



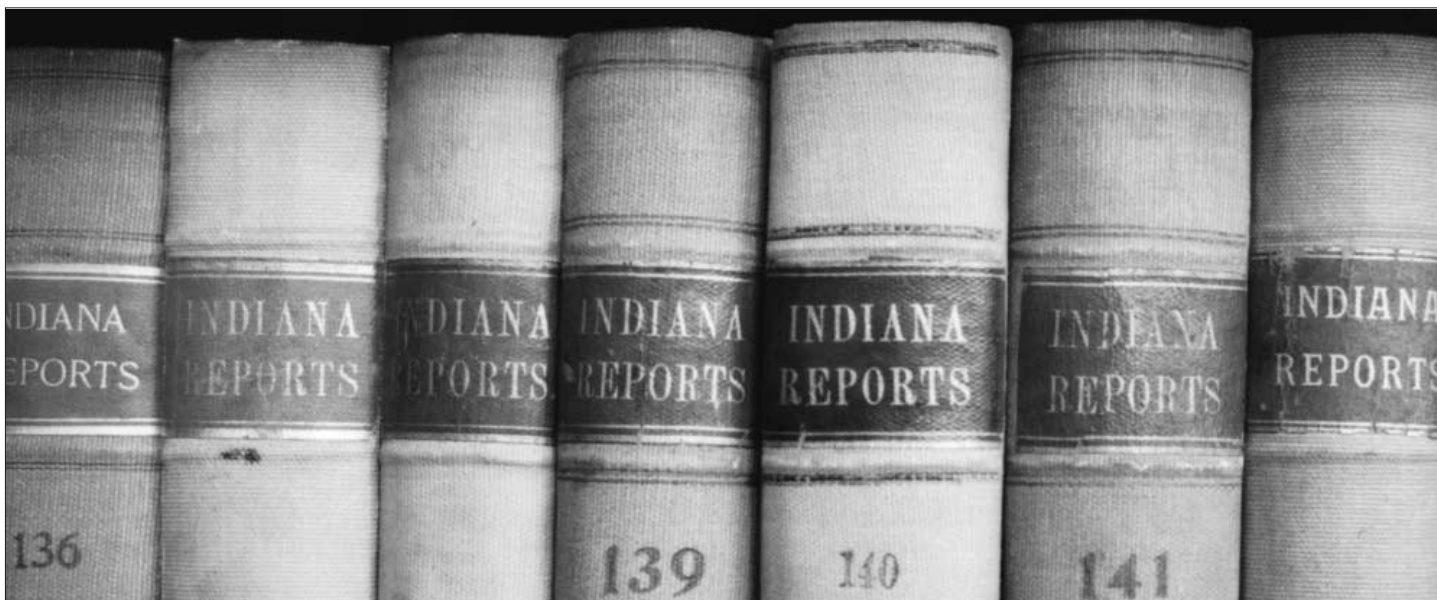
# INDIANA SUPREME COURT ANNUAL REPORT



INDIANA'S COURT OF LAST RESORT: THE INDIANA STATE SUPREME COURT

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





## 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 2003-2004 (July 1, 2003 through June 30, 2004) and a description of the activities of the Court and its affiliated agencies. Section II, Significant Events of Fiscal Year 2003-2004, includes brief highlights from the past fiscal year. Additional details on many of the programs listed in Section II can be found in the sections that follow. For more information about the Court, its history, and its various agencies and programs, visit our web site, [www.IN.gov/judiciary](http://www.IN.gov/judiciary). •

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## II. SIGNIFICANT EVENTS OF FISCAL YEAR 2003-2004

### COMPLEXITIES OF TODAY'S SOCIETY INVOLVE THE SUPREME COURT

Issues involving new and quickly changing technologies and shifting viewpoints about how people relate to each other continue to land on the doorstep of the Supreme Court of Indiana. Tackling these new challenges is just one of the many responsibilities of the Court as it provides leadership for the entire judicial branch of government.

In the past year, the Court has handled a host of important issues that will have significant impact on the lives of Hoosiers. Fortunately, a constitutional amendment approved in the fall of 2000 removed the requirement that every criminal case with a sentence of greater than fifty years be appealed directly from the trial court to the Supreme Court. As the few remaining pre-amendment "direct criminal appeals" moved off the Court's docket in 2003, the Court was able to focus nearly 100 percent of its energy on important civil cases and those criminal cases that truly need the attention of a court of last resort. In the past year, the Supreme Court issued 154 majority opinions, many of which touched the lives of millions of Hoosiers. The Court's opinions covered a wide range of matters ranging from changes to Indiana's death penalty statute prompted by a landmark U.S. Supreme Court ruling, to the timing of the delivery of a governor's veto, to the number of un-related people who could share a household, to the kinds of medical procedures the state's Medicaid program must cover.

The constitutional change has also enabled the court to hear more oral arguments, which are now a regular feature of nearly every Thursday morning at the Indiana State House. In the past fiscal year, the Court heard seventy-four oral arguments. The Court also traveled to Fort Wayne for an argument which, for the first time in the Court's history, was broadcast live on a local radio news station.

For the long term, the freedom to identify the legal issues that are

most vital to the citizens of Indiana will increase the level of service provided by the Court.

### STATE OF THE JUDICIARY

Indiana's Constitution, Article 7, Section 3, requires the Chief Justice to deliver regular reports on the State of the Judiciary to the Indiana General Assembly. In the remarks he delivered in early 2004 to a joint session of the Indiana House and Senate, Chief Justice Randall T. Shepard discussed the judiciary's effort to help families navigate the court system, to find pro bono lawyers to help poor litigants, and to make it easier for the poor to represent themselves. His address, "A Difficult Year that Prompted Reflection," was videotaped and can be viewed on the Internet.

### SAYING GOODBYE TO A GOVERNOR

The passing of Governor Frank L. O'Bannon in September was a terrible shock to Hoosiers. In addition to sharing responsibilities as leaders of the state's government, the members of the Supreme Court all had a personal relationship with the Governor as well. The Court was immediately drawn into tragedy and asked to act in an official manner in the days between the Governor's stroke in Chicago on September 8, 2003 and his death days later. During that period, a never-before used provision of the state's Constitution was invoked by Speaker of the House B. Patrick Bauer and President Pro Tempore of the Senate Robert D. Garton when they reluctantly petitioned the Supreme Court to declare that the unconscious Governor O'Bannon was no longer able to discharge the duties of his office. That process allowed Lieutenant Governor Joseph E. Kernan to be formally named Acting Governor. After the Governor passed away in his hospital room, Justice Theodore R. Boehm, in a hushed Supreme Court Room, swore the Acting Governor in as the state's newest Governor. Chief Justice Shepard would later

preside at the State House ceremony honoring the late Governor, ending a sad chapter in the State's and the Court's history.

## **IMPORTANT LEGISLATION**

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Members of the Supreme Court have long advocated for a compensation adjustment for Indiana's judicial officials and were optimistic the 2003-2004 session of the Indiana General Assembly would provide some relief for the state's judges, who traditionally had languished at the bottom of most state-by-state salary surveys. Indiana's judges last saw a raise in 1997 and, like many state employees, saw significant increases in health care costs. Unfortunately, unlike most state employees, judges did not receive the health care cost adjustment that the executive branch granted its employees to protect them from rising health care costs. Fortunately, in the closing hours of the legislature, the leaders in the Indiana judiciary, including Chief Justice Shepard, were able to secure a modest health care adjustment for judges. Perhaps more significantly, the legislature, with the support of the judiciary, created a Public Officers Compensation Advisory Commission to set appropriate salaries for statewide elected officials, legislators and judges. In late June 2004, Chief Justice Shepard asked two well-regarded civic leaders to serve as his representatives on the nine-member Commission: Michael Browning, of Browning Investments, and Stephen Stitle, of National City Bank.

In other significant legislation, the office of the Clerk of the Courts became a formal part of the Supreme Court. Long an independent office that managed the flow of cases in and out of the Supreme Court, the Court of Appeals, and the Tax Court, the Clerk's Office has traditionally worked in a very cooperative fashion with the Court. When the term of the current Clerk, David A. Lewis, ends in 2006, the Chief Justice will name the new Clerk. In the meantime, the Court began supervising the functions of the Clerk's office, as part of the legislation that made the Clerk an appointed position.

## **COURT ADMINISTRATOR DOUG CRESSLER GOES TO DENVER**

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In another transition, Douglas Cressler, the able Supreme Court Administrator for the past nine years, announced in June 2004 that he would be taking a new position as Chief Deputy Clerk for the U.S. Court of Appeals for the Tenth Circuit in Denver. Mr. Cressler's many accomplishments and contributions not only to the Court but to the bar of Indiana and the nation were recognized in an upbeat June ceremony. In addition to receiving a Sagamore of the Wabash from Governor Joseph E. Kernan that was presented by the Governor's Counsel, Jon Laramore, Mr. Cressler also received an engraved memento in which the members of the Court noted that "his petition to transfer is hereby reluctantly, but affectionately, granted this 15th day of June, 2004." Deputy Court Administrator Greta Scodro was named Acting Supreme Court Administrator while the search for Mr. Cressler's permanent replacement was underway.

## **OUTREACH AND COMMUNICATION**

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In addition to dispensing justice in the form of the cases it hands down, the Supreme Court has continued its effort to connect the work it does to the people it serves through technology, the Internet, and with new partnerships both inside and outside the legal system. "Courts in the Classroom," the centerpiece of the Court's outreach program, continues to provide live and archived feed, via the Internet, for all Supreme Court oral arguments. Besides providing access to oral arguments, "Courts in the Classroom," has partnered with the Center for Civic Education, the President Benjamin Harrison House, the Capitol Tour Office, the Indiana Humanities Council, Indiana University School of Law-Indianapolis Alumni Association, the Indiana Bar Foundation, the Indiana Criminal Justice Institute, the Indiana Department of Education, and Purdue University in developing a variety of educational materials for Indiana teachers and students.

## **COURT ROOM RENOVATION**

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With the help of a federal grant, restoration work began in the Supreme Court in the summer of 2004. The primary focus of the work was the ceiling, which many believe had not been spruced up since the 1940s or 1950s. Artisans from the Garland Guild, Inc., played detective in the summer of 2003 and rediscovered the original colors and patterns, after rubbing away six or seven layers of paint. During the summer of 2004, they will complete the restoration work. The walls, too, will also be painted in a replication of the original paint scheme, returning the Courtroom to its late 19th century grandeur.

## **JUDICIAL TECHNOLOGY AND AUTOMATION COMMITTEE**

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The Supreme Court has also continued to embrace technology in a significant way that is likely to eventually touch every citizen who has contact with the local courts. The Court expanded a project that will have far-reaching, positive consequences for Indiana government and Indiana citizens: the Judicial Automation and Technology Committee (JTAC), chaired by Justice Frank Sullivan, Jr. The primary goal of JTAC is to assist county court systems with the development and installation of an integrated case management system that can share information electronically with other groups that need data from the justice system, such as the Family and Social Services Administration, the State Police, the Bureau of Motor Vehicles, and other county judicial systems.

JTAC selected Computer Associates International, Inc. as the company that will partner with JTAC in developing the integrated information management system for Indiana's justice system. As a sure sign of progress, JTAC identified a number of test and pilot counties that will be among the first to benefit from this technological advance. In June 2004, user acceptance testing began in Clay County. Much of the funding for JTAC comes from court-filing fees and grants.

## **ACCESS TO JUSTICE**

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The Court has continued its efforts to make sure the courthouse doors are open for all. In a unique partnership with the Indiana Bar

Foundation and the Indiana State Bar Association, the Court has fostered the growth of the Indiana Pro Bono Commission and fourteen local pro bono organizing committees. The twenty-one member Commission reviews pro bono plans developed by the local committees, each led by a trial judge, and then submits funding recommendations to the Indiana Bar Foundation. The Commission recommended that the local committees receive a total of \$391,500, which was distributed in January 2004. Funding comes from the state's Interest On Lawyer Trust Accounts (IOLTA) program. Even in a low interest rate environment, the IOLTA program, managed by the Indiana Bar Foundation, has continued to generate significant income for the pro bono programs. To date, \$1,696,500 has been distributed to local pro bono committees. In its most recent annual report, the Pro Bono Commission revealed that twenty-two percent of Indiana's active attorneys handled 6,600 pro bono cases, which is well above the national average for pro bono participation.

In recognition of the support the Court has given to pro bono, in the fall of 2003, David J. Remondini, Counsel to the Chief Justice, was recognized by the Indiana Pro Bono Commission for his work in developing pro bono when he was awarded the Randall T. Shepard Pro Bono Publico Award.

With its statewide pro se project, the Court has also helped people who cannot find an attorney or who prefer to represent themselves. Chaired by David Holt, Judge of the Greene Superior Court, this program helps educate trial courts, and clerk staffs, and library personnel about the best ways to assist self-represented clients. The committee has also prepared a number of commonly used legal forms and posted them on the Internet. Several forms and instructions have been translated into Spanish and posted on the Internet as well. At times, the legal forms page has been among the most popular of the Supreme Court's many webpages.

In another electronic innovation, the Supreme Court, with the assistance of JTAC, launched an on-line Child Support calculator that will make it much easier for people to figure out the amount of child support payments for their families.

## **ACCESS TO COURT RECORDS**

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Guidelines that update public access rules for Indiana's court records were approved by the Supreme Court in the fall of 2003 following months of work by a task force chaired by Justice Brent Dickson that included judges, lawyers, court clerks and representatives of the news media and several other interested organizations.

The new rule seeks a proper balance between the rights of privacy and the public's right and ability to access public court records and is a complete rewrite of current Indiana Supreme Court Administrative Rule 9. The goal of the task force was to comprehensively address the issues of public access and privacy in court records that are likely to be maintained and distributed in electronic formats. The proposed rule is designed to be "user friendly" and is based in part on a national model adopted by the Conference of Chief Justices and the Conference of State Court Administrators. It operates on the principle that court records are

public unless the information is expressly determined to be confidential.

## **ACCESS TO INDIANA'S LAW SCHOOLS**

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In an effort to enrich the range of voices in the Indiana legal system, at the urging of Chief Justice Shepard the Supreme Court initiated the Indiana Conference on Legal Education Opportunity (Indiana CLEO) in 1997. During the past fiscal year, the eighth class of law students for the Indiana CLEO program were selected. These thirty students spent the summer of 2004 at Indiana University School of Law in Bloomington in a six-week Summer Institute that is designed to prepare them for the rigors of law school. Each student who completes the Summer Institute will receive a stipend of \$5,000 to \$7,000 for each year of law school. Indiana CLEO seeks to diversify the Indiana legal community by making it easier for people of differing backgrounds to succeed in law school. Indiana CLEO also promotes a number of additional programs, including career assistance, job placement, summer employment, networking opportunities, and assistance with preparation for the Indiana Bar Examination. Indiana CLEO fellows have begun moving into positions of leadership in the Indiana legal community. For example, Jenny Sarabia (Indiana CLEO 2000) was named the Executive Director of the Department of Workforce Development's Commission of Hispanic/Latino Affairs by Governor Kernan. Another Indiana CLEO Fellow Terry Tolliver (Indiana CLEO 1997) and Deputy Attorney General served as the Co-Chair of the Indiana State Bar Association's Committee for Racial Diversity in the Legal Profession for the second consecutive year. While in the northwest region of the State, Indiana CLEO Fellow Eduardo Fontanez, Jr. (Indiana CLEO 1998) completed a term as interim East Chicago City Judge in December 2003.

## **THE JURY RULES PROJECT VIDEOTAPE**

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A two-year effort to review and amend the rules that govern jury trials in Indiana was completed during the past fiscal year and went into effect on January 1, 2003. To assist with the wide-ranging changes, the Jury Committee of the Indiana Judicial Conference produced an engaging, Indiana-based informational videotape for jurors to view prior to their service.

The new rules limit jury service to either one day of service or one trial per year and direct trial judges to inform jurors they have the right to ask questions during a trial.

## **THE RACE AND GENDER FAIRNESS COMMISSION**

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Co-chaired by former Supreme Court Justice Myra C. Selby and Indiana Court of Appeals Judge Ezra R. Friedlander, the Commission on Race and Gender Fairness continued to work to improve the operation of the legal system by eliminating bias. Following public hearings held in six cities during the summer of 2001 and additional research, the Commission issued a sweeping set of recommendations to improve the reality and perception of the judicial system as it relates to bias. In the early spring of 2004, the Supreme Court gave specific instructions to the Commission on which recommendations to implement.

## COURT INTERPRETER TRAINING

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A key recommendation of the Race and Gender Fairness Commission was to implement a court-based interpreter program that would set standards for the people who provide translations in court. The first training for court interpreters under this program began in the fall of 2003 and the first interpreters certified by this program earned their certificates in the spring of 2004.

## FAMILY COURT PROJECT

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

The Family Court Initiative promotes an open, common-sense approach to the resolution of legal issues affecting the safety and stability of children, within the parameters of due process of the law. A key focus is on the special needs of families who have multiple cases pending before several judges. A family court provides a structure for coordinating the family's multiple cases to avoid inconsistent and duplicative orders, and to insure informed decision making for the family. The Family Court Initiative also helps indigent or at-risk families receive vital services.

A \$400,000 appropriation from the legislature in 1999 allowed the Supreme Court to open family court projects in Johnson, Monroe and Porter counties. In July 2001, an additional \$400,000 allowed expansion of the Family Court Initiative into Marion and LaPorte counties. It also authorized a multiple-county family court project in Montgomery and Boone counties. Putnam and Owen counties also joined together as a family court project to provide affordable mediation services in custody and juvenile law cases.

In late 2003, the Court expanded the Family Court Initiative to eight new counties. The new pilot counties will receive \$201,000 in 2004 and \$197,000 in 2005. In addition, the continuing nine family court counties will share another \$124,000 in transition funds, for a total of \$500,000 for family courts for the period 2004 and 2005. This includes a substantial grant from the federal Court Improvement Program for "family focused" programming in child abuse and neglect cases.

## "PARENTING TIME" ALMOST BECOMES PART OF THE INDIANA CODE

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In a reflection of the remarkable work of the Indiana Judicial Conference's Domestic Relations Committee, chaired by Clark Circuit Court Judge Daniel Donahue, the Indiana Senate voted to change all references in the Indiana Code from "visitation" to "parenting time." Senate Bill 46, authored by Senator David Ford,

stemmed from the earlier wide-ranging revision of what had been called the "Visitation Guidelines" and are now called the "Parenting Time Guidelines." Unfortunately, the bill did not advance any further during the 2004 session. The new Parenting Time Guidelines were changed to reflect the reality that both parents are involved in the upbringing of their children, even when the child or children may live primarily with one parent.

## MEMBERS OF THE COURT AS PART OF THE COMMUNITY

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Members of the Court continued to be recognized for their contributions to the law and the community. Each of the members of the Court are involved in a wide range of activities and projects. For example, Chief Justice Randall T. Shepard, was tapped to be elected "President-Elect" of the Conference of Chief Justices with the prospect of becoming President in 2005. He has also been appointed a liaison to the ABA Joint Commission on the Code of Judicial Conduct, presently suggesting revisions to the Code. In addition, he was selected to join other distinguished judges, including U.S. Supreme Court Chief Justice William Rehnquist on a panel in Virginia in the fall of 2003. In the spring of 2004, he was selected as the 2004 recipient of the Excellence in Service Award by the National Association of Women Judges.

Justice Frank Sullivan is the American Bar Association Judicial Division's liaison to the ABA's Commission on Racial and Ethnic Diversity in the Profession, and he co-chairs the Division's and Commission's Judicial Clerkship Program that encourages minority law students to seek judicial clerkships. He is also a member of an ABA committee that is updating ABA-promulgated guidelines for the evaluation of judicial performance. In addition, he played a key role in a historical re-enactment of a famous Indiana post-Civil War case, *Ex parte Milligan*, as part of the centennial celebration of the U.S. Federal Courthouse in Indianapolis.

Justice Theodore R. Boehm was named as the chair of the Nominating and Governance Committee of the United States Olympic Committee.

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



## III. THE INDIANA SUPREME COURT

### A. BRIEF HISTORY

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

During territorial days, a general court of three judges had 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." 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 of voter confirmation for 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 in the future. Under current law, retirement is required at age seventy-five.

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

approved, a Justice begins a ten-year term.

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

### B. THE CASE WORK OF THE INDIANA SUPREME COURT

As evidenced in the section of this report titled, "Significant Events of Fiscal Year 2003-2004," the Court is very active in providing leadership for the judicial branch of government. The principal business of the Court, however, is deciding cases.

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

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

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



## C. BIOGRAPHIES OF THE JUSTICES



**RANDALL T. SHEPARD**

Randall T. Shepard of Evansville, was appointed to the Indiana Supreme Court by Governor Robert D. Orr in 1985 at the age of 38. He became Chief Justice of Indiana in March 1987. A seventh generation Hoosier, Shepard graduated from Princeton University cum laude and from the Yale Law School. He earned a Master of Laws degree in the judicial process from the University of Virginia. Shepard was Judge of the Vanderburgh Superior Court from 1980 until his appointment. He earlier served as executive assistant to Mayor Russell Lloyd of Evansville and as special assistant to the Under Secretary of the U.S. Department of Transportation. Chief Justice Shepard was also chairperson of Indiana's State Student Assistance Commission and trustee of the National Trust for Historic Preservation. He served as chair of the ABA Appellate Judges Conference and of the Section of Legal Education and Admissions to the Bar. Shepard is President-Elect of the National Conference of Chief Justices and will serve as the group's President in August 2005. He is married and has one daughter.



**BRENT E. DICKSON**

Brent E. Dickson was appointed as the 100th Justice of the Indiana Supreme Court on January 4, 1986, after seventeen years as a general practice and trial lawyer in Lafayette, Indiana. As a lawyer, he was certified as a Civil Trial Advocate by the National Board of Trial Advocacy. Born in Gary, Indiana, in 1941, he was educated at public schools in Hobart, Indiana; Purdue University (B.S. 1964); and Indiana University School of Law at Indianapolis (J.D. 1968). He is co-founder of the Sagamore Chapter of the American Inns of Court in Indianapolis, a member of the American Law Institute, a registered mediator, and active in various national, state, and local judicial and bar organizations. Justice Dickson also teaches an evening course as an adjunct professor at Indiana University School of Law in Bloomington. Justice Dickson and his wife have three adult sons and four grandchildren.



**FRANK SULLIVAN, JR.**

Frank Sullivan, Jr., was appointed to the Supreme Court by then-Governor (now United States Senator) Evan Bayh in 1993. He chairs the court's Judicial Technology and Automation Committee (JTAC) that has undertaken a major project to equip every Indiana court with a 21st century "case management system" and to connect individual courts' case management systems with each other and with users of court information. Born in 1950 in South Bend, Indiana, he holds degrees from Dartmouth College (A.B., cum laude, 1972), Indiana University School of Law – Bloomington (J.D., magna cum laude, 1982), and the University of Virginia School of Law (LL.M., 2001). During the 1970's, he served as administrative assistant and staff director for former U.S. Representative John Brademas. During the 1980's, he practiced law in Indianapolis, concentrating his practice in corporate and securities

law. In 1989, he was appointed by Governor Bayh as Indiana State Budget Director, an office he held through 1992. An active participant in bench, bar, and legal education activities, he is the American Bar Association Judicial Division's liaison to the ABA's Commission on Racial and Ethnic Diversity in the Profession and co-chairs the Division's and Commission's Judicial Clerkship Program that encourages minority law students to seek judicial clerkships. He is a member of the Valparaiso University School of Law National Council and the Board of Visitors of the Indiana University School of Law – Bloomington. He and his wife are the parents of three sons.



**THEODORE R. BOEHM**

Theodore R. Boehm was appointed to the Supreme Court by Governor Evan Bayh in 1996. He grew up in Indianapolis, received his A.B. from Brown University in 1960, summa cum laude, and graduated magna cum laude in 1963 from Harvard Law School, where he was an editor of the Harvard Law Review. After serving as a law clerk to Chief Justice Earl Warren of the United States Supreme Court he joined the Indianapolis law firm of Baker & Daniels where he became a partner in 1970 and managing partner in 1980. In 1988 Justice Boehm joined General Electric as General Counsel of GE Appliances and in 1989 became Vice President and General Counsel of GE Aircraft Engines. In 1991 he joined Eli Lilly Company and then returned to Baker & Daniels in 1995. Justice Boehm was Chairman and CEO of the organizing committee for the 1987 Pan American Games in Indianapolis, and was the first President and CEO of Indiana Sports Corporation. He is currently chair of the Indianapolis Cultural Development Commission and serves as Chair of the Nominating and Governance Committee of the United States Olympic Committee. He is a Trustee emeritus of Brown University and a member of the American Law Institute. He is married and has four grown daughters and four grandchildren.



**ROBERT D. RUCKER**

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 Governor Evan Bayh. While on the Court of Appeals, Justice Rucker served as vice-chair of the Indiana Commission for Continuing Education. As a lawyer, Justice Rucker served on the board of directors of the Indiana Trial Lawyers Association and on the board of directors of the Northwest Indiana Legal Services Organization. He also served as a deputy prosecuting attorney for Lake County, City Attorney for the City of Gary, and engaged in the general practice of law in East Chicago. Justice Rucker is a member of the American Bar Association, the American Judicature Society, the Indiana Judges Association, and a Fellow of the Indianapolis Bar Foundation. He also serves on the Judicial Council executive committee of the National Bar Association. Justice Rucker is married and has two sons and a daughter.



## IV. BUDGETARY MATTERS

The Supreme Court operated under a biennial budget, previously approved by the General Assembly, for the period July 1, 2003 through June 30, 2004. The Court has continued its efforts to provide greater service at reduced expense through efficiency.

## V. ACTIVITIES OF THE AFFILIATED AGENCIES AND DIVISIONS OF THE COURT

### A. DIVISION OF SUPREME COURT ADMINISTRATION

**DOUGLAS E. CRESSLER, ADMINISTRATOR**

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

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

The lawyers of the Division of Supreme Court Administration also serve as the Court’s central staff counsel. In fiscal year 2003-2004, the office produced hundreds of substantial legal memoranda on a myriad of topics to assist the Indiana Supreme Court in its role as the court of

last resort in Indiana. The various miscellaneous motions and other matters requiring ruling in cases pending before the Court are presented to the Chief Justice and to the Court through the administration office. Finally, the administration office has specific duties prescribed by the Indiana Trial Rules with regard to original actions, which are proceedings that challenge a trial court’s jurisdiction and may be taken directly to the Indiana Supreme Court.

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

**Post script.** After nearly twelve years as an attorney for the Court, nine of those as the administrator, Doug Cressler accepted a position as chief deputy clerk with the Tenth Circuit Court of Appeals in Denver, Colorado. Mr. Cressler made many contributions to the efficient operation of the Court, to the bar and to this annual report.

### B. CITIZEN EDUCATION: “COURTS IN THE CLASSROOM”

**ELIZABETH OSBORN, ASSISTANT TO THE CHIEF JUSTICE FOR PUBLIC EDUCATION AND COURT HISTORY**

The Indiana Supreme Court’s main education outreach program, “Courts in the Classroom,” was launched in 2001 with the installation

of “webcast” technology in the Supreme Court Courtroom. This equipment, which includes four remotely-operated cameras, enables every oral argument to be webcast live on the Internet and then archived for later viewing. The “Courts in the Classroom” project has been recognized by the National Center for State Courts as a model for educating the public about the judiciary and it also received a national award from the Center for Digital Government. Over the past three years, this program has grown from the original concept of making the workings of the Court more accessible to Hoosiers through the broadcast of oral arguments, and now includes on-line lesson plans and resources for teachers, partnerships with education players around the state, the production of scripted trials for use in classrooms or small group settings, and the publication of Indiana-based material about the workings of the trial and appellate courts. Over the last two years, as more and more resources and video have been added to the website, visits to the “Courts in the Classroom” webpage by teachers, students, and lawyers has almost tripled. During 2004, it is expected that the “Courts in the Classroom” pages will receive over 100,000 hits. The Indiana Supreme Court, through its educational outreach programming, is playing a key role in citizenship education for Indiana teachers, students, and citizens.

## ORAL ARGUMENTS ON-LINE

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Since September 2001, every Supreme Court oral argument in the State House and several Court of Appeals arguments have been webcast on the Internet. There are a total of 185 oral arguments currently available on the court’s website. The webcast equipment has also been used to webcast Bar Admission ceremonies for new attorneys, public hearings, and to broadcast training videos developed by the Indiana Judicial System. In addition, the website also contains videos useful in educating students and citizens about the workings of the judicial branch. *Faces of Justice*, for example, is an eleven-minute video introducing the workings of the Indiana judicial branch, and a new jury orientation video takes viewers through the process of jury selection and the responsibilities of being a juror.

A major piece of the “Oral Arguments Online” project is the creation of lesson plans for Indiana teachers and students. Periodically, a Supreme Court or Court of Appeals argument is chosen as a “Featured Case.” We have selected cases, and created lesson plans, on topics of likely interest to teenagers such as due process, the right to a jury trial and the responsibility of jury service, statute of limitations, and the structure of Indiana’s courts. The lesson plans, complete with links to legal resources and aligned with the state’s social studies standards, are posted on the “Courts in the Classroom” website along with links to the oral argument video, the appellant and appellee’s briefs, and the opinion of the Court.

## PUBLICATIONS

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To further foster education about Indiana’s trial and appellate courts, “Courts in the Classroom” worked with the Purdue University’s Cooperative Extension Service to produce two publications containing curriculum information and activities for Indiana teachers and students.

*The Indiana Trial Court System: At a Courthouse Near You* and *Indiana’s Appellate Courts: Courts of Last Resort* contain Indiana-specific material on how trial and appellate courts work. These texts are a unique resource for Hoosier teachers because they are the only curriculum material available that focuses exclusively on the Indiana judicial system, as opposed to generic information about the judicial branch in general. More than 2,000 copies of *At A Court House Near You* were published and distributed, in many cases at “live” seminars, to Indiana’s educators, thanks in large part to a grant from the Indiana Bar Foundation. Through these teacher workshops approximately 20,000 students were exposed to material about Indiana’s judiciary.

A second grant from the Indiana Criminal Justice Institute will allow for a similarly widespread distribution of *Courts of Last Resort*, and additional teacher seminars, during the 2004-2005 school year.

## COURTROOM EVENTS

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

The first event was a part of the Polis Center’s Spirit and Place Festival. The Court hosted a play based on Sojourner Truth’s two criminal trials in Indiana. Truth was a famous 19th Century activist in both the abolition and woman’s rights movement. She represented herself at the trial and, despite a less than hospitable environment, won!

In March 2004, “Courts in the Classroom” partnered with the Indiana State House Tour Office and the President Benjamin Harrison Home to celebrate the anniversary of the inauguration of Hoosier President and former Reporter of the Indiana Supreme Court, Benjamin Harrison. The event included an essay contest, and a re-dramatization of the famous Civil War case *Ex Parte Milligan*. The event was so popular that it had to be performed twice to accommodate the almost 200 students who came to Indianapolis to participate. Students, chosen from members of the audience, about thirty, made up the bulk of the cast for the scripted trial. The Indiana University School of Law-Indianapolis Alumni Association helped to provide financial support for this program.

As the 50th anniversary of the famous desegregation case *Brown v. Board of Education* neared in the spring of 2004, the Supreme Court organized another courtroom re-enactment based on some of the facts of the cases behind Brown. This event again utilized the talents of visiting school children to dramatize the case. Adult participants included Governor Joseph E. Kernan, Superintendent of Public Instruction Suellen Reed, and Sandra Leek, executive director of the Indiana Civil Rights Commission.

Another courtroom event involved a partnership with the National Center for Civic Education in Calabassas, California and Indiana University’s Social Studies Development Center. “Courts in the

Classroom" webcast and archived the Indiana finals of the *We the People...* Project Citizen competition in May 2004. Project Citizen is a middle school civic education program designed to develop interest in public policy making as well as the ability to participate competently and responsibly in state and local government.

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## C. DIVISION OF STATE COURT ADMINISTRATION

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### LILIA G. JUDSON, EXECUTIVE DIRECTOR

The Indiana Supreme Court Division of State Court Administration (the "Division") is an administrative office of the Chief Justice of Indiana. The Division assists the Chief Justice and the Indiana Supreme Court in the administration and management of Indiana's judicial system and its officers (I.C. 33-24-6-3). State statutes, Supreme Court rules and Supreme Court policies define the duties and authorities of the Division and its Executive Director.

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### JUDICIAL WORKLOAD, RECEIPT AND EXPENDITURE OF FUNDS

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One core responsibility of the Division is the collection of statistical information concerning the operations of Indiana's courts and their offices. Pursuant to Indiana Code 33-24-6-3 and Indiana Supreme Court Administrative Rules 1 and 2, the Division collects and publishes information on the caseload and fiscal activities of all courts and probation offices throughout the state. This data is published annually in *The Indiana Judicial Service Report* and *The Indiana Probation Report*. This data provides the empirical basis for policy decisions by both the Indiana Supreme Court and the Indiana General Assembly and also provides important management information for individual courts.

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### WEIGHTED CASELOAD MEASURES AND CASELOAD REDISTRIBUTION PLANS

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

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

The Division worked with the Judicial Administration Committee of the Indiana Judicial Conference to conduct an update and validation in 2002 of the Weighted Caseload Measures System. Since the study

was first conducted, the addition of new case type designations and procedural and substantive changes necessitated an update of the original study. The results of the update to the Weighted Caseload Measures were completed in the fall of 2002 and were approved by the Indiana Supreme Court.

The Division began collecting data under new case categories, and these new measures and case categories are reflected in this year's report.

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### JUDICIAL TECHNOLOGY AND AUTOMATION

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In 1999, the Indiana Supreme Court established the Judicial Technological and Automation Committee ("JTAC") and appointed Supreme Court Justice Frank Sullivan, Jr., as its chair. The Supreme Court asked Justice Sullivan and JTAC to develop a long-range strategy for technology and automation of Indiana's judicial system, including the funding and implementation of a judicial information case management system. The Supreme Court assigned the Division to assist JTAC in the performance of its duties.

Since its inception, JTAC has helped the Supreme Court move Indiana's judicial system into the modern age of technology. Through Justice Sullivan's leadership, the Supreme Court: (1) offered e-mail and Internet access to every Indiana trial court judge and clerk of court; (2) provided the trial court judges and clerks with free access to automated legal research through a contract with Lexis/Nexis; (3) provided free training on basic computer skills in a structured educational setting through a contract with Ivy Tech State College; (4) provided free, ongoing Lexis/Nexis training at the JTAC Training Center and at judicial education events; (5) provided surplus used computers to trial courts; and (6) through a partnership with Dell, Inc., provided discounts on new computers for all courts of record. In mid-2002, the Supreme Court embarked on the key project of this automation initiative, the development and deployment of a case management system for Indiana's courts and the connection of individual courts with each other and with users of court information such as the State Police, Department of Revenue, Family and Social Services Agency, Department of Correction, Bureau of Motor Vehicles, and the prosecuting attorneys system, ProLink. The project is one of unprecedented complexity, breadth, and expense for the Indiana judiciary.

After reviewing thirty-five proposals from around the world, JTAC recommended to the Indiana Supreme Court the selection of Computer Associates International, Inc. ("CA") to provide Indiana with a 21st Century case management system ("CMS"). Following that decision, in mid-2002, the Division executed a contract with CA for the development and deployment of the Indiana CMS and for the interface of the CMS with other agency systems. The Supreme Court announced a policy that will guide the deployment of the CMS. Under the policy, the CMS will be made available to any county wishing to install the CMS.

Seven stages for the CMS project were identified at the onset of the project: (1) Project Initiation and Planning; (2) Requirements Analysis; (3) CMS System Design; (4) CMS Modifications, Configuration, and Unit Testing; (5) System Integration Testing; (6) User Acceptance Testing; and (7) Implementation. The project entered

Stage 4 in November 2003 and since moved into Stage 5. With the implementation stage approaching, and a partnership already established with Marion County for a pilot implementation, JTAC began a selection process in early 2003 for additional counties. Clay, Huntington, and Morgan counties were selected. Knox, Johnson, and White counties were selected as alternates. The first pilot implementation began in Clay County in mid- 2004. Marion County is expected to follow soon.

Standardization of Indiana’s Chronological Case Summary entries became a corollary project under the leadership of JTAC member and Court of Appeals Judge Paul Mathias and Senior Judge John Kellam. In another companion project, Supreme Court Justice Brent Dickson lead members of the Records Management Committee who were joined by representatives of the press, victim advocates, and numerous other organization to work on a policy of public access to and privacy of court records, including automated records that will be available through the CMS.

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

## **LEGAL RESPONSIBILITIES**

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The Supreme Court and the Chief Justice assign the majority of the legal responsibilities of the Division. The Division legal staff serves as counsel to the Supreme Court in matters involving attorney discipline and requests for the appointment of special judges, special masters, and senior judges. In fiscal year 2003-2004, the Division legal staff assisted the Supreme Court in disposing of 85 disciplinary matters. As part of this disciplinary function, the Division staff conducts preliminary investigations of disciplinary grievances filed against members and staff of the Indiana Supreme Court Disciplinary Commission, attorneys who are serving as hearing officers in disciplinary cases, as well as requests for review of decisions by the Disciplinary Commission and the Indiana Commission on Judicial Qualifications.

Supreme Court rules governing the method of special judge selection call for the establishment of local rules for such selection and certification to the Supreme Court in certain unusual circumstances. The Division monitors local rules establishing plans for special judge selection and processes requests for the appointment of special judges by the Supreme Court. In fiscal year 2002-2003, the Division received 130 new requests for special judge appointments.

Various federal and state laws, rules and regulations, as well as U.S. Supreme Court decisions affect the administrative responsibilities of trial judges. Since 1996, a Division attorney provides advice and assistance to trial judges on employment law issues. This function also includes training for judges and their staff on a wide variety of issues such as Sexual Harassment Awareness, the Americans With Disabilities Act, the Family and Medical Leave Act, the Fair Labor

Standards Act, Effectively Disciplining and Terminating Problem Employees, Effective Use of Policies, Drug Testing, and Appropriate Business Conduct for Court Employees.

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

## **RULE AMENDMENTS AND THE SUPREME COURT COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

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The Executive Director of the Division serves as Executive Secretary of the Indiana Supreme Court Committee on Rules of Practice and Procedure and assists the Committee and the Supreme Court in drafting and promulgating amendments to the Indiana Rules of Court.

Notable rule amendments promulgated during 2003 include amendments to Administrative Rule 5 which establishes comprehensive standards for senior judges, amendments to the rules for admission and discipline of attorneys which provide for provisional and business counsel licenses, and a comprehensive revision of the Indiana Child Support Guidelines. The guidelines were developed by the Indiana Judicial Conference Committee on Domestic Relations after extensive study, research, and public hearings.

## **JUDICIAL QUALIFICATIONS / NOMINATING COMMISSION**

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

During fiscal year 2003-2004, the Nominating Commission convened for five meetings. It certified five new Senior Judges, re-certified ninety-one Senior Judges, and declined to certify one applicant for Senior Judge status. The Commission interviewed applicants for a vacancy on the Court of Appeals, and nominated three candidates for appointment by the Governor.

The Qualifications Commission convened for six meetings in the fiscal year 2003-2004. Of the 336 complaints on the Commission’s docket, 295 were dismissed without Commission inquiry. Of those,

Commission counsel conducted preliminary inquiries into 103 and, in seven, the Commission sent the judges advisory letters. Of the 336 complaints on the Commission's docket during the fiscal year, 41 were investigated or resulted in formal charges, or continued in investigation or on charges from the prior year. Thirteen were dismissed after the Commission concluded that no misconduct occurred and, in eight cases, the Commission issued private cautions. The Commission issued a Public Admonition of one judge during the fiscal year, and the Supreme Court resolved another Commission case when it suspended a judge for thirty days without pay. The Commission filed formal disciplinary charges against two judges, and one proceeded to an evidentiary hearing. The second case in which charges were filed, and fourteen other complaints, were pending at the end of the fiscal year. Commission counsel responded to approximately 500 requests for advice from judges and judicial candidates.

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

## SENIOR JUDGE PROGRAM

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

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

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

In 2003, Indiana had 96 certified senior judges who served a total of 5041 days. These days are equivalent to approximately 28 full-time judicial officers.

Also in 2003, the Indiana Supreme Court developed a comprehensive set of standards for the certification, service, appointment and payment of senior judges. The new rule enables the Supreme Court to

allocate senior judge time to the courts with the heaviest caseloads while still allowing all courts to have sufficient senior judge help (minimum of 10 days per year) to relieve trial judges during necessary absences from the bench.

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

## APPELLATE COURT AUTOMATION AND TECHNICAL SERVICES

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

Staff developed the new graphical user interface (GUI) for the Indiana Clerk of the Court's electronic case history system. Planning is currently under way to re-design the case management system in the Supreme Court, Court of Appeals, and Tax Court with a similar graphical interface. A prototype for e-mailing yearly attorney transcripts for continuing legal education was successful and attorneys will have that option available to them in 2004. Plans are also on the way for online credit card payment of attorney registration and disciplinary fees.

Upgrades to the infrastructure of the appellate level judiciary were completed. Network speeds were enhanced from 1.4 megabytes per second to 10 megabytes per second, with top speeds of 1 gigabyte per second. All network hubs were replaced with network switches and more fiber optic cable was installed to accommodate the network expansion.

Wireless networking was also introduced, and court staff were equipped with wireless enabled laptops. While this project is still in its infancy, wireless connections in most meeting and conference room spaces are being planned. Several home wireless networks have also been installed.

## INDIANA CONFERENCE FOR LEGAL EDUCATION OPPORTUNITY (CLEO)

The Indiana Conference for Legal Education Opportunity (CLEO), created in 1997, is making a significant contribution to expanding the range of backgrounds among new Indiana lawyers. Through the



*At the end of a workday, Justice Theodore R. Boehm (left) and Chief Justice Shepard (right) talk in the atrium of the Indiana State House.*

collaborative efforts of Indiana's judiciary, business and legal communities and the four Indiana law schools, ICLEO helps increase the number of minority, low-income, and disadvantaged law students in Indiana.

In 2003, Indiana CLEO enrolled its seventh class of ICLEO fellows who attended the 2003 Summer Institute hosted by Indiana University School of Law – Indianapolis. The six-week Summer Institute continues to be the cornerstone of the Indiana CLEO program. The Summer Institute is structured to prepare the selected students for the rigors of law school education through concentrated class instruction and practical application. Additionally, the structure allows all participants an opportunity to begin creating a network among legal professionals and other students to assist them once law school begins in the fall.

This year, a summer employment program, Gateway to Diversity: A Summer Employment Program in the Indiana Legal Community, implemented several procedural changes to make it more user friendly to potential summer employers. This program is co-sponsored by ICLEO and the Indiana State Bar Association's Committee on Racial Diversity in the Legal Profession. It helps first and second year ICLEO fellows and other minority students come in contact with summer employment opportunities.

Since its inception, the ICLEO program has produced 97 graduates from all four Indiana Law schools. Of those, 67 were admitted to the Indiana bar and 12 more have been admitted to practice in eight other states. This year, 1998 ICLEO fellow, Eduardo Fontanez, Jr., a 2001 graduate of the Indiana University School of Law – Indianapolis, served as interim city judge for the East Chicago City Court in northwestern Indiana. He is the first ICLEO fellow to serve as a judicial officer. Other Indiana CLEO graduates have embarked on careers as deputy prosecutors, public defenders, deputy attorney generals, private practice attorneys, solo practitioners, corporate counsel, executive directors, judicial law clerks, and Judge Advocate General officers. ICLEO is a small but significant step in assuring that the Indiana legal community truly reflects and serves all its residents.

## CIVIL LEGAL AID FUND

Since 1997, the Division has administered the distribution of an annual appropriation from the Indiana General Assembly of \$1 million to aid qualified organizations providing legal assistance to indigent persons in civil cases. In 2003, the Division made distributions to ten organizations providing civil legal aid services to Indiana's poor. Distributions are based upon an analysis of each county's civil caseload, as it relates to the civil caseload for the entire state, and the number of organizations serving each county.

The Division staff structured and instituted a data collection system

whereby service providers collect and report their caseloads in a uniform manner. The ten qualified legal aid providers handled approximately 18,500 civil indigent cases in 2003. The vast majority of these cases involved "Family Matters," i.e. divorce, separation, custody, visitation, paternity, termination of parental rights, and spousal abuse.

## COURT IMPROVEMENT GRANT

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

Although the purpose and overall framework of the project are set by the U.S. Department of Health and Human Services and the American Bar Association's Center on Children and the Law, the Supreme Court and the members of an executive committee have guided the direction of the Indiana program. During the

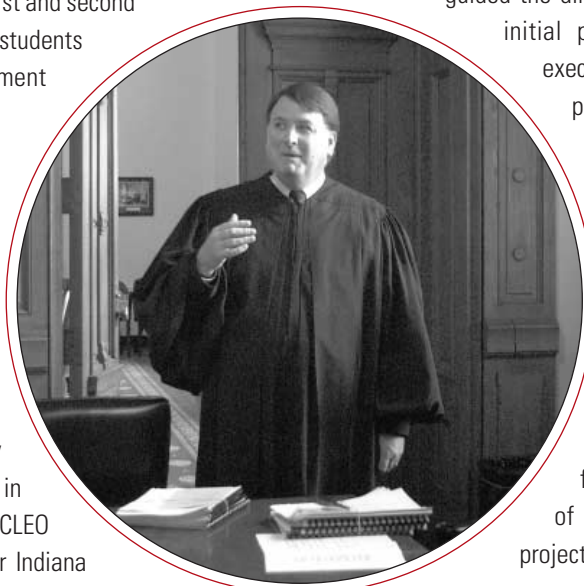
initial phase of this multi-phased project, the executive committee identified several areas of particular concern, which were targeted in subsequent phases. In the second phase, eighteen county level programs aimed at expediting CHINS cases were implemented. During a third phase, efforts were focused on larger, more comprehensive improvements in the delivery of services to children in the more populous counties of Lake, Marion, Elkhart, and St. Joseph. In a fourth phase, funding was providing to assist in the design of two Family Court Pilot Projects. The projects, located in Putnam and Porter counties, use mediation/facilitation services in family court cases with CHINS involvement.

In 2002, a fifth phase funded eight counties that plan to replicate the successful programs in phase three. These include pre-hearing

facilitation in CHINS cases, case manager services, and family court projects. These projects continued into early 2003, with several obtaining grant extensions through 2003 and into 2004. The executive committee also authorized \$50,000 per year for technology which would track cases involving neglected and abused children. The Supreme Court anticipates that the innovative programs developed through this grant will markedly improve the delivery of services to Indiana's children.

## INFORMATION MANAGEMENT

A primary function of the Information Management Section (Section) is assisting trial court clerks to comply with Administrative Rules and Trial Rule 77. Trial Rule 77 sets standards for case files, indexes



*Chief Justice Shepard pauses to consider a comment by another Justice.*

chronological case summaries (CCS), and records of judgments and orders (RJO).

In 2003, the staff made 42 visits to 25 different counties. During the visits staff reviewed microfilming programs for compliance with Administrative Rule 6 and use of optical imaging for judicial records. A substantial project in Vigo County involved developing a management strategy which will result in the removal and conversion of approximately 225 tons of records from the courthouse attic.

Staff activities of the Section expanded from the traditional functions this year as the Supreme Court developed the structure for a statewide electronic case management system. The Section assisted JTAC throughout the year, including attendance at a number of technical discovery sessions; participation with the Judicial Administrative Committee; assistance to Judge Michael P. Barnes of the Court of Appeals, who led a subcommittee to coordinate recordkeeping terminology among courts, law enforcement agencies, and the Department of Correction; writing reports reviewing the forms and "even" documents (used in crating the CCS); and other technical assistance. Approximately forty percent of Section staff time has been devoted to JTAC.

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

The Supreme Court's Records Management Committee, which the Section staffs, conducted a near year long project which culminated in a complete revision of Administrative Rule 9, concerning privacy and public access to court records.

## **PRIVACY AND PUBLIC ACCESS**

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

Justice Dickson and the Public Access Task Force focused on Administrative Rule 9 for revision because it already contained some confidentiality and public access provisions, although it was not comprehensive. As the task force began its work, it became obvious that confidentiality restrictions on information from court records could be found throughout federal law, state law, and even other court rules. This fragmentation resulted in public access and confidentiality issues being difficult to understand and also resulted in differences in access throughout the state.

The Indiana public access statutes state that they encompass all records, including court records, but the statutes also provide that the Supreme Court may, by rule, designate court records as confidential. In addition to the specific statutory authorization, the Task Force relied

upon the Court's inherent constitutional authority and duties to craft a policy that covers not only case records but also administrative records of the judicial branch of government.

The task force began its work by using a model public access policy developed by the Conference of Chief Justices and the Conference of State Court Administrators. The framework provided by the model policy guided the task force as it began a nine-month process of regular bi-weekly meetings. During these meetings, the task force members modified and customized the sixty-page model policy to make it practical for Indiana practice.

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

## **PROTECTION ORDER PROCEEDINGS**

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The Indiana protection order statutes charge the Division with the responsibility of designing and updating the forms used in protection order proceedings. To fulfill this duty, the Division works closely with the members of the Protection Order Committee of the Judicial Conference of Indiana.

The Supreme Court established the Protection Order Committee in 2000 to explore ways to improve the protection order process. Trial court judges, magistrates, and clerks of the circuit courts comprise the membership of the committee, and the Indiana Judicial Center and the Division provide staff support.

With significant input from the Protection Order Committee, the Indiana General Assembly enacted new legislation which clarified the Indiana protection order process. This also required the design of new forms and modification of several existing forms.

During 2003, members of the committee directed their efforts in three main directions: 1) working with the Indiana General Assembly to enact modest, mainly technical, changes to existing protection order statutes; 2) designing new forms and modifying existing forms; and 3) developing a desk book on protection order procedures for clerks, magistrates, judges, and other users. The desk book will be completed in 2004.

## **ACCOUNTS MANAGEMENT, PAYROLL AND CLAIMS, JUDICIAL BENEFITS COORDINATION**

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The Division maintains and administers 12 accounts, totaling approximately \$70 million. The administration of payroll and benefit program for all state trial court judges, prosecuting attorneys, and other judicial officials paid with state funds is part of this fiscal responsibility. The annual payroll account for this purpose is



approximately \$56 million and covers approximately seven hundred individuals. Also, as part of this "paymaster" function, the Division processes and pays in excess of 1,000 claims per year for special and senior judge service.

During 2003, Indiana State Personnel implemented a new self-help benefits enrollment process through PeopleSoft, an enterprise software package that provides human resources, accounting, and other management applications. For users who were not connected to the state's network, the Personnel Department deployed a web enabled data entry site intended to be accessible through the Internet. This move required that every participant in the state benefit system learn how to log on through the Internet, navigate through the PeopleSoft system, and make the data entry of benefit choices in the automated system, all during a designated period of time, about two weeks.

This process proved to be a challenge primarily because the technology solution was not robust enough to handle all of the web based entries and was not user friendly. Thus, during 2003, Division staff conducted numerous training sessions for judicial officers and prosecutors and assisted hundreds of users in using the self-help system. Because the judicial branch constituents are disbursed throughout the state and are not connected to the state computer network, the automated self-help system continues to be a challenge. Division staff continues to work with its constituents and State Personnel in an attempt to improve the process.

## INDIANA OFFICE OF GAL/CASA

In 1989, the Indiana General Assembly established an office of Guardian Ad Litem and Court Appointed Special Advocate (GAL/CASA) within the Division. This program encourages counties to provide appropriate GAL/CASA services to abused and neglected children by providing matching state funds for county GAL/CASA programs. In addition to giving matching funds, the State Office of GAL/CASA ("State Office") provides training and support services for local GAL/CASA programs. The Indiana Supreme Court Advisory Commission on GAL/CASA ("Advisory Commission"), which includes program directors and judges appointed by the Indiana Supreme Court, provides guidance to the State Office.

In 2003, seventy-eight counties applied for and received state GAL/CASA funds. Sixty-nine counties in Indiana funded a volunteer-based GAL/CASA program, staffed by 121 paid personnel and 5 volunteer staff members. GAL/CASA volunteers donated an estimated total of 741,753 hours in 2003. If GAL/CASA volunteers had been paid the rate of \$50.00 per hour (the rate commonly paid to a non-volunteer appointed guardian ad litem), the volunteers contributed an estimated

sum of \$37 million to the State of Indiana in 2003.

The 2003 GAL/CASA statistical reports, which reflect ninety-seven percent of the GAL/CASA programs, indicate that in 2003 there were at least 2,022 active GAL/CASA volunteers statewide in 2002, including 446 newly trained volunteers. GAL/CASA volunteers represented 14,938 children involving 13,709 cases in 2003. Even so, there were 3,475 children still waiting for a GAL/CASA volunteer to be appointed to their cases at the end of 2003.

The State continues to receive grant funds from the National CASA Association and uses the funds to help defray the cost of a program coordinator. This grant enabled the State Office to establish CASA programs in counties where there were no one and to provide enhanced support services to thriving programs. Funding from the grant has also made it possible to publish a quarterly newsletter and to conduct quarterly regional training for local program directors and staff.

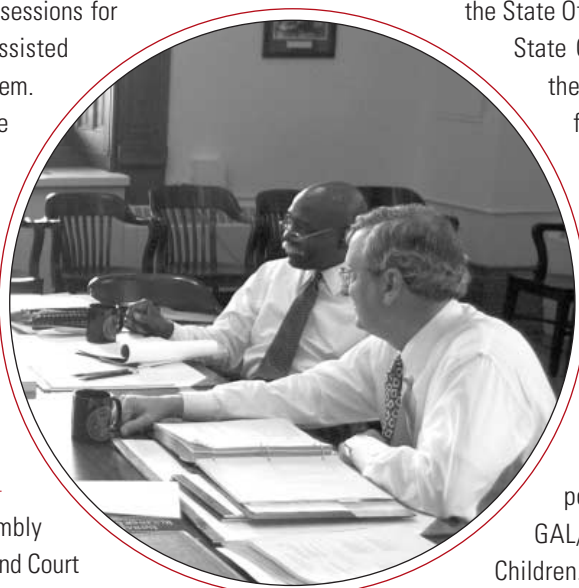
On September 12, 2003, the State Office convened the annual meeting for CASA directors and staff, and on September 13, the State Office sponsored the Seventh Annual Indiana

State GAL/CASA Conference. For the first time, the conference was opened and advertised to foster parents, child welfare caseworkers, and other child service providers. Over 450 individuals attended the annual CASA conference. Workshops at the conference included a foster children's panel, a judge's panel, a cultural diversity panel, sessions on helping children transition, successful adolescent adoptions, understanding poverty, and developing and maintaining a positive relationship between the GAL/CASA and the Office of Family and Children. The State Office also held a two-day new directors' training, conducted numerous other training sessions for CASA program directors, staff, and volunteers; and attended volunteer recognition ceremonies. Through a toll free

hotline and a GAL/CASA listserv for directors, the State Office provides technical assistance to multiple CASA programs across the State of Indiana and addresses inquiries from the public.

In 2002, the State Office and the Advisory Commission decided that it would be beneficial for Indiana CASA programs to support and participate in the National CASA Association's quality assurance initiative. Through this initiative, each GAL/CASA program undergoes a self-assessment for compliance with national standards. The self-assessment process is being rolled out in four parts between July 2003 and June 2005.

Henceforth, programs membership in National CASA will require compliance with national standards. Indiana weighed the pros and cons and determined that the benefits of the national membership far outweighed the negatives. In addition to providing highly professional



*The members of the Supreme Court meet regularly in the Supreme Court Conference Room in the Indiana State House to discuss pending cases and other matters.*

guidelines, national membership benefits include the use of a comprehensive volunteer training manual and other resources, the use of COPMET (the electronic case management tool that tracks cases in which a CASA is appointed), grant funding, and assistance from a regional representative on programmatic issues. The State Office is strongly urging all programs to comply with national standards. However, for those programs that cannot immediately comply, the office requests that the programs meet Indiana's less stringent, minimal standards. The GAL/CASA Advisory Commission recently updated the Indiana program standards and Code of Ethics and made them more consistent with national standards. The Supreme Court and its State Office and Advisory Commission believe that the self-assessment tool and national quality assurance system will promote quality advocacy on behalf of children and greater consistency and professionalism in CASA programs across the State of Indiana.

## FAMILY COURTS PROJECT

The Indiana Family Court Project completed its fourth year of operation at the end of 2003 and began its fifth year in January 2004 with the selection of eight new counties. The project is supported and funded by the Indiana Legislature and is operated by the Indiana Supreme Court through the Division. A task force, chaired by Indiana Court of Appeals Judge Margaret Robb, and a consultant provide advice and guidance to the Division and the participating counties.

The Indiana Family Court Project does not create new courts or judgeships; it provides assistance (of which state funding is only one element) to counties to implement operational and management models that coordinate families' multiple cases pending before multiple judges. The first participants in the project developed the "one judge-one family" and the "information sharing between multiple courts" models with a host of "best practices" and advice. These models continue to be very successful. They enable courts to make informed decisions, avoid inconsistent and conflicting orders, and eliminate redundant service delivery.

The Indiana Supreme Court also promulgated four special rules of procedure specifically designated for those courts that participate in the project. The rules address issues such as judicial notice of records in other family court cases involving members of the same family and requests for special judge appointments. Although only experimental, these rules help overcome jurisdictional and confidentiality roadblocks to resolving multiple cases together.

In addition to identifying families with multiple cases, the family courts provide programming, particularly on affordable mediation for low-income families. Specialized family-focused services for indigent

and high-risk families, including service referral, direct services case management, truancy and delinquency prevention, family focused probation and drug courts, protective order coordination, and services for families without legal representation are some of the family programming avenues.

The eight new family court county participants selected in 2003 for Phase III will receive \$398,000 over the next two years, and the prior nine family court counties will share \$124,000 to help them transition to local funding. By the end of Phase III in December, 2005, the counties will have received in excess of one million dollars for project development. These funds have been appropriated by the General Assembly, but the project's long term plan calls for community funding.

An in-depth report and evaluation of the first four years of the Indiana Family Court Project was published in January, 2004, and is available in hard copy through the Division or on the Supreme Court web site.



*The Supreme Court Courtroom hosts a number of events besides oral arguments, including a re-enactment of the facts behind the landmark school desegregation case, *Brown v. Board of Education*.*

## PUBLIC DEFENDER COMMISSION

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

counties receive reimbursements of fifty percent of eligible expenses. In other criminal cases, counties that meet certain standards and qualify, receive forty percent reimbursement of indigent criminal defense costs. The intent of the Legislature and the court is to encourage counties to provide qualified indigent defense in criminal cases.

In 2003, appropriations to the public defense fund, which is nonreverting, totaled \$7 million. At present, fifty-three counties have comprehensive plans approved by the Commission for delivery of indigent services. Over fifty percent of the state's population resides in counties eligible to receive reimbursements in non-capital cases under the program.

The Commission meets periodically and reviews claims submitted by counties for eligibility and compliance with statewide standards. In 2003, the Commission dispersed approximately \$6 million for non-

capital cases and \$478,000 for capital cases. An additional \$2.2 million was approved for the fourth quarter of the fiscal year but had not yet been paid by the date of this report.

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

## SHARING INFORMATION THROUGH THE INTERNET AND TRADITIONAL PUBLICATIONS

The Division publishes a newsletter, *The Indiana Court Times*, which serves as a communication link with the trial courts, their staff, the clerks of court, and all other entities involved in the courts' work. The Division JTAC staff also maintains the Indiana Supreme Court website for the appellate level courts and their adjunct offices. In addition, court opinions, Rules of Court, rule amendments, downloadable forms, summary statistical reports, a self help center, Indiana CLEO applications, and advisory opinions issued by the Indiana Commission on Judicial Qualifications, are now available on the website. The most recent addition, a calculator for child support. Also, Indiana's attorneys can now view and track their continuing education courses (CLE) through the site. The Division endeavors to provide a communication link between the appellate level courts, trial judges, their staffs, and the clerks of court.

## INDIANA SUPREME COURT COMMISSION ON RACE AND GENDER FAIRNESS

Sparked by concerns about race and gender fairness in Indiana's justice system, the Supreme Court, through an administrative rule, created the Commission on Race and Gender Fairness in 1999. Representatives of Indiana's judiciary, the practicing bar, academia, state and local governments, public organizations, and law enforcement and corrections comprise the Commission. Former Indiana Supreme Court Justice Myra Selby and Indiana Court of Appeals Judge Ezra Friedlander chair this Commission. The Executive Director and staff of the Division assist the Commission in the performance of its duties.

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

The Commission submitted its Executive Report and Recommendations to the Indiana Supreme Court on January 2, 2003. The Report is the culmination of three years of study and research on

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

As of the date of this report, the Supreme Court approved the majority of the recommendations, and asked the Commission to set priorities for implementing the recommendations. In particular, the Supreme Court already implemented the Commission's first recommendation, which is the establishment of a foreign language certified court interpreter program in Indiana. The Commission continues work on implementing the remaining approved recommendations.

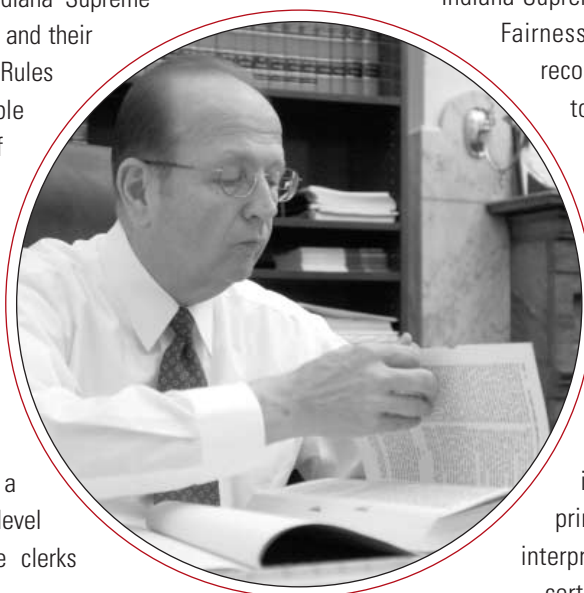
## CERTIFIED COURT INTERPRETER PROGRAM

As a part of the study of language and cultural barriers by the Indiana Supreme Court Commission on Race and Gender Fairness, the Commission made an interim recommendation to the Indiana Supreme Court to institute a certified court interpreter system for Indiana. In response, the Supreme Court authorized the Executive Director of the Division to join the National State Court Interpreter Certification Consortium through the National Center for State Courts and to implement an Indiana court interpreter testing system. At first, the program will be only for Spanish-speaking interpreters. The Court also approved, in principle, the concept for a code of ethics for interpreters and the concept for setting specific certification standards for interpreters. The Commission convened an Advisory Board to assist the court in developing these components.

The first group of Spanish-speaking interpreters began the certification process in October, 2003 with a two-day orientation session covering judicial procedure, protocol, courtroom decorum, the roles of the interpreter, ethical issues, terminology, and the skills and modes of interpreting. Participants also practiced consecutive, simultaneous, and sight interpreting skills and received feedback from the presenters.

Following the orientation session, the first group took the court interpreting written exam in November 2003. Only those participants who passed the written exam with a score of at least seventy percent were allowed to register for the third and fourth phases of the certification process.

The third phase, a skills building course, is a two-day Spanish interpreting course geared to build vocabulary and improve existing skills. An oral Spanish-language court interpreting proficiency examination is the fourth and final phase. The oral exam will be



*Justice Brent Dickson pores over caselaw in his State House office.*

approximately one hour and will cover various interpreting scenarios. Those participants who pass the oral exam with a score of at least seventy percent will be "certified" by the Supreme Court as a qualified interpreter.

The second class began the certification process in May, 2004 with a two-day orientation.

## JUDICIAL DISTRICT BUSINESS MEETINGS

During early 2004, in conjunction with the Indiana Judicial Center, the Division helped sponsor the biannual judicial district business for Judicial Districts 1, 2, 3, 5, 6, and 13. Meetings were held in Evansville, Merrillville, South Bend, Fort Wayne, and Marion with a total of 139 judicial officers attending. Judges received updates on pay issues, recent legislation and JTAC, along with a report from the Court of Appeals.

## COMMITTEE ON LOCAL RULES

At the request of the Supreme Court Committee on Rules of Practice and Procedure, the Supreme Court convened a special Local Rules Committee to examine the local court rules of Indiana's courts and to recommend a model structure for such rules. The Division staffs the committee, which is chaired by Indiana Court of Appeals Judge Margaret Robb. The Committee first compiled existing local rules into one place and conducted a review of the areas in which courts have local rules. During 2003, the Committee proposed and published for public comment an amendment to Trial Rule 81, which establishes a schedule and a naming convention for local court rules. The ultimate goal of the Committee is to bring uniformity to the local rule amendment process and to make sure that local rules are readily available to practitioners, litigants, and the public.

## INDIANA PROJECT ON SELF-REPRESENTED LITIGANTS

The Indiana Supreme Court's Pro Se Project entered its third year of operation in 2003. The Indiana Supreme Court created this Advisory Committee, chaired by Green Superior Court Judge David Holt, in response to the growing national phenomenon of people choosing to represent themselves without lawyers. The Supreme Court appointed the Pro Se Advisory Committee to make recommendations to the Supreme Court on the issues of pro se litigation; to develop a comprehensive strategy for future pro se efforts; and to help trial courts respond to the growing numbers of self-represented litigants. The Committee consists of judges, community members, and other service providers.

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

## D. INDIANA SUPREME COURT DISCIPLINARY COMMISSION

### DONALD R. LUNDBERG, EXECUTIVE SECRETARY

The Disciplinary Commission is responsible for the investigation and prosecution of attorney discipline proceedings. The Commission is funded through an annual registration fee that is required of all lawyers who wish to keep their Indiana law licenses active and in good standing. During the Commission's fiscal year of July 1, 2003 through June 30, 2004, the Commission received \$1,731,521 in income, compared to \$1,584,111 budgeted, and incurred \$1,638,797 in expenses, compared to \$1,712,810 budgeted. The Commission's expenses included disbursements of \$166,516 for operation of the Indiana Judges and Lawyers Assistance Program.

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

## CASE DISPOSITIONS

During the reporting period, 1,626 grievances were filed with the Commission, approximately a 5% increase over the previous year. Fifty-two of those grievances were initiated by the Commission in its own name based upon information coming to its attention from a variety of reporting sources, including reports from lawyers and judges. Third-party complainants filed the balance of the grievances.

During the reporting period, the Commission filed fifty-four Verified Complaints for Disciplinary Action with the Indiana Supreme Court. These Verified Complaints, together with amendments to pending Verified Complaints, represented findings of probable cause by the Commission in ninety-three separate counts of misconduct.

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

Private Reprimands .....	6
Public Reprimands .....	17
Suspensions with Automatic Reinstatement .....	1
Suspensions with Conditional Reinstatement .....	6
Suspensions without Automatic Reinstatement .....	15
Resignations Accepted .....	7
Judgments for Respondent .....	2
Total .....	54

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

## REINSTATEMENTS

During the reporting period, four previously disciplined lawyers filed petitions to have their law licenses reinstated. The Supreme Court issued two final orders in lawyer reinstatement proceedings, dismissing one case before hearing and denying reinstatement in one case after hearing.

## NON-COOPERATION BY LAWYERS

Effective January 1, 2001, the Supreme Court amended Admission and Discipline Rule 23(10) to provide for the suspension of a lawyer's law license upon a showing that the lawyer has failed to cooperate with the disciplinary process. The purpose of this rule was to promote lawyer cooperation to aid in the effective and efficient functioning of the disciplinary system. The Commission brings allegations of non-cooperation before the Court by filing petitions to show cause. During the year, the Commission filed nineteen new show cause petitions for non-cooperation against sixteen lawyers. The following describes the disposition of those matters and non-cooperation matters carried over from the previous year:

New Show cause petitions filed	19
Show cause orders with no suspension	16
Dismissed after show cause order due to compliance	11
Orders pending without further court action as of 6/30/2004	3
Dismissed as moot due to resignation	2
Suspensions for non-cooperation	9
Reinstatements due to cooperation after suspension	0
Suspensions still effective as of 6/30/2002	9

### Trust Account Overdrafts

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

Carried Over From Prior Year	13
Overdraft Reports Received	56
Inquiries Closed	61
Reasons for Closing:	
Bank Error	14
Deposit of Trust Funds to Wrong Trust Account	11
Disbursement From Trust Before Deposited Funds Collected	10
Referral for Disciplinary Investigation	6
Disbursement From Trust Before Trust Funds Deposited	6
Overdraft Due to Bank Charges Assessed Against Account	5
Inadvertent Deposit of Trust Funds to Non-Trust Account	4
Overdraft Due to Refused Deposit for Bad Endorsement	2
Law Office Math or Record-Keeping Error	2
Death, Disbarment or Resignation of Lawyer	1
Inadvertent Disbursement of Operating Obligation From Trust	0
Non-Trust Account Inadvertently Misidentified as Trust Account	0
Inquiries Carried Over Into Following Year	8

## COMMISSION MEMBERS

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

## E. BOARD OF LAW EXAMINERS

### MARY PLACE GODSEY, EXECUTIVE DIRECTOR

The Board of Law Examiners is the gatekeeper for the Bar of the State of Indiana and is responsible for ensuring that only qualified candidates are admitted to practice law in our state. The Board supervises the entry of lawyers to the bar through what many consider to be the daunting experience of the Indiana State Bar Examination and through Admission on Foreign License without examination for qualifying attorneys from other states.

## CHARACTER AND FITNESS

One of the Board's most challenging tasks is making character and fitness determinations. The Board is required to certify to the Supreme Court that applicants for admission to the bar have been found to possess the necessary good moral character and fitness to perform the obligations and responsibilities of an attorney. From July 1, 2003 to June 30, 2004, applications to sit for the bar were received from 903 individuals. Before an applicant can sit for the bar, he or she must meet with one of the 295 members of the Supreme Court Committee on Character and Fitness. This fiscal year, the members of the Supreme Court appointed seven new members to the Character and Fitness Committee. This Committee is made up of attorneys from each county in the state. They conduct personal interviews with applicants to inquire into the applicant's good moral character and fitness and the applicant's knowledge of the standards and ideals of the profession. In addition to the valuable screening and review work performed by this committee, their interviews provide vital contacts for students with practicing attorneys.

As a result of these interviewers' recommendations and other investigation by the Board, fifty-eight applicants were required to appear before the full Board to resolve matters of character and fitness and eligibility to sit for the examination, or to be admitted. In addition, twenty-two individuals were referred to the Judges and Lawyers Assistance Program (JLAP) for evaluation or assessment.

Some of the individuals requiring evaluations are recommended for a conditional admission, if they are successful on the bar examination. JLAP provided monitors for four individuals admitted on conditional admission under Admission and Discipline Rule 12, Section 6 (c).

## THE BAR EXAMINATION

Another Board challenge is the administration of the bar examination each year. The Board wrote and graded two bar examinations that were

administered to a total of 796 applicants over eight days, in February and July. This testing time included the extended time granted for the twenty-three examinees that received special accommodations. Accommodations given included providing additional time, separate test areas, individual monitors and large print materials. Computer testing was permitted, but it was limited to two applicants requiring non-standard testing.

The Indiana Bar Examination consists of three tests. Board members who grade the Multistate Performance Test questions attended national grading workshops in Chicago, Illinois, prior to grading those questions. In addition to the National Conference Multistate Bar Examination and the Multistate Performance Test questions used, Indiana uses its own essay questions. Board members write and grade the Indiana essay examination questions that focus on Indiana law. The Editing Committee of the Board met separately for two sessions to finalize the Indiana essay questions used the last fiscal year.

## REVIEW OF TEST RESULTS

In July 2003, 535 applicants were tested. After that examination, twelve unsuccessful examinees requested review by the Board and one requested review by the Indiana Supreme Court. In February 2004, 261 applicants were tested. Following that examination, five unsuccessful applicants requested review by the Board and two applicants requested review by the Indiana Supreme Court.

## ADMISSIONS

Six hundred twenty-nine attorneys were admitted to practice in the State of Indiana during the period of July 1, 2003 through June 30, 2004. Five hundred seventy-four attorneys were admitted on examination and fifty-five attorneys were admitted on foreign license. Four of the attorneys admitted on examination were admitted on conditional admission under Admission and Discipline Rule 12, Section 6(c). One person whose admission had been revoked was readmitted under Rule 12. Many of those admitted were sworn in during two major Admission Ceremonies: one in October 2003 and one in May 2004 in the Indiana Roof Ballroom in Indianapolis.

## FOREIGN LICENSE

Thirty-eight of the fifty attorneys admitted on foreign license from other states or U.S. territories were admitted in one other state prior to their admission in Indiana. Eleven of the fifty attorneys were admitted in two other states prior to their admission in Indiana. Three of the fifty were admitted in three states prior to their admission in Indiana. The frequency of the admission from jurisdictions is:

California	7
Connecticut	1
Georgia	1
Hawaii	1
Illinois	14
Iowa	1
Kentucky	4
Maryland	2
Massachusetts	2

Michigan	2
Missouri	2
New York	5
Ohio	7
Oklahoma	1
Pennsylvania	1
Texas	4
Utah	3
Virginia	1
Washington DC	1
Wisconsin	2

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

The Board of Law Examiner's Committee on Foreign License reviews each attorney application and National Conference of Bar Examiners investigative report for admission on foreign license. If approved, a member of the Foreign License Committee, prior to admission, personally interviews the applicant. If not approved by the interviewer, the applicant must appear before the full Board. Twenty-three applicants were required to appear before the full Board regarding the matter of their character and fitness and their eligibility for admission on foreign license. Thirty-nine applicants met the five-year provisional practice requirement in Indiana and their licenses were made permanent. In 2004 the licenses of three foreign license admittees were expired because they failed to meet the practice requirements of Admission and Discipline Rule 6 or because they failed to qualify for renewal.

## BUSINESS COUNSEL LICENSE

Beginning January 2004 a new opportunity to be licensed in Indiana became available. The Indiana Business Counsel License allows attorneys licensed in other states whose sole employer is a person or entity engaged in business in Indiana other than the practice of law to be admitted to practice without examination. Since January there have been five applications for admission as business counsel processed.

## ASSISTING THE NATIONAL CONFERENCE OF BAR EXAMINERS

On April 24, 2004, the Indiana Board of Law Examiners, on behalf of the National Conference of Bar Examiners, conducted a pre-test of two Multistate Performance Test questions. Eight recently admitted attorneys, including attorneys in private practice and attorneys clerking for the Indiana Supreme Court and the Indiana Court of Appeals, volunteered and participated in the pre-test and a discussion relating to the questions and how they functioned. The Executive Director reported the feedback from these discussions to the National Conference of Bar Examiners for review and use in actual future exams. Each participant was required to complete a Declaration Regarding Confidentiality which included statements that neither the participant nor a relative or close acquaintance would be sitting for any bar examination within the next eighteen months, that participants currently were not and did not plan to become associated with any bar review courses, and that the participant would not reveal the topic or

discuss the content or format of the question with any person other than the testing administrator. This experience was useful to the National Conference of Bar Examiners, and rewarding to the Indiana Board of Law Examiners and the participants..

## TECHNOLOGY

In a continuing effort to reduce paper files, the Board of Law Examiners sent 596 files to be microfilmed under the Board's document reduction plan. The files microfilmed were of attorneys admitted in the year 1998.

Approximately 635 wall certificates were signed using the Autopen for the July 2003 and February 2004 examinees. Fifty-one were signed for provisional licenses and fifty-three were signed when permanent licenses were issued.

## CERTIFIED LEGAL INTERNS

Under Admission and Discipline Rule 2.1, the Board is also responsible for the certification of legal interns who are allowed to perform certain legal tasks under the supervision of an attorney. Law school deans advise the Board of those students who qualify academically, the date of their graduation, and the term of the internships. The supervising attorneys advise the Board regarding their willingness and ability to supervise the interns. If all requirements are met, the Board certifies the legal interns and notifies the Clerk of the Supreme Court, Court of Appeals and Tax Court. Serving as a legal intern enables the interns to gain practical legal experience in an approved program under the supervision of qualified licensed attorneys prior to their being admitted to practice. Two hundred and eighty-five students and eighty-one graduates were certified to serve as legal interns during this reporting period.

By forwarding a copy of the supervising attorney/legal intern agreement of the certification and the terms of the legal internship, two hundred and eighty-five students and eighty-one graduates were certified to serve as legal interns under Admission and Discipline Rule 2.1.

## FORMATION OF ASSOCIATIONS FOR THE LEGAL PROFESSION

The State Board of Law Examiners also provides applications for and approves the formation and renewal of professional corporations, limited liability companies, and limited liability partnerships for the legal profession. There were 635 active professional corporations, sixty-one limited liability companies, and one hundred thirty-one limited liability partnerships. Fifty-three new professional corporations, sixteen limited liability companies, and sixteen limited liability partnerships were formed. Nineteen professional corporations, one limited liability

company, and two limited liability partnerships were dissolved or became inactive in fiscal year 2004.

## MEMBERS OF THE BOARD OF LAW EXAMINERS

The Indiana Supreme Court appoints the members of the Board of Law Examiners. Currently on the Board of Law Examiners as officers are: Cynthia S. Gillard, of Elkhart, President, Alonzo Weems, of Indianapolis, Vice President, Leslie C. Shively, of Evansville, Treasurer, and Sheila M. Corcoran, of Evansville, Secretary. Their terms run from December 1, 2003 to December 1, 2004. Other Board members are Arend J. Abel, of Indianapolis, Calvin D. Hawkins, of Gary, Kathryn A. Brogan, of Fort Wayne, The Honorable Stephen R. Heimann, of Columbus, Professor JoEllen Lind McGuigan, Valparaiso, and The Honorable Marianne L. Vorhees, of Muncie.

## F. COMMISSION FOR CONTINUING LEGAL EDUCATION

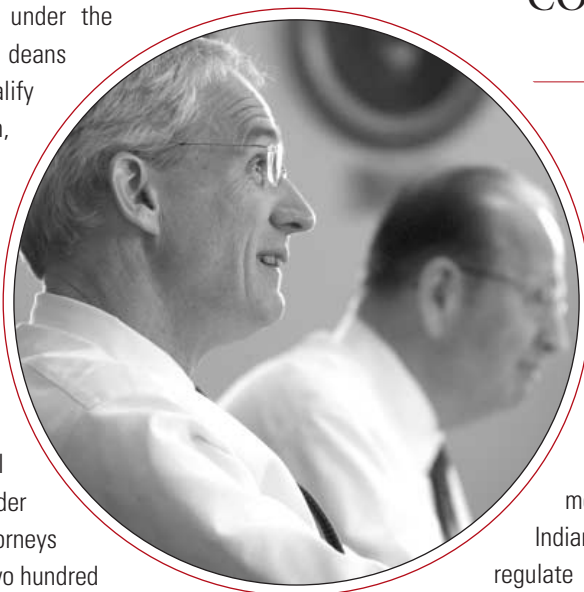
### JULIA L. ORZESKE, EXECUTIVE DIRECTOR

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

Director, three full-time secretaries and a full-time mediation services coordinator/office manager.

In fiscal year 2003-2004, the full Commission met a total of six times. The Commission reviewed 6,473 CLE courses. Of these, 2,381 were courses for which an application for continuing legal education ("CLE") accreditation was made, and 4,092 were courses given by approved sponsors (where no application is required). 146 applications and 123 approved sponsor courses were denied accreditation. During fiscal 2003-2004, 14,802 attorneys reported CLE credits to the Commission. These attorneys reported a total of 201,570 hours of CLE credits, of which 24,717 were ethics credits.

Recent amendments to the CLE rule allow attorneys to take a limited number of credits in non-legal subject ("NLS") areas in order to enhance their proficiency in the practice of law. During fiscal year 2003-2004, 250 NLS courses were reviewed: 78 were by approved



*Justice Frank Sullivan, Jr., (left) and Justice Brent E. Dickson (right) at Court conference.*

sponsors and 172 were by non-approved sponsors. 242 courses were approved and 8 courses were denied accreditation. Attorneys reported a total of 2,737 NLS credits during this period.

A recent amendment to Admission and Discipline 29 made attorneys admitted by exam after December 31, 1998 responsible for reporting continuing legal education January 1 of the year following admission. These newly-admitted attorneys must complete programs designated by the Commission as appropriate for new lawyers. This amendment reduced the grace period for newly-admitted attorneys from three years to one year. The Commission also adopted guidelines for a required six-hour Applied Professionalism Course for Newly-Admitted Attorneys. In addition to adopting standards for this required course, the Commission made grants available to providers to allow them to give the course for little or no cost to newly-admitted attorneys. 491 newly-admitted attorneys attended these courses during fiscal year 2003-2004.

During fiscal 2003-2004, the Commission approved 6,130 courses as appropriate for newly- admitted attorneys. 2,191 of these courses were approved as a result of an application. Approved sponsors presented 3,939 courses.

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

The Commission was also active in the area of mediation. Because of substantial changes made by the Court in the Indiana Rules for Alternative Dispute Resolution, the Commission became responsible for keeping track of court-approved mediators in Indiana. Effective March 1, 1997, the Commission began a registry of approved court mediators. The first mediator registry was distributed to all registered mediators and Indiana judges in June 1997. In this initial registry, there were 235 listings for civil mediators and 110 listings for domestic relations mediators. As of June 30, 2004, there were over 532 listings for civil mediators and 365 listings for registered domestic relations mediators. The registry is now available at the Commission's Web Site. A disputant, attorney or judge seeking a registered mediator can also search by geographic location and areas of the law.

Effective January 1, 2004, the Alternative Dispute Resolution rules were amended in the area of advanced mediation training. The term "advanced mediation training" was changed to continuing mediation education or "CME." Mediators are now allowed flexibility in selecting courses that can be counted toward their CME requirement. Previous to this rule change, the

CLE Commission required attendance at certain prescribed mediation courses. Additionally, the mediation cycle was changed from a fiscal year to a calendar year. Attorney-mediators are allowed to petition the Commission to align their mediation cycles with their attorney CLE cycles.

In fiscal year 2003-2004, 69 people were trained in basic civil mediation and 102 people were trained in basic domestic relations mediation. 125 mediators have reported continuing mediation activities pursuant to the new CME rule.

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

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

In the area of attorney specialization, the Commission appointed a panel of experts to review testing procedures used by applicants for accreditation as Independent Certifying Organization. This panel consists of law school professors, judges and practitioners. As of June 30, 2004, there are 149 listings for attorneys who are specialists in their particular areas of law. These attorneys are certified in the practice areas of Family Law (Indiana State Bar

Association); Personal Bankruptcy, Business Bankruptcy, Creditors Rights (American Board of Certification); Civil Trial Advocacy, Criminal Trial Advocacy (National Board of Trial Advocacy); and Elder Law (National Elder Law Foundation).

The following individuals served on the Indiana Commission for Continuing Legal Education during fiscal year 2003-2004: Gerald M. Bishop, Professor Terry M. Dworkin, Robert J. Ewbank, Susan G. Gainey, Jeanine M. Gozdecki, Robert Houston III, John L. Krauss, Ronald P. Kuker, Honorable Melissa S. May, Jeffrey J. Newell, Professor Alysa C. Rollock, Norman G. Tabler, Michael E. Tolbert, and Joseph H. Yeager, Jr. In 2002, the Supreme Court appointed Judge Nancy Eshcoff Boyer as a liaison to the CLE Commission by virtue of her position as Chair of the Judge's ADR Committee.



*Justice Theodore "Ted" Boehm exits the Robing Room carrying an official Supreme Court coffee mug.*



## G. INDIANA JUDICIAL NOMINATING COMMISSION ON JUDICIAL QUALIFICATIONS

### MEG BABCOCK, COUNSEL

The Indiana Judicial Nominating Commission and the Indiana Commission on Judicial Qualifications is a seven-member commission established by Article VII, Section 9, of the Constitution of Indiana. It performs two distinct functions within the judiciary. The Nominating Commission appoints the Chief Justice of Indiana from among the five Supreme Court Justices. It also solicits and interviews candidates to fill vacancies on the Supreme Court, the Court of Appeals, and the Tax Court. The Nominating Commission selects three candidates for each vacancy, and the Governor appoints one of the nominees to fill the vacancy. The Nominating Commission also certifies former judges as Senior Judges to help qualifying courts with their caseloads.

The Qualifications Commission investigates allegations of ethical misconduct against Indiana judges, judicial officers, and candidates for judicial office. When appropriate, the Commission privately cautions judges who have violated the Code of Judicial Conduct; in the most serious cases, the Commission prosecutes formal disciplinary charges in public proceedings. These charges ultimately are resolved by the Supreme Court. Additionally, the Commission and its staff provide judges and others with advice about their ethical obligations and, periodically, the Commission publishes formal Advisory Opinions.

The Chief Justice of Indiana, Randall T. Shepard, is the ex officio Chairman of the Nominating Commission and the Qualifications Commission. The Commission is comprised additionally of three lawyers, elected by other lawyers in their districts, and three non-lawyers who are appointed by the Governor, all to three-year terms. The elected and appointed Commission members serving in 2003-2004 were James O. McDonald, Esq., Terre Haute; Judy Johns Jackson, Columbus; Donald W. Ward, Esq., Indianapolis; John Bartlett, Indianapolis; John O. Feighner, Esq., Fort Wayne, and Elizabeth Peralta, South Bend. Theodore Lockyear, Esq., Evansville, and Ann Borne, Fort Wayne, completed their terms during the fiscal year.

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

In December, 2003, the Commission interviewed twelve applicants, then six semi-finalists, for the Third District Court of Appeals vacancy

created by the resignation of Judge Sanford Brook. The Commission nominated the Honorable Terry A. Crone, St. Joseph Circuit Court, the Honorable Jeffery J. Dywan, Lake Superior Court, and Gary attorney Bessie M. Taylor. In February 2004, Governor Kernan appointed Judge Terry A. Crone to the Court of Appeals.

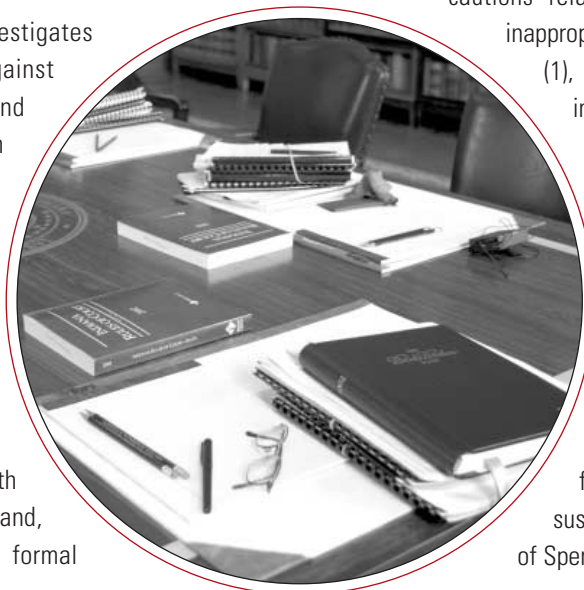
In fiscal year 2003-2004, the Judicial Qualifications Commission convened on six occasions. The Commission had on its docket three hundred thirty-six complaints or allegations of violations of the Code of Judicial Conduct, and dismissed two hundred ninety-five complaints without requiring written responses from the judges. Of those, Commission counsel conducted preliminary inquiries into one hundred three and, in seven, the Commission sent the judges advisory letters. Of the three hundred thirty-six complaints on the Commission's docket during the fiscal year, forty-one were investigated or resulted in formal charges, or continued in investigation or on charges from the prior year. Thirteen were dismissed after the Commission concluded that no misconduct occurred. In eight cases, the Commission issued private cautions relating to failures to follow the law (3), inappropriate demeanor (2), campaign misconduct (1), ex parte contacts (1), and appearance of impropriety (1).

In lieu of proceeding to formal charges, the Commission resolved two complaints by issuing a Public Admonition with the consent of the judge. On August 11, 2003, the Commission publicly admonished former Judge Veronica M. Roby, Elwood City Court, for abuse of office and nepotism. The Supreme Court resolved a Commission case during the fiscal year when it ordered the judge's suspension without pay for thirty days. *Matter of Spencer*, 798 N.E.2d 175, (Ind. 2003).

The Commission filed formal disciplinary charges against two judges in 2003-2004. In *In re Kouros*, Cause No. 45S00-0309-JD-409, the Masters, the Honorable John F. Surbeck, Jr., Allen Superior Court, the Honorable Tanya

Walton Pratt, Marion Superior Court, and the Honorable Carl A. Heldt, Vanderburgh Circuit Court, presided over an evidentiary hearing in April 2004. The case was pending before the Supreme Court at the end of the fiscal year. In *re Danikolas*, Cause No. 45S00-0403-JD-126, is scheduled for hearing in November 2004. The Masters in that case are the Honorable Michael P. Scopelitis, St. Joseph Superior Court, the Honorable David A. Shaheed, Marion Superior Court, and the Honorable Lynn Murray, Howard Circuit Court. The fiscal year concluded with fourteen other pending complaints.

Finally, in fiscal year 2003-2004, Commission counsel responded to approximately five hundred requests for advice from judges and candidates about the Code of Judicial Conduct.



*The tools of the trade for a typical Court conference: rule books, briefs, calendars, pencils, and of course, the ubiquitous yellow legal pad.*

## H. JUDICIAL CONFERENCE OF INDIANA / INDIANA JUDICIAL CENTER

### JANE SEIGEL, EXECUTIVE DIRECTOR

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

In fiscal year 2003-04, the Judicial Center presented nineteen days and 161 hours of continuing judicial education instruction. Total attendance at these programs was 1,790. The educational conferences conducted in 2003-04 for judicial officers included:

- 3 days Annual Meeting of the Judicial Conference of Indiana in September;
- 2 days City and Town Court Judges Annual Conference in October;
- 2 days Domestic Relations Conference in November;
- 1 day Winter Conference in December;
- 1 day New Judge Orientation Program for City & Town Court Judges;
- 3 days Spring Judicial College Program in April;
- 5 days Graduate Program for Indiana Judges in June; and
- 2 days Juvenile Court Judges Annual Conference in June.

The Judicial Conference of Indiana, comprised of all full-time judges, both trial and appellate, magistrates, and senior judges, held its 2003 Annual Meeting September 10-12 at the Hyatt Regency Hotel in Indianapolis. The 2003 Annual Meeting offered an unequalled opportunity for education, collegiality, and affirmation. To increase opportunities for education, "early bird" sessions were added to the program as a new offering to conference participants. The Wednesday plenary session, the "Future of Court Information," featured a review of Indiana's Case Management System project from the Judicial Technology and Automation Committee ("JTAC"), coupled with a report on the work of the Privacy and Public Access Task Force. Other highlights of the 2003 Annual Meeting included a JTAC room allowing

for a one-on-one discussion of the case management project, a reception honoring Indiana's judicial faculty, and a host of education programs including sessions on HIPAA Privacy Act, ex parte communications, family law update, search and seizure update, recognizing the person with a mental illness in court, the deaf and hard of hearing litigant in court, unconscious racism, a series of "best practice" sessions and seven different computer classes among many other sessions.

The Annual Meeting of City and Town Court Judges was held in October. The two-day program offered twelve hours of continuing judicial education to 59 participants on various topics relevant to these courts of limited jurisdiction. Session subjects included: best practices in minor offenses; infraction and misdemeanor case study discussions; JTAC's case management project; updates from the Bureau of Motor Vehicles and State Board of Accounts; and bail and bond forfeiture procedures, among others.

In November, the Judicial Center held a two-day workshop on domestic relations issues. The workshop offered eight hours of continuing judicial education to 69 judicial officers on such topics as: the effects of divorce on children; influence of age, gender, and parental conflict; when to refer families to mental health services; expert testimony regarding child custody evaluations; court actions to resolve parental conflict and avoid trial; and programs to reduce delinquency child abuse and neglect, among others.

The Center's Winter Conference for Judicial Officers focused on the important topic of reducing recidivism for offenders including assessment, referral and effective alternatives to incarceration. 168 judicial officers attended this five-hour continuing judicial education program.

In January, the Center conducted a new judge orientation program for newly elected city and town court judges. Seventeen new judges attended the one-day orientation program which offered participants 5.3 hours of instruction. The orientation addressed such matters as: records management and statistics; collection and distribution of court costs and fines; BMV procedures; and infraction and misdemeanor court procedures. The program was well received by the newly elected judges.

In its fifth year, the Spring Judicial College program was met, once again, with great enthusiasm and interest. The objective of this three-day program is to offer expanded courses on a wide variety of topics for smaller classes of judicial officers in order to enhance group participation. Seventeen stand-alone courses ranging from 2.5 to 5 hours in length were offered during the three-day Judicial College. Courses included: Introduction to Forensic Psychiatry; Alcohol and Drug Abuse; Jury Trial Management; Federal Bankruptcy & the Interaction



*The lifeblood of the law: lawbooks and rule books.*

with State Laws; Nuts & Bolts of Interpreted Hearings; OWI – The Sober Truth on Select Issues; Recent Indiana Decisions on Opinion Testimony, Hearsay Evidence, Relevance and Impeachment; Law & Economics; General Discovery Issues; Electronic Discovery Issues; Personality Disorders in Court; and Reducing Recidivism: Effective Offender Programs, among others.

The Graduate Program Planning Committee and the Judicial Center partnered for the second year for the Indiana Graduate Program for the Class of 2004. The first-rate faculty presented courses on International Human Rights Law, Race and the Constitution: From Reconstruction to Brown, the Economic Analysis of Law, and Storytelling. This was an opportunity for program participants to become even better judicial officers, to refresh their knowledge of our legal system and become aware of the multitude of forces now affecting that system, and to rejuvenate their spirits.

At the Annual Meeting of Juvenile Judicial Officers in June, the Judicial Center and the Indiana Court Improvement Program sponsored a one-day collaborative conference for stakeholders in the child welfare system. Conference participants included juvenile court judicial officers, representatives from FSSA/DFC, county directors from the local family and children, DFC regional managers, attorneys who represent the local OFCs, representatives from GAL/CASA and the defense bar. 250 participants attended the program on “Collaborating for the Sake of Indiana Children.” Judicial officers then stayed for a second day to study recent legislative and caselaw developments, and to hear about mental health issues in the juvenile justice field.

Fifteen days of instruction were presented by the Center for probation officers, with a total attendance of 1,618 officers. The Center handled the transfer of 1,564 probationers into the state and 1,770 probationers out of the state. 136 runaways were also processed; however, 41 of these cases were court-ordered requisition returns. This time-consuming category continues to grow significantly. In 2003-2004, the Center administered the probation officers’ certification examination to 132 applicants.

In May 2004, the Center began training Indiana’s probation and parole officers on the rules and procedures of the new Interstate Compact for Adult Offender Supervision. In conjunction with the Probation Officers Annual Meeting, the Center provided training to 200 officers. Additionally, the Center conducted more intensive regional trainings on the Compact’s new rules and procedures in July 2004 in anticipation of the August 1st effective date.

The Probation Officers Advisory Board has undertaken a study of the use of risk and needs assessment instruments. In May 2004, the Board

received a technical assistance grant from the National Institute of Correction to work in this area.

The Center continued to provide traditional research services to the judges in 2003-2004. Case Clips was only distributed by e-mail, and was available on the Court’s web page. The Center’s web page continues to be updated by providing benchbooks, committee minutes and other documents of interest.

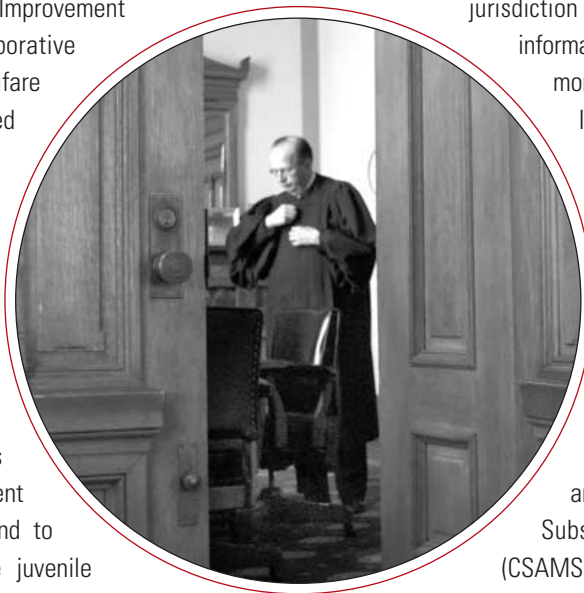
The Center also continued to monitor the activities of the Indiana General Assembly, and published eight weekly e-mail “Friday Updates” from January to March. These updates reviewed legislative changes to bills of interest to the judiciary. The ninth and final e-mail memorandum summarized the session for judicial officers and chief probation officers and was entitled the “Final Legislative Update for 2004.”

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

The Indiana Judicial Center continued its administration of the Court Alcohol and Drug Program in 2003-2004. The certification staff of the Center and the CADPAC Certification Subcommittee continued its second three-year cycle of certification review of its 53 programs. This second round of certification reviews have resulted in 31 three-year certifications and five one-year certifications. A Court Substance Abuse Management Specialist (CSAMS) credential was developed by the CSAMS Workgroup. This group also developed a test and study guide. This credential was approved by the Judicial Conference Board of Directors in September 2003 and will be implemented and available beginning January 1, 2005 for court program staff.

CADPAC and the Center also continued the scholarship and grant programs for eligible court programs. Thirteen scholarships totaling over \$9,200 were awarded and six grants totaling over \$11,950 were awarded to participating programs.

In March, the Center hosted the 2004 Annual Meeting of Court-administered Alcohol and Drug Programs, with 344 judges, program directors and court staff attending the meeting. Highlights of this meeting included an inspiring opening session by Mr. William Moyers, and other sessions on Alcohol and the Brain, Teens and Young Adults at Risk, Assessments and Treatment Referrals, Dynamics of Domestic Violence, Personnel Management, Forensic Diversion, Latino Issues, Effects of Violence on Children, Stress Resistant Personality, among others. Three three-day Staff Orientations were held this year specifically designed for new program staff members. Approximately



*Justice Brent Dickson finishes putting on his robe in the moments before an oral argument.*

80 staff members were trained during these sessions. A one-day Director Orientation was also held to educate new program directors. It will be offered again in July 2004. The first Court Alcohol and Drug Program Orientation for prospective court programs was conducted in May 2004. Thirteen judges or court representative from eight counties attended this orientation.

The Center's semi-annual newsletter that updates judges and program staff on program issues and news went "on-line" with the help of JTAC staff. The A&D Journal may now be found on line at [www.in.gov/judiciary/center/cadp](http://www.in.gov/judiciary/center/cadp). The Center worked with the CADPAC Policy Subcommittee on a legislative agenda that resulted in improvements to the forensic diversion statute. The Policy Subcommittee also developed guidelines for use in the transfer of cases between programs.

The Center continues its oversight of Drug Courts in Indiana. There are currently sixteen operational drug courts (twelve adult and four juvenile). Nine courts are in the planning stages of drug court development. On July 1, 2003, the Center began the certification process by providing provisional certification for drug courts operating at that time. Drug court certification reviews were begun in October 2003. Since then, eight drug courts have been reviewed and awarded full three-year certifications. It appears that Indiana is the first state in the nation to certify its drug courts. The Center and the Drug Court Subcommittee are working on plans for the 2004 Drug Court Workshop that will be held in October 2004. The workshop will provide training for drug court judges, prosecutors, public defenders, treatment providers and staff. The Center has assisted the Supreme Court in administering a Drug Court Grant Program that has benefited seven drug courts for a total of \$50,000.

In March 2004 the Center arranged the annual series of five informal "District" meetings between members of the Supreme Court, the Court of Appeals, the Tax Court, and the trial court judges in the various trial districts of the Conference. This year, these meetings included an educational session about developing an ADR plan for Domestic Relations cases.

The Court Reporter's Handbook was updated, revised and distributed this year, thanks to an enthusiastic group of judges, court reporters and clerks, under the direction of Senior Judge Richard Payne.

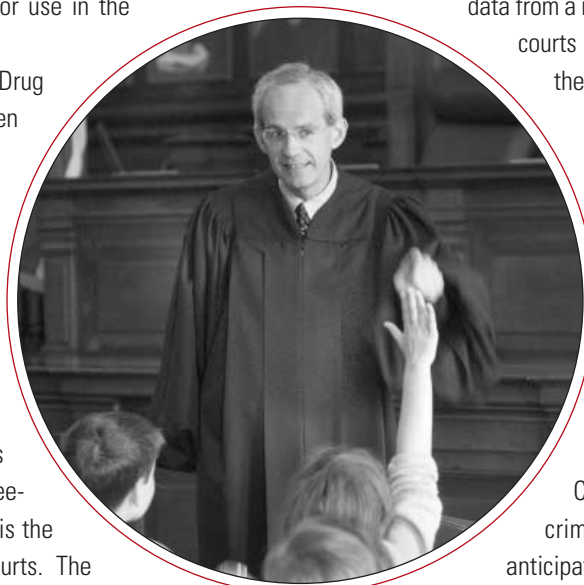
The committees of the Judicial Conference of Indiana were also extremely busy this year. The Domestic Relations Committee completed its review of Indiana's Child Support Guidelines in 2003 and was adopted by the Supreme Court. In addition, the committee developed an online and stand-alone child support calculator in cooperation with the Division of State Court Administration. The Protection Order Committee

completed work on a Protection Order Deskbook.

In December 2003, the Jury Committee completed an Indiana Jury Orientation Video titled "Indiana Jury Service: Duty, Privilege, Honor" in accordance with Jury Rule 11. This video was presented to the Board of Directors of the Judicial Conference at its December meeting and was unanimously approved. This video has been made available to Indiana trial courts in VHS or DVD formats and is also available through several links on the Indiana Judicial System web site.

In March 2004, the Division of State Court Administration, utilizing JTAC and assistance from the Jury Committee, received a grant to develop a central depository for jury pool sources which would have the ability to merge numerous sources of data and remove duplicate data from a master list that could then be provided to trial courts in order to create jury pools that comply with the full intent of Jury Rule 2.

In September 2003, the Probate Committee distributed the Second Edition of the Probate Deskbook. The Criminal Instructions Committee will submit an annual supplement for the complete revision of the two-volume Indiana Criminal Pattern Jury Instructions issued by Lexis in September 2004, with commercial availability in January 2005. The newly created Criminal Law Policy Committee met in October 2003. It will study criminal justice issues and policies. It is anticipated that this committee will be able to provide valuable assistance to legislative committees, like the Sentencing Policy Study Committee that will be reporting to the General Assembly in Fall 2004.



*Inside the Supreme Court Courtroom, Justice Frank Sullivan, Jr., talks to schoolchildren who are visiting the State House.*

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## I. INDIANA STATE PUBLIC DEFENDER'S OFFICE

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### SUSAN CARPENTER, PUBLIC DEFENDER

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

In capital post-conviction cases during fiscal year 2003-2004, five deputies litigated in the trial court one client's competence to waive post-conviction proceedings and briefed and presented oral argument on that issue; filed one capital post-conviction petition; and conducted investigation in another case in response to the State's investigation,

after denial of the post-conviction petition. One client's capital sentence was vacated and a term of 100 years imposed on rehearing on post-conviction appeal. The State of Indiana waived appeal of the trial court's determination that a petitioner was ineligible for capital punishment in one conflict post-conviction case. In direct appeal cases, the Supreme Court heard oral argument in four cases, affirmed one conviction and sentence, remanded for a new penalty phase in another, and reversed and remanded for a new trial in a third case. Two cases in which the trial court had dismissed the capital sentencing request were reversed and remanded for capital penalty phases. One individual was sentenced to death and initiated a direct appeal in fiscal year 2003-2004. The Court set an execution date for one individual who had received a reprieve during clemency proceedings in order to conduct DNA testing.

While we have continued to try to reduce delay in non-capital case review and litigation, we have not been able to keep up with increased demand. The number of pending unreviewed post-trial and appeal cases remains high, at 484 in June, 2004, as a result of increased pro se filings (620 pro se petitions received in fiscal year 2003-2004, 640 in fiscal year 2002-2003, 632 in fiscal year 2001-2002, 718 in fiscal year 2000-2001, 570 in fiscal year 1999-2000). In fiscal year 2003-2004, 260 cases were formally found to be without merit and in 140 cases clients agreed the case lacked merit and withdrew the petition or waived representation by this Office. Since July, 1991, 1,803 cases have formally been found without merit and in an additional 1,200 cases clients have agreed the case lacked merit.



*Chief Justice Shepard (left) and Justice Theodore R. Boehm (right) at a weekly Court conference.*

Countless legal periodicals, supplements, and pocket parts also were received. Approximately 502 volumes were discarded from the library.

Over thirty interlibrary loans were provided to patrons of the Law Library. Inter-library loan service is provided through OCLC (Online Computer Library Center). Over 1489 items were circulated to the Supreme Court, Court of Appeals and to sixteen other state government agencies over the past year. The Law Library responded to telephone or written requests from attorneys, other libraries, and members of the public from across the country for photocopy and/or fax copies of items in the library collection. A small fee was charged for each request filled. There were over 2800 visitors to the Law Library during the year. The Law Library has Internet access and a

Public Patron program for access to selected Westlaw databases and citation services.

An online web-based catalog project for the Law Library collection was initiated this year. The collection will be available through the Indiana Shared Library Catalog (ISLC) and is coordinated by the Indiana Cooperative Library Services Authority (INCOLSA). This shared catalog is supported by INCOLSA as a resource-sharing tool for small, public, school and special libraries. The Law Library has over 4,400 bibliographic records that will be accessible for searching through the online catalog.

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

## J. INDIANA SUPREME COURT LAW LIBRARY

**TERRI L. ROSS, LIBRARIAN**

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

The Law Library contains a comprehensive collection of legal materials, which must be kept up to date. During the past fiscal year, the Law Library staff received and processed approximately 1253 volumes as additions to or replacements for volumes already in the library collection.

## K. INDIANA JUDGES AND LAWYERS ASSISTANCE PROGRAM

**TERRY L. HARRELL, EXECUTIVE DIRECTOR**

The Indiana Judges and Lawyers Assistance Program (JLAP) was created in October 1997, when the Indiana Supreme Court adopted Rule 31 of the Rules for Admission to the Bar and the Discipline of Attorneys, Indiana Rules of Court. JLAP provides assistance to judges, lawyers and law students who may experience physical or mental impairments that result from disease, chemical dependency, mental health problems or age and that could impair 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 Rules of Professional Responsibility 8.3(c). No information is ever released without the signed consent of the party involved.

The Supreme Court appoints a committee composed of five judges, seven attorneys, one law student, and two members that can be from any of the three categories — the Judges and Lawyers Assistance Committee — to oversee JLAP. The 2003-2004 Committee included: JLAP Chair Timothy R. Dodd, Evansville; JLAP Vice-Chair David F. Hurley, Indianapolis; JLAP Treasurer Honorable Thomas F. Marshall, Rushville; JLAP Secretary Honorable Gary L. Miller, Indianapolis; Honorable Mary Lee Comer, Danville; Honorable Michael A. Robbins, Bedford; Honorable Jane Woodward Miller, South Bend; Tonya J. Boller (law student representative), Indianapolis; Edward B. Hopper, II, Indianapolis; Kimberly A. Jackson, Terre Haute; J. Frank Kimbrough, Fort Wayne; Timothy O. Malloy, Highland; Gaylon J. Nettles, Indianapolis; Stephanie J. Shappell, Crown Point; and John R. Vissing, Jeffersonville. Committee members retiring from the Committee in December of 2003 included Honorable Sally H. Gray, Greencastle; Thomas A. Fara, LaPorte; and James L. Lowry, Danville. The full JLAP Committee met nine times in the fiscal year 2003-2004, with subcommittees holding additional meetings. The JLAP Committee employs a full-time Executive Director and a part-time Clinical Director.

JLAP continues to receive referrals in three ways — self-referral, third party referral and formal referral from a disciplinary or licensing body. In the FY 2003-2004 JLAP logged 149 Helpline Calls. Calls ranged from a simple request for information to JLAP coordination of a group intervention. Call numbers are strictly “calls for help” and do not include calls after a case file is opened, or routine calls received regarding JLAP’s daily operations, outreach or education efforts. This year, we had forty-seven calls for help with substance abuse related issues, sixty-two calls for help related to mental health issues, seven calls for assistance with physical impairment issues, seventeen calls for assistance with issues related to aging or other miscellaneous categories and sixteen calls with an unidentified impairment at the time of the initial call. We want to note that many cases contain multiple issues (e.g. depression and alcohol dependence) but for purposes of tracking calls we use the primary issue identified in the initial call for help. The additional issues are often not identified until later in the process.

On June 30, 2004, JLAP had 109 active cases. Not all calls for help become “a case.” A simple call for a referral will not result in a case being opened. A case is opened when we meet personally with a client

and/or determine that there will be ongoing contact with the client or with a third party.

Active cases are those where we expect ongoing contact with the client or a third party. Active cases included thirty-three referrals from the Board of Law Examiners including self-referrals in anticipation of a referral from the Board of Law Examiners, fourteen referrals due to involvement in the attorney disciplinary system, forty-six self-referrals, and sixteen third party referrals. Third-party referrals typically come from employers, colleagues, treatment providers, or family. Referrals from attorneys representing another attorney in the disciplinary process are categorized as disciplinary referrals rather than third party referrals. The JLAP Committee and staff are pleased with the number of self-referrals JLAP has received. Our ongoing goal is to reach those in need of JLAP services at the earliest possible opportunity in order to reduce the amount of harm caused the individual, their family and friends, the public, and the legal community.

JLAP offers monitoring as a service and has developed several different kinds of monitoring agreements. Our most formalized monitoring agreements exist with the Disciplinary Commission, the Commission on Judicial Qualifications, and the State Board of Law Examiners. In these cases the participant signs a consent allowing JLAP to monitor their recovery program and make regular reports to the appropriate disciplinary or licensing body. The number of participants seeking to enter into a monitoring agreement with JLAP in anticipation of disciplinary action, reinstatement, or issues that might surface during the character and fitness component of the Bar application process continues to increase. We call these “interim monitoring agreements” and monitor the individual’s

recovery program but make no reports until and unless the participant releases us to do so. In addition, we have developed monitoring agreements where JLAP reports to an employer or colleagues rather than a disciplinary or licensing agency as well as completely voluntary monitoring agreements. We think these agreements are a positive development in that the participant is generally in an earlier stage of impairment and less harm has occurred. As of June 30, 2004, JLAP was monitoring seventeen formal agreements and eleven interim agreements.

JLAP continues to run a monthly Mental Health Support Group in Indianapolis. In addition, fiscal year 2003-2004 saw the start of a Substance Abuse Support Group in Indianapolis. These groups provide a confidential setting for members of the legal community to discuss mental health or substance abuse issues and support each



*Justice Frank Sullivan, Jr., and Justice Robert D. Rucker confer about a case in Justice Sullivan's State House office.*

other in the unique challenges of coping with these issues and working in the legal profession.

The recruitment and development of volunteers continues to be an important focus for JLAP. Our work would not be possible without our large and active network of volunteers. We were pleased to add members from Crown Point, Highland, and Jeffersonville to the JLAP Committee this year. JLAP was pleased to have a volunteer attend a workshop on compulsive gambling sponsored by the Illinois Lawyers Assistance Program. JLAP continues to work cooperatively with local lawyer assistance committees and value those relationships. The Indianapolis, Allen County, and Evansville Bar Associations continue to run very active committees. JLAP is willing and interested in assisting other local bar associations start similar committees.

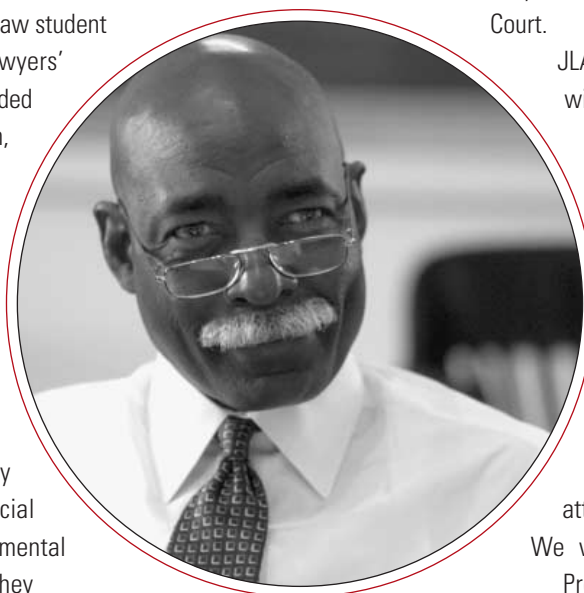
The most significant event for the JLAP staff and Committee was our second JLAP Volunteer Training on May 14th and 15th. We had approximately fifty attendees including one law student and the Director from the Illinois Lawyers' Assistance Program. The program included among others sessions on suicide prevention, intervention, and monitoring and mentoring for JLAP. We held a dinner on Friday night and honored past JLAP Director Susan B. Eisenhower and past JLAP Committee Member and Chair Thomas A. Fara for their past service to JLAP.

JLAP continues to work with the Board of Law Examiners, the Commission for Continuing Legal Education, the Disciplinary Commission, and the Commission on Judicial Qualifications on the issues of addiction, mental health, physical and other impairments as they intersect with the bar admissions and disciplinary processes. The directors of these five agencies and a staff attorney from the Judicial Center continue to meet periodically to work on areas of overlap and develop protocols that best serve each agency's needs while maintaining JLAP's commitment to our client confidentiality.

Education and outreach are an integral part of the work done at JLAP and are keys to JLAP's effort to reach those in need early, hopefully before disciplinary or licensing agencies are involved. With the help of a grant from the Indiana Bar Foundation we were able to have our first brochure designed and printed. Staff and volunteers have continued to speak to a variety of legal organizations around the state. Presentation topics this year included substance abuse, depression, suicide prevention, planning ahead for temporary or permanent impairment and practice continuation, caring for oneself in a stressful profession and the basics of JLAP. Below is a list of our presentations statewide:

· Allen County Bar Association's Lawyer's Assistance Committee

- Evansville Bar Association
- Indianapolis Bar Association's Applied Professionalism Course
- Indianapolis Bar Association's Lawyers Assistance Committee
- Indianapolis Bar Association's Women in Law Section
- Indiana State Bar Association
- Indiana Trial Lawyers Association (ITLA) Annual Institute
- Professional Responsibility Classes, Valparaiso University and IU Bloomington Law Schools
- Orientation for 1st year students at Indiana University-Indianapolis Law School
- Legislative Services Agency
- Marion County Public Defender Agency
- Muncie Bar Association
- Practice Skills Summit sponsored by ICLEF and the Young Lawyer's Section of the Indiana State Bar Association
- Wesley W. Ratliff, Jr. and Alva A. Cox American Inn of Court.



*Justice Rucker pauses to consider a comment by another Justice.*

JLAP thinks that increasing our involvement with law students is critical to our long-term goal of preventing harm through early intervention and assistance. With early intervention, we may be able to prevent or reduce the abundance of losses that often accompany long-standing and untreated impairments such as alcoholism or serious mental illness. In addition, if we can provide every law student with information about JLAP we will increase the number of practicing attorneys who are aware of JLAP's services.

We were pleased this year to participate in Professor Aviva Orenstein's professional responsibility class at Indiana University, Bloomington, and in professional responsibility classes with Professors Edward Gaffney and David Vandercoy at Valparaiso University.

Finally, JLAP staff continues to be involved in the national network of Lawyers Assistance Programs (LAPs) coordinated by the American Bar Association's Commission on Lawyers Assistance Programs (CoLAP). JLAP staff attended the CoLAP Annual Workshop in Victoria, British Columbia and benefited immensely from both the formal workshop presentations and from sharing experiences with other LAP staff and volunteers. At the Workshop Executive Director Terry L. Harrell participated on a panel focused on gathering and maintaining support for lawyers assistance programs. In July 2003 Ms. Harrell also attended the Florida Lawyers Assistance Program's 17th Annual Workshop to gather ideas from this experienced program for Indiana's Volunteer Training this past May. This network continues to be a valuable source of information, support, and inspiration.



## APPENDIX

### INDIANA SUPREME COURT FISCAL 2003-2004 CASE INVENTORIES & DISPOSITION SUMMARY

	Cases Pending as of 7/1/03	Cases Transmitted in Fiscal 2003-2004	Cases Disposed of in Fiscal 2003-2004	Cases Pending as of 6/30/04
Civil Direct Appeals	2	0	2	0
Civil Transfers	86	299	301	84
Tax Court Petitions For Review	5	11	9	7
Criminal Direct Non-Capital	7	3	8	2
Capital Cases	1	8	7	2
Criminal Transfers	34	590	559	65
Original Actions	1	47	48	0
Certified Questions	1	2	2	1
Mandate Of Funds	0	0	0	0
Attorney Discipline	55	95	85	65
Board of Law Examiners	3	3	4	2
Judicial Discipline	1	3	2	2
Rehearings	4	21	21	4
Other	0	3	2	1
<b>TOTAL</b>	<b>200</b>	<b>1085</b>	<b>1050</b>	<b>235</b>



## TOTAL DISPOSITIONS: 1,050

<b>Criminal</b>	574	55%
<b>Civil, Tax and Other</b>	316	30%
<b>Original Action</b>	48	5%
<b>Law Practice</b>	85	8%
<b>Review Board of Law Examiners</b>	4	<1%
<b>Judicial Discipline</b>	2	<1%
<b>Rehearings</b>	21	2%

## MAJORITY OPINIONS AND PUBLISHED DISPOSITIVE ORDERS : 154

<b>Criminal</b>	50	34%
<b>Civil, Tax and Other</b>	54	35%
<b>Original Action</b>	0	0%
<b>Law Practice</b>	48	31%
<b>Judicial Discipline</b>	2	<1%

	Direct Appeal Crim.	Direct Appeal Civil	Transfer Petitions Crim.	Transfer Petitions Civil/Tax	Original Action	Attorney Discipline	Judicial Discipline	Other	TOTAL
<b>SHEPARD, C.J.</b>	2	0	7	10	0	0	0	1	<b>20</b>
<b>DICKSON, J.</b>	4	0	8	7	0	0	0	1	<b>20</b>
<b>SULLIVAN, J.</b>	1	1	8	8	0	0	0	0	<b>18</b>
<b>BOEHM, J.</b>	3	1	5	15	0	0	0	1	<b>25</b>
<b>RUCKER, J.</b>	3	0	4	6	0	0	0	0	<b>13</b>
<b>BY THE COURT</b>	2	0	3	2	0	48	2	1	<b>58</b>
<b>TOTAL</b>	<b>15</b>	<b>2</b>	<b>35</b>	<b>48</b>	<b>0</b>	<b>48</b>	<b>2</b>	<b>4</b>	<b>154</b>

## MAJORITY REHEARING OPINIONS

	OPINION	ORDER	TOTAL
SHEPARD, C.J.	0	4	4
DICKSON, J.	1	1	2
SULLIVAN, J.	0	6	6
BOEHM, J.	1	3	4
RUCKER, J.	1	2	3
BY THE COURT	1	1	2
<b>TOTAL</b>	<b>4</b>	<b>17</b>	<b>21</b>

## NON-DISPOSITIVE OPINIONS

	Concurring	Dissenting	Concur/Dissent in part	Recusal Opinion	Total
SHEPARD, C.J.	3	1	2	0	6
DICKSON, J.	0	5	1	0	6
SULLIVAN, J.	5	2	2	0	9
BOEHM, J.	3	4	1	0	8
RUCKER, J.	3	4	2	0	9
<b>TOTAL</b>	<b>14</b>	<b>16</b>	<b>8</b>	<b>0</b>	<b>38</b>

## CERTIFIED QUESTIONS

	Pending 7/1/02	Received	Accepted	Rejected	Opinions	Pending 6/30/02
Federal District Court	1	2	2	0	2	1
Federal Appellate Court	0	0	0	0	0	0
<b>TOTAL</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>1</b>

## CAPITAL CASES

### OPINIONS

	Direct Appeals	PCR	Interlocutory Appeals	Successive PCR	Rehearing
SHEPARD, C.J.	0	0	0	0	0
DICKSON, J.	1	1	0	0	0
SULLIVAN, J.	1	0	0	0	0
BOEHM, J.	1	0	0	0	1
RUCKER, J.	1	0	0	0	0
BY THE COURT	2	0	0	2	1
<b>TOTAL</b>	<b>6</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>2</b>

## PETITIONS FOR EXTENSION OF TIME & MISCELLANEOUS ORDERS

Petitions for Extension of Time Processed .....	40
Other Miscellaneous Appellate Orders .....	334
Special Judge Requests .....	130
Other Miscellaneous Disciplinary Orders .....	13
<b>TOTALS .....</b>	<b>517</b>

# DISCIPLINARY, CONTEMPT AND RELATED MATTERS

## DISCIPLINARY CASES PENDING BEFORE HEARING OFFICER OR COURT ON JULY 1, 2003

Before the Court for Hearing Officer Appointment .....	3
Pending Before Hearing Officer .....	35
Briefing Stage .....	5
Briefed/Resignation Tendered/Conditional Agreement Tendered .....	8
No Verified Complaint Filed/Suspended Upon Notice of Conviction .....	3
Administrative Admonitions Tendered .....	1
<b>TOTAL CASES PENDING 7/1/02 .....</b>	<b>55</b>

## NEW DISCIPLINARY MATTERS RECEIVED DURING FISCAL 2003-2004

Verified Complaints for Disciplinary Action/Notices of Conviction/Petitions to Determine Disability/Notices of Foreign Discipline Filed/Violation of support order/contempt ...	63
Administrative Admonitions Tendered .....	15
Petitions to Show Cause .....	17
<b>TOTAL .....</b>	<b>95</b>

## DISCIPLINARY CASES DISPOSED OF IN FISCAL YEAR 2003-2004

By Per Curiam Opinion .....	10*
By Anonymous Per Curiam Opinions Imposing Private Reprimand .....	0
By Order Imposing Private Reprimand.....	6
By Order Imposing Public Reprimand .....	9
By Order Accepting Resignation .....	7
By Order of Dismissal .....	14
By Order – Judgment for Respondent.....	2
By Order Imposing Reciprocal Sanction.....	4
By Order – Denying Suspension .....	0
By Administrative Admonition .....	14
By Order of Suspension .....	18
By Order of Suspension Due to Disability .....	0
By Order Finding No Disability .....	0
Rejection of Administrative Admonition.....	1
By Order - Compliance to Show Cause .....	0
<b>TOTAL .....</b>	<b>85</b>

## DISCIPLINARY CASES PENDING 6/30/04

Before Court for Hearing Officer Appointment .....	3
Pending Before a Hearing Officer .....	50
Briefing Stage.....	1
Administrative Admonitions .....	0
Before Court/Briefed/Conditional Agreement Tendered/Resignations Tendered.....	8
No Verified Complaint Filed .....	3
<b>TOTAL PENDING AS OF 6/30/03 .....</b>	<b>65</b>

## OTHER DISCIPLINARY DISPOSITIONS

Orders Denying Reinstatement .....	1
Orders Granting Reinstatement .....	0
Orders of Temporary Suspension.....	1
Orders on Petitions to Reconsider/Modify/Stay.....	0
Orders Postponing Effective Date of Suspension .....	3
Orders Permitting Withdrawal of Petition for Reinstatement .....	0
Orders Dismissing Petition for Reinstatement .....	1
Orders of Suspension for Show Cause .....	0
Orders Releasing from Probation.....	1
<b>TOTAL .....</b>	<b>8</b>

\* Two joint *per curiam* opinions each disposed of two disciplinary cases.

# ANALYSIS OF SUPREME COURT DISPOSITIONS

## CRIMINAL CASES

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Opinions on direct appeals	.15
Direct appeal disposed of by order	.0
Opinions on petitions to transfer	.35
Opinions on rehearing	.4
Orders on rehearing	.5
Petitions to transfer dismissed, denied on appeal remanded by unpublished order	.524
Other Opinions	.0
<b>TOTAL</b>	<b>.583</b>

## CIVIL CASES

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Opinions and orders on certified questions	.2
Opinions on direct appeals	.2
Opinions on rehearing	.0
Orders on rehearing	.12
Opinions on mandate of funds	.0
Opinions on Tax Court petitions for review	.1
Dispositive orders on Tax Court petitions for review	.8
Opinions on petitions to transfer	.47
Petitions to transfer denied, dismissed or appeal remanded by unpublished order	.253
Other opinions	.0
Other dispositions, civil	.3
<b>TOTAL</b>	<b>.328</b>

## ORIGINAL ACTIONS

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Opinions issued	.0
Disposed of without opinion	.48
<b>TOTAL</b>	<b>.48</b>

## ATTORNEY DISCIPLINARY MATTERS

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Opinions and published orders	.48
Other dispositions	.37
<b>TOTAL</b>	<b>.85</b>

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

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Petitions for review	.4
<b>TOTAL</b>	<b>.4</b>

## JUDICIAL DISCIPLINE MATTERS

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Opinions and published orders	.2
<b>TOTAL</b>	<b>.2</b>
<b>TOTAL DISPOSITIONS</b>	<b>.1050</b>

## CASES PENDING AS OF JUNE 30, 2003

Pending Cases as of June 30, 2003 (does not include Pets. for Rehearing)	Pending Petitions for Rehearing as of June 30, 2004
SHEPARD, C.J. ....11	.....3
DICKSON, J. ....13	.....1
SULLIVAN, J. ....17	.....0
BOEHM, J.....13	.....0
RUCKER, J. ....12	.....0
TO THE COURT.....3	.....0
UNASSIGNED CIVIL CASES .....55	
UNASSIGNED TAX COURT PETITIONS FOR REVIEW .....3	
UNASSIGNED CRIMINAL TRANSFER CASES .....39	
UNASSIGNED CRIMINAL DIRECT APPEALS .....0	
UNASSIGNED CIVIL DIRECT APPEALS.....0	
UNASSIGNED ORIGINAL ACTIONS.....0	
UNASSIGNED CERTIFIED QUESTION .....0	
UNASSIGNED OTHER .....0	
PENDING BAR EXAMINATION REVIEWS.....2	
ATTORNEY DISCIPLINE .....65	
JUDICIAL DISCIPLINE .....2	
<b>TOTAL .....235</b>	<b>.....4</b>



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