



Indiana Supreme Court

2010 - 2011 Annual Report



The Indiana Supreme Court (front) Justice Steven H. David; Justice Robert D. Rucker (back) Justice Frank Sullivan, Jr., Chief Justice Randall T. Shepard, Justice Brent E. Dickson.



Indiana Supreme Court staff in the Courtroom. In addition to the five Justices (standing at the bench), approximately 180 people carry out the work of the Court and the Indiana Judicial Center each day. Employees include agency directors, appellate case managers, court analysts, account managers, administrative assistants, benefits administrators, bookkeepers, court field trainers, educators, information technology specialists, historians, judicial assistants, lawyers, law clerks, librarians, paralegals, probation officials, public information officers, records specialists, statisticians, and a sheriff. In addition, many judges, lawyers, and citizens carry out the Court's work as members of the Court's boards and committees.

Photo by Jim Barnett, Indianapolis.

Table of Contents

Introduction	3
Significant Events of Fiscal Year 2011	4
The Indiana Supreme Court	11
Brief History	11
Indiana’s “Court of Last Resort”	11
Biographies of the Justices	12
Budgetary Matters	14
Activities of the Affiliated Agencies and Divisions of the Court	15
Division of Supreme Court Administration	15
Division of State Court Administration	15
Judicial Conference of Indiana/ Indiana Judicial Center	28
Board of Law Examiners	33
Commission for Continuing Legal Education	35
Indiana Supreme Court Disciplinary Commission	37
Indiana Judges and Lawyers Assistance Program	40
Indiana Judicial Nominating Commission/Indiana Commission on Judicial Qualifications	42
Courts in the Classroom	44
Indiana Supreme Court Library	45
Indiana State Public Defender’s Office	46
Appendix	48



Photo by John Krauss

Entrance to the Indiana Supreme Court Courtroom.

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 2011 (July 1, 2010 through June 30, 2011) and a description of the activities of the Court and its affiliated agencies. Section II, Significant Events of Fiscal Year 2011, 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 website, www.IN.gov/judiciary.

Photographs in this year’s annual report were provided by: Jim Barnett, Indianapolis; John Gentry, Indianapolis; John Krauss, Indianapolis; Court staff, Lindsey Borschel, Mary DePrez, Kathryn Dolan, Sarah Hachey Kidwell, Elizabeth Osborn, Greta Scodro, Jessica Turner Strange, and other friends of the Court.



The Justices at the bench in the Indiana Supreme Court courtroom: (left to right) Justice Frank Sullivan, Jr.; Justice Brent E. Dickson; Chief Justice Randall T. Shepard; Justice Steven H. David; Justice Robert D. Rucker.

Significant Events of Fiscal Year 2011

The Indiana Supreme Court strives to decide the cases before it fairly, impartially, and according to law and to improve the quality of and access to justice in our State through the many projects and programs the Court directs. This section summarizes that work for the fiscal year of July 1, 2010, through June 30, 2011. It begins with highlights of the Court's case work and then moves to highlights of the Court's other work and accomplishments.

THE CASE WORK OF THE INDIANA SUPREME COURT

The Court's case work can generally be divided into two broad categories, namely those involving the Court's mandatory and exclusive jurisdiction, and those involving the Court's discretionary jurisdiction.

The Supreme Court's Mandatory and Exclusive Jurisdiction

The Indiana Supreme Court has exclusive appellate jurisdiction over certain classes of cases, such as appeals involving sentences of death or life imprisonment without the possibility of parole ("LWOP"), appeals in which an Indiana trial court has declared a state or federal statute unconstitutional, and appeals involving mandates of funds. It also has exclusive original jurisdiction over matters relating to the practice of law in Indiana (such as admission to practice law, discipline and disbarment of attorneys, and the unauthorized practice of law); the discipline, removal, and retirement of Indiana judges; and the issuance of writs of mandate or prohibition to lower courts concerning their exercise of (or failure to exercise) jurisdiction. The Court is also the only Indiana court authorized to receive and answer questions of Indiana law certified by federal courts.

With regard to death and LWOP appeals, the Court affirmed the denial of post-conviction relief in two death penalty cases, *Baer v. State*, 942 N.E.2d 80 (Ind. 2011) (defendant convicted

of the murder of a woman and her four-year-old daughter), and *Kubsch v. State*, 934 N.E.2d 1138 (Ind. 2010) (defendant convicted of the murder of his wife, her ex-husband, and her eleven-year-old son), and affirmed the convictions and LWOP sentence of Anthony D. Delarosa for two counts of murder and one count of conspiracy to commit murder. *Delarosa v. State*, 938 N.E.2d 690 (Ind. 2010).

The Court also issued two decisions involving certified questions from federal courts. The first case, from the U.S. Court of Appeals for the Seventh Circuit, involved whether the ticket allocation process used by the National Collegiate Athletic Association ("NCAA") to distribute tickets to events like the men's and women's Final Four is an illegal lottery under Indiana law. The Court held that it was not because no prize is awarded to those applicants who receive the opportunity to purchase tickets. *George v. NCAA*, 945 N.E.2d 150 (Ind. 2011). The second case, from the U.S. District Court for the Southern District of Indiana, involved the proper method for apportioning fault under the Indiana Products Liability Act in the circumstance where an accident victim's injuries are enhanced because of an alleged defect in a product. *Green v. Ford Motor Co.*, 942 N.E.2d 791 (Ind. 2011).

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 2011, the Court disposed of 1037 cases, 849 of which had first been appealed to the Court of Appeals. Of these 849 petitions to transfer, 310 (36.5%) were civil cases and the remaining 539 (63.5%) were criminal cases. The Court accepted jurisdiction and issued opinions in approximately 8.7% of all transfer cases (11.3% in civil cases and 7.2% in criminal cases). In the remaining 91.3%, the Supreme Court declined review and the decision of the Court of Appeals became final.

The Supreme Court also receives requests, called “petitions for review,” to examine decisions of the Indiana Tax Court. Of the five petitions for review transmitted to the Court in fiscal year 2011, the Supreme Court accepted jurisdiction in three. The Court issued two opinions in appeals from the Tax Court this fiscal year, *Ind. Dept. of Revenue v. Belterra Resort Indiana, LLC*, 942 N.E.2d 796 (Ind. 2010), and *Hamilton Cty. Prop. Tax Assessment Bd. v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654 (Ind. 2010).

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.

Criminal Transfer Cases

As to petitions to transfer in criminal cases, the Court this year received 546 criminal transfer petitions as compared to 545 last year, disposed of 539 as compared to 501 last year, and issued 39 published opinions in criminal transfer cases.

Appeals in criminal cases often involve claims that the defendant’s federal or state constitutional rights were violated prior to or during his or her trial. In five cases, the Court reviewed and rejected claims that the respective defendants’ right to be free from unreasonable searches and seizures had been violated. *Garcia-Torres v. State*, 949 N.E.2d 1229 (Ind. 2011); *Wilkins v. State*, 946 N.E.2d 1144 (Ind. 2011); *Lacey v. State*, 946 N.E.2d 548 (Ind. 2011); *State v. Hobbs*, 933 N.E.2d 1281 (Ind. 2010); *Meister v. State*, 933 N.E.2d 875 (Ind. 2010). In one case, the Court reviewed and rejected a claim that the defendant’s right to be free from double jeopardy had been violated. *Coleman v. State*, 946 N.E.2d 1160 (Ind. 2011). In another case, the Court reversed a conviction because of a violation of the defendant’s right against self-incrimination. *Carr v. State*, 934 N.E.2d 1096 (Ind. 2010). And in one case, the Court held that any violation of the defendant’s right to confront the State’s witnesses against him was harmless beyond a reasonable doubt. *Koenig v. State*, 933 N.E.2d 1271 (Ind. 2010).



The Court convened at the Valparaiso University School of Law in October 2010 to hear oral argument in *Barnes v. State*. (left to right) Justice Sullivan, Justice Dickson, Chief Justice Shepard, Justice David, Justice Rucker.

Claims of violations of a defendant’s constitutional right to due process of law arise in a number of contexts. In *Everling v. State*, 929 N.E.2d 1281 (Ind. 2010), the Court

reversed the defendant’s conviction on grounds that the trial judge’s overall conduct evidenced partiality and deprived the defendant of fair trial. In two cases, the Court examined the extent to which charges can remain pending against a defendant found incompetent to stand trial. *Curtis v. State*, 948 N.E.2d 1143 (Ind. 2011); *Denzel v. State*, 948 N.E.2d 808 (Ind. 2011). And in two other cases, the Court discussed defendants’ respective rights to notice that they were subject to protective orders. *Tharp v. State*, 942 N.E.2d 814 (Ind. 2011); *Joslyn v. State*, 942 N.E.2d 809 (Ind. 2011).

In a case involving a defendant’s common-law right to resist law unlawful law enforcement entry into his home, the Court affirmed a defendant’s conviction for the misdemeanors of resisting law enforcement and disorderly conduct committed when the defendant attempted to prevent the police from entering his home. *Barnes v. State*, 946 N.E.2d 572 (Ind. 2011). In the course of affirming, a majority of the Court held that resistance to police entry of a residence (even if not authorized by law) is not permissible because it unnecessarily escalates the level of violence and the risk of injuries to all parties involved. Dissenting justices argued in favor of reaffirming that citizen resistance to police investigation in domestic violence cases could be disapproved without discarding the common-law right of reasonable resistance to unlawful entry by the police. After the close of the fiscal year, the Court granted a petition for rehearing to clarify its original opinion. In its opinion on rehearing, the Court held that the “Castle Doctrine” (the common law rule that states that because “a man’s home is his castle,” he has the right to engage in reasonable resistance to prevent unlawful entry into it) is not a defense to the crime of battery or other violent acts against a police officer. The Court also emphasized that its holding did not alter the statutory and constitutional boundaries of legal entry into the home or any other place, and did not change existing law concerning Hoosiers’ constitutional right to be secure in their persons, houses, and papers against unreasonable search and seizure. *Barnes v. State*, 953 N.E.2d 473 (Ind. 2011).

In *Galloway v. State*, 938 N.E.2d 699 (Ind. 2010), the Court upheld a defendant’s claim of being not guilty by reason of insanity.

In *Runyon v. State*, 939 N.E.2d 613 (Ind. 2010), the Court discussed the applicable burden of proof in proceedings to revoke a defendant’s probation for failure to pay child support.

This fiscal year, the Court addressed several issues concerning language barriers in trial court proceedings in *Romo v. State*, 941 N.E.2d 504 (Ind. 2011), and *Diaz v. State*, 934 N.E.2d 1089 (Ind. 2010); issues concerning a defendant’s right to examine evidence in the possession of third parties in *In re Subpoena to Crisis Connection, Inc.*, 949 N.E.2d 789 (Ind. 2011), and *Crawford v. State*, 948 N.E.2d 1165 (Ind. 2011); and issues concerning a defendant’s right to a unanimous jury verdict where the charges allege a pattern of child sexual abuse in *Baker v. State*, 948 N.E.2d 1169 (Ind. 2011).

The Court was called upon to interpret statutes governing criminal law and procedure in a number of cases. In *Moore v. State*, 949 N.E.2d 343 (Ind. 2011), the Court interpreted the public intoxication statute to reach a vehicle’s intoxicated

passenger. In *Sloan v. State*, 947 N.E.2d 917 (Ind. 2011), the Court refused to apply the statute of limitations where the defendant conceals evidence of the offense. In *State v. Brunner*, 947 N.E.2d 411 (Ind. 2011), and *State v. Boyle*, 947 N.E.2d 912 (Ind. 2011), the Court interpreted a trial court's statutory authority to modify convictions not to have been available. In *Miller v. State*, 943 N.E.2d 348 (Ind. 2011), the Court interpreted a statute limiting the portion of a sentence that can be suspended in certain child molesting cases not to limit the minimum sentence that can be imposed. And in *Lemmon v. Harris*, 949 N.E.2d 803 (Ind. 2011), and *Baugh v. State*, 933 N.E.2d 1277 (Ind. 2010), the Court applied the sexually violent predator statute to the respective defendants.

The Court held petitioners were not entitled to post-conviction relief in *Carter v. State*, 929 N.E.2d 1276 (Ind. 2010), and *State v. Cooper*, 935 N.E.2d 146 (Ind. 2010), and granted limited relief in *Mauricio v. State*, 941 N.E.2d 497 (Ind. 2011). The Court provided sentencing relief in *Pierce v. State*, 949 N.E.2d 349 (Ind. 2011), *Horton v. State*, 949 N.E.2d 346 (Ind. 2011), and *Sanchez v. State*, 938 N.E.2d 720 (Ind. 2010). In *Akard v. State*, 937 N.E.2d 811 (Ind. 2010), where the Court of Appeals had increased defendant's sentence, the Court reinstated the sentence imposed by the trial court. And in *Nicoson v. State*, 938 N.E.2d 660 (Ind. 2010), where the trial court invoked a statute authorizing an increased sentence where a firearm is used while committing an offense, the Court held that the enhanced sentence was consistent with the statute and did not violate any prohibition against double jeopardy.

Civil Transfer and Tax Review Cases

This year, the Court received 339 civil transfer petitions as compared to 313 last year, and disposed of 310 as compared to 244 last year. The Court issued 35 published opinions in civil transfer cases in fiscal year 2011.

Among the Court's most serious responsibilities is deciding cases of constitutional law. In addition to the constitutional questions that arose in some of the criminal cases discussed above, the Court this year decided two civil cases involving federal constitutional law and one civil case involving Indiana

constitutional law. In *Love v. Rehfus*, 946 N.E.2d 1 (Ind. 2011), where a township firefighter had been discharged after sending an email from his home computer criticizing the management of the township fire department during the township trustee's reelection campaign, the Court held that the firefighter's email was constitutionally protected speech. In *City of Indianapolis v. Armour*, 946 N.E.2d 553 (Ind. 2011), where in the course of restructuring the financing of sewer improvements the City of Indianapolis had forgiven outstanding assessments but did not refund assessments previously paid, the Court held that the City did not violate the Equal Protection Clause of the 14th Amendment by forgiving only the outstanding assessment balances. And, in *In re A.B. v. State*, 949 N.E.2d 1204 (Ind. 2011), where the Indiana Department of Child Services ("DCS") had relied on a 2009 statute to refuse to pay for the costs of an out-of-state placement ordered by a juvenile court, the Court held that while the 2009 statute did not violate either the Single Subject or Separation of Powers Clauses of the Indiana Constitution, DCS had exceeded its statutory authority in refusing payment.

The Court decided a civil forfeiture case in *Serrano v. State*, 946 N.E.2d 1139 (Ind. 2011). The Court reversed civil forfeiture of a criminal defendant's truck because the State had failed to prove any substantial connection or nexus that the truck bore to the commission of a crime.

The Court reviewed two election law cases this fiscal year. In *Janiec v. Lake County Board of Election & Registration*, 945 N.E.2d 161 (Ind. 2011), the Court unanimously reversed the decision of the Lake County Election Board that had barred a candidate from running in the Republican primary for Mayor of Hammond. And, in *White v. Indiana Democratic Party*, 946 N.E.2d 1171 (Ind. 2011), the Court unanimously declined to intervene in respect of a Circuit Court's ruling that the Indiana Recount Commission should conduct a hearing on the eligibility of Charlie White to have run for Secretary of State in 2010.

The emergence of Indiana as a major gaming center has produced a number of cases encompassing a range of topics. The Court decided three such cases this year. In *Caesars Riverboat Casino, LLC v. Kephart*, 934 N.E.2d 1120 (Ind. 2010), a majority of the Court, with one justice dissenting, held that a casino patron had no cause of action against the casino for damages stemming from the consequences of gambling losses allegedly suffered because the casino urged gambling by a known, pathological gambler. In *Donovan v. Grand Victoria Casino & Resort, L.P.*, 934 N.E.2d 1111 (Ind. 2010), a majority of the Court, with one justice dissenting, held that a casino operator had the right to exclude a patron who employed a strategy known as "card counting" while playing blackjack. And, in *Indiana Department of State Revenue v. Belterra Resort Indiana, LLC*, 935 N.E.2d 174 (Ind. 2010), the Court held a casino operator liable for Indiana use tax on a riverboat casino acquired by the operator outside Indiana.

In disputes between State government and private litigants, the Court addressed Medicaid reimbursement rates for transportation expenses, *Murphy v. Fisher*, 932 N.E.2d 1235 (Ind. 2010), and a BMV regulation requiring drivers to use the same form of their names on their drivers' licenses as those on file with the Social Security Administration, *Leone v. Comm'r*,



The Judicial Nominating Commission recruits and interviews applicants to fill appellate court judicial vacancies, then forwards three names to the Governor who makes the final selection. This year, the Commission received 34 applications for the vacancy created by Justice Boehm's retirement. The Commission interviewed each applicant in the Conference Room. Media coverage included daily postings to the Internet.

Ind. Bureau of Motor Vehicles, 933 N.E.2d 1244 (Ind. 2010). The Court also held that the State could sue in a Superior Court, rather than the Indiana Tax Court, to recover an erroneous payment made by the Indiana Department of Revenue because the payment was unrelated to tax law. *State ex rel. Zoeller v. Aisin USA Mfg., Inc.*, 946 N.E.2d 1148 (Ind. 2011).

In disputes between local government and private litigants, the Court held that homeowners' rental of their property violated a town ordinance prohibiting commercial use, *Siwinski v. Town of Ogden Dunes*, 949 N.E.2d 825 (Ind. 2011), and that the Indiana Tort Claims Act prevented a city from being sued for failure to enforce its animal control ordinance, *Davis v. Animal Control – City of Evansville*, 948 N.E.2d 1161 (Ind. 2011). The Court also held that an exemption from local property taxes was not available to the owner of an office building for that portion of the building leased to a church. *Hamilton Cnty. Prop. Tax Assessment Bd. of Appeals v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654 (Ind. 2010).

In *IHSAA v. Watson*, 938 N.E.2d 672 (Ind. 2010), the Court affirmed an IHSAA ruling that a student-athlete was ineligible because she had transferred schools primarily for athletic reasons.

In the area of tort law, the Court addressed the liability of a golfer for injuries suffered by an errant golf shot, holding there to be no liability when the conduct of the golfer is within the range of ordinary behavior of participants in the sport. *Pfenning v. Lineman*, 947 N.E.2d 392 (Ind. 2011). In a trio of cases decided together, the Court held that attorney fees are recoverable under the Indiana Adult Wrongful Death statute. *Ind. Patient's Comp. Fund v. Brown*, 949 N.E.2d 822 (Ind. 2011); *Hematology-Oncology of Ind., P.C. v. Fruits*, 950 N.E.2d 294 (Ind. 2011); *McCabe v. Comm'r, Ind. Dep't of Ins.*, 949 N.E.2d 816 (Ind. 2011). The Court also resolved disputes as to insurance coverage for alleged faulty workmanship of a subcontractor under a comprehensive general liability policy, *Sheehan Constr. Co. v. Cont'l Cas. Co.*, 935 N.E.2d 160 (Ind. 2010), and for legal malpractice under a professional liability policy, *Ashby v. Bar Plan Mut. Ins. Co.*, 949 N.E.2d 307 (Ind. 2011).

In a real property law case, the Court addressed the rights of a junior lien holder when not joined in a foreclosure action. *Citizens State Bank v. Countrywide Home Loans, Inc.*, 949 N.E.2d 1195 (2011). In a commercial law case, the Court analyzed whether a financing transaction constituted a true lease or a sale subject to a security interest. *Gibraltar Fin. Corp. v. Prestige Equip. Corp.*, 949 N.E.2d 314 (Ind. 2011). And, in a probate law case, the Court examined the relationship of fiduciary duty and the operation of the Non-Probate Transfer Act's presumption of joint ownership of a bank account. *In re Estate of Rickert*, 934 N.E.2d 726 (Ind. 2010).

The Court had an unusually heavy docket of family law cases this year. In one case, the Court declined to intervene in respect of a circuit court's ruling in an interstate custody dispute between a child's adoptive parents and biological father. *State ex rel. J.V. & C.V. v. Floyd Cir. Ct.*, No. 22S00-1009-OR-470 (Ind. Sept. 21, 2010). In another case, the Court held that Indiana law requires court-appointed counsel for an indigent parent who appeals the termination of his or her parental rights – but only where the parent himself or herself authorizes the appeal. *In re Term. of Parent Child Relationship of I.B. & M.L.*,

933 N.E.2d 1264 (Ind. 2010). The Court set aside an adoption by a child's paternal grandparents because the grandparents and their counsel did not take the required steps to notify the child's mother of the adoption proceeding. *In re Adoption of L.D.*, 938 N.E.2d 666 (Ind. 2010). And, in a divorce case, the Court held that where a party's former employer paid health insurance premiums as part of a vested retirement plan, the premiums constituted marital property subject to division. *Bingley v. Bingley*, 935 N.E.2d 152 (Ind. 2010).

JUSTICE DAVID NAMED TO THE COURT AS JUSTICE BOEHM RETIRES

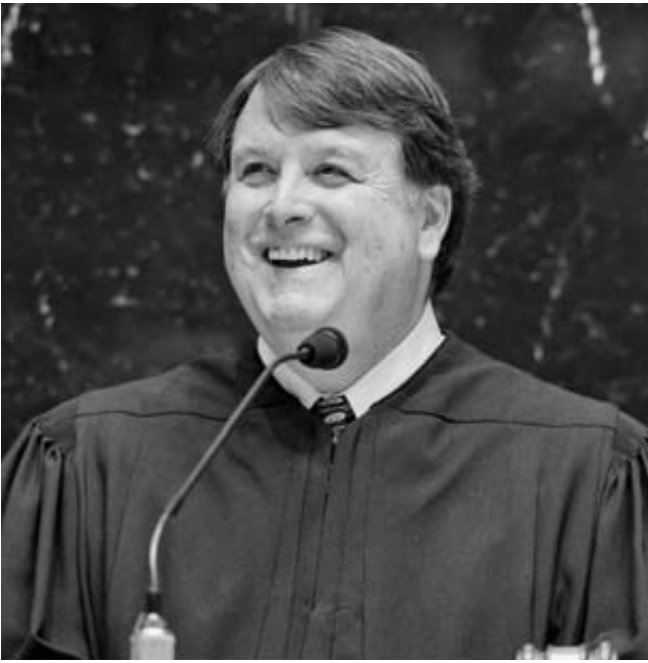
In September 2010, Governor Mitch Daniels appointed the Honorable Steven H. David of Boone Circuit Court as Indiana's 106th Justice. He was sworn in on October 18th in Indianapolis. The ceremony was webcast live from the historic courtroom. Justice David's remarks included words of wisdom from political giants Abraham Lincoln and John F. Kennedy, as well as country music stars Toby Keith and Kenny Chesney. He thanked family, friends and colleagues by talking about Chesney's song titled "I didn't get here alone." He told the audience, "don't worry, I won't sing." Instead, he read the following lyrics:

*I didn't get here alone.
That road's just too rough and long.
I might be the one the spotlight's on.
But I didn't get here alone.*



Having just been sworn in by Governor Daniels as the 106th justice, Justice David (center) takes his place on the bench between Chief Justice Shepard (left) and Justice Rucker (right).

State leaders honored the public service career of retiring Justice Theodore R. Boehm, whom Steven David replaced, on September 30, 2010. At the end of his remarks, Justice Boehm told the audience he was often asked what judges wear under their robes. He stole the show when he proceeded to answer the question by taking off his robe! An avid sports fan, Justice Boehm had on a Colts jersey with a Pacers jersey over it to show his support for both hometown teams. The audience erupted in laughter and applause for the long-time jurist.



Chief Justice Shepard delivers the 2011 State of the Judiciary address to a joint session of the General Assembly.

STATE OF THE JUDICIARY

Chief Justice Randall T. Shepard delivered the 2011 State of the Judiciary to a joint session of the Indiana General Assembly on January 12, 2011. His address, “Burdened, but Unbowed,” focused on how the courts diagnose problems and find solutions despite challenges. He explained: “The challenges of the moment cover an amazing range. Like, what do we do when someone who speaks only Laotian shows up in the courtroom? How do we deal with the phenomenon of jurors using smart phones? How do we give a full and fair hearing to litigants when there’s a sixteen percent growth in case filings but only four percent more judges?”

Chief Justice Shepard assured the General Assembly, Governor, and public that “the men and women of the Indiana courts tackle all these issues and more, both through long-range strategic planning and through immediate action.” He highlighted efforts to help solve the mortgage foreclosure crisis, the Judicial Branch’s support of sentencing reform plans, advances in improving trial court technology, and the use of plain English jury instructions. The 2011 address, which was Chief Justice Shepard’s twenty-fourth State of the Judiciary, was carried live by WRTV-6, the Indianapolis ABC affiliate, on its digital sub-channel. Indiana Public Broadcasting Stations later aired a special devoted to the State of the Judiciary on television stations across the state.

CONTINUING ITS WORK ON THE FORECLOSURE CRISIS

The Indiana Supreme Court continued to partner with government and non-profit agencies and businesses to combat foreclosures. During the fiscal year the group launched a secure on-line network to allow housing lenders and borrowers an easy way to exchange information in an effort to work out settlement agreements. Information traded on the network may include account numbers, bank statements, and

tax returns. The documents are not normally filed with the court, but are critical to working out a settlement agreement. The system also automatically tracks the status of every file – from submission to resolution – so that a record of every foreclosure can be viewed by the stakeholders.

JUDICIAL BRANCH STRATEGIC PLAN

The Indiana Judicial Conference continued to reach benchmarks identified in the long-term strategic plan titled, “A New Way Forward.” The roadmap for the future of Indiana’s Judicial Branch includes a set of priorities to improve the professionalism, efficiency, and effectiveness of the Indiana Judiciary.

As part of the plan, the Supreme Court approved new continuing education requirements for judges, which went into effect January 1, 2011. Urged by trial court judges, the new requirements hold judges to a higher education standard than the attorneys who appear before them in court. Now, all full-time judges and magistrates in trial and appellate courts are required to obtain at least 54 hours of Continuing Judicial Education credits every three years, compared to the 36 hours of education required of attorneys every three years.



The annual conference of lawyer assistance programs was held in Indianapolis in October 2010. Those attending included psychologist (and comedian) Dr. Will Miller; Terry Harrell, Executive Director, Indiana JLAP; Mrs. Jan Aikman Dickson; Justice Dickson; and Judge Robert L. Childers, Shelby County Circuit Court.

JUDGES AND LAWYERS ASSISTANCE PROGRAM

Judges, attorneys, and law students in need of mental health or dependency treatment can get help through the Judges and Lawyers Assistance Program (“JLAP”). JLAP partnered with the American Bar Association Commission on Lawyer Assistance Programs to host a national conference on wellness, addictions and mental health issues. The October 2010 conference in Indianapolis was the twenty-third annual event for the group. JLAP Executive Director, Terry L. Harrell, was also appointed to serve on the national commission.

NEW AGENCY DIRECTORS APPOINTED

The Indiana Supreme Court named two accomplished attorneys as agency directors in June 2010. Bradley W. Skolnik was named the State Board of Law Examiners Executive Director and Stephen T. Owens was named the State Public Defender. Mr. Skolnik replaced Linda L. Loepker, who held the position from September 2007 to December 2010. Mr. Owens replaced Susan K. Carpenter, who held the position for nearly 30 years, almost three times as long as the second longest-

serving Indiana State Public Defender, Harriette Bailey Conn, who held the post from 1970 – 1981.

The Board of Law Examiners assisted the Court in finding Ms. Loepker's replacement by reviewing applications, conducting initial interviews, and making recommendations to the Court. An ad hoc committee appointed by the Court, comprised of judges and attorneys with diverse backgrounds in criminal case work, performed a similar function with regard to the search for Ms. Carpenter's replacement.

JUDICIAL TECHNOLOGY AND AUTOMATION COMMITTEE

It was a busy and productive year for the Court's Judicial Technology and Automation Committee ("JTAC"). Free online access to Indiana trial court records continued to grow, such that by the end of the fiscal year, 93 courts in 32 counties were now using Odyssey, the state's uniform case management system developed by JTAC. About one-third of the state's new caseload is now managed by Odyssey.

JTAC also secured federal funds to pay for enhancements to its statewide Protective Order Registry, including text message alerts to victims when their protective orders are served or about to expire, and the ability for courts to print protective and no-contact orders in both English and Spanish. Courts in 56 Indiana counties use JTAC's Jury Management System, which can draw a jury panel, administer questionnaires, and process jury compensation. Each week, approximately 16,000 transmissions are now sent over JTAC's Incite application to the Bureau of Motor Vehicles regarding driver license suspension and conviction information. JTAC's Electronic Citation and Warning System, which allows law enforcement to use scanners and other technology to issue traffic tickets quickly and efficiently, is now being used by 7,200 law enforcement officers in 245 agencies. The courts transmitted information on 2,964 individuals who may be prohibited from possessing a firearm to the FBI. Sixty-nine counties are now recording marriage licenses through JTAC's Marriage License e-file system, with 34 counties taking advantage of a new program feature that allows couples to file for marriage licenses online.

COURTS IN THE CLASSROOM

Courts in the Classroom ("CITC") continued its mission to educate students, citizens, and attorneys about the work of the judicial branch through several student programs, numerous continuing legal education programs, and a free ten-day workshop for teachers. Constitution Day allowed high school students to meet attorneys, judges, and journalists to talk about the Indiana and United States Constitutions. "My Place is in the Voting Booth: Hoosier Suffragette Helen M. Gougar," an interactive program that centers on an Indiana women's suffrage case, was nationally recognized as the 2011 Outstanding Public History Project by the National Council on Public History. In addition, CITC partnered with Martin University and the American Bar Association to develop a program devoted to black history and the role of courts in our democracy. With collaboration from the Indiana Historical Society Press, CITC released *Justices of the Indiana Supreme Court*, a 467-page multi-author volume containing biographies

of the 106 past and present members of the Court. CITC hosted several continuing legal education programs around the state in conjunction with the book launch.



Justice Sullivan gave remarks at the dedication of the Robert D. Rucker Courthouse in Gary.

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 Indianapolis. About 30 print, radio, television, and Internet journalists attended the event, which served as a tutorial on how to read court documents, cover juvenile cases, and access court information online. In addition, the Supreme Court's Twitter page, which the Court's Public

Information Officer uses to communicate information to the press and the public, had approximately 700 followers at the close of the fiscal year. The Court hosted eight press conferences and answered more than 500 inquires from local, state and national members of the press during the fiscal year. Also, the Court continued its partnership with Indiana Public Broadcasting Stations to develop a jury duty public service announcement campaign and air oral arguments on stations across the state.

ORAL ARGUMENTS ON THE ROAD

The Indiana Supreme Court heard oral arguments "on the road" on three occasions during the fiscal year. The arguments were held at Indiana law schools to give students a chance to see the court at work and ask questions of the justices. In September 2010, the court travelled to the Indiana University Maurer School of Law in Bloomington to hear arguments in the case of *Pfenning v. Lineman*. In November 2010, the court travelled to the Valparaiso University School of Law to hear arguments in *Barnes v. State of Indiana*. In February 2011, the court heard arguments in the case of *Putnam County Sheriff v. Price* at the Indiana University School of Law-Indianapolis.

SPEECHES AND HONORS

In addition to their work writing opinions and assisting with the operation of the courts, the Justices make regular contributions to the community and the legal system and are often honored for that work. **Chief Justice Randall T. Shepard** is working with former U.S. Representative Lee Hamilton to assess Indiana's civic knowledge. The goal is to increase civic engagement such as voting and volunteerism. In April 2011, the Evansville Bar Association dedicated the newly restored "Randall T. Shepard Courtroom" in the Old Vanderburgh County Courthouse as part of its 100th anniversary celebration. The Chief Justice stays in contact with students at Evansville's Randall T. Shepard Academy of Law and Social Justice with in-person and Skype visits.

He also joined his colleagues, Justice Dickson and Justice David, at the Indianapolis Bench-Bar Conference to talk about civility, professionalism, and opinion writing to an audience of 300 attorneys and trial judges.

Justice Brent E. Dickson met with enthusiastic students from Clark County who travelled to Indianapolis to watch an oral argument. He spoke to teachers and reporters who took part in court education programs, and he served on a state constitutional law panel for the Conference of State Solicitor Generals. He also addressed the West Lafayette Kiwanis concerning changes in criminal sentencing that could result in taxpayer savings.

Justice Frank Sullivan, Jr., traveled to Jeffersonville, Anderson, Rensselaer, Knox, and Bloomfield to welcome courts on to the Odyssey case management system. He served as a speaker for the Northern District Clerks Association meeting, the inauguration of Indiana University's Institute for Juvenile Court and Corrections Research, and the Posey County Law Day festivities. The Attorney General asked him to speak at the Criminal Justice Summit at Notre Dame and the Rule of Law Training Program for Mexican Prosecutors and Investigators.



Justice Rucker served as keynote speaker for the “Least Understood Branch” program at Martin University where he spoke about his path to becoming a Supreme Court Justice.

sworn-in sheriffs, and the Indiana State Bar Association's Young Lawyer's Section. He also presented remarks on the rule of law and civility at pro-bono events across the state.



Justice David, having just been sworn in as the 106th Justice of the Indiana Supreme Court, addresses the audience in the Courtroom.

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 a vacancy occur on the Court, the Constitution requires that a seven-member Judicial Nominating Commission recommend to the Governor three qualified persons for the vacancy. The Governor must appoint one of the three, and that person serves as a justice for a minimum of two years before becoming subject to a retention vote at general election. If approved, the justice begins a ten-year term. For the first time in over a decade, this fiscal year saw the retirement of Justice Theodore Boehm after more than fourteen years of Supreme Court service. He was replaced by the Honorable Steven H. David, who, at the time of his selection by Governor Mitch Daniels, was Judge of the Boone Superior Court. Justice David's service on the Indiana Supreme Court commenced on October 18, 2010, and he will be on the November 2012 statewide general election ballot for his first retention vote.

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.”



Indiana Court of Appeals Judges and Supreme Court Justices gather in the Supreme Court Conference Room before the start of Justice Boehm's retirement ceremony.

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 demonstrated in the section of this report titled, "Significant Events of Fiscal Year 2010-11," the Court has continued providing active leadership for the judicial branch of government. The principal business of the Court, however, is deciding cases, and because the Court is the highest state court in Indiana, it is the court of final review when the meaning of the state constitution, state law, or state rule 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 before the Court of Appeals, the Court of Appeals' opinion, and the materials submitted in connection with the request to transfer jurisdiction. Each Justice reviews each case individually and votes on whether to accept transfer. If even one member of the Court requests it, the case will be discussed at a conference involving all five Justices. If a majority of the Court votes to grant transfer, an opinion will be written, circulated for a vote, and ultimately issued.

During much of this decade, the Court's "transfer caseload" grew considerably, peaking in fiscal year 2008 at 1027. During the next three fiscal years, the overall numbers declined relative to 2008, although a surge in civil transfer petition transmittals late in fiscal year 2011 stopped the downward trend and caused the Court to end fiscal year 2011 with 27 more transfer petitions transmitted to it than in fiscal year 2010.

The Court also has an important 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 ABA 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 NYU, Yale, and Indiana. In 2010, Chief Justice Shepard received the Dwight D. Opperman Award for Judicial Excellence, an award given annually by the American Judicature Society to honor state trial and appellate jurists for distinguished judicial service. 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; D. Litt. (Hon.) 1996); 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. He and his wife, Jan Aikman Dickson, founder of the national Judicial Family Institute, have three adult sons and nine 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 (JTAC), which is devoted to improving technology in trial courts. And he has been a frequent participant in bench, bar, and legal education activities. Sullivan is a member of the American Law Institute and is an Adviser to two of its current projects: "Restatement Third, Torts: Economic Torts and

Related Wrongs” and “Principles of Election Law: Resolution of Election Disputes.” 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. He has co-chaired and been active in 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 has qualified for and competed in the Boston Marathon several times.



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.



Steven H. David was appointed to the Supreme Court in October 2010 by Governor Mitch Daniels. He graduated *magna cum laude* from Murray State University as an R.O.T.C. scholarship student and was a Distinguished Military Graduate. He earned his law degree from Indiana University School of Law at Indianapolis, after which he served in the United States Army

Judge Advocate General’s Corps on active duty until 1986 and thereafter as a reserve soldier until his retirement in 2010. He was twice called to active duty following 9-11. He earned the rank of Colonel and held a Top Secret S.C.I. clearance. As a military officer, he held a myriad of positions including trial counsel, defense counsel, Military Judge and Commander. He made significant contributions to military rules, protocols, and investigative reports and held multiple legal posts, including that of Chief Defense Counsel for detainees subject to the Military Commission’s proceedings at Guantanamo Bay. His dedication to the military, pro bono services, and the rule of law earned him a number of military and citizen awards, including the Defense Superior Service Award (the nation’s third highest non-combat medal) and the Frederick Douglas Human Rights Award. Justice David practiced in law firms in Columbus, Indiana, where he focused on personal injury, family law, and civil litigation. He later became in-house counsel for Mayflower Transit, Inc. from 1988 through 1994. From 1995 to his appointment to the Supreme Court, Justice David served as the elected Circuit Court Judge in Boone County, presiding over civil, criminal, family and juvenile matters. He tried or presided over numerous jury trials in civil, criminal, and military proceedings. He has testified before the Indiana General Assembly and the United States Congress on juvenile law and national security issues, respectively, and he has collaborated extensively with other agencies on juvenile law issues. His efforts to improve the availability of mental health services for children led to his recognition by the Indiana chapter of the National Alliance for the Mentally Ill. He is also a recipient of the coveted Robert Kinsey Award. Justice David is a frequent speaker and writer on various legal topics, and is an adjunct professor at the University of Indianapolis and at the Indiana University School of Law in Indianapolis. He co-chairs the State’s Juvenile Delinquency Alternatives to Incarceration (“JDAI”) initiative and also co-chairs the Program Committee for the Indiana State Bar Association’s Leadership Academy. Justice David is married to Catheryne Pully, a Vanderbilt University Law School graduate and current employee of the Indiana State Bar Association who served in the U.S. Navy on active duty, including service in Iraq.



Chief Justice Shepard administers the oath of office to members of the Indiana House of Representatives.

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 upcoming biennium:

Court Agencies	FY 2011	FY 2012	FY 2013
State Court Administration	\$126,206,047	\$122,200,743	\$122,131,590
Trial Judges and Prosecutors Salaries/Benefits	\$84,523,179 ⁽¹⁾	\$84,109,554	\$84,109,554
JTAC	\$12,274,294	\$6,068,653	\$5,999,500
Transfers to Counties/Trial Courts, and Other Programs	\$25,408,574	\$28,022,536	\$28,022,536
Title IV-D(2)	\$4,000,000	\$4,000,000	\$4,000,000
Supreme Court Administration	\$9,566,234	\$9,566,234	\$9,566,234
Judicial Training & Development	\$3,121,182	\$3,143,182	\$3,143,182
Other	\$2,309,536	\$2,237,074	\$2,237,074
TOTAL	\$141,202,999	\$137,147,233	\$137,078,080

Approximately 80.7% of the Court's appropriations for fiscal year 2011 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). The remaining 19.3% derived from dedicated funds (such as attorney annual licensing 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 2011 accounted for only 0.52% of Indiana's overall budget and only 0.81% 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) This amount is \$22,000 greater than reflected in last year's annual report for fiscal year 2011. The difference results from a 0.88% increase in the amount of dedicated funds provided for a Judicial Branch insurance adjustment over what had previously been allocated.

(2) Title IV-D federal reimbursements are shared equally with the Indiana Prosecuting Attorneys Council ("IPAC"). During FY 2011, after deducting transfers to IPAC and expenses accrued in collecting and preparing claims, the Supreme Court received \$724,177 of the stated amount.



A special program offered by the Evansville-Vanderburgh School Corporation and its foundation, the Randall T. Shepard Academy for Law and Social Justice, offers integrated studies in a curriculum designed to prepare students for studies in law, social justice, American policy and social values. Chief Justice Shepard, an alumnus of Harrison High School in Evansville, provides assistance in the planning and implementation of the program. The first class toured the State House in May 2011, and here, Chief Justice Shepard shares court history with the students in the Robing Room.

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 Indiana Supreme Court keep the attorneys and support staff of the Division extremely busy.

Organizationally, the Division is comprised of two main offices: the Office of Supreme Court Administration, and the Office of the Clerk of the Supreme Court, Court of Appeals, and Tax 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 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. Each matter transmitted to the Court for consideration and adjudication, from the time it arrives from the Clerk’s Office until it is either assigned to a Justice or disposed of by court order, is overseen by a court attorney.

During this fiscal year, the Division’s attorneys drafted 273 legal memoranda on a myriad of topics to assist the Supreme Court, 20 more than the year before. They also superintended 1,074 case-related matters, and dozens of non-case-related administrative matters, transmitted to the Court for its consideration. Further, the Division assisted the Court in drafting and issuing approximately 2,203 orders and opinions, 352 (or 19%) more than fiscal year 2010. 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 51, to the Chief Justice or an Acting Chief Justice for consideration, an increase of more than 8% over FY 2010 and nearly 39% over FY 2009.

The Administration Office is also responsible for drafting and responding to correspondence for the Court. In fiscal year 2011, the Administration Office drafted approximately 366 separate items of correspondence on the Court’s behalf.

This fiscal year, the Administration Office’s attorneys continued to be very active in legal education and in serving the profession. All continued their memberships in the American Bar Association’s Council of Appellate Staff Attorneys (“CASA”) and in the Indiana State Bar Association’s (“ISBA’s”) Appellate Practice Section. Several of the Court’s staff attorneys served on various CASA committees. Staff attorney Geoff Davis served as a

presenter at the ISBA Appellate Practice Section's "2011 Appellate Practice Survey," 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 the 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 Clerk/Administrator continued writing his regular column, "Appellate Practice from Inside the Division of Supreme Court Administration," in the ISBA Appellate Practice Section's newsletter, *The Appellate Advocate*, and also served as a non-voting member of the ISBA Appellate Practice Section's Executive Council.

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 fiscal year 2011, the Administration Office processed approximately 1,108 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 responds numerous times each day to inquiries from attorneys and the public about the Indiana Supreme Court.

Finally, this fiscal year the Administration Office was kept busy helping conduct a retirement ceremony for Justice Boehm, a robing ceremony for Justice David, and assisting Justice David with standard logistical and transitional matters attendant to a new justice's joining the 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 all submissions filed with the Supreme Court, Court of Appeals, and Tax Court; (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



Justice Dickson in the Robing Room.

also the statutory duty of the Clerk to maintain and preserve on microfilm the decisions and records of cases before the Supreme Court, Court of Appeals, and Tax Court. In addition, the Clerk maintains the roll of Indiana's approximately 21,000 active and inactive attorneys and responds to public inquiries regarding attorneys' professional statuses. The Clerk collects attorneys' annual licensing fees and distributes these 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 2011

In past years, attorneys and judges received paper annual fees registration statements, which they filled out and returned to the Clerk's Office with an enclosed paper check. This process cost the Office considerable amounts of money in printing and mailing registration statements to all of the active and inactive Indiana attorneys, and caused the Office to expend considerable human resource hours in processing the paper checks and edited registration statements that were returned.

This year, the Clerk's Office staff, the Appellate IT Director, and other court staff worked with the Indiana Office of Technology to bring about much-needed modernization to this process. Shortly after the close of the fiscal year, the Office launched the "Clerk of Courts Portal," a new web-based platform that allows attorneys and judges to create their own user IDs and passwords and manage their Roll of Attorneys contact information, make their annual fee payments and annual trust account certifications, and designate or change attorney surrogates. This new on-line



The Judicial College graduates, class of 2010, with Chief Justice Shepard (front row, third from the left). Justice David (front row, far left) completed the program while he was judge of the Boone Circuit Court.

system eliminates the need for the mass mailing of annual fee statements, eliminates data-entry errors caused by illegibly handwritten edits to annual registration statements, and allows the Clerk to send multiple “courtesy” reminders electronically to attorneys before the expiration of their annual registration and certification deadlines, when such paper reminders were cost-prohibitive before. It also provides attorneys with the ability to update their contact information quickly to ensure the most accurate and up-to-date attorney information available will display when the public searches for attorney information using the Clerk’s Office’s On-line Roll of Attorneys database.

Other website changes that the Clerk’s Office worked on this fiscal year included improvements to the Roll of Attorneys on-line searchable database, which will make the search feature more user-friendly and easier to navigate, provide more tailored search results, and display information in an easier-to-read format; and improvements to the Clerk’s On-line Docket, which will enable users to search for appellate cases by multiple criteria (such as party name, court on appeal, trial court, appellate cause number, lower cause number, case type, litigant name, attorney name, trial court judge, date restrictions, etc.), and then further narrow and/or sort the results by similar criteria. Both of these projects are expected to be completed during fiscal years 2012 and 2013.

Finally, this fiscal year the Clerk served on the Executive Committee of the National Conference of Appellate Court Clerks.

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

servicing 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 Qualifications 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 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 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.

To assist policymakers 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 calendar year 2010, Division staff reviewed and approved many Internet-related requests. Of the 92 counties in Indiana, 49 have been approved to post their docket information on the Internet, along with four city courts and two town 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, who are responsible for the development and maintenance of the Indiana Courts website, have developed individual web pages for each of Indiana's counties, providing contact information for all clerks and courts, 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 2010, the Division approved six 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 2011 fiscal year, the Division revised its Public Access to Court Records Handbook, which may be found on the Indiana Courts website at www.courts.IN.gov/admin/pubs/accesshandbook.pdf.



This student is acting the role of a U.S. Supreme Court Justice at a Law Day event in the Courtroom.

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. 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 2010, 71 of Indiana's 92 counties received certification and state GAL/CASA matching funds. These programs have 171 paid staff. Of the 71 counties with volunteer-based programs, 37 had court-based programs, 20 had programs that were separate non-profit entities, and fourteen had programs that were operated under the umbrella of another non-profit entity. Courts in the remaining 21 counties appointed either attorney GALs or used other paid GALs. The GAL/CASA Office also developed two new volunteer-based CASA programs in Fountain and Newton Counties; these programs were certified and received state funding in 2010.

There were at least 3,268 active GAL/CASA volunteers statewide in 2010, including 1,010 newly trained volunteers. This is the highest number of active volunteers in the history of the program. GAL/CASA volunteers advocated for 18,613 children in CHINS and termination of parental rights cases (compared to 16,853 the previous year) and made 107,703 contacts with the children for whom they spoke in 2010 (compared to 83,728 the previous year). GAL/CASA volunteers donated an estimated 508,423 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 \$25.5 million to the State of Indiana.

The Division's GAL/CASA office offered many training opportunities to local GAL/CASA programs in 2010, and on October 15, it held its annual meeting for GAL/CASA directors and staff. On October 16, the office held one of the largest GAL/CASA conferences in its history, hosting 650 GAL/CASA volunteers, local program staff and directors, and other child welfare stakeholders from all over the state. It also collaborated with the Department of Education and the Youth Law Team to revise an educational advocacy training manual and to provide four regional trainings on education advocacy.

When the fiscal year began, the Division's GAL/CASA office was awarded a \$75,000 grant to implement the Fostering Futures project. The goal of the project was to train 75 volunteers using a special curriculum aimed at supporting youth transitions into adulthood. In the training, volunteers learn how to work with older youth to examine specific issues related to planning a positive future, such as setting short and long term goals. The volunteers were trained to complete a needs assessment with the youth and to provide resources to them in key areas, including education, employment, housing, supportive relationships, and physical and behavioral health.

The Division's GAL/CASA office provided eight different Fostering Futures events all across Indiana from Evansville to South Bend, training 103 volunteers from 31

different programs. These volunteers are working with over 120 older youth in Indiana to help them achieve their goals by purposeful planning and positive decision making. The Division's GAL/CASA office hopes to continue to offer the Fostering Futures training to help improve outcomes for Indiana's older foster youth.

The Division's GAL/CASA office also continued its partnership with the Indiana Retired Teachers Association ("IRTA"). A Vigo County CASA volunteer received the IRTA's Volunteer of the Year Award from Judge Cale Bradford of the Indiana Court of Appeals at a ceremony at the Statehouse. The Division's GAL/CASA office also kicked off a new partnership with the Fraternal Order of Eagles in the summer of 2010. The Eagles sponsored various events across the state in 2010 to promote awareness of the need for CASA volunteers and to raise funds for CASA programs in Indiana.

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. Despite these efforts, however, 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.

The Indiana Family Court Project

The Family Court project was initiated in 1999 as a cooperative effort between the Indiana General Assembly and the Indiana Supreme Court to develop commonsense models to better serve children and families in our courts. During calendar year 2010, 21 counties participated in the Family Court project. These projects served 4,517 families and a total of 6,479 children (21.3% and 23.6% more, respectively, than in 2009). These projects receive assistance from the Family Court project manager under the direction of the Division.

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 projects. In 2010, programming types included service referral, direct service case management, truancy programming, drug court, assistance for self represented litigants, mental health related services, and high risk screening. The original counties remain actively involved in the project and continue to share ideas and mentor new pilot counties.

Alternative Dispute Resolution Plans for Domestic Relations Cases

In 2003, the Indiana General Assembly authorized the creation of alternative dispute resolution ("ADR") programs in domestic relations cases in each of Indiana's 92 counties. The alternative dispute resolution program in domestic relations cases under Indiana code chapter 33-23-6 permits a county to collect a \$20 fee from a party filing a paternity or dissolution case, or seeking a legal separation. This fee is paid into 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 for certain crimes relating to domestic violence cannot participate.

A county wishing to participate in an ADR program must develop an ADR plan that is consistent with the statute and approved by a majority of the county's judges with jurisdiction over domestic relations and paternity cases. The Executive Director of the Division must approve the plan, in accordance with ADR Rule 1.11. The counties are required to file an annual report summarizing the ADR program each year. Currently, there are 27 counties with approved ADR plans (Allen, Boone, Brown, Clark, Crawford, DeKalb, Delaware, Henry, Jackson, Johnson, Lake, LaPorte, Lawrence, Marion, Martin, Monroe, Montgomery, Orange, Owen, Parke, Porter, Putnam, St. Joseph, Shelby, Stark, Sullivan, and Tippecanoe).

The Division has approved plans in the following areas: mediation services for litigants; free mediation days; payment for training of attorneys and others in exchange for handling a number of mediation cases 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 27 counties participating in the program during calendar year 2010 provided alternative dispute resolution services in 2,813 cases, which affected 3,558 children.



A series of enhancements to Indiana's Protective Order Registry, including new tools to notify victims of domestic violence instantly when protective orders are served against an alleged abuser, were made possible this year through a grant from the Justice Department. Chief Justice Shepard (at the podium) and Congressman Andre Carson (left of Shepard) announced the changes at a press conference in October. Other speakers included (left to right) Kerry Blomquist, Legal Director of the Indiana Coalition Against Domestic Violence, Ann DeLaney, Executive Director of the Julian Center, Attorney General Greg Zoeller, and (not pictured) Justice Sullivan.

Electronic Case Filing and Electronic Service Pilot Projects

A paperless society is becoming the new "normal." 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 reducing environmental impact, streamlining filings, saving space with record retention, enhancing searches for documents, and improving court-management efficiencies.

In 2010, White County submitted to the Division a written request for approval of a project and a plan, as is required by Indiana Administrative Rule 16. The county proposes to implement electronic filing for all case types, except estates, using the court's existing case management system.

Protection 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. Legislation enacted by the Indiana General Assembly in 2009 made the Protection Order Registry mandatory for all courts that issue protective orders.

Information Management

The Indiana Supreme Court established the information management program in July 1986 to oversee the creation of, maintenance of, access to, and disposal of court records. The program is charged with oversight 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 2010, the Division approved document imaging systems of three counties: Bartholomew, Daviess, and Porter. Clerks and judges in these counties certified that their document imaging programs adhered to the standards stated in Administrative Rule 6. The certification of document imaging programs began in 2005, and an average of three to five programs have been approved each year since.

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



Students from Ivy Tech Community College gathered in the Statehouse atrium to hear an energetic talk by Justice Sullivan.

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.

Indiana continues to be a leader in the area of interpreter certification. It has a cumulative passage rate of 33% overall since the start of the program, versus a national average of 25% over the same time period. During calendar year 2010, 44 candidates sat for the oral exam with seven candidates passing in Spanish. The pool of certified interpreters is now at 82. In addition, the Indiana Supreme Court awarded \$140,000 in foreign language interpreter grants to 36 county court systems to encourage trial courts to use certified interpreters and to help trial courts defray the costs of interpretation, and continued providing the use of Language Line at no charge to every county court system in the state. Language Line supplies 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

In 2010, fires and ruptured water pipes in court facilities impacted the operations of Indiana's courts, clearly demonstrating the importance of advance planning for recovery of court functions. The Division continued to devote a full-time staff person assisting court personnel with all aspects of continuity planning, and also developed new tools that allow courts quickly and easily to plan for such unexpected situations.

Specifically, the Division rolled out newly enhanced, more streamlined continuity plan format, which allows courts quickly to develop plans that address basic issues like command and control, and communication. It also developed emergency communication wallet card, which puts critical contact and activation information in the hands of judges and other key personnel.

Court Reform Grant Program

The Supreme Court continued to award and disperse 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. Since 2008, the Supreme Court has disbursed nearly \$1 million in grants for the study and implementation of various plans, as well as the installation of modern equipment, to create more efficient court systems throughout the state.

The Court Reform Grants are intended to assist courts in conducting organizational assessments and implementing recommended improvements, as well as purchasing and upgrading computer equipment that will enable the courts to utilize state-of-the-art technology. The Division identified seven project categories that would receive priority consideration: development of a multijurisdictional drug court or other problem-solving court; measuring core performance through use of core tools, a set of 10 Trial Court performance measures developed by the National Center for State Courts ("NCSC"); studies on consolidating judicial responsibility over court records; unified court administration; modern jury management system; infrastructure of upgrades for the Odyssey Case Management System ("CMS"); and modern court reporting technology.

Nearly \$500,000 was awarded to courts in 25 counties in calendar year 2010, compared with just over \$300,000 awarded to 11 counties in calendar year 2009.

Mortgage Foreclosures-Frontline Court Efforts

In his January 20, 2011 State of the Judiciary address to the Indiana General Assembly, Chief Justice Randall T. Shepard said:

The judges working on mortgage foreclosure cases have discovered that when the court itself sends a separate settlement notice, more than 40% of the homeowners respond. To make sure these conferences are productive, we have assigned settlement facilitators to bring the right people and the right documents to the

table. The facilitators report that many homeowners appear for the settlement conferences embarrassed, resigned, and tearful. In recent months the system of court facilitated conferences has been perfected to the point that the number of people who leave the room with a revised loan is half.



Mayor Rudy Clay of Gary, Indiana, addresses the audience at the ceremony naming the Lake County Courthouse at 15 West 4th Avenue the “Robert D. Rucker Courthouse” in honor of Justice Rucker. Other speakers included (left to right) Lake County Commissioner Roosevelt Allen, Jr., Justice Sullivan, and Justice David.

We now use these techniques in counties that have 60% of foreclosures and will cover the rest of the state by year’s end. We do it all without any claim on the state’s general fund.”

After topping the list of states hardest hit by mortgage foreclosures for nearly a decade, Indiana currently ranks 17th nationwide. However, foreclosures remain a significant problem - in fact, Indiana’s rate of default and foreclosure is higher now than it was during the years it spent at the top of the charts.

The Indiana Supreme Court made great strides in this arena during 2010. Since July 1, 2009, all residential homeowners in foreclosure have been entitled to request a face-to-face settlement conference with their lender. A portion of an additional \$50 filing fee on all new foreclosure cases is remitted to the Supreme Court to conduct training and pay mortgage foreclosure facilitators to organize and assist with settlement conferences.

From July to December 2009, very few homeowners - an estimated 300 of the more than 17,000 total foreclosure filings - had taken advantage of the new settlement conference legislation. Many individuals who had already received foreclosure documents stopped opening or reading any mail received from their lender. Others didn’t know precisely what a settlement conference entailed, or mistakenly believed that they needed to hire an attorney, which they could not afford.

With input from a committee of trial judges, the Division partnered with the Indiana Housing and Community Development Authority to create a system for coordinating all settlement conferences on a county- or district-wide basis.

This program was launched on a pilot basis in 2010 in Allen, Clark, Delaware, Elkhart, Lake, LaPorte, Hamilton, Hendricks, Howard, Marion, Madison, Monroe, St. Joseph, and Vanderburgh counties. In these pilot counties, once

a mortgage foreclosure case is filed, a court employee or attorney facilitator makes an effort to contact the homeowner directly, whether through a telephone call, an order to contact the court, or a single sheet notice for settlement conference mailed to the homeowner’s residence. This extra effort helps ensure that the homeowner truly understands that he or she has a right to a settlement conference, and makes an informed decision whether or not to request the conference.

Once a homeowner requests a settlement conference, the facilitator arranges a pre-settlement conference telephone call between the lender and homeowner. During this call, the facilitator determines what documents are needed by each party for negotiations to take place, and sets a time, date, and location for the settlement conference. At the settlement conference, the facilitator works with the homeowner, the lender’s attorney, and the mortgage loan servicing agent to see what sort of workout options, if any, are available to the homeowner.

During the first 11 months of this project - February through December 2010 - there were 2,431 telephone conferences scheduled, 1,221 telephone conferences held, and 1,011 settlement conferences requested in the 14 pilot counties.

Of the 908 settlement conferences that took place from February through December 2010, 398 resulted in a “stay-at-home” workout, 50 resulted in an “other” workout (generally short sale), and 407 resulted in foreclosure. Another 53 conferences required additional work and were followed up by facilitators.

The separate notice sent from the court to the homeowner has increased request rate from less than 10% to more than 40%, while those conferences that have taken place have a success rate of 49%. This means that nearly one of every four foreclosures in Indiana can be prevented through this program.

The Joint Economic Committee of Congress has estimated that each averted foreclosure saves stakeholders and community members approximately \$40,000 in property tax revenue, conservation of police, fire, and other public services, and preservation of equity in surrounding homes. Using this measure, Indiana’s mortgage foreclosure prevention program has already preserved at least \$17.9 million of value in Hoosier communities during its first year of operation in 14 of Indiana’s 92 counties.

COURT SERVICES

Accounts Management, Payroll and Claims, Judicial Benefits Coordination

The Division maintains and administers 27 funds, totaling approximately \$129 million. This fiscal responsibility includes the administration of payroll and benefit programs for all state trial court judges, other county-level judicial officials paid with state funds, and prosecuting attorneys. The annual payroll accounts for these purposes total approximately \$83 million and cover approximately 700 individuals. As part of this “paymaster” function, the Division processes and pays more than 1,600 claims per year for special and senior judge services.

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 2010, one preliminary investigation was closed, two cases were referred for further review and investigation, and one was recommended for appointment of a hearing officer to consider the merits of the complaint.

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 2010, the Division received 88 new requests for special judge appointments.



In cooperation with the Indiana Commission for Continuing Legal Education, the Court's Legal History Lecture Series hosted nine CLE programs this fiscal year. One program, "Interbranch Disharmony: *State ex rel. Mass Transp. Authority v. Indiana Revenue Board*," studied the interplay between Indiana's judicial and executive branches when, in 1970, the Indiana Appellate Court ordered the State Auditor jailed for contempt. In the photo, Chief Justice Shepard (left) talks with former Justice Roger O. DeBruler (center), who was on the Court in 1970, and Senior Judge John Kellam (right), who was a law clerk when the case was decided.

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 2010, Indiana had 99 certified senior judges who served a total of 3,624 days. These days are equivalent to approximately 20.25 full-time judicial officers.

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 2010, the Division made distributions 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 \$16 million through this program.

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 ("PIO"). In calendar year 2010, she issued approximately 85 press releases and hosted eight 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. The level of public interest in the work of the judiciary is evident in the number of inquiries received by the Public Information Officer. The PIO answered approximately 550 media inquiries from local, state and national press and nearly 200 questions from members of the public during calendar year 2010.

Other Court Services

During the fiscal year, the Division also continued its oversight of its "private judge" and "judge pro tempore" programs, its provision of employment law and human resource-related advice and assistance to trial court judges, its fiscal administration of the Supreme Court's Court Improvement Program, and its publication of the colorful and informative periodical, *The Indiana Court Times*.

TRIAL COURT TECHNOLOGY

The Odyssey CMS Project

During the third full year of deployment of Indiana's uniform statewide case management system ("CMS") called "Odyssey," 32 courts in 13 counties were added to the network, bringing the total number of courts using Odyssey at year's end to 77, managing 30% of the state's caseload. Approximately 570,000 new cases were stored in a central database and their dockets made available at no charge over the Internet to the public and other users of court data. Judges and Clerks using Odyssey have noted significant advantages in their ability to manage court cases and related financial information. For example, in the Marion County Traffic Court, many infractions are processed electronically from the moment they are written to their disposition.

Just over a decade ago, the Indiana Supreme Court created its Judicial Technology and Automation Committee



Free online access to Indiana trial court records continues to grow thanks to the Judicial Technology and Automation Committee (“JTAC”). By the end of the fiscal year, 93 courts in 32 counties were using Odyssey, the state’s uniform case management system. About one-third of the state’s new caseload is managed by Odyssey. Here, Justice Sullivan (left) explains the Odyssey system at a press conference, assisted by assistant project manager, LaJuan Epperson (center), and consultant Patrick Hess (right).

(“JTAC”) to improve trial court technology in our state. Because implementation of a uniform statewide CMS and sharing of court information are principal among its goals, having nearly one-third 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 preparing for additional deployments in courts in Marion, Shelby, Greene, Hendricks, Steuben, Henry, and Starke counties and will install Odyssey as rapidly as resources allow, consistent with the quality demanded by the Supreme Court.

Odyssey’s Supervision module was deployed during calendar year 2010. It will assist users in managing the caseload of any Probation Department, Community Corrections Department, Court Alcohol and Drug Program, Drug Court Program, Mental Health Court Program, or other Problem-Solving Court Programs. This feature truly makes Odyssey a statewide case management system. Odyssey Supervision allows the user to create a caseload of clients, assess and collect program fees, create case contact notes, enter and track conditions of supervision, print forms and reports, store drug test results, monitor compliance with intervention services, and manage program attendance. Ten agencies began using Odyssey Supervision during calendar year 2010.

Odyssey operates from a single centralized data center under the terms of a single licensing agreement and annual maintenance and support agreement with the Odyssey vendor. The costs of the data center, licensing agreement, and maintenance and support agreement are all born by JTAC. This is fiscally advantageous to local budgets because it frees them from supporting software licensing, maintenance, and training costs, easing the burden on local property taxes. In addition, local courts are relieved of the significant data center costs of localized systems. (If a county needs additional network capacity to run Odyssey, those costs are also absorbed by JTAC.)

With Odyssey, a statewide license for an unlimited number of users was purchased up front, in a one-time payment. Costs for the data center, maintenance, and support are essentially fixed, regardless of how many counties use the system. This means the ongoing operating cost of the system will not increase as it spreads throughout the state. In fact, just the opposite will occur—the marginal cost of adding courts to Odyssey is substantially less than the savings those courts realize in terminating their existing licensing, maintenance, support, data center, and other financial obligations. In addition, Odyssey has a number of distinct advantages. With Odyssey, the basic unit for each record is not the case, but the individual. Users can easily see whether an individual has an outstanding warrant or relevant pending or decided cases in other counties. Also, a uniform system means the financial transactions entrusted to Indiana clerks are accounted for uniformly in each county and in line with Indiana statutes and State Board of Accounts regulations. Finally, like clerk financials, processing of cases is standardized from court to court to the extent required by state laws and Supreme Court rules, ensuring that litigants are treated in the same way throughout the state.

Incite Applications

While Odyssey is by far the biggest and most ambitious undertaking by JTAC, it is only part of a wide array of tools to improve trial court technology in Indiana. Among them are the many critical interfaces that 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 is being used to transmit and receive critical information:

Jury List and Management System. For the sixth year, JTAC 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, producing 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, 56 counties were using the jury management system.

JTAC/Bureau of Motor Vehicles Initiative. JTAC continues to work with courts and clerks throughout the state to ensure the timely submission of driver’s 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 driving record was updated by the next day. By the end of 2010, over 16,000 transmissions were being sent each week. Clerks can 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 misspelled name will cause the electronic submission to fail on the BMV’s end. Clerks have the ability to resubmit these cases once the corrections are



Justice Sullivan demonstrates developments in the Electronic Citation and Warning System at a press conference. With federal funding and the help of law enforcement partners, JTAC developed the system, which uses scanners and other technology to increase greatly the speed at which traffic tickets are issued.

made. During 2010, JTAC released new functionality that allowed users to access not only driver records, but also vehicle title and registration information. Clerks also have the ability to look up suspension information for each driver as well as court information as it relates to that suspension.

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”), which uses scanners and other technology to increase greatly the speed at which traffic tickets are issued. The Indiana State Police implemented the system in 2007. At the close of 2010, 202 agencies were using eCWS, bringing the number of officers using the system to over 6,200. A scanner reads the barcode on the driver’s license and registration, populating the e-ticket to save valuable time during stops and reduce data errors. Used in conjunction with Odyssey, approximately 166,000 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. From 2007 through the end of 2010, more than 2.7 million tickets and warnings were 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 Federal Bureau of Investigation (“FBI”) for inclusion in the federal National Instant Criminal Background Check System. The Division, through JTAC, established and administers an electronic system to fulfill this obligation. By the end of calendar year 2010, 2,326 cases had been submitted to the FBI.

Protection Order Registry. Developed in 2007, the Protection Order Registry (“POR”) allows courts to prepare a protection or no-contact order, submit it to the Indiana Data and Communications System (“IDACS”) and on to the National Crime Information Center (“NCIC”) at the FBI, and notify local law enforcement that the order has been issued. Within minutes following the issuance of 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. JTAC provided the necessary training and support so that all courts could comply with the new law. In 2009, JTAC implemented new POR functionality that allowed victim advocates to complete a request for a protection order through the on-line Registry, and in 2010, Advocates created 2,733 petitions for a protection order. Advocates agree that this process allows them to provide more comprehensive and valuable assistance to victims during their time of crisis. In addition, JTAC completed work this fiscal year on an interface between the POR and Odyssey, so the two systems could communicate and users would no longer have to enter the same information into each system.

Department of Child Services. In 2008, probation officers acquired new responsibilities related to the reporting of Title IV-E eligibility for individuals involved in juvenile delinquency cases. The obligation to reimburse third-party providers shifted from the county to the Department of Child Services (“DCS”); however, this new payment model required a process whereby data could be exchanged between probation officers in 92 counties and DCS. JTAC and DCS worked together to develop an INCite system to do this, which was launched January 1, 2009. Since then, over 6,000 ICWIS cases have been initiated or re-opened through this INCite application

Marriage License e-file. In calendar year 2010, over 19,000 Indiana marriage licenses were recorded by 64 counties through JTAC’s Marriage License e-file system. The system eliminates the need to handwrite applications and record data in paper record books. The system is used by the Indiana State Department of Health (“ISDH”).

Child Support Enforcement. DCS, ISDH, and JTAC worked to facilitate the exchange of applicant data in order to enhance Title IV-D child support enforcement efforts throughout Indiana. JTAC provides a data file to DCS and DCS compares its information with their delinquent payor data file. If a match occurs, then information is submitted to the local child support enforcement office to initiate new enforcement proceedings. DCS uses this same data file to locate custodial parents in order to forward child support payments received through IV-D collection efforts.

e-Tax Warrants. JTAC receives tax warrants from the Department of Revenue (“DOR”) for 45 county clerks. Within INCite, these warrants are assigned a ‘CB’ (Court Business) case number and are entered into an electronic judgment book pursuant to statute. INCite returns the case number to DOR and, in return, DOR sends \$3 for every judgment entered back to the clerk. JTAC incorporated this process into Odyssey so that all tax warrants in Odyssey can be found on the public records website at <http://mycase.in.gov>. At fiscal year end, there were over one million tax warrants in the database.

Risk Assessment Tools. In 2009, the Indiana Judicial Center led the task force to develop a new set of risk assessment tools for Indiana adult and juvenile probation officers, community corrections officers and Department of Correction staff. The purpose of these tools is to determine appropriate case plans, treatment, and sentencing for adults and juveniles

in the judicial system. Once these tools were developed and validated, JTAC incorporated these tools into an on-line application within INCite. The tools for juveniles were released and piloted in September 2010 by the Marion County Juvenile Probation Department. The tools for adults were released and piloted by users in the Morgan and Hendricks counties' Adult Probation departments. By the end of 2010, over 575 users had completed 3,685 juvenile assessments and 237 adult assessments. The departments and agencies involved can share risk assessment results when appropriate. INCite maintains all risk assessments completed for any given individual.

Public Defender Information System. Through a grant awarded by the Indiana Criminal Justice Institute, JTAC and the Indiana Public Defender Council partnered to build a case management system for public defenders. The Public Defender Information System ("PDIS") was launched in September 2010 and was installed in Monroe and Floyd Counties' Public Defender offices. Washington County began using PDIS in November 2010. PDIS works in conjunction with Odyssey, and the users are able to pull case and calendar information from Odyssey on a real time basis. PDIS allows users to track client information, appointments, and case information. The system also generates the necessary reports that are required by the state.

Indiana Courts Website (<http://courts.IN.gov>). JTAC develops and maintains the internet website for Indiana courts. Under the direction of the Indiana Judicial Conference's Domestic Relations Committee, the on-line Child Support Calculators were redesigned during 2010 and incorporated the new 2010 Guidelines. These calculators are used by judges, court staff, attorneys, and parents. Appellate opinions and the Child Support Calculator are the two most popular features of the website.

Criminal Case Disposition Information. Another critical Odyssey interface was developed during calendar year 2010 through a grant from the Indiana Criminal Justice Institute. JTAC worked with the Indiana State Police ("ISP") to send disposition information in criminal cases from Odyssey to the Criminal History Records Information System ("CHRIS") at ISP electronically. Information for the test case was sent to ISP in the last week of December. Work on this project will continue through 2011, so that all Odyssey courts will be able to submit conviction information to ISP in real time.

Awards

This fiscal year, JTAC received the "Innovations in American Government Award – Bright Idea" for the INCite platform and the eCWS technology developed by JTAC. JTAC was also honored by the Council of State Governments with the "Innovations Award" for the INCite platform and the multiple applications developed and maintained within INCite.

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. Vendors submitted bid proposals, and three finalists were selected. Regrettably, the General Assembly did not appropriate the funds necessary to pursue this project further, and therefore it was dormant as of the close of the fiscal year.

The Section also enhanced its software to further the Clerk's Office's ability to deliver appellate court orders and opinions via electronic mail rather than by U.S. mail as required by Appellate Ride 26, and worked with JTAC to create the 2010 appellate court retention website. Developed at the urging of legislative leaders, the retention website provided a wide range of information about appellate judges who appeared 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 ("Rules Committee") 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 calendar year 2010 dealt with: changes to the attorney advertising rules; requiring affidavits of debt in cases based upon accounts; increased mandatory judicial continuing legal education; a uniform method of calculating time limits based on the notations of actions in the chronological case



Print, radio, television and internet journalists attended the Law School for Journalists hosted by the Court in partnership with the Judicial Conference Community Relations Committee. The program is designed as a tutorial on how to read court documents, cover court cases, and access court information online.

summary; new administrative judicial districts; new rules for the disposition of residual funds in class-action settlements; and an increase in attorney registration fees.

During the same timeframe, the Rules Committee considered proposed amendments dealing with: changes to the notice of appeal; limited appearance by attorneys; changes to the method by which cases are removed from a judge who fails to rule in a timely manner; changes to the rules of evidence dealing with the waiver of attorney-client privilege; application of the Family Court project rules on state-wide basis; and how out-of-state attorneys are permitted to appear before administrative agencies.

Public Defender Commission

The Division provides staff support to the Indiana Public Defender Commission, which distributes money from the State's 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. In 2010, the Public Defense Fund received \$18.25 million.

All 92 counties are eligible for reimbursement of indigent defense costs in capital cases, provided they comply with Indiana Supreme Court Criminal Rule 24. The Commission must give priority to requests for reimbursement of expenses in capital cases. In 2010, the Commission distributed \$574,096 to counties for death penalty defense, and \$15 million to counties for non-death penalty defense. From 1990 to date, over \$10.3 million has been distributed to reimburse counties for the cost of capital case defense, and over \$108.7 million has been distributed to reimburse counties for the cost of non-capital case defense.

Currently, 50 counties qualify for reimbursement from the Public Defense Fund for non-capital public defense expenses. These counties comprise over 65% of Indiana's population. In 2010, counties participating in the reimbursement program of the public defense fund handled 92,163 indigent defense cases—a 4.7 % increase over the 88,062 cases assigned in 2009.

Indiana Conference for Legal Education Opportunity

The Indiana Conference for Legal Education Opportunity ("ICLEO") continued to forge ahead in increasing diversity in the Indiana legal community. In May 2011, a total of 21 ICLEO fellows graduated from Indiana's four law schools.

At the end of summer 2010, the newest ICLEO class finished the mandatory Summer Institute hosted on the campus of Valparaiso University School of Law. This diverse group consisted of five African American males, nine African American females, one Mexican American male, one Hispanic female, one Mexican American female, one Asian/Pacific Islander female, two Asian/Pacific Islander males, six Caucasian females, and two Caucasian males.

Commission on Race and Gender Fairness

The Commission on Race and Gender Fairness is comprised of members of the judiciary, bar, state and local governments, academia, law enforcement and corrections, and public organizations. It advises the Supreme 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



Linda C. Gugin (left) and James E. St. Clair (center) edited the book *Justices of the Indiana Supreme Court*, and participated in the legal history lecture program marking the book's publication. At the lecture, Indiana State Museum employee David Buchanan (right) shows off a portrait of Thomas Terry Davis, a judge on the General Court of Indiana Territory. The miniature, dated 1799, is hand painted on ivory and encased in a rose gold frame. The item was purchased on eBay and is owned by the State Museum.

inception are the establishment of the Certified Court Interpreter Program, which now boasts more than 82 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.

Committee on Self-Represented Litigants

The Indiana Supreme Court Committee on Self-Represented Litigants, composed of judges, court clerks, community members, librarians, attorneys, and legal service providers, studies and recommends to the Supreme Court improvements to the practices, procedures, and systems for serving self-represented litigants in Indiana's courts. The Division provides staff support to the Committee, as well as maintaining the Self Service Legal Center, as Indiana Courts website, which the Committee launched in 2000.

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 Division provides staff support to this Committee, which 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. In calendar year 2010, the Committee discussed a proposed rule for reconstructing records, the abstract of judgment in criminal cases, videoconferencing, the uniform case numbering system, the electronic service of court orders, electronic filing, judgment docket issues, the future of the Record of Judgments and Orders in the age of Odyssey, issues relating to document imaging and microfilming, and the issuance of search electronic warrants.



Jennifer L. Weber, a Judicial Center staff attorney, completed a 5K race benefiting the Indiana Coalition Against Domestic Violence only a few months after receiving a lung transplant.

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 problem-solving courts (i.e., drug courts, reentry courts, etc.), 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 2011, the Judicial Education Department of the Judicial Center presented 23 days and over 194 hours of continuing judicial education instruction, a 77% increase in days and a 45% increase in hours of judicial education instruction over last fiscal year. Total attendance at these programs was 1,383. These programs are discussed in detail below.

The Hyatt Regency Hotel in Indianapolis, Indiana, served as the site for the **2010 Annual Meeting of the Judicial Conference of Indiana** on September 21-23, 2010. Just over 43 of continuing judicial education programming was provided to a record number of 538 judicial officers at this mandatory conference. Twenty-five different sessions provided attendees with opportunities to attend annual updates in such areas as criminal law and family law, recent legislative changes, new court rules, plain English civil jury instruction, and the child support calculator. Also included in the conference agenda line-up were informative sessions on internet blogs and social networking, civility and professionalism, the truth about nomination commissions, and application of the Indiana Risk Assessment System.

City and Town court judges received 12 hours of continuing judicial education on October 14-15 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 63 of the 75 city and town court judges. The education programming included sessions on ethical issues, customer relations, legislative update, judgments in infraction and ordinance cases, misdemeanor sentences and probation, court management, and updates from the Judicial Technology and Automation Committee and the Bureau of Motor Vehicles.

Newly elected judges were invited to a **Pre-Bench Orientation**, December 2-3 at the 30 South Meridian Conference Center. Fifteen newly elected judges were in attendance and 9.3 hours of education were offered. Topics included managing court employees, the top ten federal employment laws, the Code of Judicial Conduct, and preparing for the first day on the bench.

On December 10, 2011, 178 judicial officers attended the **Winter Conference** on “Bridges out of Poverty” at the Indianapolis Marriott North Hotel, receiving 4.5 hours of instruction. Based on the book *Bridges out of Poverty: Strategies for Professionals and Communities*, the workshop provided judicial officers key lessons in dealing with individuals living in poverty and increased their awareness of the differences in economic cultures and how those differences affect opportunities for success.

A **General Jurisdiction Orientation Program** was held for newly elected and appointed judges and magistrates on January 24-28 at the Omni Severin Hotel in Indianapolis. Forty participants attended and just over 40 hours of continuing education programming was offered. For the first time, breakout sessions were offered on CHINS, Delinquency, Probate, Small Claims, and Protection Order cases. Other topics included Indiana Jury Rules, Evidence, Media Tips, Civil Case Management, and the Impact of the Judicial Career on the Family.



Justices Dickson autographs a copy of the new book, *Justices of the Indiana Supreme Court*, for one of the book’s contributing authors.

In its twelfth year, the **Spring Judicial College** program was held on April 27-29 at the Hyatt Regency Hotel in Indianapolis. Nineteen courses and over 58 hours of education programming were offered during this three-day event, which comprised one full-day and two half-days. Record attendance was recorded with 403 attendees, with a majority attending more than one course. Some of the courses offered were “Connecting the Acronyms in Sentencing,” “Bankruptcy for State Trial Judges,” “Psychiatric Evaluations for the Courts,” “Get it Write,” “Best Practices in Small Claims,” “Witness Testimony,” “Foreign Nationals in Indiana Courts,” and the “Dark Side of Judging.”

The **Indiana Graduate Program for Judges** held year one of the new class from June 5-10 in Brown County, Indiana. Thirty participants attended 19.5 hours of education on topics such as information privacy and security, American constitutional history, the power of stories and storytelling, and immigration law.

The **Juvenile Judges Annual Meeting** was held on June 23-24 at the Renaissance North Hotel in Carmel, Indiana, at which 8.3 hours of continuing education was offered to the 116 judicial officers who attended. The program agenda included sessions on child welfare reform, growing up in foster care, substance abuse in families, and an annual update from the Department of Child Services and the Department of Correction.

General Court Staff Education

The Judicial Center offered a court staff workshop on July 20, 2010, attended by 294 trial court and supreme court staff, who received 3.25 hours of instructions on ethics, effective communication, court administration, security issues, and cultural differences.

The Judicial Center and the Division of State Court Administration also held an administrators’ roundtable and three workshops for trial court staff and clerks. These trainings were attended by 236 trial court staff and clerks as well as one judicial officer. The courses offered at these trainings included protection orders, mental health commitments, customer service, financial and statistical reporting, and administrative issues.

In partnership with the National Center for State Courts (“NCSC”), the Judicial Center also continued to develop the Indiana Court Employee Orientation Tool, a multi-year project that began in 2009. The tool is designed for newly hired trial court employees and offers a course in a format that allows each participant to access the material at any time over the Internet. The NCSC will host the course, which will be taught by a nationally recognized instructor. Some of the topics include the purposes of courts, why courts are different from other branches of government, service excellence in the courts, serving self-represented litigants, how courts work, and Indiana court processes.

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 adult compact cases



Hundreds of probation officers attended their annual meeting in 2010. The Indiana Judicial Center provided instruction to more than 1900 probation officers during the fiscal year.

supervised as of June 30, 2011, was 2,901 in-state and 3,196 out-of-state. For juvenile compact cases, the total numbers as of June 30, 2011 were 170 in-state and 220 out-of-state. This represents an increase of over 34% in the total number of compact cases supervised this fiscal year as compared to last fiscal year. The Judicial Center also processed 141 runaway cases.

The Judicial Center also staffs the State Council of the Interstate Compact for Adult Offender Supervision (“Council”) and pays for the expenses of the Council through appropriations made by the General Assembly. The Council met during the fiscal year to discuss Compact rules and their effect on probation and parole.

In fiscal year 2011, the Judicial Center administered the probation officers’ certification examination to 111 applicants, and provided 170 days of instruction to a total of 1,972 probation officers. This represents a 227% increase over the number of days of instruction provided to probation officers in fiscal year 2010.

During the fiscal year, the Indiana Judicial Center and the Department of Correction continued to evaluate and implement public domain risk and needs assessment instruments for both adults and juveniles. The Indiana Judicial Center continued to benefit from a Byrne/JAG Grant from the Indiana Criminal Justice Institute, which the Judicial Center secured last fiscal year, to assist with funding this project. The Indiana Risk Assessment Task Force continued to oversee this project by addressing implementation questions and making policy recommendations to the Judicial Conference committees, the Judicial Conference Board of Directors, and the Department of Correction. The Judicial Center and Department of Correction coordinated the training efforts for staff in probation, community corrections, Court Alcohol & Drug Programs, Problem-Solving Courts, parole, and DOC facilities.

The Task Force also continued involvement 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 14, 2011.

Research Activities

During fiscal year 2011, the Judicial Center continued its mission of providing legal research services to trial court judges. As part of this effort, it distributed 44 issues of Case Clips by e-mail (six more than last year), which are maintained on the Center's website. Additionally, the Judicial Center's Research Department distributed a 2010 benchbook CD-ROM containing eleven benchbooks, handbooks, and deskbooks.

Legislative Activities

From January to May 2011, the Judicial Center continued its practice of reviewing and providing weekly "Friday Updates" to Indiana judges concerning Indiana General Assembly session activities relevant to the judiciary. For the fifth 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 Judicial Center also continued its administration of Court Improvement Program ("CIP"), 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.

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.

A Child Welfare Improvement Committee made up of various child welfare stakeholders from around the state, also helps guide the CIP. This multi-disciplinary committee meets regularly to formulate strategic plans, provide recommendations on child welfare issues involving the court, and plan CIP training events.

During this fiscal year, the CIP awarded over \$600,000 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 CHINS drug court programs, 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.

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

Court Alcohol and Drug Program Activities

The Judicial Center continued administration of the Court Alcohol and Drug Program during fiscal year 2011. 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 9-10, 2011, at two staff orientations, and at one criminal justice training. The Court Alcohol and Drug Program staff also continued conducting the required Court Substance Abuse Management Specialist ("CSAMS") training. The CSAMS training sessions offered this year included two substance-abuse characteristics courses and one assessment and interviewing course. Staff recertified 11 court alcohol and drug programs. Fifty candidates took the CSAMS credential exam, and 48 received the credential.

The Court Alcohol and Drug Program staff provides administrative support for the Court Alcohol and Drug Program Advisory Committee ("CADPAC"). This fiscal year, CADPAC significantly contributed to the educational programming presented, as well as examined revisions to Rules for Court Administered Alcohol and Drug Programs, recommendations for statutory amendments on program eligibility, and other continuing program policy and procedure issues.

Two education scholarships totaling \$1,861 were approved during fiscal year 2011 for program judges and staff. Seven grant applications were also approved, totaling \$15,453, for program technology or education improvements.



Panel members for a continuing legal education program included (left to right) Justice Sullivan, Noblesville attorney Doug Church, Court of Appeals Judge Patrick D. Sullivan, and journalist Jack Colwell.

Problem-Solving Courts Activities

The 2010 General Assembly enacted problem-solving court legislation effective July 1, 2011 (see Indiana Code chapter 33-23-16). This legislation authorizes trial courts to establish certified "problem-solving courts," such as drug courts, reentry courts, mental health courts, family dependency drug courts, community courts, domestic

violence courts, veterans' courts and other problem-solving court models approved by the Indiana Judicial Center. The new statutes repealed the drug court statutes (Indiana Code chapter 12-23-14.5) and reentry court statutes (Indiana Code chapter 33-23-14) but authorized courts certified under those statutes to retain certification as a problem-solving court. The legislation also requires the Judicial Conference Board of Directors to adopt rules establishing requirements and procedures for the certification of problem-solving courts established under the statutes. Judicial Center staff assisted the Problem-Solving Courts Committee with developing final rules for problem-solving courts, which were adopted by the Judicial Conference Board of Directors on June 16, 2011 and became effective July 1, 2011. These rules serve as the basis for certification of problem-solving courts established in accordance with Indiana Code chapter 33-23-16.

In fiscal year 2011, Judicial Center staff members certified or recertified 26 problem-solving courts, including 16 drug courts, three reentry courts, three family dependency treatment courts, two mental health courts, one community court, and one veterans' treatment court.

As of June 30, 2011, 48 problem-solving courts in Indiana had been certified pursuant to Indiana Code chapter 33-23-16, with an additional six problem-solving courts in the planning stages. Pursuant to Indiana Code section 33-23-16-11, the 48 certified problem-solving courts are categorized as follows: 32 drug courts, two mental health courts, three family dependency drug courts, one community court, nine reentry courts, and one veterans' court.

On October 6-7, 2010, the Judicial Center hosted the fourth-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, attended by 210 problem-solving court team members (including 25 judicial officers) offered 17 sessions.

With approval from the Judicial Conference Board of Directors, the Problem-Solving Courts Committee worked with the 2011 General Assembly to amend and update the problem-solving court statutes. The General Assembly enacted Public Law 187-2011, which became effective July 1, 2011. This enactment codified recent appellate case law on problem-solving court terminations, authorized a problem-solving court to hold a parent or guardian of a child participating in a problem-solving court financially responsible for any problem-solving court fees assessed against the child, and makes various other minor amendments to the problem-solving court statutes. Amendments to the user fee fund statutes were also enacted to clarify that problem-solving court fees are deposited in the appropriate user fee fund.

In accordance with Indiana Code section 33-38-9-10, the Indiana Judicial Center submitted a report to the Commission on Courts with information regarding the status of problem-solving courts in Indiana.

Finally, the 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 \$150,000 to 25 certified problem-solving courts.

Other Activities and Projects

Mortgage Foreclosure Initiatives – Judicial Center staff 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 Mortgage Foreclosure Trial Court Assistance Project coordinated through the Division of State Court Administration.

Summit on Evidence-Based Practices and Risk Assessment – The Judicial Center partnered with the Department of Correction and the Center for Evidence-Based Practices at Indiana University-Bloomington to offer a summit and joint meeting on May 19-20, 2011, designed to provide key criminal justice stakeholders with information regarding the use of evidence-based practices and risk assessment tools for implementation across Indiana. Over 900 individuals registered for this opportunity. Attendees included judges, magistrates, commissioners, prosecuting attorneys, public defense attorneys, probation officers, community correction officers, Department of Correction staff, parole officers, and other key stakeholders.

Strategic Planning – In June 2008, the Board of Directors met to discuss and identify several strategic planning goals to assist the judiciary in planning for the future. As a result of this meeting, the Strategic Planning Committee was formed to discuss and research these broad goals. The Committee continues to research these concepts and make regular progress reports to the Board of Directors. The Committee also assisted with legislation to grant all trial courts the same jurisdiction so that local trial courts could more easily distribute caseloads through their local case allocation plans. The Committee plans to continue to assist the Board with strategic planning during the next fiscal year.

WorkPlace Spanish Course – The 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 being offered to court staff at no cost to the counties or participants. Since the fall of 2006, 728 people have participated in or submitted enrollment forms for this course. More information can be found at <http://www.in.gov/judiciary/center/spanish-course/>.

Committee Activities

The committees of the Judicial Conference of Indiana were once again very active during the fiscal year:

- The **Alternative Dispute Resolution Committee** continued working with members of the Domestic Relations committee to develop rules governing parenting coordination practices, and explored ways to encourage ADR use in Indiana courts.
- The **Civil Benchbook Committee** continued working on updates for the Second Edition of the Civil Benchbook.

- The **Civil Instructions Committee**, after completing its plain language “translation” of the civil model jury instructions in fiscal year 2010, worked this fiscal year on revisions that will be added as needed.
- The **Community Relations Committee** continued to address issues relating to the relationship between courts and the media and to educate the public on the role of courts. The Committee awarded the 2010 Indiana Judges Association awards for Excellence in Public Information and Education to Marianne Holland of Indiana Public Broadcasting and Judge Allen Wheat of Steuben Circuit Court.
- The **Court Alcohol and Drug Program Advisory Committee** assisted with amendments to Indiana Code section 12-7-2-12 and updates to the Rules for Court-Administered Alcohol and Drug Programs, in addition to oversight of training and certification activities.
- The **Court Management Committee** worked on improving court security through education and improved incident reporting.
- The **Criminal Benchbook Committee** continued working on revisions and updates to the Criminal Benchbook, with particular attention in the current year to materials on defense counsel and mistrials.
- The **Criminal Instructions Committee** continued its practice of drafting an annual supplement that is published on January 1 of each year. As the fiscal year drew to a close, instructions required by new legislation, re-examination of the reasonable doubt instruction, a new instruction on juror unanimity suggested by the Supreme Court, and re-assessment of the capital case instructions are all under consideration.
- 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 Committee closely monitored the criminal code evaluation in the General Assembly in the past year.
- The **Domestic Relations Committee** continued its review of Indiana’s Parenting Time Guidelines.
- The **Ethics and Professionalism Committee** continued to address a variety of judicial ethics issues and to promote civility in the courtroom by publishing several articles in the Indiana Court Times.
- The **International Law Committee** began exploring new ways the Indiana judiciary can be more involved in the global society, including becoming involved in a legal clinic in Eldoret, Kenya, and ways that the Indiana courts can deal with the global society within Indiana courtrooms, such as creating bench cards on handling interpreters.
- The **Judicial Administration Committee** continued work on a comprehensive review of 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 Judicial Technology & Automation Committee 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 sixth master list was released in Fall 2010, 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.
- The **Juvenile Benchbook Committee** completed the updates to the Termination of Parent/Child Relationship section of the Juvenile Benchbook, which will be published on the 2012 Benchbook CD. The committee also began working on creating more user-friendly online juvenile delinquency orders.
- 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 work with Indiana’s Department of Child Services on the implementation of state payments of juvenile services under Public Law 146-2008.
- The **Probate Committee** continued to review recent legislation for updates to the Probate Deskbook, which were approved for publication at the end of 2010.
- The **Probation Committee** continued to review issues of relevance to the administration of probation departments. The Committee reviewed the proposed revisions to the Standard Pre-sentence Investigation Report submitted by the Probation Officers Advisory Board and recommended approval by the Judicial Conference Board of Directors. The Board of Directors approved the proposed revisions to the Pre-Sentence Investigation Report.
- The **Problem-Solving Courts Committee** assisted with amendments to Indiana Code chapter 33-23-16, the certification of problem-solving courts, and drafting final rules for the certification of problem-solving courts, and also provided oversight of problem-solving court training activities.
- The **Protection Order Committee** completed work on revisions to the Protection Order Deskbook (see the new edition on the web at www.in.gov/judiciary/forms/po.html), and continued working with JTAC and the Protection Order Registry on new and amended forms and procedures for protection orders, no contact orders, and workplace violence restraining orders.
- The **Special Courts Committee** continued preparing revisions to the Traffic, Misdemeanor, Small Claims Benchbook and Small Claims Manual.

BOARD OF LAW EXAMINERS

Linda Loepker, Executive Director (July 1-Dec. 6, 2010)

David Remondini, Acting Executive Director

(Dec. 7, 2010 – June 30, 2011)

The Board of Law Examiners is responsible for ensuring that individuals admitted to practice law in Indiana 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 certifies legal interns and approves 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 239 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 that 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 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 and Business Counsel Committee. Five members of the Board serve on the committee on a rotating basis. After reviewing an 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 and Business Counsel 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 by the Judges and Lawyers Assistance Program (“JLAP”) of applicants who may have mental health or addiction issues. As a result of the individual interviews, JLAP assessments, and review by the Board office, 31 applicants were required to appear before the full Board to resolve matters of character and fitness. Twenty-two were applicants for the exam and nine 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 60 applicants.

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 three 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, two Board members participated in grading workshops for the MPT.



State leaders honored the public service career of retiring Indiana Supreme Court Justice Theodore R. Boehm on September 30, 2010. The ceremony included remarks from Governor Mitch Daniels, Chief Justice Shepard, Judge J. Terrence Cody, president of the Indiana Judges Association, presidents of Indiana bar associations, and former law clerks. At the close of Justice Boehm’s remarks, he said he had often jokingly been asked what judges wear under their robes. He revealed that he was wearing items of seasonal interest: an Indianapolis Colts jersey and an Indiana Pacers jersey. Seated with him on the upper bench are (left to right) Justice Sullivan, Justice Dickson, Chief Justice Shepard, and Justice Rucker. Judges from the Court of Appeals on the lower bench are (left to right) Judge Cale J. Bradford, Judge Michael P. Barnes, Chief Judge John G. Baker, Judge Melissa S. May, and Judge Nancy H. Vaidik.

The Board received 944 applications to take the exam. The Board administered the exam over a total of eight days in July 2010 and February 2011 to a total of 829 applicants, a 2% increase over 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 829 individuals who took the exam, 26 received accommodation.

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 2010, 58 unsuccessful examinees requested that their results be reviewed; eight applicants passed on review. In February 2011, 30 unsuccessful applicants requested that their results be reviewed; two applicants passed on review. Collectively, this represents an increase in reviews of 19% from fiscal year 2011, and an increase of over 54% from fiscal year 2009.

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 2010 ceremony was held in Sagamore Ballroom at the Convention Center in Indianapolis, and the May 2011 ceremony was held at the Indiana Roof Ballroom.

A total of 798 attorneys were admitted to practice in the State of Indiana during the fiscal year: 748 on examination, 40 on Provisional Foreign License, and ten on Business Counsel License. The number of attorneys admitted on examination this fiscal year represents nearly a 21% increase over attorneys admitted on examination during the preceding fiscal year.

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 26 individuals given Conditional Admission. Fourteen others were being monitored jointly by both the Board's staff and JLAP. The total number of applicants being monitored this fiscal year was 42. Eighteen applicants completed their Conditional Admission requirements this fiscal year.

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. A total of 40 attorneys from 20 different states or U.S. territories were admitted on provisional foreign license.

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. This fiscal year, 35 attorneys met the provisional practice requirements in Indiana and their licenses were made permanent. The licenses of eleven attorneys admitted on foreign license expired because they either failed to meet the practice requirements of Admission and Discipline Rule 6, failed to qualify for renewal for some other reason, or did not apply to renew their provisional license, an increase of six over last fiscal year.

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 ten applicants this 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. Two licenses expired pursuant to this provision during this fiscal year.

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 279 students and 59 graduates to serve as legal interns, a drop of 37% and 40%, 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 778 active



Most of the 798 attorneys admitted to practice in Indiana this fiscal year were sworn in at the ceremony in the Indianapolis Convention Center's Sagamore Ballroom in October, 2010. Applicants traditionally present themselves to Supreme Court Justices, Court of Appeals Judges, and federal District Court Judges who preside over the event. Hundreds of family members and friends attend the ceremony. Here, an admittee states his name to the judges.

professional corporations, 223 limited liability companies, and 188 limited liability partnerships during this fiscal year. Of those numbers, 48 professional corporations, 23 limited liability companies, and 33 limited liability partnerships were newly registered through the Board of Law Examiners.

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, 2010, the Board's officers were: Jon B. Laramore of Indianapolis, President; María Pabón López of Indianapolis, Vice-President; Michael M. Yoder of Kendallville, Treasurer; and the Honorable Barbara Brugnaux of Terre Haute, Secretary. Their terms as officers are for one year and end on December 1, 2011. The remaining members of the Board are Leslie C. Shively of Evansville, Gary K. Kemper of Madison, Charlotte Westerhaus-Renfrow of Indianapolis, Cathleen Shrader of Fort Wayne, and Kathryn H. Burroughs of Carmel. María Pabón López resigned from the Board on May 31, 2011. Her position remained vacant at the close of the fiscal year.

Executive Director

On December 6, 2010, Linda L. Loepker resigned as Executive Director of the Board of Law Examiners. David J. Remondini, the Chief Deputy Executive Director of the Division of State Court Administration, served as the Acting Director through June 30, 2011. Following Ms. Loepker's resignation, the Board reviewed applications for the position, conducted interviews, and made recommendations to the Supreme Court. The Justices then conducted additional interviews of the Board's recommendees, and on June 16, 2011, the Chief Justice announced Bradley W. Skolnik as the Court's choice for Ms. Loepker's successor. Mr. Skolnik took over the reins on July 5, 2011, just a few days after the close of the fiscal year. Before becoming Executive Director, Mr. Skolnik was a partner with the Indianapolis law firm of Stewart & Irwin, P.C., where he practiced in the areas of securities regulation, financial services, and general corporate litigation.

COMMISSION FOR CONTINUING LEGAL EDUCATION

Julia L. Orzeske, Executive Director

The Commission for Continuing Legal Education was created in 1986. The Commission's basic duties are to regulate the mandatory minimum continuing legal education requirements of each attorney admitted in Indiana, regulate the mandatory continuing judicial education requirements of Indiana's judges, 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 2011: Joseph H. Yeager, Jr., Chair; the Honorable Charles K. Todd, Jr., Vice-Chair; John D. Ulmer, Treasurer; Kellye M. Gordon, Secretary; the Honorable Nancy Eshcoff Boyer, Immediate Past-Chair; Michael E. Tolbert; Gerald M. Bishop; Susan G. Gainey Odoyo; John L. Krauss; the Honorable John T. Sharpnack; Barbara Bichelmeyer, Ph.D.; Howard Mzumara, Ph.D.; Angela Lee Freel; and Steven A. Spence. The Honorable Keith Mark Loyd served as a liaison to the CLE Commission by virtue of his position as Chair of the Alternative Dispute Resolution Committee of the Judicial Conference of Indiana. Mr. Krauss, Ms. Gainey Odoyo, and Dr. Bichelmeyer retired effective December 31, 2010, and were replaced by Mr. Spence, Ms. Freel, and Dr. Mzumara, respectively.



Speakers at the legal history lecture on the new book, *Justices of the Indiana Supreme Court*, included (left to right on the high bench) Justice Sullivan, Libbe Hughes, Chief Justice Shepard, Frederic Sipe, and Ray Boomhower. On the lower bench are the book's editors, Linda C. Gugin (left) and James E. St. Clair (right).

Accreditation of CLE Courses and Hours

In fiscal year 2011, the Commission reviewed a total of 11,281 courses (an increase of over 61%, or roughly 4,300 courses, in the last two years) 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, 3,273 were traditional courses (not in-house, non-legal subject, or distance education) for which an application for CLE accreditation was made, and 3,959 were traditional courses given by approved sponsors (where no application is required). The Commission denied accreditation to 23 traditional CLE applications and seventeen traditional CLE approved-sponsor courses. Non-traditional courses are covered below. A total of 16,832 attorneys reported traditional CLE credits to the Commission, amounting to 247,376 hours of CLE credits (34,359 of which were ethics credits). This represents a 10% increase over fiscal year 2010 in hours reported, from only a 3% increase in the number of attorneys reporting traditional CLE credits.

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, 383 NLS courses were reviewed, an increase of over 41% from fiscal year 2010. The Commission approved 375 NLS courses and denied accreditation to eight courses. Attorneys reported a total of 4,082 NLS credits during this period, a 31% increase over fiscal year 2010.

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 3,346 distance education courses and denied 189. The number of approved distance education courses in fiscal year 2011 represents a 187% increase over fiscal year 2010. A total of 3,192 attorneys reported 12,406 hours of distance education, nearly 5% of the total CLE hours reported by Indiana attorneys. The Commission approved 114 in-house programs, and denied accreditation to five, compared to 497 approved in-house programs and 67 denials last year. Despite the dramatic drop in the numbers of CLE in-house programs, 23% more attorneys took advantage of such programs this year than last year. Specifically, 479 attorneys reported a total of 605 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, twelve applied professionalism courses were approved and 583 newly admitted attorneys attended these courses. During this fiscal year, the Commission determined that newly admitted attorneys could satisfy their Applied Professionalism requirement by completing an ICCLE-approved mentoring program. Under this program, both the mentor and the mentee are entitled to credit.

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. The initial registry contained 235 listings for civil mediators and 110 listings for domestic relations mediators. As of June 30, 2011, those listings stood at 639 listings for civil mediators and 634 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 60% 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 2011, 182 people were trained in basic civil mediation (a 264% increase over last year) and 140 were trained in basic domestic relations mediation (a 300% increase over last year). Over 1,000 mediators reported a total of 6,482 CME hours.

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 fiscal year, this panel, made up of law professors, judges, and practitioners, was comprised by the Honorable Wayne S. Trockman, Chair; Tom Allington; Lonnie Collins; the Honorable Melissa S. May; Dr. Howard Mzumara (psychometrician); Professor David Vandercoy; and Dennis Frick. Tom Allington recently retired from the panel after having served on it since its inception in 1998. Dr. Mzumara was appointed this fiscal year to additionally serve as a Commissioner.

As of June 30, 2011, there were 277 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 (64 specialists, certified by the Indiana State Bar Association); Consumer Bankruptcy (thirteen specialists, certified by the American Board of Certification); Business Bankruptcy (27 specialists, certified by the American Board of Certification); Creditors Rights (six specialists, certified by the American Board of Certification); Civil Trial Advocacy (41 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 (18 specialists, certified by the National Elder Law Foundation); and Estate and Planning Administration (104 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. This fiscal year, the Commission reviewed more than sixteen times that number. In 1986, there were approximately 10,500 active Indiana attorneys. There are now approximately 18,000 active Indiana attorneys. Originally, the Commission's regulatory duties were enumerated in only one Admission and Discipline Rule. Now, the Commission operates under four rules. Within the last fourteen years, the Commission has taken on the added responsibilities of mediation registration and education; new attorney education regulation; attorney specialization; judicial education regulation; mortgage foreclosure prevention mediator and attorney education; and ethics course accreditation. Within the last several years, the Commission has added the new accreditation areas, non-legal subject matter courses, mentoring programs, and distance education courses. The Commission has added no staff, other than a contract attorney for specialization, since 1999. Judging from the increase in course load, the Commission's work load will have doubled between FY 2009 and the end of FY 2011. Just within the last year, hours postings have increased by over 30,000.

The Commission is considering a variety of avenues for managing the explosion of work, including on-line applications and attendance reporting, application and late processing fees for courses and attendance reports, and other rule changes. Under the current Rules, there is no penalty for submitting late applications or attendance reports. Additionally, it appears applicants are seeking approval of courses in Indiana (for which there is no charge) and submitting those approvals to states where accreditation is more expensive and difficult, so as to obtain reciprocal approvals in those states.

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 recently completed 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 has served on the ISBA's Women in the Law and Long Range Planning Committees and now serves on the ISBA's Board of Governors and its Leadership Forum Committee. She is a frequent speaker to newly admitted attorneys and law students on matters regarding continuing legal education and the mediator registry. Ms. Davidson and Lana James, an ICCLE Administrative Assistant, also serve on the Supreme Court Public Access Committee.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION

G. Michael Witte, Executive Secretary

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 on the Commission's website (www.IN.gov/judiciary/discipline) or by contacting the Commission office (317-232-1807).



Chief Justice Shepard signed the order amending the Rules of Professional Conduct at a meeting of the Indiana State Bar Association. Changes to the rules include a provision prohibiting attorneys from soliciting clients in personal injury cases within 30 days of an accident. (front row, left to right) Jeff Lind, 2011 ISBA President; Roderick Morgan, 2010 ISBA President; Chief Justice Shepard; Jeffrey Nickloy. (second row, left to right) Erik Chickedantz, 2012 ISBA President; Bill Jonas, 2008 ISBA President; Justice David; Justice Dickson; Justice Sullivan.

Case Filings and Dispositions

During fiscal year 2011, 1,549 grievances were filed with the Commission. The Commission initiated 100 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 63 Verified Complaints for Disciplinary Action with the Supreme Court, 24 more than the preceding year. These Verified Complaints, together with amendments to pending Verified Complaints, represented findings of probable cause by the Commission in 102 separate counts of misconduct, 39 more than the preceding year.

The Court issued 59 final orders disposing of lawyer discipline cases, five more than in the preceding year, representing the completion of 72 separate matters, 15 less than in the preceding year. By disposition type, those cases were resolved as follows:

Private Reprimands.....	11
Public Reprimands	12
Suspensions with Automatic Reinstatement.....	9
Suspensions with Conditional Reinstatement.....	1
Suspensions without Automatic Reinstatement.....	16
<i>(Including orders of indefinite suspension for failure to cooperate with Commission, orders of reciprocal discipline, and orders revoking probation.)</i>	
Resignations Accepted.....	7
Disbarments.....	1
Judgments for Respondent.....	0
Dismissals for Other Reasons.....	1
Total.....	65

The Commission resolved three cases administratively through the issuance of private administrative admonitions. In addition to these concluded matters, the Court issued orders of interim suspension in six cases upon the request of the Commission. The Court also ordered the suspension of the law licenses of 144 active and inactive lawyers for their failure to pay annual attorney registration fees.

Reinstatements

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

Trust Account Overdrafts

The Commission was notified by financial institutions of 116 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.....	41
Overdraft Reports Received.....	116
Inquiries Closed.....	116
Inquiries Carried Over Into Following Year.....	41

Reason for Inquiries Closed:

Bank Error.....	20
Deposit of Trust Funds to Wrong Trust Account....	2
Disbursement from Trust Before	
Deposited Funds Collected.....	12
Referral for Disciplinary Investigation.....	34
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.....	3
Overdraft Due to Refused Deposit	
for Bad Endorsement.....	3
Law Office Math or Record-Keeping Error.....	14
Death, Disbarment or Resignation of Lawyer.....	0
Inadvertent Disbursement of Operating	
Obligation From Trust.....	11
Non-Trust Account Inadvertently	
Misidentified as Trust Account.....	4
Fraudulent Office Staff Conduct.....	1

Case Highlights

The Court decided nine cases through the issuance of per curiam opinions.

The Court privately reprimanded the respondents in two unrelated cases, but published an opinion in each case to educate the bar on matters determined to be of high importance. In *Matter of Anonymous*, 932 N.E.2d 124 (Ind. 2010), the respondent served as in-state co-counsel with a Kentucky attorney who was not licensed in Indiana and did not seek temporary admission. The Court stated that the role of Indiana co-counsel is vital to the Court’s ability to supervise out-of-state attorneys. The Court emphasized that Indiana co-counsel had an ethical duty to ensure that the out-of-state co-counsel complied with Admission and Discipline Rule 3(2), and failure to do so might result in a sanction for assisting an out-of-state attorney with the unauthorized practice of law. The Court advised Indiana lawyers that future violations of this rule might result in more stringent sanctions.

In the other anonymous reported case, *Matter of Anonymous*, 932 N.E.2d 671 (Ind. 2010), the respondent was a personal acquaintance of the complainant. The complainant shared with the respondent some details of discord in her marriage. At the request of the complainant, the respondent arranged for an attorney in her firm to represent the complainant in a divorce action. Several months later, the respondent was socializing with two friends, one of whom was also an acquaintance of the complainant. During that contact, the respondent shared some of the confidences of complainant’s marital friction. The Court rejected the respondent’s argument that the complainant was not a client, or prospective client, and that the information was not confidential. The Court found that the complainant became a prospective client when she asked the respondent for a lawyer referral and the respondent assisted. The Court determined that respondent violated Professional Conduct Rule 1.9(c)(2) by disclosing client confidences. The Court ruled that despite the complainant telling others some details of her marital conflict, it did not serve as a waiver of confidentiality as to what she shared with the respondent in seeking legal counsel.

The Court issued two opinions in matters dealing with attorney fees.

Matter of Lauter, 933 N.E.2d 1258 (Ind. 2010), involved a fee contract that called for a contingency fee on the amount recovered, an engagement fee of \$750, and an “additional retainer fee payable if client and firm agree to file federal court litigation,” that the client and respondent agreed to leave undetermined. After settling the case, respondent charged the client an additional retainer of \$4,250 and the client complained that the additional amount was unreasonable. The Court found that the respondent violated Professional Conduct Rules 1.5(b) and 1.5(c) by failing to communicate adequately to the client the basis of the fee or the method for its determination even though the client agreed to the open fee provision. The respondent received a public reprimand.

In *Matter of O’Farrell*, 942 N.E.2d 799 (Ind. 2011), the respondent charged two separate clients a non-refundable engagement fee under a flat fee contract for Client #1 and an hourly fee contract for Client #2. Both contracts contained language that the client agreed to make no demand for a refund or return of any part of the engagement fee. In both matters,

the representation ended before completion of the case and the respondent refused to refund any unearned portion of the fees upon demand from the client. The Court’s opinion reiterated the Court’s historical stance that a nonrefundable fee is generally unreasonable unless a special circumstance exists supported by detailed justification peculiar to that specific representation, and that unearned fees received in advance must be refunded to a client. The Court found that there were no peculiar circumstances that would justify a nonrefundable general retainer. The Court also stated that a nonrefundable general retainer, with or without a recitation of supporting circumstances, cannot be inserted as boilerplate language in all of a firm’s fee agreements. The Court imposed a public reprimand on the respondent for charging an unreasonable fee in violation of Professional Conduct Rule 1.5(a).

Matter of McKinney, 948 N.E.2d 1154 (Ind. 2011), involved a salaried deputy prosecutor who negotiated a contract as a private practitioner to bring civil suits for the forfeiture of criminal defendants’ property. His fee was 25% of any judgment of forfeited property. In many instances, respondent engaged in negotiating confidential settlement agreements involving seized property, including cash, while also negotiating a plea bargain in the companion criminal case. This conflict of interest was best described by the court in the following statement:

...[I]t would doubtless be evident to such a defendant, and to his or her attorney if represented, that prosecutorial discretion in how to proceed with the criminal case was held by one who stood to reap personal financial gain if the defendant agreed to the forfeiture of his or her assets.

Id. at 1161.

The Court sternly admonished McKinney by finding that for more than a decade he “turned a blind eye and acted to protect his private interest in his continued pursuit of forfeiture property” while the ethics of asset forfeiture procedures were called into question by others. *Id.* at 1155-56. The Court suspended him for 120 days.

Matter of Rawls, 936 N.E.2d 812 (Ind. 2010), involved a host of misconduct acts, included client neglect, failure to refund



Justice Rucker makes remarks at the ceremony re-naming the Lake County Superior Court Courthouse.

fees, knowingly making false statements to the Commission, making false statements to a client, settling a claim without client authorization, forgery of a client’s signature, and failing to timely respond to Commission demands for information. The respondent also had a past history of discipline, including a prior misconduct suspension, six prior administrative suspensions, and four prior show cause petitions for failing to respond to Commission inquiries. The Court disbarred this respondent.

A case that might initially be viewed as a minor brush with the Rules of Professional Conduct escalated in severity because of the conduct of the respondent during the disciplinary investigation and prosecution. In *Matter of Rocchio*, 943 N.E.2d 797 (Ind. 2011), the respondent was a Michigan attorney with an Indiana license. In one instance, he failed to insert the disclaimer “Advertising Material” in a targeted solicitation letter to an Indiana resident as required by Prof. Cond. R. 7.3(c). The letter also contained statements interpreted as statistical data based on past performance that could likely create an unjustified expectations in the client, in violation of Prof. Cond. R. 7.2(c)(3) and 7.2(d)(2). In a second instance, the respondent advertised on two different websites that he was licensed to practice in Indiana, despite having elected inactive license status in 2009. This violated Prof. Cond. Rule 5.5(b)(2) by improperly holding himself out to be an Indiana lawyer. The tone of the prosecution was set by Rocchio’s behavior throughout the process and in his written filings. He referred to the Indiana Supreme Court as the “supreme monarchy.” He described his experience in the disciplinary process as a “hideous aberration of justice: a Disciplinary Commission and staff attorney with a self-image of pompous arrogance; [and] a hearing officer who permits herself to be used as a rubber stamp...” *Id.* at 801. He further stated or wrote that the Commission’s former Executive Secretary was “a first class ass”; that the Commission was “soft and lazy”; that the disciplinary process was “a modern day version of the Star Chamber, a Salem witch hunt, or a Spanish Inquisition”; and the Court’s disciplinary role was governed by “rules of behavior conceived over a cigar and brandy...during the late Victorian Era by a group of self-impressed lawyers”. *Id.* at 802. He also attacked the hearing officer by calling her “sadistic” and claiming that she displayed “a disappointing level of ignorance, arrogance, and stupidity.” *Id.* The Court found that the respondent displayed contempt for the disciplinary rules and process and showed no remorse for his misconduct. He received a 180-day license suspension without automatic reinstatement.

An agreement to injunctive relief was the resolution in *Matter of Parilman*, 947 N.E.2d 915 (Ind. 2011). The respondent, an Arizona attorney not licensed in Indiana, came under the jurisdiction of the court by advertising his legal services within the state. His radio ad claimed that he was a national law firm specializing in automobile accidents. At least two Indiana residents responded to the ad. The respondent’s violations included falsely representing an Indiana law practice, false or deceptive statements, and improper statements of specialization. The respondent agreed to being barred from the practice of law in Indiana.

In *Matter of Cotton*, 939 N.E.2d 619 (Ind. 2010), the respondent was found to have engaged in conduct prejudicial to the administration of justice and in an improper ex parte communication with a judge. The respondent secured a protective order for her client, the wife in a marriage dissolution matter. The judge (“Judge No. 1”) intentionally scratched out a handwritten address on the order. The husband later secured an order to remove personal property from the address that was deleted from the protective order. Respondent then went to another judge (“Judge No. 2”) and told him that the husband was attempting to remove

personal property in violation of the protective order and that the address in question had been inadvertently left off of the order. She presented to Judge No. 2 a photocopy of the order, and he handwrote the address back into the order. Respondent then attached the court seal to the order. All of this was done without notice to opposing counsel.

While the husband was removing his personal property from the residence pursuant to his court order, the wife arrived, called the police, and showed her competing order to them. The police made the husband return the property to the house. Some of his personal property later was missing when he was able to undo the wrong that he suffered through the respondent's misconduct. She received a 30-day license suspension and was required to pay the husband's attorney fees.

Commission Members

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

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 that could impair their ability to practice in a competent and professional manner. The purpose of JLAP is to assist the impaired in recovery; to educate the bench and bar; and to reduce the potential harm caused by impairment to the individual, the public, the profession, and the legal system. All interactions and communications with JLAP are confidential under Admission & Discipline Rule 31, 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 Program 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 2011 Committee included: Kimberly A. Jackson of Brazil, Chair; the Honorable Marianne L. Vorhees of Muncie, Vice Chair; the Honorable Donald L. Daniel of Lafayette, Treasurer; Daniel G. McNamara of Fort Wayne, Secretary; 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; Ellen F. Hurley of Indianapolis; Dean Gail G. Peshel of Notre Dame; Shelice R. Tolbert of Crown Point; and John R. Vissing of Jeffersonville.

The JLAP staff consists of an Executive Director, two part-time Clinical Case Managers, a part-time Northern Indiana Liaison, and an Office Manager. Indiana recently began licensing addictions counselors; both Clinical Case Managers and the Executive Director became licensed clinical addiction counselors. JLAP's Northern Indiana Liaison, J. Frank Kimbrough, assists individual members of the legal community and works to raise awareness of JLAP's services in the northern third of the state. Mr. Kimbrough made six presentations in this area during the past year.

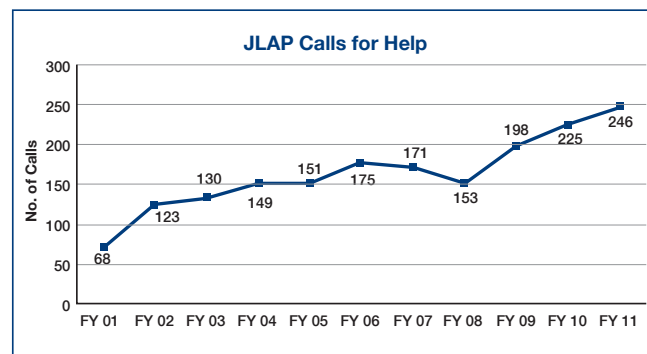
Volunteer Training

This small core of JLAP committee members and staff could not offer a helping hand to members of the legal profession all 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. They are the backbone of JLAP, and both the JLAP Committee and the Supreme Court are grateful for their services.

During this fiscal year, JLAP trained almost 60 volunteers through training sessions conducted in Fort Wayne, South Bend, and Merrillville. The training sessions included basic knowledge of how JLAP works, skills for listening and motivating others, suicide prevention, and information on resources.

Utilization

This fiscal year, JLAP logged 246 new calls for help, ranging from simple requests for information or referral, to requests for JLAP to coordinate a group intervention. Calls for help have increased steadily since JLAP began keeping records in 2001, as shown in the following chart:



JLAP had 98 calls for help with substance abuse issues, 59 calls for help related to mental health issues, nine calls for assistance with physical impairment issues, six calls for help related to career change or retirement issues, 22 calls related to practice management issues, 21 calls for assistance regarding specific behavioral issues, ten calls concerning issues that fit no existing category, and 21 calls with an unidentified impairment at the time of the initial call. (Although many cases contain multiple issues (e.g., depression and alcohol



In October 2010, Indiana hosted the annual conference of the ABA's Commission on Lawyer Assistance Programs, which was attended by program professionals from nearly every state. Here at one of the conference's plenary session, Terry Harrell (far right), the Executive Director of Indiana's Judges and Lawyers Assistance Program, introduces the Indiana attendees.

dependence), for statistical purposes JLAP uses the primary issue identified in the initial call for help). Of the calls for help received, 68% were from or about attorneys, 28% were from or about law students or bar applicants, 2% were from or about judges, and 2% were members of the legal community calling for resources for a family member or friend.

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, 2011, JLAP had 305 active cases: 187 with addiction issues, 169 with mental health issues, 64 with dual diagnosis, 26 with career change or retirement issues, and 25 with physical issues. (Many cases involve more than one issue.) This represents a 34% increase over the number of active cases reported at the close of fiscal year 2010.

Monitoring

JLAP offers monitoring as a service to provide accountability and supervision for those trying to develop a successful recovery program for mental health or addiction 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 adherence to his or her own recovery plan and protects the public. When an individual on a monitoring agreement fails to comply with his or her own recovery plan, JLAP reports the failure to the disciplinary or licensing organization, the employer, or the judge that is part of the monitoring agreement. That person or entity can then take appropriate action to hold the individual accountable and 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 Indiana Supreme Court Disciplinary Commission, the Indiana 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 body. 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. JLAP has also monitored some individuals on a purely voluntary basis. These individuals find that even though JLAP does not report to a third party, the accountability to JLAP helps them to stay on track with their own recovery plan. 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, 2011, JLAP was monitoring 45 formal agreements, sixteen interim agreements, and three completely voluntary agreements. This is a 50% increase in the number of formal monitoring agreements, a 33% increase in the number of interim agreements, and a 50% increase in the number of voluntary agreement as compared to last fiscal year.

Strategic Planning

In fiscal year 2010, JLAP completed a comprehensive strategic planning process. The number of things JLAP "could" do is limitless; and therefore, it decided to set priorities and develop a method that guaranteed that our energies were directed toward those priorities. It developed a plan with six priorities. Below is a brief summary of JLAP's progress toward these six priorities during fiscal year 2011:

- (1) Assure JLAP services are available statewide.
 - ✓ JLAP hosted three volunteer training sessions in northern Indiana and scheduled three more in southern and central Indiana for early in fiscal year 2012.
 - ✓ JLAP presented 30 programs around the state, reaching approximately 2,700 judges, lawyers, and law students.

- (2) Meet the special needs of law students.
 - ✓ JLAP presented at law school orientations, law school classes, and specially scheduled law school events.
- (3) Meet the special needs of judges.
 - ✓ JLAP Committee member Judge David A. Shaheed presented on judicial assistance programs to the Louisiana judiciary. He was able to share ideas from Indiana and bring home ideas from other states for implementation in Indiana.
- (4) Provide trainings for attorneys in the areas of suicide prevention, coping with economic challenges, and retirement planning.
 - ✓ JLAP provided four day-long retirement planning seminars around the state.
 - ✓ JLAP trained volunteers and committee members in suicide prevention.
 - ✓ JLAP provided numerous presentations on resiliency.
- (5) Maximize the efficiency of JLAP Committee members, staff and volunteers.
 - ✓ JLAP completed three of six volunteer trainings designed to allow better utilization of volunteers in accomplishing JLAP's goals without hiring additional staff.
 - ✓ JLAP worked to reassign work among the JLAP staff to accomplish our goals more efficiently.
- (6) Secure sufficient funding to meet these priorities.
 - ✓ With assistance from the Indiana Continuing Legal Education Commission and the Indiana Bar Foundation, JLAP sent out a solicitation for donations to the JLAP Treatment Fund, a fund to pay for treatment for members of the legal community who cannot afford the treatment they need. The Indiana legal community contributed approximately \$6,000 to assist colleagues in need.

JLAP Support Groups

JLAP offers five attorney support groups each month. The groups are open to judges, lawyers, and law students. There are monthly mental health and substance abuse support groups in Indianapolis and Merrillville. JLAP also offers a monthly general support group in Jeffersonville.

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"). JLAP and the ISBA worked together to present four seminars aimed at guiding

lawyers through the financial, social and emotional changes that accompany retirement. JLAP and the ISBA worked with the Lake County Bar Association, the St. Joseph County Bar Association, the Indianapolis Bar Association, and the Evansville Bar Association to present these seminars around the state. Executive Director Terry L. Harrell also served on the ISBA's Professional Legal Education, Admission and Development Section, the ISBA Wellness Committee, and the planning committee for the ISBA's Solo Small Firm Conference.

During this fiscal year, Ms. Harrell also served on the ABA's Commission on Lawyer Assistance Programs ("CoLAP") and past JLAP Committee member David F. Hurley served on the CoLAP Advisory Committee. CoLAP coordinates and supports the national network of Lawyer Assistance Programs. Ms. Harrell also served as the Chair for the 2011 CoLAP Annual Conference Planning Committee and served on the CoLAP Judicial Assistance Initiative and the CoLAP Senior Lawyers Committee. She also served as the liaison to the ABA's Standing Committee on Substance Abuse.

In October 2010, JLAP hosted the CoLAP Annual Conference and the Annual Conference for the International Lawyers in Alcoholics Anonymous in Indianapolis. Comments from the conference attendees included, "Wonderful conference – perhaps the best I have attended. The speakers were high quality, the attention to detail was noticeable, and the participation by Indiana volunteers was terrific."

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 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, 2011 were John O. Feighner, Esq., of Fort Wayne; Mike Gavin of Warsaw; Molly Kitchell of Lebanon; Fred McCashland of Indianapolis; James O. McDonald, Esq., of Terre Haute; and William E. Winingham, Jr., Esq., of Indianapolis. Christine Keck of Evansville and John C. Trimble, Esq., of Indianapolis also served during the fiscal year. The Nominating Commission met on eleven occasions, nearly twice the number as last year, 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



Judge Thomas G. Fisher (left), Indiana's first Tax Court Judge, retired from the bench in January 2011. Chief Justice Shepard (center) and Indiana Court of Appeals Chief Judge John G. Baker (right) offer their congratulations in a retirement ceremony held in the Courtroom.

selects three nominees for each vacancy, and the Governor appoints one of the nominees to fill the vacancy.

In May 2010, Justice Theodore R. Boehm announced that he would step down from the Indiana Supreme Court on September 30, 2010. After publicizing the vacancy, the Nominating Commission conducted interviews of 34 candidates. The Commission completed its evaluation of the candidates in August 2010 and sent three names to the Governor for his selection of Justice Boehm's replacement: Judge Steven David of Boone County, Judge Robyn Moberly of Marion County, and attorney Karl Mulvaney of Indianapolis. On September 17, 2010, Governor Daniels appointed Judge David as the 106th justice of the Indiana Supreme Court.

Judge Thomas G. Fisher announced in August 2010 that he would retire from the Indiana Tax Court at the end of the year. The Nominating Commission interviewed fourteen candidates for the vacancy. After completing its final evaluation of the candidates in October 2010, the Commission forwarded three names to the Governor for his selection of the next Indiana Tax Court judge: Judge Karen Love of Hendricks County, attorney Joby Jerrells of Bloomington, and attorney Martha Blood Wentworth of Indianapolis. On December 22, 2010, Governor Daniels appointed Ms. Wentworth to become the first woman, and only the second judge, of the Indiana Tax Court.

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 nineteen new senior judges (seventeen more than last fiscal year), recertified 91, and denied three senior judge applications.

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 380 complaints alleging judicial misconduct this fiscal year (64 fewer than last fiscal year). It dismissed 165 complaints summarily because they did not raise valid issues of judicial misconduct and instead were complaints about the outcomes of cases or were otherwise outside the Commission's jurisdiction. Another 187 were dismissed on the same grounds after Commission staff examined court documents or conducted informal interviews.

Of the remaining 28 cases on the Qualifications Commission's docket, the Commission requested the judges' responses to the allegations and conducted inquiries or investigations. Of those, four complaints were dismissed after the Qualifications Commission concluded the judges had not violated the Code of Judicial Conduct. The Commission dismissed three additional complaints when the judges took remedial actions. The Qualifications Commission sent advisory letters or privately cautioned seven 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 one case, the Qualifications Commission agreed to close its investigation into a judge's alleged ethical misconduct on the condition that the judge immediately resign. That matter involved claims that the judge routinely mishandled cases by imposing remedies that exceeded the judge's legal authority when defendants failed to pay court debts.

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 Judge Charles W. Hunter, Beech Grove City Court, for making injudicious public comments to a television reporter regarding the judge's son parking in a handicapped parking space without the appropriate placard displayed. Judge Hunter 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 Judge Charles W. Hunter, Beech Grove City Court, May 5, 2011.)

During the fiscal year, the Supreme Court resolved two disciplinary cases filed by the Commission. In *In re Hughes*, 947 N.E.2d 418 (Ind. 2011), the Court accepted a conditional agreement from the Commission and Judge William J. Hughes to a public reprimand for his arrest for operating a vehicle while intoxicated. In *In re Young*, 943 N.E.2d 1276 (Ind. 2011), the Court suspended Judge William E. Young for 30 days without pay after accepting a conditional agreement submitted by the Commission and the judge regarding the judge's conduct while presiding over traffic cases. The parties agreed that Judge Young failed to uphold the integrity of the judiciary and did not act fairly and impartially when he made intemperate remarks to a defendant during her bench

trial and when he engaged in a pattern of conduct aimed at discouraging litigants from exercising their trial rights, which included imposing increased penalties against litigants who exercised the right to trial.

The Commission also filed disciplinary charges against Judge Jeffrey A. Harkin of the Hammond City Court, charging him with misconduct for improperly referring infraction defendants to a traffic school and then dismissing their cases rather than imposing court fees, as required by statute. *Matter of Harkin*, Case No. 45S00-1106-JD-00390. At the close of the fiscal year, that case was awaiting the appointment of a panel of Masters.

Nine inquiries or investigations were pending at the end of the fiscal year.

The Nominating Commission and Qualifications Commission are staffed by the Division of State Court Administration with a full-time 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-qu

“COURTS IN THE CLASSROOM” ANNUAL REPORT

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

Introduction

Fiscal year 2011 marked the tenth anniversary of the Indiana Supreme Court’s education outreach program, “Courts in the Classroom” (“CITC”). CITC’s goal is to promote knowledge about the operation and history of the court to lawyers, educators, and citizens of Indiana. It makes 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.

This fiscal year, CITC provided programming to a record number of participants in both its student programs and its Legal History Lecture series. In April 2011, the National Council on Public History recognized CITC’s efforts by selecting “My Place is in the Voting Booth: Hoosier Suffragette Helen M. Gougar” as its 2011 Outstanding Public History Project. This is the tenth national or state award received by CITC.

Two full-time staff and one intern from Indiana University-Purdue University’s Masters program in Public History are responsible for conducting all of CITC’s efforts.

Publishing Projects

An important outreach of CITC focuses on providing printed materials about important people and events in Indiana’s, and the nation’s, legal history. In March 2011, the Indiana Historical Society Press released the long awaited *Justices of the Indiana Supreme Court*. This project, three years in the making, includes biographies of all 106 members of the Court (including the Court’s most recent appointee, Justice

Steven David), pictures of 104 of the justices, and a wide assortment of previously unpublished pictures obtained from private collections. Most publications in the Supreme Court’s Legal History series are available for teachers and libraries at no charge. A complete list of publications, including eight books and six pamphlets, can be found at www.courts.IN.gov/citc/bookstore.html.

Courtroom Events for Students and Lawyers

Almost 2,000 students participated in CITC activities during the 2010-2011 school year. This was more than double the number from 2009-2010. CITC conducted sixteen different programs. Most were held in the Court’s Indianapolis courtroom, but others took place in Lafayette, Vincennes, Noblesville, and Warren Township. CITC’s five free interactive programs, which occur throughout the school year, are the following: Constitution Day (September), “My Place is in the Voting Booth”—based on Helen M. Gougar’s attempt to vote (November and February), Bound for Freedom—based on a freedom suit filed on behalf of an Indiana slave (February), Ex Parte Milligan Comes to Life (March), and Brown v. Board of Education (May).

CITC’s increased numbers for this fiscal year were not limited to student programs. The Indiana Supreme Court Legal History Lecture Series, in cooperation with the Indiana Commission for Continuing Legal Education, hosted nine CLE programs this fiscal year, more than double the number held last year. Over 800 attorneys attended these free CLE sessions. CITC made a concerted effort to take the Legal History Lecture Series on the road to lawyers outside the Indianapolis area. Using the new *Justices of the Indiana Supreme Court* book as a springboard, Legal History Lectures were held in Fort Wayne, Vincennes, Evansville, and New Albany.

K-12: Civic Education, Teacher Training and other Resources

An important focus within CITC this year was participation in state and national efforts to promote civic education. Chief Justice Randall T. Shepard, with the support of the CITC staff, acted as the statewide chairperson for Justice Sandra Day O’Connor’s “iCivics” project. Dr. Osborn and Tippecanoe Superior Court Judge Gregg Donat attended a workshop hosted by Justice O’Connor to help coordinators learn how to best promote this effort. In addition, CITC staff worked with Chief Justice Shepard, Congressman Lee Hamilton’s Center on Congress, and the Indiana Bar Foundation to organize an Indiana coalition interested in promoting civic education within the state. A part of this committee’s efforts was to commission a statewide “Civic Health Index.” Results are expected during fiscal year 2012.

CITC staff members continued to develop and promote materials for K-12 educators about the Judicial Branch. In this capacity, CITC represented the Court at a variety of events around the state and nation: National Council on Public History annual meeting, American Association of State and Local Historians annual meeting (program committee), national iCivics Workshop, Indiana Council of Social Studies annual meeting, Court’s Public Access Committee, Indiana

Statehood Day, and Hoosier Heritage Day at the Indiana State Fair. It also hosted undergraduate students from IUPUI interested in becoming history teachers.

CITC's fiscal year concluded with its fourth-annual summer teacher workshop, "From the Inside Out: How Indiana's Courts Work." The two-week workshop familiarized educators 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. Teachers from as far away as South Bend attended this year's program, observing courtrooms and judges in Marion, St. Joseph, and Hamilton counties, visiting correctional facilities, and participating in a mock oral argument.

Webcasting

Broadcasting oral arguments and other courtroom events continues to be a popular service provided by the Court through CITC. The Court provided almost 82 hours of live streaming video in fiscal year 2011, including 72 Supreme Court and four Court of Appeals oral arguments, retirement ceremonies for Justice Theodore Boehm and Tax Court Judge Thomas Fisher, robing ceremonies for Justice Steven David and Tax Court Judge Martha Blood Wentworth, nine student programs, and a variety of other meetings and hearings. 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.

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 justices, 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 1,039 volumes as additions or replacements for volumes already in the Library's collection, and approximately 601 volumes were discarded. The Library continued restoration and preservation efforts of its historical and rare book collection. Several volumes of the library's historical statutes from 1831 to 1881 were stabilized and rebound for use by the patrons of the library.

The Library produced 95 interlibrary loans for the Supreme Court, Court of Appeals, Tax Court, state appellate courts, state agencies, and reciprocal libraries. The Library processed and filled over 237 reference requests for patrons and libraries across the United States, and fulfilled loan requests from many institutions, including three correctional facility libraries, the Arkansas Supreme Court, the U.S. State



Justice Dickson addresses students from Clarksville High School who had come to Indianapolis with Clark Circuit Court Judge Daniel Moore to attend an oral argument. This photo shows the structural iron shelving system in the Supreme Court Library that was installed soon after the State House was completed. The system is made up of thousands of interlocking iron parts that form the book stacks, the mezzanine level, and the stairs leading up to it. Such systems were at one time fairly common in public libraries, but this is one of the few that remain in use.

Department, the city of Portland, Oregon, and universities in Utah, Nebraska, Montana, Illinois, Wisconsin, and Michigan. The superseded Indiana statutes collection was also heavily used during the legislative session.

During the fiscal year, over 571 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, was moved to another service provider due to the disbandment of the Shared Catalog of the Indiana Online consortium. Library staff evaluated other software systems, but ultimately chose to remain with the open-source software Koha. 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 9,638 visits to the catalog and 20,640 visits to the Library's main home page.

Approximately 1,738 patrons visited the Library during this fiscal year. This figure does not include the large number of students that also tour the State Capitol, the Supreme Court, and our Library throughout the year.

Library staff continued their outreach services and professional development throughout the year. The Librarian, Terri Ross, gave presentations to masters' degree students at the School of Library and Information Science at IUPUI and discussed her career as a court librarian. Ms. Ross also gave presentations to public librarians on how to assist self-represented patrons and discussed sources of legal materials that would be used to assist these patrons. Ms. Ross continued her service as a member of the Indiana Supreme Court Committee on Self-Represented Litigants, which met to discuss issues that state courts face in dealing with the increasing number of self-represented litigants who access the Indiana judicial system.

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 Courts in the Classroom’s “Summer in the City” teacher workshop and helped the participants find information for their mock oral arguments. Library staff also assisted with the several public student education program sessions developed by Courts in the Classroom staff throughout the year.

The Supreme Court Library continued its participation in the federal government’s GPO Cataloging Record Distribution Pilot Project, which studies the feasibility of distributing catalog records to the nearly 1,250 federal depository libraries. At present, the Library participates with 74 other libraries as part of this Project to test these distribution processes.

INDIANA STATE PUBLIC DEFENDER’S OFFICE

Susan K. Carpenter, Public Defender of Indiana (July 1, 2010 – May 31, 2011)
William Polansky, Acting Public Defender of Indiana (June 1 - June 15, 2011)
Stephen T. Owens, Public Defender of Indiana (June 16 - June 30, 2011)



After serving as the Public Defender of Indiana for nearly 30 years, Susan Carpenter retired in 2011. Here, Chief Justice Shepard presents Ms. Carpenter with a certificate of appreciation signed by the Justices.

provide services to indigent inmates seeking to collaterally challenge 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. Subsequent appointees have been Robert Baker (1957-1966), Mel Thornburg (1966-1970), Harriette Bailey Conn (1970-1981), Susan K. Carpenter (1981-May 31, 2011), and the current Public Defender of Indiana, Stephen T. Owens, appointed June 16, 2011.

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 2011, the Indiana Supreme Court affirmed the denial of post-conviction relief in one capital case (Fredrick Michael Baer).

Deputies filed one post-conviction relief petition (Daniel Wilkes) and proceeded to evidentiary hearing in two capital post-conviction cases (Roy Lee Ward and Wilkes). After Mr. Ward was denied relief, deputies drafted his Appellant’s Brief. Deputies also filed Mr. Baer’s Petition for Rehearing.

At the end of fiscal year 2011, the Indiana Supreme Court’s docket had no capital cases on direct appeal. Thirteen 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 28,912 adult and juvenile inmates on April 1, 2011 - 1.6% less than the population on May 31, 2010 (29,384), but 31% more than the population on June 30, 2001 (22,022). The Office continues to struggle with a backlog of cases due to demand exceeding available resources. In fiscal year 2011, the Office continued distributing older cases office-wide to allow pending cases to be monitored and resolved more expeditiously. Given that the Office’s services are free and the demand flexible, it cannot control its caseload. However, the State Public Defender is pleased to report that the number of post-trial and appeal cases awaiting review is lower than it was in June 2010:

In July 1991, the Office received discretion to refuse further representation if full-case investigation (including an evidentiary hearing if appropriate) established the case lacked arguable merit. Since then, 5,651 cases have been found to be without arguable merit. In these cases, this Office does not expend further state resources, but inmates have the option of proceeding pro se or hiring private counsel.

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)
2011	566	627	377 (6/11)

This fiscal year winning cases on appeal included *Baxter v. State*, No. 49A02-0908-PC-724 (Ind. Ct. App. July 13, 2010) (ineffective assistance of counsel for failure to object to jury instructions on accomplice liability for attempted murder); *Daniels v. State*, No. 20A05-1006-PC-359 (Ind. Ct. App. February 21, 2011) (habitual offender enhancement vacated; sentence reduced from 51 to 32 years); *Rhoiney v. State*, No. 49A05-1007-PC-482 (Ind. Ct. App. December 30, 2010) (ineffective assistance of counsel for failing to challenge imposition of consecutive sentences; sentence reduced from 66 to 61 years); *Shepherd v. State*, 924 N.E.2d 1274 (Ind. Ct. App. 2010) (ineffective assistance of counsel for overlooking defenses available under I.C. 35-48-4-16(c)); and *Willard v. State*, No. 20A04-1009-PC-565 (Ind. Ct. App. March 17, 2011) (ineffective assistance of counsel for misinforming client regarding the applicability of credit time law; conviction for child molesting vacated).

In the trial courts, the more significant wins included *Allen v. State*, 25C01-0711-PC-70 (negotiated settlement of claim of ineffective assistance of counsel for failing to raise claim regarding consecutive sentencing cap; resentencing ordered); *Bebout v. State*, 02D04-0711-PC-127 (negotiated settlement of claim of illegal habitual offender enhancement; sentence reduced from 53 to 31 years); *Bowling v. State*, 48D01-0801-PC-13 (negotiated settlement of claim of ineffective assistance of counsel for failing to challenge illegal habitual offender enhancement and improper amendment of the charges; sentence reduced from 60 to 35 years); *Burkhart v. State*, 10C01-1002-PC-25 (negotiated settlement; sentence reduced by 6 years); *Cantrell v. State*, No. 71D02-0509-PC-36 (negotiated settlement of claim of ineffective assistance of counsel for failing to communicate plea offer; sentence reduced from 20 to 15 years); *Cowans v. State*, 48D01-0801-PC-1 (negotiated settlement of claim of ineffective assistance of counsel for failing to preserve motion to suppress; sentence reduced from 17 to 12 years); *Daniels v. State*, 20D03-0901-PC-6 (conviction and 3-year sentence for failing to register as a sex offender vacated); *Marcum v. State*, 48C01-0907-PC-413 (convictions for murder and attempted murder vacated based upon trial counsel's cumulative errors, including failure to deliver an adequate closing argument, failure to investigate, failure to retain necessary defense witnesses, and failure to object to improper and prejudicial testimony; State declined to retry defendant, resulting in his release); *McKinney v. State*, 82C01-0801-PC-1 (negotiated settlement of claim of illegal habitual offender enhancement; sentence reduced from 60 to 30 years); *Moore v. State*, 63C01-0707-PC-193 (negotiated settlement of claim of ineffective assistance of counsel for failing to tender jury instructions; sentence reduced from 18 to 12 years); *Morgan v. State*, 49G06-0707-PC-129697 (negotiated settlement of claim of ineffective assistance of counsel for failing to raise double jeopardy issue; sentence reduced from 75 to 66 years); *Pryor v. State*, 55C01-0412-PC-324 (negotiated settlement of claim of illegal habitual offender enhancement; sentence reduced from 30 to 20 years); *Runyon v. State*, 53C03-1005-PC-1175 (negotiated settlement of claim of ineffective assistance of counsel for failing to challenge improper consecutive sentence; sentence reduced from 108 to 70 years); and *Washington v.*

State, 34D02-0706-PC-190 (negotiated settlement of claim of ineffective assistance of counsel for failing to argue a motion to suppress properly; sentence reduced from 35 years with 5 suspended to 15 years). Also, the Office's litigation resulted in a grant of permission for a belated appeal, pursuant to Ind. Post-Conviction Rule 2, in nine cases. Finally, the Public Defender of Indiana appeared as amicus curiae in the rehearing of *Hopper v. State*, 934 N.E.2d 1086 (Ind. 2010) (requiring certain advisements of defendants who choose to proceed pro se), *reh'g pending*; and in *Lemmon v. Harris*, 211 Ind. Lexis 566 (Ind. 2011) (requirement to register as a sexually violent predator did not violate Indiana's prohibition on ex post facto laws or the doctrine of separation of powers).

A Changing of the Guard

One of the most significant events to occur in the Office this fiscal year was the retirement of Susan Carpenter as the Indiana State Public Defender, a post she had held for nearly 30 years, nearly three times longer than her second longest-serving predecessor. During her tenure, Carpenter received the Indiana State Bar Association 2000 Achievement Award and was a member of the Court's Commission on Race and Gender Fairness and the Indiana Public Defender Commission. She also served on the Indiana Criminal Justice Institute's Board of Trustees, the Governor's Juvenile Code and Youth Gang Study Commission, the National Center for State Courts' Special Drug Court Advisory Board, and the Sentencing Policy Evaluation Committee. Upon her announcement of her retirement, Chief Justice Shepard remarked, "As chief advocate for the rights of indigent defendants, Susan Carpenter has made Indiana a place of greater justice. She has been both zealous and elegant in one of the toughest jobs in government, and she makes me proud to be a lawyer."

After Ms. Carpenter announced her retirement, the Supreme Court solicited the help of an ad hoc search committee to assist it in finding the new State Public Defender. The committee of volunteers consisted of attorneys Jessie Ann Cook of Terre Haute, Stanley Levco of Evansville, and Jimmie McMillan of Indianapolis; Professor Derrick Carter of Valparaiso; and Judge John Surbeck, Jr., of Fort Wayne, who served as the committee's chair. After reviewing numerous applications and conducting interviews, the committee recommended five finalists to the Court. The Justices interviewed the five finalists, after which they selected Stephen Owens as Indiana's seventh State Public Defender. Mr. Owens had worked as a Deputy State Public Defender since 1986, including serving as the Office's Assistant Chief Deputy of Personnel.



A Department of Administration employee hangs Justice David's official portrait in the Supreme Court Courtroom. Images of all but three Supreme Court justices line three walls of the Courtroom.

Appendix

INDIANA SUPREME COURT CASE INVENTORIES AND DISPOSITION SUMMARY	JULY 1, 2010- JUNE 30, 2011			
	Cases Pending as of 7/1/10	Cases Transmitted July 1, 2010 - June 30, 2011	Cases Disposed July 1, 2010 - June 30, 2011	Cases Pending as of 6/30/11
Capital Cases	2	0	2	0
Criminal Direct Non-Capital	1	2	1	2
Criminal Transfers	102	546	539	109
Civil Direct Appeals	0	2	2	0
Civil Transfers	113	339	310	142
Tax Court Petitions for Review	4*	5	7	2
Certified Questions	0	4	2	2
Original Actions	2	52	54	0
Attorney Discipline	72	119	99	92
Board of Law Examiners	1	0	1	0
Judicial Discipline	0	3	2	1
Rehearings	2	21	18	5
Mandate of Funds	0	0	0	0
Other**	1*	2	0	3
TOTAL	300	1095	1037	358

TOTAL DISPOSITIONS: 1037		
Criminal	542	52.3%
Civil	312	30.1%
Tax	7	0.7%
Certified Questions	2	0.2%
Original Actions	54	5.2%
Attorney Discipline	99	9.5%
Board of Law Examiners	1	0.1%
Judicial Discipline	2	0.2%
Rehearings	18	1.7%
Mandate of Funds	1*	0.0%

* Pending cases as of 7/1/10 adjusted from
FY 2010 Annual Report

** Unauthorized Practice of Law

Standing with the Justices are teachers who completed a two-week workshop, "From the Inside Out: How Indiana's Courts Work." Teachers learn about the daily operations of courts, probation departments and other areas of the legal system, and conclude the program by presenting a mock oral argument.



MAJORITY OPINIONS AND PUBLISHED DISPOSITIVE ORDERS: 156

Criminal								42							26.9%
Civil								37							23.7%
Tax								2							1.3%
Certified Questions								2							1.3%
Original Action								4							2.6%
Attorney Discipline								63							40.4%
Board of Law Examiners								1							0.6%
Judicial Discipline								2							1.3%
Rehearings								3							1.9%
Mandate of Funds								0							0.0%
Other								0							0.0%
	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	0	10	6	0	0	0	0	0	0	1	0	0	18	
Dickson, J.	0	0	8	7	0	1	0	0	0	0	0	0	0	16	
Sullivan, J.	0	1	6	12	0	1	0	0	0	0	0	0	0	20	
Boehm, J.	0	0	2	2	0	0	0	0	0	0	0	0	0	4	
Rucker, J.	1	0	3	6	2	0	0	0	0	0	2	0	0	14	
David, J.	1	1	8	1	0	0	0	0	0	0	0	0	0	11	
By the Court	0	0	2	1	0	0	4	63	1	2	0	0	0	73	
TOTAL	3	2	39	35	2	2	4	63	1	2	3	0	0	156	

NON-DISPOSITIVE OPINIONS

	Concurring	Dissenting	Concur/Dissent in part	Recusal Opinion	Total
Shepard, C.J.	0	7	0	0	7
Dickson, J.	2	7	0	0	9
Sullivan, J.	1	7	2	0	10
Boehm, J.	1	2	0	0	3
Rucker, J.	2	6	0	0	8
David, J.	0	1	0	0	1
TOTALS	6	30	2	0	38

CERTIFIED QUESTIONS						
	Pending 7/1/10	Received	Accepted	Rejected	Opinions	Pending 6/30/11
Fed. Ct. - Dist.	0	2	2	0	1	1
Fed. Ct. - App.	0	1	1	0	1	0
Fed. Ct. - Oth.	0	1	1	0	0	1
TOTAL	0	4	4	0	2	2

CASES IN WHICH ORAL ARGUMENTS WERE HELD													
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Criminal before decision on transfer	0	0	0	1	1	0	0	0	0	0	0	0	2
Criminal after transfer granted	1	0	3	0	6	3	2	2	3	4	1	4	29
Civil/Tax before decision on transfer/review	0	0	0	1	1	0	1	0	4	0	0	0	7
Civil/Tax after transfer/review granted	1	1	1	3	2	2	3	3	5	4	2	5	32
Criminal Direct Appeals	0	0	0	0	0	1	0	0	0	0	0	0	1
Civil Direct Appeals	0	0	1	1	0	0	1	0	0	0	0	0	3
Certified Question	0	0	0	0	0	2	0	0	0	1	0	0	3
Attorney Discipline	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	2	1	5	6	10	8	7	5	12	9	3	9	77

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

PETITIONS FOR EXTENSION OF TIME & MISCELLANEOUS ORDERS	
Petitions for Extension of Time Processed	38
Special Judge Requests	85
Other Miscellaneous Appellate Orders	1211
TOTAL	1334

DISCIPLINARY, CONTEMPT, AND RELATED MATTERS**Attorney Disciplinary Cases Pending Before Hearing Officer/Court on July 1, 2010**

Before the 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 Imposed, Awaiting Attorney Response	7

TOTAL CASES PENDING 7/1/10 **72****New Disciplinary Matters Received July 1, 2010 – June 30, 2011**

Petitions to Show Cause for Noncooperation	31
Verified Complaints for Disciplinary Action	63
Private Administrative Admonitions Tendered	3
Affidavits of Resignation (tendered before filing Verified Complaint)	3
Petitions for Emergency Interim Suspension	2
Notices of Findings of Guilt (Felony)/Requests for Interim Suspension	2
Notices of Foreign Discipline/Requests for Reciprocal Discipline	1
Petitions for Reinstatement	6
Petitions to Revoke Probation	1
Petitions to Terminate Probation	5
Contempt of Court Proceedings	2
Miscellaneous	0

TOTAL **119****Attorney Disciplinary Cases Disposed July 1, 2010 – June 30, 2011**

Dismissal on Compliance with Show Cause Order	15
Terminating Noncooperation Suspension on Compliance with Show Cause Order	1
Converting Noncooperation Suspension to Indefinite Suspension	5
Private Administrative Admonition	3
Rejection of Private Administrative Admonition	0
Private Reprimand	11
Public Reprimand	12
Suspension with Automatic Reinstatement (after Verified Complaint)	9
Suspension without Automatic Reinstatement (after Verified Complaint)	10
Suspension with Conditions/Probation (after Verified Complaint)	1
Disbarment (after Verified Complaint)	1
Accepting Resignation	9
Emergency Interim Suspension Granted	1
Emergency Interim Suspension Denied	1
Interim Suspension on Finding of Guilt (Felony)	4
Reciprocal Discipline (Suspension)	2
Finding or Judgment for Respondent	0
Granting Reinstatement	4
Withdrawal of Petition for Reinstatement	0
Denying Reinstatement	0
Revoking Probation	0
Terminating Probation	5
Finding Contempt of Court	1
Dismissing or Withdrawing Action	4
Miscellaneous	0

TOTAL **99****Attorney Disciplinary Cases Pending June 30, 2011**

Before Court for Hearing Officer Appointment	5
Disciplinary Action Pending before Hearing Officer	44
Reinstatement Action Pending before Hearing Officer	8
Briefing Stage	6
Before the Court for Decision	11
Show Cause Order Entered, Awaiting Attorney Response	11
Noncooperation Suspension Entered, Awaiting Attorney Response	7

TOTAL PENDING **92**

ANALYSIS OF SUPREME COURT DISPOSITIONS	
Criminal Cases	
Opinions on direct appeals	3
Direct appeal disposed of by order	0
Opinions on petitions to transfer	39
Opinions on rehearing	0
Orders on rehearing	7
Petitions to transfer dismissed, denied, or appeal remanded by unpublished order	499
Petitions to transfer granted and remanded by order	1
Other opinions/dispositions	0
TOTAL	549
Civil Cases	
Opinions and orders on certified questions	2
Opinions on direct appeals	3
Direct appeals disposed of by order	0
Opinions on rehearing	3
Orders on rehearing	8
Opinions on petitions to transfer	35
Petitions to transfer denied, dismissed, or appeal remanded by unpublished order	271
Other opinions/dispositions	4
TOTAL	326
Tax Cases	
Opinions on Tax Court petitions for review	2
Dispositive orders on Tax Court petitions for review	5
TOTAL	7
Original Actions	
Opinions issued	0
Disposed of without opinion	54
TOTAL	54
Mandate of Funds	
Opinions and published orders	0
TOTAL	0
Attorney Disciplinary Matters	
Opinions and published orders	63
Other dispositions	36
TOTAL	99
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	1038

CASES PENDING AS OF JUNE 30, 2010	Pending Cases as of June 30, 2011 (Does not include Rehearing Petitions)	Pending Petitions For Rehearing as of June 30, 2011
Shepard, C.J	8	1
Dickson, J	6	0
Sullivan, J	5	3
Boehm, J	0	0
Rucker, J	12	0
David, J.	7	1
To the Court	0	0
Unassigned Civil Cases	118	0
Unassigned Tax Court Petitions for Review	2	0
Unassigned Criminal Transfer Cases	97	0
Unassigned Criminal Direct Appeals	1	0
Unassigned Civil Direct Appeals	0	0
Unassigned Original Actions	0	0
Unassigned Certified Questions	1	0
Unassigned Other*	3	0
Pending Bar Examination Reviews	0	0
Attorney Discipline	92	0
Judicial Discipline	1	0
TOTAL	353	5

*Unauthorized Practice of Law



The Indiana House of Representatives Chambers and gallery are “standing room only” for the State of the Judiciary speech, which is attended by trial court judges from around the state.



Present and former justices gathered in the Robing Room on the occasion of Justice Boehm's retirement. (left to right) Justice Robert D. Rucker, Chief Justice Randall T. Shepard, retiring Justice Theodore R. Boehm, former Justice Myra C. Selby, former Justice Roger O. DeBruler, incoming Justice Steven H. David, Justice Brent E. Dickson, and Justice Frank Sullivan, Jr.



Photo by John Krauss.

The Indiana Supreme Court Courtroom.



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