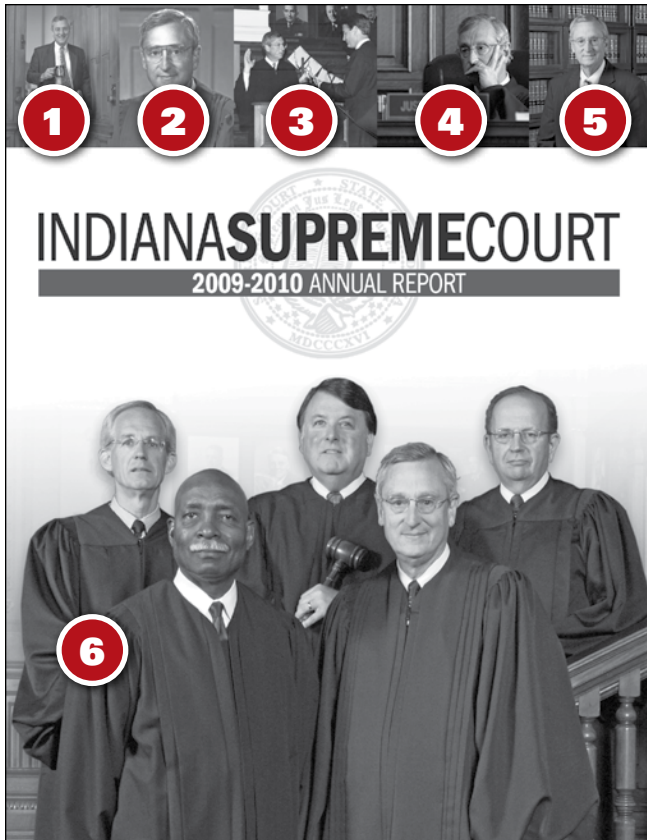




INDIANA SUPREME COURT

2009-2010 ANNUAL REPORT





- 1:** This year, Justice Boehm announced that he would be retiring from the bench in September 2010, having served since he was appointed in 1996. Here he is exiting the Robing Room in 2001.
- 2:** The Courtroom contains portraits of each person (except two) who has served on the Supreme Court bench since Indiana was a territory. This is Justice Boehm's.
- 3:** Justice Boehm (left) being sworn into office in 1996 by the governor who appointed him, Evan Bayh.
- 4:** Justice Boehm listening to an oral argument in a murder case, 2005.
- 5:** Justice Boehm in 2008.
- 6:** The Indiana Supreme Court (left to right) Justice Sullivan, Justice Rucker, Chief Justice Shepard, Justice Boehm, Justice Dickson.

- 7:** Justice Boehm in his chambers, 2003.
- 8:** Justice Rucker and Justice Boehm on the bench, 2008.
- 9:** Justice Dickson, Justice Sullivan and Justice Boehm listen to Chief Justice Shepard deliver the State of the Judiciary speech in the House Chambers.
- 10:** In the Conference Room before an oral argument in 2001, (left to right) Justice Sullivan, Justice Dickson, Chief Justice Shepard, Justice Rucker, Justice Boehm.
- 11:** The Indiana Supreme Court in 1996, (left to right) Justice Frank Sullivan, Justice Brent Dickson, Chief Justice Randall T. Shepard, Justice Theodore Boehm, Justice Myra C. Selby.
- 12:** The Court at a weekly meeting in the Conference Room (left to right) Justice Sullivan, Justice Dickson, Chief Justice Shepard, Justice Rucker, Justice Boehm.
- 13:** Justice Boehm and Chief Justice Shepard in the State House.

Photographs in this year's annual report were provided by: the American Bar Association; Indiana School of Law – Indianapolis (David Jaynes); The Indianapolis Star (Charlie Nye); Jim Barnett, Indianapolis; John Gentry, Indianapolis; Lindsey Borschel; Mary DePrez; Kathryn Dolan; Sarah Hachey Kidwell; Dr. Elizabeth Osborn; Greta Scodro; Jessica Turner Strange; Josh Tatum; and other friends of the Court.

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The main floor of the State House from the Ohio Street entrance, facing south. The Clerk’s Office is located on the main floor. Supreme Court chambers are one flight up on the third floor; some Court of Appeals chambers are on the 4th floor.

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 2010 (July 1, 2009 through June 30, 2010) and a description of the activities of the Court and its affiliated agencies. Section II, Significant Events of Fiscal Year 2010, includes brief highlights from the past fiscal year. Additional details on many of the programs listed in Section II can be found in the sections that follow. For more information about the Court, its history, and its various agencies and programs, visit our web site, www.IN.gov/judiciary.

II. Significant Events of Fiscal Year 2010

The Indiana Supreme Court works to administer justice for the citizens of the state 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, 2009 through June 30, 2010. It begins with highlights of the Court's case work and then moves to highlights of the many other aspects of the Court's multifaceted work and accomplishments.

THE CASE WORK OF THE INDIANA SUPREME COURT

A small number of death penalty cases are among the hundreds of legal disputes that the Indiana Supreme Court is called upon to resolve each year. During the past year, one death sentence was carried out in Indiana. Matthew Eric Wrinkles was executed by lethal injection on December 10, 2009, for the murders of his wife, her brother, and her brother's wife, after the Court held that he had exhausted the appeals to which he was entitled. *Wrinkles v. State*, 915 N.E.2d 963 (Ind. 2009). The Court also affirmed the convictions and death sentence of Daniel Wilkes for the murder of a woman and her thirteen-year-old and eight-year-old daughters. *Wilkes v. State*, 917 N.E.2d 675 (Ind. 2009). Wilkes is entitled by law to seek further review of his death sentence.

The Court was also called upon to decide whether the Indiana Voter ID Law violates the Indiana Constitution after the U.S. Supreme Court in 2008 determined that the Voter ID Law did not violate the U.S. Constitution. The Court held that it was within the power of the Legislature to require voters to identify themselves at the polls using a photo ID. In the lawsuit, no individual voter claimed that the Voter ID Law had prevented him or her from voting or inhibited his or her ability to vote in any way. The Court's decision did not prevent any such voter from bringing an "as applied" challenge to the Voter ID Law in the future. *League of Women Voters v. Rokita*, 929 N.E.2d 758 (Ind. 2010).



Justice Dickson and Chief Justice Shepard listen to a lawyer's answer during oral argument in *League of Women Voters v. Rokita*, a case involving a challenge to the statute requiring voters to present a government-issued photo ID.

The Supreme Court's Exclusive Jurisdiction: Life-Without-Possibility-of Parole; Unauthorized Practice of Law; Local Judicial Mandates

The Indiana Supreme Court has exclusive jurisdiction over criminal cases where the defendant has been sentenced to death or to life without possibility of parole ("LWOP"). In addition to the *Wilkes* case described above, this fiscal year the Court decided three LWOP cases. The Court affirmed the LWOP sentences of Ian J. Clark, who had been convicted of murdering a two-year-old left in his care, *Clark v. State*, 915 N.E.2d 126 (Ind. 2009), and Jeffrey Treadway, who had been convicted of murder, felony murder, robbery, and battery, *Treadway v. State*, 924 N.E.2d 621 (Ind. 2010). But in the case of Kyle Kiplinger, a man convicted of murder and felony murder, the jury made no finding of record that the State had proved the charged aggravating circumstance beyond a reasonable doubt. Because such a finding is required by law, the Court vacated the LWOP sentence and remanded the case to the trial court for resentencing. *Kiplinger v. State*, 922 N.E.2d 1261 (Ind. 2010).

In considering concurrent life sentences imposed in 1977, the Court had to apply certain principles infrequently used today. Steve Hernandez had been sentenced to two life sentences on a two-count murder conviction. The Court held that Hernandez was not eligible for parole consideration under the parole release statute in effect at the time of his conviction, but that he was eligible to seek clemency in the same manner that many individuals had successfully done during the years in question. *State v. Hernandez*, 910 N.E.2d 213 (Ind. 2009).

The Court also has exclusive jurisdiction over matters involving the unauthorized practice of law. In *State ex rel. Indiana State Bar Association v. United Financial Systems Corporation*, 926 N.E.2d 8 (Ind. 2010), the Court held that an insurance marketing agency engaged in the unauthorized practice of law by selling estate planning services.

The Court also has established a special procedure for resolving disputes between county governments and courts concerning the funding of trial court operations. Such cases, known as "mandate cases," are rare, but the Court was required to decide such a dispute this fiscal year between a juvenile court judge and the county commissioners and the county council regarding land, renovations, and salaries at the county's juvenile justice center. The Court approved certain renovations but disapproved a mandate for a new courtroom and most of the mandated salary increases. *St. Joseph County Comm'rs v. Nemeth*, 929 N.E.2d 703 (Ind. 2010).

Certified Questions from the Federal Courts

From time to time, a federal circuit court of appeals or a federal district court certifies a question of Indiana law to the Court when it appears to the federal court that a proceeding presents an issue of state law that is determinative of the case and on which there is no clear controlling Indiana precedent.

One such question, from the U.S. Court of Appeals for the Seventh Circuit, asked whether Indiana law requires an entity that purchases and later sells a wrecked vehicle to apply to the BMV for a salvage title when it no longer owns the vehicle; the Court answered in the affirmative. *Storie v. Randy's Auto Sales, LLC*, 926 N.E.2d 487 (Ind. 2010).



The Chief Justice of the United States, John G. Roberts Jr., delivered a lecture on legal education at the Indiana University School of Law - Indianapolis. Members of Indiana's Supreme Court attended: (left to right) Justice Boehm, Justice Dickson, Chief Justice Roberts, Chief Justice Shepard.

A second question, from the U.S. District Court for the Southern District of New York, asked what standard Indiana law uses to determine whether corporate directors are “not disinterested” in claims against the corporation such that shareholders seeking to maintain a “derivative” action are excused from demanding that the corporation’s board pursue the claims. The Court held that shareholders must show that the directors face a substantial likelihood of personal liability on the claims to establish that the directors are “not disinterested.” *In re ITT Derivative Litigation*, 932 N.E.2d 664 (Ind. 2010).

The Supreme Court’s Discretionary Jurisdiction

The greatest volume of the 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 decides the appeal, either party has the opportunity to file a “petition to transfer” with the Supreme Court. The Supreme Court reviews each petition and selects those cases that warrant its attention.

In fiscal year 2010, the Court disposed 919 cases, 745 of which had first been appealed to the Court of Appeals. Of these 745 petitions to transfer, 244 (33%) were civil cases and the remaining 501 (67%) were criminal. The Supreme Court accepted jurisdiction and issued opinions in approximately 10.7% of all transfer cases (17.2% in civil cases and 7.6% in criminal cases). In the remaining 89.3%, the Supreme Court declined review and the decision of the Court of Appeals became final.

Like petitions to transfer from the Court of Appeals, the Supreme Court also receives requests, called “petitions for review,” to examine decisions of the Indiana Tax Court. Of the three petitions for review filed in fiscal year 2010, the Supreme Court accepted jurisdiction in one, which awaits final disposition.

The appellate work of the Indiana Supreme Court would not be possible without the outstanding work provided by Indiana’s Court of Appeals, Tax Court, and trial courts. The Court recognizes this work with the greatest appreciation.

Civil Transfer and Tax Review Cases

This year, the Court received 313 civil transfer petitions as compared to 328 last year, disposed of 244 compared to 352 last year, and issued 42 published opinions in civil transfer cases.

The emergence of Indiana as a major gambling center has produced a number of cases encompassing a range of topics. The Court held oral arguments in five such cases this year, three of which await a decision from the Court at year-end. *Foundations of East Chicago, Inc. v. City of East Chicago*, 927 N.E.2d 900 (Ind. 2010), addressed whether the General Assembly, in 2007 legislation, had altered substantively the statutory framework under which the Gaming Commission regulates licenses and license conditions. At issue in *Murray v. City of Lawrenceburg*, 925 N.E.2d 728 (Ind. 2010), was the plaintiffs’ claimed ownership of land subleased by the city to a gambling licensee. The Court held that inverse condemnation was the sole remedy available to the plaintiffs, but that the six-year statute of limitations foreclosed the suit.

The Court also heard oral arguments, but did not issue an opinion by the close of the fiscal year, in the remaining three cases. *Donovan v. Grand Victoria Casino & Resort, L.P.*, addresses whether a casino has a common-law right to exclude a customer who is an acknowledged blackjack “card counter,” while *Caesars Riverboat Casino, LLC v. Kephart* involves whether a casino has a common-law duty to exclude a customer who has a severe addiction to gambling. Lastly, *Belterra Resort Indiana, LLC v. Indiana Department of Revenue* considers the question of whether a casino’s riverboat is subject to Indiana’s use tax.

The Court decided a number of cases involving insurance coverage. In *Tri-etch, Inc. v. Cincinnati Insurance Co.*, 909 N.E.2d 997 (Ind. 2009), the Court discussed whether an alarm company’s claim constituted an “occurrence” under the company’s commercial general liability and umbrella policies. In *Bradshaw v. Chandler*, 916 N.E.2d 163 (Ind. 2009), the Court concluded that bringing suit under the underinsured motorist section of a policy met the requirements of commencing a claim within two years after the accident under its uninsured motorist provision.

The Court discussed whether the Adult Wrongful Death Statute allows for “bystander emotional distress” claims under the Medical Malpractice Act in *Indiana Patient’s Compensation Fund v. Patrick*, 929 N.E.2d 190 (Ind. 2010). In another wrongful death action, *In re Estate of Inlow*, 916 N.E.2d 664 (Ind. 2009), the Court addressed the use of proceeds from a compromise settlement to repay medical, hospital, funeral, and burial expenses.

In a wrongful death action involving a child, *Clay City Consolidated School Corporation v. Timberman*, 918 N.E.2d 292 (Ind. 2009), the Court concluded that children between the ages of seven and fourteen are rebuttably presumed to be incapable of contributory negligence. In another case involving contributory negligence, *McSwane v. Bloomington Hospital and Healthcare System*, 916 N.E.2d 906 (Ind. 2009), the Court held that the hospital did not breach its duty of care to a patient who exhibited signs of domestic abuse and was killed by her ex-husband after being discharged. Another tort case, *Kovach v. Caligor Midwest*, 913 N.E.2d 193 (Ind. 2009), held that claimed design defects in a medicine cup and failure to warn against the cup’s use for precision measurement were not the proximate cause of a patient’s death.

The Court decided a number of cases dealing with worker's compensation. In *Kohlmeyer v. Second Injury Fund*, 915 N.E.2d 958 (Ind. 2009), the Court found that on the facts, the claimant was eligible for additional compensation from the so-called "Second Injury Fund." *Washington Township Fire Department v. Beltway Surgery Center*, 921 N.E.2d 825 (Ind. 2010), addressed whether the employer or the medical provider has the burden of proving whether the charges for medical services exceeded the employer's liability under the Worker's Compensation Act. In *Everett Cash Mutual Insurance Co. v. Taylor*, 926 N.E.2d 1008 (Ind. 2010), the Court held that a worker's compensation exclusion in the farmer's insurance policy did not exclude a claim arising from an independent contractor's failure to carry worker's compensation insurance. In *Smith v. Champion Trucking Co.*, 925 N.E.2d 362 (Ind. 2010), the Court addressed whether an employer's worker's compensation liability had terminated when the injured employee had settled with a third-party tortfeasor without first obtaining the employer's consent. And in *Travelers Indemnity Co. v. Jarrells*, 927 N.E.2d 374 (Ind. 2010), the Court found on the facts that the injured employee was not required to repay his employer's worker's compensation carrier after receiving a judgment against a third party tortfeasor.

In *Indianapolis-Marion County Public Library v. Charlier Clark & Linard*, 929 N.E.2d 722 (Ind. 2010), and *U.S. Bank v. Integrity Land Title Corp.*, 929 N.E.2d 742 (Ind. 2010), the Court examined the circumstances under which a defendant has liability in tort for "pure economic loss," i.e., pecuniary harm not resulting from an injury to the plaintiff's person or property. In the first case, a public library sought damages from architects and engineers for negligence in the design of a building renovation and expansion project. In the second case, a bank sought damages from a title commitment issuer for negligence in failing to uncover a lien during the title search.

In three cases, the Court discussed the immunity from liability provided to governmental units by the Indiana Tort Claims Act. Immunity due to temporary weather conditions was at issue in both *Gary Community School Corporation v. Walker*, 917 N.E.2d 1224 (Ind. 2009), and *Bules v. Marshall County*, 920 N.E.2d 247 (Ind. 2010). In *Wilson v. Isaacs*, 929 N.E.2d 200 (Ind. 2010), the Court addressed the applicability of law enforcement immunity to claims of police use of unreasonable or excessive force.

In *Williams v. Tharp*, 914 N.E.2d 756 (Ind. 2009), the Court held that a qualified privilege protects reports to law enforcement unless the maker of the report has actual knowledge that the report is false. In *Sibbing v. Cave*, 922 N.E.2d 594 (Ind. 2010), the Court examined the scope of an exception to the prohibition on hearsay evidence for statements made for purposes of medical diagnosis or treatment.

In a case involving real property law, *Myers v. Leedy*, 915 N.E.2d 133 (Ind. 2009), the Court held that a tenant's leasehold interest in property survives a land contract vendee's forfeiture when the tenant is not made a party to the forfeiture action and the vendor has actual knowledge that the tenant is in possession of the property.

Lastly, several family law cases were decided by the Court. *Basileh v. Alghusain*, 912 N.E.2d 814 (Ind. 2009), involved the interplay between the Full Faith and Credit for Child Support



Orders Act and the Uniform Interstate Family Support Act, while *Hamilton v. Hamilton*, 914 N.E.2d 747 (Ind. 2009), addressed whether a modification of a foreign support order would violate either the Full Faith and Credit Clause or the Supremacy Clause of the U.S. Constitution. In *re Paternity of N.L.P.*, 926 N.E.2d 20 (Ind. 2010), held that on the facts presented in the case, a written agreement retaining the services of a guardian ad litem was enforceable according to its terms.

Criminal Transfer Cases

This year, as in the past few years, there was an overall decrease in the number of criminal transfer petitions received and disposed of. Whereas the Court received 609 last year, it received 545 this year; last year the Court disposed of 602 such cases, this year 501. The Court issued 38 published opinions in criminal transfer cases this year.

In 2009, the U.S. Supreme Court established that a criminal defendant has a constitutional right to cross-examine a crime lab analyst in person at trial regarding evidence tested in the lab. *Melendez-Diaz v. Massachusetts*, 129 S. Ct. 2527 (2009). This year, the Indiana Supreme Court held that Melendez-Diaz did not require the testimony of a particular laboratory technician when DNA evidence was presented at trial. *Pendergrass v. State*, 913 N.E.2d 703 (Ind. 2009), *cert. denied*, 130 S. Ct. 3409, 78 USLW 3447, 78 USLW 3726, 78 USLW 3728 (2010).

Three cases focused on the behavior of juries and jurors. In *Beattie v. State*, 924 N.E.2d 643 (Ind. 2010), the Court held that inconsistent jury verdicts are not subject to appellate review. In *Jackson v. State*, 925 N.E.2d 369 (Ind. 2010), where five out of the twelve jurors had been exposed to a newspaper article citing a letter written by the defendant, the trial court had declared a mistrial but permitted the defendant to be re-tried. The Court affirmed, holding that the trial court's determination of the "manifest necessity" for the mistrial – the standard necessary to permit re-trial – was entitled to deference. And in *Caruthers v. State*, 926 N.E.2d 1016 (Ind. 2010), the Court held that the trial court's failure to interrogate the jury for bias was not fundamental error.

The Court frequently encounters claims that a police officer violated a person's constitutional rights in connection with a traffic stop. In one such case, *State v. Richardson*, 927 N.E.2d 379 (Ind. 2010), the Court held that the police officer's inquiry regarding an "unusual bulge" in the defendant's pocket during a traffic stop for violation of the Seatbelt Enforcement Act exceeded the officer's authority under the Act. Two cases addressed the authority of police officers when routine status checks on license plates reveal that the driver's license of the registered owner is suspended. *Armfield v. State*, 918 N.E.2d 316 (Ind. 2009); *Holly v. State*, 918 N.E.2d 323 (Ind. 2009).

In *Duran v. State*, 930 N.E.2d 10 (Ind. 2010), the Court was required to determine whether entry into the defendant's home was permissible where police acted solely on the basis of uncorroborated information from an anonymous source, and without any immediate need to prevent ongoing crime or flight. In *State v. Schlechty*, 926 N.E.2d 1 (Ind. 2010), the Court addressed whether a warrantless search of a probationer's property that is conducted reasonably, supported by a probation search term, and based upon reasonable suspicion of criminal activity complied with applicable law. And in *Shotts v. State*, 925 N.E.2d 719 (Ind. 2010), the Court held evidence of the defendant's possession of an unlicensed handgun at the time of his arrest pursuant to an out-of-state warrant was admissible against him in the Indiana prosecution.

Several cases dealt with the evidence necessary to establish one or more elements of a particular crime. In *King v. State*, 921 N.E.2d 1288 (Ind. 2010), the Court held that the offense of Attempted Dissemination of Matter Harmful to Minors can be committed when a defendant attempts to transmit proscribed matter by the Internet to an adult police detective posing as a minor. *Fortson v. State*, 919 N.E.2d 1136 (Ind. 2010), held that the mere unexplained possession of recently stolen property, standing alone, was insufficient to support a conviction for theft or receiving stolen property.

The sentence for certain drug offenses is greater if the state proves that they were committed within 1,000 feet of school property, a public park, a family housing complex, or a youth program center. It is a defense, however, if no children were present and the defendant was only "briefly" within 1,000 feet of the property. In *Griffin v. State*, 925 N.E.2d 344 (Ind. 2010), and *Gallagher v. State*, 925 N.E.2d 350 (Ind. 2010), the court found the defense availing to one defendant but not the other. In *Whatley v. State*, 928 N.E.2d 202 (Ind. 2010), the Court considered whether a church with an active youth program constituted a "youth program center" for the purposes of the sentencing enhancement.

As in several cases last year, the Court was faced with a question regarding Indiana's sex offender registry. In *Hevner v. State*, 919 N.E.2d 109 (Ind. 2010), the Court found that on the facts, the Sex Offender Registration Act violated the prohibition on ex post facto laws contained in the Indiana Constitution because it required the defendant to register as a sex offender when the Act contained no such requirement at the time defendant committed the underlying offense.

Gardiner v. State, 928 N.E.2d 194 (Ind. 2010), examined whether a prohibition on suspending an executed sentence below the statutory minimum where the defendant has a prior felony conviction is triggered by a Class D felony conviction on which judgment was later entered as a Class A misdemeanor.

In recent years, the appellate review of sentences imposed by trial court judges has been the subject of several cases. This year, in *Davidson v. State*, 926 N.E.2d 1023 (Ind. 2010), the Court made clear that this review includes all aspects of the penal consequences imposed by a trial judge, including the suspended portion of a sentence.

Finally, in an important decision, the Court held that results of legitimate offender assessment instruments neither serve as mitigating or aggravating circumstances nor determine the gross length of sentence, but that a trial court may consider such results in formulating the manner in which a sentence is to be served. *Malenchik v. State*, 928 N.E.2d 564 (Ind. 2010).

STATE OF THE JUDICIARY

The Chief Justice of Indiana, Randall T. Shepard delivered the 2010 State of the Judiciary to a joint session of the Indiana General Assembly on January 20, 2010. His address, "Dealing With The Recession: A Court System That Won't Roll Over," focused on how economic pressures have affected the Judicial Branch. "The Great Recession has driven our new filings to record numbers. This may sound a little technical, but it's very human. It's a tangible marker of a society under stress," explained Chief Justice Shepard to Indiana lawmakers and Governor Mitch Daniels.

Chief Justice Shepard vowed the Judiciary will aid in solving state budget woes. "For example, we're going to stop doing something we've been doing since May 1817. For 193 years, we have been mailing the decisions in appeals to the lawyers. We will now send them by e-mail only, and we will save \$39,000 this year alone," he said.

Lawmakers also received a report on a pledge the Chief Justice previously made to help homeowners facing foreclosure. Since January 2009, he reported, the Supreme Court had trained 1,112 judges, lawyers and mediators on how to best handle foreclosure cases.

The House Chamber erupted in applause when Chief Justice Shepard explained the "Plain English" jury instructions project. The jury instructions are legally accurate, but written with the help of English teachers so that jurors can more easily comprehend them.



Chief Justice Shepard addresses a packed courtroom at a continuing legal education lecture on women's suffrage in Indiana.



In the wake of the economic downturn and the record number of mortgage foreclosures, several programs were offered to educate trial courts, attorneys, debtors, and lenders on the particular nuances of mortgage foreclosure issues. The initiative was announced at a news conference in Evansville by Chief Justice Shepard and Senator Karen Tallian.

The 2010 address was Chief Justice Shepard's twenty-third State of the Judiciary. The address was carried live by Indiana Public Broadcasting ("IPB") on four radio stations, and eight IPB television stations aired a half-hour special devoted to the State of the Judiciary.

ASSISTING WITH THE FORECLOSURE CRISIS

The Indiana Supreme Court partnered with a number of government and non-profit agencies to develop a plan to combat foreclosures. The Indiana Housing and Community Development Authority, the Indiana Foreclosure Prevention Network, the Indiana Pro Bono Commission, the Indiana Commission on Continuing Legal Education, the Indiana Continuing Legal Education Forum, the Office of the Indiana Attorney General, bar associations, and law firms worked to make the "Back Home In Indiana—Guiding Homeowners Through Foreclosure" program a success.

The program included more than 30 training sessions dedicated to teaching legal professionals about modern foreclosure problems. The milestone of training more than one thousand judges, attorneys, and mediators to handle foreclosure cases more effectively was reached in Fall 2009. The training sessions included encouraging attorneys to provide free legal help to homeowners in need of assistance.

When the goal was reached, the Supreme Court offered a new pledge of support to help ensure coordination of settlement conferences. The conferences allow the lender and borrower to meet and work out a solution that benefits both parties.

JUDICIAL BRANCH STRATEGIC PLAN

In September, the Indiana Judicial Conference unveiled a long-term strategic plan to improve the Indiana system of justice. Entitled "A New Way Forward," the plan is the roadmap for the future of the Judicial Branch. It includes a set of priorities designed to allow the courts to improve the professionalism, efficiency, and effectiveness of the Indiana Judiciary. The plan

was presented to approximately 500 judges at the annual Judicial Conference and adopted by the Board of Directors of the Indiana Judicial Conference.

The plan was conceived by a Strategic Planning Committee made-up of nine judges. The judges gathered valuable input from their colleagues and developed the 27-page blueprint for excellence that details the Judiciary's shared vision for the future.

The strategic plan calls for creating a 21st century court structure for the judicial branch designed to eliminate gaps in jurisdiction, more efficiently use judicial resources, provide equal access to the courts, and promote local cooperation.

CIVIL LEGAL AID

Civil cases involve conflicts between people or business, such as in foreclosures or divorces. The Supreme Court is committed to ensuring that individuals involved in civil matters have access to attorneys if they cannot afford them. This fiscal year, the Supreme Court provided \$1.5 million to eleven civil legal aid groups from the Civil Legal Aid Fund, which is comprised of money appropriated to the Court by the General Assembly for awarding grants to qualified providers of civil legal aid services across the State.

In a separate effort, the Court also agreed to provide funding to the Indiana Bar Foundation's Justice Richard M. Givan Loan Repayment Assistance Program for Indiana, or "LRAP-IN." The program is designed to help civil legal aid attorneys repay student loans. The attorneys have lower incomes and often high educational debt. The Court will provide up to \$200,000 to LRAP-IN to help Indiana civil legal aid groups recruit and retain qualified attorneys pursuing careers of providing legal services to the poor.

JUDGES AND LAWYERS ASSISTANCE PROGRAM

Judges, attorneys, and law students in need of mental health or dependency treatment have a new resource for getting help. The Court's Judges and Lawyers Assistance Program ("JLAP"), the Indiana Bar Foundation and the Indiana State Bar Association partnered to create two funds to help pay for needed treatment and educational outreach. "The JLAP Treatment and Grant Fund" and "The Friends of JLAP Fund" are designed to assist law students, attorneys and judges seeking help for mental health or dependency troubles. The funds support JLAP's mission to help impaired members of the profession find an avenue to recovery, to protect the public, the profession, and the judicial system from the potential harm caused by impaired legal professionals, and to educate the bench and bar about impairment issues.

THE OPPERMAN AWARD

The American Judicature Society ("AJS") presented Indiana Chief Justice Randall T. Shepard with the Dwight D. Opperman Award for Judicial Excellence on April 14, 2010. AJS created the Opperman Award to honor state trial and appellate judges for distinguished judicial service. The award, which was presented at a judicial education conference, included congratulatory remarks from AJS President Carole Wagner Vallianos, Allen County Superior Court Judge Charles F. Pratt, Indiana University Maurer School of Law-Bloomington Dean Lauren Robel, and California Court of Appeal—Third Appellate District Judge Ronald Robie.

JUSTICE BOEHM ANNOUNCES HE WILL STEP DOWN

During the fiscal year, Justice Theodore R. Boehm, Indiana's 104th Supreme Court justice, announced he would step down from the bench at the end of September 2010. When Chief Justice Randall T. Shepard made the announcement he said, "While it is disappointing to lose Justice Boehm as a colleague, we are all grateful for his fourteen years of service to our state's judiciary. He has brought powerful insight to our deliberations and enormous energy to the goal of making Indiana a better place for its citizens."

Justice Boehm was appointed to the Indiana Supreme Court by Governor Evan Bayh in 1996. This will be the first change in the Court's membership in almost eleven years, by far the longest record of such continuity in Indiana history. During both this near-eleven-year period of continuity and his entire fourteen-year tenure of service, Justice Boehm authored more opinions of the Court than any of the other justices with whom he served and made an enormous contribution to Indiana's jurisprudence. He authored 466 majority opinions and 77 dissenting opinions. Shortly after the close of the fiscal term, the Indiana Judicial Nominating Commission accepted applications to fill the vacancy, interviewed candidates, and sent the names of Judge Steven David of Boone County, Judge Robyn Moberly of Marion County, and attorney Karl Mulvaney of Indianapolis to the Governor, who will select one of them as Indiana's 106th Supreme Court justice.

EDUCATION DIRECTOR RETIRES

In April 2010, Cathy Springer, Education Director for the Indiana Judicial Center, retired after 30 years. During her career, Ms. Springer was responsible for developing and implementing comprehensive judicial and employee education for the Indiana Judicial Branch. She served as the teacher to hundreds of Indiana judges who were committed to ensuring the Indiana Judicial Center developed the finest possible educational programming.

DISCIPLINARY COMMISSION LEADERSHIP CHANGE

At the end of the calendar year 2009, Donald R. Lundberg resigned as Executive Secretary of the Disciplinary Commission, the agency that investigates and prosecutes alleged attorney misconduct in Indiana. Mr. Lundberg had been the Executive Secretary of the Indiana Supreme Court Disciplinary Commission since December 1991. As Executive Secretary, Mr. Lundberg worked with the nine-member Disciplinary Commission and agency staff to ensure members of the Indiana bar conformed to the Rules of Professional Conduct. The Disciplinary Commission launched a search for Lundberg's successor, after which former Dearborn County Judge G. Michael Witte was appointed.

PASSING OF JUSTICE GIVAN

In July 2009, the Justices and staff of the Indiana Supreme Court mourned the passing of Indiana's 96th justice, Richard M. Givan. His public service to the State of Indiana included 26 years as a jurist on the high court (1968-1994), thirteen of which he served as its Chief Justice. He was the founding chairman of the Indiana Judicial Center and heard nearly 6,000 cases while on the bench. In addition to his remarkable legal career, he was remembered fondly as a loyal friend and great storyteller. In October 2009, the

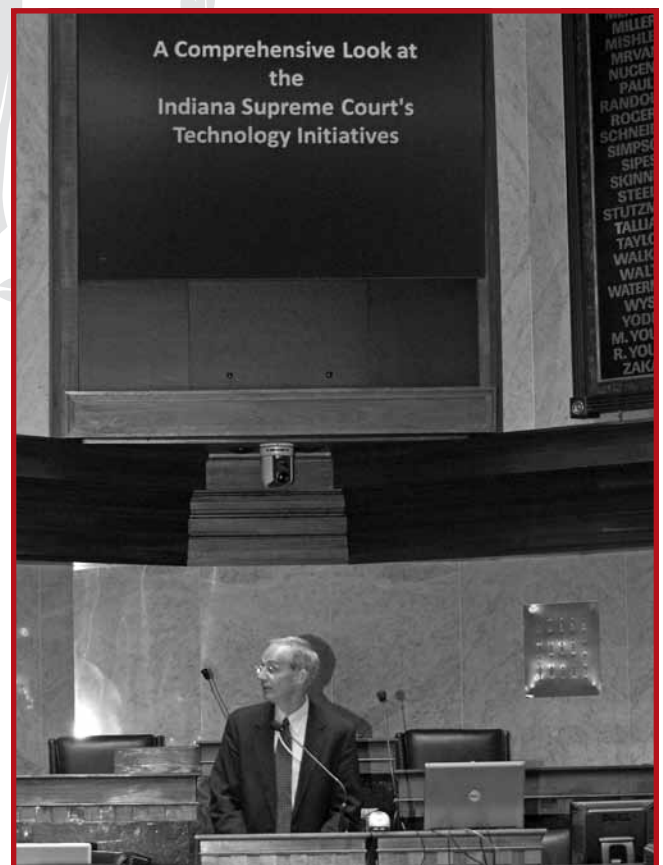
Court held a Continue Legal Education presentation in Justice Givan's honor. The Courtroom reached capacity as historians, legal scholars, and friends reflected on Justice Givan's remarkable legal career and legacy.

THE FAMILY COURT PROJECT

Madison and Parke Counties became the newest counties to join the Indiana Family Court Project, which began in 1999 as a cooperative effort between the General Assembly and the Indiana Supreme Court to develop common-sense models for serving children and families within Indiana's trial courts. The initial emphasis of the Family Court Project was to provide a coordinated approach to serving families with multiple cases pending before multiple judges. All Family Court Projects are still required to address multiple-case coordination, but the project has broadened to include other family-friendly programming, such as alternative dispute resolution and service referral or coordination. The Supreme Court awards Family Court Project grants through its Division of State Court Administration, which are funded through a combination of funds from the Supreme Court's annual appropriation and federal Court Improvement Program funding. The Court has distributed over \$2.2 million to support the 23 Family Courts across Indiana since the project began.

JUDICIAL TECHNOLOGY AND AUTOMATION COMMITTEE

The Judicial Technology and Automation Committee ("JTAC") made substantial strides in implementing Indiana's uniform



Justice Sullivan speaks about the Court's technology initiatives to a group in the Senate Chamber.

statewide Odyssey case management system. By the end of the fiscal year, Odyssey had been deployed in 50 courts in eighteen counties and was managing more than 22% of the state's caseload. More than 440,000 cases a year are now being tracked electronically, stored in a central database, and made available to the public and other users of court data free of charge.

Critical interfaces also exist between courts and clerks, law enforcement and state agencies. A secure network, called INcite (Indiana Court Information Transmission Extranet), is used to exchange important information between the courts and other agencies. The Jury List and Management System, which can be used by courts to draw a jury panel, administer questionnaires, and process jury compensation, is now being used in 53 counties. Each week, approximately 13,000 transmissions are sent to the Bureau of Motor Vehicles regarding driver license suspension and conviction information. The Electronic Citation and Warning System, which allows law enforcement to use scanners and other technology to efficiently issue traffic tickets, is being used by 5,000 law enforcement officers in 150 agencies. The courts transmit information relating to certain individuals who may be prohibited from possessing a firearm to the FBI through INcite. As well, the Protection Order Registry allows courts to prepare the order and within minutes it appears on state and national law enforcement databases. The courts communicate electronically with the Department of Child Services to handle payment matters. Indiana marriage licenses were recorded by 58 counties through JTAC's Marriage License e-file system. Finally, the "Indiana Courts Online Reports" project enables courts and probation departments to file their statistical reports with the Indiana Supreme Court through INcite, rather than by fax or mail.

In 2009, JTAC received the "Best Practices" award at the International Forum on Traffic Records and Highway Safety Information System; the "Peter K. O'Rourke Special Achievement Award" from the Governor's Highway Safety Association; and a "2009 G. Thomas Munsterman Award for Jury Innovations" from the National Center for State Courts.



The American Judicature Society created the Opperman Award in honor of Dwight D. Opperman, the former chairman and CEO of West Publishing Company. The award is presented annually to a state judge who has had a career of distinguished judicial service. Chief Justice Shepard received the award in 2010. (left to right) the Hon. Ronald B. Robie, California Court of Appeal; Chief Justice Shepard; Carole Wagner Vallianos, President American Judicature Society; the Hon. Frederic Rodgers, Gilpin County Court and Chair of the Board of Trustees of the National Judicial College.

WORKING WITH THE NEWS MEDIA

The Supreme Court partnered with the Judicial Conference Community Relations Committee to host a law school for journalists in August in Michigan City. About 20 print, radio and television journalists attended the session, which served as a tutorial on how to read court documents, cover juvenile cases, and access online information quickly. A plan to communicate with the press and the public through new media was launched in May 2010 with the announcement of a Supreme Court Twitter page. Anyone can sign up to receive the alerts, or "tweets," which include details about press events and links to certain court documents. To reach out to reporters about programming and events, the Court distributed approximately 100 press releases and hosted ten press conferences in calendar year 2009.

THE COURT ONLINE

In addition to working with the news media, the Court worked to provide citizens with information online. The Court again launched a website to allow voters to learn about the appellate jurists up for a retention vote on the November 2010 ballot. The user-friendly website gives voters access to biographical information about the judges and details about the decisions they have rendered while serving on the bench. The courts.in.gov website continued to serve as a 24-7 location for instant access to information on court decisions, program facts, self-representation, and live oral arguments. Appellate opinions and the Child Support Calculator are the two most popular features of the website.

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 continued to serve on the U.S. Judicial Conference Advisory Committee on Civil Rules. Appointed by Chief Justice John G. Roberts, Jr., Chief Justice Shepard is the only state court jurist on the committee. Closer to home, he is assisting with the new Randall T. Shepard Academy of Law and Social Justice, sponsored by the school district in his home city of Evansville. A number of awards were presented to Chief Justice Shepard during the year including the National Black Law Students Association's A. Leon Higginbotham Award. Named after a prominent civil rights activist and federal appeals court judge, the Association presented Chief Justice Shepard with the award because "he is a trailblazer in diversifying the legal community." The U.S. Department of Health and Human Services honored him as Indiana's recipient of the Administration on Children, Youth and Families Commissioner's Award. As mentioned before, the prestigious American Judicature Society's Dwight D. Opperman Award was also presented to Chief Justice Shepard during the fiscal year. He viewed the award as a reflection on the entire judiciary and asked it be presented at an educational conference where all judicial officers could share in the honor. Finally, during the course of the year, he became the longest currently-serving chief justice of all of the country's supreme courts.



Justice Dickson.

Justice Brent E. Dickson, through his writings, speeches, and activities, has worked throughout his career to promote enhanced attorney civility. He was the co-founder of the Sagamore American Inn of Court, a group of lawyers and judges dedicated to legal ethics, professionalism, and skills. Justice Dickson has also long been active in encouraging the use of mediation and other methods of alternative dispute resolution. Also, for many years he taught an evening law school course on Indiana Constitutional Law.

Justice Frank Sullivan, Jr., addressed the annual Indiana County Council Conference in Noblesville, delivered the commencement address at the IUPUI School of Public and Environmental Affairs graduation, spoke to a joint meeting of Indiana and Kentucky lawyers in New Albany, delivered the keynote address at the annual Community Summit on Children in Elkhart County, served as a guest lecturer at both the Indiana University School of Law–Indianapolis and at the Indiana University Maurer School of Law–Bloomington, judged the championship round of the annual Swygart Moot Court Competition at the Valparaiso University School of Law, was the principal speaker at the “Access to Justice Luncheon” of the Muslim Alliance of Indiana, and addressed the annual meeting of the Indiana Correctional Association in Evansville.

Justice Sullivan also made presentations across Indiana about court technology initiatives. During CTC 2009, the nation’s leading court technology conference sponsored by the National Center for State Courts, Justice Sullivan made presentations at both the plenary session and a break-out session describing Indiana’s progress in equipping its trial courts with a uniform statewide case management system.

He also received with the ABA Litigation Section’s 2010 Diversity Leadership Award and competed in the 2010 Boston Marathon.

Justice Theodore R. Boehm served as Chairman of the Indianapolis Cultural Development Commission. He also served on the Board of Directors of Indianapolis Convention and Visitors Association, Inc., and Metropolitan Indianapolis Public

Broadcasting, Inc., the governing body for Indianapolis public television and radio.

Justice Robert D. Rucker served as the Chairperson of the National Bar Association’s Judicial Council. He also learned the Lake County Superior Court House in Gary will be named the Robert D. Rucker Building in his honor. Justice Rucker is a Gary native and was humbled to have the Lake County Commissioners vote in favor of naming the building at 15 W. 4th Avenue after him.

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 years before becoming subject to a retention vote at general election. If approved, a justice begins a ten-year term. For the first time in over a decade, as this fiscal year drew to a close the Judicial Nominating Commission was in the process of reviewing applications for a vacancy that will occur on the Court at the end of September 2010, when Justice Theodore Boehm will retire after more than fourteen years of Supreme Court service.



Justice Boehm speaks to an historian who works for the United States Supreme Court during an American Association for State and Local History Conference, several sessions for which were held in the Supreme Court Conference Room.

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 over 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 2009-10,” the Court is very active in providing leadership for Indiana’s 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, a state law, or a state rule is 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 with 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.

During much of this decade, the Court’s “transfer caseload” grew considerably. In fiscal year 2002, the Court received 737 transfer petitions. The following fiscal year, that number increased to 826. In fiscal year 2008, that number hit an all-time high of 1027. Last year, however, it fell back to 937, and this year saw it further decline to 858.

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 statute 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.

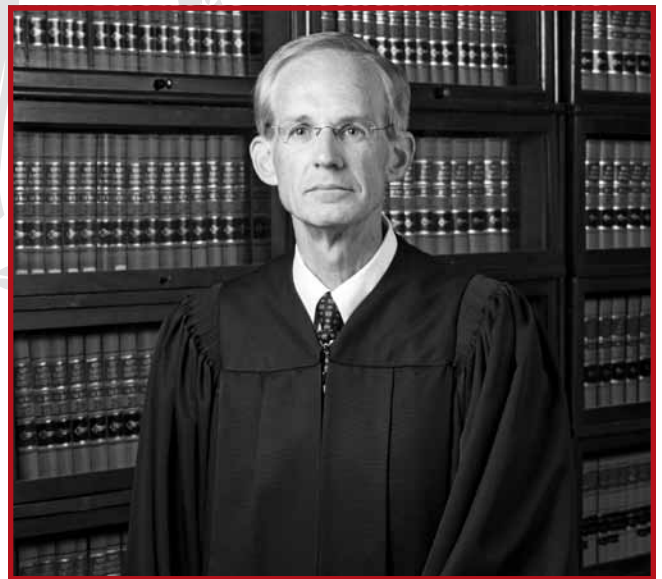
BIOGRAPHIES OF THE JUSTICES



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. Shepard was Judge of the Vanderburgh Superior Court from 1980 until his appointment. He earlier served as executive assistant to Mayor Russell Lloyd of Evansville and as special assistant to the Under Secretary of the U.S. Department of Transportation. Chief Justice Shepard has served as chair of the ABA Appellate Judges Conference and of the Section of Legal Education and Admissions to the Bar and 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 is a trustee emeritus of the National Trust for Historic Preservation and a former chair of Indiana Landmarks, Inc. He teaches periodically at the law schools of Indiana University, NYU and Yale. He is married and has one daughter.



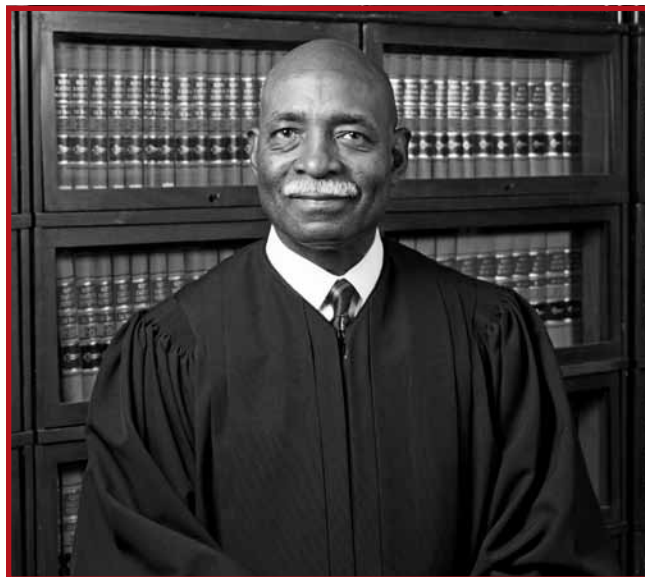
Brent E. Dickson was appointed to the Indiana Supreme Court in January 1986 by Governor Robert D. Orr, after seventeen years as a general practice lawyer in Lafayette, Indiana, where he earned certification as a Civil Trial Advocate by the National Board of Trial Advocacy. Born in Gary, Indiana, in 1941, 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 an active participant 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.



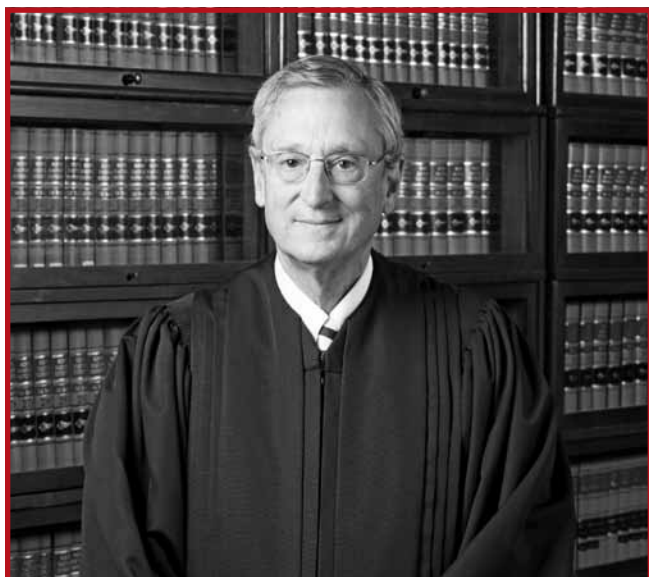
Frank Sullivan, Jr., was appointed to the Indiana Supreme Court effective November 1, 1993, by Governor Evan Bayh. Sullivan came to the state's highest court with a background in government service and private law practice. He served as Indiana State Budget Director from 1989 through 1992. Prior to state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

Technology and Automation Committee, which is devoted to improving technology in trial courts. And he has been a frequent participant in bench, bar, and legal education activities. Sullivan was Chair of the Appellate Judges Conference of the American Bar Association from 2008-2009 and Chair of the Board of Directors of the Appellate Judges Education Institute from 2009-2010. Sullivan is a member of the American Law Institute and is an adviser to its “Restatement Third, Torts: Economic Torts and Related Wrongs” project. From 2002-2005, he co-chaired the ABA’s Judicial Clerkship Program that encourages minority law students to seek judicial clerkships. He is the recipient of several awards for advancing opportunities for minority lawyers in 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 Maurer School of Law (J.D. *magna cum laude* in 1982), and the University of Virginia School of Law (LL.M. in 2001). He is married to Cheryl G. Sullivan; they are the parents of three sons. An avid runner, Sullivan qualified for and competed in the 2010 Boston Marathon.

Inc., and Director of the Indianapolis Convention and Visitors Association. He is married and has four grown daughters and six 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 served as the 2009-2010 Chair of the Judicial Council of the National Bar Association. Justice Rucker and his wife Dr. Denise Rucker are the proud grandparents of seventeen grandchildren.



Theodore R. Boehm was appointed to the Indiana Supreme Court by Governor (now Senator) Evan Bayh in 1996. He grew up in Indianapolis, received his A.B. from Brown University in 1960, *summa cum laude*, and graduated *magna cum laude* in 1963 from Harvard Law School, where he was an editor of the Harvard Law Review. He served as a law clerk to Chief Justice Earl Warren of the United States Supreme Court. In 1964 he joined the Indianapolis law firm of Baker & Daniels where he became a partner in 1970 and managing partner in 1980. In 1988 Justice Boehm joined General Electric as General Counsel of GE Appliances and in 1989 became Vice President and General Counsel of GE Aircraft Engines. In 1991 he joined Eli Lilly and Company and 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, President of the Penrod Society, and a principal organizer of the Economic Club of Indianapolis. He is a Trustee Emeritus of Brown University, and currently serves as Chair of the Indianapolis Cultural Development Commission, Director of Metropolitan Indianapolis Public Broadcasting,



Students who face challenges getting into law school but who show great promise to become successful attorneys are selected to participate in the Indiana Conference for Legal Education Opportunity (CLEO) summer institute. Here, the Justices pose in the Courtroom with the 2010 CLEO fellows.

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 next fiscal year of the upcoming biennium:

Court Agencies	FY 2010	FY 2011
State Court Administration	\$126,325,098	\$125,734,047
Trial Judges and Prosecutors Salaries/Benefits	\$84,501,179	\$84,501,179
JTAC	\$12,065,345	\$12,274,294
Transfers to Counties/Trial Courts, and Other Programs	\$25,408,574	\$25,408,574
Title IV-D	\$1,436,023 ⁽¹⁾	\$4,000,000
Supreme Court Administration	\$9,566,234	\$9,566,234
Judicial Training & Development	\$3,121,182	\$3,121,182
Other	\$2,309,536	\$2,309,536
Total	\$138,408,073	\$141,180,999

Approximately 82.3% of the Court’s appropriations for fiscal year 2010 came from the State’s General Fund (including \$12,850,000 for disbursement to counties through the Public Defender Commission per Indiana Code section 33-40-6-5), a 2.0% reduction from FY 2009.⁽²⁾ The remaining 19.4% derived from dedicated funds (such as attorney annual licensing fees, bar examination fees, and special assessments associated with trial court filing fees), federal grants, and Title IV-D reimbursements. 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 officers and 200+ prosecutors, deputy prosecutors, and prison deputies in fiscal year 2010 accounted for only 0.51% of Indiana’s overall budget and only 0.84% of the state’s General Fund budget. The Court expresses its appreciation and gratitude to the people of the State of Indiana for providing these funds to it during these trying fiscal times.

(1) Title IV-D federal reimbursements are shared equally with the Indiana Prosecuting Attorneys Council (“IPAC”). During FY 2010, after deducting transfers to IPAC and expenses accrued in collecting and preparing claims, the Supreme Court received \$320,669 of the stated amount.

(2) The Court’s FY 2009 Annual Report mistakenly reported the percentage of General Fund monies in the Court’s total annual budget as being 77.4% instead of 84.3%, due to a failure to include the General Fund portion of the Public Defender Commission appropriation.

V. Activities of the Affiliated Agencies 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 section 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 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 Court. For decades, the Division had been comprised only of the Office of Supreme Court Administration. The Division’s two-office organizational structure resulted from 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 separate 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, personnel, 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 in drafting 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 253 legal memoranda on a myriad of topics to assist the Supreme Court in its role as Indiana’s court of last resort and superintended 1,028 matters transmitted to the Court for its consideration. Further, the Division assisted the Court in drafting and issuing approximately 1,851 orders and opinions. 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 47, to the Chief Justice or an Acting Chief Justice for consideration, a 27% increase over FY 2009.

The Administration Office’s attorneys continued to be very active in legal education and in serving the profession. All are members of the American Bar Association’s Council of Appellate Staff Attorneys (“CASA”) and the Indiana State Bar Association’s (“ISBA’s”) Appellate Practice Section. Mr. Smith completed a two-year term on CASA’s Executive Board, and several of the Court’s staff attorneys served on various CASA committees. Staff attorney Geoff Davis served as an evaluator at the ISBA Appellate Practice Section’s “Appellate Skills Seminar,” volunteered in the ISBA’s “Talk to A Lawyer Today program, participated in the ISBA’s American Citizenship Committee by representing the ISBA at a naturalization ceremony, and interviewed prospective bar candidates as a member of State Board of Law Examiners Committee on Character and Fitness. Staff attorney Paula Cardoza served as secretary of the ISBA’s Professional Legal Education, Admission, and Development Section; participated on the ISBA’s Mentor Match Committee; and presented a continuing legal education seminar for the Indianapolis Bar Association on recent commercial law cases. Finally, the Administration Office’s attorneys continued writing their regular column, “Appellate Practice from Inside the Division of Supreme Court Administration,” in the ISBA Appellate Practice Section’s newsletter, *The Appellate Advocate*.



Justice Rucker.



Justice Sullivan puts a question to an attorney during oral argument.

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, the processing of personnel-related matters, the drafting of internal policies and procedures, and the administration of employee benefits. It also assists the Chief Justice in preparing the Court's budget. During this fiscal year, the Administration Office processed approximately 1,143 invoices and 377 expense and travel reimbursement requests.

Further, the Administration Office accumulates Court statistics, prepares regular reports for the Court concerning the Court's 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 20,358 active and inactive 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 often 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 sixteen assists the Clerk in meeting the requirements of his office.

Significant Events of Fiscal Year 2010

The Office continued its integration into the 21st Century this fiscal year by making a significant change to a way it has "done business" for over 100 years. Specifically, electronic mail replaced the U.S. mail as the Clerk's Office's method of delivering orders, opinions, and notices to parties represented by counsel on appeals. This resulted from an Appellate Rule change recommended to the Supreme Court by the Clerk, which became effective January 1, 2010. The change in procedure has reduced the Clerk's Office's costs related to mailing and copying, reduced the Office's environmental footprint, and allowed attorneys to receive their orders in a matter of minutes rather than days. Taking this idea from theory to reality within the confines of the appellate courts' aging case management system, however, was quite an undertaking, involving hundreds of IT and Clerk's Office staff-hours to roll out the new system and then work through the inevitable bugs that surfaced thereafter. The Clerk's Office has received positive feedback from attorneys who appreciate getting the appellate orders, opinions, and notices delivered via e-mail.

In addition, the Clerk and his staff continued working with the Court's IT staff toward replacing the appellate courts' case management system, which was first developed in the 1980s. The Clerk's Office's business processes were documented, from which its business requirements were determined. Those business requirements were then used in the development of a public notice of contracting opportunity ("PNCO") issued at the close of the fiscal year, as mentioned elsewhere in this report. A new appellate case management system would dramatically improve how the parties provide and receive case records to and from the appellate courts; how those records are stored, maintained, and accessed by the public; and how the courts manage their caseloads and conduct their judicial work. It also would be the cornerstone of a 21st Century continuity of operations plan that would allow the courts, the Clerk's Office, and their respective staffs to work "virtually" from locations outside of Indianapolis, or even from home, in the event of a disaster or pandemic. The PNCO responses, which are due near the end of August 2010, will give the Supreme Court a better idea of what such a system would cost and how quickly it could be implemented. After the PNCO responses are received and evaluated, the Court will then try to secure necessary funding for the project.

The Clerk also worked with IT staff toward the development of a new “Clerk of Courts” web portal to improve the way users of the Clerk of Courts’ website interact with appellate court dockets and the Roll of Attorneys, as well as to make the attorney annual registration and license renewal process completely paperless, among other things. This project is expected to be completed during the next fiscal year.

Finally, the Clerk was honored this fiscal year by being slated for nomination to the Executive Committee of the National Conference of Appellate Court Clerks (“NCACC”), with the election to occur at the NCACC’s annual meeting in August 2010.

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. 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 courts. 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 generally 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 trial 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 and other commissions and committees as specified by statute and court rule, and fulfills specific duties charged by statutes and Supreme Court rules and directives.

TRIAL COURT MANAGEMENT

Judicial Service Reports

The collection of statistical data concerning the operation of Indiana’s courts and their offices is one of the key functions of the Division. 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. The information, published annually in *The Indiana Judicial Service Report* and *The Indiana Probation Report*, respectively, provides an 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. These reports are accessible on the Indiana Courts website at www.courts.IN.gov/admin/pubs.html.

Indiana trial courts and probation departments submit statistical reports, including quarterly statistical reports (caseload, probation supervisions, and juvenile law services information) and financial reports to the Division online using the Indiana



Justice Dickson and Justice Boehm in the Courtroom.

Courts Online Reports (“ICOR”) system. The electronic filing of such reports not only expedites the Division’s publication of the annual reports, mentioned previously, but also provides greater ability to analyze the data when reviewing court services.

Weighted Caseload Measures and Caseload Allocation Plans

The Division uses a weighted caseload (“WCL”) measurement system to analyze the caseload data collected from the courts and report on judicial resource needs. The system, which is based on time studies and actual case file audits and ascribes relative “weights” or “counts” to the different types of cases, provides a uniform, statewide method for comparing trial court caseloads. Each April the Division publishes a Weighted Caseload Report for the previous calendar year on the Indiana Courts website.

Indiana Supreme Court Administrative Rule 1(E) requires the courts of record in each county to implement caseload allocation plans 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. The weights assigned to several case types were revised in 2009 as the result of a study that began in 2007 to update the measurement system. The Division began using the revised weights in fiscal year 2010 to evaluate trial court caseload allocation plans.

To assist policy makers in accurately assessing a county’s need for additional judicial officers, the Division also prepares a report on the relative severity of judicial resource need. The WCL system provides a comparison tool for assessing the need for additional judges within a county based on the number of cases being filed in the county.

The most recent weighted caseload measures are available at www.courts.IN.gov/admin/courtmgmt.

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

Rapid advancements in technology and the efficiency they afford have prompted some of Indiana’s 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 first seek and receive authorization from the Division.

During 2009, Division staff reviewed and approved many Internet-related requests. Of the 92 counties in Indiana, well over half have been approved to post their docket information on the Internet, as are five city courts. Most post chronological case summaries and party and calendar information. The list of approved counties can be viewed at www.courts.IN.gov/trialcourts/tr77-approval.html.

The Division's Judicial Technology and Automation Committee ("JTAC") staff, which is responsible for the development and maintenance of the Indiana Courts website, has developed individual web pages for each of Indiana's counties, listing contact information for all clerks and courts. The county websites also contain other useful information, such as local court rules, directions to the county courts, and photographs of the often architecturally-unique courthouses. The local websites, which are listed at www.courts.IN.gov/trialcourts, are continually updated as the Division receives or approves additional 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 that the Division review and grant or deny requests for bulk distribution or compilations of court information. During calendar year 2009, the Division approved twelve requests for bulk records and executed the requisite user agreements. A list of the approved bulk records requestors, along with copies of their user agreements, may be found at www.courts.IN.gov/admin/courtmgmt/bulk-data. If a court contracts with a third-party vendor to post information on the Internet, 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. During the 2010 fiscal year, the Division provided training to Indiana trial judges at the Spring Judicial College, to circuit court clerks at their annual meeting, as well as to court staff in Lake County. Also, during the 2010 fiscal year, the Division continued to develop an extensive update of the online Administrative Rule 9 Handbook.

Development of Online Administration Manual

During 2009 – 2010, the Division developed an online manual to assist trial courts and clerks in their daily operations. Drafted by a team from the Division, the manual covers a host of topics, including protective orders, transmission of BMV records, Administrative Rule 9, retention of records, caseload allocation plans, appellate transcripts, and the marriage license e-filing system. During the early part of 2010, this manual was updated by Senior Judge Richard Payne. The Indiana Trial Court Administration Manual can be found at www.courts.IN.gov/admin/pubs/trial-court/index.html.

Guardian Ad Litem/Court Appointed Special Advocate Services

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 the children's interests are protected and their voices heard. Indiana courts use GAL/CASA volunteers who are recruited and organized through local programs that are either independent not-for-profit organizations or court-sponsored programs.

Counties that operate certified GAL/CASA programs receive matching state grants that are administered and disbursed by the Division based on a statutory formula. To be certified, programs must comply with the Indiana Supreme Court's GAL/CASA Program Standards and Code of Ethics, provide annual statistics, a budget, and a financial statement regarding the use of the grant funds. The Division oversees the certification process and ensures compliance with the program standards. The GAL/CASA staff also holds an annual conference and provides training and support services for local GAL/CASA programs.

During calendar year 2009, 68 of Indiana's 92 counties received certification and state GAL/CASA matching funds. These programs have 171 paid staff. Of the 68 counties with volunteer-based programs, 35 had court-based programs, 21 had programs that were separate non-profit entities, and twelve had programs that were operated under the umbrella of another non-profit entity. Courts in the remaining 24 counties appointed either attorney GALs or used other, paid GALs. The GAL/CASA staff also began developing volunteer-based CASA programs in three new counties in 2009; these programs should be certified and receive state funding in 2010.

There were at least 2,940 active GAL/CASA volunteers statewide in 2009, including 1,136 newly trained volunteers. This is the highest number of active and newly trained volunteers in the history of the program. GAL/CASA volunteers advocated for 16,853 children in CHINS and termination of parental rights cases and made 83,728 contacts with the children for whom they spoke in 2009. GAL/CASA volunteers donated an estimated 531,850 hours to advocate for Indiana's children. If the contribution of GAL/CASA volunteers is calculated using the estimated average rate paid to non-volunteer appointed GALs (\$50 hourly), the volunteers contributed an estimated \$26.6 million to the State of Indiana.

This fiscal year, the Division held the largest statewide GAL/CASA conference ever, hosting 650 GAL/CASA volunteers, local program staff and directors, and other child welfare stakeholders from all over the state. It also provided many training opportunities for directors and staff. It also collaborated with the Department of Education and the Youth Law Team to revise an educational advocacy training manual and to provide eleven regional trainings on education advocacy. Finally, it also partnered with the Indiana Protection and Advocacy Services to create a training manual on working with children with disabilities, which will be completed and ready to provide to local GAL/CASA programs in a training that will be offered in 2010.

The Division also continued its partnership with the Indiana Retired Teachers Association ("IRTA"). A Porter County CASA volunteer received the IRTA's 2009 Volunteer of the Year Award from Chief Justice Randall Shepard at a State house ceremony. The National CASA Association and the Division kicked off a new partnership with the American Legion in 2009 at a national meeting of the American Legion in Indianapolis in May 2010. At the meeting, the American Legion passed a resolution supporting

the CASA mission and encouraging local posts to assist CASA programs in recruiting volunteers and in raising public awareness about CASA.

In March 2010, the Division's GAL/CASA program was selected to pilot a program called "Fostering Futures" to help children transition from foster care to adulthood and received a \$75,000 grant from the National CASA Association to train volunteers. The goal of the pilot program is to help older foster youth build supportive adult connections and develop specific transition plans to assist them as they transition from foster care to becoming independent, successful adults.

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. The programs began receiving these funds in the 2008 calendar year. The additional funds have had a tremendous impact on the ability of local programs to recruit and train more volunteers; the first year the programs received the additional funds, the number of volunteers increased by 50%. In 2009, there was a 26% increase in new volunteers from 2008 and an 88% increase from 2007. Despite these efforts, there are still over 4,000 children waiting for a GAL/CASA volunteer across the State, especially in urban communities that have a high number of children in foster care.

In the coming fiscal year, the Division will increase recruitment efforts through many means, including a new recruitment volunteer website: www.childadvocatesnetwork.org.

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 families pending before multiple judges. While all projects must include some type of judicial coordination of multiple case families, programming has expanded to include non-adversarial dispute resolution and other programming for high-risk, low-income, and/or *pro se* families.

During calendar year 2009, 21 counties participated in the Family Court Project. These projects served 3,723 families and a total of 5,242 children. These projects receive assistance from the Family Court Project Manager under the direction of the Division.

In September 2009, the Family Court Project unveiled *Alternative Dispute Resolution: Real Dialogue. Real Answers*. This informational video is designed to give people involved in family law cases an overview of the options available for resolving their cases outside of court. While it focuses primarily on mediation, other options, such as facilitation and arbitration, are also addressed. In addition, the video contains a brief vignette demonstrating how a typical mediation session might progress. The video is posted on the Supreme Court web site at www.courts.IN.gov/webcast, as well as on YouTube.

Alternative Dispute Resolution Plans for Domestic Relations Cases

In 2003, the Indiana General Assembly passed legislation authorizing the creation of alternative dispute resolution programs in domestic relations cases in each of Indiana's 92 counties. The Alternative Dispute Resolution Program in

Domestic Relations cases under Indiana law 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 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 cannot participate.

The courts in a county wishing to participate in an ADR program must develop an ADR plan that is consistent with the statute and that is approved by a majority of the county's judges with jurisdiction over domestic relations and paternity cases. The Executive Director of the Division must approve the plan, in accordance with ADR Rule 1.11. The courts with ADR plans are required to file an annual report summarizing the ADR program each year. Currently there are 25 counties with approved ADR plans (Allen, Boone, Brown, Clark, Crawford, DeKalb, Delaware, Henry, Jackson, Johnson, Lake, Lawrence, Marion, Martin, Monroe, Montgomery, Orange, Owen, Porter, Putnam, St. Joseph, Shelby, Starke, Sullivan, and Tippecanoe).

The Division has approved plans providing for the following: mediation services for litigants; free mediation days; payment for training of attorneys and others in exchange for handling a number of mediation cases in a set 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.

The 25 counties participating in the program during calendar year 2009 provided alternative dispute resolution services in 2,568 cases, which affected 3,558 children.

Electronic Case Filing and Electronic Service Pilot Projects

We are moving to a paperless society, slowly but surely. Technological advances in industry and government highlight the benefits of having records filed, stored, and maintained electronically. The legal profession and courts, being paper-intensive, are in good positions to utilize this technology, thereby eliminating paper, streamlining filings, saving space with record retention, enhancing searches for documents, and improving court-management efficiencies.

The Supreme Court adopted Administrative Rule 16 to encourage Indiana trial courts to initiate electronic filing pilot projects. In 2009, the Indiana Supreme Court approved Electronic Filing Pilot Projects in Lake and Marion counties for cases that typically involve a large amount of paper: collection cases in Marion County, and mortgage foreclosure cases in both Lake and Marion counties. Both county pilot projects safeguard the rights of self-represented and indigent litigants, and do allow litigants to opt out of electronic filing and use the conventional paper filing system. They also have rules, including court-imposed sanctions for non-compliance, that

assure the appropriate treatment of confidential, sealed, and not-for-public access information.

Protective Order Proceedings

The Indiana General Assembly has assigned to the Division the responsibility for designing and updating the forms used in protection order proceedings. To fulfill this duty, the Division's staff works closely with the members of the Judicial Conference Protection Order Committee to explore ways to improve the protection order process.

Trial court judicial officers and clerks of the circuit courts comprise the membership of the committee, with the Indiana Judicial Center and Division providing staff support. The committee has developed a comprehensive set of forms that fall into three main categories: protective orders, no-contact orders, and workplace violence restraining orders. All the forms are located on the Protection Order Forms web site. www.courts.IN.gov/forms/po.html. New legislation was enacted by the Indiana General Assembly in 2009 that made the Protection Order Registry mandatory for all courts that issue protective orders.

Information Management

The Supreme Court of Indiana established the information management program in July 1986 to oversee the creation, maintenance, access to, and disposal of court records. The program is charged with the administration of Administrative Rule 6, which sets standards for microfilming and scanning programs, and Administrative Rule 7, which contains retention schedules concerning the disposal and the long-term retention of records. The program involves traveling to courts and clerks' offices to provide assistance with records preservation, disposal of records, and help with information technology.

In 2009, staff made seventeen visits that involved fourteen separate counties. The Trial Rule 77 Quick Guide also was updated in 2009, and it is available at www.courts.IN.gov/admin/pubs/tr77.html. In addition, staff certified five more county imaging systems based on documentation submitted by the clerks and judges involved: Fulton, Hendricks, Jasper, Martin, and Rush.



Justice Rucker (far right) has just sworn this year's class of certified interpreters, who will provide language translation in trial courts for litigants, the jury, and court staff. Most of the newly certified interpreters speak Spanish; one speaks Polish.

Certified Court Interpreter Program

The Indiana Court Interpreter Certification Program, administered by the Division, certifies interpreters for use in the Indiana courts. The Program consists of a five-part process for foreign language interpreter certification. The first phase involves a two-day orientation where candidates receive instruction on judicial procedure, protocol and courtroom decorum; the role of an interpreter; ethics; skills and modes of interpreting; and terminology. Indiana-specific laws and rules are also presented, and candidates may also practice the interpreting skills that are required in court. The second phase, a written exam in English, tests candidates on general English vocabulary, court-related terms and usage, common English idioms, and court interpreter ethics and professional conduct. For candidates testing for certification in Spanish, the written exam also requires candidates to translate several sentences from English into Spanish. The third phase is a two-day skills building workshop where candidates spend concentrated time on individual skill enhancement and group work in sessions conducted by skilled, certified instructors. Once a candidate completes the skills building workshop, the candidate is eligible to take the oral foreign language proficiency examination, the fourth stage of the certification process. The oral exam tests the candidate's skill in sight, consecutive, and simultaneous interpretation, and the candidate must receive a score of 70% or higher in all three modes to receive a passing score on the exam. The fifth and final stage is a criminal background check, which each candidate must successfully complete before becoming certified by the Indiana Supreme Court.

During calendar year 2009, 38 candidates sat for the oral exam with nine candidates passing in Spanish and one passing in Polish. The pool of certified interpreters is now at 75 Indiana continues to be a leader in the area of interpreter certification, with a cumulative passage rate of 33% overall since the start of the program, versus a national average of 25% over the same time period.

Also in 2009, the Indiana Supreme Court awarded \$240,000 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. The Supreme Court continues to provide, at no charge to every county court system in the state, the use of Language Line, which provides interpretation services by telephone in more than 140 languages, including Burmese, Karen, Hmong, Hindi, Vietnamese, Bosnian and Macedonian, to name a few.

Continuity of Operations Planning for Trial Courts

During the second half of 2009, the continuity plan format originally developed by the Judicial Conference Court Management Committee was refined to be more streamlined and usable in the event of an emergency. Beginning in September 2009, Allen County partnered with the Division to test new components of continuity planning within the Indiana trial courts. Feedback from court staff and judges in Allen County has overwhelmingly indicated that effort and time devoted to continuity planning has been far more effective and the resulting plan more useful.



Several speakers, including Chief Justice Shepard and attorney Jerome L. Withered, participated in the legal history lecture honoring Justice Richard Givan. In this photo, William F. Harvey, Dean Emeritus of the Indiana University School of Law in Indianapolis, makes his address to a capacity crowd in the Courtroom.

This fiscal year, the Division also developed and distributed a Pandemic Preparation Guide & Checklist in response to the 2009 threat of widespread H1N1 influenza infection, launched a continuity of operations plan (“COOP”) website to serve as a central resource for COOP-related documents and information, and participated in a tabletop exercise that simulated complete building inaccessibility and loss of technology for days. The exercise resulted in many enhancements to both the plan document and preparations for the unexpected.

Court Reform and Education Scholarship Grant Programs

The Supreme Court continued to award and disburse funds to trial courts during the second and third cycles of its Court Reform Grant Program, which is administered by the Division. This program is funded from federal reimbursements for previously uncollected expenses associated with Title IV-D enforcement actions.

The Court Reform Grants are intended to assist courts in conducting organizational assessments and implementing recommended improvements, as well as in purchasing and upgrading computer equipment. The Division identified seven project categories that would receive priority consideration: development of a multi-jurisdictional drug court or other problem-solving court; measuring court performance through use of *CourTools*, a set of ten trial-court performance measures developed by the National Center for State Courts; studies on consolidating judicial responsibility over court records; unified court administration; modern jury management systems; infrastructure upgrades for the Odyssey Case Management System (“CMS”); and modern court-reporting technology.

More than \$313,000 was awarded to eleven counties in calendar year 2009, compared with just over \$150,000 awarded to seven counties in 2008. In 2009, Allen, Marion, and Monroe counties each received \$40,000 to implement the results of prior *CourTools* studies; Fountain and Warren Counties received \$30,000 to create a joint drug court; Jennings Circuit

and Superior Courts received \$30,000 to purchase digital court reporting equipment; and Clark County received \$40,000 to implement the recommendations of a 2008 National Center for State Courts study on improving court administration and efficiency.

The 2010-11 Court Reform Grant application cycle concluded on June 15, 2010. The Division received 35 applications from 28 counties and one judicial agency. The majority of applications were for the purchase and installation of new electronic equipment – 16 applications for infrastructure upgrades for the Odyssey CMS, and nine applications for modern court reporting equipment, including 3 applications for videoconferencing equipment – while the remaining ten applications ranged from development of unified court administration to a Continuity of Court Operations and Automated Scanning of Court Files project. The amount of each request ranged from \$623 to \$50,000, with the average request being around \$22,000. The total amount requested by all 35 applications was \$778,475.80.

Mortgage Foreclosure Training and Trial Court Settlement Conference Assistance

In 2009, in an attempt to stem the rising tide of foreclosures, the Indiana General Assembly passed Senate Enrolled Act 492, codified at I.C. 32-30-10.5 *et seq.* Two key portions of this law are a \$50 filing fee on all mortgage foreclosure actions filed after July 1, 2009, and a mandatory notice served with the Complaint apprising the borrower of the right to a settlement conference.

However, the initial effect of this law was not as positive as hoped. Fewer than two percent of eligible borrowers – approximately 300 total – requested a settlement conference in 2009. Of the conferences that took place, most were unsuccessful because at least one party was unprepared. A clear need existed for more organization as there were no standard processes coordinating pro bono attorneys, housing counselors, courts, lenders, and homeowners.

In late 2009, the Division partnered with the Indiana Housing and Community Development Authority to devise a program that would assist trial courts in scheduling and coordinating settlement conferences. This program employs foreclosure-trained individuals performing several distinct roles – facilitators, local logistical coordinators, and pro bono attorneys – and is supervised by one statewide project manager.

Local logistical coordinators reach out to borrowers to confirm that they are aware of their rights governing settlement conferences, schedule conferences, and ensure that the logistics of the conference site are in place. If a borrower is in need of legal assistance, the logistical coordinator refers the borrower to a pro bono attorney. Facilitators, generally foreclosure-trained mediators, attempt to bring the parties to a mutually-satisfactory solution, if possible.

In early 2010, this project was launched on a pilot basis in three of the counties hardest-hit by the foreclosure crisis: Allen, Marion, and St. Joseph. This pilot program will likely expand to include counties in northwest and southwest Indiana during mid-summer 2010, and, if successful, will be launched statewide beginning in 2011.

Trial Court and Clerk Staff Training

Due to the popularity of the Supreme Court's online Self-Service Legal Center, the Division fields inquiries at an ever-increasing rate from individuals seeking to navigate the court system without the assistance of an attorney. Many inquiries are from private individuals who simply desire more information about legal issues they may be facing or are looking for forms to use to advance their issues in court.

To handle the volume of calls, staff training became necessary to ensure that staff members were adequately equipped to assist those who called with questions. In 2008, the Division, in partnership with the Indiana Judicial Center, conducted such training for the staffs of the Division, Indiana Judicial Center, Supreme Court, and the Indiana Pro Bono Commission. The trainees received valuable information on the importance of customer service, how to distinguish between legal information and legal advice, how to recognize *ex parte* communications, how to make more meaningful referrals, and how to assist self-represented litigants in utilizing online and outside legal resources.

In 2009, this training was launched statewide, first through beta testing in the Elkhart County courts and then at a "train the trainers" session at the 2009 Spring Judicial Conference for the trial court judges. Judges have the opportunity to conduct this training on their own for their staffs, or if need be, request that the Division and the Judicial Center present the training program to their staffs. By the end of 2009, over 120 members of the judiciary, trial court staff, and Supreme Court staff were trained. This training presentation was also given to the Indianapolis Marion County Librarians in early 2010.

COURT SERVICES

Accounts Management, Payroll and Claims, Judicial Benefits Coordination

The Division maintains and administers 21 funds, 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 county-level judicial officials paid with state funds. The annual payroll accounts for these purposes total approximately \$84 million and cover approximately 720 individuals. As part of this "paymaster" function, the Division processes and pays more than 1,700 claims per year for special and senior judge services.

Employment Law Services

Because Indiana does not have a unified court system, there is no Human Resource department for the trial courts to use. Accordingly, the Supreme Court, through the Division, employs an attorney to provide, upon request, employment law counsel to Indiana's trial court judges. Her responsibilities include providing templates of personnel policies, review of trial court personnel policies, confidential advice on personnel issues, review and advice regarding termination of employees, and determining whether claims for unemployment should be contested. In addition, this attorney routinely conducts training for the courts, writes articles regularly for the *Court Times* on related issues, and presents at judicial and court staff conferences.

Special Judges and Disciplinary Commission Grievances

The Division's legal staff serves as counsel to the Supreme Court in matters involving requests for the appointment of special judges, special masters, and senior judges. The Division staff also conducts preliminary investigations of disciplinary grievances filed against members and staff of the Indiana Supreme Court Disciplinary Commission and attorneys who are serving as hearing officers in disciplinary cases. In calendar year 2009, seven preliminary investigations were closed. Three of these cases had been opened in 2009, and four had been pending before then.

The Division also 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 2009, the Division received 98 new requests for special judge appointments, an increase of 15% over the previous year.

Senior Judge Program

Since 1989, Indiana has been able to tap into an experienced pool of former judges to help alleviate the pressure of increasing caseloads. A former judge may apply to the Indiana Judicial Nominating Commission for certification as a senior judge under rules adopted by the Indiana Supreme Court, and any trial court and the Indiana Court of Appeals may ask the Indiana Supreme Court to appoint a senior judge to assist that court. The Division administers the senior judge program.

Small at first, the Indiana senior judge program has grown into an invaluable resource of seasoned judicial officers who serve at minimal cost to the state and no cost to the counties. In calendar year 2009, Indiana had 108 certified senior judges who served a total of 4,306 days. These days are equivalent to approximately 24 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.

Indiana Code chapter 33-13-15 provides that in certain circumstances litigants can agree to try certain civil cases before a private judge who is compensated by the litigants. 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 and one each in 2005 and 2006, two in 2007, none in 2008, and one in 2009. The most current list of registered private judges can be found at www.courts.IN.gov/admin/private-judges.

Indiana law also allows a judge *pro tempore* (temporary judge) to sit in the place of a regular judge who is unavailable. The judge *pro tempore* has the authority of the judge temporarily replaced, subject to the continuing jurisdiction of the Supreme Court. To be appointed a judge *pro tempore*, the individual must be an attorney in good standing with the bar of the Indiana Supreme Court. The Division is responsible for administering requests for judges *pro tempore* and assisting the Supreme Court in preparing the orders appointing them. 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. In calendar year 2009, the Supreme Court made six *pro tempore* appointments.

Civil Legal Aid Fund

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. In calendar year 2009, the Division made distributions of to eleven organizations providing civil legal aid services to over 23,000 persons in cases primarily involving domestic relations matters such as divorce, separation, custody, visitation, paternity, termination of parental rights, and spousal abuse. Since 1997, the Division has distributed \$14.5 million through this program.

Court Improvement Grants

The Indiana Supreme Court continued its Court Improvement Program (“CIP”) this fiscal year under the leadership of its CIP Executive Committee. The CIP distributed federal grants earmarked to improve the judicial system for abused and neglected children in foster care. The funds are used primarily for basic court improvements, training, and data collection and analysis. The Division serves as the fiscal administrator of the CIP grant funds and provides statistical analysis under the Data Collection Grant, while the Indiana Judicial Center provides substantive program administration. A more detailed discussion of the accomplishments of the CIP Program this fiscal year can be found in the portion of this Annual Report detailing the work of the Judicial Conference of Indiana and Indiana Judicial Center.

Communication Links with Judges and Clerks

The Division staff continued this fiscal year to provide a communication link with the trial courts, clerks and their staffs through its newsletter, the *Indiana Court Times*, which is published six times per year. Although still called a newsletter, the *Indiana Court Times* has evolved into a colorful magazine that is published in blog and magazine formats on the Indiana Judicial Website at www.indianacourts.us/times/ as well as in hard copy.

The Court and the Press

To aid the fourth estate in its coverage of the Judicial Branch, the Supreme Court, through the Division, employs a full-time Public Information Officer. In calendar year 2009, she issued approximately 100 press releases and hosted ten press conferences. In addition, Court staff traveled to several counties receiving the Odyssey Case Management System and demonstrated how reporters can gain access to court case information free over the Internet through Odyssey. The Court also provided valuable statistical information throughout the year to reporters covering the mortgage foreclosure crisis.

TRIAL COURT TECHNOLOGY

During the second full year into the deployment of Indiana’s uniform statewide Odyssey case management system (“CMS”), 50 courts in eighteen counties were up and running, managing more than 22% of the state’s caseload. By the end of 2009, more

than 440,000 cases a year were being tracked electronically, stored in a central database, and made available to the public and other users of court data free of charge.

Just over a decade ago, the Indiana Supreme Court created its Judicial Technology and Automation Committee (“JTAC”) to develop strategies for trial court technology in our state. Implementation of state-wide case management system that allows for inter-court information sharing is principal among its goals, so having nearly one quarter of the state’s caseload managed by the Odyssey CMS is a major milestone in what has been—and what continues to be—a challenging and necessary endeavor for justice and public safety in Indiana.

As the fiscal year drew to a close, JTAC was also busy working on additional deployments in courts in Anderson, Fort Wayne, Indianapolis, Jeffersonville, and other places. A long waiting list exists of courts and clerks who would also like to have Odyssey installed, but with only so many men and women on JTAC’s deployment teams, it is unable to fulfill those requests as rapidly as it would like. In fiscal year 2010, JTAC explored with the General Assembly temporarily increasing the court filing fee that supports JTAC’s work from \$7.00 to \$10.00 so as to increase the pace of Odyssey deployments. The proposal received some support—the Indiana House of Representatives and the Senate Judiciary Committee both passed it in 2009—but it did not become law.

Of JTAC’s projects, Odyssey is by far the biggest and most ambitious undertaking, but it is only a part of a comprehensive effort to improve trial court technology in Indiana.

Through JTAC’s efforts, in partnership with other agencies, critical interfaces now exist between courts and clerks, law enforcement and state agencies. These interfaces reside on a secure “extranet” called INcite (Indiana Court Information Transmission Extranet), a website used to exchange important information with external and disconnected user groups. Here are the principal ways in which INcite was used to transmit and receive critical information during the fiscal year:

Jury List and Management System – JTAC once again released a master jury list created with the help of the Bureau of Motor Vehicles and the Department of Revenue. Data from these agencies is merged and filtered to produce the most comprehensive list of jurors for courts to utilize. Following the development of this list, JTAC built a jury management system that could be used by courts to draw a panel, administer questionnaires, and process jury compensation. At the close of the fiscal year, 53 counties were using the jury management system.

JTAC/Bureau of Motor Vehicles initiative – JTAC continued to work with courts and clerks throughout the state to ensure the timely submission of driver license suspension and conviction information to the Bureau of Motor Vehicles (“BMV”). Starting in 2005 with the deployment of INcite, courts began to send this information electronically to the BMV so that a person’s driver record was updated by the next day. By the end of 2009, over 13,000 transmissions were being sent each week. JTAC worked with the BMV to expand the types of convictions that could be reported electronically to include not only infractions and ordinance violations but criminal convictions. Clerks can now access activity reports through INcite instead of receiving them in the mail from the BMV. These reports are essential

because they contain any errors that may have occurred during the electronic submission of a conviction or suspension. For example, an error in a date of birth or a name misspelled will cause the electronic submission to fail on the BMV's end. Clerks have the ability to resubmit these cases once the corrections are made.

Electronic Citation and Warning System (eCWS) – With federal funding and the help of law enforcement partners, JTAC developed the “electronic Citation and Warning System” (“eCWS”) to use scanners and other technology to increase greatly the speed at which traffic tickets are issued. The Indiana State Police implemented the system in 2007. In 2009, 101 additional law enforcement agencies began using eCWS, bringing the total number of agencies to 150 and the number of officers using the system to over 5,000. 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. Used in conjunction with Odyssey, approximately 100,000 traffic tickets have been filed electronically using eCWS that previously would have been processed by hand. JTAC worked with Lake County officials and several city and town court judges to provide traffic ticket data electronically to their local case management systems. Since 2007, more than 1.6 million tickets and warnings have been uploaded to the e-ticket central repository.

Mental Health Adjudications – On July 1, 2009, the federal government began requiring courts to provide certain mental health data electronically to the FBI for inclusion in the federal National Instant Criminal Background Check System. The data pertains to individuals who may be prohibited from possessing a firearm. In response, JTAC established a system to do this, and by the end of 2009, almost 500 cases had been submitted to the FBI.

Protection Order Registry – Developed in 2007, the Protection Order Registry (“POR”) allows Indiana courts to issue Protection and No Contest Orders and submit them electronically to the Indiana Data and Communications System and to the National Crime Information Center at the FBI. Within minutes following the issuance of such an order, it appears on the state and national law enforcement databases, where the information can be viewed by any law enforcement agency in the country. On July 1, 2009, the Indiana General Assembly required all courts and law enforcement agencies to utilize the POR. In response, JTAC provided training and support so courts and law enforcement agencies could comply with the new law. Additionally, JTAC implemented new POR functionality to allow victim advocates to complete petitions for protection orders on-line. Advocates agree that this process allows them to provide a more comprehensive and valuable assistance to victims during their time of crisis.

Marriage License e-file – In calendar year 2009, over 16,000 Indiana marriage licenses were recorded by 58 counties through JTAC's Marriage License e-file system. The system eliminates the need to handwrite applications and record data in paper record books and transfers appropriate data electronically to the Indiana State Department of Health (“ISDH”). This fiscal year, the Department of Child Services (“DCS”), ISDH and JTAC worked to facilitate the exchange of marriage license application information to enhance Title IV-D child support enforcement



Victims of violence can now petition for a protective order electronically from the safety of a domestic violence shelter. With Justice Sullivan (center) at the announcement of this achievement is a director of the Family Service Society, Inc., Linda Wilk, and the Legal Director of the Indiana Coalition Against Violence, Kerry Hyatt Bloomquist.

efforts throughout Indiana. JTAC now provides a data file to DCS, and DCS compares that information with its delinquent payor data file. If a match occurs, information is then submitted to the local child support enforcement office in order to initiate new enforcement proceedings.

Awards

In 2009, JTAC received the “Best Practices” award at the International Forum on Traffic Records and Highway Safety Information System; the “Peter K. O'Rourke Special Achievement Award” from the Governor's Highway Safety Association; and the “2009 G. Thomas Munsterman Award for Jury Innovations” from the National Center for State Courts.

Appellate Court Automation and Technical Services

The Technical Services Section of State Court Administration provides computer, network, and related infrastructure services to over 250 computer users in the Supreme Court, Court of Appeals, Tax Court, and all supporting agencies.

In addition, this year the section helped the Supreme Court draft and issue a Public Notice of Contracting Opportunity requesting vendor proposals for the delivery of a new Appellate Case Management System, with public access and electronic case filing capabilities, for the State's Appellate Courts. This will be a critical project for the Technical Services Section in the coming year, provided the Court can secure necessary funding.

The Section also enhanced its software to further the Clerk's Office's initiative to deliver Appellate Court orders and opinions via electronic mail rather than by U.S. mail.

In addition, the Section worked with JTAC to create the 2010 appellate court retention website. Developed at the urging of legislative leaders, the website provides a wide range of information about appellate judges who will appear on the November 2010 retention ballot.

COMMISSION 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.courts.IN.gov/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, assists the Committee and the Supreme Court in drafting and promulgating amendments to the Indiana Rules of Court.

The significant rule amendments adopted by the Court in 2009 dealt with: requiring recording of custodial interrogations in felony prosecutions beginning January 1, 2011; revisions to the Child Support Rules and Guidelines; permitting mediators to prepare specified documents in domestic relations cases; appellate rules directing interlocutory appeals in death penalty cases to the Supreme Court; requiring appellate orders, opinions, and notices be transmitted to counsel of record by electronic mail; clarifying the scope of judicial notice; and refining the definition of pro bono service.

During this same time frame the Rules Committee considered proposed amendments dealing with: changes of judge in paternity actions; Family Court Rules; Admission and Discipline Rules covering delinquent fees for failing to complete IOLTA certification and immunity in communications with the Attorney Disciplinary Commission; waiver of attorney-client privilege; defining the time of judgment for purposes of calculating deadlines; appellate rules dealing with interlocutory appeals in death penalty cases; small claims rules; attorney advertising; preparation of documents by mediators in domestic relations cases; withdrawal of cases from judges who fail to rule in a timely manner; notice to the Attorney General of cases involving constitutional challenges; appellate amendments sponsored by the Indiana State Bar Association; expedited appeals in cases involving termination of parental rights; rules governing business counsel licenses and reciprocity; and recording of custodial interrogations involving juveniles.

Public Defender Commission

The Division is responsible for providing staff support to the Indiana Public Defender Commission, which distributes money from a public defense fund to reimburse counties for the costs associated with indigent criminal defense and creates standards that encourage counties to provide quality defense in criminal cases.

State law authorizes counties to receive reimbursements of 50% of expenditures for indigent defense services in capital cases and up to 40% in non-capital cases from this state fund. There are two sources of money for the public defense fund: The State Auditor distributes \$5.4 million yearly to the fund from court fees under



Chief Justice Shepard, with Justices Boehm and Rucker, presents a certificate of appreciation to departing Rules Committee member, Stan Fickle.

IC 33-37-7-9(c)(2), and the legislature appropriates money for a public defense budget from the state general fund. In 2009, the public defense fund received \$16.7 million.

All 92 counties are eligible for reimbursements of indigent defense costs in capital cases, provided they comply with Indiana Supreme Court Criminal Rule 24. The Commission is required by IC 33-40-6-6 to give priority to requests for reimbursement of expenses in capital cases. In 2009, the Commission distributed \$658,965.22 to counties for death penalty defense.

Currently, 48 counties, comprising over 65% of Indiana's population, qualify for reimbursement from the public defense fund for non-capital public defense expenses. In 2009, the Commission distributed \$15 million to the counties on their non-capital defense requests, and counties participating in the reimbursement program handled 88,062 indigent defense cases – a decrease from the 90,144 cases assigned in 2008.

The Indiana Public Defender Commission meets four times during each fiscal year to audit and approve claims by the counties. In 2009, the Commission distributed \$15 million to the counties on their non-capital defense requests. From 1995 to date, over \$93 million has been reimbursed to the counties from the public defense fund to assist in non-capital public defense expenses.

Indiana Conference for Legal Education Opportunity

The Indiana Conference for Legal Education Opportunity (“ICLEO”) continued its role of increasing diversity in the Indiana legal community. In May 2009, 26 CLEO Fellows graduated from Indiana law schools. On October 16, 2009, twelve Fellows were sworn in as members of the Indiana Bar. And on July 24, 2009, 30 students successfully completed the Institute and were certified at the program's closing banquet.

Current Fellows have been hard at work blazing trails at their respective law schools. Milton Turner, CLEO 2007, is the 2009-10 Chief Justice of the Moot Court at Indiana University School of Law-Indianapolis, and Nicholas Cayetano, also of the 2007 CLEO class, is the 2009-10 Associate Night Justice for the Court. Ilisha Dowell, CLEO 2007, is the 2009-10 Chief Justice of the Moot Court at Valparaiso University School of Law. Current Fellows are also making waves nationally. Tiffany Munsell, Leah Dupree,

and Melvin Felton, all of the CLEO 2007 class, serve on the 2009-10 Board of the National Black Law Student's Association. Tiffany serves as the National Chair, Leah serves as the National Chief of Staff, and Melvin serves as the National Director of Communications.

A monumental first in CLEO history took place in 2009. On October 16, 2009, Rudolph Pyle III, a member of the 1997 inaugural CLEO class, was sworn in as the first African-American judge in Madison County. Ruth Rivera, CLEO 2004, was the 2009 recipient of the 2009 Early Career Achievement Award from Indiana University School of Law-Indianapolis. 2009 Valparaiso University School of Law graduate, Melina Villalobos, is a clerk in Justice Frank Sullivan's chambers.

Commission on Race and Gender Fairness

In 1999, the Supreme Court created the Commission on Race and Gender Fairness to study race and gender fairness in Indiana's justice system, among legal service providers, and in and public organizations. The Commission, comprised of members of the judiciary, bar, state and local governments, academia, law enforcement and corrections, and in public organizations, advises the Court on issues of race and gender fairness for the improvement of Indiana's courts. The Division of State Court Administration provides the necessary staff support to the Commission.

Notable among the Commission's achievements since its inception are the establishment of the Certified Court Interpreter Program, which now boasts more than 72 certified interpreters on its registry, the reproduction of public service posters in English and Spanish on display in Indiana's courts and clerks offices that explain what the court "can and cannot do" for self represented litigants, and the translation of the child support worksheet, Parenting Time Guidelines and portions of the Indiana Criminal Code into Spanish. The Commission also recently produced an English-subtitled Spanish DVD for the initial hearing in juvenile delinquency for Indiana's juvenile judges.

Committee on Self-Represented Litigants

The Committee on Self-Represented Litigants, formerly the *Pro Se* Committee, addresses the needs of individuals who enter Indiana's courts without the assistance of an attorney. Composed of judges, court clerks, community members, librarians, attorneys, and legal service providers, the Committee's mission is to study and recommend to the Court improvement of the practice, procedures and systems for serving the self-represented litigants in Indiana's courts. This fiscal year, the Division conducted statewide court staff training in Elkhart, Hamilton, Allen, Lake, Tippecanoe, and Vanderburgh counties on enhanced customer service for informed referrals for self-represented litigants and, across the board, has earned high satisfaction ratings from the participants.

Records Management Committee

One of the earliest committees convened by the Supreme Court is the Records Management Committee, chaired by Justice Brent Dickson and comprised of judges, clerks, bar members, prosecutors, the state public defenders, and other stakeholders. The Committee has been and continues to be the genesis of

the administrative rules that set standards for case assignment, statistical reports, records retention, records imaging, telephonic and video proceedings, electronic filing, and privacy and access to court records. Part of the records management services offered by the Division is on-site assistance to courts and clerks with records preservation, disposal, and imaging. To that end, Division staff made seventeen visits to fourteen counties during 2009.

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 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 2010, the Judicial Education Department of the Judicial Center presented thirteen days and 133.8 hours of continuing judicial education instruction. Total attendance at these programs was 1,309. These programs are discussed in detail below.

French Lick Springs Hotel in French Lick, Indiana, served as the site for the **2009 Annual Meeting of the Judicial Conference of Indiana** on September 16-18. This mandatory conference offered just over 45 hours of continuing judicial education to a record number of 527 judicial officers. Twenty-seven different sessions were made available to attendees, including annual updates in such areas as criminal law and family law, recent legislative changes, new court rules, child support guidelines, and Administrative Rule 9. Also included in the conference agenda line-up were informative sessions on recent trends in traffic safety cases, understanding Indiana's new foreclosure laws, Department of Correction ("DOC") round-table discussion on issues of concern to the courts and DOC, court survival in tough economic times, practical tips on engaging with the media, the impact of the judicial career, social networking sites and the court, and ethical issues with court staff. An internet café and demonstration room was sponsored by staff from the Division of State Court Administration's Judicial Technology and Automation Committee ("JTAC"), allowed attendees to see the latest initiatives and projects from JTAC.

City and Town court judges received twelve hours of continuing judicial education on October 15-16, 2009, at the **Annual Meeting of City and Town Court Judges**. The conference was held in Indianapolis at the Hilton North Hotel, and was

attended by 58 of Indiana's 75 city and town court judges. The education programming included sessions on courtroom demeanor and control, the ethics of judicial outreach programs, updates from State Board of Accounts and the Department of Natural Resources, a law and history presentation focusing on Abraham Lincoln, court records in courts of "no record", ethical issues and concerns for limited jurisdiction judges, and cases involving operating while intoxicated charges.

Every other year, the Indiana Judicial Center conducts a two-day workshop for judicial officers exercising domestic relations jurisdiction. On November 19-20, 2009, the **Domestic Relations Workshop** was held at the Marriott North Hotel, Indianapolis. Sixty-seven judicial officers received seven hours of education. The workshop curriculum was divided into two parts. Members of the Domestic Relations Committee provided a presentation reviewing and applying recent revisions to Indiana's Child Support Guidelines in the first segment. The second segment targeted the father's role and involvement after divorce.

On Friday, December 11, 2009, 178 judicial officers attended the **Winter Conference** on "Exploring the Brain" at the Indianapolis Marriott North Hotel. A nationally recognized neuroanatomist explored how the two hemispheres of the brain process information differently yet simultaneously, and discussed personality types, patterned responses, and predictability based on the underlying circuitry of the brain. The one-day seminar provided 4.5 hours of continuing education. During the seminar, Judge Gregory Mize from the National Center for State Courts presented the National Center's Jury Innovation Award to the Indiana Supreme Court.

In its eleventh year, the **Spring Judicial College** program was held on April 14-16, 2010, at the Hilton North Hotel in Indianapolis. Twenty courses were offered during the three-day event. With the exception of one full-day program, the remainder were half-day. Record-level attendance was recorded with 366 attendees. Some of the courses offered were Crawford and Child Hearsay; Access to Court Records; I Want to Decide Cases but Administrative Issues Get in the Way; E-Discovery; Federal Law, Language Access and USDOJ; Guardianships 101; The Aging Brain and the Adult Guardianship Program; Get it Write; Effectively Balancing Victims' and Defendants' Rights; Risk Assessment; The Dynamics of Domestic Violence; Sentencing Options for OWI Offenders; Internet, Blogs and Social Networking—Legal and Ethical Issues; Settling for Foreclosure—The Mortgage Foreclosure Settlement Conference; and When Judges Speak—the Ethics of Judicial Communication and Outreach. The American Judicature Society's Dwight D. Opperman Award for Judicial Excellence was presented to Chief Justice Shepard at the Spring Judicial College Program.

The Juvenile Judges Annual Meeting was held on June 24-25, 2010, at the Renaissance North Hotel in Carmel, Indiana. One hundred thirteen judicial officers attended and 8.3 hours of continuing education was available. The program agenda included sessions on achieving timely permanency in CHINS cases, DCS initiatives, perspectives on permanency, juvenile risk assessment, Indiana Department of Correction—Division of Youth Services program update, recent legislation and case law update, and the significance of Paternity Court.

General Court Staff Education

In fiscal year 2010, the Judicial Center offered its first court staff workshop on July 29, 2009. Two hundred forty-four trial court and supreme court staff attended, receiving instructions on ethics, working with difficult people, and government and the courts.

The Center and the Division of State Court Administration also held seven district or county-wide training events for trial court staff and clerks. These trainings were attended by 386 trial court staff and clerks and 19 judicial officers. The courses offered included customer service, jury management, ethics, recordkeeping, and statistical reporting.

Additional information was provided to 400 clerks at the Northern Clerks Association conference on September 10, 2009, in Shipshewana, Indiana, and at the Clerks Annual Conference in Indianapolis on June 9, 2010. In-house training was provided to Supreme Court agency staff in August, September, and November 2009 on the Indiana Judicial system.

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 total number of compact cases supervised as of June 30, 2010, was 2,614 in-state and 2,223 out-of-state. The Judicial Center processed 126 runaway cases, 31 of which were court-ordered requisition returns.

The Judicial Center also staffs the State Council of the Interstate Compact for Adult Offender Supervision ("State Counsel") 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.

In fiscal year 2010, the Center administered the probation officers' certification examination to 122 applicants, and provided 52 days of instruction for a total of 1,733 probation officers.

During the fiscal year, the Indiana Judicial Center and the Department of Correction continued to evaluate and implement newly created public domain risk and needs assessment instruments for both adults and juveniles. The Indiana Judicial Center secured a Byrne/JAG Grant from the Indiana Criminal Justice Institute to assist with funding this project. The Indiana Risk Assessment Task Force ("Task Force") reconvened in the fall and reviewed the evaluation reports and developed the policy recommendations for the adult and juvenile risk and needs assessments. These policy recommendations were reviewed by relevant Judicial Conference committees and eventually adopted by both the Judicial Conference Board of Directors and the Department of Correction.

This project includes various training components. The three-part Trainers' course for the juvenile risk and needs assessments began in December 2009 and was completed in April 2010, resulting in seventeen certified trainers for Indiana. The Trainers' course for the adult risk and needs assessments, which is also a three-part process, began in May 2010. At the close of the fiscal year, eighteen candidates were participating. The Indiana Judicial



The Indiana Judicial Center is charged with promoting continuing education of judges and other court personnel. Here, Chief Justice Shepard makes opening remarks at a Judicial Conference program. Jane Seigel, the Judicial Center's Executive Director, is in the foreground.

Center and Department of Correction have coordinated the training efforts for staff in probation, community corrections, Court Alcohol & Drug Programs, Problem-Solving Courts, parole, and DOC facilities.

The Task Force has also been involved with JTAC in developing the INcite application to assist all departments with completing the assessment tools. The technology component of this project is key to improving communication between criminal justice agencies and the continued evaluation of these assessment tools.

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, 2010.

Research Activities

During fiscal year 2010, the Judicial Center also continued providing legal research services to trial court judges. As part of this effort, it distributed 36 issues of *Case Clips* by e-mail, which are maintained on the Center's website. Additionally, the Research Department is preparing a 2010 benchbook CD-ROM containing eleven benchbooks, handbooks, and deskbooks for distribution in late 2010.

Legislative Activities

From January to April 2010, the Judicial Center continued reviewing and providing weekly "Friday Updates" to Indiana judges concerning Indiana General Assembly session activities relevant to the judiciary. For the fourth 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 in-state facilities providing residential services to children-in-need-of-services ("CHINS") and delinquent children. The roster is updated regularly to provide current information on costs, types of services provided, specialized treatment programs available, and targeted population.

The Court Improvement Program ("CIP") is a federally-funded program made possible by grants awarded to the Indiana Supreme

Court from the United States Department of Health and Human Services, Administration for Children, Youth and Families. The purpose of the CIP is to improve the judicial system for children and families involved in the child welfare system. The grant funds are earmarked for basic court improvements, data collection and analysis, and training.

The Division of State Court Administration serves as the fiscal administrator of the CIP grant funds and provides statistical analysis, and the Judicial Center administers the CIP. While the U.S. Department of Health and Human Services sets the overall purpose and framework for the program, the Supreme Court has established an Executive Committee to supervise and establish priorities. The members of the Executive Committee are Chief Justice Randall T. Shepard, Justice Frank Sullivan, and Judge Loretta Rush.

The Child Welfare Improvement Committee also helps guide the CIP. This multi-disciplinary committee meets regularly to formulate strategic plans, provide recommendations on child welfare issues involving the courts, and plan CIP training events.

During this fiscal year, the CIP awarded over \$272,000 to 15 sub-grant recipients to support projects designed to improve the safety, well-being, and permanency of children and families involved in the child welfare system. Funded projects include a CHINS drug court, a CHINS mental health court program, mediation and facilitation programs, installation of court technology and equipment, training and educational programs, publication and distribution of child welfare resource materials, and implementation of child abuse and neglect court performance measures.

During this fiscal year, CIP funds were utilized to support the Family Court Project, support the portion of JTAC's work that affects the processing of child welfare cases, sponsor the Indiana Juvenile Court Judicial Officer's Annual Meeting, and provide four professional development scholarships to juvenile court judicial officers.

The CIP sponsored a team to attend a meeting with the National Center for State Courts on facilitating data exchange between courts and child welfare agencies, as well as sponsored a delegation to attend the Third National Judicial Leadership Summit on the Protection of Children in Austin, Texas.

Court Alcohol and Drug Program Activities

The Judicial Center continued administration of the Court Alcohol and Drug Program during fiscal year 2010. The Center's staff and the Education Subcommittee of the Court Alcohol and Drug Program Advisory Committee provided education and training opportunities at the Court Alcohol and Drug Program Annual Meeting held on March 10-11, 2010, two staff orientations, two director orientations, and a criminal justice training. The Court Alcohol and Drug Program staff continued to conduct the required Court Substance Abuse Management Specialist ("CSAMS") training, which results in a cost-savings of about \$20,000 per year. The CSAMS training sessions offered this year included two substance-abuse characteristics courses, two assessment and interviewing courses, and two assessment courses. Staff recertified 16 court alcohol and drug programs. Fifty-one individual took the CSAMS credential exam, and 38 received the credential.

The Court Alcohol and Drug Program staff provides administrative support for the Court Alcohol and Drug Program Advisory Committee (“CADPAC”). CADPAC revised the CSAMS training curriculum and examined policy issues including expanding services to juvenile courts, developing statistical reporting measures and a statistics pilot project, and recommending statutory amendments on program eligibility.

Seven education scholarships (paying up to \$1,000 each) were requested during FY 2010 by program judges and staff. Six scholarships, totaling \$5,041.42, were awarded. Eight grant applications (paying up to \$2,500 each) were also approved, totaling \$11,772.70, for program technology or education improvements.

Problem-Solving Courts Activities

On October 6-8, 2009, the Judicial Center hosted the third-annual Problem-Solving 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. The Workshop offered 22 education sessions, and 215 problem-solving court team members attended, including 31 judicial officers.

With approval from the Judicial Conference Board of Directors, the Problem-Solving Courts Committee initiated efforts to develop legislation to promote the continued expansion of Indiana problem-solving courts and to streamline the certification process administered by the Indiana Judicial Center staff. The 2010 General Assembly enacted HEA 1271, effective July 1, 2010 (see Indiana Code Section 33-12-16), which authorizes trial courts to establish drug courts, reentry courts, mental health courts, family dependency drug courts, community courts, domestic violence courts and other problem-solving court models approved by the Indiana Judicial Center. The new statute repeals the drug court statute (Indiana Code 12-23-14.5) and reentry court statute (Indiana Code 33-23-14), but authorizes presently certified courts to retain their certification as a problem-solving court. Judicial Center staff assisted the Problem-Solving Courts Committee to develop Interim Rules for Problem-Solving Courts, which were adopted by the Board of Directors on April 23, 2010, and effective July 1, 2010. Judicial Center staff will assist the committee with developing final rules for problem-solving courts in the coming year.

Drug Courts

The Indiana Judicial Center oversees Indiana’s drug courts established under Indiana Code Section 12-23-14.5. As of June 30, 2010, there were 30 operational drug courts (26 adult and four juvenile) with an additional six adult drug courts in the planning stages. The Judicial Center certified or recertified 10 drug courts in fiscal year 2010.

Reentry Courts

The Indiana Judicial Center oversees Indiana’s reentry courts established under Indiana Code Section 33-23-14. The Judicial Center certified or recertified seven reentry courts in fiscal year 2010. As of June 30, 2010, there were seven certified adult reentry courts and one juvenile reentry court in the planning stages.

In fiscal year 2010, the Indiana Judicial Center assisted the Supreme Court and the Division of State Court Administration in administering a Problem-Solving Court Grant Program, which provided a total of \$100,000 to five certified reentry courts and 22 certified drug courts.

Other Activities and Projects

Mortgage Foreclosures Initiatives – The Judicial Center continued to keep judges informed about the latest developments in mortgage foreclosure law as well as statewide prevention efforts and resources available through the Indiana Foreclosure Prevention Network. Specifically, the Judicial Center offered 2.8 hours CLE hours concerning foreclosure law during the Spring Judicial College program for judicial officers. Several Judicial Center staff also participated in the Supreme Court’s Mortgage Foreclosure Taskforce, assisted with the Indiana Housing and Community Development Authority’s foreclosure prevention initiatives, and assisted with the development of the Mortgage Foreclosure Trial Court Assistance Project coordinated through the Division of State Court Administration.

Court Performance Taskforce – The Supreme Court appointed a group of trial court judges from around the state to look at court performance and evaluation issues. This Task Force met during the fiscal year and consulted with representatives from the National Center for State Courts about possible performance and evaluation tools.

WorkPlace Spanish Course – The Indiana Judicial Center continued its partnership with the 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 offered to court staff at no cost to the counties or participants. Since the fall of 2006, almost 700 people have participated in or submitted enrollment forms for this course. For more information, please visit the website at <http://www.in.gov/judiciary/center/spanish-course/>.



Justice Sullivan received the ABA Litigation Section “Diversity Leadership Award” for promoting diversity in the legal profession. Presenting the award was Litigation Section Chair Lorna Schofield of New York (third from right). Also on hand were several lawyers who have clerked for Justice Sullivan (from left): Robert Parrish; Carl Butler; Leah Chan Grinvald; and Susan Oliver Martello.

Committee Activities

The committees of the Judicial Conference of Indiana have been very active this fiscal year:

- The **Alternative Dispute Resolution Committee** met with members of the Indiana State Bar Association's ADR Section to discuss how arbitration is being used in Indiana, joined with members of the Domestic Relations committee to create a parenting coordinator subcommittee to begin drafting rules governing parenting coordination practices, continued reviewing foreclosure prevention related court activities, and explored ways to encourage the use of ADR practices in Indiana courts.
- The **Civil Benchbook Committee** continued its work on updates for the Second Edition of the Civil Benchbook.
- The **Civil Instructions Committee** completed its plain language "translation" of the civil model jury instructions, which Lexis will publish as a new edition in late summer or early fall 2010.
- The **Community Relations Committee** awarded the 2009 Indiana Judges Association awards for Excellence in Public Information and Education to Tim Young of the *Newburgh Register* and the Supreme Court's "Courts in the Classroom" project.
- The **Court Management Committee** continued its work on disaster preparedness plans and court security.
- The **Criminal Benchbook Committee** continued working on revisions and updates to the Criminal Benchbook.
- The **Criminal Instructions Committee** continued its practice of drafting an annual supplement that is published on January 1 each year.
- The **Criminal Law Policy Committee** continued its role as a liaison with state and private agencies discussing criminal law matters and reviewing legislation and policies concerning criminal law and sentencing.
- The **Domestic Relations Committee** conducted a review of Indiana's Parenting Time Guidelines and reviewed changes to the Child Support Calculators engendered by the revised child support guidelines.
- The **Ethics and Professionalism Committee** continued to address a variety of judicial ethics issues and to promote civility in the courtroom.
- In November 2009, the **International Law Committee** once again 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 **Judicial Administration Committee** began the process of comprehensively reviewing all Indiana's case types in a new review of the Judicial Weighted Caseload System.
- The **Jury Committee** continued its work with the Division of State Court Administration and 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 fifth master list was released in Fall 2009, and the project team continued to investigate ways to improve the master list. The committee also continued work on a benchbook to assist courts with jury trial management, and proposed three amendments to the Jury Rules to address the use of electronic communication devices by jurors.
- 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 also continued to work with Indiana's Department of Child Services on the implementation of state payments of juvenile services under HEA 1001-2008.
- The **Probate Committee** continued to review legislation for updates to the Probate Deskbook, and assisted in presenting an education session on guardianships for the Spring Judicial College.
- The **Problem-Solving Courts Committee** assisted with the enactment of Indiana Code 33-23-16, the certification of problem-solving courts, drafted Interim Rules for Problem-Solving Courts adopted by the Board of Directors, began drafting final rules for the certification of problem-solving courts and provided oversight of problem-solving court training activities.
- The **Protection Order Committee** completed revisions to the Protection Order Deskbook and continued working with JTAC and the Protection Order Registry on new and amended protection, no contact, and workplace violence restraining order forms and procedures.
- The **Special Courts Committee** continued its work on proposed amendments to several small claims rules and preparing revisions to the Traffic, Misdemeanor, Small Claims Benchbook and Small Claims Manual.

BOARD OF LAW EXAMINERS

Linda L. Loepker, Executive Director

The Board of Law Examiners is responsible for ensuring that individuals admitted to practice have met all of the requirements as specified in the Admission and Discipline Rules of the Indiana Supreme Court. Admission is achieved through one of three methods (exam, provisional foreign license, or business counsel license), all of which are supervised by the Board. The administration of the exam, 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 bar, whether by exam, provisional foreign license, or business counsel license, the Board must make a determination and certify to the Supreme Court that the applicant possesses the requisite good moral character and fitness to practice law. Factors considered 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 exam applicants, certification of character and fitness involves not only the Board, but also the 247 members of the Supreme Court Character and Fitness Committee. The Supreme Court appoints licensed attorneys from each county in the state to this Committee. Each bar exam applicant must have a personal interview with one of the Committee members. At the interviews, committee members question applicants regarding their knowledge of and willingness to be bound by the Rules of Professional Conduct as well as any disclosures on the application that create questions about the applicants’ abilities to meet the requirements of Rule 12, section 2. At the conclusion of the interviews, the Committee members submit written recommendations to the Board, which recommend either approving certification of character and fitness, recommend denying certification, or which do not recommend either and instead defer the issue to the Board. The recommendations and observations of members of this Committee 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 Board’s Foreign License Committee. Five members of the Board serve on the committee on a rotating basis. After reviewing of the application, the committee members vote to approve the application, deny it, 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 21 applicants this fiscal year.

As a result of the individual interviews, JLAP assessments, and review by the Board office, 51 applicants were required to appear before the full Board to resolve matters of character and fitness. Forty-one were applicants for the exam and ten were applicants for admission by provisional foreign license, business counsel license, previous year applicants, or individuals admitted by conditional admission. In addition to personal appearances of applicants, the Board reviewed the files of, or obtained additional information concerning, 73 applicants for the exam.

The Bar Exam

The bar exam 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 five occasions this fiscal year to finalize the Indiana Essay Questions. Both Multistate portions of the exam 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, four Board members participated in grading workshops for the MPT in Madison, Wisconsin.

The Board received 927 applications to take the exam, which represents a 4% increase from last fiscal year. The Board administered the exam over a total of eight days in February and July to a total of 812 applicants, a 6% increase from last fiscal year. The standard exam is administered for a two-day period. However, some applicants require non-standard testing accommodations. The accommodations can include providing additional time, separate test areas, individual monitors, use of computers, and large-print materials. Of the 812 individuals who took the exam, 28 received accommodation, an 18% increase from last fiscal year.

Review of Test Results

Pursuant to Admission and Discipline Rule 14, section 1, an applicant who is unsuccessful on the exam and receives a score within nine points of passing may request that his/her exam be reviewed. Members of the Board comprise the Appeals Reviewers. In July, 48 unsuccessful examinees requested that their results be reviewed; eight applicants passed on review. In February, 26 unsuccessful applicants requested that their results be reviewed; two applicants passed on review. Collectively, this represents an increase in reviews of 33% from last fiscal year.

Admissions

The Indiana Supreme Court holds two main Admission Ceremonies each year. Many of those admitted during the year were sworn in at the main ceremonies in Indianapolis. The October 2009 ceremony was held in Sagamore Ballroom at the Convention Center in Indianapolis, and the May 2010 ceremony was held at the Indiana Roof Ballroom.

A total of 676 attorneys, an increase of 5% from last fiscal year, were admitted to practice in the State of Indiana during the fiscal year: 619 on examination, 53 on Provisional Foreign License, and four on Business Counsel License.

Conditional Admissions

When an individual has satisfied the general qualifications for admission but, because of drug, alcohol, psychological, or behavioral problems, the Board has concerns about the individual’s character and fitness, the Board may offer the applicant conditional admission under Admission and 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. At the close of the fiscal year, the Board’s staff was solely responsible for monitoring

22 individuals given Conditional Admission. Eighteen others were being monitored by the Board's staff and also being monitored by JLAP. The total number of applicants (40) being monitored pursuant to this rule increased by 20% this last fiscal year. Pursuant to Admission and Discipline Rule 12, section 10, one person admitted previously on a Conditional Admission had his admission revoked for failing to comply with the terms of his consent agreement.

Admission on Provisional Foreign License

Attorneys licensed in other states may be granted a provisional license to practice law in Indiana upon a finding by the Board that the individual has met the requirements set out in Admission and Discipline Rule 6, section 1. The number of attorneys admitted on provisional foreign license increased by 14% this year. A total of 53 attorneys were admitted on provisional foreign license from 27 different states or U.S. territories.

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 becomes permanent. Thirty attorneys met the provisional practice requirements in Indiana and their licenses were made permanent. The licenses of twelve attorneys admitted on foreign license expired because they failed to meet the practice requirements of Admission and Discipline Rule 6, 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 an attorney licensed in another state, 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 Business Counsel Licenses to four applicants this fiscal year, a decrease of five from last fiscal year.

The Business Counsel License is valid for one year so long as the employment continues as specified in the rule. The license

may be renewed for a like term of one year upon submission of verification of employment. Time that an attorney accrues while licensed on a Business Counsel License may be applied to the practice requirement of the Provisional License so long as all other requirements of the Provisional License are met. Failure to maintain the employment requirements of the Admission and Discipline Rule 6, failure to qualify for renewal for some other reason, or failure to renew the business counsel license causes the license to expire. One license expired pursuant to this provision during this fiscal year. Two individuals who previously held business counsel licenses became eligible for admission under the provisional foreign license and converted their licenses.

Certified Legal Interns

Under Admission and Discipline Rule 2.1, the Board is responsible for certifying law school students or graduates to serve as legal interns allowed to perform certain legal tasks under the supervision of an attorney. Certified legal interns gain practical legal experience in an approved program under the supervision of qualified attorneys prior to their being admitted to practice. This fiscal year, the Board certified 443 students and 98 graduates to serve as legal interns, an 8% and 36% increase, respectively, from last year.

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 apply 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. There were 779 active professional corporations, 198 limited liability companies, and 178 limited liability partnerships during this fiscal year. Of those numbers, 42 professional corporations, 47 limited liability companies, and 14 limited liability partnerships were newly formed. The total number of professional organizations remained relatively constant this fiscal year, with slight changes in the balance between the types, with the largest growth being the formation of 25% more limited liability companies this year.

Members of the Board of Law Examiners

The Indiana Supreme Court appoints the members of the Board of Law Examiners. The terms of members are governed by Admission and Discipline Rule 9 and begin on December 1st of each year. As of December 1, 2009, the Board's officers were: Leslie C. Shively of Evansville, President; Jon B. Laramore of Indianapolis, Vice-President; Gilbert King, Jr., of Gary, Treasurer; and Professor Maria Pabon Lopez of Indianapolis, Secretary. Their terms as officers are for one year and end on December 1, 2010. The remaining members of the Board are Cynthia S. Gillard of Elkhart, Charlotte F. Westerhaus of Indianapolis, Michael M. Yoder of Kendallville, Gary K. Kemper of Madison, and the Honorable Barbara L. Brugnaux of Terre Haute.



The development of a new statewide jury list, with assistance from the Executive Branch, led to a G. Thomas Munsterman Award for Jury Innovation from the National Center for State Courts. At the award ceremony were (left to right) Justice Sullivan, Governor Mitch Daniels, Chief Justice Shepard, and the Hon. Gregory E. Mize from the National Center for State Courts.

COMMISSION FOR CONTINUING LEGAL EDUCATION

Julia L. Orzeske, Executive Director

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

The following individuals served on the Indiana Commission for Continuing Legal Education during fiscal year 2010: the Honorable Nancy Eshcoff Boyer, Chair; Joseph H. Yeager, Jr., Vice-Chair; the Honorable Charles K. Todd, Jr., Treasurer; John D. Ulmer, Secretary; Michael E. Tolbert, Immediate Past-Chair; Gerald M. Bishop; Susan G. Gainey; John L. Krauss; the Honorable John T. Sharpnack; Barbara Bichelmeyer, PhD; Kellye M. Gordon; and Sandra Hamilton Miller. The Honorable Keith Mark Loyd 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

In fiscal year 2010, the Commission reviewed a total of 8,925 courses (an increase of nearly 2,000 courses since last year) of all types, including traditional continuing legal education (“CLE”) courses, non-legal subject courses, applied professionalism programs, distance education courses, and in-house courses. Of these, 3,058 were traditional courses (not in-house, non-legal subject, or distance education) for which an application for CLE accreditation was made, and 3,559 were traditional courses given by approved sponsors (where no application is required). The Commission denied accreditation to 53 traditional CLE applications and 30 traditional CLE approved-sponsor courses. Non-traditional courses are covered below. A total of 16,306 attorneys reported traditional CLE credits to the Commission, amounting to 224,261 hours of CLE credits (29,617 of which were ethics credits).

With regard to non-traditional courses, attorneys are allowed to take a limited number of credits in non-legal subject (“NLS”) areas to enhance their proficiency in the practice of law. During the fiscal year, 271 NLS courses were reviewed. The Commission approved 268 NLS courses and denied accreditation to three courses. Attorneys reported a total of 3,110 NLS credits during this period.

Indiana attorneys are also permitted 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. The Commission approved 1,167 distance education courses and denied 113. A total of 3,717 attorneys reported 9,795 hours of distance education, less than 5% of the total CLE



In 2009, Justice Rucker celebrated a decade’s service on the Supreme Court bench. At the annual employee’s recognition ceremony, Chief Justice Shepard presented him with a plaque recognizing his tenure.

hours reported by Indiana attorneys. The Commission approved 497 in-house programs, and denied accreditation to 67. Three hundred eighty nine attorneys reported a total of 488 hours of in-house CLE.

Newly admitted attorneys must complete programs designated by the Commission as appropriate for new lawyers, including a six-hour Applied Professionalism Course for Newly Admitted Attorneys. The Commission makes grants available to providers to allow them to give the course to newly admitted attorneys for little or no cost. During this fiscal year, ten applied professionalism courses were approved and 717 newly admitted attorneys attended these courses.

Mediator Registry

This fiscal year the Commission also continued 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, 2010, those listings stood at 666 listings for civil mediators and 609 listings for registered domestic relations mediators. The registry has grown over 25% during the last five years, with the numbers of domestic relations mediators increasing about 59% during that period. To remain on the registry, a mediator must pay an annual fee and report at least six hours per three-year education period of Continuing Mediation Education (“CME”) approved by the Commission. In fiscal year 2010, 50 people were trained in basic civil mediation and 35 were trained in basic domestic relations mediation.

In 2009, the Commission established a registry of mediators who have been trained in mortgage foreclosure matters. There are currently 69 mediators listed on this registry.

Attorney Specialty Certification

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

As of June 30, 2010, there were 272 listings for Indiana attorneys who are specialists in their particular areas of law. This represents nearly a 100% increase over the number of such listings five years ago. These attorneys are certified in the practice areas of Family Law (67 specialists, certified by the Indiana State Bar Association); Consumer Bankruptcy (twelve specialists, certified by the American Board of Certification); Business Bankruptcy (25 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 National Board of Legal Specialty Certification/National Board of Trial Advocacy); Criminal Trial Advocacy (four specialists, certified by the National Board of Legal Specialty Certification/ National Board of Trial Advocacy); Elder Law (19 specialists, certified by the National Elder Law Foundation); and Estate and Planning Administration (100 specialists, certified by the Indiana State Bar Association).

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 more than thirteen times that number. In 1986, there were approximately 10,500 practicing attorneys. There are now well over 17,000. In addition, within the last thirteen years, the Commission has taken on the added responsibilities of mediation registration and education; new attorney education regulation; attorney specialization; mortgage foreclosure prevention mediator and attorney education; and ethics course accreditation. Within the last several years, the Commission has added the new accreditation areas of in-house and distance education courses. The Commission has added no staff, other than a contract attorney for specialization, since 1999. It is expected that the Commission will become responsible for regulating Continuing Judicial Education as a separate discipline from Continuing Legal Education in fiscal year 2011.

CLE Staff Accomplishments

The Commission has been active on the state and national level. 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.), and Executive Director Julia Orzeske served on the Bylaws Committee. In addition, Ms. Orzeske was recently

appointed to a three-year term on the ABA Standing Committee on Specialization and is an active member of the Indiana State Bar Association’s (“ISBA’s”) PLEADS and ADR sections. She serves on the ISBA’s Women in the Law, and Long Range Planning Committees. She is a frequent speaker to newly admitted attorneys and law students on matters regarding continuing legal education and the mediator registry.

The Commission’s office houses the first Executive Director of CLEreg, Cheri Harris. Ms. Harris was recently appointed by the American Law Institute and ACLEA (the worldwide network for CLE Administrators) to a planning committee for a national Summit on Critical Issues in Legal Education, which was held October 15-17, 2009. The Summit produced a national report on CLE, which will be a reference guide for CLE sponsors and educators for years to come. The report, entitled, “Equipping our Lawyers: Law School Education, Continuing Legal Education, and Legal Practice in the 21st Century,” was published by the American Law Institute-American Bar Association Continuing Professional Education and the Association for Continuing Legal Education, and can be found at www.theclsummit.org.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION

Donald R. Lundberg, Executive Secretary (July 1-Dec. 31, 2009)
Seth T. Pruden, Interim Executive Secretary (Jan. 1-June 20, 2010)
G. Michael Witte, Executive Secretary (June 21-June 30, 2010)

The Indiana Supreme Court Disciplinary Commission (“the Commission”) is responsible for investigating and prosecuting attorney discipline proceedings. The Commission is not-tax supported, but rather is funded primarily through the annual registration fee required of all lawyers who wish to keep their Indiana law licenses in good standing. The Commission publishes a detailed annual report of its activities, copies of which are available by contacting the Commission office or by accessing the Commission’s website at www.in.gov/judiciary/discipline.

Case Filings and Dispositions

During fiscal year 2010, 1,542 grievances were filed with the Commission, approximately 100 more than in the previous year. The Commission initiated 71 of those grievances in its own name based upon information from a variety of reporting sources, including reports from lawyers and judges. Third-party complainants filled the balance of the grievances.

During the reporting period, the Commission filed 40 Verified Complaints for Disciplinary Action with the Supreme Court, 22 less than in the preceding year. These Verified Complaints, together with amendments to pending Verified Complaints, represented findings of probable cause by the Commission in 63 separate counts of misconduct, eighteen fewer than in the preceding year.

The Court issued 60 final orders disposing of lawyer discipline cases, fourteen less than in the preceding year, representing the completion of 87 separate matters, 23 less than in the preceding year. By disposition type, those cases were resolved as follows:

Private Reprimands.....	4
Public Reprimands.....	7
Suspensions with Automatic Reinstatement.....	4
Suspensions with Conditional Reinstatement.....	10
Suspensions without Automatic Reinstatement.....	27
Resignations Accepted.....	5
Disbarments.....	1
Judgments for Respondent.....	1
Dismissals for Other Reasons.....	1
Total.....	60

The Commission resolved four cases administratively through the issuance of private administrative admonitions. In addition to these concluded matters, the Court issued orders of interim suspension in two cases upon the request of the Commission. The Court also ordered the suspension of the law licenses of 183 active and inactive lawyers for their failure to pay annual attorney registration fees.

Reinstatements

During the reporting period, four previously disciplined lawyers filed petitions to have their law licenses reinstated. The Court issued three final orders in lawyer reinstatement proceedings and dismissed one reinstatement petition.

Trust Account Overdrafts

The Commission was notified by financial institutions of 97 overdrafts on attorney trust accounts this fiscal year. The following are the results of overdraft inquiries during the reporting year:

Carried Over from Prior Year.....	31
Overdraft Reports Received.....	97
Inquiries Closed.....	87

Reason for Closing:

Bank Error.....	15
Deposit of Trust Funds to Wrong Trust Account.....	4
Disbursement from Trust Before Deposited Funds Collected.....	17
Referral for Disciplinary Investigation.....	9
Disbursement From Trust before Trust Funds Deposited.....	9
Overdraft Due to Bank Charges Assessed Against Account.....	3
Inadvertent Deposit of Trust Funds to Non-Trust Account.....	5
Overdraft Due to Refused Deposit for Bad Endorsement.....	2
Law Office Math or Record-Keeping Error.....	18
Death, Disbarment or Resignation of Lawyer.....	1
Inadvertent Disbursement of Operating Obligation From Trust.....	2
Non-Trust Account Inadvertently Misidentified as Trust Account.....	1
Fraudulent Office Staff Conduct.....	1
Inquiries Carried Over Into Following Year.....	41

Case Highlights

The Court decided four cases through the issuance of three per curiam opinions:

In *Matter of Anonymous*, 914 N.E.2d 265 (Ind. 2009), the Court privately reprimanded the respondent, but published an opinion to educate the bar about the obligation to return files or other papers to clients.

The respondent attorney represented a criminal defendant who entered a guilty plea. Some period of time after the sentencing, the client sought the discovery information that had been given to the attorney during the underlying case. The attorney did not provide the documents requested by his former client and stated in a letter that he was “not going to waste a lot of needless time and money sending stuff that’s irrelevant and useless for what you’re obviously planning to do and that’s filing some sort of post-conviction relief petition and all the litigation that goes with it.” The attorney needed the information for appeal purposes.

The Court set out in its opinion that it was the obligation of the attorney and the bar to return papers to which the client is entitled and that included the discovery documents the respondent had received during the case. For failing to provide the information, the attorney violated Rule 1.16(d) of the Rules of Professional Conduct.

In *Matter of Rodney P. Sniadecki*, 924 N.E.2d 109 (Ind. 2010), the respondent attorney was permanently disbarred for violating the Rules of Professional Conduct by submitting a false affidavit to the Indiana Supreme Court and practicing law after he was suspended (Count 1); by entering into a business relationship with a client without following required safeguards for that transaction (Count 2); and by submitting false information in application for a mortgage (Count 3).

Under Count 1, Sniadecki had been suspended from the practice of law for six months for lying to the Disciplinary Commission regarding a personal relationship with a client. See *Matter of Sniadecki*, 875 N.E.2d 22 (Ind. 2007). Although Sniadecki filed an affidavit with the Indiana Supreme Court asserting he had complied with the requirements of suspended lawyers to turn over cases and to stop accepting new cases, his affidavit was false. Sniadecki continued to practice law and manage his solo practice law office during the time he was suspended and took steps to conceal that he was engaged in the practice of law, including having his secretary forge the name of other lawyers on appearance forms and other court documents.

Under Count 2, Sniadecki entered into an agreement with a client to have the client purchase commercial real estate Sniadecki owned. The client gave \$180,000 to Sniadecki as a down payment on the commercial property. Sniadecki did not advise the client to seek independent counsel and did not even put the transaction in writing. When the client changed her mind and demanded return of her money, Sniadecki was unable to pay because he had used the money to purchase another commercial building. The client sought other legal counsel, and new lawyer took steps to collect the \$180,000.

Under Count 3, Sniadecki sought a mortgage on commercial property for the purpose of repaying the client referred to in Count 2. He submitted a loan application in the name of his wife, who held title the property being mortgaged. Sniadecki had his secretary assist in the preparation of the loan application, which included false statements about his wife’s income and also

included false tax returns and other false information. During the investigation of the discipline case, Sniadecki attempted to bribe a witness to give false testimony by offering the witness a job.

The Supreme Court found that Sniadecki had violated Admission and Discipline Rule 23(26) for failing to properly notify all clients of his suspension or otherwise failing to comply with his obligations while suspended. In addition, the Court found that Sniadecki violated Rule 3.3(a) of the Rules of Professional Conduct for filing a false affidavit; Rule 8.4(b) for committing multiple criminal acts that reflect adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer; Rule 8.4(c) for engaging in multiple acts of conduct involving dishonesty, fraud, deceit or misrepresentation; and Rule 1.8(a) for engaging in an improper business transaction with a client.

The companion cases of *Matter of Jeffrey S. Rasley* and *Matter of David M. Wood*, 918 N.E.2d 302 (Ind. 2009), arise out of the sale and purchase of real estate. Attorneys Rasley and Wood were law partners. Buyer of real estate on a land contract with Seller borrowed money from Rasley to make improvements to the property purchased. The loan was secured with a second mortgage to Rasley. When Buyer fell behind in payments, Rasley had Wood send Buyer a notice of mortgage default. Shortly thereafter, Seller began paying to Rasley the interest on the second mortgage to prevent Rasley from initiating foreclosure on the second mortgage. Thereafter, Seller hired Rasley to file suit against Buyer due to non-payment. Rasley was now working as Seller's attorney and also held an adverse interest to Seller's lien on the real estate. Rasley later filed a lawsuit against Seller for the debt secured by the second mortgage and Wood assisted in representing Rasley's claim.

Throughout his relationship with Seller, Rasley did not advise Seller of any alternative courses of action or potential defenses Seller might have against Rasley. Neither Rasley nor Wood advised Seller that he might wish to consult independent counsel.

Rasley and Seller had adverse interests as creditor and debtor. The Court stated that Rasley's representation of Seller "had the clear potential of being adversely affected by Rasley's claims against Seller and/or his property."

The Court concluded that Rasley violated Prof. Cond. R. 1.7(b) by not giving proper informed consent to Seller after the existence of a conflict of interest developed. Rasley was suspended from the practice of law for 120 days without automatic reinstatement.

The Court also concluded that Wood violated Prof. Cond. R. 1.7(a) by representing both Rasley and Seller simultaneously. Wood was suspended for 30 days with automatic reinstatement.

Commission Members

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

The End of an Era and the Beginning of a New One

On December 31, 2009, Donald Lundberg resigned as the Executive Secretary of the Disciplinary Commission to pursue

a position in the private practice of law. Through eighteen years of meritorious service, Mr. Lundberg became renowned across the country in the area of attorney discipline and distinguished himself as a scholar in that field. His successor, G. Michael Witte, comes to the Commission after 25 years as an Indiana trial judge. Mr. Witte assumed his duties on June 21, 2010.

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 practice in a competent and professional manner. JLAP's purpose 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, section 9, and Rule of Professional Conduct 8.3(d). With exception for homicidal or suicidal ideation, 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"), composed of five judges, seven attorneys, one law student representative, and two members that can be from any of the three categories, to oversee JLAP. The 2010 Committee included: 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; David F. Hurley, Secretary Pro Tem; the Honorable Lorenzo Arredondo of Crown Point; the Honorable Carr L. Darden of Indianapolis; the Honorable David T. Ready of Mishawaka; the Honorable David A. Shaheed of Indianapolis; Tonya J. Bond of Indianapolis; Michele S. Bryant of Evansville; Edmond W. Foley of South Bend; Timothy O. Malloy of Highland; and Dean Gail G. Peshel of Notre Dame.

The JLAP staff consists of an Executive Director, two part-time Clinical Case Managers, a part-time Northern Indiana



From the Inside Out: How Indiana's Courts Work" is the title of a Court-sponsored workshop where teachers observe the operation of Courts, receive resources for use in their classrooms, and, at the conclusion of the ten-day program, conduct a mock oral argument in the Supreme Court Courtroom. Standing behind this year's participants are Justices Sullivan and Dickson, Chief Justice Shepard, and Justices Rucker and Boehm.



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

Liaison, and a part-time Office Manager. Indiana recently began licensing addictions counselors, and Clinical Case Manager Timothy J. Sudrovech was one of the first 100 to become a licensed Clinical Addiction Counselor in Indiana. JLAP's Northern Indiana Liaison, J. Frank Kimbrough, started working for JLAP in October of 2009. In addition to assisting individual members of the legal community Mr. Kimbrough is responsible for raising awareness of JLAP's services and making sure that JLAP meets the needs of the legal community in the northern third of the state.

It is important to recognize that this small core of committee members and staff could not offer a helping hand to members of the legal profession around the state without the efforts of almost 200 JLAP volunteers. These volunteers spend countless hours meeting with distressed lawyers, judges, or law students in their communities. They serve as a link between the person and whatever helping resources the person needs. The volunteer may serve as a mentor, a monitor, a source for information and resources, or simply a confidential sounding board. Volunteers receive training on how to support and motivate others, suicide prevention, and intervention. They are the backbone of JLAP, and both the JLAP Committee and the Supreme Court are grateful for their services.

Utilization

This fiscal year, JLAP logged 225 new calls for help, ranging from simple requests for information or referral, to requests for JLAP to coordinate a group intervention. JLAP had 75 calls for help with substance abuse issues, 66 calls for help related to mental health issues, three calls for assistance with physical impairment issues, ten calls for help related to career change or retirement issues, ten calls related to practice management issues, 34 calls for assistance regarding specific behavioral issues, ten calls concerning issues that fit no existing category, and seventeen 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). Of the calls for help received, 71% were from or about attorneys, 25% were from or about law students or bar applicants, and 4% were from or about judges.

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, 2010, JLAP had 227 active cases: 135 with addiction issues, 135 with mental health issues, 52 with dual diagnosis, fourteen with career change or retirement issues, and 21 with physical issues. (This totals 357 issues because many cases involve more than one issue. For example, it is not unusual for a JLAP client to be addressing depression, addiction, and career transition 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 addictions problems. A participant makes a choice to participate in the monitoring program and signs a written release of information giving JLAP permission to report on their progress to someone who is in a position to hold the participant accountable. The monitoring program benefits the individual by holding the individual accountable for adhering to his or her own recovery plan. It also protects the public. When an individual on a monitoring agreement fails to comply with his or her own recovery plan, JLAP must report that to the disciplinary or licensing organization, the employer, or the judge that is part of the monitoring agreement. That 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 monitoring agreements exist with the Disciplinary Commission, the Commission on Judicial Qualifications, and the State Board of Law Examiners. Participants sign a consent allowing JLAP to monitor their recovery programs and make regular reports to the appropriate disciplinary or licensing bodies. 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. JLAP has developed monitoring agreements where reports are made to employers, local judges, colleagues, or family members rather than disciplinary or licensing agencies. And, JLAP has also monitored some individuals on a purely voluntary basis. These individuals find that even though we do not report to a third party, the accountability to JLAP helps them stay on track with their own recovery plans. These situations would be more like working with a personal coach or some other form of personal accountability. In these latter types of 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 health, family, reputation, and career. As of June 30, 2010, JLAP was monitoring 30 formal agreements, twelve interim agreements, and two completely voluntary agreements.

Strategic Planning

JLAP's most significant accomplishment this fiscal year was completion of a comprehensive strategic planning process. The number of things JLAP "could" do is limitless; therefore, it decided to set priorities and develop a method that guaranteed its energies were directed toward those priorities. It developed a plan with six priorities:

- Assure that JLAP services are available statewide;
- Meet the special needs of law students;
- Meet the special needs of judges;
- Provide trainings for attorneys in the areas of suicide prevention, coping with economic challenges, and retirement planning;
- Maximize the efficiency of JLAP Committee members, staff, and volunteers; and
- Secure sufficient funding to meet these priorities.

JLAP then developed an implementation plan, dubbed the "Scorecard." The Scorecard has specific objectives under each priority and specific tasks under each objective. Each task is placed on a timeline and assigned to specific staff or committee members, and the Scorecard thereafter is used to evaluate how well objectives are being met. JLAP has found this new system to be very productive.

JLAP Support Groups

JLAP now offers six attorney support groups each month. The groups are open to judges, attorneys, and law students. There are monthly mental health and substance abuse support groups in Indianapolis and Merrillville, a monthly career transition group in Indianapolis, and a general support group in Jeffersonville.

Education and Prevention

JLAP staff and volunteers continued efforts this fiscal year to educate judges, lawyers, and law students about the common impairments that members of the legal profession may encounter and what resources are available through JLAP and elsewhere to prevent and/or assist with these issues. Below is a list of JLAP's fiscal year 2010 presentations statewide:

- ABA Commission of Lawyer Assistance Programs National Conference
- Allen County Bar Association's Applied Professionalism Course
- Calumet Inns of Court
- Indiana Judicial Center New Judge Orientation
- Indiana Legislative Services Agency
- Indiana Public Defender Council
- Indiana State Bar Association's Annual Meeting – Resiliency Presentation
- Indiana State Bar Association's Women's Bench Bar Retreat
- 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
- Johnson County Bar Association
- Lake County Bar Association's Applied Professionalism Course

- Law Schools
 - IU-Bloomington
 - Professional Responsibility Classes
 - How JLAP Can Help Law Students
 - IU-Indianapolis
 - Orientation
 - Professional Responsibility Class
 - Valparaiso University
 - Orientation
 - Professional Responsibility Class
- Marion County Public Defender and Prosecutors Offices
- Muncie Bar Association
- St. Joseph County Bar Association Applied Professionalism Course
- State Farm Insurance Company
- Women Lawyers Association

JLAP Activity at the State and National Level

JLAP continued to collaborate with local bar associations, the Indiana State Bar Association ("ISBA") and the American Bar Association ("ABA"). The Lake County Bar Association was instrumental in JLAP establishing attorney support groups in Lake County. Executive Director Terry L. Harrell served on the ISBA's Professional Legal Education, Admission, and Development Section and the planning committee for the ISBA's Solo Small Firm Conference.

JLAP also continued to become more involved in the national network of Lawyers Assistance Programs ("LAPs") coordinated by the ABA's Commission on Lawyers Assistance Programs ("CoLAP"). Throughout the past year, Ms. Harrell participated on the planning committee for the 2010 CoLAP Annual Conference, the CoLAP Judicial Assistance Initiative, the CoLAP Senior Lawyers Committee, and the Advisory Committee to CoLAP. She also served as the liaison to the American Bar Association's Standing Committee on Substance Abuse.

Finally, JLAP submitted a bid and Indianapolis was selected as the site for the CoLAP Annual Conference and the Annual Conference for the International Lawyers in Alcoholics Anonymous in October of 2010. One component of the selection criteria was whether the state has an active lawyers' assistance program to assist with the conferences.

INDIANA JUDICIAL NOMINATING COMMISSION/ INDIANA COMMISSION ON JUDICIAL QUALIFICATIONS

Adrienne Meiring, Counsel

The Indiana Judicial Nominating Commission ("Nominating Commission") and the Indiana Commission on Judicial Qualifications ("Qualifications Commission") are established by Article 7, 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, 2010 were: John O.

Feighner, Esq., of Fort Wayne; Mike Gavin of Warsaw; Christine Keck of Evansville; Fred McCashland of Indianapolis; James O. McDonald, Esq., of Terre Haute; and John C. Trimble, Esq., of Indianapolis. Mark Lubbers of Indianapolis and Stephen L. Williams, Esq., of Terre Haute also served during the fiscal year. The Nominating Commission and the Qualifications Commission met six times during the fiscal year.

Although comprised of the same members, the two Commissions perform distinct functions. The Nominating Commission appoints the Chief Justice of Indiana from among the five Supreme Court Justices. The Nominating Commission 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.

Justice Theodore R. Boehm announced in May that he would step down from the Indiana Supreme Court on September 30, 2010. The Nominating Commission publicized the vacancy and received 34 applications this fiscal year. The Commission completed its evaluation of the candidates in August 2010 and sent the names of Judge Steven David of Boone County, Judge Robyn Moberly of Marion County, and attorney Karl Mulvaney of Indianapolis to the Governor for his selection of Justice Boehm's replacement.

The Nominating Commission also certifies former judges as Senior Judges to help qualifying courts with their caseloads. During this fiscal year, the Nominating Commission certified two new Senior Judges and recertified 99 Senior Judges.

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 before 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 informal requests for advice during the fiscal year.

The Qualifications Commission considered 444 complaints alleging judicial misconduct this fiscal year. It dismissed 173 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 230 were dismissed on the same grounds after Commission staff examined court documents or conducted informal interviews. The Qualifications Commission dismissed four other complaints because the matters involved former judicial officers or because the complaints alleged minor ethical violations, but reserved the right to re-open the matters if the Commission receives similar complaints against the judicial officers.

Of the remaining 37 cases on the Qualifications Commission's docket, the Commission requested the judges' responses to the allegations and conducted inquiries or investigations. Of those, seven complaints were dismissed after the Qualifications Commission concluded the judges had not violated the Code of Judicial Conduct. The Commission dismissed four additional complaints when the judges took remedial actions. The Qualifications Commission sent advisory letters or privately cautioned fifteen 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 the conduct was intentional or inadvertent, whether the judge has a history of meritorious complaints, and other mitigating or aggravating circumstances.

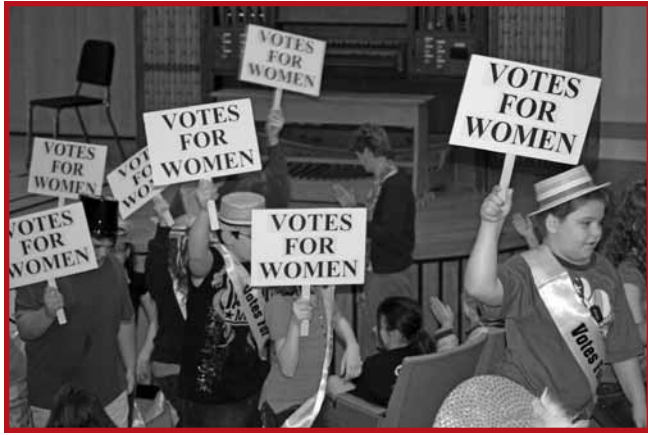
In three cases, the Qualifications Commission agreed to close its investigations into alleged ethical misconduct on the condition that the judges immediately resign. One matter involved a claim that the judge abandoned the role of neutral arbiter in relation to his sentencing of a defendant in a high-profile murder case and attempted to interfere with the defendant's exercise of her constitutional right to appeal her sentence. Another case involved an allegation that the judge abused his judicial power by issuing summonses in furtherance of a personal investigation. The third matter concerned claims that the judge routinely issued orders when the judge had no jurisdiction to do so.

The Qualifications Commission concluded another case against a judicial officer this fiscal year by issuing a public admonition in lieu of filing charges. The Commission found probable cause to file disciplinary charges against Commissioner Brian M. Pierce, Delaware Circuit Court, for referring to his judicial title and using profanity while speaking to various governmental officials to challenge a parking ticket he had received. Commissioner Pierce agreed to accept a public admonition in lieu of public charges; therefore, charges were not filed, and the Commission publicly admonished him. (Public Admonition of Commissioner Brian M. Pierce, Delaware Circuit Court, January 26, 2010.)

During the fiscal year, the Supreme Court resolved two public disciplinary cases filed by the Commission. In *In re Koethe*, 922 N.E.2d 613 (Ind. 2010), the Court suspended Judge Jennifer L. Koethe for 60 days without pay, after accepting a conditional agreement submitted by the Commission and the judge regarding conduct that occurred when Judge Koethe was the judge-elect to LaPorte Superior Court 2. The parties agreed that then judge-elect Koethe failed to uphold the integrity of the judiciary, to avoid impropriety, and to act in a manner promoting the public's confidence in the judiciary when she asked a police officer to destroy a personal note she had written, while there



On a trip to Valparaiso University, Justice Sullivan (left) met with Continuing Legal Education Commissioner Michael Tolbert (center) and University President Mark A. Heckler (right).



“My Place is in the Voting Booth: Hoosier Suffragette Helen M. Gougar” was the title of a Court-sponsored program commemorating a famous case about women’s right to vote. These Greencastle fourth graders participated in the program.

was an ongoing police investigation into an accidental shooting that had occurred at her residence. Prior to the resolution of the disciplinary case, Judge Koethe was acquitted of a criminal charge that had been filed regarding this conduct.

In *In re Moreland*, 924 N.E.2d 107 (Ind. 2010), the Court accepted a conditional agreement from the Commission and Judge David Andrew Moreland to dismiss the disciplinary charges in exchange for the city court judge’s immediate resignation. On October 14, 2009, the Supreme Court granted the Qualifications Commission’s interim request to suspend the non-attorney judge with pay, as is required by court rule, after criminal charges had been filed against the judge and his wife for exerting unauthorized control over payments for infraction tickets, payments to restore drivers’ licenses, and other funds held in the city court’s account. After completing its investigation, the Qualifications Commission filed formal disciplinary charges against the judge on December 13, 2009, alleging that Judge Moreland committed willful misconduct in office by misappropriating court funds and engaged in nepotism by employing his wife as the city court clerk. Judge Moreland’s resignation was effective March 26, 2010.

Five 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.

CITIZEN EDUCATION: “COURTS IN THE CLASSROOM”

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

Introduction

Fiscal year 2010 marked the ninth anniversary of the Indiana Supreme Court’s education outreach program, “Courts in the Classroom” (“CITC”). CITC works to promote knowledge about the operation and history of the court to lawyers, educators, and

citizens of Indiana. Once again, CITC was recognized nationally for its work in educating Hoosiers about the law and its history. This year, the American Bar Association, the Indiana Historical Society, and the Indiana Judges Association each recognized CITC’s “Why Lincoln Was a Lawyer” project with awards.

CITC continued its efforts to make the workings of the Court more accessible to Hoosiers through oral-argument webcasts, on-line lesson plans, museum-style exhibits, searchable databases, virtual tours of Indiana courthouses, courtroom reenactments, historical lectures, teacher workshops, and outreach programs outside of the Indianapolis area.

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 Indiana Department of Education, Indiana Historical Bureau and State Library, President Benjamin Harrison Home, and State House Tour Office. New or returning partners included the Indiana Bar Foundation, the Indiana Historical Society, the Indiana Humanities Council, DePauw University, and the Indiana Commission for Continuing Legal Education.

Fiscal year 2010 saw a continuing expansion of CITC activities in multiple categories: courtroom events, teacher resources, webcasts, and publications. Two full-time staff members and an intern from Indiana University-Purdue University’s Masters program in Public History are responsible for conducting all of CITC’s efforts.

Courtroom Events for Students and Lawyers

2010 saw the addition of a new interactive student program to CITC’s repertoire, “My Place is in the Voting Booth: Hoosier Suffragette Helen M. Gougar.” Through a grant from the Indiana Humanities Council and a partnership with Professor Jennifer Adams of DePauw University, CITC staff spent considerable time this fiscal year researching and developing curriculum materials about Helen Gougar, a Hoosier suffragette who was denied the right to vote by a Tippecanoe County Election Board. The interactive play premiered as a part of the annual Spirit and Place Festival in the Supreme Court’s State House Courtroom in November 2009. More than 250 students were in attendance. A second production was held “on the road” at DePauw University in March 2010 for another 250 students. Plans are underway to take this program to students in Tippecanoe County in the fall of 2010.

Approximately 800 students came to the Indiana Supreme Court’s Courtroom to participate in CITC’s five different interactive activities. The 2009-2010 school year programs included: Constitution Day (September), the new Gougar program (November), *Bound for Freedom* — based on a freedom suit filed on behalf of an Indiana slave (February), *Ex Parte Milligan Comes to Life* (March), and the return of our program based on *Brown v. Board of Education* in celebration of Law Day (May).

Following 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 Continuing Legal Education, hosted four new CLE programs this fiscal year. The lectures focused on the Northwest Ordinances, the life of Indiana Supreme Court Justice Richard M. Givan, Helen Gougar, and Lincoln biographer Jesse Weik. More than 500 attorneys attended these free CLE sessions.

K-12 Teacher Training and Resources

In addition to creating and maintaining current programming, CITC developed two touch-screen kiosks. These kiosks, located outside of the Supreme Court Courtroom, provide visitors to the State House with over 150 pages of content about the history and operation of the Indiana Supreme Court and the judiciary in general.

CITC staff members continued to promote awareness of the materials available for K-12 educators about the Judicial Branch by participating in a variety of education events around the state, such as the Indiana Council of Social Studies Annual Meeting and Indiana Statehood Day. Two new venues for CITC outreach in 2009-10 were Hoosier Heritage Day at the Indiana State Fair and a series of teacher workshops organized by Professor Ron Morris of Ball State University. At the State Fair, CITC partnered with the State House Tour Office to staff a tent offering visitors a variety of activities related to the State house and the Judiciary. The teacher workshops provided almost 100 fourth and fifth grade teachers with information about CITC's curriculum materials, representing contact with between 3,000 and 4,000 students.

Not limited to providing programming for students, in June 2010 CITC, with support from the Indiana Bar Foundation, hosted the third annual teacher workshop, *From the Inside Out: How Indiana's Courts Work*. The two-week workshop familiarized participants with the daily operations of many different parts of the legal system (not just courts) and provided resources for use in teaching about courts and the law. Participants visited courtrooms and judges in Marion and Hamilton counties, toured correctional facilities, and participated in a mock oral argument. The participating teachers represented school districts across the state and will come into contact with approximately 1,125 students during the 2010-11 school year.

The resources available on the CITC website continued to grow through the addition of materials for both students and adults related to the life and career of Helen Gougar, as well as an updated student script for "The Stories Behind *Brown v. Board of Education*" in celebration of Law Day.

Publishing Projects

Another important outreach of CITC focuses on providing printed materials about important people and events in Indiana's, and the nation's, legal history through its Indiana Supreme Court Legal History Series. Three new publications joined CITC's collected works this year. These publications detail Indiana's Constitutional Convention of 1850-1851, Judges Richman and Shake and their services as civilian judges at the war tribunals in Nuremberg, Germany, and the State of the Judiciary addresses of Chief Justices Norman Arterburn and Richard Givan. These materials are available at no cost to libraries and other educational institutions. A complete list of CITC publications can be found at www.in.gov/judiciary/citc/bookstore.html.

Webcasting

Broadcasting oral arguments continued to be a popular service provided by the Court through CITC. The fiscal year saw the addition of 76 new oral arguments to the oral argument database website. The database contains not only video of the Court's oral arguments, but also related information including:

case summaries, keywords, and links to the opinions as they are handed down. Since October 2001, CITC has webcast all Supreme Court and selected Court of Appeals oral arguments held in the Indiana Supreme Court Courtroom with the help of the Indiana Higher Education Telecommunications System. Other webcasts include the four CLE lectures hosted by the Indiana Supreme Court Legal History Lecture Series, a May hearing on child-support guidelines, and the student programs discussed above.

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. The primary mission of the Library is to support the research needs of the judges, staff, and agencies of the Supreme Court, the Court of Appeals, and the Tax Court. The 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 staff received and processed approximately 1,132 volumes as additions or replacements for volumes already in the Library's collection, and approximately 357 volumes were discarded. The staff also continued a major effort to catalog and inventory the Library's collection by barcoding volumes. Over 2,614 items, excluding periodical subscriptions, were barcoded and added to the Library's online catalog.

The Library continued restoration and preservation efforts of its historical and rare book collection. Three book display cases were purchased and placed in the Supreme Court courtroom and Library to display various books from the Library's collection. Two of the display cases will also be used for student educational programs presented by Judge Paul Mathais of the Indiana Court of Appeals. Books from the Supreme Court Library's collection are used in these presentations. Three volumes of Nelson's Abridgement of Common Law, dating from 1725-1726 were cleaned and repaired.



Students explore one of two kiosks stationed near the entrance to the Courtroom. The interactive display contains information about the judicial system.

The Library produced 111 interlibrary loans for the Supreme Court, Court of Appeals, Tax Court, state trial courts, state agencies, and reciprocal libraries. The Library processed and filled over 250 reference requests for patrons and libraries across the United States. The Library fulfilled loan requests from many institutions, including the Lincoln Presidential Library, the United States Federal Penitentiary at Terre Haute, other federal court and agency libraries, and five universities. The superseded Indiana statutes collection was also heavily used during the legislative session.

During the fiscal year, over 818 items were circulated and returned using the Library's automated system. Library patrons also included users from 27 state agencies. The Library's online catalog, launched to the public in 2004, is accessible through the Shared Catalog of Indiana Online consortium. The Library's holdings are also searchable through WorldCat, the world's largest collection of library holdings. The online catalog and web page contribute to the visibility of the Library; there were 14,426 visits to the catalog and 22,623 visits to the Library's main home page, representing increases of 22% and 39% respectively, over the preceding fiscal year.

Nearly 1,800 patrons visited the Library during this fiscal year. This figure does not include the large number of school students that also tour the State Capitol, the Supreme Court, and our Library throughout the year. In addition, the Library witnessed an increase in the number of visits and requests from self-represented patrons who had previously used the Marion County Law Library ("MCLL"), which was closed this fiscal year.

The completion of the Indiana Department of Administration's extensive HVAC renovation project culminated in the installation of new electric heating registers underneath the Library's window wells in December 2009.

Library staff members continued their outreach services and professional development throughout the year. The Librarian, Terri Ross, gave presentations to public librarians on how to assist self-represented patrons, and she met with school and public librarians to evaluate their legal collections. She also attended workshops on digital privacy. The Library is a member of the Legal Information Preservation Alliance and the American Association of Law Libraries. Ms. Ross is a member of the AALL Indiana working group on authentication of electronic legal materials. This group is involved in the preservation of print and electronic legal information. Ms. Ross and the Supreme Court Library staff also assisted the Marion County Law Librarian, the Marion County Superior Courts, and the Indianapolis-Marion County Public Library with the disposal and evaluation of their law book collections in the first quarter of 2010.

Due to the closing of the MCLL, the Library staff and Librarian facilitated donations of superseded Indiana materials from the MCLL to two law schools, a state agency, and a federal court library. The Supreme Court Library acquired many volumes of superseded Indiana statutes, acts, library history documents, and microfiche from the MCLL collection.

Ms. Ross and staff also assisted the Indiana Court of Appeals in the reorganization and weeding of its law book collection. They also provided guidance and assistance to the librarian of the Shortridge Magnet School of Law and Policy in the weeding and organization of that library's law book collection.

The Library also continued assisting editors and researchers in finding information on Indiana Supreme Court justices for a forthcoming book in the Supreme Court Legal History series. Articles, books and other information about the Supreme Court continued to be added to the Library's small collection of judicial archive materials. The Librarian and staff assisted in the development of legal research materials for the Courts in the Classroom "Summer in the City" teacher workshop and helped the students find information for their mock oral arguments. Library staff also assisted with the twelve public student education program sessions developed by the Court History and Education staff throughout the year.

To ensure future access to the Indiana Register, Executive Orders, and Attorney General Opinions, Library staff compiled and bound all these into separate print volumes. Books and other materials published by the Supreme Court were distributed to other libraries and universities throughout the United States. Reorganization and shifting of the Supreme Court Library collection occurred throughout the year. The Library's collection continues to be evaluated, and a reduction of over 15% of subscriptions was made to reduce costs.

The Supreme Court Library was selected as one of only 50 libraries to participate in the GPO Pilot Cataloging Project. The Federal Government Printing Office has undertaken this study to determine the feasibility of distributing catalog records to the nearly 1,250 federal depository libraries, including the Supreme Court Library.

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 lie to challenge a guilty plea coerced by mob violence in one of the first decisions in the United States permitting collateral attack in such a case. 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 2010, the Indiana Supreme Court affirmed one capital conviction and sentence on direct appeal (Daniel Wilkes).

In post-conviction, deputies presented oral argument to the Indiana Supreme Court on appeals of the trial court's denials of relief in two cases (Wayne Kubsch and Fredrick Baer). Deputies filed one post-conviction relief petition (Roy Ward) and entered their appearance and began preparing to file a petition (Daniel Wilkes).

At the end of fiscal year 2010, the Indiana Supreme Court had no capital cases on direct appeal on its docket. Eleven individuals awaited execution, pending resolution of challenges to their convictions and sentences.

NON-CAPITAL CASES

Demand for the Office's services correlates with the Department of Correction's population, which reached 29,384 adult and juvenile inmates on May 31, 2010, virtually the same as its population of 29,377 on June 30, 2009, but an increase of 33.4% over June 30, 2001 (22,022). The office continues to struggle with a backlog of cases due to demand exceeding available resources. In fiscal year 2010, the office continued distributing older cases office-wide to allow more expeditious resolution and monitoring of pending cases. Given that the Office's services are free and the demand flexible, it cannot control its caseload, but the State Public Defender is pleased to report that the number of post-trial and appeal cases awaiting review remains lower than it was in June 2005:

Fiscal Year	Pro se Petitions Received	Files Closed	Post-Trial and Appeal Records Awaiting Review
2005			473 (6/05)
2006	546	623	419 (6/06)
2007	553	659	358 (6/07)
2008	564	626	335 (4/08)
2009	596	600	389 (6/09)
2010	598	638	402 (6/10)

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, 5,232 cases have been found to be without arguable merit. In these cases, the State Public Defender's Office does not expend state resources, but inmates have the option of proceeding *pro se* or hiring private counsel.

Winning cases this fiscal year on appeal included *Chavarria v. State*, No. 20S03-1007-CR-342 (Ind. June 29, 2010) (order granting transfer and remanding with directions to grant permission for a belated appeal); *Shepherd v. State*, 924 N.E.2d 1274 (Ind. Ct. App. 2010), (ineffective assistance of counsel for an actual conflict of interest and failing to argue sentence entrapment; sentence reduced from 70 years to 43), *trans. denied*; and *Ford v. State*, No. 02A03-0903-PC-120 (Ind. Ct. App. Sept. 3, 2009) (stacked habitual offender enhancement vacated; sentence reduced by 30 years). In the trial courts, the more significant wins included *Benjamin v. State*, No. 20D02-0509-PC-00013 (class A



The American Bar Association named the Court's educational outreach program, "Why Lincoln Was A Lawyer," the outstanding Law Day activity. Pictured with the award are Indiana State Bar Association President, Rod Morgan; ABA Law Day Chair, Allan Tanenbaum; the Court's Director of Public Education, Dr. Elizabeth Osborn; and ISBA President-Elect, Jeff Lind.

cocaine conviction and sentence of 25 years vacated; ineffective assistance of counsel for overlooking defenses available under I.C. 35-48-4-16(b)); *Coleman v. State*, No. 49G20-0101-PC-014516 (same; conviction and sentence of 20 years vacated; resentenced to 2 years); *Driver v. State*, No. 49G02-0310-FA-170709 (negotiated settlement; sentence reduced from 40 to 20 years in exchange for client's testimony against a co-defendant); *Geimer v. State*, No. 01C01-0607-PC-0006 (incorrect jury instruction on voluntary manslaughter; agreed reduction of sentence from 60 to 50 years); *Halsema v. State*, No. 79D01-0109-CF-00089 (court issued amended Abstract of Judgment to accurately reflect judge's statement during sentencing hearing; sentence reduced from 40 years to 40 years with 10 suspended); *McQueary v. State*, No. 73D01-0110-CF-069 (negotiated settlement; sentence reduced from 35 years to 35 with 10 suspended); *Moody v. State*, No. 48C01-0704-PC-00195 (illegal habitual offender enhancement vacated; sentence reduced from 30 to 10 years); *Sabaj v. State*, No. 71D02-0709-PC-00037 (ineffective assistance of counsel for failing to argue insufficient evidence; sexual misconduct with a minor conviction vacated; sentence reduced from 50 to 40 years); *Smith v. State*, No. 64D01-0210-FB-9017 (ineffective assistance of counsel for not recognizing ineligibility for repeat sexual offender enhancement; sentence reduced from 30 to 20 years); *Stiles v. State*, No. 64D02-9608-CF-86 (negotiated settlement of claim of ineffective assistance of counsel for failing to call a witness to negate an element; sentence reduced from 40 years to 30); and *Williams v. State*, No. 18C03-0704-PC-03 (negotiated settlement; sentence of 20 years reduced to 20 years with 8 suspended, resulting in client's immediate release). Also, our litigation resulted in a grant of permission for a belated appeal, pursuant to Ind. Post-Conviction Rule 2, in nineteen cases. The Public Defender of Indiana appeared as *amicus curiae* in *Peoples v. State*, 929 N.E.2d 750 (Ind. 2010) (interpreting 2001 amendments limiting applicability of habitual offender statute) and *State v. Moore*, 909 N.E.2d 1053 (Ind. Ct. App. 2009), *trans. denied* (finding the trial court had jurisdiction over DOC disciplinary action regarding SOMM program).

Appendix

Indiana Supreme Court

CASE INVENTORIES AND DISPOSITION SUMMARY JULY 1, 2009 – JUNE 30, 2010

	Cases Pending as of 7/1/09	Cases Transmitted 7/1/09 – 6/30/10	Cases Disposed 7/1/09 – 6/30/10	Cases Pending as of 6/30/10
Capital Cases	2	2	2	2
Criminal Direct Non-Capital	4	1	4	1
Criminal Transfers	58	545	501	102
Civil Direct Appeals	1	1	2	0
Civil Transfers	44	313	244	113
Tax Court Petitions for Review	2	3	3	2
Certified Questions	0	2	2	0
Original Actions	1	52	51	2
Attorney Discipline	71	95	94	72
Board of Law Examiners	0	2	1	1
Judicial Discipline	0	2	2	0
Rehearings	4	10	12	2
Mandate of Funds	0	1	1	0
Other	1*	0	1*	0
TOTAL	188	1029	920	297

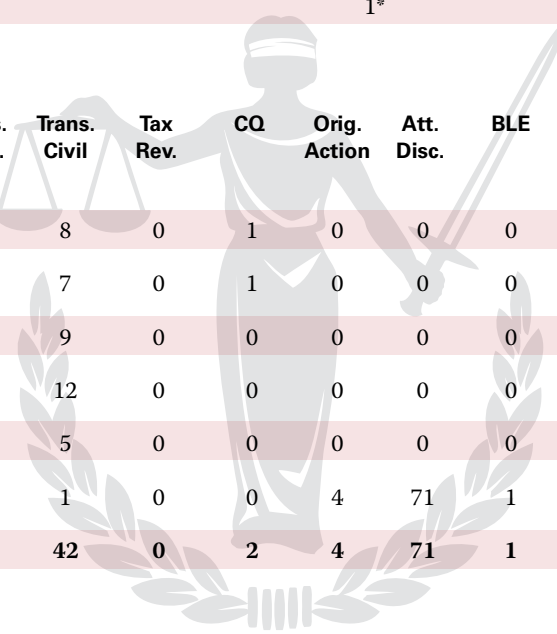
TOTAL DISPOSITIONS: 920

Criminal	507	55.1%
Civil	246	26.8%
Tax	3	0.3%
Certified Questions	2	0.2%
Original Action	51	5.6%
Attorney Discipline	94	10.2%
Board of Law Examiners	1	0.1%
Judicial Discipline	2	0.2%
Rehearings	12	1.3%
Mandate of Funds	1	0.1%
Other	1*	0.1%

*Unauthorized Practice of Law

MAJORITY OPINIONS AND PUBLISHED DISPOSITIVE ORDERS: 169

Criminal	44	26.0%
Civil	43	25.4%
Tax	0	0.0%
Certified Questions	2	1.2%
Original Action	4	2.4%
Attorney Discipline	71	42.0%
Board of Law Examiners	1	0.6%
Judicial Discipline	2	1.2%
Rehearings	0	0.0%
Mandate of Funds	1	0.6%
Other	1*	0.6%



	Direct Appeal Crim.	Direct Appeal Civil	Trans. Crim.	Trans. Civil	Tax Rev.	CQ	Orig. Action	Att. Disc.	BLE	Jud. Disc.	Reh'g	MF	Other	Total
Shepard, C.J.	1	1	5	8	0	1	0	0	0	0	0	0	0	16
Dickson, J.	0	0	8	7	0	1	0	0	0	0	0	0	0	16
Sullivan, J.	2	0	8	9	0	0	0	0	0	0	0	1	0	20
Boehm, J.	1	0	6	12	0	0	0	0	0	0	0	0	0	19
Rucker, J.	1	0	8	5	0	0	0	0	0	0	0	0	0	14
By the Court	1	0	3	1	0	0	4	71	1	2	0	0	1*	84
TOTAL	6	1	38	42	0	2	4	71	1	2	0	1	1*	169

*Unauthorized Practice of Law

NON-DISPOSITIVE OPINIONS

	Concurring	Dissenting	Concur/Dissent in part	Recusal Opinion	Total
Shepard, C.J.	3	2	1	0	6
Dickson, J.	2	3	1	0	6
Sullivan, J.	1	1	0	0	2
Boehm, J.	1	6	1	0	8
Rucker, J.	0	4	1	0	5
TOTALS	7	16	4	0	27

CERTIFIED QUESTIONS

	Pending 7/1/09	Received	Accepted	Rejected	Opinions	Pending 6/30/10
Federal District Court	0	1	1	0	1	0
Federal Appellate Court	0	1	1	0	1	0
TOTAL	0	2	2	0	2	0

CASES IN WHICH ORAL ARGUMENTS WERE HELD

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Total
Criminal before decision on transfer	0	0	0	1	0	0	0	0	0	1	0	0	2
Criminal after transfer granted	0	0	2	5	3	7	6	0	0	0	2	3	28
Civil/Tax before decision on transfer/review	0	0	0	1	0	0	1	0	1	1	0	0	4
Civil/Tax after transfer/review granted	1	0	4	9	4	2	0	0	3	7	0	2	32
Criminal Direct Appeals	0	0	2	0	0	1	0	0	0	0	2	0	5
Civil Direct Appeals	0	0	0	1	0	1	0	0	0	0	0	0	2
Certified Question	0	0	0	0	0	0	0	2	0	0	0	0	2
Attorney Discipline	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	1	0	8	17	7	11	7	2	4	9	4	5	75

CAPITAL CASE OPINIONS

	Direct Appeal	PCR	Interlocutory Appeal	Successive PCR	Rehearing	Total
Shepard, C.J.	0	0	0	0	0	0
Dickson, J.	0	0	0	0	0	0
Sullivan, J.	0	0	0	0	0	0
Boehm, J.	1	0	0	0	0	1
Rucker, J.	0	0	0	0	0	0
By the Court	0	0	0	1	0	1
TOTAL	1	0	0	1	0	2

PETITIONS FOR EXTENSION OF TIME & MISCELLANEOUS ORDERS

Petitions for Extension of Time Processed.....	44
Special Judge Requests.....	86
Other Miscellaneous Appellate Orders.....	972
TOTAL	1,102

DISCIPLINARY, CONTEMPT, AND RELATED MATTERS

Disciplinary Cases Pending Before Hearing Officer/Court on July 1, 2009

Before the Court for Hearing Officer Appointment	6
Disciplinary Action Pending before Hearing Officer	36
Reinstatement Action Pending before Hearing Officer	7
Briefing Stage	7
Before the Court for Decision	6
Show Cause Order Entered, Awaiting Attorney Response	2
Noncooperation Suspension Imposed, Awaiting Attorney Response	7
TOTAL CASES PENDING 7/1/09	71

New Disciplinary Matters Received July 1, 2009 – June 30, 2010

Petitions to Show Cause for Noncooperation	22
Verified Complaints for Disciplinary Action	39
Private Administrative Admonitions Tendered	3
Affidavits of Resignation (tendered before filing Verified Complaint)	4
Petitions for Emergency Interim Suspension	1
Notices of Findings of Guilt (Felony)/Requests for Interim Suspension.....	4
Notices of Foreign Discipline/Requests for Reciprocal Discipline	5
Petitions for Reinstatement	6
Petitions to Revoke Probation	2
Petitions to Terminate Probation	8
Contempt of Court Proceedings	0
Miscellaneous	1
TOTAL NEW DISCIPLINARY MATTERS RECEIVED	95

Disciplinary Cases Disposed July 1, 2009 – June 30, 2010

Dismissal on Compliance with Show Cause Order	9
Terminating Noncooperation Suspension on Compliance with Show Cause Order	2
Converting Noncooperation Suspension to Indefinite Suspension	5
Private Administrative Admonition	4
Rejection of Private Administrative Admonition	0
Private Reprimand	4
Public Reprimand	7
Suspension with Automatic Reinstatement (after Verified Complaint)	4
Suspension without Automatic Reinstatement (after Verified Complaint)	15
Suspension with Conditions/Probation (after Verified Complaint).....	9
Disbarment	1
Accepting Resignation.....	5
Emergency Interim Suspension	2
Interim Suspension on Finding of Guilt (Felony)	0
Reciprocal Discipline (Suspension)	5
Finding or Judgment for Respondent	1
Granting Reinstatement	3
Withdrawal of Petition for Reinstatement	1
Denying Reinstatement	0
Revoking Probation	2
Terminating Probation	9
Finding Contempt of Court	0
Dismissing or Withdrawing Action	4
Miscellaneous	2
TOTAL DISCIPLINARY DISPOSITIONS	94

Disciplinary Cases Pending June 30, 2010

Before Court for Hearing Officer Appointment.....	6
Disciplinary Action Pending before Hearing Officer	34
Reinstatement Action Pending before Hearing Officer	7
Briefing Stage.....	7
Before the Court for Decision.....	7
Show Cause Order Entered, Awaiting Attorney Response	4
Noncooperation Suspension Entered, Awaiting Attorney Response.....	7
TOTAL PENDING AS OF 6/30/10	72

ANALYSIS OF SUPREME COURT DISPOSITIONS

Criminal Cases

Opinions on direct appeals.....	5
Direct appeal disposed of by order	0
Opinions on petitions to transfer	38
Opinions on rehearing.....	0
Orders on rehearing.....	3
Petitions to transfer dismissed, denied, or appeal remanded by unpublished order.....	464
Other opinions/dispositions (Successive P.C.).....	1
TOTAL	511

Civil Cases

Opinions and orders on certified questions.....	2
Opinions on direct appeals.....	1
Direct appeals disposed of by order	1
Opinions on rehearing	0
Orders on rehearing.....	9
Opinions on petitions to transfer	42
Petitions to transfer denied, dismissed, or appeal remanded by unpublished order.....	201
Other opinions/dispositions (Unauth. Pract. of Law)	1
TOTAL	257

Tax Cases

Opinions on Tax Court petitions for review.....	0
Dispositive orders on Tax Court petitions for review.....	3
TOTAL	3

Original Actions

Opinions issued.....	4
Disposed of without opinion.....	47
TOTAL	51

Mandate of Funds

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

Attorney Disciplinary Matters

Opinions and published orders.....	71
Other dispositions	23
TOTAL	94

Petitions for Review of State Board of Law Examiners Matters

Petitions for review.....	1
TOTAL	1

Judicial Discipline Matters

Opinions and published orders.....	2
Other dispositions	0
TOTAL	2

TOTAL DISPOSITIONS	920
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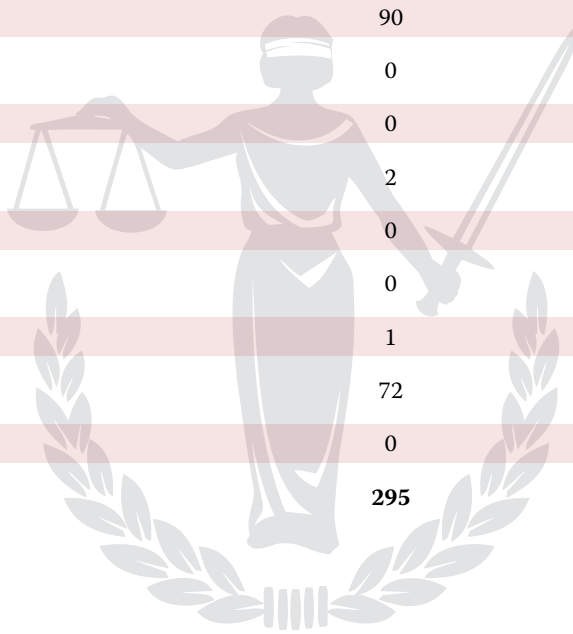


Once each summer, Justices, law clerks, and other employees attend an Indianapolis Indians baseball game together. Here, sport enthusiast Justice Boehm receives the "first pitch" tossed from the mound by Justice Sullivan.

CASES PENDING AS OF JUNE 30, 2010

	Pending Cases as of June 30, 2010 <i>(does not include Rehearing Petitions)</i>	Pending Petitions For Rehearing as of June 30, 2010
Shepard, C.J.	11	1
Dickson, J.	3	0
Sullivan, J.	5	0
Boehm, J.	6	1
Rucker, J.	8	0
To the Court	1	0
Unassigned Civil Cases	96	0
Unassigned Tax Court Petitions for Review	0	0
Unassigned Criminal Transfer Cases	90	0
Unassigned Criminal Direct Appeals	0	0
Unassigned Civil Direct Appeals	0	0
Unassigned Original Actions	2	0
Unassigned Certified Questions	0	0
Unassigned Other	0	0
Pending Bar Examination Reviews	1	0
Attorney Discipline	72	0
Judicial Discipline	0	0
TOTAL	295	2

*Unauthorized Practice of Law



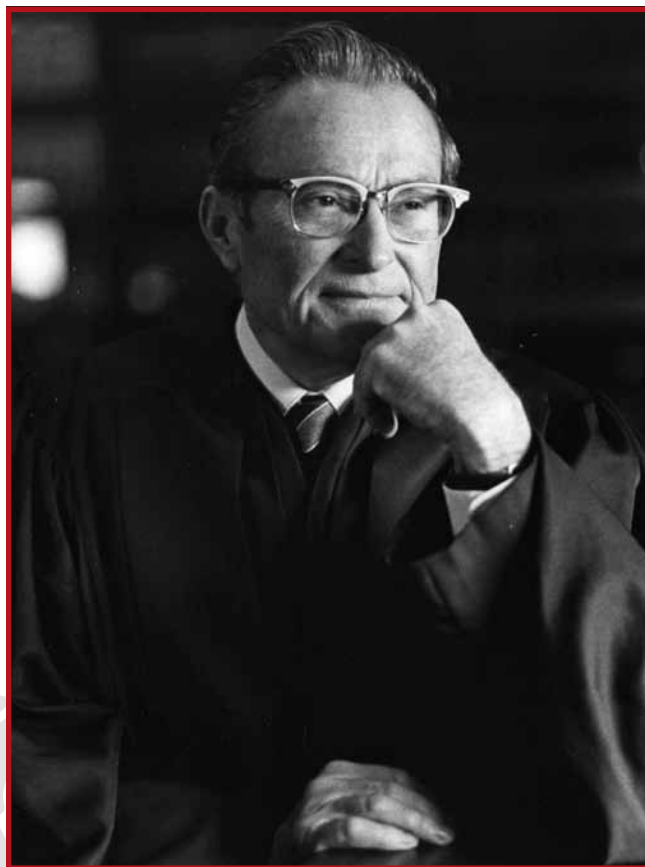
The Justices and Court staff were deeply saddened at the passing of Justice Richard Givan. His public service to Indiana included 26 years on the Supreme Court (1968-1994), nearly thirteen years of which as Chief Justice. He heard nearly 6,000 cases; he authored more than 1,500 majority opinions.

In addition to a remarkable legal career, he is remembered fondly as a loyal friend and great storyteller. Justice Givan commonly used sayings including, “you pile on too many apples, you can’t shove the cart” and “it’s not that he doesn’t know there’s a problem, it’s that he doesn’t know that he doesn’t know that there is a problem.” The colloquialisms continue to remind colleagues and friends of Justice Givan’s colorful personality.

Chief Justice Shepard served with Justice Givan for some nine years, and came to know him as an energetic judge and friend. “He was a thoroughly practical man, deeply rooted in Indiana’s legal community, and interested in new ways of improving courts. He often said, ‘When the automobile was invented my father’s buggy worked just fine, but he bought a car anyway;’” said Chief Justice Shepard.

Justice Dickson, who joined the Court in January 1986, also has fond memories of his time with Justice Givan. “I admire his wonderful spirit of selfless public service and his often-demonstrated commitment to the law, common sense, integrity, honesty, courage, and industry.” Justice Dickson admired the manner in which he dealt with the apparent conflict between personal beliefs and judicial duties: “As a devout Quaker, he advocated for the repeal of the Indiana death penalty statute while serving in the legislature. Yet when he became a Supreme Court Justice he authored a great many opinions affirming death sentences by trial courts. He explained that his obligation under his oath of judicial office to uphold the laws of the State of Indiana prevailed over his personal, moral and religious beliefs. After he retired from the court, Dick Givan resumed his opposition to the death penalty and even testified against it before a legislative committee.”

Born June 7, 1921, in Indianapolis, Richard Givan graduated from Decatur Central High School in 1939, received an LL.B. from Indiana University in 1951, and was admitted to the Indiana bar in 1952. While a law student, he was assistant librarian for the Indiana Supreme Court in 1949, then became a research assistant for the Court. He was the first person to serve as a law clerk here.



Justice Richard Givan.

He was appointed deputy public defender of Indiana, serving until 1954. From 1954 to 1966, he was Assistant Attorney General of Indiana, pleading cases before both the Indiana and U.S. Supreme Courts. In 1967, he was a state representative and a ranking member of the Judiciary Committee. He was also chairman of the board of directors of the Indiana Judicial Conference from 1974 to 1987, served on the board of managers of the Indiana Judges Association from 1975 to 1987, and became an Indiana Judicial College graduate in 1989. In addition to his legal career, Justice Givan served as a pilot in the U.S. Army Air Corps during World War II and was later a flight instructor with the Air Corps Reservists. He was a fourth-generation lawyer.



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