

INDIANA SUPREME COURT



ANNUAL
REPORT
2007-08



★ The east-facing side of the State House at night.

On the cover:

The cover of this year's annual report displays images of the current and former justices of the Indiana Supreme Court. These portraits, most of which are photographs but a few of which are original artist renderings, are displayed in frames integrated into the wood paneling on three of the walls in the Supreme Court Courtroom. Visitors are welcome to tour the historic room.

This year, the current five justices (Randall Shepard, Brent Dickson, Frank Sullivan, Jr., Theodore Boehm, and Robert Rucker) became the longest-serving Supreme Court in Indiana's history, surpassing the mark previously set by Donald Hunter, Roger DeBruler, Richard Givan, Dixon Prentice, and Alfred Pivarnik. Isaac Blackford holds the record for the longest serving individual justice, more than 35 years; the term of William Combs, 30 days, was the shortest.

Top row: (left to right) Jesse Holman; John Johnson (no image available); James Scott; Isaac Blackford; John McKinney (no image available); Stephen Stevens; Charles Dewey; Jeremiah Sullivan; Samuel Perkins; Thomas Smith; Andrew Davison; William Stuart; Addison Roache; Alvin Hovey; Samuel Gookins; James Hanna; James Worden; Jehu Elliott; James Frazer; Robert Gregory; Charles Ray.

2nd row: (left to right) Samuel Buskirk; Alexander Downey; John Pettit; Andrew Osborn; Horace Biddle; George Howk; William Niblack; John Scott; Byron Elliott; William Woods; William Combs; Allen Zollars; Edwin Hammond; Joseph Mitchell; John Berkshire; Silas Coffey; Walter Olds; Robert McBride; John Miller; Leonard Hackney; Timothy Howard.

3rd row: (left to right) James McCabe; Joseph Dailey; James Jordan; Leander Monks; Francis Baker; Alexander Dowling; John Hadley; John Gillett; Oscar Montgomery; Quincy Myers; Douglas Morris; Charles Cox; John Spencer; Richard Erwin; Moses Lairy; David Myers; Lawson Harvey; Howard Townsend; Benjamin Willoughby; Louis Ewbank; Julius Travis.

4th row: (left to right) Fred Gause; Willard Gemmill; Clarence Martin; Curtis Roll; Walter Treanor; James Hughes; Michael Fansler; George Tremain; Curtis Shake; H. Nathan Swain; Frank Richman; Mart O'Malley; Oliver Starr; Howard Young, Sr.; Paul Jasper; Dan Flanagan; Floyd Draper; Frank Gilkison; George Henley; Isadore Levine; James Emmert.

Bottom row: (left to right) Arch Bobbitt; Frederick Landis, Jr.; Harold Achor; Frederick Rakestraw; Walter Myers, Jr.; Donald Mote; David Lewis; Amos Jackson; Norman Arterburn; Donald Hunter; Roger DeBruler; Richard Givan; Dixon Prentice; Alfred Pivarnik; Randall Shepard; Brent Dickson; Jon Krahulik; Frank Sullivan, Jr.; Myra Selby; Theodore Boehm; Robert Rucker.



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I. 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 2008 (July 1, 2007 through June 30, 2008) and a description of the activities of the Court and its affiliated agencies. Section II, Significant Events of Fiscal Year 2008, includes brief highlights from the past fiscal year. Additional details on many of the programs discussed 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.



★ The Indiana Supreme Court Justices at the bench during one of the 74 oral arguments heard this year.

II. Significant Events of Fiscal Year 2008

Each day the Indiana Supreme Court works diligently to produce justice for the citizens it serves through the opinions it issues and the many projects and programs it operates. This section summarizes that work for the fiscal year of July 1, 2007 through June 30, 2008. It begins with highlights of the Court's appellate work, and then proceeds to highlights of the many other aspects of the Court's multifaceted work and accomplishments.

THE APPELLATE WORK OF THE INDIANA SUPREME COURT

Cases on Certiorari to the United States Supreme Court

Indiana Supreme Court decisions that involve issues of Federal law can be appealed to the United States Supreme Court, though the nation's highest court rarely accepts such cases. In fact, prior to 2006, the United States Supreme Court had not decided an appeal from the Indiana Supreme Court in approximately 25 years. Now, however, the U.S. Supreme Court has decided two such appeals in three years – *Davis v. Washington*, 547 U.S. 813 (2006), and *Indiana v. Edwards*, 128 S.Ct. 2379 (2008). *Edwards*, which was decided this fiscal year, involved a defendant accused of a serious crime who was mentally ill, but who had been found competent to stand trial. The Indiana Supreme Court had concluded that the Constitution required that the defendant be allowed to represent himself at trial if he wished to do so. The U.S. Supreme Court reversed and held that the Constitution does not prevent Indiana from requiring that an attorney defend an individual who is competent to stand trial, but whose mental illness interferes with his or her self-representation capability.

Mandatory Jurisdiction: Death Penalty and Life-Without-Possibility-of-Parole

The Indiana Supreme Court has mandatory and exclusive jurisdiction over criminal cases where a defendant has been sentenced either to death or to life without possibility of parole ("LWOP").

The Court reviewed three death penalty and five LWOP cases this fiscal year. The Court held that two defendants sentenced to death were not entitled to relief from that sentence: Benjamin Ritchie, who shot a Beech Grove police officer to death; and Michael Dean Overstreet, who raped and murdered an eighteen-year-old woman. The third case involved Zolo Agona Azania, who had been convicted of killing a Gary police officer in a bank robbery but whose death sentence had twice been set aside, once because of ineffective assistance of counsel and a second time because of defects in choosing the jury. The Court permitted the State to seek the death penalty for a third time against Azania, notwithstanding the passage of time.

The Court affirmed each of the five LWOP sentences that it reviewed: Michelle Gauvin, for the murder of her stepdaughter; Darryl Jeter, for the murder of an Indiana State Trooper; Spenser Kremetz, for the murder and confinement, with the help of his girlfriend and another accomplice, of his girlfriend's mother; Hobert Alan Pittman, for the murders of his father and step-grandmother; and David Sholes, for the murder of a fireman.

Trial Court Funding

Under current Indiana law, county government is responsible for funding most trial court operations. The Court has established a special procedure for resolving disputes between local legislative and judicial bodies concerning such funding. Although rare, the Court was required to decide two such disputes this fiscal year. In one case, *In re Order of Mandate for Funds Montgomery County Council v. Milligan*, 873 N.E.2d 1043 (Ind. 2007), the Court held that trial court employees were entitled to higher compensation but not as high as the trial court had ordered. The Court also reduced the attorney fees awarded to the trial court's lawyers. In the other case, *Clark County Council v. Donahue*, 873 N.E.2d 1038 (Ind. 2007), the Court made clear that while fees paid by individuals on probation are subject to appropriation by the county council, they may only be appropriated to supplement probation funding and officer salaries.

Discretionary Jurisdiction

The greatest volume of the Indiana Supreme Court's work comes from reviewing criminal and civil appeals that arise from cases tried in Indiana's approximately 300 trial courts. In most cases, a litigant first appeals a trial court's decision to the Indiana Court of Appeals. After the Court of Appeals hands down an opinion, either party has the opportunity to file a "petition to transfer" with the Indiana Supreme Court. The Supreme Court reviews each petition and chooses those cases that warrant its attention in an opinion.

Illustrating what a substantial portion of the Supreme Court's appellate workload these cases comprise, the Court in fiscal year 2008 disposed of 1,200 cases, 1,015 of which had first been appealed to the Court of Appeals. Of these 1,015 petitions to transfer, 635 (63%) were criminal cases and the remaining 380 (37%) were civil. The Supreme Court accepted jurisdiction and issued opinions in approximately 8% (12% in civil cases and 7% in criminal cases). In the remaining 92%, the Supreme Court declined review and the decision of the Court of Appeals became final.

The appellate work of the Indiana Supreme Court would not be



possible without the outstanding foundational work provided by Indiana’s Court of Appeals, trial courts, and Tax Court. The Court recognizes this work with the greatest appreciation.

Criminal Transfer Cases

This year, there was an overall increase in the number of criminal transfer petitions received, and disposed of. Whereas the Court received 561 last year, it received 629 this year; last year the Court disposed of 558 such cases, this year 635. The Court issued 37 published opinions in criminal transfer cases this year.

Two of these cases addressed the function of our criminal justice system generally. The first, *Arrieta v. State*, 878 N.E.2d 1238 (Ind. 2008), involved a criminal defendant who did not speak or understand English. In this case, the Court reviewed the recent record of Indiana courts documented elsewhere in this report in providing foreign language interpreter assistance when required. The Court reiterated the well-established propositions that a non-English-speaking criminal defendant is entitled to the assistance of a “defense interpreter” and that the court itself needs a separate “proceedings interpreter” to translate to or from English for the benefit of the judge, counsel, parties, witnesses, and jury. The Court held that the State need not provide a dedicated defense interpreter to a defendant who has the ability to pay, but must provide proceedings interpreters to interpret non-English testimony at trial.



★ The six stained-glass windows in the Supreme Court’s Courtroom have been original features of the room since 1888.

The second case, *State v. Oddi-Smith*, 878 N.E.2d 1245 (Ind. 2008), grew out of the January 1, 2007 merger between the Indianapolis Police Department (“IPD”) and the Marion County Sheriff’s Department (“MCSD”) that created the Indianapolis Metropolitan Police Department (“IMPDP”). Several days after the merger, an IMPDP officer arrested a woman for drunk driving. She contended that the arrest was invalid because the former IPD officer who arrested her had not taken a new oath as an IMPDP officer. The Court held that the oaths taken by officers in the IPD and MCSD carried over to the new IMPDP.

Three of the Court’s holdings in the recent past – *Anglemyer v. State*, 868 N.E.2d 482 (Ind.), *reh’g granted and opinion affirmed*, 875 N.E.2d 218 (Ind. 2007); *Litchfield v. State*, 824 N.E.2d 356 (Ind. 2005); and *Collins v. State*, 817 N.E.2d 230 (Ind. 2004) – provided the context for many of the Court’s criminal transfer cases this year.

Following a series of decisions by the United States and Indiana Supreme Courts concerning the constitutionality of certain sentencing practices, the Indiana General Assembly revised the sentencing authority of trial judges in 2005. The *Anglemyer* case detailed the respective roles of trial and appellate courts in imposing and reviewing criminal sentences under the new sentencing statute. This year, the Court was presented with a large number of requests for sentencing relief, both on grounds that the principles enunciated in *Anglemyer* had been violated and that the sentences themselves were excessive. For the most part, the Court found that the sentences appealed conformed to the requirements of the 2005 statute and *Anglemyer*, but did exercise its constitutional authority to reduce a small number of sentences.

The *Litchfield* case held that police are allowed to search trash without a warrant only if they have “articulable individualized suspicion” that the subject of the trash search is engaged in illegal activity. In a group of cases this year, each of the defendants contended that searches of their trash violated *Litchfield*. However, because each of the searches in question had taken place before *Litchfield* was decided, the Court held that the new rule did not apply.

Under the *Collins* decision, a defendant who pleads guilty to a crime is permitted to appeal the sentence imposed following the guilty plea unless the defendant agrees to the length of the sentence as part of a plea agreement. In *Creech v. State*, 887 N.E.2d 73 (Ind. 2008), the defendant did not agree to the length of his sentence as part of his plea agreement, but did agree that he would not appeal the sentence imposed. The Court enforced the agreement, holding that he could not appeal.

The Court reversed the convictions of two persons found guilty of the crime of voluntary manslaughter. A person who intentionally kills another person while acting under “sudden heat” is guilty of voluntary manslaughter instead of murder. If the jury has voluntary manslaughter as an intermediate option, even though there is no evidence of sudden heat, then the defendant might be convicted of voluntary manslaughter as a compromise. In *Watts v. State*, 885 N.E.2d 1228 (Ind. 2008), the defendant sought to make the jury choose between a murder conviction and an acquittal in the hope of being acquitted. But, the jury convicted him of voluntary manslaughter, despite the absence of any evidence of



sudden heat. The Court reversed due to the lack of sudden heat evidence. *McDowell v. State*, 885 N.E.2d 1260 (Ind. 2008), involved a different issue. In that case, a woman was convicted of the voluntary manslaughter of a man who died when a blood clot broke loose six days after the defendant had inflicted a one-inch stab wound in a domestic quarrel. The Court held that an incorrect jury instruction had improperly relieved the State of its burden of proving that the defendant had killed “intentionally.”

In another case of note, *A.B. v. State*, 885 N.E.2d 1223 (Ind. 2008), the Court examined a juvenile court’s finding that a teenager’s derogatory posting about a school principal posted on the “MySpace” website constituted misdemeanor “harassment.” It found that the State had not met its burden of proving that the posting had been made with the “intent to harass, annoy, or alarm another person but with no intent of legitimate communication.”

In *Willis v. State*, 888 N.E.2d 177 (Ind. 2008), the Court held that the defense of parental discipline privilege prevented a mother from being convicted of felony “battery on a child” when she punished her son with either a belt or an extension cord for lying, stealing, and other disciplinary problems.

Finally, in *Smith v. Indiana Department of Corrections*, 883 N.E.2d 802 (Ind. 2008), the Court concluded that the Open Courts Clause of the Indiana Constitution prevented the Legislature from denying a prison inmate the right to file a lawsuit when the inmate had a record of filing prior lawsuits that had been dismissed as frivolous.

Civil Transfer Cases

This year, the Court received 398 civil transfer petitions compared to 344 last year, disposed of 380 such cases compared to 367 last year, and issued 47 published opinions in civil transfer cases.

In the area of personal injury law, the Court decided three cases in which individuals sought to recover damages under the terms of automobile insurance policies for emotional distress suffered in automobile accidents. In *State Farm v. Jakupko*, 881 N.E.2d 654 (Ind. 2008), and *Elliott v. Allstate*, 881 N.E.2d 662

(Ind. 2008), where the claimants had been passengers in the vehicles when the accidents occurred, the Court found coverage was required by Indiana underinsured and uninsured motorist insurance law. However, in *State Farm v. D.L.B.*, 881 N.E.2d 665 (Ind. 2008), the claimant had only witnessed the accident and was not entitled to recovery because he did not suffer a physical impact in the accident. In *Kopczynski v. Barger*, 887 N.E.2d 928 (Ind. 2008), a child was injured after having been invited by another child to jump on a trampoline in the latter child’s yard. The Court held that a child’s invitation to enter the child’s family’s premises may, in some circumstances, subject the family to premises liability, and that a trampoline may constitute an attractive nuisance.

The Court sometimes receives appeals concerning the application of its rules of trial procedure. *Randolph County v. Chamness*, 879 N.E.2d 555 (Ind. 2008), raised a question concerning the Court’s rule on “preferred venue” that sets priorities among counties in which a lawsuit may be filed. The case involved a single-vehicle accident on a county-line road in which the vehicle left the road in one county but landed in the other. The Court held that both counties had “preferred venue” status. *Bridgestone Americas Holding, Inc. v. Mayberry*, 878 N.E.2d 189 (Ind. 2007), implicated the Court’s rules on “discovery” that permit parties in a lawsuit to obtain information relevant to the case. The plaintiffs in an auto accident case sought discovery of the formula for a rubber compound used to manufacture the tire involved in the accident. The Court agreed with the manufacturer that the formula constituted a “trade secret” under the discovery rules and further concluded that the plaintiffs had not met the rule’s requirement of showing that the formula was necessary to the presentation of their case.

Employment relationships were the source of several cases decided by the Court this year. In *Raess v. Doescher*, 883 N.E.2d 790 (Ind. 2008), the Court affirmed a jury award of damages to an operating-room technician who had been assaulted by a surgeon. At issue in the appeal was whether certain testimony about the concept of “workplace bullying” had been properly admitted at trial. In *Central Indiana Podiatry v. Krueger*, 882 N.E.2d 723 (Ind. 2008), the Court examined the extent to which Indiana courts will enforce provisions in employment contracts that restrict an employee’s activities after termination and reaffirmed the long-standing principle that to be enforceable, such provisions must be reasonable. The case involved a provision in a podiatry practice’s employment agreement that prohibited a departing podiatrist from practicing in 43 Central Indiana counties. The Court agreed with the trial court that the geographic restriction was unreasonable under the facts of that case. In *Indiana State University v. LaFief*, 888 N.E.2d 184 (Ind. 2008), the Court agreed with the Indiana Department of Workforce Development’s conclusion that because a non-tenured university professor whose teaching contract was not renewed was not “voluntarily unemployed,” he was entitled to receive unemployment compensation.

Two cases involving claims of sexual misconduct were dismissed by the Court. In *Barnett v. Clark*, 889 N.E.2d 281 (Ind. 2008), a woman had been sexually assaulted by an employee in her township trustee’s office where she had gone to seek public assistance. The Court held that she could not sue the trustee for damages because the acts of the trustee’s employee were not



★ Since 1996, the Court has invited news media to bring cameras and other electronic recording devices into its Courtroom for oral arguments. Sometimes, there are more reporters with cameras than the Courtroom can accommodate; in such cases, a “live feed” is provided to reporters in the atrium. These reporters are covering an argument via the live feed.

performed within the scope of his employment. Conversely, in *Hartman v. Keri*, 883 N.E.2d 774 (Ind. 2008), two graduate students had submitted complaints in accordance with university policies and procedures alleging sexual harassment by a professor. The Court held that the professor could not sue the students for libel and slander because their allegations were covered by the same absolute privilege that protects relevant statements made in the course of judicial proceedings.

Several family law cases were decided by the Court. *Cubel v. Cubel*, 876 N.E.2d 1117 (Ind. 2007), held that the exception for college expenses to the general cut-off for child support obligations at age 21 can include medical expenses for the student. *Baxendale v. Raich*, 878 N.E.2d 1252 (Ind. 2008), held that Indiana's child-custody statute authorized (but did not require) the trial court to order a change in child custody of an eleven-year-old boy from his mother to his father after the mother was forced to relocate for professional reasons. *McPeck v. McCardle*, 888 N.E.2d 171 (Ind. 2008), was a highly unusual case in which the children of a woman's first marriage challenged the validity of their mother's second marriage, after their mother's death, on ground that the marriage had taken place in Ohio but had not been valid under Ohio law. (At stake was the ownership of a family farm.) The Court held that a marriage solemnized in another state that did not comply with that state's law would be recognized as valid in Indiana if it complied with Indiana law.

Finally, the Court decided a number of land-use cases. The Court found that a city had the authority to regulate mining within its boundaries in *City of Carmel v. Martin Marietta Materials, Inc.*, 883 N.E.2d 781 (Ind. 2008), and that a Board of Zoning appeals had the authority to reject an application to erect a cell tower in *St. Charles Tower v. Board of Zoning Appeals*, 873 N.E.2d 598 (Ind. 2007). But, the Court held that the Marion County Industrial Zoning Ordinance authorized a developer to establish a solid-waste transfer station without a special use permit in *600 Land, Inc. v. Metropolitan Board of Zoning Appeals*, 889 N.E.2d 305 (Ind. 2008). And, in *Brenwick Associates, LLC v. Boone County Redevelopment Commission*, 889 N.E.2d 289 (Ind. 2008), the Court concluded that a town's mere initiation of annexation proceedings for a site was insufficient under Indiana law to prevent a county from establishing a special taxing district (called an economic development area) at the site. Also, in *State v. Universal Outdoor, Inc.*, 880 N.E.2d 1188 (Ind. 2008), the Court resolved an inconsistency in a statute prescribing the time limitations for filing exceptions to the appraisers' report. Finding that the State had timely filed its exceptions, the Court reversed the trial court's judgment in the amount of the appraisers' award.

CURRENT COURT SETS LONGEVITY RECORD

On February 24, 2008, the current Supreme Court reached a historical milestone. On that day, the current five justices (Randall T. Shepard, Brent E. Dickson, Frank Sullivan, Jr., Theodore R. Boehm, and Robert D. Rucker) became the longest-serving Supreme Court in Indiana's history (3,040 consecutive days), surpassing the mark previously set by Donald Hunter, Roger DeBruiler, Richard Givan, Dixon Prentice, and Alfred Pivarnik.



★ Governor Daniels (left) welcomes Chief Justice Shepard to the House Chambers for the 2008 State of the Judiciary speech.

STATE OF THE JUDICIARY

On January 16, 2008, Chief Justice Shepard fulfilled his obligation under the Indiana Constitution by delivering his annual State of the Judiciary address to a joint session of the Indiana General Assembly. His address, which was the twenty-first State of the Judiciary he has given, was entitled "A Court System with Reform in its Heart." It focused on embracing technology to better serve citizens. He highlighted specific advances in court technology, including two aimed at helping law enforcement. The first, creation of a statewide protective order registry, allows police to access protective orders instantly. The second, an electronic citation system that permits officers to scan a bar code on a driver's license and immediately produce a citation with a hand-held device, reduces paperwork and allows officers to move off the side of the road more quickly. The state expense for the project was reduced with \$2.4 million in federal grant money helping pay for it. In addition, a calculator designed for parents to estimate child-support payments is now online, helping on average about 800 people a day. Finally, Chief Justice Shepard updated the legislature on "Odyssey", the case management system that will eventually connect all Indiana courts and state agencies and improve public access to court records.

JUDICIAL TECHNOLOGY AND AUTOMATION COMMITTEE

Odyssey, just mentioned above, is the result of the enormous task the Supreme Court undertook to link all trial courts and other users of court data with a statewide case management system. That project made tremendous progress this fiscal year. The work is the responsibility of the Court's Judicial Technology and Automation Committee ("JTAC") and the Supreme Court's Division of State Court Administration. This fiscal year, the nine Circuit Courts in Monroe County and the Washington Township Small Claims Court in Marion County began using Odyssey to store and manage information on all their cases. Odyssey also provides free public access via the Internet to detailed information, including scheduling and court rulings. The technology upgrades will vastly improve the work done in sentencing criminals, administering estates, collecting taxes, and pursuing child support.

MODERNIZING APPELLATE COURT TECHNOLOGY

This fiscal year, the Supreme Court undertook an extensive review of the Indiana appellate court's use of technology. Assisted by consultants from the National Center for State Courts ("NCSC"), all aspects of the appellate courts' use of technology, including the organizational structure of its technology services section, were reviewed. This review resulted in an extensive, detailed memorandum from the NCSC consultants containing many recommendations for changes and improvements. The Supreme Court reviewed and approved most of the consultants' recommendations, and thereafter a committee consisting of staff from the Supreme Court, Court of Appeals, and the Clerk's Office set out to implement those recommendations. The first step was creation of a senior-level staff position to oversee all aspects of appellate court technology and the overhaul and implementation of a state-of-the-art system that would include modern electronic case management, document management, and electronic filing. At the close of the fiscal year, the committee was finalizing the job description for this new position and preparing to begin a national search to fill it.

SUMMIT ON CHILDREN

In December 2007, Michigan Supreme Court Justice Maura Corrigan served as the keynote speaker for a special Indiana Summit on Children. Justice Corrigan is a national expert on child protection, foster care, and adoption. More than 300 court officials, judges, legislators, mental health professionals, foster parents, educators, service providers, and state caseworkers serving abused and neglected children attended the Summit. The group explored ways to improve outcomes for children and families in the child welfare system.

FAMILY COURT INITIATIVE

The mission of the Supreme Court's 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 a 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. The Court has distributed \$1.8 million to Family Court projects since 1999. During this fiscal year, 23 counties received grant money from the Indiana Supreme Court's Division of State Court Administration under this initiative.

WORKING WITH THE NEWS MEDIA

The Supreme Court responded favorably to a request from Indiana's news media to allow cameras in trial courtrooms. An eighteen-month pilot project that granted news groups the ability to record trial court proceedings began in July 2006. In March 2008, the Hoosier State Press Association and the Indiana Broadcasters Association filed the "Final Evaluation and Summary of the Pilot Project." According to that report, six trial court proceedings were successfully filmed during the pilot project. The Supreme Court will review the summary and consider if future possibilities exist to allow cameras in Indiana trial courts. The Supreme Court also issued 40 press releases in hard-copy and online.

NEW PUBLIC INFORMATION OFFICER NAMED

In June 2008, Kathryn Dolan became the Supreme Court Public Information Officer. The former television journalist previously worked as a producer, reporter, and anchor in Wisconsin and Indiana. She works under the direction of David Remondini, Chief Deputy Executive Director for State Court Administration.

THE COURT ONLINE

Improved online court services allowed thousands of people to gain access to the judicial system at a time most convenient to them. Indeed, over half of the Judiciary's website traffic occurred outside normal business hours. While millions of pages of documents were viewed online, child support and parenting time guidelines were one of the most-viewed features on the Court's website. The guidelines provide custodial and non-custodial parents with information on how to provide children with the support they need. However, many users found the guidelines difficult to reference because they were too long to print. To make the rules more user-friendly, the Court created newly formatted online versions with the same valuable information. By significantly reducing the number of pages, the court made the guidelines printable and more easily accessible. The "Courts in the Classroom" ("CITC") project also webcast every Supreme Court oral argument and select Court of Appeals arguments. With 87 arguments added to the online archive this fiscal year, more than 460 oral arguments can now be viewed via the Internet.

OUTREACH AND EDUCATION

The Supreme Court's award-winning CITC project continued to reach out to the public through the State's education system. In addition to the webcast of oral arguments, CITC also webcasted and archived a number of dramatic productions. Schoolchildren experienced the legal system at work through scripted cases where they played the roles of lawyers and judges. Constitution Day was honored and Benjamin Harrison Day was celebrated with programming designed to teach school children about United States and Indiana history.



★ So many attended a Courts in the Classroom lecture highlighting the experience of two former justices at the post-World War II Nuremberg trials that the event was moved from the Courtroom to the larger House of Representatives Chambers.



★ Chief Justice Shepard.

THE COURT ON THE ROAD

On two occasions, the Supreme Court held oral arguments outside the State House. In October 2007, the Court held argument at the Evansville Civic Center in *Raess v. Doescher*. In June 2008, the Court held argument in Terre Haute in *State v. American Family Voices, Inc.*

LOWERING THE LANGUAGE BARRIER

An increasingly diverse society has dramatically impacted the Indiana court system. A wide array of languages and dialects are spoken every day in the State's courtrooms. The Supreme Court has launched a number of programs to serve people who do not speak English. Spanish-speaking people and those who represent them now have on-line access in Spanish to the criminal law portions of the Indiana Code that come up most frequently, as well as a glossary of terms. The work was done by certified interpreters and translators to promote equal access to justice. In addition, the Court's "Court Interpreter Certification Program" serves as a tool to remove language as a barrier within Indiana's court system. At the end of this fiscal year, 56 interpreters had been certified through the Court's program. In addition, the Court awarded \$239,250 in court-interpreter grants, which will be used in 40 counties to help local trial courts break down language barriers faced by non-English speaking litigants. The Court also renewed its contact with Language Line Services, which provides over-the-

phone translations in dozens of languages for courts across the State. Arabic, Mandarin, Polish, and Swahili were just a few of the languages spoken in Indiana courts this fiscal year with approved translators working telephonically. Because of the success of the program, the Court approved \$25,000 for interpretation needs through Language Line Services for fiscal year 2008.

CIVIL LEGAL AID

The Indiana Supreme Court remains committed to ensuring that courthouses across the state are open for all citizens. During this fiscal year, the Court distributed \$1.5 million to organizations dedicated to the same goal. The Indiana General Assembly recently increased the appropriation for the Civil Legal Aid Fund, which allowed twelve legal groups that represent low-income Hoosiers in civil court cases to be awarded grant money.

NEW BLE EXECUTIVE DIRECTOR NAMED

In September 2007, Attorney Linda L. Loepker became the new Executive Director of the Board of Law Examiners. Loepker was formerly the Director for Office and Employment Law Services within the Supreme Court's Division of State Court Administration. She was named to the position after Mary Place Godsey, the longtime Executive Director, stepped down.

ACCESS TO INDIANA'S LAW SCHOOLS

In 1997, at the urging of Chief Justice Randall Shepard, the Indiana Conference on Legal Education Opportunity ("Indiana CLEO") was formed to assist traditionally underrepresented groups pursue a legal education. Nearly 300 Indiana CLEO fellows have been part of the program and many have moved on to positions of leadership in the Indiana legal and business community. In Summer 2007, supporters of Indiana CLEO enjoyed a week-long 10th anniversary celebration. The celebration culminated with a program at the Indiana Historical Society at which Mr. Elliott Lewis, a Washington D.C. journalist and author, served as the keynote speaker.

DISCIPLINARY COMMISSION

The Supreme Court Disciplinary Commission's Executive Secretary, Donald R. Lundberg, was elected president of the National Organization of Bar Counsel and appointed to the editorial board of the ABA/BNA Lawyers' Manual on Professional Conduct. The manual is the preeminent resource in the United States on the law of legal ethics and professional responsibility. The Supreme Court Disciplinary Commission elected three new officers. Anthony M. Zappia of South Bend was elected Chairperson. Sally Franklin Zweig of Indianapolis was elected Vice-Chairperson. Corinne R. Finnerty of North Vernon was elected Secretary.

PUBLIC DEFENDER COMMISSION

The Indiana Public Defender Commission expressed appreciation to a number of long-time members who left the group during the fiscal year, including Norman Lefstein, Monica Foster, Les Duvall, and the Honorable Daniel Donahue. Lefstein, seventeen-year Commission member and



its only Chairman, helped craft public defense policy on the state and national level. Foster, a criminal defense attorney, was instrumental in forming standards for defense of death penalty cases. Duvall, a former state senator, lobbied the legislature for the creation of a state public defender program and in 1999 was appointed to serve on the Commission. Judge Donahue, of Clark County, served twelve years on the Commission and was instrumental in working with the Legislature to obtain significant funding increases. Two lawmakers left the Commission as well and were thanked for their service. Representative Ralph Foley served thirteen years and Representative Bob Kuzman served four years. With their assistance, the Commission's budget was increased to \$14.5 million. The Commission also elected a new Chairman, Mark W. Rutherford. It continued to recommend standards for indigent defense, to adopt public defender salary guidelines, and to review requests for reimbursement in capital and non-capital cases. Three new counties became part of the reimbursement program. Howard, Wabash, and St. Joseph counties joined the 54 other counties that qualify for reimbursements from the State.

NEW CODE OF JUDICIAL CONDUCT

The Indiana Supreme Court worked to revise the Indiana Code of Judicial Conduct. A committee of the Judicial Conference of Indiana drafted the rule based on the American Bar Association Model Code of Judicial Conduct. The proposed Code emphasizes the "three i's" of judicial conduct - independence, integrity, and impartiality. While continuing to hold judges to strict standards of conduct and encouraging judges to promote understanding of the judicial system. The most significant change proposed by the Ethics Committee included restrictions on judges' business interests and limits on judges' political activities. At the close of the fiscal year, the proposals to amend the Indiana Code of Judicial Conduct were under review by the Court.



★ Justice Sullivan (left), Chair of the ABA Appellate Judges Conference was honored at a reception during the ABA annual meeting in New York City, along with Judge G. Michael Witte, recipient of the ABA's Franklin N. Flaschner Award; attorney Gary L. Klotz, President of the Metropolitan Bar Caucus; and ISBA's Executive Director Thomas A. Pyrz, recipient of the National Association of Bar Executive's Bolton Award.



★ Justice Dickson listens to his colleagues at a Court conference.

MEMBERS OF THE COURT AS PART OF THE COMMUNITY

The Justices make regular contributions to the community and the legal system. Some examples of their work during this fiscal year follow.

Chief Justice Randall T. Shepard is frequently called upon to educate and guide public policy at the state and national level. He taught at New York University School of Law for its "New Judges Seminar" and a "Complex Civil Litigation" course at Yale Law School. Chief Justice Shepard served as a steering committee member and panelist in October 2007 for the Sandra Day O'Connor Project Conference. He was invited to the conference as an advocate for change as state court judicial elections become increasingly politicized. At home, Indiana Governor Mitch Daniels asked Chief Justice Shepard and former Governor Joe Kernan to Co-Chair the Indiana Commission on Local Government Reform. In one highlight of the year, the League of Women Voters of Southwestern Indiana chose the Chief Justice for its first "Making Democracy Work" award, saying it selected him because he envisioned ways to improve the community and mobilized others to work with him.

Justice Brent E. Dickson continued to promote enhanced attorney civility and professionalism. Justice Dickson, a registered mediator, showed his strong support for the development and use of mediation. Through his writings, speeches, and activities he also encouraged the study and application of state constitutional law. For the twelfth year he taught an evening law school course on Indiana Constitutional Law. Justice Dickson is the co-founder of the Sagamore American Inn of Court and remained active with the group, which is dedicated to discussing ethical issues related to the practice of law.

Justice Frank Sullivan, Jr., has been an active participant in bench, bar, and legal education activities throughout the state, speaking in numerous venues to groups of judges, lawyers, and law students on the use of technology in courts and other topics. At the national level, he chairs the American Bar Association's Appellate Judges Conference. In that capacity, he helps plan and present an annual "Summit for Appellate Judges, Lawyers, and Staff Attorneys," a major professional development program for judges and lawyers who

preside over, work in, and practice before federal and state appellate courts. He also helps plan and present the ABA's annual Judicial Clerkship program that encourages minority law students to seek judicial clerkships. In April, 2008, he traveled to Oxfordshire, England, where he participated in an international conference on prisons policy.

Justice Theodore R. Boehm served on a number of not-for-profit groups dedicated to promoting Indiana. He served as Chairman of the Indianapolis Cultural Development Commission. He also served on the Board of Directors for the Indiana Sports Corporation, Indianapolis Convention and Visitors Association, and Metropolitan Indianapolis Public Broadcasting, Inc., the governing body for Indianapolis public television and radio.

Justice Robert D. Rucker served as the Secretary of the National Bar Association's Judicial Council. A veteran of the Vietnam War, he spoke at the Lake County Memorial Day Service at the Stoney Run County Park ceremony. Justice Rucker encouraged civic responsibility by participating in the closing ceremonies of "We the People: The Citizens and the Constitution" high school state finals at IUPUI. He was also a panel participant for the Conference On Law, Poverty and Economic Inequality at Valparaiso University School of Law. Justice Rucker continued his participation in the American Inn of Court's Calumet and Porter County chapters.



★ Justice Boehm considers the statements of an attorney during an oral argument.

III. The Indiana Supreme Court

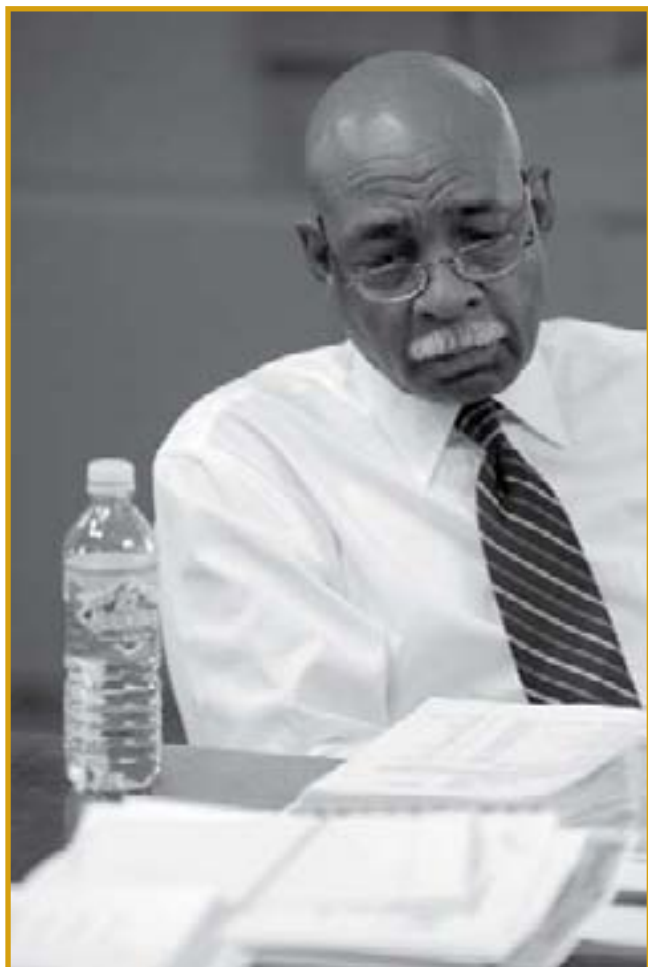
BRIEF HISTORY

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 age 75.

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



★ Justice Rucker.





★ Students participate in the interactive drama *Bound for Freedom: The Case of Polly Strong*. The script was developed by Courts in the Classroom and the Leora Brown School in Corydon with funding from the Indiana Bar Foundation.

years before becoming subject to a retention vote at general election. If approved, a 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 ten 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.

Even though the Supreme Court has met in the same location longer than any other court of last resort in America, it has actually had several homes during its nearly 200 years. During most of Indiana’s territorial days, the Court sat in “Territorial Hall” in Vincennes, Indiana, a simple framed building that was later moved to the original estate of William Henry Harrison. When the capitol moved to Corydon in 1813, the Court moved with the rest of Indiana’s fledgling government into a two-story limestone and log structure originally intended to serve as the courthouse for Harrison County. When the state capitol relocated to Indianapolis in December 1825, the General Assembly rented meeting space in the Marion County Courthouse. In 1835, the Court began holding court in the newly completed first State House. Although the Court held hearings there, from 1832-1857 the Court had its offices and meeting room in a large two-story brick building known as the Governor’s Mansion, located on Monument Circle where the Indiana Soldiers and Sailors Monument now stands.

During the 1860s, the State House deteriorated to the extent that the limestone foundation failed, the stucco chipped off, and the ceiling in the Representative Hall collapsed. In 1867, the legislature authorized “the erection of a brick building, on ground owned by the State [in Indianapolis], for the use of the Supreme Court and the officers of the State.” This Judicial Building is where the Court had its offices and held proceedings until the new State House was completed in 1888. Other state officers had offices there as well.

The Court almost gained a new Judicial Building in the 1990s,

when the State spent millions of dollars on architectural plans for the erection of a Judicial Building on state-owned land just north of the current State House. The bill authorizing the Judicial Building failed to become law, however.

The Justices and their staffs, and a few court employees, continue to maintain offices in the State House, and the Court continues to hear and decide cases in its historic State House courtroom and conference room as it has for nearly 120 years. However, most of the Supreme Court’s various agencies are housed in rented downtown Indianapolis office space. For many years the rented space was located primarily in office buildings on the northeast and southeast corners of the intersection of Washington Street and Capitol Avenue, respectively. In December 2007, however, the agencies housed in these buildings moved to new office space located at 30 South Meridian Street, where they have more room for future expansion and a lower rental cost. Over the life of this new lease, the Supreme Court anticipates the move will save Hoosier taxpayers approximately \$1.4 million.

INDIANA’S “COURT OF LAST RESORT”

As evidenced in the section of this report titled, “Significant Events of Fiscal Year 2008,” the Court is very active in providing leadership for the judicial branch of government. The principal business of the Court, however, is deciding cases, and because the Court is the highest state court in Indiana, it is the court of final review when the meaning of the state constitution, state law, or state rule us at issue.

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’s “transfer caseload” has grown considerably over the last several years. In fiscal year 2002, the Court received 737 transfer petitions. The following fiscal year, that number increased to 826. In fiscal year 2006, that number exceeded 900, and this fiscal year that number topped 1,000. Projections indicate continuation of this upward trend well into the next biennium.

The Court also has a considerable direct appellate caseload. The Court exercises direct appellate jurisdiction over all appeals in which a sentence of death or life imprisonment without parole has been entered, appeals of final judgments declaring a state or federal constitution unconstitutional, appeals involving waiver of parental consent to abortion, and appeals involving mandates of funds. In addition, the Court has direct jurisdiction over cases involving attorney or judicial discipline, original actions requesting the issuance of writs of mandate or prohibition, review of Indiana Tax Court decisions, certified questions from federal courts, and review of certain final decisions of the Board of Law Examiners.

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

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. Chief Justice Shepard was Judge of the Vanderburgh Superior Court from 1980 until his appointment to the Supreme Court. 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 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. During 2005-06, Chief Justice Shepard served as President of the National Conference of Chief Justices. Chief Justice John Roberts recently appointed him to the U.S. Judicial Conference Advisory Committee on Civil Rules. He teaches periodically at the law schools of NYU and Yale. He is married and has one daughter.



Brent E. Dickson was appointed to the Indiana Supreme Court in January 1986 by Governor Robert D. Orr, after seventeen years as a general practice lawyer in Lafayette, Indiana, where he earned certification 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). Justice Dickson's writings, speeches, and activities reflect his longstanding interests in fostering attorney civility, preserving and enhancing our jury trial system, developing and encouraging mediation, and promoting the study and application of state constitutional law. Working to enforce and enhance the high standards of the legal profession, he has long served as the Court's liaison to its Disciplinary Commission and Board of Law Examiners. He is co-founder of the Sagamore Chapter of the American Inns of Court in Indianapolis, an elected member of the American Law Institute, a registered mediator, and has been active in a host of local, state, and national judicial and legal organizations. For over ten years, Justice Dickson served as an adjunct professor at Indiana University's Schools of Law, teaching an evening course in Indiana Constitutional Law. During his tenure as a justice, he also has helped the Court tackle the challenges of digital technology and the interrelationship between privacy and openness of court records in light of the advent of the Internet by serving as chair of the Supreme Court Records Management Committee, the Judicial Data Processing Oversight Committee, and the Task Force on Access to Court Records. Justice Dickson and his wife, Jan Aikman Dickson, have three adult sons and eight grandchildren.



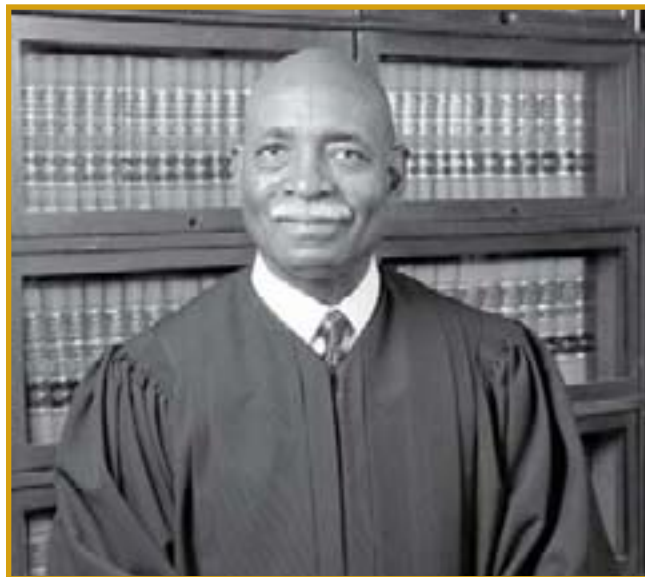
Frank Sullivan, Jr., was appointed to the Indiana Supreme Court effective November 1, 1993, by Governor Evan Bayh. Justice Sullivan came to the state's highest court with a background in government service and private law practice. He served as Indiana State Budget Director from 1989 through 1992. Prior to state service, he practiced law in the Indianapolis office of Barnes & Thornburg. In addition to his responsibilities with respect to the appellate work of the Supreme Court (opinions, oral arguments, and related matters), Justice Sullivan has also been active in its

administrative work. He chairs the Court's Judicial Technology and Automation Committee ("JTAC"), which is devoted to improving technology in trial courts. And he has been a frequent participant in bench, bar, and legal education activities. He is Chair of the Appellate Judges Conference of the American Bar Association and a member of the American Law Institute. From 2002 to 2005, he co-chaired the ABA's Judicial Clerkship Program that encourages minority law students to seek judicial clerkships. He is the recipient of the Indiana State Bar Association's 2002 Rabb Emison Award for "significant contribution made in advancing opportunities for minority lawyers in legal employment and the legal profession." Sullivan is a native of South Bend. He is a graduate of Dartmouth College (A.B. *cum laude* in 1972), Indiana University School of Law – Bloomington (J.D. *magna cum laude* in 1982), and the University of Virginia School of Law (LL.M. in 2001). Justice Sullivan is married to Cheryl G. Sullivan; they are the parents of three sons. An avid runner, Justice Sullivan competed in the 2003 Boston Marathon.



Theodore R. Boehm was appointed to the Supreme Court by Governor Evan Bayh in 1996. Justice Boehm served as a law clerk at the 1963 Term of the United States Supreme Court, then 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 on the Nominating and Governance Committee of the U.S. Olympic Committee and the boards of directors of Metropolitan Public Broadcasting of Indianapolis, Inc., Indianapolis Convention and Visitors Association, Inc., Indianapolis Legal Aid Society, Inc., and Indiana Sports Corporation. He is a member of the American Law Institute and the American, Indiana State and Indianapolis Bar Associations. He grew up in Indianapolis, received his A.B.

from Brown University in 1960 *summa cum laude*, and graduated *magna cum laude* in 1963 from Harvard Law School, where he was an editor of the Harvard Law Review. He is married and has four grown daughters and five grandchildren.



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. Justice Rucker also serves as Chair-elect of the Judicial Council of the National Bar Association. Justice Rucker is married and has two sons and a daughter.





★ A collection of the Court’s opinions from 1816 to the present. The bookcases line the south wall of the Conference Room, giving the Justices quick access to legal references during their weekly meetings.

IV. Budgetary Matters

The Supreme Court and its agencies operate under annual budgets submitted biennially to the General Assembly for approval. The following reflects the budgetary amounts under which the Court and its agencies operated this fiscal year, as well as those approved for the second fiscal year of the current biennium:

Court Agencies	FY 2008	FY 2009
State Court Administration	\$112,364,354.....	\$111,732,401
Trial Judges and Prosecutors Salaries/Benefits	\$76,067,005	\$76,205,557
JTAC.....	\$14,916,780	\$13,829,775
Transfers to Counties/Trial Courts, and Other Programs	\$21,380,569	\$21,697,069
Supreme Court Administration	\$9,635,219	\$9,916,234
Judicial Training & Development	\$3,440,592	\$3,573,008
Other	\$1,901,830.....	\$1,901,830
Total	\$127,341,995.....	\$127,123,473

Approximately 81% of the Court’s appropriations for fiscal year 2008 came the State’s General Fund and Property Tax Replacement Fund. The remainder derived from dedicated funds (such as attorney annual licensing fees, bar examination fees, and special assessments associated with trial court filing fees) and federal grants. The Court wishes to express its appreciation and gratitude to the people of the

State of Indiana for providing these funds to it during these trying fiscal times. As a matter of perspective, the total amount budgeted for the Supreme Court, its agencies, and the salaries of Indiana’s 400+ trial-level judicial offices and 200+ prosecutors, deputy prosecutors and prison deputies accounted for *less than one percent* of Indiana’s total fiscal year 2008 budget.

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

DIVISION OF SUPREME COURT ADMINISTRATION

Kevin S. Smith, Clerk/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 Division extremely busy.

Organizationally, the Division is comprised of two main offices: the Office of Supreme Court Administration, and the Office of the Clerk of the Supreme Court, Court of Appeals, and Tax. For decades, the Division had been comprised only of the former. The Division’s new two-office organizational structure is the result of a series of events that began with the passage of legislation in 2004 that transformed the Office of the Clerk of the Indiana Supreme Court, Court of Appeals, and Tax Court from a free-standing elected office that served for a term of years to an office appointed by and serving indefinitely at the pleasure of the Chief Justice. At that point, the two offices remained separate. However, when the presiding Clerk, whose term was to end on December 31, 2006, resigned effective February 10, 2006, the Chief Justice appointed Supreme Court Administrator Kevin S. Smith to assume, in addition to his responsibilities as Administrator, the title and responsibilities of Clerk, so as to capitalize on economies of scale, eliminate redundancies, increase the efficiencies of both offices, and steward the State’s limited financial resources in a fiscally responsible manner. This appointment resulted in the reorganization of the Division of Supreme Court Administration into two distinct offices, both of which are overseen by the Supreme Court Clerk/Administrator.

The Office of Supreme Court Administration

The Office of Supreme Court Administration (“Administration Office”) serves two principle functions. First, its attorneys serve as the Supreme Court’s central legal counsel. Second, its staff handles day-to-day fiscal and business administration needs of the Court.

The Court’s Central Legal Counsel

The Supreme Court Clerk/Administrator, the Deputy Administrator, and the Division’s four staff attorneys serve as central legal counsel to the Court. In this role, they perform a myriad of functions. However, most of their duties pertain to providing the Court with legal research, analysis, and advice through legal memoranda; assisting the Court with the drafting of orders and opinions; responding to inquiries from

practitioners and the public concerning Supreme Court practice and procedure; and reviewing and assisting the Chief Justice with original actions.

During this fiscal year, the Division’s attorneys drafted 283 legal memoranda on a myriad of topics to assist the Supreme Court in its role as Indiana’s court of last resort. Further, the Division assisted the Court in drafting and issuing approximately 1,960 orders and opinions. Also, with regard to the specific duties of the Supreme Court Administrator prescribed by the Indiana Rules of Procedure concerning original actions (proceedings that challenge a trial court’s jurisdiction and originate in the Indiana Supreme Court rather than originating first in a trial court), the Administration Office’s attorneys reviewed scores of writ applications and submitted those that could be filed, at least 41, to the Chief Justice or an Acting Chief Justice for consideration.

The Administration Office’s attorneys continued to be very active in legal education and in serving the profession through, among other things, involvement with the local and state bar association Appellate Practice Sections and the American Bar Association’s Council of Appellate Staff Attorneys (“CASA”). Mr. Smith participated in a CLE panel discussion at the 2007 CASA Annual Conference in Washington, D.C., served on CASA’s Executive Board, and spoke at the Indiana Public Defender Council’s May 2008 Appellate Advocacy Training Seminar in Terre Haute. Staff attorney Brian Eisenman also spoke at the Public Defender Council Seminar, staff attorney Geoff Davis authored materials for and co-presented a seminar on appellate practice in Oct. 2007 at the Indiana Continuing Legal Education Foundation, and staff attorney Paula Cardoza spoke at an Indianapolis Bar Association continuing legal education seminar on creditors rights in February 2008. Staff attorney Lynn Pelley served on CASA’s Membership Committee. In addition, the Administration Office’s attorneys continued writing their regular column, “Appellate Practice from Inside the Division of Supreme Court Administration,” in the Indiana State Bar Association Appellate Practice Section’s newsletter, *The Appellate Advocate*.



★ The number of new appeals filed with the Clerk’s Office continues to increase.

The Court's Case Processor and Business Administrator

The Administration Office is also responsible for the day-to-day fiscal administration of the Court, including the procurement of supplies, the negotiation and oversight of contracts, the processing of payroll, the payment of bills, the preparation of expense vouchers, and the administration of employee benefits. It also assists the Chief Justice with the preparation of the Court's budget. During this fiscal year, the Administration Office processed approximately 1,442 invoices and 489 expense and travel reimbursement requests.

Further, the Administration Office accumulates Court statistics, prepares regular reports for the Court concerning its workload, sets and maintains the Court's weekly conference agenda, and schedules the Court's oral arguments. Its staff members often serve 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 Office, and the Office's staff answers numerous daily inquiries from attorneys and the public about the Indiana Supreme Court.

The Office of the Clerk of the Supreme Court, Court of Appeals, and Tax Court

Overview of the Clerk's Office

The Office of the Clerk of the Supreme Court, Court of Appeals, and Tax Court ("Clerk's Office") serves as the gateway to Indiana's appellate courts and Tax Court. Its primary responsibilities are: (1) processing documents filed in appeals from rulings in Indiana's trial courts and administrative agencies; (2) collecting all associated filing fees, which are deposited in the State's General Fund; and (3) issuing orders and opinions of the appellate courts and Tax Court. It is also the statutory duty of the Clerk to maintain and preserve on microfilm the decisions and records of cases before the Indiana Supreme Court, Court of Appeals, and Tax Court. In addition, the Clerk maintains the roll of Indiana's approximately 19,600 attorneys and responds to public inquiries regarding attorneys' professional status. The Clerk collects attorneys' annual licensing fees and distributes those fees to the Supreme Court Disciplinary Commission, Commission for Continuing Legal Education, and the Judges and Lawyers Assistance Program. The Clerk is also responsible for administering oaths and frequently is called upon to do so by various state agencies. In conjunction with the State Board of Law Examiners, the Clerk processes and administers the oath of attorneys twice per year to newly admitted attorneys. The Clerk conducts annual elections for the attorney members of the Judicial Nominating Commission and administers the selection process for the chairpersons of medical review panels. A staff of thirteen assists the Clerk in meeting the requirements of his office.

Significant Events of Fiscal Year 2008

Second Shift Added. This year saw a record number of new case filings for both the Court of Appeals and the Supreme Court. Because of the dramatic increase in workload this growth created for the Clerk's Office, this fiscal year the Clerk's Office created a second shift, which works from 5 a.m. to 8 a.m. each business day, comprised of four part-time workers and one full-time Shift Supervisor. Appellate Case Manager Janell Smiley was promoted

to assume the new Shift Supervisor position. Further, the new position of Office Manager was created to better assist with day-to-day oversight and management of the Case Managers. Orders and Opinions Specialist Marie Schelonka was promoted to assume this new managerial position. The addition of this new shift and the creation of the new supervisory and managerial positions has helped the Clerk's Office stay current with the processing of filings. Now most filings are processed, posted on the Clerk's Docket, and filed or transmitted to the appropriate court no later than 24 hours after the arrive.

Clerk's Office Renovation. This fiscal year also saw planned renovations to the Clerk's Office space in the State House get underway. This space, which has been utilized by the Clerks and their staffs for scores of years with very few changes, had become inadequate for the Office's current size, needs, and work methods, thus necessitating the renovation. Space planners and architects from the Indiana Department of Administration assisted the Clerk and Deputy Clerk in reorganizing the space, procuring new office furniture, and designing a new public counter. Deputy Administrator Greta Scodro was thereafter instrumental in managing the renovation work and the relocation of the Clerk's Office to temporary quarters at 30 South Meridian Street. In addition, artisans from the Garland Guild uncovered the original Victorian paint scheme for the Clerk's State House rooms and plans were made for restorative painting of those rooms to their original grandeur, along with the addition of reproduction period chandeliers. As with the other restoration projects undertaken by the Supreme Court in recent years, funding for this project came entirely from budget surpluses arising from savings realized through increased efficiencies and decreased spending in other areas, rather than from requests for increases in the Supreme Court's annual budget.

CITIZEN EDUCATION: "COURTS IN THE CLASSROOM"

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

Introduction

Fiscal year 2008 marked the seventh anniversary of the Indiana Supreme Court's education outreach program, "Courts in the Classroom" ("CITC"). The CITC project works to promote knowledge about the operation and history of the court to lawyers,



★ Indiana 4th grade students don robes and sit as judges, reenacting a U.S. Supreme Court case involving a Hoosier activist during the Civil War.

educators, and citizens of Indiana. Indiana's legal and historical communities have consistently recognized CITC as a model for educating the public about the Judiciary. In Fall 2007, for example, the American Association of State and Local Historians dedicated their Technical Leaflet #239 to this program.

CITC continues to make the workings of the Court more accessible to Hoosiers through the webcast of oral arguments, on-line lesson plans, museum-style exhibits, searchable databases, virtual tours of Indiana courthouses, courtroom reenactments, historical lectures, and outreach programs outside of Indianapolis. In the summer of 2007, the Court upgraded this equipment for the first time with a new titling system and the addition of Windows Media recordings.

Developing and maintaining a wide variety of partners is one key to CITC's success. This fiscal year, CITC continued its successful partnerships with organizations such as the Indiana Department of Education, the Indiana Historical Bureau and State Library, the Benjamin Harrison Home, and the State House Tour Office. New or returning partners include the Indiana Bar Foundation, Fort Wayne and Indian Creek schools, and the Indiana Commission for Continuing Legal Education. Fiscal year 2008 saw a significant expansion of CITC activities in every category: webcasts, courtroom events, teacher resources, and publications. This dramatic increase in programming was made possible by the addition of a second full-time staff member.

The Indiana Supreme Court, through its education outreach programming, is playing a key role in citizenship education for Indiana teachers, students, and citizens.

Webcasting

Since October 2001, CITC has webcast all Supreme Court, and selected Court of Appeals, oral arguments held in the Indiana Supreme Court Courtroom. Fiscal year 2008 saw the first broadcast of an oral argument held by the Indiana Tax Court. Once again this year CITC, with the help of the Indiana Higher Education Telecommunications System ("IHETS"), facilitated the broadcast of live oral arguments held outside the Court's Indianapolis courtroom. In October, the Court held an argument in Evansville, and in June the Court returned once again to Terre Haute to hold an argument in conjunction with the American Legion's "Hoosier Boys State."

While the broadcast of oral arguments continues to be a staple of CITC's repertoire (fiscal year 2008 saw the addition of more than 90 new oral arguments to the website), CITC also webcasted four retirement and robing ceremonies for the Court of Appeals and three lectures hosted by the Indiana Supreme Court Legal History Lectures Series. This is an increase of more than 25% from fiscal year 2007.

K-12 Teacher Training and Resources

Fiscal year 2008 saw the introduction of several new events for K-12 teachers and students. For the first time, CITC went "on the road," bringing programs to schools in Fort Wayne and Trafalgar. More than 300 students participated in programs usually only available to schools that visit the State House in Indianapolis.

In June 2008, CITC hosted a two-week teacher workshop through the IUPUI School of Education—*From the Inside Out: How Indiana's Courts Work*. Eighteen teachers, representing a

wide variety of geographic areas and academic disciplines, had the opportunity to learn about the history and operation of the Judicial Branch through this class. Teachers visited local trial courts, talked with court staff, toured prison facilities, participated in a mock law school class, and drafted their own oral arguments as a part of this program. Response from the participating educators was overwhelmingly positive and plans are to make this an annual event.

In addition to programming created by CITC, staff members were also invited to teach at two Teaching American History grant seminars to help provide content and resources to K-12 teachers about both the U.S. and Indiana Constitutions. Information about the history of Indiana's Judiciary and CITC programs reached a national audience through presentations at the following conferences: National Council for Public History, Great Lakes Council for the Social Studies, American Association for State and Local History, and the Underground Railroad Network to Freedom.

Courtroom Events for Students and Lawyers

Once again this fiscal year, more than 1000 students came to the Indiana Supreme Court's Courtroom specifically to participate in CITC interactive programs, such as *Bound for Freedom* (an interactive play based on a freedom suit filed on behalf of an Indiana slave) and *Ex Parte Milligan Comes to Life* (an adaptation of the famous Indiana case). A large number of students were able to experience CITC's programs because of the support of our many partners and the appellate courts' law clerks and staff.

Following up on the success of last year's Continuing Legal Education ("CLE") sessions, the Indiana Supreme Court Legal History Lecture Series, in cooperation with the Indiana Commission for CLE, hosted three new CLE programs this fiscal year. More than 600 attorneys attended these free sessions, including over 300 at a presentation based on the Nuremberg war crimes trial experiences of former Indiana Supreme Court Justices Frank Richman and Curtis Shake.



★ A capacity crowd at one of the Court's Legal History Lecture Series.



★ A few of the Court's history publications.

On-line Court History Resources

The resources available on the CITC website continued to grow this fiscal year through the additions of an on-line bookstore, two new on-line exhibits (“Female Firsts” and “Speeding through the Crossroads of America”), and an updated jury orientation video.

Publishing Projects

Another important outreach of CITC is providing materials about the history of Indiana’s courts to libraries and schools. This fiscal year’s publications included a reprint of the 1816 Indiana Constitution, an article on the Court’s rulings that involved slaves and fugitive slaves, and a pocket version of the U.S. and Indiana Constitutions. These items are distributed at no cost to libraries and other educational institutions, and teachers are encouraged to request complete classroom sets of these, or any of our other, publications.

DIVISION OF STATE COURT ADMINISTRATION

Lilia G. Judson, Executive Director

The mission of the Indiana Supreme Court Division of State Court Administration (“the Division”) is to assist the Indiana Supreme Court in its leadership role as the administrator and manager of Indiana’s judicial system, its courts, officers, and related offices and programs. In particular, the Division examines and recommends improvements in the methods, procedures, and administrative systems used by the courts, by other offices related to and serving the courts, and by the clerks of court. It collects and reports information on the judicial workload of all trial and appellate courts, the receipt and expenditure of funds by all the courts and their related offices, and, in general, the volume, condition and type of business conducted by the courts. It helps the Chief Justice and Supreme Court manage and regulate judicial workloads, manage and distribute state funding provided for the

operation of the courts and related offices, certify and regulate court programs and initiatives, promulgate and implement rules and procedures, and provide technology and automation to the courts. The Division provides staff support to the Indiana Commission on Judicial Qualification and Judicial Nominating Commission, other commissions and committees as specified by statute and court rule, and fulfills specific duties charged by statutes and Supreme Court rules and directives.

This fiscal year the Division moved from its long-standing presence on the tenth floor of the National City Center in Indianapolis to new quarters a few blocks away on the fifth floor at 30 South Meridian, the former home of the L.S. Ayres department store. The move enabled the Division and its JTAC section to inhabit the same building for the first time, organize its entire staff more efficiently, and plan for future growth.

Personnel changes were also a large part of the Division’s transition in 2007, including the hiring of former Counsel to the Chief Justice, David J. Remondini, as the Division’s first Chief Deputy Executive Director.

During fiscal year 2008, the Division embarked on a number of new projects to make it more accessible and useful to the Indiana judiciary. It initiated planning for continuity in payroll and benefits administration in the event of a disaster. It unveiled a new outreach program to more closely connect the Division and trial judges called BRIDGES (Building Relationships Individually – Giving Excellent Support), which will involve designating one Division attorney as the main point of contact for each trial judge to enhance communication on a regular basis. In addition, the *Court Times* was put on a bi-monthly schedule and completely redesigned. To provide more coordination among the many Supreme Court projects that help trial courts deal with the challenges families face in court, the Division joined with the Indiana Judicial Center to form a central clearinghouse for information and improved communication.

Trial Court Management Judicial Service Reports

One core responsibility of the Division is collecting statistical information concerning the operation of Indiana’s courts and their offices. As required by Indiana Code section 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 departments throughout the state. This data, which is published annually in *The Indiana Judicial Service Report* and *The Indiana Probation Report*, 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.

In fiscal year 2006 every court and probation department began filing all required statistical reports, including quarterly statistical reports (caseload, probation supervisions and Juvenile Law Services information), online using the Indiana Courts Online Reports (“ICOR”) system. This has enabled the users of the data to enjoy greater access to the information as well as a greater ability to analyze the data when reviewing court services. For the first time, the Division’s 2007 Annual Judicial Service Report, published this fiscal year, drew its statistics entirely from the ICOR system.



Weighted Caseload Measures and Caseload Allocation Plans

Since the mid 1990s, the Division has employed a weighted caseload (“WCL”) measurement system to analyze the statistical caseload data collected from Indiana’s trial courts and report on judicial resource needs. The system is based on time studies and actual case file audits and ascribes relative “weights” or “counts” to the different types of cases. Each year, the Division publishes a Weighted Caseload Report that provides a uniform, statewide method for comparing trial court caseloads.

Indiana Supreme Court Administrative Rule 1(E) requires the courts of record in a county to implement a caseload allocation plan to achieve an even distribution of the county’s judicial workload. The courts use the WCL measures to do so, as they allow courts to forecast the amount of judicial time necessary to process the cases being filed in a particular court or county.

During fiscal year 2008, the Judicial Administration Committee of the Indiana Judicial Conference began directing a major academic study of the WCL process. In total, 32,627 judicial actions were reported in 149 courts in 47 counties, including 20 Drug Courts. The results are expected to enhance the WCL system and will be released in late 2008 or early 2009.

To assist policy makers in accurately assessing a county’s need for additional judicial officers, the Division also publishes a report on the relative severity of judicial resource need. The WCL system provides a tool for assessing the need for additional judges based on the number of cases being filed in a county. The “relative severity of need” concept provides a relative comparison of the need for new judges in each county. The most recent WCL measures (which are measured on a calendar-year basis) are available at www.in.gov/judiciary/admin/courtmgmt.

Deployment of Trial Court Information on the Internet and Public Access Issues

Rapid technological advancements and the efficiency they afford have prompted some Indiana courts to seek ways to post docket information on the Internet. Indiana Trial Rule 77(K) provides that before any court or clerk deploys any court information on the Internet, it must seek and receive authorization from the Division.

During fiscal year 2008, Division staff reviewed and approved many Internet-related requests. The list of approved counties can be viewed at www.in.gov/judiciary/trialcourts/tr77-approval.html. Of the 92 counties in Indiana, 51 have been approved to post their docket information. In addition, five city courts post their docket information. Most courts post chronological case summaries (CCS), parties, and calendar information. Late in 2007, Monroe County and the Marion County Small Claims Division, Washington Township, began posting their CCS, parties, and calendar information online through the Odyssey case management system – the first steps toward a uniform statewide case management system.

The Division’s Judicial Technology and Automation Committee (“JTAC”) staff, which is responsible for, among many things, the development and maintenance of the Indiana Judiciary’s website, developed individual web pages for each of Indiana’s counties, listing contact information for all county clerks and courts. The county websites also contain other useful information,



★ At the press conference announcing the Indiana Retired Teachers Association’s selecting the Court’s guardian ad litem/court appointed special advocate program as the Association’s special volunteer initiative: Rep. Sheila Klinker; Rep. Dennis Avery; Governor Mitch Daniels; Jim Clune, National CASA Association; Chief Justice Shepard; Ralph Ayres, IRTA Nancy Tolson, IRTA; Eugene Wease, IRTA.

such as local court rules, directions to the county courts, and photographs of the often architecturally unique courthouses. The local websites are listed at www.in.gov/judiciary/trialcourts/. The websites are continually updated when the Division receives or approves additional rule-related information.

Administrative Rule 9 addresses public access to court records. The rule governs all case and administrative court records maintained and generated by every court and court agency in the state court system. One significant provision in the rule requires the Division to review and grant or deny requests for bulk compilations of court information. Administrative Rule 9 defines “bulk distribution” as “the distribution of all, or a significant subset of the information in court records in electronic form, as is, and without modification or compilation.” This duty also requires the development and execution of a user agreement between the Division and the requesting party. The agreements expire annually, but may be renewed. During calendar year 2007, the Division received seven renewal requests for bulk records and executed the requisite user agreements. A list of the approved bulk records requesters, along with copies of their user agreements, may be found at www.in.gov/judiciary/admin/courtmgmt/bulk-data. Many trial courts post court information on the Internet as permitted by Trial Rule 77(K). If a court contracts with a third party vendor to do so, the vendor must also execute a bulk data user agreement with the Division.

Education about and assistance with the application of the provisions of Administrative Rule 9 on public access to court records continues to be a significant Division function. The Division expects to review and enhance the online handbook in the coming fiscal year to address the issues that have arisen concerning public access to court records.

State Office of Guardian Ad Litem/ Court Appointed Special Advocate

In child abuse and neglect cases, the needs of the child-victims must not be overlooked as attorneys and the court focus on addressing the parents’ problems. *Guardian ad Litem* and Court Appointed Special Advocates (“GAL/CASAs”) serve as representatives of abused and neglected children in Child in Need of Services, or “CHINS,” cases so that their interests are protected and their voices heard.

In 1989, the General Assembly established a program for (“GAL/CASA”) services to be administered by the Division. Through this program, counties that operate certified GAL/CASA programs receive matching state grants, which are administered



and disbursed by the Division based on a statutory formula. To receive certification, programs must comply with the Supreme Court's GAL/CASA Program Standards and Code of Ethics and provide annual statistics, a budget, and a financial statement regarding the use of the grant funds. The Division's State Office of GAL/CASA ("State Office"), through its State Director and Program Coordinator, oversee the certification process and ensure compliance with program standards. The State Office also holds an annual conference and provides training and support services for local GAL/CASA programs.

During calendar year 2007, 63 of Indiana's 92 counties received certification and state GAL/CASA matching funds. Sixty-six counties funded volunteer-based GAL/CASA programs, staffed by a total of 164 paid personnel. Of the 66 counties, 32 had court-based programs, 24 had programs that were separate non-profit entities, and 10 had programs that were operated under the umbrella of another non-profit entity. The remaining 26 counties appointed either attorney GALs or utilized other, paid GALs.

During calendar year 2007, GAL/CASA volunteers donated an estimated 508,973 hours. If the contribution of GAL/CASA volunteers is calculated using the rate customarily paid to non-volunteer appointed GALs (\$50 hourly), the volunteers contributed an estimated \$25.5 million dollars to the State of Indiana.

There were at least 2,161 active GAL/CASA volunteers statewide in 2007, including 604 newly trained volunteers, and during 2007, GAL/CASA volunteers advocated for 7,322 children in CHINS cases and 1,353 children in termination of parental right cases. Even so, at least 3,047 children were still awaiting appointment of a GAL/CASA volunteer at the close of 2007.

In November 2007, the State Office held its annual meeting for GAL/CASA directors and staff and sponsored the Eleventh Annual Indiana State GAL/CASA Conference. Over 450 GAL/CASA volunteers, local program staff and directors, service providers, and other child welfare personnel attended. The State Office also provided training for new GAL/CASA program directors, held a Facilitator's Training, and gave many local and regional training sessions.

The Indiana General Assembly passed legislation in 2005 requiring the appointment of a GAL/CASA for every child in

every CHINS case. In 2007, the General Assembly substantially increased the funding for GAL/CASA programs to help the programs serve every child. In addition, in 2007 the State Office and the Indiana Retired Teachers Association ("IRTA") formed a partnership to encourage retired teachers to serve as GAL/CASA volunteers in CHINS cases. This collaboration was launched with a press conference given by Chief Justice Randall T. Shepard and Governor Mitchell E. Daniels.

The Indiana Family Court Project

The Family Court Project was initiated in 1999 as a cooperative effort between the General Assembly and the Indiana Supreme Court to develop models for coordinating multiple cases involving the same family that are pending before multiple judges. Every two years, the Supreme Court selects new counties to join the Indiana Family Court Project. Currently, 23 counties participate in seventeen single and regional family court projects. The projects receive assistance from the family court program manager under the direction of the Division, and two-year seed funding from the Supreme Court to establish programming. Extended funding is available to help counties transition to grant and local government resources.

In each family court project, the local judiciary and community work collaboratively to develop programs particularized to local needs. While all projects must include some type of judicial coordination of multiple cases involving the same families, programming has expanded to include non-adversarial dispute resolution and other programming for high-risk, low-income, and/or pro se families. The original counties remain actively involved in the project and continue to share ideas and mentor new pilot counties.

Phase V of the Family Court Project will begin in fiscal year 2009. Two new counties were chosen in 2007 and are currently developing their programming. Information about the individual county projects is available on the Supreme Court's web site at www.IN.gov/judiciary/family-court/counties.html. Rules pertaining to family court cases can be found at www.IN.gov/judiciary/family-court/rules.html.

Local Alternative Dispute Resolution Plans for Domestic Relations Cases

In 2003, the Indiana General Assembly passed a statute authorizing the creation of alternative dispute resolution ("ADR") programs in domestic relations cases in each of Indiana's 92 counties. The ADR Program in domestic relations cases under Indiana Code chapter 33-23-6 permits a county to collect a \$20 fee from a party filing for a legal separation, paternity, or dissolution case. This fee is placed in a separate fund and may be used for mediation, reconciliation, nonbinding arbitration, and/or parental counseling in the county in which it is collected. Money in the fund must primarily benefit litigants who have the least ability to pay. Litigants with current criminal charges or convictions of certain crimes relating to domestic violence are excluded.

A county wishing to participate in an ADR program must develop an ADR plan consistent with the statute and approved by a majority of the county's judges with jurisdiction over domestic relations and paternity cases. The Executive Director of the



★ Justice Sullivan discusses JTAC matters with Representative Matt Pierce.



★ Justice Boehm poses with the newest “certified interpreters” who completed the rigorous five-part process this year. Interpreters provide language translation and other assistance to litigants and trial courts.

Division must approve the plan, in accordance with ADR Rule 1.11. At the close of this fiscal year, 25 counties had approved ADR plans (Allen, Boone, Brown, Clark, Crawford, DeKalb, Henry, Jackson, Johnson, Lake, Lawrence, Marion, Martin, Monroe, Montgomery, Orange, Owen, Perry, Pike, Porter, Putnam, St. Joseph, Shelby, Starke, and Tippecanoe).

The Division has approved plans in the following areas: mediation services for litigants, free mediation days, payment for training of attorneys and others in exchange for handling a number of mediation cases within a specified period of time, parental counseling, and other ADR services. Courts in various counties are creative in the use of the ADR funds to provide a wide range of alternative dispute resolution services under the statute, including facilitation, conflict resolution classes, anger management classes, parenting coordination, and intensive in-home case management, all of which fall under the general categories of parental counseling and reconciliation listed in the ADR statute.

More than 2,700 children were affected by the ADR fund plans in 2007. Fifty-two percent of the cases accepted under ADR fund plans in 2007 comprised dissolutions involving children.

Electronic Filing and Electronic Service Pilot Projects

Pursuant to Administrative Rule 16, two counties (Lake and White) filed proposals for review and approval by the Division this fiscal year for pilot e-filing systems. The Lake County plan was approved in 2007, to be implemented in 2008, and the White County plan is pending, awaiting further verification and testing. Courts interested in implementing pilot e-filing systems must submit proposed plans to the Division, preferably following the format used in the appendix to Rule 16. Pilot projects of this nature involve various issues, including the following: compatibility with not only existing case management systems but also with Odyssey, the planned statewide system; fees; document retention; case types included; security; accessibility by self-represented litigants; software and hardware necessary for implementation; and proof of service.

Information/Records Management – Supreme Courts Records Management Committee

The Information Management Section of the Division assists trial court clerks and judges in meeting the requirement of the administrative rules and trial governing trial court records.

In 2007, Section staff made 38 visits to 26 different counties to review microfilming programs for compliance with Administrative Rule 6, application of court records retention schedules, the use of optical imaging for judicial records, and surveying protection order records.

One special example occurred in Orange County. Due to remodeling, the court’s records storage area was eliminated. Working with the judge, clerk, and a vendor, 14,200 dismissed (38% of all) cases were destroyed and an imaging system was approved for permanent and current records. The primary activity of the Section consisted of reviewing and approving imaging proposals and authorizing the physical disposal of trial court records that had been either microfilmed or scanned. Imaging approvals were also issued for Jefferson, LaGrange, Madison, Orange, Switzerland, and Wabash Counties.

In addition, the Section worked with probation departments in Madison, Shelby, and Wayne Counties regarding imaging, and approved the system for Madison Probation Department. The Section issued 53 individual letters approving destruction of records upon microfilming and 41 letters approving destruction after scanning. Currently, 18 county trial courts have approved imaging systems; an additional 10 are under review. Additional major imaging functions included meetings with JTAC to discuss imaging as a component of the Judiciary’s state-wide case management system and working with clerks and vendors in establishing a generic imaging approval form.

Certified Interpreter Program

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

The Court adopted a five-part process for foreign language interpreter certification. The process starts with a two-day orientation instructing candidates on judicial procedure, protocol and courtroom decorum; the role of an interpreter; ethical issues; skills and modes of interpreting; and terminology. Indiana-specific laws and rules are presented at orientation. Candidates also may practice interpreting skills and receive feedback from instructors.

The second phase is a written exam, comprised of two components. The first component, a multiple choice exam in English, tests candidates on general English vocabulary, court-related terms and usage, common English idioms, and court interpreter ethics and professional conduct. Candidates must receive at least a score of 80 percent to go on to the next phase. The second component requires candidates to translate several sentences with legal terms from English into Spanish. Currently,



this portion of the written exam is utilized only to provide candidates with feedback about their performance.

The third phase is a two-day skills building workshop in which candidates practice skills for various interpreting scenarios and are given constructive feedback by instructors. Once a candidate completes the skills building workshop, the candidate is eligible to take the oral foreign language proficiency examination. The oral exam covers the following modes of interpretation: sight translation, consecutive interpreting and simultaneous interpreting. Candidates must score at least 70 percent on all three sections to pass. Finally, a candidate must successfully undergo a criminal background check before becoming certified by the Indiana Supreme Court.

This fiscal year, Indiana tested in both the Spanish and French languages. Sixty-six candidates took the oral exam; 64 for Spanish and two for French. Fourteen candidates passed the Spanish oral exam in its entirety and fourteen other candidates passed sections of the exam. One candidate passed all sections of the French oral exam, and the other French candidate passed at least one portion of the test. To date, Indiana has successfully conducted nine interpreter sessions and increased the pool of certified interpreters to 56 for the State. Session ten of the Indiana Court Interpreter Certification Program began on May 16, 2008.

In December 2007, the Supreme Court held a swearing-in ceremony to honor the individuals who recently passed interpreter the certification process. Justice Ted Boehm served as master of ceremonies. Former Justice Myra Selby, co-chair of the Race and Gender Fairness Commission, and Ruth Rivera, chair of the Indiana State Bar Association's Latino Affairs Committee, also provided remarks.

In the spring of 2008, the Indiana Supreme Court also awarded \$239,250 in foreign language interpreter grants to 40 county-court systems to encourage trial courts to use certified interpreters and to help trial courts defray the costs of interpretation.

Continuity of Operations Planning for the Trial Courts

Sparked by concerns for the continued operation of judicial institutions in the aftermath of natural or other disasters, the Chief Justice charged the Division to work with the Judicial Conference Court Management Committee to help Indiana's



★ Chief Justice Shepard delivering the 2008 "State of the Judiciary" address to a joint session of the General Assembly.

trial courts plan for disasters. Plans to address these situations are commonly known as "COOPs" (Continuity of Operations Plans). The Court Management Committee designed a template that was distributed to judges at the Judicial Conference in the fall of 2006.

In 2007, the Supreme Court adopted a new administrative rule, Administrative Rule 17, that had been proposed by the committee to address disaster preparedness for all courts. The rule, effective January 1, 2008, allows the Supreme Court to enter appropriate orders to ensure the orderly and fair administration of justice in the event of natural disasters, widespread disease outbreaks or other exigent circumstances that require the closure of courts or that inhibit the ability of litigants to comply with statutory deadlines or rules of court procedure. The rule was invoked this fiscal year when a late February 2008 storm damaged the Morgan County Courthouse, prompting several days of closure and rescheduled hearings. Also this fiscal year, the Division began plans to engage a consultant to develop continuity of operations plans for Indiana's trial courts, beginning with a pilot effort in Howard County.

Court Services Accounts Management, Payroll and Claims, and Judicial Benefits Coordination

The Division maintains and administers 21 accounts, totaling approximately \$120 million. This fiscal responsibility includes the administration of payroll and benefit programs for all state trial court judges, prosecuting attorneys, and other judicial officials paid with state funds. The annual payroll accounting for these purposes total approximately \$76 million and cover approximately 700 individuals. As part of this "paymaster" function, the Division processes and pays more than 1,300 claims per year for special and senior judge services.

During this fiscal year, the Division worked in concert with the Indiana Judicial Center to conduct numerous educational sessions on judicial benefits, retirement, and payroll, and to update and publish, pursuant to Administrative Rule 5(A), a schedule for payment of senior judges.

Special Judges and Employment Law Advice

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 calendar year 2007, the Division received 80 new requests for special judge appointments.

Trial judges have the potential for legal liability in their administrative functions, particularly employment and management decisions. Various federal and state statutes and rules, as well as federal and state caselaw, affect the administrative decisions of trial judges. Since 1996, a Division attorney has provided advice and assistance to trial judges on employment law issues and concerns. In addition to providing advice upon request, the attorney also assists trial judges in investigating complaints about or within the trial court's staff members, answering EEOC charges, and

acting as a liaison with the Office of the Attorney General in open cases.

The attorney also offers trainings to the staff of the trial judges upon request and makes presentations and seminars for the wider court community. Topics addressed include Family & Medical Leave Act, accommodation for disabilities, sexual harassment awareness and prevention, the Fair Labor Standards Act, effective employee management, drug testing, and ethics for court employees. This fiscal year, the attorney began to write a regular column in the *Indiana Court Times* to keep the trial judges current on law that impacts their personnel-related decisions.

Senior Judge Program

Since 1989, Indiana's trial courts and the Indiana Court of Appeals has been able to tap into an experienced pool of former judges to help alleviate the pressure of increasing caseloads. Former judges may apply to the Indiana Judicial Nominating Commission for certification as senior judges under rules adopted by the Indiana Supreme Court. The legislation further provides that any trial court and the Indiana Court of Appeals may request that the Indiana Supreme Court appoint a senior judge to assist that court. The Division administers this Senior Judge Program. This fiscal year, Indiana had 88 certified senior judges who served a total of 3,805 days, the equivalent of approximately 21 full-time judicial officers.

Temporary Judicial Service

The Division oversees two programs for temporary judicial services; one for private judges and one for judge *pro tempore* assignments.

The General Assembly has provided by statute that, in certain circumstances, litigants can agree to try certain civil cases before a private judge who is compensated by the litigants (Indiana Code ch. 33-13-15). The Division maintains a roster of private judges and administers requests and appointments of private judges. Requests for private judges are rare, with the first one taking place in 2004, one each in 2005 and 2006, and two in 2007. The most current list of registered private judges can be found at www.in.gov/judiciary/admin/private-judges/roster.



★ The Indiana Retired Teachers Association chose the Court's GAL/CASA program for a special volunteer initiative; retired educators will work with at-risk children in the court system. Here, a teenager describes her experience with the program, while Chief Justice Shepard and others listen.

Indiana law also allows a judge *pro tempore* (temporary judge) to sit in the place of a regular judge who is unavailable. A judge *pro tempore* must be an attorney in good standing with the bar of the Indiana Supreme Court, who has the authority of the judge that is being temporarily replaced, subject to the continuing jurisdiction of the Supreme Court. The Division is responsible for administering requests for judges *pro tempore* and preparing the orders appointing them. In calendar year 2007, the Supreme Court made seven such appointments. The circumstances surrounding these appointments range from absences due to military service, temporary medical conditions, and vacancies created by retirement or death that exist until the Governor fills the vacancy.

Civil Legal Aid Fund

Pursuant to Indiana Code Section 33-24-12-f(b), the Division administers the distribution of a \$1.5 million annual appropriation to aid qualified organizations providing legal assistance to indigent persons in civil cases. Distributions are based on each county's civil caseload and the number of organizations serving each county. In 2007, the Division made distributions to twelve organizations that provided civil legal aid services to over 23,000 clients in cases primarily involving divorce, separation, custody, visitation, paternity, termination of parental rights, and spousal abuse.

Court Improvement Grant

The Indiana Supreme Court continued its Court Improvement Program ("CIP") this fiscal year under the leadership of its Court Improvement Executive Committee. The Division serves as the fiscal administrator of federal grant funds earmarked for improving the judicial system for abused and neglected children in foster care, while the Indiana Judicial Center provides substantive program administration. Federal grants are available in three general categories: basic court improvements, collaborative training, and data collection.

CIP has an ongoing multi-disciplinary task force that provides input and guidance regarding how CIP funds are used. CIP staff has been very involved in the Child and Family Services Review conducted by the federal government in Indiana in July 2007. CIP funds continue to support Family Courts as well as the portion of JTAC's work that affects the processing of child welfare cases.

In addition, CIP has helped fund a mental health court in Allen County and continues to support the CHINS Drug Court in Vanderburgh County.

Indiana CIP has used its training grant funds to provide specific training events on a local, regional and statewide level. In addition, funds are available for judicial training for judges with juvenile court jurisdiction to attend and participate in training opportunities beyond those conferences offered by the Indiana Judicial Center.

At the local level, Indiana CIP helped fund a day-long training seminar, organized by Indiana Advocates for Children, Inc. and the Marion County Juvenile Court, which addressed immigration issues for children in the juvenile court system. CIP is also providing resources to the Workplace Spanish® Training Program that has been developed through a partnership with the Indiana Supreme Court and IVY Tech Community College.

At the regional level, CIP has collaborated with the Indiana Department of Child Services to provide an introduction to the department's child welfare practice reform for judges, court staff, CASA's and public defenders.

In December 2007, Indiana CIP sponsored The Indiana Summit on Children—Partners Planning for Permanency, an opportunity for judges as well as the Department of Child Services staff and other community stakeholders to meet, collaborate, and explore ways that everyone involved in Indiana's child welfare system can positively impact the outcomes for children and families who enter the child welfare system.

A Data Collection Grant has been utilized to conduct studies and develop programs to evaluate court performance enhancement projects funded by grants in earlier years. Additionally, Data Collection Grant studies will aid in the planning and development of training programs.

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

Communication Link With Judges and Clerks

The Division staff continued this fiscal year to provide a communication link with trial courts, clerks and their staffs through a quarterly newsletter, the *Indiana Court Times* and routine e-mail correspondence. The Division also communicates with the courts and clerks via the ICOR program in relation to online statistical reporting. The Division disseminates important information via e-mail but provides updates and other information on its own website as well as or INcite, the website maintained by JTAC.

Technology

Trial Court Technology and Automation

A major milestone was achieved in fiscal year 2008 in improving trial court technology in Indiana when ten courts began using "Odyssey," a computer system that records and manage information on pending cases. Odyssey was installed in the nine Circuit Courts of Monroe County and in the Marion County Washington Township Small Claims Court by the Supreme Court's Judicial Technology and Automation Committee ("JTAC") as the initial step in its goal to equip all Indiana courts with a twenty-first-century case management system and connect the courts' case management systems with each other and with those who use and need court information. Included in the installation was free public access to information about the cases in the ten courts via the Supreme Court's web-site (www.courts.in.gov).

In addition to its launch of and continuing work on Odyssey, JTAC had numerous other exciting developments in this fiscal year.

Protection Order Registry — Indiana trial courts regularly issue orders to protect potential victims of domestic violence. Getting those orders into the hands of law enforcement and others who need them as soon as possible enhances the safety of those involved in domestic violence disputes. With the assistance of federal funds and a number of state and local agencies, the electronic "Protection Order Registry" ("POR") notifies local, state, and national law enforcement databases within minutes



★ Senator Luke Kenley (left) and Justice Sullivan watch a demonstration of the electronic citation system with law enforcement officers.

of a judge's issuance of a protective order. The POR began operation in 2007, and 33 counties — including the state's two largest — were using it by the close of the 2008 fiscal year. Work is underway to deploy the POR in all Indiana counties by the end of fiscal year 2009.

Electronic Citation and Warning System — With federal funding and the help of law enforcement partners, JTAC developed the "Electronic Citation and Warning System" ("eCWS"), which employs scanners and other technology to increase greatly the speed at which traffic tickets are issued. The Indiana State Police implemented the system in 2007, and several local law enforcement agencies began using eCWS in fiscal year 2008. A scanner reads the barcode on the driver license and registration, populating the e-ticket to save valuable time during stops and reduce data errors. In addition, when used in conjunction with Odyssey in Monroe County, several thousand traffic tickets were filed electronically using eCWS that previously would have been processed by hand.

Marriage License E-File — More than 5,000 Indiana marriage licenses were issued through JTAC's new Marriage License E-File system in calendar year 2007. Used in 35 counties, the system eliminates the need to handwrite applications and record data in paper record books. The system transfers appropriate data electronically to the Indiana State Department of Health and Indiana State Library. Work is underway to enhance the system by using barcode scanners to input data from a driver license and providing free access to public data for people researching their family tree via the Internet.

Jury Management System — The Jury Management System project builds on the success of JTAC's nationally recognized Jury Pool Project, which generates the most inclusive Jury Pool List ever available. The Jury Management System helps courts and clerks create jury lists, labels, summonses, and reimbursement records. It was piloted in calendar year 2007 in 19 Indiana counties.

JTAC-BMV Project — In 2005, JTAC and the Indiana Bureau of Motor Vehicles ("BMV") launched a joint initiative to help



courts comply with federal requirements that demanded faster reporting to the BMV of serious violations committed by commercial drivers. Using a computer program developed by JTAC called INcite, average transmission time from courts to the BMV of certain traffic infraction information dropped from 53 to eight days, and the number of courts sending traffic infraction information to the BMV electronically (instead of by mail or fax) increased from 33 to over 180.

Indiana Courts Website – JTAC developed and maintains the Internet website for Indiana courts (www.courts.IN.gov), which contains information about Indiana trial courts, city and town courts, and county clerks, including contact information, local rules, and online tours. The website has extensive sections on Indiana appellate courts and their agencies, judicial committees, programs, and initiatives discussed in this report. Visitors can also access public court records from Odyssey and webcasts of oral arguments. Appellate opinions and the Child Support Calculator are the two most popular features of the website.

Appellate Court Automation and Technical Services

The Technical Services Section of the Division provides daily computer operations support to all users of the Supreme Court, Court of Appeals, Tax Court, and all supporting agencies. This fiscal year, the section started to implement new software, Microsoft's Vista operating system, and the full Microsoft 2007 Office suite. It also helped to implement a document management system, ("DocWorker") for the Continuing Legal Education ("CLE") agency, which will not only help the CLE control and limit the amount of paper stored in its office, but also allows its staff to search a database of stored documents to find specific information as needed.

This fiscal year, the section also was involved in a major redesign of the appellate courts' network structure, brought about by the move of the Supreme Court's agencies from the National City Center to their new offices at 30 South Meridian Street. This redesign effort included implementation of new wireless network technologies in the 30 South Meridian location to provide Internet connectivity for public users, as well as private access to the Division's network for courts users with wireless capability on their laptops.

Commissions And Committees – Staff Support

Judicial Nominating Commission/Indiana Commission on Judicial Qualifications

As required by Indiana Code section 33-24-6-3(4), the Division provides legal and administrative staff support to the Indiana Commission on Judicial Qualifications and the Indiana Judicial Nominating Commission. More detailed information about the Commissions is found elsewhere in this Annual Report, and may also be found at www.IN.gov/judiciary/jud-qual.

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, together with Division legal staff,



★ The *Indiana Rules of Court* is a collection of rules governing trial procedure in civil and criminal cases, original actions, admission of evidence, juries, appellate procedure, admission and discipline of attorneys and judges, continuing legal education, and other administrative matters. The "rule book" has been published in this form each year since 1970. Earlier versions are available in the Supreme Court Library.

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 fiscal year 2008 dealt with the following: (1) amending the Appellate Rules regarding the process for appealing Tax Court decisions; (2) amending the Trial Rules with regard to discovery of electronically stored information; (3) amending the Jury Rules to clarify that alternate jurors may ask questions during trials and may discuss the evidence during court recesses; (4) creating Administrative Rule 17, which provides procedures for court operations in the case of a natural disaster or other exigent circumstances; (5) amending Admission and Discipline Rule 27 to provide for attorney surrogates when a lawyer dies, disappears, becomes disabled, or is disbarred or suspended; and (6) amending Admission and Discipline Rule 29 to provide Continuing Legal Education credit for legislative service.

This fiscal year, the Committee also devoted substantial time to studying proposals regarding: (1) when a judgment is considered "entered" for purposes of various deadlines; (2) attorney advertising; (3) residual hearsay; (4) the *cy pres* doctrine; and (5) appeals from decisions from administrative agencies.

Public Defender Commission

The Division is responsible for providing staff support to the Indiana Public Defender Commission, which sets standards for indigent defense services in non-capital cases and recommends standards to the Indiana Supreme Court for application in capital cases. The Commission is comprised of eleven members: three appointed by the Governor; three appointed by the Chief Justice; one appointed by the Indiana Criminal Justice Institute; two Representatives appointed by the Speaker of the House of Representatives; and two Senators appointed by the President *Pro tempore* of the Senate.

In capital cases, counties receive reimbursement for 50% of eligible expenses. In other criminal cases, counties that qualify



by meeting certain standards receive up to 40% reimbursement of indigent criminal defense costs for felony and juvenile cases. Through this system of reimbursement, the General Assembly and the Supreme Court intend to encourage counties to provide qualified indigent defense in criminal cases.

In fiscal year 2008, appropriations to the Public Defense Fund, which is non-reverting, totaled \$12.25 million. As of the time of this report, 57 counties have comprehensive plans for delivery of indigent services approved by the Commission. Over 60 percent of the state's population resides in counties eligible to receive reimbursements in non-capital cases under the program.

The Commission meets quarterly and reviews claims submitted by counties for eligibility and compliance with statewide standards. In fiscal year 2008, the Commission approved claims totaling \$13,586,669.15 for non-capital cases and \$755,126.85 for capital cases.

Indiana Conference on Legal Education Opportunity

According to Jonathan Swift, "vision is the art of seeing what is invisible to others." Ten years ago when surveying the Indiana bench and bar, Chief Justice Randall T. Shepard observed the absence of minority attorneys and judges. The visionary within him longed to see greater diversity in the Indiana legal community. He created the Indiana Conference for Legal Education Opportunity ("Indiana CLEO") in 1997 in an effort to see this vision come to pass. In August 2007, this great program celebrated ten years of providing traditionally underrepresented groups with greater access to legal education.



★ The Indiana Conference for Legal Education Opportunity ("ICLEO"), is designed to enhance diversity in Indiana's legal profession by assisting traditionally underrepresented groups pursue a legal education at one of Indiana's four law schools. Chief Justice Shepard with former Senator Cleo Washington (left) and Representative Cleo Duncan (right) attend one of the programs celebrating ICLEO's 10th anniversary.

A variety of events took place during the weeklong celebration in August 2007, which culminated with a gala at the Indiana Historical Society. Over 200 current Indiana CLEO Fellows, alumni, and program supporters showed up to commemorate this historical occasion. Special recognition was given to Chief Justice Shepard and to the core group of individuals responsible for assisting in the efforts to make Indiana CLEO a reality.

Indiana CLEO Fellows represent the best and the brightest. Fifteen CLEO Fellows graduated from law school in 2007, and fourteen are currently working in some capacity within the Indiana legal community. The passage rate of Indiana CLEO Fellows who took the July 2007 Indiana bar examination was 92%. The total rate for that exam for all takers was 79%.

Indiana CLEO Fellows are making great strides within the legal community. Chasity Thompson, a 1997 Fellow, was promoted to Assistant Dean of Professional Development at the Indiana University School of Law-Indianapolis. In 2007, Lieutenant Governor Becky Skillman created a legal internship exclusively for Indiana CLEO Fellows. Additionally, two second-year Indiana CLEO Fellows were chosen as the inaugural recipients of the \$10,000 Baker & Daniels, LLP Diversity Scholarship.

Commission on Race and Gender Fairness

In 1999, the Supreme Court created the Commission on Race and Gender Fairness to examine race and gender fairness issues in Indiana's judicial system, among legal service providers, within state and local government, and in public organizations. The Commission, made up of members of the judiciary, bar, state and local governments, academia, law enforcement, corrections, and public organizations, also makes recommendations to the Court for improvements, and the Division provides the necessary staff support to the Commission. This fiscal year, former Indiana Supreme Court Justice Myra Selby chaired the Commission and Indiana Court of Appeals Judge Ezra Friedlander served as co-chair.

Indiana Supreme Court Committee on Self-Represented Litigants

Since 2000, the Division has helped the Indiana Supreme Court Pro Se Committee maintain a Self-Service Center on the judicial website, and has helped trial courts and their staffs respond to the growing number of self-represented litigants. In September 2007, the Supreme Court amended Administrative Rule 4(D), effective on January 1, 2008, to reconstitute the Pro Se Committee as the Indiana Supreme Court Committee on Self Represented Litigants. The Committee, which is comprised of judges, court clerks, community members, librarians, attorneys, and other service providers, has as its mission to study and recommend improvement of the practices, procedures, and systems for serving the self represented litigants in Indiana's courts.

The Citizens Self-Service Center website (found at www.in.gov/judiciary/selfservice) provides pleadings, forms, and instructions for unrepresented parties to use in certain simple proceedings. A Division staff attorney also serves as the contact person for referral resources for pro se litigants, and to field inquiries from the Self-Service website.



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 fully funded through the annual registration fee required of all lawyers who wish to keep their Indiana law licenses in good standing. The Disciplinary Commission publishes a detailed annual report of its activities, a copy of which may be procured by contacting the Commission office or by accessing the Commission's website at www.in.gov/judiciary/discipline.

Case Dispositions

During fiscal year 2008, 1,582 grievances were filed with the Commission, approximately the same number as in the previous year. The Commission initiated 58 of those grievances 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 filled the balance of the grievances.

The Commission filed 47 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 91 separate counts of misconduct.

The Supreme Court issued 53 final orders disposing of lawyer discipline cases, representing the completion of 66 separate matters. By disposition type, those cases were resolved as follows:

Private Reprimands	4
Public Reprimands	9
Suspensions with Automatic Reinstatement.....	7
Suspensions with Conditional Reinstatement	7
Suspensions without Automatic Reinstatement	17
Resignations Accepted.....	6
Disbarments.....	0
Other Form of Discipline	1
Judgments for Respondent.....	1
Dismissals for other reasons.....	1
Total.....	53

The Commission resolved two cases administratively through the issuance of private administrative admonitions. In addition to these concluded matters, the Supreme 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 205 active and inactive lawyers for their failure to pay annual attorney registration fees.

Reinstatements

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

Trust Account Overdrafts

The Disciplinary Commission was notified by financial institutions of 101 overdrafts on attorney trust accounts. The following are the results of overdraft inquiries during the reporting year:

Carried Over From Prior Year	26
Overdraft Reports Received	128
Inquiries Closed	118

Reasons for Closing:

Bank Error	27
Deposit of Trust Funds to Wrong Trust Account.....	2
Disbursement From Trust Before Deposited Funds Collected.....	6
Referral for Disciplinary Investigation	24
Disbursement From Trust Before Trust Funds Deposited	10
Overdraft Due to Bank Charges Assessed Against Account.....	6
Inadvertent Deposit of Trust Funds to Non-Trust Account	8
Overdraft Due to Refused Deposit for Bad Endorsement.....	4
Law Office Math or Record-Keeping Error	20
Death, Disbarment or Resignation of Lawyer.....	3
Inadvertent Disbursement of Operating Obligation From Trust.....	4
Non-Trust Account Inadvertently Misidentified as Trust Account.....	2
Inquiries Carried Over Into Following Year.....	36

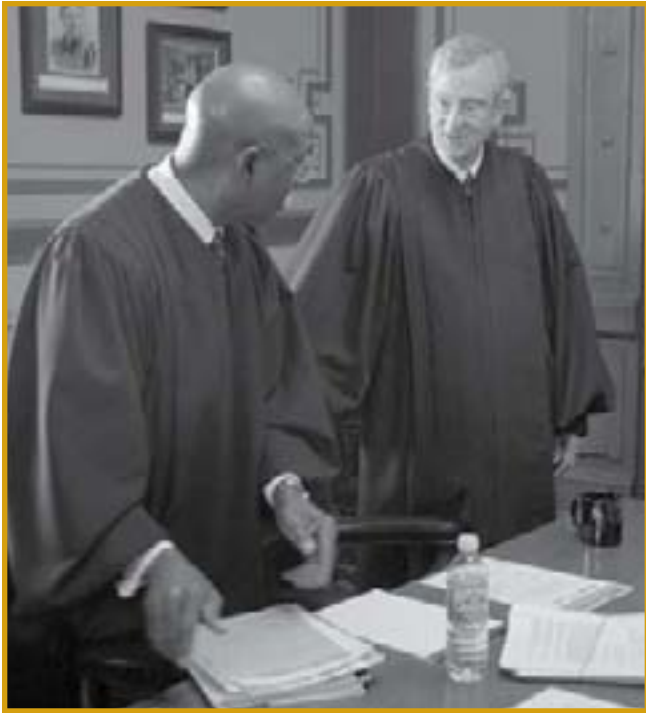
Case Highlights

The Supreme Court decided six cases by issuance of per curiam opinions:

In *Matter of Douglas W. Patterson*, 888 N.E.2d 752 (Ind. 2008), the Supreme Court suspended the respondent's law license for a minimum period of three years for making unauthorized use of client funds in his trust account, engaging in deceit to conceal his misconduct, and being dishonest with the Disciplinary Commission.



★ Justices Dickson, Sullivan and Boehm at the 2008 State of the Judiciary speech.



★ Justice Rucker and Justice Boehm confer between oral arguments.

In *Matter of Geoffrey N. Fieger*, 887 N.E.2d 87 (Ind. 2008), the Supreme Court disciplined a lawyer from Michigan who was temporarily practicing law in Indiana. The Court found that the respondent made material misrepresentations of fact in his sworn application for temporary admission in the St. Joseph Circuit Court when he denied that there were disciplinary proceedings pending against him in another jurisdiction. In fact, at the time of the application, disciplinary proceedings were pending against him in the states of Michigan and Arizona. The Court prohibited the respondent from seeking temporary admission in Indiana in any other cases for a period of two years.

In *Matter of David J. Colman*, 885 N.E.2d 1238 (Ind. 2008), the Supreme Court suspended the respondent's law license for a minimum period of three years. The Court found that the respondent engaged in misconduct in two unrelated matters. In the first matter, he had a friend, who was also a lawyer, draft a will in which an elderly client left the entirety of his estate to the respondent. In a little more than a week, the respondent petitioned a court to appoint him as the guardian of his client, claiming that his client was incapacitated. The Court concluded that the respondent was improperly complicit in drafting a will for a client that personally benefited him and that he engaged in a conflict of interest by seeking a guardianship over his own client. In the second matter, the Court found that the respondent improperly handled a criminal defense client's funds by failing to hold them in trust and that he engaged in a conflict of interest and charged an unreasonable fee by taking the deed to his criminal defense client's condominium and its contents.

In *Matter of Daniel Cueller*, 880 N.E.2d 1209 (Ind. 2008), the Supreme Court held that the respondent engaged in attorney misconduct by failing to hold property of clients properly in trust, failing to maintain a ledger with separate records for each

client with funds deposited in a trust account, and knowingly making false statements of material fact to the Disciplinary Commission in connection with this disciplinary matter. The Court ordered the respondent's law license suspended for a period of six months, stayed the suspension for all but 30 days, and placed the respondent on probation for eighteen months, during which time his trust account must be monitored by a certified public accountant.

In *Matter of Richard M. Bash*, 880 N.E.2d 1182 (Ind. 2008), the Supreme Court suspended the respondent's law license for a minimum period of 180 days for failing to provide competent representation to a client in a criminal case and for subjecting a client in a domestic relations case with a series of unwelcome and sexually explicit electronic mail communications.

In *Matter of Anonymous*, 876 N.E.2d 333 (Ind. 2007), the Supreme Court publicly reported the factual circumstances of a case that was resolved with a private reprimand. The respondent was reprimanded for failing to properly supervise an employee who had control over his law firm's trust account. During the period of slack supervision, the employee, who happened to be the respondent's spouse, made unauthorized use of over \$22,000 in funds that should have been retained in the trust account.

Commission Members

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

BOARD OF LAW EXAMINERS

Linda L. Loepker, Executive Director

The Board of Law Examiners is responsible for ensuring that individuals admitted to the practice of law in Indiana have met all of the requirements as specified in the Admission and Discipline Rules of the Indiana Supreme Court. Such admission is achieved through one of three methods (examination, provisional foreign license, or business counsel license), all of which are supervised by the Board. The administration of the examination, provisional foreign license, and business counsel license processes are funded through application fees. In addition to its admission duties, the Board is responsible for certifying legal interns and for approving the formation, for the purposes of practicing law, of professional corporations, limited liability companies, and limited liability partnerships. Eight Board meetings were held this fiscal year in the execution of these duties.

Character and Fitness

Before any applicant can be admitted to the Indiana bar, the Board must determine, and certify to the Supreme Court, that the applicant possesses the requisite good moral character and fitness to practice law. Certification by the Board of a finding of good moral character and fitness is a condition precedent to every admission, whether upon examination, provisional foreign license, or business counsel license. Factors considered when





★ New lawyers taking the oath of attorneys at the October 2007 swearing-in ceremony.

determining character and fitness include, but are not limited to, candor, honesty, fairness, trustworthiness, and observance of the law. “Good moral character” and “fitness” are more specifically defined in Admission and Discipline Rule 12, Section 2, and guide the Board’s certification determinations.

For bar examination applicants, certification of character and fitness involves not only the Board, but also the 263 members of the Supreme Court Character and Fitness Committee. The Supreme Court appoints licensed attorneys from each county to this Committee. Each bar examination applicant must have a personal interview with one of the Committee members. At these interviews, the committee members question applicants regarding their knowledge of and willingness to be bound by the Rules of Professional Conduct. At the conclusion of the interview, the Committee member submits a recommendation to the Board to approve certification of character and fitness, to deny certification, or to not make a recommendation and to defer the decision to the Board. The recommendations and observations of the Committee members are a vital part of the Board’s determination regarding certification.

The certification of character and fitness for provisional foreign license or business counsel license applicants includes a review of each application by members of the Foreign License Committee of the Board. Five members of the Board serve on the committee on a rotating basis. After review of the application, the committee members vote to approve the application, deny the application, or require the applicant to appear before the full Board. Applicants must also have a personal interview with one of the members of the Foreign License Committee before they are eligible for certification.

In making its decision regarding character and fitness, in addition to the personal interviews, the Board conducts whatever investigation it deems appropriate. This may include obtaining evaluations or assessments of applicants who may have mental health or addiction issues. The Judges and Lawyers Assistance Program (“JLAP”) assisted the Board in obtaining evaluations or assessments of 22 applicants this fiscal year.

As a result of the individual interviews, JLAP assessments, and review by the Board office, 70 applicants were required to appear before the full Board to resolve matters of character and fitness. Fifty-nine of the appearances were by applicants for the

examination and eleven were by applicants for admission by provisional foreign license or business counsel license.

The Bar Examination

The bar examination consists of three parts: the Indiana Essay Questions, the Multistate Performance Test (“MPT”), and the Multistate Bar Examination (“MBE”). Board members write and grade the Indiana Essay Questions. Members of the Board’s Exam Editing Committee met on two occasions this fiscal year to finalize the Indiana Essay Questions. Both Multistate portions of the examination are written by the National Conference of Bar Examiners (“NCBE”). The MBE consists of 200 multiple choice questions and answers and is graded by the NCBE. The MPT answers are written essays and are graded by Board members. In preparation for their grading duties, three Board members attended grading workshops for the MPT in Chicago, Illinois, and one Board member attended a drafting and grading workshop in Madison, Wisconsin.

The Board received 881 applications to take the examination. The Board administered the examination over a total of eight days in February and July to a total of 761 applicants. The standard examination is administered for a two-day period. However, some applicants require non-standard testing conditions. The accommodations can include providing additional time, separate test areas, individual monitors, the use of computers and large print materials. Of the 761 individuals who took the examination, 24 were provided accommodations.

Review of Test Results

Pursuant to Admission and Discipline Rule 14, Section 1, an applicant who is unsuccessful on the examination and received a score within nine points of passing may request that his/her exam be reviewed. Members of the Board comprise the Appeals Reviewers. Two of the Reviewers did not participate in the original grading of the examination. In July 2007, 43 unsuccessful examinees requested that their results be reviewed; one applicant passed on review. In February 2008, 30 unsuccessful applicants requested that their results be reviewed; no applicants passed on review.

Admissions

As in years past, the Indiana Supreme Court held two main Admission Ceremonies this fiscal year. Many of those admitted during the year were sworn in at these ceremonies, which were held at the Convention Center in Indianapolis. The October 2007 ceremony was held in Exhibit Hall G, and the May 2008 ceremony was held in the Sagamore Ballroom.

A total of 634 attorneys were admitted to practice in the State of Indiana this fiscal year. Five hundred eighty-four attorneys were admitted on examination, 46 attorneys were admitted on Provisional Foreign License, and four on Business Counsel License. Eleven of the 584 attorneys admitted were admitted on Conditional Admission under Admission and Discipline Rule 12, Section 6(c).

Conditional Admissions

When an individual has satisfied the general qualifications to be admitted but, because of drug, alcohol, psychological, or



behavioral problems, the Board has concerns about the individual's moral character and fitness, the Board may offer the applicant Conditional Admission under Admission Discipline Rule 12, section 6 (c). Conditional Admissions, when permitted, are subject to conditions set out in consent agreements. Conditional Admissions are confidential and take many forms, all of which require monitoring by the Board. Of the eleven attorneys admitted under this rule during the reporting period, six also required monitoring and reporting by JLAP. At the close of this fiscal year, the Board was monitoring 20 individuals admitted under Section 6(c) and subject to the terms of consent agreements. Of those, nine were being monitored solely by the Board's staff, and eleven were also being monitored by JLAP.

Admission on Provisional Foreign License

Attorneys licensed in other states may be granted a provisional license to practice law in Indiana if the Board finds the individual has met the requirements set out in Admission and Discipline Rule 6, Section 1. The Board admitted 46 attorneys on provisional foreign license from eighteen different states or U.S. territories. Of those, 30 held licenses in one other state and fourteen were admitted in two other states prior to their admission in Indiana. The individual states of admission prior to Indiana are the following:

California.....4	Mississippi.....1
Colorado.....2	Nebraska.....1
District of Columbia...1	New Hampshire.....1
Florida.....1	New Jersey.....1
Georgia.....1	New York.....1
Illinois.....20	Ohio.....5
Kansas.....1	Oregon.....3
Kentucky.....2	Pennsylvania.....3
Massachusetts.....2	Texas.....2

** Attorneys admitted in multiple states are listed in each state of admission.*

The provisional foreign license must be renewed annually or it expires. Upon the fifth consecutive renewal of the provisional license, the admission no longer needs to be renewed and



★ Chief Justice Shepard, Justice Rucker and Justice Dickson join others to hear Professor Paul Finkelman's lecture on Indiana's fugitive slave cases.

becomes permanent. Thirty-eight attorneys met the provisional practice requirements in Indiana this fiscal year and their licenses were made permanent. The licenses of 20 attorneys admitted on foreign license expired because they failed to meet the practice requirements of Admission and Discipline Rule 6, because they failed to qualify for renewal for some other reason, or they did not apply to renew their provisional license.

Admission on Business Counsel License

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. The Board granted four applicants Business Counsel Licenses this fiscal year. Of the four attorneys admitted on Business Counsel License, two were admitted in one other state and two were admitted in three other states prior to their admission in Indiana. The individual states of admission prior to Indiana are the following:

Delaware.....1	New York.....2
Maryland.....1	Ohio.....1
Massachusetts.....1	Virginia.....1

** Attorneys admitted in multiple states are listed in each state of admission.*

The Business Counsel License is a license valid for one year so long as the employment continues as specified in the rule. The license may be renewed for a maximum of four additional years upon submission of verification of employment. Failure to maintain the employment requirements of the Admission and Discipline Rule 6, failure to qualify for renewal for some other reason, reaching the maximum number of renewal years, or failure to renew the business counsel license will result in the license expiring. No licenses expired pursuant to this provision.

Certified Legal Interns

Under Admission and Discipline Rule 2.1, the Board is responsible for the certification of law school students or graduates as legal interns who are allowed to perform certain legal tasks under the supervision of an attorney. 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.

Law school deans advise the Board of those students who qualify academically, the date of their graduation, and the term of the internships. The supervising attorneys advise the Board regarding their willingness and ability to supervise the interns. If all requirements are met, the Board certifies the legal interns and notifies the Clerk of the Supreme Court, Court of Appeals and Tax Court. The Board certified 361 students and 51 graduates to serve as legal interns during the reporting period.

Formation of Associations for the Legal Profession

Lawyers seeking to organize or practice by means of professional corporations, limited liability companies, or limited liability partnerships must submit an application to the Board for approval prior to engaging in practice under the entity. Upon approval



of the application, the Board issues a certificate of registration. Additionally, upon receipt of a written renewal application, the Board renews those certificates of registration upon a finding that the professional corporation, limited liability company, or limited liability partnership has complied with the applicable statutes and rules. During this fiscal year, there were 797 active professional corporations, 137 limited liability companies, and 159 limited liability partnerships. Of those numbers, 43 new professional corporations, 25 limited liability companies, and thirteen limited liability partnerships were formed during this same time period.

Members of the Board of Law Examiners

The Indiana Supreme Court appoints the members of the Board of Law Examiners, where terms are governed by Admission and Discipline Rule 9 and begin on December 1 of each year. As of December 1, 2007, the Board's officers were: the Honorable Stephen R. Heimann of Columbus, President; Sheila Corcoran of Evansville, Vice-President; Gilbert King, Jr., of Gary, Treasurer; and Cynthia S. Gillard of Elkhart, Secretary. Their terms as officers are for one year and end on December 1, 2008. The remaining members of the Board are Leslie C. Shively of Evansville; Jon B. Laramore of Indianapolis; Eileen J. Sims of Lebanon; Charlotte F. Westerhaus of Indianapolis; Michael M. Yoder of Kendallville; and Professor Maria Lopez of Indianapolis. Professor Lopez received her appointment during this fiscal year, replacing JoEllen Lind, whose term ended on December 1, 2007.

COMMISSION FOR CONTINUING LEGAL EDUCATION

Julia L. Orzeske, Executive Director

The Commission for Continuing Legal Education ("CLE Commission") was created in 1986. It consists of eleven Commissioners and one liaison to the Judges Alternative Dispute Resolution ("ADR") Committee. The CLE Commission's basic duties are to regulate the mandatory minimum continuing legal education requirements of each attorney admitted in Indiana, to regulate education programs of mediators who serve



★ Justice Sullivan, current Chair of the American Bar Association's Appellate Judges Conference, with Florida District Court of Appeal Judge Martha Curtis Warner, Chair-Elect, at a judicial education summit in Washington, D.C.

Indiana courts under the Indiana ADR Rules, and to regulate the Independent Certifying Organizations that certify attorney specialists under Indiana Admission and Discipline Rule 30. The Commission employs a part-time Executive Director, three full-time administrative assistants, and a full-time mediation services coordinator/office manager.

The following individuals served on the CLE Commission during fiscal year 2008: Gerald M. Bishop, Chair; Michael E. Tolbert, Vice-Chair; the Honorable Nancy Eshcoff Boyer, Treasurer; Joseph H. Yeager, Jr., Secretary; Susan G. Gainey, Immediate Past-Chair; John L. Krauss; Sandra Miller; the Honorable John T. Sharpnack; Jeffrey Lind; Dr. Barbara Bichelmeyer; and Charles K. Todd, Jr. The Honorable David Avery served as a liaison to the CLE Commission by virtue of his position as Chair of the ADR Committee of the Judicial Conference of Indiana.

Accreditation of CLE Courses and Hours

During fiscal year 2008, the Commission reviewed a total of 7,906 courses of all types, including traditional CLE courses, non-legal subject courses, applied professionalism programs, distance education and in-house. This represents a 38% increase over the number of courses reviewed just five years ago. Of these, 2,713 were traditional courses (not in-house, non-legal subject or distance education) for which an application for CLE accreditation was made, and 3,879 were traditional courses given by approved sponsors (where no application is required). The CLE Commission denied accreditation to 155 applications and 59 approved sponsor courses (fewer than 3%). A total of 16,117 attorneys reported traditional CLE credits to the Commission, an increase of 18% in the last five years. This amounted to 213,016 hours of CLE credits, 31,906 of which were ethics credits.

Attorneys are allowed 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 2008, 255 NLS courses were reviewed: 97 were by approved sponsors and 158 were by non-approved sponsors. The Commission approved 239 NLS courses and denied accreditation to 16 courses. Attorneys reported a total of 2,728 NLS credits during this period.

A rule amendment, effective January 1, 2005, allows Indiana attorneys to take a limited number of CLE hours through interactive distance education or in-house courses. These courses must meet strict guidelines to be approved, and to be considered, the applications seeking accreditation for such courses must be submitted at least 30 days in advance of the program. The Commission approved 742 distance education courses and denied 65. A total of 2,202 attorneys reported 8,311 hours of distance education. The Commission approved 107 in-house programs, and denied seven. Three-hundred-seventy-four attorneys reported a total of 501 hours of in-house CLE.

Newly admitted attorneys must complete programs designated by the Commission as appropriate for new lawyers. The Commission requires newly admitted lawyers to complete a six-hour Applied Professionalism Course for Newly Admitted Attorneys, and the Commission makes grants available to providers to allow them to provide the course, for little or no cost, to the newly admitted attorneys. During this fiscal year, 562 newly admitted attorneys attended these courses.





★ Oral argument on a petition to transfer in a civil case drew questions from the bench.

Mediator Registry

The Commission continues to be active in the area of mediation, administering and regulating a registry of court-approved mediators in Indiana. The first mediator registry was distributed 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, 2008, those listings stood at 622 listings for civil mediators and 591 listings for registered domestic relations mediators. These numbers show a 21% increase from five years ago. To remain on the registry, a mediator must report at least six hours per three-year education period of Continuing Mediation Education (“CME”) approved by the Commission and pay an annual fee.

In fiscal year 2008, 109 people were trained in basic civil mediation and 100 were trained in basic domestic relations mediation. Pursuant to the CME rule, 396 mediators have reported 2,148 continuing mediation hours.

Attorney Specialty Certification

In the area of attorney specialization, the Commission has accredited four Independent Certifying Organizations (“ICOs”) in eight practice areas. To assist in its review of the ICO specialty applications, the Commission appointed a panel of experts to review testing procedures used by applicants for accreditation as an ICO. This panel, consisting of law professors, judges and practitioners, is currently comprised of Hon. Wayne S. Trockman, Chair; Tom Allington; Lonnie Collins; Hon. Melissa S. May; Dr. Howard Mzumara (psychometrician); Professor James H. Seckinger; Professor David Vandercoy; and Dennis Frick.

As of June 30, 2008, there were 262 listings for Indiana attorneys who are specialists in their particular areas of law. This represents a 100% increase over the number of such listings just five years ago. These attorneys are certified in the practice areas of Family Law (61 specialists, certified by the Indiana State Bar Association); Consumer Bankruptcy (fourteen specialists, certified by the American Board of Certification); Business Bankruptcy (26 specialists, certified by the American Board of Certification); Creditors Rights (six specialists, certified by the American Board of Certification); Civil Trial Advocacy (39 specialists, certified by the American Board of Certification); Criminal Trial Advocacy

(one specialist, certified by the National Board of Trial Advocacy); Elder Law (fifteen specialists, certified by the National Elder Law Foundation); and Estate and Planning Administration (100 specialists, certified by the Indiana State Bar Association).

The Hon. Melissa May, former member of the CLE Commission, has authored “A Concise Guide to Lawyer Specialty Certification” in her role as special advisor to the American Bar Association Standing Committee on Specialization. This document, which explains to prospective ICO’s how to start a specialization program, is available on the Commission’s web site at www.in.gov/judiciary/cle/forms/index.html.

Growth of the Office and its Responsibilities

The Commission’s responsibilities have continued to grow rapidly since its inception in 1986. In 1987, the first year for which statistics are available, the Commission reviewed 687 courses. In the past fiscal year, the Commission reviewed nearly 8,000 courses. In 1986, there were approximately 10,500 practicing attorneys. There are now well over 16,000. The Commission’s work has increased much since the office was established. Within the last eleven years, the Commission has taken on the added responsibilities of mediation registration and education; new attorney education regulation, attorney specialization; and ethics course accreditation. Within the last several years, the Commission has added the new accreditation areas of in-house and distance education courses. Just within the past five years, courses have increased 38%, the bar has grown by 18% and the number of specialists have more than doubled. The Commission has added no staff, other than a contract attorney for specialization, since 1999.

CLE Staff Accomplishments

The Commission has been active on the state and national level this fiscal year. Anne Davidson, Office Manager and Mediation Services Coordinator, served on the Membership Committee of the national association of CLE regulators (“CLEreg”, formerly “O.R.A.C.L.E.”). Executive Director Julia Orzeske served as Chairperson of CLEreg’s Management Committee, and was recently appointed to a three-year term on the ABA Standing Committee on Specialization. She also serves on the ISBA Women in the Law and Mentor Match Committees.

The Commission’s office houses the first Executive Director of CLEreg, Cheri Harris. Ms. Harris has been appointed by the American Law Institute and ACLEA (the worldwide network for CLE professionals) to a planning committee for a national Summit on Critical Issues in Legal Education to be held October 15-17, 2009.

INDIANA JUDICIAL NOMINATING COMMISSION/INDIANA COMMISSION ON JUDICIAL QUALIFICATIONS

Meg Babcock, Counsel

The Indiana Judicial Nominating Commission (Nominating Commission”) and the Indiana Commission on Judicial Qualifications (“Qualifications Commission”) are established by Article VII, Section 9, of the Indiana Constitution. The Chief

Justice of Indiana, Randall T. Shepard, is the *ex officio* Chairman of both Commissions. The other six members, who serve three-year terms, are three lawyers elected by other lawyers in their districts and three non-lawyers appointed by the Governor. In addition to the Chief Justice, the elected and appointed Commission members as of June 30, 2008 were Stephen L. Williams, Esq., Terre Haute; Joan M. Hurley, Sellersburg; John C. Trimble, Esq., Indianapolis; Mark Lubbers, Indianapolis; Sherrill Wm. Colvin, Esq., Fort Wayne; and Dr. Daryl R. Yost, Fort Wayne. James H. Young, Esq., Indianapolis, also served during the fiscal year. The Nominating Commission met seven times, and the Qualifications Commission met six times, during the fiscal year.

Although comprised of the same members, the two Commissions perform distinct functions within the judiciary. The Nominating Commission appoints the Chief Justice of Indiana from among the five Supreme Court Justices, and also solicits and interviews candidates to fill vacancies on the Supreme Court, the Court of Appeals, and the Tax Court. It selects three nominees for each vacancy, and the Governor appoints one of the nominees to fill the vacancy. On December 12, 2007, after conducting interviews of fifteen candidates for appointment to the Court of Appeals, the Commission nominated the Honorable Elaine Brown of the Dubois Superior Court, Evansville attorney Leslie Shively, and the Honorable G. Michael Witte of the Dearborn Superior Court to replace retiring Judge John T. Sharpnack. On February 15, 2008, Governor Daniels appointed Brown to the Court of Appeals, Fifth District.

The Nominating Commission also certifies former judges as Senior Judges to help qualifying courts with their caseloads. During fiscal year 2008, the Nominating Commission certified five new Senior Judges and recertified 89 Senior Judges. No Senior Judge applications were rejected during this fiscal year.

The Qualifications Commission investigates allegations of ethical misconduct brought against Indiana judges, judicial officers, and candidates for judicial office. Periodically, the Commission privately cautions judges who have committed relatively minor or inadvertent violations of 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, and Commission counsel responded to several hundred requests for advice during the fiscal year. Also during the fiscal year, the Commission issued three published opinions, Advisory Opinion #1-07 (Delays), Advisory Opinion #2-07 (Trial Rules 53.1 and 53.2), and Advisory Opinion #3-07 (Disqualification and Litigants' Complaints).

The Qualifications Commission considered 287 complaints alleging judicial misconduct during fiscal year 2008. It dismissed 153 complaints summarily because they did not raise valid issues of judicial misconduct and, instead, were complaints about the outcomes of cases or otherwise were outside the Commission's jurisdiction. Another 111 complaints were dismissed on the same grounds after Commission staff examined court documents or conducted informal interviews.

Examples of complaints dismissed because they did not establish ethical misconduct include a claim that the judge

did not strike a pleading filed by the complainant's attorney raising an insanity defense, an allegation that the judge denied a disqualification motion filed because the judge presided over another case involving the same litigant, and a complaint that the judge refused to allow the litigant's mother, who is not a lawyer, to act as his attorney.

Of the remaining 23 cases on the Qualifications Commission's docket, the Commission requested the judges' responses to the allegations, and conducted inquiries or investigations. 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 9 other judges for deviations from their ethical obligations. The Qualifications Commission's decision to caution a judge, rather than proceed to formal, public charges, depends upon the seriousness of the violation, the judge's acknowledgement of the violation, whether or not the conduct was intentional or inadvertent, whether the judge has a history of meritorious complaints, and other mitigating or aggravating circumstances. The subjects of the nine cautions, in order of frequency, related to *ex parte* contacts (3), deviations from precedent or court rules (3), misuse of the court's power (2), inappropriate demeanor (2), allowing the appearance of partiality (2), delayed rulings (1), injudicious public comment (1), inattention to court administration (1), and failure to disqualify (1). (Some cautions related to more than one violation.)

In one case, the Qualifications Commission agreed to close its investigation into alleged conflicts of interest between the judge's businesses and his judicial obligations on the condition that the judge immediately resign. The Commission found probable cause in another case to file disciplinary charges against the Honorable Donald Currie after his arrest and conviction for public intoxication. Judge Currie agreed to accept a Commission Admonition in lieu of public charges; therefore, charges were not filed, and the Commission publicly admonished him. (Public Admonition of the Honorable Donald Currie, Carroll Circuit Court, May 27, 2008.)



★ Lawyers and others attended the Court's legal history lecture series program, *International Prosecution of War Crimes, Genocide, & Crimes Against Humanity*, featuring Indiana Court of Appeals Judge Nancy Vaidik and Professor George E. Edwards of the Indiana University School of Law-Indianapolis.

During the fiscal year, the Qualifications Commission also filed charges against two judicial officers. In *Matter of Broyles*, Cause No. 49S00-0804-JD-156, and in *Matter of Hawkins*, Cause No. 49S00-0804-JD-157, the Commission charged Commissioner Broyles and Judge Hawkins with misconduct after a two-year delay in effectuating an inmate's release from prison and for other instances of neglect and mismanagement. Four inquiries or investigations were pending at the conclusion of the fiscal year.

The Nominating Commission and Qualifications Commission are staffed by the Division of State Court Administration with a full-time attorney, a part-time staff attorney, and an administrative assistant. A more detailed report about the Commission and its members and activities may be found at www.IN.gov/judiciary/jud-qual.

JUDICIAL CONFERENCE OF INDIANA/ INDIANA JUDICIAL CENTER

Jane A. Seigel, Executive Director

Overview

The Judicial Conference of Indiana ("the Conference"), through its agency the Indiana Judicial Center ("the 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, oversees Indiana's drug courts, oversees Indiana's reentry courts, and maintains a roster of juvenile residential placement facilities. Conference committees formulate policy on judicial administration, juvenile justice, probation, and other topics; draft benchbooks, guidelines, and other materials; and publish civil and criminal pattern jury instructions in cooperation with the Indiana Judges Association.

Judicial Education Activities

In fiscal year 2008, the Judicial Education Department of the Judicial Center presented 21 days and 165.8 hours of continuing judicial education instruction. Total attendance at these programs was 1,811. These programs are discussed in detail below.

The **2007 Annual Meeting of the Judicial Conference of Indiana** was held on September 19-21, 2007 at the Grand Wayne Convention Center in Fort Wayne. This mandatory conference offered 38.5 hours of educational programming to the 470 participants in attendance. As in years past, "early bird" education was available to conference participants prior to the actual start of the Annual Meeting. Education sessions featured during the three day event included electronic discovery; keeping people with mental illness out of jail; the military, state courts and federal legislation; Odyssey CMS; jury trial issues; recent legislation and new rule amendments; ethics and professionalism; predicting dangerousness in the courtroom; the use of court interpreters; family law update; criminal law update; disaster recovery and the court's response; international family law; marriage and the new American family; and a history in law program on the 1866 *Milligan* decision, among others.

On October 11-12, 2007, the Judicial Education Department held the **City and Town Court Judges Conference** at the Hilton Indianapolis North Hotel. This two-day, twelve-hour continuing



★ Justice Sullivan speaking at a Judicial Conference.

education program was attended by 59 of Indiana's 75 city and town court judges and included sessions on infraction and ordinance violation procedures; procedures in misdemeanor cases; appeals and trial de novo as well as update sessions from State Board of Accounts and the Bureau of Motor Vehicles.

A two-day **Domestic Relations Workshop** on "Patterns of Domestic Violence and the Implications for Child Custody" was offered on November 15-16, 2007. Fifty-two judicial officers attended the 7.3 hour training at the Indianapolis Marriott North Hotel.

The **Winter Program for Judicial Officers** held on December 7, 2007 focused on United States Supreme Court case precedent. Professor Michael Klarman from the University of Virginia served as lead faculty for a four-hour program on "Constitutional Classics." Professor Klarman focused his presentation on: *Marbury v. Madison*, *McCulloch v. Maryland*, *Dred Scott v. Sandford*, *Brown v. Board of Education*, *Furman v. Georgia*, and *Roe v. Wade*. The Chief Justice and all four Associate Justices participated as faculty for the program.

On December 14, 2007, the **Indiana Summit on Children: Partners Planning for Permanency** was held at the Indiana Convention Center in Indianapolis. The program was attended by 286 stakeholders in the child welfare system and was funded through the Court Improvement Program. It included education sessions on cross-branch collaboration and permanency planning; a youth panel discussion on foster care; a "Hardwired to Connect" program; a court improvement program funding; and strategic planning.

A two-day **Orientation Program for Newly Elected City and Town Court Judges** was held on January 30-31, 2008 in Indianapolis. Thirteen of Indiana's seventeen new judges attended. It offered educational sessions on records managements, statistical reporting and records retention; JTAC; Bureau of Motor Vehicles 101 for new traffic court judges; collecting courts costs, fees and fines; general considerations on being a judge; infraction/ordinance violation procedures; and misdemeanor procedures.

In its ninth year, the **Spring Judicial College** program was held on April 16-18, 2008. Sixteen simultaneous full and half-day courses were presented and the program had 336 judicial officers attending at least one course. This year, an "early bird" one-hour program on stress management for tough-minded people was offered before the start of regular classes on the second day of the



conference. Courses offered at the 2008 Spring program included the role of the judicial officer in managing juvenile sex offense cases; best practices in self-represented litigation; electronic discovery; the foreclosure crisis in Indiana; eminent domain; handling capital cases; marriage, murder, isolation and judging; adult sex offenders; and the brain disease of addiction, among others.

On June 2-6, 2008, the sixth class of the **Indiana Graduate Program for Judicial Officers** met for the first week of the two-week Graduate Program at the Brown County Inn in Nashville, Indiana. Twenty-nine judicial officers participated. The education courses offered were information privacy and security; American constitutional history; American health care law and policy; and storytelling.

The **Annual Meeting of Juvenile Court Judicial Officers** was held on June 19-20, 2008 at the Indiana Convention Center in Indianapolis. The first day of the two-day conference was a collaborative meeting on “The State of Affairs in Child Welfare” among juvenile court judicial officers, the Department of Child Services, and GAL/CASA professionals. The program offered eight hours of continuing education to 385 participants. The program agenda included sessions on the future of the child welfare system after HEA 1001; the “Miami Safe Start Initiative;” improving the hearing on the permanency plan; demonstration of a family team meeting; and table discussions on HEA 1001 and its impact on the judicial branch.

Probation Activities

The Judicial Center, pursuant to Indiana statutory law, administers the Interstate Compact for the transfer of adult and juvenile probationers in and out of Indiana, and also serves as the intermediary for the return of juvenile runaways, absconders, and escapees. The Judicial Center handled the transfer of 1,627 probationers into the state and 1,572 probationers out of the state. The total compact cases supervised as of June 30, 2008 was 3,461 in-state and 3,889 out-of-state. The Judicial Center processed 151 runaways, 52 of which cases were court-ordered requisition returns.

The Judicial Center also staffs the State Council of the Interstate Compact for Adult Offender Supervision and pays for the expenses of the Council through appropriations made by the General Assembly and through a portion of the fees paid by persons transferring under the compact. The State Council met during the fiscal year to discuss Compact rules and their effect on probation and parole. The Interstate Compact for Adult Offender Supervision will soon be using a new National Interstate Compact Tracking System (“ICOTS”) and Indiana has been serving as one of five pilot states for this program. The Center has supplied 40 scanners to probation departments and parole services in preparation for the new tracking system.

Finally, in fiscal year 2008 the Center administered the probation officers’ certification examination to 154 applicants, and provided fifteen days of instruction to a total of 1,598 probation officers.

During the fiscal year, the Probation Officers Advisory Board, also staffed by the Judicial Center, continued its study of the use of risk and needs assessment instruments by convening the Indiana Risk Assessment Task Force. The Task Force members include representatives from probation, Department of Correction,



★ Chief Justice Shepard and Court of Appeals Chief Judge John Baker chat before the start of the lecture, “Hoosier Justice at Nuremberg” about the contributions of former Justices Curtis Shake and Frank Richman to the judicial presence in Germany at the end of WWII.

community corrections, reentry courts, court alcohol and drug programs, and drug courts. The Task Force, staffed by the Judicial Center, has recommended the adoption of a newly created public domain risk and needs assessment for both adults and juveniles. The researchers who developed these tools are working with the Judicial Center to evaluate and implement these over the next eighteen months. The Advisory Board is continuing to develop a “best practices” manual for probation supervision. Throughout its projects, the Advisory Board is continuing to promote evidence-based practices training and programming.

Also during the fiscal year, the Judicial Center collected information concerning the implementation of home detention in Indiana and presented a report to the Indiana General Assembly on January 15, 2008.

Research Activities

The Judicial Center also continued its mission of providing legal research services to trial court judges during fiscal year 2008. As part of this effort, it distributed 33 issues of *Case Clips* by e-mail, which are maintained on the Center’s website. The Center’s web page continues to be updated by providing committee minutes and other documents of interest as well.

The Judicial Center at the close of the fiscal year was finalizing a 2008 Benchbook CD-ROM containing seven benchbooks for distribution in September 2008.

Legislative Activities

The Judicial Center continued to review and provide information to Indiana judges concerning Indiana General Assembly session activities relevant to the judiciary through weekly “Friday Updates” from January to February 2008. For the second year, this publication was provided using an Internet blog, which made it more interactive and allowed for enhanced search capabilities.

Juvenile Services

The Judicial Center continued its maintenance of a roster of instate facilities providing residential services to children in need of services and delinquent children. The roster, which is available



to courts with juvenile jurisdiction and chief probation officers, is updated regularly to provide current information on costs, types of services provided, specialized treatment programs available, and targeted population.

The Judicial Center and the Division of State Court Administration administer the Court Improvement Program (“CIP”) in Indiana. Recently, CIP funds have been awarded to courts with Children In Need of Services (“CHINS”) facilitation programs, to CHINS Parents’ Drug Court, and to reduce the backlog of termination of parent-child relationship cases. In 2006, the Indiana Supreme Court received a grant for data collection and analysis, and a grant for training and cross-training judges, attorneys, other legal personnel as well the Department of Child Services (“DCS”) staff. These two new grants have provided support for two additional court employees dedicated to the CIP program. One purpose of the CIP grants is to encourage state courts to foster collaboration with their child welfare agencies and other interested stakeholders, with a goal to improve the judiciary’s role in ensuring safety, wellbeing, and permanency for children who come under the courts’ jurisdiction as CHINS. A Multidisciplinary Task Force has been established to advise and assist the Court’s program. Through its collaborative efforts, the DCS and the Court are working together in the second round of the Child and Family Services review that was conducted in Indiana in July 2007, and in 2008 they have continued to collaborate with the DCS in the formulation, drafting and implementation of the Program Improvement Plan.

In 2008 through Indiana’s CIP Basic Grant, the CIP Executive Committee has made sub-grants to counties who have used the funds to implement projects and initiatives that are aimed at improving the child welfare system in their counties. Also in 2008, training grant funds were used for a collaborative conference in conjunction with the annual juvenile judges meeting in June 2008, some regional cross-training opportunities for judges as well as other stakeholders, training and educational opportunities for judges outside of those offered by the Indiana Judicial Center, and the production of a DVD of a Simulated Termination of Parental Rights Fact-Finding that will be available as a training tool for courts as well as other child welfare partners. Data collection grant funds are being used to evaluate the timeliness of CHINS cases in Indiana courts and to help identify ways to improve the management of these cases.

Court Alcohol and Drug Program Activities

The Judicial Center continued its administration of the Court Alcohol and Drug Program during fiscal year 2008. The Center’s staff and the Education Subcommittee of the Court Alcohol and Drug Program Advisory Committee provided education and training opportunities consisting of the Court Alcohol and Drug Program annual meeting, three staff orientations, two director orientations, and an annual criminal justice training. Two new training sessions were added this year. The required Court Substance Abuse Management Specialist (“CSAMS”) training session, previously conducted by Continuing the Care, is now being presented by Court Alcohol and Drug Program staff, resulting in a cost savings of about \$20,000 per year. The staff presented one training session on both assessment and alcohol/ drug characteristics.

The Court Alcohol and Drug Program Annual Meeting was held on February 28-29 in Indianapolis, with an administrative meeting for supervising judges and program directors to discuss program issues preceding it on February 27th.

Policy issues examined this year included transfer and referral procedural issues, surveying the need for service to juvenile courts, coordinating services with family courts, identifying possible revisions to the Rules for Court-Administered Alcohol and Drug Programs, assisting with rules interpretation questions, providing information regarding proposed legislation and other continuing program policy and procedure issues.

Staff recertified sixteen court alcohol and drug programs and provided a full certification to a new program which had been operating under a provisional certification. The CSAMS credential was awarded to 43 candidates who met all requirements stated in the governing rules after the administration of the credential exam to 111 candidates. The Certification Subcommittee continued the process of updating the CSAMS credential exam, began reviewing the certification process, identified the need for a standardized placement criteria and addressed other program-related certification issues. The statistical project, which began in 2001, was completed during this fiscal year. A final report was published and the findings were presented on August 22, 2007 to supervising judges, program directors and other stakeholders.

Nineteen education scholarships (paying up to \$1,000 each) were requested during fiscal year 2008 by program judges and staff, and fourteen scholarships, totaling \$11,741.36, were awarded. Ten grant applications (paying up to \$2,500 each) in the amount of \$28,952.73 were approved in fiscal year 2008 for programs to improve their program technology or education programs.

Problem-Solving Courts Activities

On October 4-5, 2007, the Indiana Judicial Center hosted the first annual Problem-Solving Court Workshop (formerly the Drug Court Workshop) for judges and team members of certified drug courts, certified reentry courts and judicial officers interested in learning more about problem-solving courts. Fourteen education sessions were offered at the event. One hundred seventy-seven problem-solving court team members attended the event, including 31 judicial officers.



★ Justices Boehm, Rucker and Dickson put a final organization to their papers before entering the Courtroom to hear an oral argument.



★ A staff attorney with the Judicial Center, Jennifer Bauer (2nd from left, next to Chief Justice Shepard), was presented with the “Pride of the Miami” award for her selfless assistance to her mother in donating an organ for transplant. Miami Nation Vice-Chief John Dunnagan (center, next to Jennifer’s mother with other family members) presented the award at the Court’s employee recognition ceremony.

Drug Courts

The Judicial Center also oversees drug courts in Indiana. A “drug court” is not a separate court, but rather a court procedure under which the prosecutor and defense counsel consent to permit defendants in drug or alcohol-related crimes to avoid prison in exchange for their compliance with a tight set of treatment requirements and extremely close monitoring directly by the judge. Those who successfully complete the program and comply with its conditions may have their charges dismissed. As of June 30, 2008, there are 28 operational drug courts (25 adult and three juvenile) with an additional four in the planning stages (two adult and two juvenile). The Judicial Center certified or recertified ten drug courts operating under the statute in fiscal year 2008. At the end of the fiscal year, there were approximately 1,000 persons participating in Indiana drug courts.

In November 2007, the Problem-Solving Courts Committee formed the Drug Court Performance Measures Task Force to investigate the need to develop and adopt statewide performance measures for Indiana drug courts for the purpose of reporting state level drug court outcomes. The task force consisted of Problem-Solving Courts Committee members and judges and coordinators of drug courts that participated in the 2006 drug court evaluation completed by NPC Research. The task force met in January and March 2008 and drafted goals and performance measures for Indiana drug courts. In June 2008, the Judicial Center hosted a meeting open to all drug courts to provide the courts an opportunity to review the draft goals and measures, provide feedback and assist the task force in identifying next steps. During the June meeting, the group determined that the courts should adopt statewide goals and measures and agreed that the project should continue. The task force identified the need to survey all operational drug courts to identify their current data collection practices to determine the feasibility of this task. It is anticipated that the task force will conduct a data collection pilot beginning in late 2008.

In fiscal year 2008, the Judicial Center awarded scholarships totaling \$58,000 to 85 drug court practitioners, including thirteen judicial officers, from a grant awarded by the U.S. Department of Justice, Bureau of Justice Assistance. Scholarship recipients attended a variety of drug court-related trainings and conferences,

including the National Association of Drug Court Professionals Annual Conference and the National Drug Court Institute Drug Court Practitioner training programs.

Also in fiscal year 2008, the Judicial Center assisted the Supreme Court and the Division of State Court Administration in administering a Drug Court Grant Program that funded 18 drug courts for a total of \$150,000.

Reentry Courts

Effective July 1, 2006, the Indiana General Assembly granted the Judicial Center oversight of Indiana’s reentry courts, which are courts that have jurisdiction over, and provide reintegration services for reasonable fees to, persons released from the Department of Correction. *See* Ind. Code ch. 33-23-14. The Board of Directors of the Judicial Conference of Indiana has rulemaking authority concerning reentry courts and drug courts with the assistance of the newly-formed Problem-Solving Courts Committee. In 2006, the Problem-Solving Court Committee established a workgroup to develop rules for reentry courts. On June 15, 2007, the Board adopted interim rules for reentry courts operating under the statute pending the workgroup’s development of final rules in 2008. The workgroup completed its fifth revision of the draft rules in October 2007. In February and March 2008, Judicial Center staff conducted site visits to four reentry courts for the purpose of identifying how the draft rules relate to current practices in reentry courts. The workgroup is scheduled to reconvene in July 2008 to review the site visit results and to prepare a revised draft for the Board’s consideration later in 2008. The Judicial Center will begin certification reviews of reentry courts following the board’s adoption of final rules. There are currently five operational adult reentry courts, two adult reentry courts in the planning stages, and one juvenile reentry court in the planning stages.

Other Activities and Projects

The announcement of the court personnel education initiative has been greeted with immense enthusiasm by members of the Judicial Branch. An Advisory Committee was established with three primary objectives. The mission of the Committee is to make recommendations on the following:

1. Successful education currently being offered to court staff and how those programs can serve as the basis of future offerings;
2. Priority of topics to be presented and the targeted audience for each; and
3. The most effective methods of delivering of court staff education (given resource constraints)—i.e., large meetings, local programs, “canned” courses, internet, etc.

The Advisory Committee has received input from numerous sources and is planning to distribute questionnaires to judges, court personnel and clerks to get additional feedback. Other states have developed staff education program materials that they are happy to share with Indiana.

The Judicial Center continued its partnership with the Supreme Court, Division of State Court Administration, and Ivy Tech Community College to provide WorkPlace Spanish® Training for the Indiana Judicial System. The course consists of 24 hours of classroom instruction and the textbook includes a CD-Rom to help staff maintain the skills learned during the course. The

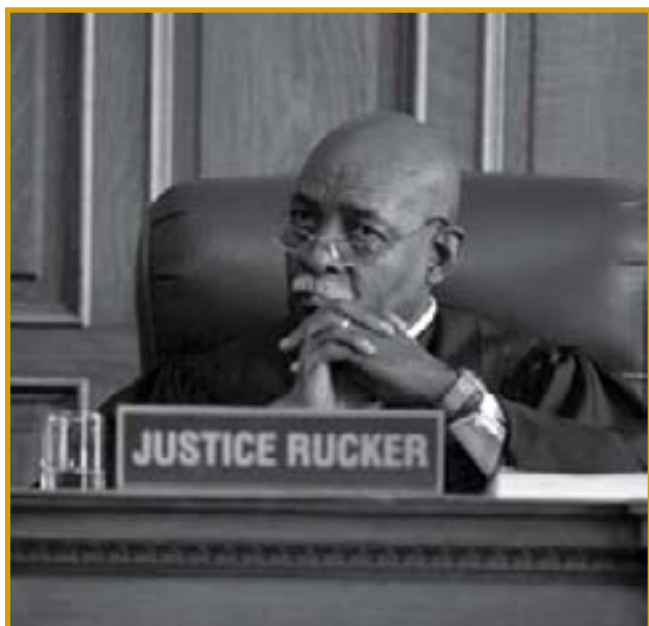


course is being offered to court staff at no cost to the counties or participants. Since the fall of 2006, over 650 people have participated in or submitted enrollment forms for this course.

Committee Activities

The committees of the Judicial Conference of Indiana had another busy year.

- The **Domestic Relations Committee** worked on a review of Indiana's child support guidelines.
- The **Protection Order Committee** worked on revisions to the Protection Order Benchbook and distributed an extensive revision of relevant forms.
- The **Court Management Committee** continued working to develop a template that Indiana courts can use to produce disaster preparedness plans designed to address all types of business disruption, from earthquakes and flooding to public health emergencies.
- The **Jury Committee** continued its work with the Supreme Court, Division of State Court Administration, and Judicial Technology & Automation Committee ("JTAC") on the central repository for jury pool sources for trial courts to use in creating jury pools that comply with the intent of Jury Rule 2. The third master list was released in Fall 2007 and the project team continues to investigate ways to improve the master list. The committee also assisted JTAC with development of a web-based jury management system. The committee also distributed a revised version, including closed captioning capabilities, of the "Indiana Jury Service: Duty, Privilege, Honor" orientation video.
- The **Ethics and Professionalism Committee** established a sub-committee that completed a review of the ABA Model Judicial Code of Conduct and made a number of recommendations to the Supreme Court for consideration. The committee also continued its work on the e-Journal entitled "Judicial Balance: Lessons for Law and Life." In addition to all Indiana judges receiving this publication by email, it is also distributed to members of the



★ Justice Rucker listens to an attorney answer a question posed during an oral argument.

following groups: the Judicial Division of the American Bar Association, the National Association of Women Judges, the National Center for State Courts, the Brennan Center, the Maine judiciary, and several judges from around the country.

- From November 10-17, 2007, the **International Law Committee** hosted a delegation of judges from Ukraine, sharing aspects of American society and the American justice system, while learning about Ukrainian social and legal customs.
- The **Special Courts Committee** continued its study of the court structure in Indiana and will make recommendations for improvements to the current court structure. This committee has been developing proposed amendments to several small claims rules.
- The **Judicial Administration Committee** reviewed the judicial weighted caseload system.
- The **Probation Committee** developed statewide intrastate transfer policies and procedures.
- The **Criminal Instructions Committee** worked toward finalizing its annual supplement, which will be published January 1, 2009.
- The **Civil Instructions Committee** worked on a plain-language "translation" of the civil pattern jury instructions.
- The **Civil Benchbook Committee** worked on updates for the Second Edition of the Civil Benchbook.
- The **Criminal Benchbook Committee** worked on revisions or updates to the Criminal Benchbook.
- The **Juvenile Benchbook Committee** worked on updates to the CHINS and delinquency benchbooks to help with the implementation of state payments of juvenile services under HEA 1001.
- The **Alternative Dispute Resolution Committee** continued to study issues involving the role of mediators who have *pro se* litigants participating in the mediation.
- The **Community Relations Committee** continued to address issues relating to the relationship between media and the courts and to educate the public on the role of the courts.
- The **Criminal Law Policy Committee** continued its role as a liaison with state and private agencies discussing criminal law matters, and reviewed legislation and policies concerning criminal law and sentencing.
- The **Juvenile Justice Improvement Committee** continued its role as a liaison with state and private agencies working with juveniles, and reviewed legislation and policies concerning juvenile justice and the courts. The committee is also working with probation and Department of Child Services on the implementation of state payments of juvenile services under HEA 1001.
- The **Probate Committee** continued to review recent legislation for updates to the Probate Deskbook, and its study of the impact that baby-boomer generation will have on the courts.

INDIANA STATE PUBLIC DEFENDER'S OFFICE

Susan K. Carpenter, Public Defender of Indiana

Indiana led the nation in recognizing the need for a mechanism to challenge convictions or sentences that could not be directly appealed. In 1883, the Indiana Supreme Court decided that

collateral attack (now called post-conviction relief) did exist to challenge a guilty plea coerced by mob violence. In 1945, the General Assembly created the Public Defender of Indiana to provide services to indigent inmates seeking collateral challenge of their convictions. The first Public Defender, Frank L. Greenwald, appointed (as is the case now) by the Indiana Supreme Court pursuant to statute, served from 1945 to 1947. His successor, James Cooper, held office from 1947 to 1956 and hired the first deputies public defender – one of whom was the Honorable Richard M. Givan, later Chief Justice of the Indiana Supreme Court. Robert Baker (1957 – 1966), Mel Thornburg (1966 - 1970), and Harriette Bailey Conn (1970 – 1981) complete the roster until the 1981 appointment of the current Public Defender of Indiana, Susan K. Carpenter.

In 1969, the Indiana Supreme Court adopted the Rules for Post-Conviction Remedies. Pursuant to Rule One, the Indiana State Public Defender’s Office (“the Office”) provides factual and legal investigation and representation at hearing and on appeal in all capital cases. In non-capital cases, factual and legal representation occurs after the indigent inmate files a pro se petition for post-conviction relief; representation at hearing and on appeal is provided when the case has arguable merit. The Office also finds competent private counsel to provide representation at trial and on direct appeal, at county expense, upon request by trial courts.

Capital Cases

In fiscal year 2008, the Indiana Supreme Court denied petitioners’ rehearing petitions in two capital cases (John Stephenson and Paul McManus) and affirmed the trial courts’ denials of post-conviction relief and denied rehearing in two capital cases (Michael Overstreet and Benjamin Ritchie). One (Ritchie) was handled by outside counsel due to a conflict of interest. In these four cases, stays of execution were granted by federal district courts pending habeas corpus review. Deputies fully briefed one capital appeal involving the denial of relief (Tommy Pruitt) by the trial court and filed post-conviction relief petitions in two capital cases (Wayne Kubsch and Frederick Baer).

The Supreme Court heard oral argument in one direct appeal of a capital sentence (Roy Ward). One individual was sentenced to



★ Renovations in the Supreme Court Library included restoration of the original decorative patterns and colors by local artisan painters from the Garland Guild, and recreation of chandeliers in the original style by Klemm Reflector Company. In addition, a new heating and cooling system has been installed to better protect the library’s collection.

death and initiated his appeal (Daniel Wilkes). One inmate under a sentence of death died of natural causes (Norman Timberlake).

Non-Capital Cases

Demand for the Office’s services in non-capital cases is largely a function of the Department of Correction’s population, which reached 28,600 adult and juvenile inmates on April 30, 2008, an increase of 8.2% from February 2007. The State Public Defender’s Office has struggled with a backlog of cases for years. In fiscal year 2008, the Office distributed older cases office-wide to allow more expeditious resolution, and instituted a program to closely monitor the age of pending cases. Given that the Office’s services are free and the demand flexible, the caseload cannot be controlled; however, during the last three fiscal years the Office has closed more cases than it has received from *pro se* petitioners and that the number of unreviewed post-trial and appeal cases is decreasing:

Fiscal Year	Pro se Petitions Received	Files Closed	Post-Trial and Appeal Records Awaiting Review
2006	546	623	419 (6/06)
2007	553	659	358 (6/07)
2008	564	626	335 (6/08)

Since July 1991, when the Office received discretion to refuse further representation if full-case investigation (including an evidentiary hearing if appropriate) established the case lacked arguable merit, 4,503 cases have been found to be without arguable merit. In these cases, state resources are not expended by this Office, but inmates have the option of proceeding pro se or hiring private counsel.

Finally, the Office noted some victories this fiscal year in the following fully litigated cases: *Smith v. Indiana Department of Correction*, 883 N.E.2d 802 (Ind. 2008) (amicus); *Henley v. State*, 881 N.E.2d 639 (Ind. 2008); *Helton v. State*, 886 N.E.2d 107 (Ind. Ct. App. 2008), *reh’g pending*; *Wright v. State*, 881 N.E.2d 1018 (Ind. Ct. App. 2008), *reh’g denied, petition to transfer pending*; *Maymon v. State*, 875 N.E.2d 375 (Ind. Ct. App. 2007), *trans. denied*; *Greathouse v. State*, No. 65A01-0706-PC-247 (Ind. Ct. App. 2008), *trans. denied* (conviction vacated on newly-discovered evidence); *Hayes v. State*, No. 26A01-0707-PC-325 (Ind. Ct. App. 2007) (murder conviction vacated); and *Dunlap v. State*, No. 49A02-0705-PC-378 (Ind. Ct. App. 2007), *trans. denied* (same).

INDIANA SUPREME COURT LAW LIBRARY

Terri L. Ross, Librarian

The Supreme Court Law Library (“the Library”) originated with an 1867 act of the Indiana legislature that gave custody of the law books then in the State Library to the Supreme Court. Since then, the primary mission of the Library has been to support the research needs of the judges, staff, and agencies of the Supreme Court, and later the Court of Appeals and Tax Court. The Library also serves as a research library for many state agencies, the Office of the Governor, the General Assembly, members of the private bar, and the citizens of Indiana.

The Library contains a comprehensive collection of legal materials that must be kept current. During this fiscal year, the Library's staff received and processed approximately 1,615 volumes as additions or replacements for volumes already in the Library's collection, and approximately 1,623 volumes were discarded. The staff also continued its major effort to catalog and inventory the Library's collection by barcoding volumes. Over 13,075 items, excluding periodical subscriptions, were barcoded and added to the Library's online catalog. More than half of these additions were previously unprocessed materials from the Library's Fifty States Collection and the Supreme Court Brief Collection.

The Library produced 123 interlibrary loans for the Supreme Court, Court of Appeals, Tax Court, state trial courts, state agencies, and reciprocal libraries. Interlibrary loan service is provided through the Online Computer Library Center. Our Library fulfilled loan requests nationwide, from Fresno to Syracuse, including federal court and agency libraries and eight universities.

During the fiscal year, over 724 items were circulated and returned using the Library's SIRSI-based automation system. Library patrons included users from 26 state agencies. The Library's online catalog, launched to the public in 2004, is accessible through the Indiana Shared Library Cataloging Consortium. The catalog is also searchable through the statewide INSPIRE database. The online catalog and web page have increased the visibility of the Library. This fiscal year, there were 12,422 hits made to the catalog and 66,316 visits made to web pages in the Library's directory, as compared to 17,234 hits made to the catalog and 97,463 visits to web page last fiscal year.

Approximately, 2,928 patrons visited the Library during this fiscal year, an increase of 33% over the previous fiscal year.

The Library's historic restoration project was finished in mid-July 2007 with a minimal disruption of library services. The Garland Guild, local artisans that specialize in restoring original paint schemes in historic buildings, completed their work in bringing the Library's walls and ceilings back to their 1889 appearance. In addition, period-reproduction chandeliers were installed, replacing the mundane fluorescent ceiling lighting that had previously been in place. Finally, in addition to the Library Restoration Project, the Library also benefited from completion of the Department of Administration's State House



★ Chief Justice Shepard speaks to law students from Thailand on a visit to Indiana.

HVAC Project in the Library's space. The Library, including its hundreds of rare or aging materials, now benefit from state-of-the-art climate control that will slow greatly the rate at which these materials deteriorate.

The Library evaluated portions of the collection and donated non-essential law reviews, journals, case reporters, and government documents to several universities, Shortridge's Law and Public policy magnet high school, and a microfilm consortium project. The Library shifted and relocated library materials to provide patrons with easier access to materials, including moving most of the state codes to the first floor. Maps and aisle locator guides were updated to assist users in locating materials. Chamber book collections were also inventoried for the first time.

Library staff members continued their outreach services and professional development throughout the year. The Librarian gave presentations to law library students at local universities, met with future librarians to provide career advice, and joined the Indiana State Bar Association after law librarians were invited into membership for the first time.

Other staff participated in meetings to plan for the future implementation of a new library catalog to be released in the fall of 2008. As part of the Indiana Shared Library Cataloging Consortium, the Library will move its online catalog to an open-source system named "Koha." The move from the existing SIRSI-based catalog to Koha will allow the libraries of the consortium to have greater flexibility in the display of information, greater control over the database, and the opportunity to save money in future contract years. In preparation for the migration, library staff continued to clean up the catalog database and continued to add cataloging information for previously uncataloged materials in the Fifty States and Government Documents Collections.

This fiscal year, the Librarian and staff also helped teach the legal research portion of the Courts in the Classroom "Summer in the City" teacher workshop and assisted teachers in finding information for their mock oral arguments. They also continued their ongoing project of assisting researchers in finding information on Indiana Supreme Court justices for a forthcoming book in the Supreme Court Legal History Series.

Finally, the Library continued to serve as a depository for publications produced under grants from the State Justice Institute. Items received were cataloged, and a listing of new titles



★ The Justices' robes in place before an oral argument. The small robing room is adjacent to the Courtroom; the Justices gather here before entering the public Courtroom.

was periodically provided to the state judiciary. These publications are available for loan to judges and court staff throughout the state. The Library is also designated as a selective federal depository for United States government publications.

INDIANA JUDGES AND LAWYERS ASSISTANCE PROGRAM

Terry L. Harrell, Executive Director

The Indiana Judges and Lawyers Assistance Program (“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 their ability to engage in their profession 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 (“JLAP Committee”), comprised of five judges, seven attorneys, one law student representative, and two other members from any of the three categories, to oversee JLAP. The 2008 Committee include: John R. Vissing of Jeffersonville, Chair; Kimberly A. Jackson of Terre Haute, Vice-Chair; the Honorable Donald L. Daniel of Lafayette, Treasurer; Daniel G. McNamara of Fort Wayne, Secretary; the Honorable J. Blaine Akers of Brazil; the Honorable Carr L. Darden of Indianapolis; the Honorable Michael A. Robbins of Bedford; the Honorable David A. Shaheed of Indianapolis; Tonya J. Bond of Indianapolis; Michele S. Bryant of Evansville; Edmond W. Foley of South Bend; David F. Hurley of Indianapolis; Timothy O. Malloy of Highland; and Stephanie Shappell Katich of Crown Point. The JLAP staff consists of an Executive Director, a Clinical Director, and a part-time Administrative Assistant.

It is important to recognize that this small core of committee members and staff could not offer a helping hand to members of our profession without the efforts of approximately 200 JLAP

volunteers around the state. These volunteers offer countless hours meeting with struggling lawyers, judges, and law students in their communities. They serve as a link for that person to whatever helping resources the person needs. The volunteer may serve as mentor, a monitor, or simply a confidential listening ear. Volunteers receive training in how to motivate others and are occasionally asked to participate in group interventions. They are the back bone of JLAP and both the JLAP Committee and the Supreme Court are grateful for their service.

Utilization

This fiscal year, JLAP logged 153 calls for help. They ranged from simple requests for information or referral to asking JLAP to coordinate group interventions. JLAP had 54 calls for help with substance abuse issues, 42 calls for help related to mental health issues, ten calls for assistance with physical impairment issues, four calls for help related to career change or retirement issues, two calls related to practice management issues, two calls for assistance regarding specific behavioral issues, two issues that fit no existing category, and 37 calls with an unidentified impairment at the time of the initial call. (Although many cases contain multiple issues (e.g., depression and alcohol dependence), for statistical purposes JLAP uses the primary issue identified in the initial call for help.) Approximately 25% of the calls for help were self referrals, approximately 25% came from formal referrals from the Disciplinary Commission, the Board of Law Examiners, or employers, and, almost 50% were calls from concerned friends, colleagues, or family members. The latter is the heart of lawyers assistance work, when lawyers reach out to help before a colleague ends up having problems with a client, an employer, or the disciplinary system.

A “call for help” becomes a “case” only when JLAP staff meet personally with a client and/or determine that there will be ongoing contact with the client or a third party (such as in the case of an intervention.) A simple call for a referral or a one-time consultation will not result in a case being opened.

As of June 30, 2008, JLAP had 182 active cases: 113 with addiction issues, 104 with mental health issues; ten with career change or retirement issues; and eight with physical issues. (This totals 235 separate issues because many cases involve more than one issue and JLAP does track these multiple issues once a case is opened.) It is not unusual for a JLAP client to be addressing depression, addiction issues, and career-change issues all at the same time.

Monitoring

JLAP offers monitoring as a service to provide accountability and supervision of those trying to develop a successful recovery program for mental health or addiction problems. The monitoring program benefits the individual by holding the individual accountable for adhering to his or her own recovery plan. It protects the public because if an individual on a monitoring agreement fails to comply with the recovery plan, then JLAP must report that failure to the individual or organization responsible for holding the participant accountable. The individual(s) or organization can then take appropriate action to protect the public.

JLAP has developed several different kinds of monitoring agreements to further this service. JLAP’s most formalized



★ Justice Dickson considers an attorney’s argument in the courtroom.



★ The mezzanine level in the renovated Library.

monitoring agreements exist with the Disciplinary Commission, the Commission on Judicial Qualifications, and the State Board of Law Examiners. Participants may also enter into less formal “interim monitoring agreements” with JLAP in anticipation of disciplinary action, reinstatement, or issues that might surface during the “character and fitness” component of the Bar application process. These agreements monitor the individual’s recovery program but make no reports until and unless the participant releases JLAP to do so. Finally, JLAP has developed monitoring agreements where reports are made to an employer, a local judge, or a colleague rather than a disciplinary or licensing agency. In these latter agreements, the participant is generally in an earlier stage of impairment. JLAP views these agreements as an opportunity to intervene in the course of someone’s addiction or mental health problems at an earlier point and limit the damage to that person’s career, family, health, and reputation.

As of June 30, 2008, JLAP was monitoring eighteen formal agreements and thirteen interim agreements. Of the formal agreements, eight involved addiction issues, eight involved mental health issues, and two involved both addiction and mental health issues. Of the interim agreements, eight involved addiction issues, two involved a mental health issue, and three involved both addiction and mental health issues.

JLAP Support Groups

JLAP continues to run three support groups open to the legal community. 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. Frequent topics in these groups are how to cope with stress and how to maintain a healthy lifestyle in the legal profession. There are currently two support groups in Indianapolis and one in Jeffersonville. Any judge, lawyer, or law student may call the JLAP office for more information about these groups.

Education

In May 2008, JLAP held a volunteer training in Lake County. Topics covered included the role of a JLAP volunteer, JLAP confidentiality, suicide prevention, interaction between JLAP and the Indiana Supreme Court Disciplinary Commission, and intervention. The Executive Director of the Illinois Lawyers Assistance Program (Illinois LAP), Janet Piper Voss, and Justice Michael J. Murphy, a volunteer for the Illinois LAP, assisted with the intervention training, sharing their wisdom and experience from doing interventions in Illinois. JLAP plans to extend the 90- minute intervention training into a half or full-day training in the future.

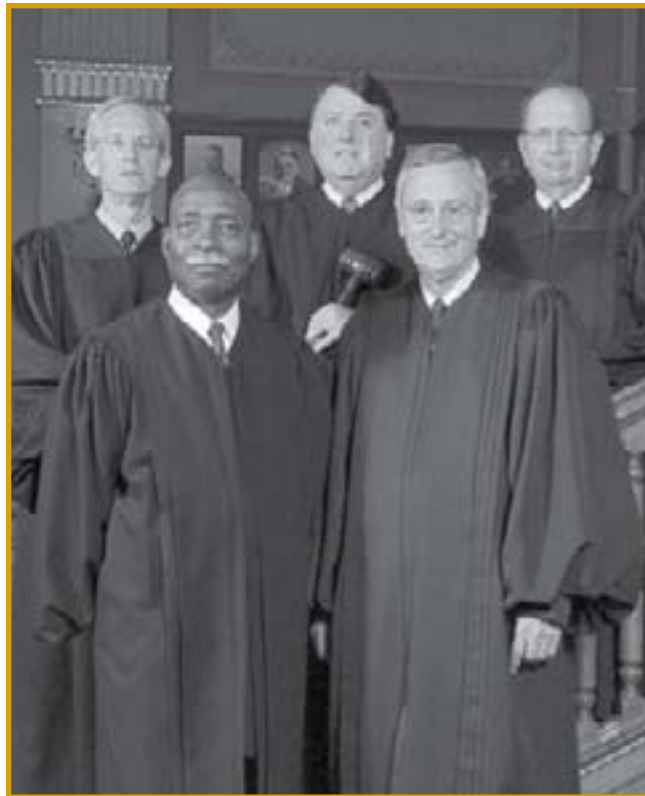
JLAP staff and volunteers continued efforts to educate judges, lawyers, and law students about the common impairments members of the legal profession may encounter and what resources are available through JLAP and elsewhere to prevent and seek assistance for these issues. Education is an integral part 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. Below is a list of our presentations statewide:

- Allen County Bar Association’s Applied Professionalism Course
- The Benjamin Harrison American Inn of Court
- DePauw University Pre-Law Club
- Evansville Bar Association
- Indiana Judicial Center New Judge Orientation
- Indiana Judicial Center District Meetings
- Indiana Public Defender Council Annual Conference – Exhibitor Table
- Indiana State Bar Association’s Elder Law Seminar
- Indiana State Bar Association’s Young Lawyers Section and Indiana Continuing Legal Education Foundation Sponsored Applied Professionalism Course
- Indianapolis Bar Association’s Applied Professionalism Course
- Indianapolis Bar Association’s Leadership Series
- Lake County Bar Association’s Applied Professionalism Course
- Law Schools
 - IU Bloomington
 - Professional Responsibility Class
 - Professional Responsibility Class
 - Stress Management Presentation
 - IU Indianapolis
 - Professional Responsibility Class
 - Valparaiso University
 - Professional Responsibility Class
- Marion County Bar Association
- Morgan County Bar Association
- Terre Haute Bar Association
- Tippecanoe County Law Day

JLAP Activity at the State and National Level

JLAP staff continues to become more involved in the national network of Lawyers Assistance Programs (“LAPs”) coordinated by the American Bar Association’s Commission on Lawyers Assistance Programs (“CoLAP”). Throughout the past year Executive Director Terry L. Harrell has participated on the planning committee for the 2008 CoLAP Annual Conference, the CoLAP Judicial Assistance Initiative, the Senior Lawyers Committee, and the Advisory Committee to the Commission on Lawyer Assistance Programs. JLAP Clinical Director Timothy J. Sudroveh and Ms. Harrell attended the CoLAP Annual Conference last October. In addition, JLAP Committee members Judge Donald L. Daniel and Kimberly A. Jackson also attended the conference. At the 2007 conference, JLAP made a successful bid to bring the conference to Indianapolis in the fall of 2010.

JLAP has also been active with the Indiana State Bar Association (“ISBA”). Ms. Harrell serves on the ISBA’s Professional Legal Education, Admission, and Development Section, and on the planning committee for the ISBA’s Solo Small Firm Conference. In October 2007, Ms. Harrell chaired for the ISBA Annual Meeting in French Lick, Indiana. ISBA President Richard Eynon had chosen “Life Management” as the theme for the 2007 Annual Meeting and was interested in promoting quality of life for lawyers. The Annual Meeting included a plenary speaker on the topic of life balance and effective time management, and reinstated the Friends of Bill W. Meeting that had been held at previous meetings.



★ The Indiana Supreme Court (left to right): Frank Sullivan, Jr., Robert D. Rucker, Randall T. Shepard, Theodore R. Boehm, Brent E. Dickson.



Appendix

Indiana Supreme Court

FISCAL 2007-08 CASE INVENTORIES AND DISPOSITION SUMMARY

	Cases Pending as of 7/1/07	Cases Transmitted in Fiscal 2007-08	Cases Disposed in Fiscal 2007-08	Cases Pending as of 6/30/08
Civil Direct Appeals	0	0	0	0
Civil Transfers	52	398	380	70
Tax Court Petitions for Review	1	7	5	3
Criminal Direct Non-Capital	1	6	5	2
Capital Cases	3	2	3	2
Criminal Transfers	57	629	635	51
Original Actions	0	44	41	3
Certified Questions	0	0	0	0
Mandate of Funds	1	0	1	0
Attorney Discipline	79	109	108	80
Board of Law Examiners	0	1	1	0
Judicial Discipline	0	2	0	2
Rehearings	2	19	21	
Other	0	0	0	0
Total	196	1,217	1,200	213

TOTAL DISPOSITIONS: 1,200

Criminal	643	53%
Civil	380	30%
Tax	5	<1%
Certified Questions	0	<1%
Original Action	41	3%
Attorney Discipline	108	7%
Board of Law Examiners	1	<1%
Judicial Discipline	0	<1%
Rehearings	21	<2%
Other	1*	<1%
Total	1,200	

*Mandate of Funds

MAJORITY OPINIONS AND PUBLISHED ORDERS: 168

Criminal	44	47%
Civil	47	49%
Tax	0	0%
Certified Questions	0	0%
Original Action	0	0%
Attorney Discipline	74	2%
Judicial Discipline	0	0%
Rehearings	2	<1%
Other	1*	<1%
Total	168	

*Mandate of Funds

	Direct Appeal Crim.	Direct Appeal Civil	Transfer Crim.	Transfer Civil	Tax Review	Original Action	Att. Disc.	Jud. Disc.	Rehearing Opinions	Certified Questions	Other	Total
Shepard, C.J.	1	0	8	11	0	0	0	0	0	0	0	20
Dickson, J.	1	0	9	10	0	0	0	0	0	0	0	20
Sullivan, J.	0	0	7	10	0	0	0	0	1	0	1*	19
Boehm, J.	1	0	5	15	0	0	0	0	0	0	0	21
Rucker, J.	4	0	5	1	0	0	0	0	1	0	0	11
By the Court	0	0	3	0	0	0	74	0	0	0	0	77
Total	7	0	37	47	0	0	74	0	2	0	1	168

*Mandate of Funds

NON-DISPOSITIVE OPINIONS

	Concurring	Dissenting	Concur/Dissent in part	Recusal Opinion	Total
Shepard, C.J.	2	3	1	0	6
Dickson, J.	0	7	2	0	9
Sullivan, J.	2	7	1	0	10
Boehm, J.	2	4	3	0	9
Rucker, J.	1	5	2	0	8
Total	7	26	9	0	42

CERTIFIED QUESTIONS

	Pending 7/1/07	Received	Accepted	Rejected	Dismissed	Opinions	Pending 6/30/08
Federal District Court	0	0	0	0	0	0	0
Federal Appellate Court	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0

CASES IN WHICH ORAL ARGUMENTS WERE HELD

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Total
Criminal b/f dec. on trans.	0	0	0	1	2	0	0	0	0	1	0	0	4
Criminal after trans. granted	0	0	1	1	5	2	3	1	1	0	4	2	20
Civil/Tax b/f dec. on trans.	0	0	0	1	3	0	1	1	0	1	0	1	8
Civil/Tax after trans. granted	0	1	5	2	4	3	7	4	0	2	4	4	36
Criminal Direct Appeals	0	0	0	0	2	2	0	0	0	0	2	0	6
Civil Direct Appeal	0	0	0	0	0	0	0	0	0	0	0	0	0
Certified Question	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	1	6	5	16	7	11	6	1	4	10	7	74

CAPITAL CASES

	Direct Appeals	PCR	Interlocutory Appeals	Successive PCR	Rehearing	Total
Shepard, C.J.	1	0	0	0	0	0
Dickson, J.	1	0	0	0	0	1
Sullivan, J.	0	0	0	0	0	0
Boehm, J.	1	0	0	0	0	1
Rucker, J.	2	2	0	0	0	4
By the Court	0	0	0	0	0	0
Total	5	2	0	0	0	7

PETITIONS FOR EXTENSION OF TIME & MISCELLANEOUS ORDERS

Petitions for Extension of Time Processed.....	43
Special Judge Requests.....	77
Other Miscellaneous Appellate Orders.....	824
TOTAL.....	944

ATTORNEY DISCIPLINE, CONTEMPT, AND RELATED MATTERS

Disciplinary cases pending before hearing officer/court on July 1, 2007

Before the Court for Hearing Officer Appointment.....	3
Disciplinary Action Pending Before Hearing Officer.....	40
Reinstatement Action Pending before Hearing Officer.....	14
Briefing Stage.....	7
Before the Court for Decision.....	5
Show Cause Order Entered, Awaiting Response.....	3
Noncooperation Suspension Entered, Awaiting Response.....	7
TOTAL CASES PENDING AS OF JULY 1, 2007.....	79

New disciplinary matters received during fiscal year 2007-08

Verified Complaints for Disciplinary Action.....	47
Petitions to Show Cause for Noncooperation.....	32
Administrative Admonitions Tendered.....	5
Petitions for Resignation.....	2
Petitions for Reinstatement.....	6
Petitions to Revoke Probation.....	3
Petitions to Terminate Probation.....	3
Notices of Foreign Discipline, Requests for Reciprocal Discipline.....	5
Petition for Emergency Interim Suspension, Notices of Guilty Finding.....	3
Contempt of Court Proceedings.....	2
Miscellaneous.....	1
TOTAL NEW CASES FILED FISCAL YEAR 2007-2008.....	109

Disciplinary cases disposed during fiscal year 2007-08

By Private Administrative Admonition.....	2
By Rejecting Private Administrative Admonition.....	1
By Private Reprimand.....	4
By Public Reprimand.....	9
By Suspension (after verified complaint).....	24
By Order Accepting Resignation.....	7
By Emergency Interim Suspension.....	1
By Order Imposing Interim Suspension on Finding of Guilt.....	3
By Reciprocal Discipline (Suspension).....	4
By Finding Contempt of Court.....	1
By Dismissal on Compliance with Show Cause Order.....	23
By Converting to Indefinite Suspension for Noncooperation.....	3
By Finding for the Respondent.....	1
By Dismissing or Withdrawing Action.....	1
By Granting Reinstatement.....	9
By Withdrawing of Petition for Reinstatement.....	3
By Denying Reinstatement.....	0
By Terminating Probation.....	3
By Revoking Probation.....	2
By Miscellaneous Order.....	7
TOTAL CASES DISPOSED DURING FISCAL YEAR 2007-08.....	108

Disciplinary cases pending July 1, 2008

Before the Court for Hearing Officer Appointment.....	10
Disciplinary Action Pending before Hearing Officer.....	30
Reinstatement Action Pending before Hearing Officer.....	7
Briefing Stage.....	5
Before the Court for Decision.....	11
Show Cause Order Entered, Awaiting Response.....	3
Noncooperation Suspension Entered, Awaiting Response.....	14
TOTAL PENDING AS OF JULY 1, 2008.....	80

ANALYSIS OF SUPREME COURT DISPOSITIONS

Criminal Cases

Opinions on direct appeals.....	7
Direct appeal disposed of by order	1
Opinions on petitions to transfer	37
Opinions on rehearing.....	2
Orders on rehearing.....	12
Petitions to transfer dismissed, denied, or appeal remanded by unpublished order.....	598
Other	0
TOTAL.....	657

Civil Cases

Opinions and dispositive orders on certified questions	0
Opinions on direct appeals.....	0
Direct Appeals disposed of by order.....	0
Opinions on rehearing	0
Orders on rehearing.....	7
Opinions on petitions to transfer.....	47
Petitions to transfer denied, dismissed, or appeal remanded by unpublished order.....	333
Other dispositions, civil	0
TOTAL.....	387

Tax Cases

Opinions on Tax Court petitions for review	0
Dispositive orders on Tax Court petitions for review.....	5
TOTAL.....	5

Original Actions

Opinions issued.....	0
Disposed of without opinion.....	41
TOTAL.....	41

Mandate of Funds

Opinions and published orders.....	1
TOTAL	1

Attorney Disciplinary Matters

Opinions and published orders.....	74
Other dispositions	34
TOTAL.....	108

Petitions for Review of State Board of Law Examiners Matters

Petitions for review.....	1
TOTAL.....	1

Judicial Discipline Matters

Opinions and published orders.....	0
Other dispositions	0
TOTAL.....	0

TOTAL DISPOSITION 1,200

CASES PENDING AS OF JUNE 30, 2008

	Pending Cases as of June 30, 2008 <i>(does not include Pets. for Rehearing)</i>	Pending Petitions For Rehearing as of June 30, 2008
Shepard, C.J.	6	0
Dickson, J.	3	0
Sullivan, J.	9	0
Boehm, J.	9	0
Rucker, J.	10	0
To the Court	5	0
Unassigned Civil Cases	47	
Unassigned Tax Court Petitions for Review	2	
Unassigned Criminal Transfer Cases	37	
Unassigned Criminal Direct Appeals	0	
Unassigned Civil Direct Appeals	0	
Unassigned Original Actions	3	
Unassigned Certified Questions	0	
Unassigned Other	0	
Pending Bar Examination Reviews	0	
Attorney Discipline	80	
Judicial Discipline	2	
Total	213	0



★ The Indiana Supreme Court (*left to right*): Frank Sullivan, Jr., Brent E. Dickson, Randall T. Shepard, Robert D. Rucker, Theodore R. Boehm

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