this report, the Commission made recommendations in five specific areas: Makeup of the Profession; Language and Cultural Barriers; Criminal and Juvenile Justice; Civil,

Domestic and Family Law; and Employment. After careful consideration, the Supreme Court approved the majority of the recommendations on November 26, 2003, and further requested the Commission to set priorities for implementing the recommendations. The Supreme Court has already implemented the Commission's first recommendation – establishment of a foreign language certified court interpreter program in Indiana.

As of the date of this report, the Commission has prioritized the remaining recommendations and continues work on implementing these recommendations. In particular, during 2004, the Commission partnered with the Women in Law Section of the Indiana State Bar Association and the Women in Law Division of the Indianapolis Bar Association to formulate a more detailed study examining perceptions and practices within the legal profession with respect to gender issues. Utilizing a sample from the 2004 Roll of Attorneys, the study was mailed to a random sample of 2,000 attorneys, both male and female. Of this sample, 940 surveys were completed. The Indiana University Public Opinion Laboratory is compiling those results and will present a detailed report in 2005.

The Commission also made preparations to host a Diversity Summit in October 2005 at the Madame Walker Theatre and Indiana University – Indianapolis Law School. The Diversity Summit will bring together representatives of the judiciary, law schools, bar associations, law enforcement, corrections, and other public organizations to discuss pertinent issues affecting race and gender in the legal system today.



Justice Boehm reviews case law in his State House office.

CERTIFIED COURT INTERPRETER PROGRAM

As a part of the study of language and cultural barriers by the Indiana Supreme Court Commission on Race and Gender Fairness, the Commission made an interim recommendation to the Indiana Supreme Court to institute a certified court interpreter system for Indiana. In response, the Supreme Court authorized the Executive Director of the Division to join with the National Center for State Courts in implementing an Indiana court interpreter testing system. Indiana's Court Interpreter Certification Program was officially launched in January 2003.

The Commission convened an Advisory Board to assist the Court in producing a code of ethics for interpreters and setting specific certification standards for interpreters. The Advisory Board developed a Code of Ethics for Court Interpreters, with disciplinary rules that will be introduced to the Court by the Commission by the end of 2005.

The Court adopted a four-part process for foreign language interpreter certification. The process starts with a two-day orientation. Participants

are instructed on judicial procedure, protocol and courtroom decorum, roles of the interpreter, ethical issues, terminology, and skills and modes of interpreting. Indiana-specific laws and rules are presented in detail. Participants also may practice interpreting skills and receive feedback from presenters. The second phase is a written Spanish proficiency examination. The written exam tests participants on general English language vocabulary, court-related terms and usage, and court interpreter ethics and professional conduct. Only participants who pass the written exam with an aggregate score of at least 70 percent on all three parts are permitted to register for the two-day skills-building session, the third phase of the certification process. The final phase of the certification procedure is the oral foreign language proficiency examination. The oral exam is approximately one hour in length and covers various interpreting scenarios – consecutive, simultaneous, and sight interpreting. Participants who obtain a score of at least 70 percent on all three sections will be certified by the Indiana Supreme Court as Foreign Language Interpreters.

To date, Indiana has only tested in the Spanish language. The first class of the program began the certification process in October 2003 and completed all phases of the program in March 2004. Of the thirty-one students who began that first class, two participants passed all phases of the program. The second class began in May 2004 and completed all phases of the program in September 2004. Three out of twenty-four participants passed all phases of the program. A swearing in ceremony took place in March 2005 to honor the individuals from the first and second classes who passed the certification process.

The third class began the process in November 2004. Successful applicants took their oral exams in March 2005. A fourth class began in May 2005 with oral exams completed in September 2005.

JUDICIAL DISTRICT BUSINESS MEETINGS

During early 2005, in conjunction with the Indiana Judicial Center, the Division helped sponsor the biannual judicial district business meetings for Judicial Districts 4, 7, 8, 9, 10, 12, and 14. Meetings were held in Indianapolis, Lafayette, Richmond, Bloomington, and Clarksville with a total of 150 judicial officers attending. Judges received updates on Administrative Rule 9 and Alternative Dispute Resolution. These meetings provide a congenial forum for professional discussions of common issues.

LOCAL RULES PROJECT

The Indiana Supreme Court, at the request of its Committee on Rules of Practice and Procedure, convened a special committee to examine local court rules. The Local Rules Committee, chaired by Indiana Court

of Appeals Judge, the Honorable Margret Robb, and staffed by the Division, was asked to recommend a model structure for all local court rules. The Committee's ultimate goal is to insure that local rules are readily available to practitioners, litigants, and the public, and to bring uniformity to the local rule amendment process.

After compiling and reviewing existing local court rules, the Committee proposed, and published for public comment, an amendment to Trial Rule 81. The amended rule charged the Division with certain duties regarding the promulgation of local court rules. One duty was to establish and publish a uniform annual schedule for the adoption of, and amendments to, local rules. A second duty was to create a standard format for drafting, amending, and numbering local rules. On March 4, 2005, the Division fulfilled these duties and filed an Amended Schedule and Format for Adoption of Local Court Rules.

Effective January 1, 2007, all courts of record in a county must apply the same local rules. All local court rules, and any proposed amendments, will be posted on the Indiana Judicial Website for public inspection and comment. That site is located at www.in.gov/judiciary.

INDIANA PROJECT ON SELF-REPRESENTED LITIGANTS

The Indiana Supreme Court created a *Pro Se* Advisory Committee in 2000 in response to the growing national phenomenon of people choosing to represent themselves without lawyers. The Supreme Court asked this Advisory Committee to make recommendations to the Supreme Court on the issues of *pro se* litigation; to develop a comprehensive strategy for future *pro se* efforts; and to help trial courts respond to the growing numbers of self-represented litigants. The Advisory Committee consists of judges, community members, and other service providers.

The *Pro Se* Advisory Committee continues to update the Self-Service website with valuable information for the self-represented litigant. The site provides pleading forms for certain simple proceedings. The Advisory Committee is also exploring ways to encourage unbundled legal services that would enable litigants to retain lawyers only for limited parts of a particular case.

D. 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 in good standing. During the Commission's fiscal year of July 1, 2004 through June 30, 2005, the Commission received \$1,785,247 in income, compared to \$1,635,529 budgeted, and incurred \$1,629,153 in expenses, compared to \$1,788,658 budgeted. The Commission's expenses included disbursements of \$194,088 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 www.in.gov/judiciary/agencies/dis.html.

CASE DISPOSITIONS

During the reporting period, 1,625 grievances were filed with the Commission, approximately the same number as in the previous year. Sixty-two 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 forty-one 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 sixty-nine separate counts of misconduct.

The Court issued sixty final orders disposing of lawyer discipline cases, representing the completion of ninety-four separate matters. By disposition type, those cases were resolved as



Before each oral argument, the Justices gather in the Court's Robing Room to don their robes and discuss last minute matters before entering the courtroom.

follows:

Private Reprimands	4
Public Reprimands	17
Suspensions with Automatic Reinstatement	6
Suspensions with Conditional Reinstatement	6
Suspensions without Automatic Reinstatement	11
Resignations Accepted	12
Disbarments	1
Judgments for Respondent	0
Dismissals for other reasons	3
Total	60

The Disciplinary Commission resolved sixteen cases administratively through the issuance of private administrative admonitions. In addition

to these concluded matters, the Court issued orders of interim suspension in three cases upon the request of the Commission. The Court also ordered the suspension of the law licenses of seventy-eight active and inactive lawyers for their failure to pay annual attorney registration fees, and eight lawyers for failing to satisfy costs taxed against them in connection with various disciplinary matters.

REINSTATEMENTS

During the reporting period, four previously disciplined lawyers filed petitions to have their law licenses reinstated. The Supreme Court issued five final orders in lawyer reinstatement proceedings, dismissing one case before hearing, denying reinstatement in one case after hearing, and granting reinstatement in 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. During the year, the Commission filed nineteen new show cause petitions for non-cooperation against sixteen lawyers. The following describes the disposition of those matters and non-cooperation matters carried over from the previous year:

New Show cause petitions filed/carried over	23
Show cause orders with no suspension	17
Dismissed after show cause order due to compliance	11
Orders pending without further court action as of 6/30/2005	4
Dismissed as moot due to final order of discipline	2
Suspensions for non-cooperation	6
Reinstatements due to cooperation after suspension	0
Suspensions still effective as of 6/30/2005	6

TRUST ACCOUNT OVERDRAFTS

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

Carried Over From Prior Year	8
Overdraft Reports Received	66
Inquiries Closed	67
Reasons for Closing:	
Bank Error	8
Deposit of Trust Funds to Wrong Trust Account	3
Disbursement From Trust Before Deposited Funds Collected	10
Referral for Disciplinary Investigation	11
Disbursement From Trust Before Trust Funds Deposited	18
Overdraft Due to Bank Charges Assessed Against Account	1
Inadvertent Deposit of Trust Funds to Non-Trust Account	7
Overdraft Due to Refused Deposit for Bad Endorsement	1
Law Office Math or Record-Keeping Error	7
Death, Disbarment or Resignation of Lawyer	1
Inadvertent Disbursement of Operating Obligation From Trust	0

Non-Trust Account Inadvertently Misidentified as Trust Account	0
Inquiries Carried Over Into Following Year	7

COMMISSION MEMBERS

Members who served on the Disciplinary Commission during the year were: Diane L. Bender, Evansville, Chairperson; Robert L. Lewis, Gary, Vice-Chairperson; J. Mark Robinson, Charlestown, Secretary; Fred Austerman, Liberty; Janet Biddle, Remington; Corinne R. Finnerty, North Vernon; R. Anthony Prather, Indianapolis; Anthony M. Zappia, South Bend; and Sally Franklin Zweig, Indianapolis.

SIGNIFICANT RULE CHANGES

On September 30, 2004, the Supreme Court ordered sweeping amendments to the Indiana Rules of Professional Conduct, effective January 1, 2005. The amendments were based in large part on changes in the American Bar Association's Model Rules of Professional Conduct, and represent the conclusion of an intensive study process by the Court and the Indiana State Bar Association, with close involvement of the staff of the Disciplinary Commission. Following the adoption of the amended rules, the staff of the Commission has spent many hours educating lawyers throughout Indiana about these important changes.

PAYMENT OF ATTORNEY'S FEES AND UPDATE OF ATTORNEY RECORDS ON-LINE

The Disciplinary Commission and Continuing Legal Education Commission, in conjunction with the Clerk of the Supreme Court, have been developing a method for lawyers to update their attorney records and pay annual registration fees on-line. This system will be available to all Indiana lawyers in time for registration payments due by October 1, 2006.

E. BOARD OF LAW EXAMINERS

■ Mary Place Godsey, Executive Director

INTRODUCTION

The Board of Law Examiners is the gatekeeper for the Bar of the State of Indiana and is responsible for ensuring that only qualified candidates are admitted to practice law in our state. The Board supervises the entry of lawyers to the bar through the administration of the Indiana State Bar Examination, through Admission on Foreign License without examination for qualifying attorneys from other states, and through the character and fitness review process. In accomplishing its work, the full board held meetings on ten days this fiscal year. The Editing Committee convened separately three times.

THE BAR EXAMINATION

The Board's main responsibility is the administration of the bar examination each year. The Board wrote and graded two bar examinations administered to a total of 795 applicants over eight days, in February and July. This testing time included the extended time granted for the twenty-six examinees that received testing accommodations. Accommodations given included providing additional time, separate test areas, individual monitors, and large

print materials. Computer testing was permitted, but it was limited to two applicants requiring non-standard testing.

REVIEW OF TEST RESULTS

In July 2004, 552 applicants were tested. After that examination, seven unsuccessful examinees requested review by the Board and one requested review by the Indiana Supreme Court. In February 2005, 243 applicants were tested. Following that examination, nineteen unsuccessful applicants requested review by the Board. Of those nineteen, four passed on review.

CHARACTER AND FITNESS

The Board also is required to certify to the Supreme Court that applicants for admission to the bar have been found to possess the necessary good moral character and fitness to perform the obligations and responsibilities of an attorney. Therefore, before an applicant can sit for the bar, he or she must meet with one of the 297 members of the Supreme Court Committee on Character and Fitness, which includes an attorney from each county in the state. Eight of these 297 Committee members were appointed by the Supreme Court this fiscal year.

As a result of the character and fitness interviews and review by the Board office, forty-six applicants were required to appear before the full Board to resolve matters of character and fitness and eligibility to sit for the examination, or to be admitted. In addition, seventeen individuals were referred to the Judges and Lawyers Assistance Program (JLAP) for evaluation or assessment. JLAP also provided monitors for two individuals admitted on conditional admission under Admission and Discipline Rule 12, Section 6(c).

ADMISSIONS

Six hundred sixty-six attorneys were admitted to practice in the State of Indiana during the period of July 1, 2004 through June 30, 2005. Six hundred one attorneys were admitted on examination and sixty-five attorneys were admitted on foreign license. Four of the attorneys admitted on examination were admitted on conditional admission under Admission and Discipline Rule 12, Section 6(c). Many of those admitted were sworn in during two major Admission Ceremonies: one in October 2004 in the Sagamore Ballroom and one in May 2005 in the 500 Ballroom in the Indianapolis Convention Center.

ADMISSIONS ON FOREIGN LICENSE

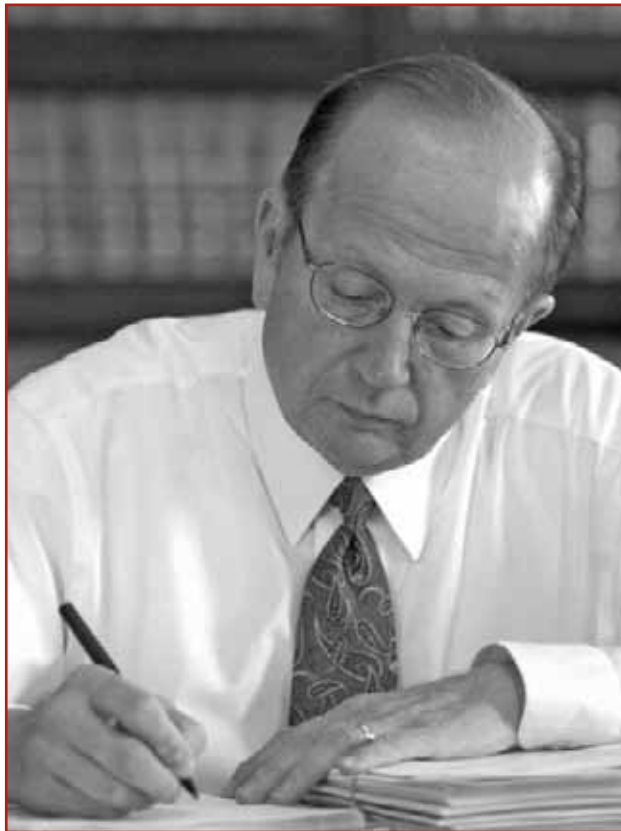
Fifty of the sixty-five attorneys admitted on foreign license from other states or U.S. territories were admitted in one other state prior to their admission in Indiana. Eleven of the sixty-five attorneys were admitted in two other states prior to their admission in Indiana. Four

of the sixty-five were admitted in three states prior to their admission in Indiana. The frequency of the admission from jurisdictions is:

Alabama	1	Nebraska	1
California	1	Nevada	1
Florida	1	New Jersey	2
Georgia	1	New York	3
Illinois	15	Ohio	7
Kansas	1	Pennsylvania	1
Kentucky	6	Texas	3
Maryland	4	Virginia	1
Michigan	4	Washington DC	5
Mississippi	1	Wisconsin	6
Missouri	1		

NOTE: An attorney admitted in multiple jurisdictions is counted in each jurisdiction where the attorney is admitted.

The Board of Law Examiner's Committee on Foreign License reviews each attorney application and National Conference of Bar Examiners investigative report for admission on foreign license. If approved, a member of the Foreign License Committee, prior to admission, personally interviews the applicant. If not approved by the interview, the applicant must appear before the full Board. Six 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. Seventy applicants met the five-year provisional practice requirement in Indiana and their licenses were made permanent. In 2005 the licenses of eleven foreign license admittees expired because they failed to meet the practice requirements of Admission and Discipline Rule 6 or because they failed to qualify for renewal.



Justice Dickson hard at work in his State House office.

BUSINESS COUNSEL LICENSE

Beginning January 2004 a new opportunity to be licensed in Indiana became available. The Indiana Business

Counsel License allows attorneys licensed in other states whose sole employer is a person or entity engaged in business in Indiana other than the practice of law to be admitted to practice without examination. This fiscal year, eight applicants were granted a provisional Business Counsel License.

TECHNOLOGY

During this fiscal year, on December 17, 2004, the State Board of Law Examiners moved its office from Room 1070 to Room 1370 in the National City Center. In an effort to reduce the number of documents required to be moved, the Board was granted permission by the

Supreme Court to destroy obsolete files from the years before 1985 of those individuals who had applied to sit for the bar examination and were not successful on the examination. Six hundred and eighty-three files were destroyed as a part of our document reduction program.

Approximately 635 wall certificates were signed using the Autopen for the July 2004 and February 2005 examinees. Seventy-three were signed for provisional licenses and seventy were signed when permanent licenses were issued.

CERTIFIED LEGAL INTERNS

Under Admission and Discipline Rule 2.1, the Board is also responsible for the certification of legal interns who are allowed to perform certain legal tasks under the supervision of an attorney. Law school deans advise the Board of those students who qualify academically, the dates of their graduations, and the terms 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. Serving as a legal intern enables the interns to gain practical legal experience in an approved program under the supervision of qualified licensed attorneys prior to their being admitted to practice. Three hundred forty-one students and forty-six graduates were certified to serve as legal interns during this reporting period.

FORMATION OF ASSOCIATIONS FOR THE LEGAL PROFESSION

The State Board of Law Examiners also provides applications for and approves the formation and renewal of professional corporations, limited liability companies, and limited liability partnerships for the legal profession. There were 685 active professional corporations, eighty-six limited liability companies, and 136 limited liability partnerships. Sixty-one new professional corporations, twenty-eight limited liability companies, and nine limited liability partnerships were formed. Ten professional corporations, two limited liability company, and three limited liability partnerships were dissolved or became inactive in fiscal year 2005.

MEMBERS OF THE BOARD OF LAW EXAMINERS

The Indiana Supreme Court appoints the members of the Board of Law Examiners. Currently on the Board as officers are: Cynthia S. Gillard of Elkhart, President; Alonzo Weems of Indianapolis, Vice President; Leslie C. Shively of Evansville, Treasurer; and Sheila M. Corcoran of

Evansville, Secretary. Their terms run from December 1, 2004 to December 1, 2005. Other Board members are Arend J. Abel of Indianapolis; Kathryn A. Brogan of Fort Wayne; the Honorable Stephen R. Heimann of Columbus; Gilbert King, Jr. of Gary; Professor JoEllen Lind, Valparaiso; and the Honorable Marianne L. Vorhees, of Muncie

F. COMMISSION FOR CONTINUING LEGAL EDUCATION

■ 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.

The following individuals served on the Indiana Commission for Continuing Legal Education during fiscal year 2004-2005: Robert Houston III (Chair); John L. Krauss

(Vice Chair); Susan G. Gainey (Treasurer); Gerald M. Bishop (Secretary); Professor Terry M. Dworkin; Robert J. Ewbank; Michael E. Tolbert; Joseph H. Yeager, Jr.; Sandra Miller; the Honorable John T. Sharpnack; and the Honorable Nancy Eshcoff Boyer. Additionally, the Supreme Court appointed the Honorable David Avery as a liaison to the CLE Commission by virtue of his position as Chair of the Judge's ADR Committee.

In fiscal year 2004-2005, the full Commission met a total of six times. The Commission reviewed 7,221 CLE courses. Of these, 3,011 were courses for which an application for continuing legal education ("CLE") accreditation was made, and 4,210 were courses given by approved sponsors (where no application is required). 167 applications and 108 approved sponsor courses were denied accreditation. During fiscal 2004-2005, 15,293 attorneys reported CLE credits to the Commission. These attorneys reported a total of 290,248 hours of CLE credits, of which 35,232 were ethics credits.

Recent amendments to the CLE rule 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 2004-2005,



Chief Justice Shepard discusses an administrative matter with Deputy Administrator Greta Scodro prior to an oral argument.

298 NLS courses were reviewed: 57 were by approved sponsors and 245 were by non-approved sponsors. 239 courses were approved and 6 courses were denied accreditation. Attorneys reported a total of 4,963 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. 589 newly admitted attorneys attended these courses during fiscal year 2004-2005.

During fiscal 2004-2005, the Commission approved 6,333 courses as appropriate for newly-admitted attorneys. 2,393 of these courses were approved as a result of an application. Approved sponsors presented 3,940 courses.

The Commission continues to be active in the area of mediation and keeps 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, 2005, there were over 577 listings for civil mediators and 462 listings for registered domestic relations mediators. Effective January 1, 2004, the Alternative Dispute Resolution rules were amended in the area of advanced mediation training. The term "advanced mediation training" was changed to continuing mediation education or "CME." Mediators are now 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.

In fiscal year 2004-2005, 57 people were trained in basic civil mediation and 75 people were trained in basic domestic relations mediation. 308 mediators have reported 1368 continuing mediation hours pursuant to the new CME rule.

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 consists of law school professors, judges, and practitioners. As of June 30, 2005, there are 121 listings for Indiana attorneys who are specialists in their particular areas of law. These attorneys are certified in the practice areas of Family Law (55 specialists, Indiana State Bar Association); Consumer Bankruptcy (8 specialists), Business Bankruptcy (21 specialists), Creditors Rights (6 specialists) (American Board of Certification); Civil Trial Advocacy (15 specialists), Criminal Trial Advocacy (1 specialist) (National Board of Trial Advocacy); and Elder Law (15 specialists) (National Elder Law Foundation).

The Commission continues to maintain a web presence. As of September 2001, attorneys could access their own CLE records via www.in.gov/judiciary/cle/ with the use of personal identification numbers. As of

June 2002, attorneys could search for on-line approved CLE and Applied Professionalism courses. As of June 2005, registered mediators may access their continuing mediation education records using a personal identification number. They may search for approved CME courses by inputting various search criteria. Finally, the public can search the Commission's web site for a certified specialist or registered mediator in Indiana.

The Commission has been active on a national level. Anne Davidson, Office Manager and Mediation Services Coordinator, was president of the national association of CLE regulators (O.R.A.C.L.E.) in 2004-2005. Also, the Commission office houses the first Executive Director of O.R.A.C.L.E., Cheri Harris.



Justice Rucker, the Court's most recent appointee, marked his fifth anniversary on the Supreme Court this fiscal year.

G. INDIANA JUDICIAL NOMINATING COMMISSION AND INDIANA COMMISSION ON JUDICIAL QUALIFICATIONS

■ **Meg Babcock, Counsel**

The Indiana Judicial Nominating Commission and the Indiana

Commission on Judicial Qualifications are established by Article VII, Section 9, of the Constitution of Indiana. The same seven members serve on each commission, but they perform 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 2004-2005.) 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, it privately cautions judges who have violated the Code of Judicial Conduct. In the most serious cases, the Qualifications Commission prosecutes formal disciplinary charges in public proceedings. These charges ultimately are resolved by the Supreme Court. Additionally, the Qualifications Commission and its staff provide judges and judicial candidates with advice about their ethical obligations.

The Chief Justice of Indiana, Randall T. Shepard, is the *ex officio* Chairman of the Nominating Commission and the Qualifications Commission. The Commissions are 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. The elected and appointed Commission members serving in 2004-2005 were James O. McDonald, Esq., Terre Haute; Derrel E. Zellers, Tell City; James H. Young, Esq., Indianapolis; Payton Wells, Indianapolis; John O. Feighner, Esq., Fort Wayne; and Elizabeth Peralta, South Bend. Donald W. Ward, Esq., Indianapolis, and Judy Johns Jackson, Columbus, completed their terms during the fiscal year. Elizabeth Peralta resigned her position in 2005 and the Governor's appointment for her successor was pending at the end of the fiscal year.

The Nominating Commission met on five occasions during the fiscal year. It recertified eighty-five Senior Judges, certified twelve new Senior Judges, and declined to certify one applicant for Senior Judge status. One applicant withdrew her application, and another application was pending at the end of the fiscal year.

In fiscal year 2004-2005, the Qualifications Commission met on five occasions. It considered four hundred four complaints alleging judicial misconduct. Two hundred sixty-four complaints were dismissed summarily because they did not raise issues of judicial misconduct, but were complaints about the outcomes of cases or otherwise were outside the Qualifications Commission's jurisdiction. Another one hundred complaints were dismissed on the same grounds after Qualifications

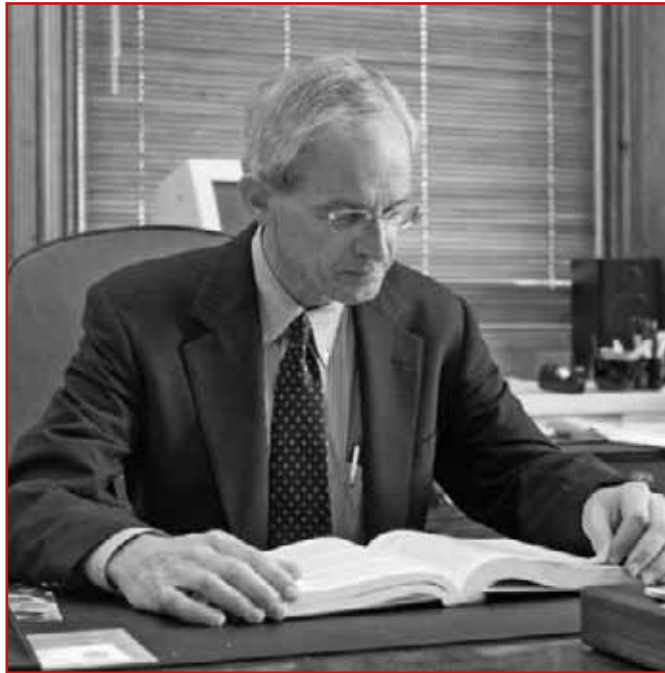
Commission staff examined court documents and conducted informal interviews.

Of the remaining forty cases on the Qualifications Commission's docket, the Qualifications Commission concluded thirty-three new investigations during the fiscal year. Of those, six complaints were dismissed after the Qualifications Commission concluded the judges had not violated the Code of Judicial Conduct. The Qualifications Commission privately cautioned twenty-two judges for deviations from the Code of Judicial Conduct. The subjects of the twenty-two cautions, in order of frequency, related to *ex parte* contacts (7), allowing the appearance of partiality (7), injudicious demeanor (6), delayed rulings (4), deviations from precedent or court rules (3), misuse of the court's power (3), injudicious conduct unrelated to the judicial office (2), and failure to provide adequate notice (1). (Some cautions related to more than one violation).

An investigation from the prior fiscal year was resolved in October 2004 when the Supreme Court removed from office a judge of the Lake Superior Court following an April 2004 hearing before the Honorable Carl A. Heldt, Vanderburgh Circuit Court, the Honorable Tanya Walton Pratt, Marion Superior Court, and the Honorable John F. Surbeck, Jr., Allen Superior Court (*Matter of Kouros*, 816 N.E.2d 21 (Ind. 2004)). One judge, also investigated during the prior year, and the subject of three complaints, agreed to resign rather

than face formal charges. The Commission dismissed two other complaints in light of another judge's resignation. And, in January 2005, the Honorable Michael P. Scopelitis, St. Joseph Superior Court, the Honorable David A. Shaheed, Marion Superior Court, and the Honorable Lynn Murray, Howard Circuit Court, presided over a hearing on Commission charges filed the prior year against Judge James Danikolas, Lake Superior Court, Civil 3. (*Matter of Danikolas*, Cause No. 45S00-0403-JD-126). At the conclusion of the fiscal year, the case was pending before the Indiana Supreme Court.

The Qualifications Commission filed formal charges against two judges during the fiscal year. *Matter of Endris*, Cause No. 49S00-0409-JD-418, which had been scheduled for trial in May 2005 before the Honorable Gregory J. Donat, Tippecanoe Superior Court, the Honorable Sheila M. Moss, Lake Superior Court, and the Honorable G. Michael Witte, Dearborn Superior Court, was dismissed in April 2005 on the Commission's motion when the judge announced her retirement. In November 2005, the Commission filed formal charges against Judge L. Benjamin Pfaff, Elkhart Superior Court No. 1. (*Matter of Pfaff*, Cause No. 20S00-0501-JD-14.) At the end of the fiscal year, the case was scheduled for a July 2005 trial before the Honorable Steve David, Boone Circuit Court, the Honorable Daniel F. Donahue, Clark Circuit Court, and the Honorable Susan Orr Henderson, Fountain Circuit Court. Another case



Justice Sullivan consults a legal treatise in his State House office.

was resolved when the judge agreed to accept a Commission Admonition in lieu of charges. (*Commission Admonition of Judge Thomas Newman, Jr., Madison Superior Court*, June 30, 2005.) One formal investigation and one initial inquiry were pending at the end of the year.

Finally, during the fiscal year, Qualifications Commission counsel responded to approximately five hundred requests for advice from judges and judicial candidates about their obligations under the Code of Judicial Conduct.

H. JUDICIAL CONFERENCE OF INDIANA / INDIANA JUDICIAL CENTER

■ 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 2004-05, the Judicial Center presented twenty-one days and 177.3 hours of continuing judicial education instruction. Total attendance at these programs was 1756. The educational conferences conducted in 2004-05 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 Program for Newly Elected Judicial Officers in December;
- 1 day Winter Conference in December;
- 1 day Orientation for New Juvenile Court Judicial Officers in January;
- 4 day New Judicial Officer General Jurisdiction Orientation Program in January;
- 3 day Spring Judicial College Program in April;
- 3 day Indiana Graduate Program Reunion in June; and
- 2 day Juvenile Court Judges 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 2004 Annual Meeting September 22-24 at the Auditorium and Convention Centre in Evansville. The 2004 Annual Meeting offered an unequalled opportunity for education, collegiality, and affirmation. For the second year, "early bird" sessions were offered to provide additional educational opportunities for participants. The Wednesday plenary session, "Impeach Justice Douglas!", featured Graham Thatcher, actor, in a theatrical performance that provided a look at the *Brown v. Board of Education* decision from the perspective of Justice William O. Douglas. The closing session included a presentation by Craig Zablocki, a nationally known

speaker and consultant, entitled "Bringing Laughter to Life." Other highlights of the 2004 Annual Meeting included remarks by Mitch Daniels, then Candidate for Governor, and Governor Joseph Kernan, a reception at the Evansville Museum of Arts, Science, and History, and a host of educational programs including sessions on the judicial role in *Brown v. Board of Education*, forensic technology, parenting time credit, adult interstate compact, public access to records, drug court, forensic diversion and re-entry court programs, DOC, protection orders, child support, sentencing, evidence, family law, constitutional law, ethics, court interpreters, and several computer courses.

The Annual Meeting of City and Town Court Judges was held in October. The two-day program offered twelve hours of continuing judicial education to 67 participants on various topics relevant to these courts of limited jurisdiction. Session subjects included: misdemeanor and infraction case study discussions and bench trial procedures; public access to records, judicial demeanor; updates from the Bureau of Motor Vehicles and State Board of Accounts; contempt procedures; and witness credibility.

In December, the Judicial Center held a two-day Pre-bench Orientation for New Judges in Indianapolis. The orientation offered 8.3 hours of education to 17 participants on topics to prepare them for taking office such as employment and personnel concerns, salary and benefit information, the ethics of transition, as well as overviews of the functions of the Division of State Court Administration and the Indiana Judicial Center.

The Center's Winter Conference for Judicial Officers focused on courtroom communication strategies, including two-way communication, verbal and nonverbal communication, listening strategies, and case problems in judicial and court system fairness. 197 judicial officers attended this four and a half hour continuing judicial education program.

In January, the Center conducted an Orientation for New Juvenile Court Judicial Officers. Seventeen judicial officers participated in this one-day program, which offered 5.8 hours of instruction. This orientation covered CHINS, termination of parent-child relationship, delinquency proceedings, CASA/Guardian ad litem programs, and collaborating with County Offices of Family and Children.

The New Judicial Officer General Jurisdiction Orientation was also held in January. This four-day orientation provided 31 judicial officers with 20.5 hours of education. This orientation discussed several topics, including the profession of judging, court programs and services, courtroom control and contempt procedures, caseload management, jury management, security, media relations, and judicial demeanor.

Now in its sixth year, the Spring Judicial College program was held in Indianapolis. The objective of this program is to offer expanded courses on a wide variety of topics for smaller classes of judicial officers in order to enhance group participation. A total of 60.2 hours were offered through eighteen stand-alone courses during this three-day Judicial College. Courses included: Search & Seizure: Close Encounters of the 4th Kind; ADR options for Domestic Relations & Juvenile Cases; Testimonial Hearsay Evidence after *Crawford*; Mental Illness: Introduction to Diagnosis and Treatment; Criminal Sentencing Decisions; Basic Mediation Techniques: Transforming Judicial Skills to Mediation Skills; Child Hearsay Evidence; The Case for Clarity in Alcoholism Diagnosis & Sentencing: Science v. Tradition; and several others.

The Graduate Program Planning Committee and the Judicial Center presented a reunion for the Indiana Graduate Program for Judges in June. This program brought the four classes together to hear from several past Programs' favorite professors and discuss critical issues facing Indiana's judiciary today. Courses included: Constitutional Landmarks of the Warren, Burger, and Rehnquist Courts; the Image of the Judge in Modern American Culture; National Security and Information Privacy; What is Indiana's Place in American Court Reform; the Relevance and Applicability of International Human Rights Law; Accountability – The Key to Judicial Independence; and Storytelling.

Also in June, the Annual Meeting of Juvenile Judicial Officers was held in Nashville, Indiana. This two-day program offered its 119 participants 7.5 hours of continuing judicial education through sessions on juvenile detention, the DOC, OJJDP Regulations, the Department of Child Services, CASA training, and recent legislation and cases.

Nineteen days of instruction were also presented by the Judicial Center for probation officers, with a total attendance of 1,876 officers. The Center handled the transfer of 1,669 probationers into the state and 1,687 probationers out of the state. The total compact cases supervised as of June 30, 2005 was 2,373 in the state and 4,119 out of the state. 128 runaways were also processed; however 46 of these cases were court-ordered requisition returns. This time-consuming category continues to grow significantly. In 2004-2005, the Center administered the probation officers' certification examination to 148 applicants.

The new rules of the Interstate Compact for Adult Offender Supervision became effective

August 1, 2004 and the Judicial Center conducted 4 regional trainings in July 2004, training probation officers and parole officers to familiarize them with the new rules. Indiana's State Council for interstate adult offender supervision meets on a regular basis to discuss Compact rules and their effect on probation and parole. Since the new Interstate Compact became effective in August 2004, the Judicial Center has proposed several rules changes on behalf of Indiana's State Council. In October 2004, several members of the Judicial Center staff attended the Interstate Compact's National Business Meeting in Atlanta. In May 2005, the Center began training Indiana's probation and parole officers on the National Adult Compact Information System in anticipation of the December 1st effective date.

The Probation Officers Advisory Board planned the educational sessions for the Annual Meeting and five Regional meetings. The Advisory Board also partnered with the Probation Officers Professional Association of Indiana ("POPAI") on several sessions presented at the Annual meeting. The Probation Officers Advisory Board continued its study of the use of risk and needs assessment instruments and was

awarded a technical assistance grant from the National Institute of Correction to work in this area. Also, the Advisory Board has completed its work on the Recommended Special Probation Conditions for Juvenile Sex Offenders, which were approved by the Conference Board of Directors for use in Indiana courts. Two other projects currently underway include a review of issues with intra-state transfers of probation and the development of a "best practices" manual for probation supervision.

The Judicial Center collected information concerning the implementation of home detention in Indiana and presented a report to the Indiana General Assembly on January 14, 2005.

The Center continued to provide traditional research services to the judges in 2004-2005. 40 issues of Case Clips were distributed by e-mail, and are 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 Judicial Center continued to monitor the activities of the Indiana General Assembly and published fourteen weekly "Friday Updates" via e-mail from January to April. These updates reviewed legislative changes to bills of interest to the judiciary. The fifteenth and final e-mail memorandum summarized the session for judicial officers and chief probation officers and was entitled the "Final Legislative Update for 2005."

The 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 100 facilities is provided on a monthly basis. The roster is available on the Internet at www.in.gov/judiciary/center/juv/.

The Indiana Judicial Center and the Division of State Court Administration through an executive committee administer the Court Improvement Program ("CIP") in Indiana. A reassessment of this program was conducted and the results of the review showed that the state's court systems have made progress toward meeting most of the initial assessment goals in the areas of moving cases forward at every opportunity, utilizing court opportunities more effectively, increased training opportunities, and an increase in the provision of services to families. The "Indiana Court Improvement Program Reassessment Final Report" can be found online. To review this report and other information on CIP, visit the website at www.in.judiciary/cip/.

The Indiana Judicial Center continued its administration of the Court Alcohol and Drug Program in 2004-2005. The certification staff of the Center and the Court Alcohol and Drug Program Advisory Committee ("CADPAC") Certification Subcommittee will be completing its second



Justices Dickson and Sullivan prepare for oral argument in the Supreme Court's Robing Room.

round of certifications in September 2005. Currently there are 54 programs with two counties planning implementation of programs in July 2005. A Court Substance Abuse Management Specialist "CSAMS" credential was awarded to the first recipients on May 20, 2005, in a ceremony in the courtroom of the Indiana Supreme Court. The CADPAC Workgroup also completed a revision of the program rules to make them more court-friendly, and to provide a better balance between clinical and criminal justice standards.

The CADPAC Policy Subcommittee updated the CADPAC vision statement and goals, and worked on the development and implementation of a rule governing the transfer of cases between programs to be incorporated into the Rules for Court-Administered Drug and Alcohol Programs. The Subcommittee also began examining procedures for evaluating program services and substance abuse education, and continues to work on addressing concerns related to ethics, confidentiality, and other policy issues.

CADPAC and the Center continued the scholarship and grant program for eligible court programs. Five scholarships totaling over \$3,200 were awarded and three grant applications totaling over \$7,500 were awarded to participating programs. Another five scholarship applications and three additional grant applications were also approved during the fiscal year, with the awards scheduled for completion in 2005-2006.

Center staff and the CADPAC Education Subcommittee were responsible for the planning and implementation of the Annual Meeting, two Staff Orientations, two Director Orientations, a new Criminal Justice Training Program, and a "one time only" three-day CSAMS credential refresher training. A one day Annual Administrative Meeting of Court Alcohol and Drug Programs was held on March 2nd for supervising judges and program directors to discuss program issues. A total of 71 judges, directors and staff participated. The Annual Meeting of Court Alcohol and Drug Programs was held on March 3rd and 4th in Indianapolis with a total of 370 supervising judges, program directors, drug court judges, coordinators, and staff attending. The Opening Session, "Ten Steps to Maintain Recovery and Healing," was presented by Rev. Leo Booth. Education sessions were offered on a variety of topics, including methamphetamine treatment, case management, assessments, drug testing, safety, drunk driving, and substance abuse and violence prevention. The new 12-hour Criminal Justice Training Program was implemented to meet CSAMS requirements for program personnel who do not attend probation orientation.

The Center also continues oversight of Drug Courts in Indiana. There are currently twenty operational drug courts. Seven courts are in the planning stages of drug court development. The Center has certified twelve drug courts. The Center hosted the 2004 Drug Court Workshop in October 2004. Twenty-three judicial officers and an additional 120 drug court professionals attended the training. The Drug Court Subcommittee is in the process of planning the 2005 Drug Court Workshop, which will be held in October 6-7, 2005, in Indianapolis. In November 2004, the Center hosted a Sustainability Workshop with a technical assistance grant from the National Center for State Courts. The purpose of the workshop was to develop a long-term state-level funding plan for Indiana drug courts. In April 2005, the Center contracted with Indiana University Center for Evaluation and Education Policy to conduct an evaluability assessment of Indiana drug courts. The goal of the assessment is to develop research questions for a state-level

evaluation and to identify which drug courts are currently suited for evaluation. The Center received a grant from the Indiana Criminal Justice Institute in June 2005 to fund the evaluation. The Center assisted the Supreme Court in administering a Drug Court Grant Program that benefited eight drug courts for a total of \$50,000.

The Center and CADPAC have established the CADPAC Bilingual Task Force in 2005 to identify the scope of the challenges facing Indiana's court alcohol and drug programs serving the Spanish-speaking population. Many court alcohol and drug court programs are experiencing an increase in the number and frequency of Spanish speaking referrals, but have limited access to services in Spanish, including program orientation, assessment, case management, substance abuse education, and treatment.

In March 2005, the Judicial Center arranged the annual series of five informal meetings between members of the Supreme Court, the Court of Appeals, the Tax Court, and the trial court judges in the various trial districts of the Conference.

The Indiana Judicial Center has partnered with Ivy Tech State College to develop a workplace Spanish curriculum for court employees to assist them in communicating with the Spanish-speaking population. The curriculum will be presented through classroom instruction along with written materials. The Center and Ivy Tech conducted a pilot course in the summer of 2005 and anticipate development to be complete by fall 2005.

Members of the Center staff keep regular contact with pertinent agencies and departments in the Executive Branch and provide support for other related organizations by speaking on court-related issues. Also, several Center staff members serve on numerous Executive and Legislative Branch study committees and work groups on topics relating to criminal justice, mental health issues, and juvenile justice issues and policies.

The committees of the Judicial Conference of Indiana were also extremely busy this year. The Domestic Relations Committee began work on a Domestic Relations Benchbook for Indiana's judiciary. The Protection Order Committee completed revisions to protection order and no contact order forms in June 2005. The Alternative Dispute Resolution Committee conducted a roundtable with mediators, practitioners, and judges to assess the state of ADR and how it can best promote the use and effectiveness of ADR in Indiana. The Court Management Committee is continuing to work with counties to obtain wireless duress systems and hand-held metal detectors by administering funds awarded under a homeland security grant. The Jury Committee is continuing its work with the Supreme Court, Divisions of State Court Administration, and JTAC to develop a central depository for jury pool sources that would have the ability to merge numerous sources of data and remove duplicate data from a master list that could then be provided to trial courts in order to create jury pools that comply with the full intent of Jury Rule 2. The Ethics and Professionalism Committee has hired a contractor to develop an electronic newsletter for e-mail distribution to all judicial officers statewide, with a goal of nationwide distribution in the future. Entitled *Judicial Balance: Lessons for Law and Life*, the purpose is to provide judicial officers with easy access to resources for managing a career and personal life in a healthy manner. The topics focus on quality of life issues, including professional fulfillment, work and family balance, stress, security, burnout, and humor. Each issue will provide a synopsis of articles, books, and interviews, and will include a link or citation to the original work. The e-journal will be published

semi-monthly. The Special Courts Committee completed a revision to the Small Claims Litigant's Manual, which was presented to the Board of Directors in June and unanimously approved. This Manual was distributed to trial courts and clerks and made available on the Indiana Judicial System web site. The Judicial Administration Committee is continuing its work to develop a Benchbook for use by courts in dealing with issues related to pro se litigation. The Criminal Instructions Committee has completed its annual supplement which will be published in the fall of 2005. The Civil Instructions Committee has completed several updates, which have been published throughout the year. The following Committees are also working on revisions or updates to various publications: Civil Benchbook Committee; Criminal Benchbook Committee; Juvenile Benchbook Committee; Probate Committee; and Special Courts Committee.

I. INDIANA STATE PUBLIC DEFENDER'S OFFICE

■ Susan K. Carpenter, Public Defender

The Indiana Public Defender continues Indiana's long tradition of guaranteeing fairness in criminal cases. The agency provides post-conviction factual and legal investigation and representation at hearing and on appeal in all capital cases. In non-capital cases, investigation occurs after the indigent inmate files a *pro se* petition for post-conviction relief and representation at hearing and on appeal is provided when the case has arguable merit. The office also provides direct appeal representation, or finds competent attorneys willing to do so at county expense, when requested by county trial courts. The Public Defender is appointed by and serves at the pleasure of the Indiana Supreme Court.

Capital cases. In 2004-2005, deputies litigated one case at hearing and initiated an appeal of the denial of relief in that case and one other, as well as beginning investigation of a new capital case, which was affirmed on direct appeal. The Supreme Court found one vacillating petitioner competent, held he had waived his right to state post-conviction by failing to file his petition by the date established by the trial court, and set his execution date. One successive petition was filed and the capital sentence vacated and a term of years imposed. Conflict counsel filed one initial petition and relief was granted on one successor, the capital sentence vacated and non-capital resentencing ordered pending the petitioner becoming competent to proceed. The Indiana Supreme Court heard argument in one capital direct appeal and direct appeals began in two cases; one defendant was resentenced to death after reversal on appeal and one new death sentence was imposed. Former Governor Kernan granted clemency commuting two death sentences to life without parole. The Court set six execution dates; three individuals were executed, one received a stay of his June execution, and two executions were set for July 2005.

Non-Capital cases. Despite a slight decrease in the population of the Department of Correction (from 25,179 on 6/30/04 to 24,804 on 4/30/05), demand for our services remained unmanageably high. *Pro se* filings declined slightly (585 in 2004-2005, 620 in 2003-2004, 640 in 2002-2003). Since July 1991, 2,057 cases have formally been found without merit, and in 1,322 cases clients agreed the case was without merit and either withdrew the petition or waived office representation

(254 formal no merit and 122 agreed no merit in FY 04-05). In cases found to be lacking arguable merit, state resources are not expended on hearing or appeal services by this agency.

J. INDIANA SUPREME COURT LAW LIBRARY

■ 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, the Court of Appeals, and the Tax Court. The Supreme Court Law Library also serves as a research library for many state agencies, the Office of the Governor, the state legislature, members of the private bar, and the citizens of Indiana.

The Law Library contains a comprehensive collection of legal materials that must be kept up-to-date. During the past fiscal year, the library staff received and processed approximately 1,340 volumes as additions or replacements for volumes already in the library collection. Updates to legal periodicals, supplements, and pocket parts were also received. Approximately 546 volumes were discarded from the library.

Over 70 interlibrary loans were provided to patrons. Interlibrary loan service is provided through OCLC (Online Computer Library Center). From August 1, 2004 to June 30, 2005, over 1,084 items were circulated and returned using the new library automation system.

Library materials were circulated to the Supreme Court, Court of Appeals, and 16 other state government agencies. The Law Library responded to telephone or written requests from attorneys, other libraries, and members of the public from across the United States and abroad for photocopy and/or fax copies of items in the library collection.

There were over 2,300 visitors to the Supreme Court Law Library during the year. The Law Library has Internet access and a public patron program for access to selected Westlaw databases, HeinOnline, and citations services. HeinOnline, a new addition to the library's database subscriptions, is an image-based, searchable collection of major library collections. It includes journals and periodicals, Federal Register documents, treaties and agreements, and U.S. Supreme Court materials.

The Supreme Court Law Library's web-based catalog was launched to the public in November 2004. The online catalog has over 4,970 bibliographic records that are accessible through the Indiana Shared Library Catalog (ISLC) consortium, a program of the Indiana Cooperative Library Services Authority (INCOLSA). Materials are added to the catalog daily. The SIRSI-based library automation system is widely used by all types of libraries and will provide for the development of an automated circulation system and accurate library statistics.

The Supreme Court Law Library Long-Range Planning Committee was organized and first met in October 2004. This statewide committee was created to assist in the development of a plan to discuss the mission, library services, collections, and vision of the library. The information gathered from this planning committee will be used to help define the library's future goals and services.

The Law Library continues as a repository for publications produced under grants from the State Justice Institute (SJI). Items received are

cataloged, and a listing of new titles is periodically provided to the state judiciary. These publications are available for loan to judges throughout the state. The Law Library is also designated as a selective federal depository for United States Government publications.

K. 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 impairments that result from disease, chemical dependency, mental health problems, or age and that could impair one's 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 Rule 8.3 (d) of the Rules of Professional Conduct. No information is ever released without the signed consent of the party involved.

The Supreme Court appoints the Judges and Lawyers Assistance Committee to oversee JLAP. The Committee is composed of five judges, seven attorneys, one law student, and two members that can be from any of the three categories. The 2004-2005 Committee included: JLAP Chair David F. Hurley, Indianapolis; JLAP Vice-Chair Timothy O. Malloy, Highland; JLAP Treasurer the Honorable Thomas F. Marshall, Rushville; JLAP Secretary Kimberly A. Jackson, Terre Haute; the Honorable Donald L. Daniel, Lafayette; the Honorable Gary L. Miller, Indianapolis; the Honorable Michael A. Robbins, Bedford; the Honorable David A. Shaheed, Indianapolis; Tonya J. Boller (law

student representative), Indianapolis; Michele S. Bryant, Evansville; Daniel G. McNamara, Fort Wayne; Jane Woodward Miller, South Bend; Shane Service, Indianapolis; Stephanie J. Shappell, Crown Point; and John R. Vissing, Jeffersonville. Committee members retiring from the Committee in December 2004 included the Honorable Mary Lee Comer, Danville; Timothy R. Dodd, Evansville; Edward B. Hopper, II, Indianapolis; J. Frank Kimbrough, Fort Wayne; and Gaylon J. Nettles, Indianapolis. The full JLAP Committee met nine times in the fiscal year 2004-2005, including a two-day retreat in February. The JLAP Committee has continued to employ a full-time Executive Director and a part-time Clinical Director. In addition, in November 2004 the JLAP Committee was pleased to hire a talented Administrative Assistant, Janice A. Lubbehusen, to work for JLAP on a part-time basis.

JLAP has been in existence long enough that in December 2004 the last of the original JLAP Committee members rotated off the Committee. With five new Committee members and four new members from the year before, we decided to hold the first JLAP Committee Retreat in February of 2005. Current and past Committee members were invited to the retreat and we were pleased to have five past Committee members attend. The American Bar Association provided us with a professional facilitator to assist us in developing a strategic plan. While we identified many areas to work on, the two primary issues identified for attention were marketing (getting the word out to the Indiana legal community that JLAP is available to help), and developing JLAP support groups in communities outside of Indianapolis.

As part of our marketing efforts, we decided to create and distribute a survey to determine how widely word of JLAP has spread and how accurate the perceptions in the legal community are about what JLAP does. The survey will be distributed during fall 2005 with help from the Indiana State Bar Association and the Indiana Commission for Continuing Legal Education. We believe this will enable us to focus our marketing and education efforts more effectively.

In addition, the Committee found the JLAP website to be such an important vehicle for disseminating information about JLAP that we should not wait for the results of the survey to improve it. We made significant changes to the JLAP website this past spring with the help



The Supreme Court heard oral arguments in 60 cases this fiscal year.

of Lindsey Borschel at JTAC. We continue to add to the website, and the improvements to date can be seen at www.in.gov/judiciary/ijlap.

JLAP continues to run a Mental Health Support Group and a Substance Abuse Support Group in Indianapolis. 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 challenges of coping with these issues and working in the legal profession. Both groups meet monthly. We plan to have mental health support groups running in Lake County and Clark County in the near future.

JLAP continues to receive referrals in three ways – self-referral, third party referral, and formal referral from a disciplinary or licensing body. In the fiscal year 2005, JLAP logged one hundred and fifty-one Calls for Help. Calls ranged from a simple request for information or referral, to asking JLAP to coordinate a group intervention. Call numbers include only the original “call for help” and do not include calls after a case file is opened, or routine calls received regarding JLAP’s daily operations, outreach, or education efforts. This year we had fifty-seven calls for help with substance abuse issues, thirty-four calls for help related to mental health issues, six calls for assistance with physical impairment issues, eight calls for assistance with issues related to aging or other miscellaneous categories, and forty-six calls with an unidentified impairment at the time of the initial call. 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.

As of June 30, 2005, JLAP had 99 active cases and 212 inactive or closed cases. It is important to note that not all calls for help become a case. A simple call for a referral or a one-time consultation will not result in a case being opened. A case is opened when we meet personally with a client and/or determine that there will be ongoing contact with the client or with a third party.

Active cases included thirty-three referrals from the Board of Law Examiners, thirteen referrals due to involvement in the attorney disciplinary system, thirty-seven self-referrals, and fourteen third party referrals. Third party referrals typically come from employers, colleagues, treatment providers, or family. The JLAP Committee and staff are pleased with the number of self-referrals JLAP has received. In general, people who self-refer are at an earlier stage of impairment and have a high level of motivation for change. 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 to 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. Participants may also 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 unless and until the participant releases us to do so. In addition, we have developed monitoring agreements in which JLAP reports to an employer, local judges, 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. As of June 30, 2005, JLAP was monitoring fourteen formal agreements and eight interim agreements.

Education is an integral part of the work done at JLAP and is a key to JLAP’s efforts to reach those in need early, before disciplinary or licensing agencies are involved. JLAP staff, committee members, and volunteers have continued to speak to a variety of legal organizations around the state. Below is a list of our presentations statewide:

- Bartholomew County Bar Association
- The Brooks American Inn of Court
- Indiana Judicial Center – New Judge Orientation
- Indiana State Bar Association Solo and Small Firm Conference
- Indianapolis Bar Association Applied Professionalism Course
- Indianapolis Bar Association Enhancing the Attorney/Client Relationship Conference
- Lake County Bar Association Applied Professionalism Course
- Lake County Bar Association – Board of Managers
- Lake County Bar Association – Ethics Seminar
- Law Schools
 - Professional Responsibility Classes – I.U.- Indianapolis and I.U.- Bloomington Law Schools
 - Presentation for 3rd Year Students at I.U.- Indianapolis in conjunction with the Indianapolis Bar Association
- Marion County Magistrates and Commissioners
- Marion County Public Defender Agency Applied Professionalism Course
- Porter County Inns of Court
- Practice Skills Summit sponsored by ICLEF and the Young Lawyer’s Section of the Indiana State Bar Association
- Terre Haute Bar Association

Continuing JLAP’s involvement with law students is critical to its 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. We were pleased this year to participate in Professor Aviva Orenstein’s professional responsibility class at I.U.- Bloomington and in Professor Maria Pabon Lopez’ professional responsibility class at I.U.- Indianapolis.

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 Executive Director, Terry L. Harrell, JLAP Secretary Kimberly A. Jackson, and JLAP Committee Chair David F. Hurley attended the CoLAP Annual Workshop in Philadelphia in October 2004. The workshop included presentations on lawyers and secondary traumatic stress, gambling, and the relationship between lawyer assistance and lawyer discipline, among many other topics. This network continues to be a valuable source of information, support, and inspiration. ■



APPENDIX

INDIANA SUPREME COURT

FISCAL 2004-2005 CASE INVENTORIES AND DISPOSITION SUMMARY

	Cases Pending as of 7/1/04	Cases Transmitted in Fiscal 2004-2005	Cases Disposed of in Fiscal 2004-2005	Cases Pending as of 6/30/05
Civil Direct Appeals	0	2	1	1
Civil Transfers	84	335	320	99
Tax Court Petitions for Review	7	15	19	3
Criminal Direct Non-Capital	2	2	2	2
Capital Cases	2	10	9	3
Criminal Transfers	65	511	525	51
Original Actions	0	55	55	0
Certified Questions	1	3	2	2
Mandate of Funds	0	0	0	0
Attorney Discipline	77	97	103	71
Board of Law Examiners	2	1	3	0
Judicial Discipline	2	2	2	2
Rehearings	4	18	22	0
Other	1	0	0	1

TOTAL DISPOSITIONS: 1063

Criminal	536	51%
Civil, Tax, and Other	340	32%
Certified Questions	2	<1%
Original Action	55	5%
Attorney Discipline	103	10%
Board of Law Examiners	3	<1%
Judicial Discipline	2	<1%
Rehearings	22	2%

MAJORITY OPINIONS AND PUBLISHED DISPOSITIVE ORDERS: 170

Criminal	59	35%
Civil, Tax, and Other	40	25%
Certified Questions	1	<1%
Original Action	1	<1%
Attorney Discipline	66	39%
Judicial Discipline	1	<1%
Rehearings	2	<1%

	Direct Appeal Crim.	Direct Appeal Civil	Transfer Petitions Crim.	Transfer Petitions Civil and Tax	Original Action	Atty. Disc.	Jud. Disc.	Rehearing Opinions	Certified Questions	Other	TOTAL
Shepard, C.J.	2	0	14	4	0	0	0	0	0	0	20
Dickson, J.	0	0	3	7	0	0	0	1	1	0	12
Sullivan, J.	2	0	13	8	0	0	0	1	0	0	24
Boehm, J.	0	1	4	15	1	0	0	0	0	0	21
Rucker, J.	0	0	9	4	0	0	0	0	0	0	13
By the Court	7	0	5	1	0	66	1	0	0	0	80
TOTAL	11	1	48	39	1	66	1	2	1	0	170

NON-DISPOSITIVE OPINIONS

	Concurring	Dissenting	Concur/Dissent in part	Recusal Opinion	Total
Shepard, C.J.	3	0	3	0	6
Dickson, J.	1	1	2	0	4
Sullivan, J.	3	4	1	0	8
Boehm, J.	2	1	0	0	3
Rucker, J.	0	2	3	0	5
TOTALS	9	8	9	0	26

CERTIFIED QUESTIONS

	Pending 7/1/04	Received	Accepted	Rejected	Dismissed	Opinions	Pending 6/30/05
Federal District Court	1	2	2	0	0	1	2
Federal Appellate Court	0	1	1	0	1	0	0
TOTAL	1	3	3	0	1	1	2

CASES IN WHICH ORAL ARGUMENTS WERE HELD

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	TOTAL
Criminal (before grant of trans.)	1	0	1	0	0	1	1	0	0	1	1	1	7
Criminal (after grant of trans.)	0	0	1	2	4	2	0	3	0	4	1	1	18
Civil/Tax (before grant of trans./rev.)	0	0	1	0	0	0	1	1	0	1	1	0	5
Civil/Tax (after grant of trans./rev.)	0	0	3	3	4	4	0	2	2	1	3	5	27
Criminal Direct Appeals	0	0	0	0	0	0	1	0	0	0	0	1	2
Civil Direct Appeals	0	0	0	0	0	0	0	0	0	0	0	0	0
Certified Questions	0	0	0	0	1	0	0	0	0	0	0	0	1
TOTAL	1	0	6	5	9	7	3	6	2	7	6	8	60

CAPITAL CASES

Opinions

	Direct Appeals	PCR	Interlocutory Appeals	Successive PCR	Rehearing	TOTAL
Shepard, C.J.	2	0	0	0	0	2
Dickson, J.	0	0	0	0	1	1
Sullivan, J.	1	1	0	0	1	3
Boehm, J.	0	0	0	0	0	0
Rucker, J.	0	0	0	0	0	0
By the Court	0	0	0	7	0	7
TOTAL	3	1	0	7	2	13

PETITIONS FOR EXTENSIONS OF TIME & MISCELLANEOUS ORDERS

Petitions for Extension of Time Processed20
Special Judge Requests118
Other Miscellaneous Appellate Orders351
TOTAL489



DISCIPLINARY, CONTEMPT, AND RELATED MATTERS

DISCIPLINARY CASES PENDING BEFORE HEARING OFFICER/COURT ON JULY 1, 2004

Before the Court for Hearing Officer Appointment	.6
Pending Before Hearing Officer	.58
Briefing Stage	.3
Briefed/Resignation Tendered/Conditional Agreement Tendered	.5
No Verified Complaint Filed/Suspended Upon Notice of Conviction	.5
TOTAL CASES PENDING 7/1/2004	.77

NEW DISCIPLINARY MATTERS RECEIVED DURING FISCAL YEAR 2004-2005

Verified Complaints for Disciplinary Action	.43
Petitions to Show Cause	.22
Administrative Admonitions Tendered	.17
Affidavits of Resignation	.4
Petitions for Reinstatement	.4
Petitions to Terminate Probation	.2
Petitions to Convert Suspension to Indefinite	.2
Notices of Foreign Discipline/Guilty Finding	.1
Contempt of Court	.1
Failure to Pay Fees	.1
TOTAL NEW CASES FILED FISCAL YEAR 2004-2005	.97

DISCIPLINARY CASES DISPOSED DURING FISCAL YEAR 2004-2005

By Per Curiam Opinion	.4
By Anonymous Per Curiam Opinions Imposing Private Reprimand	.1
By Order Imposing Public Reprimand	.17
By Order Imposing Private Reprimand	.3
By Order Imposing Suspension	.20
By Administrative Admonition	.16
By Order – Compliance to Show Cause	.14
By Order Accepting Resignation	.12
By Order Imposing Reciprocal Discipline	.1
By Order of Temporary Suspension	.1
By Order Extending Probation	.1
By Order Terminating Probation	.2
By Order Finding Contempt of Court	.1
By Order Dismissing or Withdrawing Action	.4
By Order Withdrawing Petition for Reinstatement	.1
By Order Granting Reinstatement	.4
By Order Denying Reinstatement	.1
TOTAL CASES DISPOSED DURING FISCAL YEAR 2004-2005	.103

DISCIPLINARY CASES PENDING JULY 1, 2005

Before Court for Hearing Officer Appointment	.3
Pending Before A Hearing Officer	.42
Reinstatement pending before hearing Officer	.6
Briefing Stage	.5
Briefed/Resignation Tendered/Conditional Agreement Tendered/Petition for Reinstatement	.10
No Verified Complaint filed/Suspend Upon Notice of Conviction/Show Cause	.5
TOTAL PENDING AS OF July 1, 2005	.71

ANALYSIS OF SUPREME COURT DISPOSITIONS

CRIMINAL CASES

Opinions on direct appeals	.11
Direct appeal disposed of by order	.0
Opinions on petitions to transfer	.48
Opinions on rehearing	.2
Orders on rehearing	.6
Petitions to transfer dismissed, denied, or appeal remanded by unpublished order	.480
Other opinions	.0
TOTAL	.547

CIVIL CASES

Opinions and orders on certified questions	.2
Opinions on direct appeals	.1
Opinions on rehearing	.0
Orders on rehearing	.14
Opinions on mandate of funds	.0
Opinions on Tax Court petitions for review	.4
Dispositive orders on Tax Court petitions for review	.15
Opinions on petitions to transfer	.35
Petitions to transfer denied, dismissed, or appeal remanded by unpublished order	.282
Other opinions	.0
Other dispositions, civil	.0
TOTAL	.353

ORIGINAL ACTIONS

Opinions issued	.1
Disposed of without opinion	.54
TOTAL	.55

ATTORNEY DISCIPLINARY MATTERS

Opinions and published orders	.66
Other dispositions	.37
TOTAL	.103

PETITIONS FOR REVIEW OF STATE BOARD OF LAW EXAMINERS MATTERS

Petitions for review	.3
TOTAL	.3

JUDICIAL DISCIPLINE MATTERS

Opinions and published orders	.1
Other dispositions	.1
TOTAL	.2

TOTAL DISPOSITIONS	.1063
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CASES PENDING AS OF JUNE 30, 2005

	Pending Cases as of June 30, 2005 (does not include Pets. for Rehearing)	Pending Petitions For Rehearing as of June 30, 2005
Shepard, C.J	16	0
Dickson, J	20	0
Sullivan, J	12	0
Boehm, J	18	0
Rucker, J	15	0
To the Court	3	0
Unassigned Civil Cases	56	
Unassigned Tax Court Petitions for Review	2	
Unassigned Criminal Transfer Cases	18	
Unassigned Criminal Direct Appeals	2	
Unassigned Civil Direct Appeals	0	
Unassigned Original Actions	0	
Unassigned Certified Questions	1	
Unassigned Other	0	
Unassigned Judicial Discipline	1	
Pending Bar Examination Reviews	0	
Attorney Discipline	71	
TOTAL	235	0

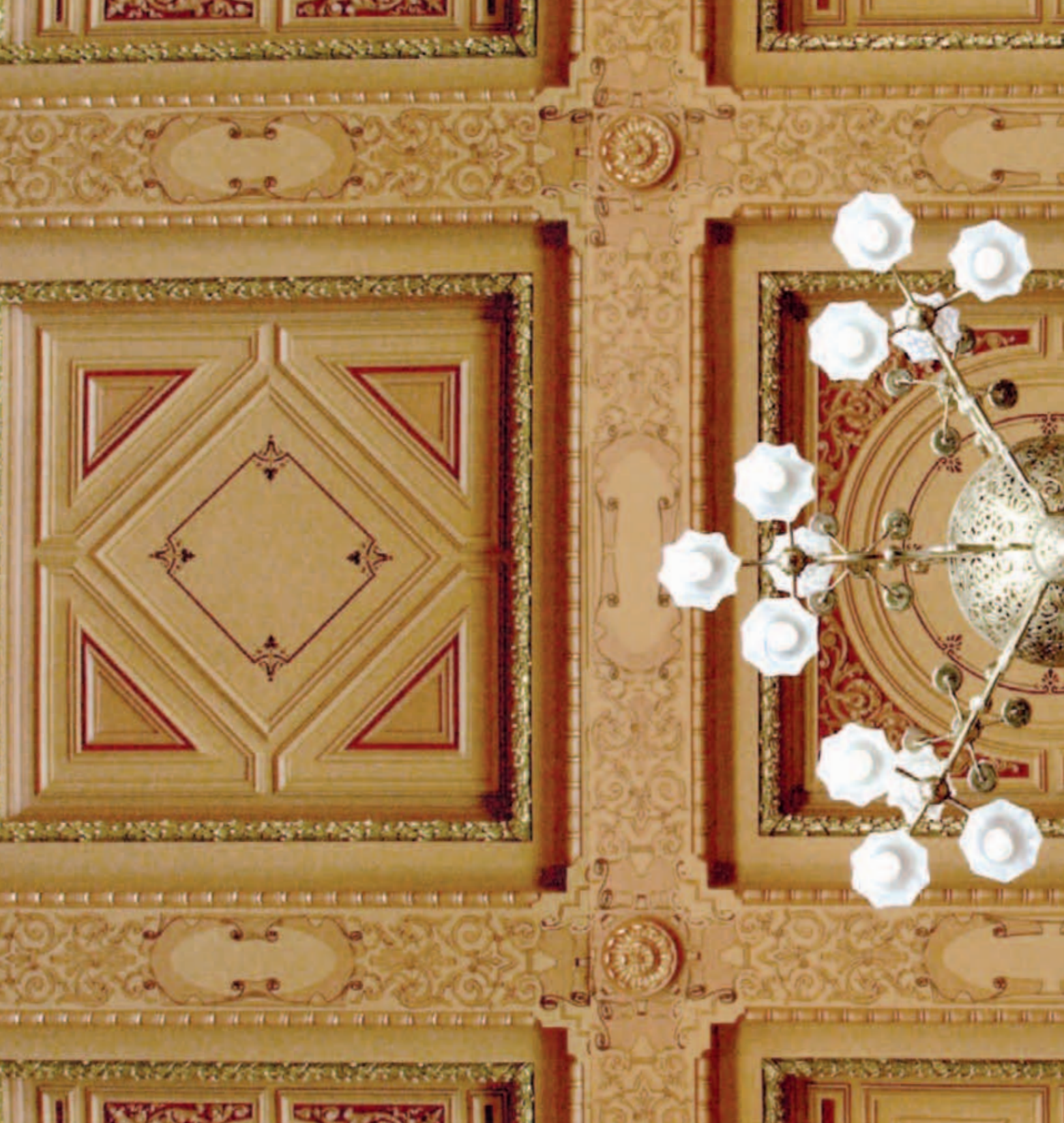


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