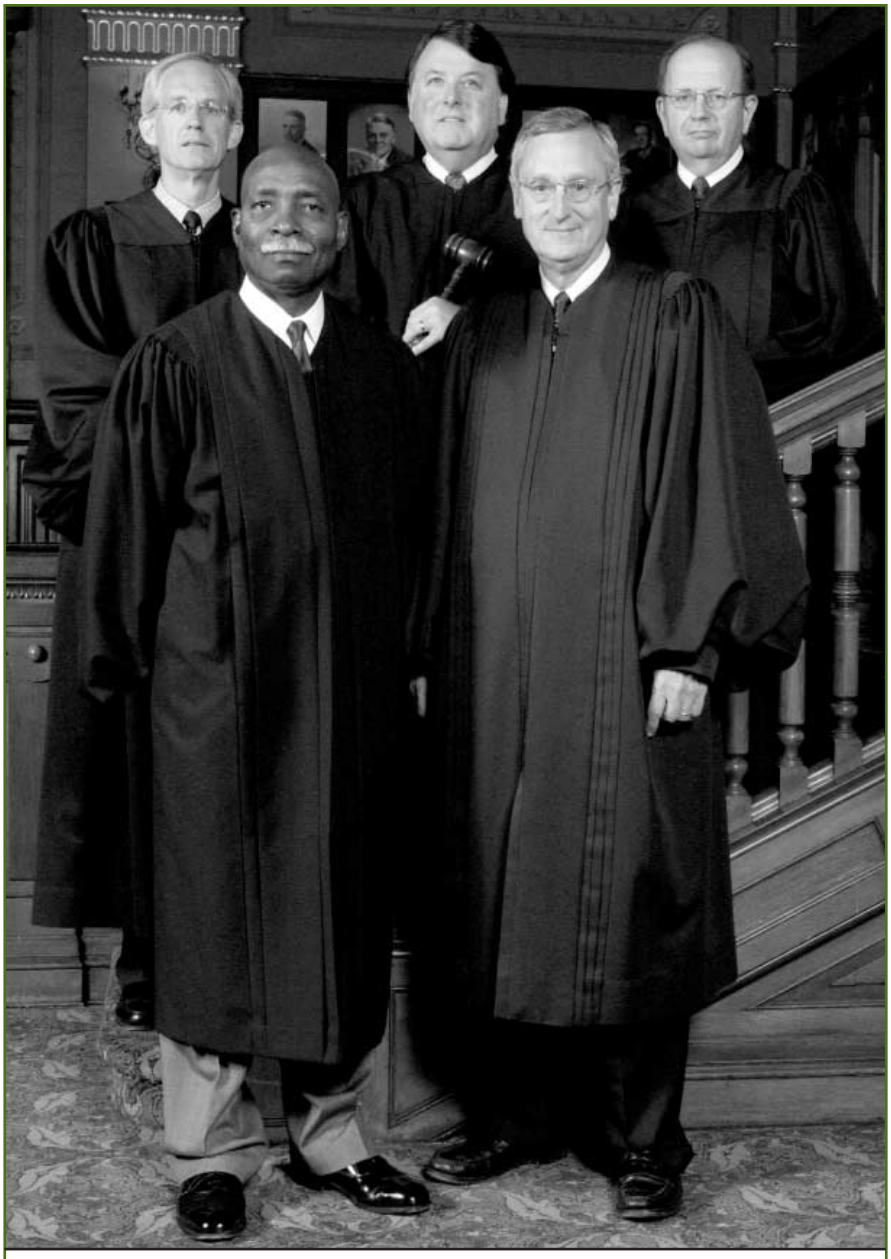
Indiana Supreme Court

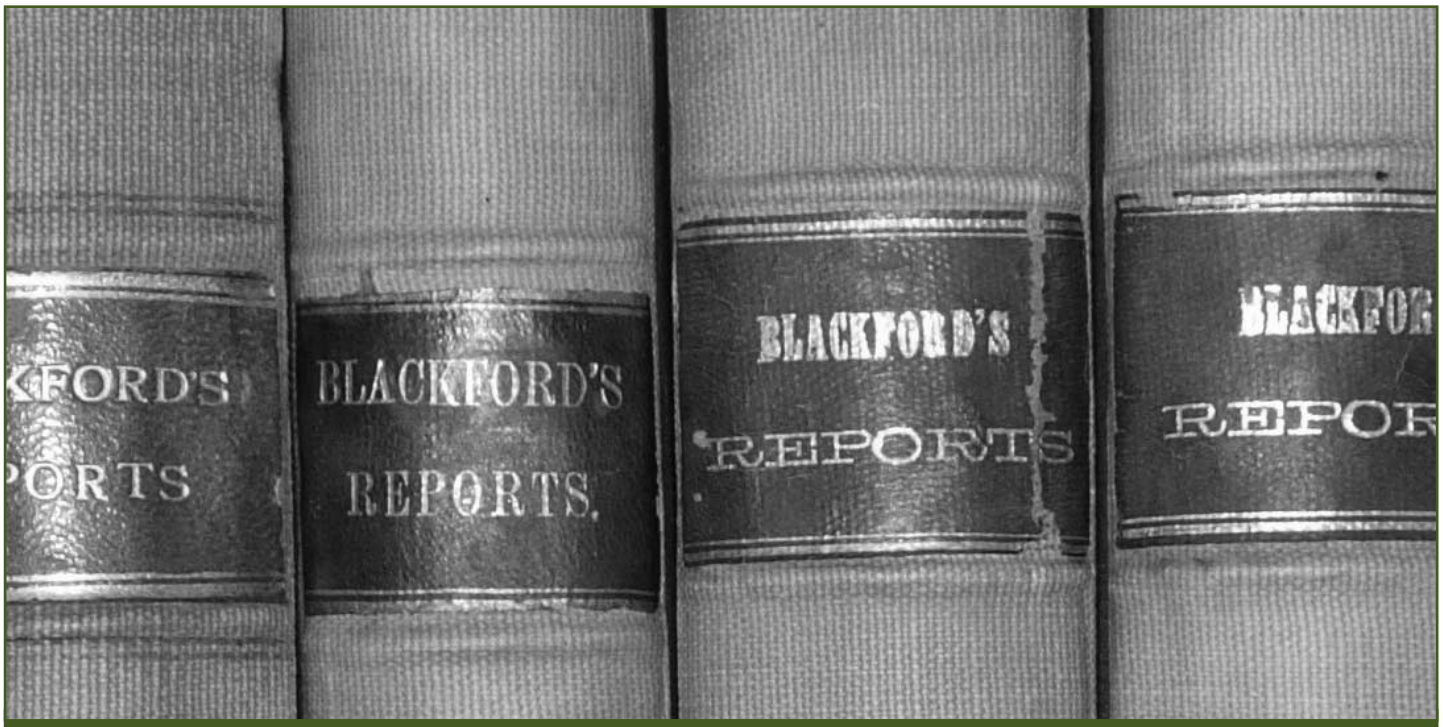
Annual Report 2005–2006



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

Front Row left to right: Justice Robert D. Rucker, Justice Theodore R. Boehm.
Back Row left to right: Justice Frank Sullivan, Jr., Chief Justice Randall T. Shepard, Justice Brent E. Dickson

The front cover photograph depicts historic renovation work completed in the Supreme Court Conference Room during this fiscal year. The back cover photograph depicts the Conference Room prior to the renovation. The photo on page 9 is from the Indiana State Archives' Conrad Baker Collection. The photo of the Court on this page and the photos on pages 2, 3, 10, 17, 23, 25, 33, 34, 36, 37 and the inside of the back cover are by John Gentry. The photo on page 6 is courtesy of the National Center for State Courts. The photos on pages 15 and 18 are courtesy of Victoria Lynn Beck. All other photos are by various Court personnel.



I. INTRODUCTION

This Annual Report provides information about the work of the Indiana Supreme Court. Included with the statistical data is an overview of the significant events of fiscal year 2005-2006 (July 1, 2005 through June 30, 2006) and a description of the activities of the Court and its affiliated agencies. Section II, Significant Events of Fiscal Year 2005-2006, includes brief highlights from the past fiscal year. Additional details on many of the programs listed in Section II can be found in the sections that follow. For more information about the Court, its history, and its various agencies and programs, visit our website, **www.IN.gov/judiciary**.

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II. SIGNIFICANT EVENTS OF THE FISCAL YEAR 2005-2006

July 1, 2005-June 30, 2006

TODAY'S SUPREME COURT

In the 2005-06 fiscal year, Indiana's five-member Supreme Court focused on its major responsibilities: issuing timely, meaningful judicial opinions and managing the plethora of programs it oversees in order to provide first-rate judicial service to the citizens of Indiana. In addition to issuing 192 majority opinions and published dispositive orders (and increase of 22 over past fiscal year), the court initiated a number of new efforts and continued ongoing projects designed to increase the public's access to justice in Indiana's legal system.

LOWERING THE LANGUAGE BARRIER

An increasingly diverse society has dramatically impacted the Indiana court system. A wide array of languages and dialects are spoken every day in the state's courtrooms. For example, to serve the people who do not speak English, the Supreme Court has launched a number of projects in recent years to remove language as a barrier to the court system. It now operates a Court Interpreter Certification Program that identifies and tests interpreters who work in the system. In addition, counties received $137,000 in grants in the last year to start and grow local interpreter projects. The Supreme Court also funded a free Language Line Program that gives trial judges nearly immediate access via telephone to interpreters of over 140 different languages. Early in the fiscal year, the Court also offered Spanish language courses for free to court employees through a partnership with Ivy Tech.

OUTREACH AND COMMUNICATION

The Supreme Court's award-winning "Courts in the Classroom" project continued to reach out to the public through the state's education system and the Internet.

A key part of "Courts in the Classroom" includes the webcast of every Supreme Court oral argument and selected Court of Appeals arguments. In the 2005-06 fiscal year, the Court webcast 60 arguments. The Court also continued to visit other communities and held oral arguments on the campus of Indiana University-East in Richmond, Indiana.

The internet has proved to be an excellent vehicle to communicate with the public. The Court issued 50 press releases, in hard copy and on-line, and posted a number of publications as well. Traffic on the Indiana Judicial System webpages continues to grow. During the past fiscal year, there were 17,652,804 page and document accesses on all of the pages on the Indiana Judicial System website.

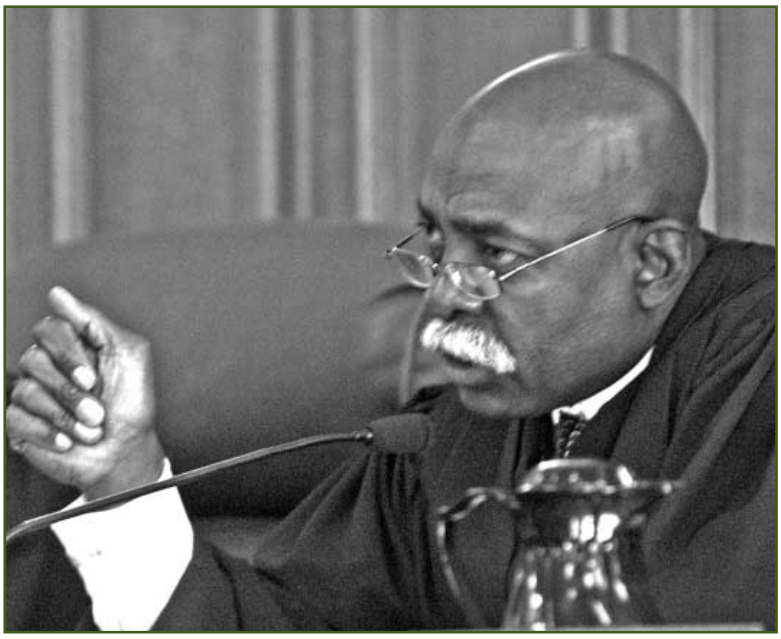
BRINGING THE COURTHOUSE TO YOU

In cooperation with the Supreme Court's Judicial Technology and Automation Committee (JTAC) and the Historic Landmarks Foundation of Indiana, the Chief Justice's office initiated a project to create "virtual tours" of Indiana's courthouses. Using the same technology employed to show homes for sale, photographer William Wolfred began visiting courthouses across Indiana. By the summer of 2006, users were able to view the exteriors and interiors of 20 courthouses. In

addition to preserving the beauty and history of Indiana's courthouses, the virtual tours enable new visitors to find courthouse offices more easily, as well as may lessen the anxiety of witnesses who are appearing in court for the first time.

THE APPELLATE WORK OF THE INDIANA SUPREME COURT – July 1, 2005 - June 30, 2006

The appellate work of the Indiana Supreme Court consists primarily of reviewing and deciding appeals from criminal and civil cases that have been tried in the approximately 300 trial courts of Indiana. With few exceptions, the appeals reviewed by the Court are cases that have already been appealed to and decided by the Indiana Court of Appeals, and the losing appellate party has then sought review of the case by the Supreme Court by means of a "petition to transfer." Nine hundred fourteen petitions to transfer were submitted to the Court in fiscal year 2005-06. The Court has discretion as to whether it will hear such cases, and during this fiscal year "denied transfer" in approximately 90% of these cases, thereby letting the decision of the Court of Appeals stand. In the course of its review of appeals, the Court maintains a deep appreciation for the high quality of the work of the judges who sit on the trial court benches of the State, on the Court of Appeals and Indiana Tax Court.



Justice Rucker questions an attorney during a Supreme Court oral argument.

When the Indiana Supreme Court makes a decision involving a question of federal law, that decision may be appealed to the United State Supreme Court. A number of such appeals are filed with the U.S. Supreme Court each year, but this year marked the first time in a quarter-century that the high court exercised its discretion and reviewed an opinion of the Indiana Supreme Court. The case involved the felony prosecution of a man for domestic battery. The U.S. Supreme Court, reversing the decision of the Indiana Supreme Court, ruled that the prosecutor could not use as evidence certain statements made by the victim at the time of the crime unless the victim was available for cross-examination at trial.

The Court reviewed the death sentences of six men during the past year. Three men were put to death after their appeals were rejected by the Indiana Supreme Court and federal courts – Alan Metheney, who killed his estranged wife in St. Joseph County in 1989; Kevin A. Conner, who killed three acquaintances in Marion County in 1988; and Marvin Bieghler, who killed a man and his wife in Howard County in 1981. (On the eve of Mr. Bieghler's execution, the United States Court of Appeals in Chicago issued a stay of execution, but the United States Supreme Court voted later that evening to permit the execution to proceed.) The Court also rejected the final appeal of Arthur Paul Baird II, who killed his parents and pregnant wife in Montgomery County in 1985. Governor Daniels commuted Baird's death sentence to life without possibility of parole.

The Court is regularly presented with arguments that certain laws enacted by the General Assembly or practices of state or local units of government violate the Federal or State Constitutions. In *Bonney v. Indiana Finance Authority*, the Court rejected claims that recent legislation, popularly known as "Major Moves" and authorizing the state to lease the Indiana Toll Road to a private concern for a term of years, was unconstitutional. In *Clinic for Women, Inc. v. Brizzi*, the Court upheld the constitutionality of a law that requires a woman seeking an abortion to give her informed consent prior to the procedure and, except in the case of a medical emergency, specifies that a physician (or other medical personnel) must "orally" and in her presence provide her with certain information at least 18 hours before the abortion is performed. On the other hand, in *Nagy v. Evansville-Vanderburgh School Corp.*, the Court held a mandatory $20 student services fee violated the Indiana Constitution. And in *Alpha PSI Chapter v. Auditor of Monroe County*, the Court found unconstitutional a law that extended three college fraternities' filing deadlines for property tax exemptions.

Approximately 40% of the Court's opinions this fiscal year were in criminal cases. Some of these cases continued work begun last year to decide which criminal sentencing decisions required jury involvement under a recent landmark United States Supreme Court decision, *Blakely v. Washington*. The principal "Blakely" case was *Ryle v. State*. Another set of criminal appeals addressed the question of when sentences imposed following guilty pleas may be appealed. The leading case here was *Childress v. State*. The Court also continued to exercise its authority under the Indiana Constitution to review and revise sentences. One example was *Frye v. State*, where the Court reduced a sentence for burglary from 40 to 20 years because the defendant had been unarmed, the victim away from home, and the value of the stolen items $395. Other interesting criminal issues addressed this fiscal year included the proper use of evidence obtained by police

through anonymous tips, canine drug sweeps, and the interrogation of a defendant's spouse.

Many of the Supreme Court's decisions during the past year involved important questions of civil law, particularly in the areas of tort law, government regulations and permits, family law, commercial disputes, employment law, and civil procedure.

In the area of tort law, the Court examined such issues as the responsibility of police officers for injuries suffered by innocent third parties in a collision during a high-speed chase of a fleeing suspect; the obligation of a self-insured employer to indemnify and defend an employee in a negligence suit; and whether a worker injured while assembling a piece of industrial equipment was a "consumer" or "user" of the equipment and therefore eligible to sue the manufacturer on grounds that the equipment was defective.

The Court adjudicated several disputes involving the issuance of government regulations and permits. In one case, the Court held that a trade association had not taken the steps necessary to appeal the award of an alcoholic beverage permit. In another case, the Court held that a City of Indianapolis ordinance required a company to obtain permits before erecting its billboards. In a third, the Court upheld warrantless inspections of apartment buildings by a city's rental housing inspector.

Chief Justice Shepard (above) and Justice Dickson (below) marked their 20th anniversaries on the Indiana Supreme Court with celebration dinners attended by the Justices' families, staffs and former law clerks.

In the area of family law, the Court held that a trial court had been wrong to dismiss without a hearing a woman's request for parenting time rights, child support obligations, and certain other parental rights and responsibilities with respect to her former domestic partner's child. The Court also declined to review a Court of Appeals decision affirming a trial court's decision to allow two women to adopt a child placed in their care by the state child services agency.

The Court was called on to decide commercial disputes between a developer and a homeowner over who bore responsibility for property taxes; between mortgagees over their respective priorities; between law firms where one accused the other of infringing on its trade name; and between the Coca-Cola Company and a meat products concern over whether they had agreed to a "national co-marketing agreement."

In the area of employment law, the Court addressed several age discrimination claims; charges of wrongful discharge by the former executive director of a youth organization against members of its board; and a request for damages under the Indiana Wage Payment Statute.

The Court also decided several interesting but technical issues of procedure in civil cases, such as the availability of a so-called "interlocutory appeal" in certain circumstances; the duty of a person making a claim under an insurance policy to submit to questions under oath; and the proper distinction between claims of procedural error and claims of lack of jurisdiction.

Finally, a measurable percentage of the Court's work is devoted to addressing allegations of professional misconduct on the part of Indiana lawyers and, in a small number of cases, Indiana judges. These efforts are discussed elsewhere in this report. The Court is also involved in assuring that legal services are provided only by trained and licensed professionals. In two cases this year, the Court prohibited individuals from engaging in unauthorized law practice. In one case, an individual had held herself out as a "notario publico," Spanish for "notary public," a term which in many Spanish-speaking countries connotes an official who is an experienced lawyer, and provided immigration and other legal services for non-English speaking clients. In the other, two individuals had prepared estate and other legal documents for clients of their financial planning business.

STATE OF THE JUDICIARY

As required by Indiana's constitution, Chief Justice Randall T. Shepard delivered his annual State of the Judiciary address to a joint session of the Indiana General Assembly on January 12, 2006. He focused on Indiana's place in American court reform and noted that Indiana is "rarely first, occasionally last and frequently early." In his remarks he pointed out that while the state does not always implement brand new ideas, it is quite nimble and able to adopt new ideas that have succeeded elsewhere. He also highlighted the many Supreme Court programs that help Hoosiers find justice, emphasizing that the

The Supreme Court's renovated Robing Room before an oral argument.

Indiana court system has produced a host of programs that are copied elsewhere. In addition, he also pointed out that the judicial branch has a number of leaders who are regularly tapped for their expertise by communities outside of Indiana. In closing, Chief Justice Shepard thanked the General Assembly for the vote of confidence they demonstrated by passing a judicial compensation package. He told them that a dark cloud known as compensation had been hanging over the judiciary for many years. "That cloud has been lifted," he explained.

CONFERENCE AND ROBING ROOM RENOVATION

With the help of a federal grant, restoration work in the Supreme Court Courtroom was completed in the late summer of 2004, opening the way for similar work in the Supreme Court Conference and the Robing Rooms. In both rooms, new chandeliers were installed and the old chandeliers from the Conference Room were donated to the Indiana Senate. Freshly cleaned and polished, they now grace two fourth floor Senate rooms. New paint schemes replicating the Conference and Robing Rooms' original paint schemes were also completed. The difference is substantial, as shown on the back and front covers of this annual report depicting the "before and after" changes to the conference room. The Supreme Court Law Library also received new replica chandeliers and stack lighting, which illuminate the Library much better but in a manner that protects, rather than deteriorates, the Library's precious antique collection. In 2007, the Library will receive historically accurate repainting to its original scheme. All of this work was and will continue to be ably supervised by Deputy Supreme Court Administrator Greta M. Scodro.

JUDICIAL TECHNOLOGY AND AUTOMATION COMMITTEE

The Supreme Court's mammoth task of linking all trial courts and agencies using court data with a seamless case management system continued this fiscal year. This work, which is the responsibility of the Court's Judicial Technology and Automation Committee (JTAC), has been recognized nationally. It received the "Top Website" award for the broad base of knowledge on the Indiana Judicial System website and its ease of access. Regarding its case management efforts, JTAC continued the national search for a new vendor to provide the framework for the new statewide case management system.

CLERK OF THE COURTS

Legislation, passed in 2004, transferred the Office of Clerk of the Supreme Court, Court of Appeals, and Tax Court to the control of the Supreme Court. The transition was to be completed when the term of current Clerk David Lewis expired at the end of 2006. However, the transition occurred much faster then originally anticipated. Following the early resignation of Mr. Lewis to pursue a position in the private sector, Indiana Chief Justice Randall T. Shepard appointed Supreme Court Administrator Kevin S. Smith to be the new Clerk. Combining the two positions and, effectively the two offices, into one saved Hoosier taxpayers the cost of Mr. Lewis' former salary and benefits. During the past year, the Clerk/Administrator has worked diligently to transition the Court's "new" employees into the Supreme Court's fold.

ACCESS TO JUSTICE

The Court also continued its efforts to insure 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 $503,000, which was distributed after January 2006.

Most funding for the pro bono initiative 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. Since 1999, over $2 million has been distributed to local pro bono committees. To continue the growth in revenues, the Supreme Court ordered in November 2004 that all eligible Indiana attorneys enroll in the IOLTA program by July 1, 2005.

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

To encourage trial judges to become more involved in pro bono efforts, the Court also amended the Canons of Judicial Conduct explicitly to authorize judges to support the efforts of pro bono work in their communities.

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 the Honorable David Holt, Judge of the Greene Superior Court, this program helps educate trial courts, clerk staffs, and library personnel about the best ways to assist self-represented clients. The committee has also prepared a number of commonly used legal forms and posted them on the Internet. Several forms and instructions have been translated into Spanish and posted on the Internet as well. At times, the legal forms page has been among the most popular of the Supreme Court's many webpages.

Randall T. Shepard, Chief Justice of Indiana, and John G. Roberts, Jr., Chief Justice of the United States, at the William H. Rehnquist, Sr., Award Dinner, held in October 2005 in the Great Hall of the U.S. Supreme Court.

JURY RULES

In a continuing effort to make sure the jury system meets the needs of today's society, the Court continued to update the state's jury rules and supported new legislation to make the system more efficient and more just. In a large collaborative effort with the Bureau of Motor Vehicles and the Department of Revenue, the Supreme Court, under the leadership of Justice Theodore R. Boehm, initiated a project to create a statewide juror list that combined the distinct identification features from both state agencies. The result was a county-by-county list, available on CD-ROM, that has a high degree of accuracy regarding names and addresses. Counties should experience fewer returned jury summons because addresses will be more current. This project earned Indiana national attention.

In addition, the Supreme Court supported legislation in 2006 to remove all exemptions from jury service. Previously, dentists, veterinarians, even ferryboat operators, among others, were automatically exempt from jury service. Jurors with hardships, however, can still seek temporary deferment of their jury service. The new statute means juries will be more representative.

ACCESS TO INDIANA'S LAW SCHOOLS

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. Indiana CLEO seeks to diversify the Indiana legal community by making it easier for people of differing backgrounds to succeed in law school. During the past fiscal year, the tenth class of law students for the Indiana CLEO program was selected. These twenty-nine students spent the summer of 2006 at Valparaiso University School of Law in a six-week Summer Institute designed to prepare them for the rigors of law school. Each student who completed the Summer Institute will receive a stipend of $5,000 to $7,000 for each year of law school. Indiana CLEO also promotes a number of additional programs, including career assistance, job placement, summer employment, networking opportunities, and assistance with preparation for the Indiana Bar Examination. Indiana CLEO fellows have begun moving into positions of leadership in the Indiana legal community. For example, Jenny Sarabia (Indiana CLEO 2000) served as the Executive Director of the Department of Workforce Development's Commission of Hispanic/Latino Affairs for former Governor Kernan. Terry Tolliver (Indiana CLEO 1997) served as the Co-Chair of the Indiana State Bar Association's Committee for Racial Diversity in the Legal Profession for the second consecutive year. 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. To continue the work of Indiana CLEO, the Court hired Robyn Williamson as the new Indiana CLEO coordinator.

THE COMMISSION ON RACE AND GENDER FAIRNESS

The Supreme Court's Commission on Race and Gender Fairness continues to work towards fulfilling many of the goals outlined in its January 2, 2003 report to the Court. At the Court's request, the Commission prioritized the remaining recommendations and continues work on implementation. In particular, during 2004 the Commission partnered with the Women in Law Section of the Indiana State Bar Association and the Women in Law Division of the Indianapolis Bar Association to formulate a more detailed study examining perceptions and

practices within the legal profession regarding gender issues. The study was mailed to a random sample of 2,000 attorneys, both male and female. Of this sample, 940 surveys were completed.

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

CLE IN INDIANA CELEBRATES 20TH ANNIVERSARY

Two decades ago, the Supreme Court established requirements for judges and lawyers to receive Continuing Legal Education (CLE) on a regular basis. To mark the 20th anniversary, the CLE Commission and the Supreme Court sponsored a symposium in cooperation with Valparaiso Law School. The two-day event featured presentations and lectures about the growth of CLE and its future which were attended by over 100 individuals.

FAMILY COURT PROJECT

With new funding from the Indiana General Assembly, the Court's Family Court Initiative expanded into a new phase in fiscal year 2005-06 by supporting additional family court projects in several more counties. 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.

Justice Dickson gives a few words at his 20th anniversary celebration.

RESPONDING TO KATRINA

Chief Justice Shepard urged his fellow Chief Justices to assist southern lawyers displaced by Hurricane Katrina. Indiana and other states amended their rules of practice to help lawyers from Texas, Louisiana, and Mississippi, more easily relocate to Indiana and rebuild their practice.

WORKING WITH THE NEWS MEDIA

In response to a request from Indiana's news media, in the spring of 2006 the Supreme Court authorized a pilot program to allow the use of news cameras and recording devices in Indiana's trial courts. The 18-month pilot project began July 1, 2006, in eight trial courts. In addition, with support from the Court, the Indiana Judicial Conference's Community Relations Committee produced an on-line "bench-media" guide as a resource for reporters who cover the court system. It was produced in cooperation with the Hoosier State Press Association.

A JUSTICE PASSES

With much sadness, the Supreme Court noted the passing of retired Justice Jon D. Krahulik. A member of the court from 1990 to 1993 and a respected Indiana lawyer, Justice Krahulik died in the fall of 2005 after a valiant battle with a serious illness.

MEMBERS OF THE COURT AS PART OF THE COMMUNITY

The Justices make regular contributions to the community and the legal system. Some examples of their work in this regard follow.

During 2005-2006, Chief Justice Shepard came to the end of his term as president of the Conference of Chief Justices and as chairman of the board of the National Center for State Courts, based in Williamsburg, Virginia. He led the planning effort for the annual meeting of the Conference of Chief Justices and Conference of State Court Administrators, which was successfully held in Indianapolis from July 29 to August 1, 2006.

Chief Justice Shepard also delivered the prestigious annual Brennan Lecture at New York University School of Law and was invited to teach new appellate judges at its well-known institute. In addition, was honored during the 2006 Indiana Black Expo for his contributions to increasing diversity in the legal system.

Justice Brent E. Dickson delivered the keynote address at an ethics seminar sponsored by the *Indiana Lawyer* in the fall of 2005. He also presented a legal education lecture on the Indiana Constitution at the Lincoln Museum in Fort Wayne sponsored by the Allen County Bar Association.

Justice Frank Sullivan was elected vice-Chair of the American Bar Association's Appellate Judges Conference. Justice Sullivan also chairs the St. Joseph Superior Court Judicial Nominating Commission. He is a member of the Valparaiso University School of Law National Council and the Indiana University School of Law–Bloomington Board of Visitors. From 2002-2005, he co-chaired the American Bar Association's Judicial Clerkship Program, which encourages minority law students to seek judicial clerkships.

Justice Theodore R. Boehm serves as chair of the Indianapolis Commission on Cultural Development, and is a member of the United States Olympic Committee Nominating and Governance Committee and the Legal Commission of the International Basketball Federation.

Justice Robert D. Rucker was elected Secretary of the National Bar Association's Judicial Council. Justice Rucker also serves as chairman of the Lake County Judicial Nominating Commission. In January 2006, he gave the keynote address on "Judicial Independence" at the twentieth anniversary installation of the Lake County Bar Association. ■

III. THE INDIANA SUPREME COURT

A. BRIEF HISTORY

The Indiana Supreme Court is the highest court in Indiana, and the court of final review when the issue is the meaning of the state constitution, state law, or state rule.

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

The Constitutional Convention in 1850, although organized to address the controversy over the State's bonded debt, also produced a reorganization of the Supreme Court. Under the new Constitution adopted in 1851, judges would be elected by the people, and their number would be "not less than three, nor more than five judges." Their terms were to be "for six years, if they so long behave well." The General Assembly acted to prescribe that four judges would serve on the Supreme Court. Four judges, representing four geographic districts but elected by statewide ballot, began their terms on January 3, 1853. The Court's caseload grew to such an extent that the General Assembly acted in 1872 to increase the number of judges to five.

The current Supreme Court has as its foundation a constitutional amendment ratified by the people in 1970. The Amendment took effect January 1, 1972 and represented an almost complete rewriting of the 1851 Constitution's Judicial Article. It removed members of the Supreme Court from partisan elections and established a process for voter confirmation before retention in office. Justices, as they are now called, are subject to statewide yes-or-no votes on the question of their retention in office. With approval by the electorate, they serve ten-year terms, and are subject to identical retention votes at ten-year intervals thereafter. Under current law, retirement is required at age seventy-five.

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

To be eligible to serve on the Supreme Court, a person must have practiced law in Indiana at least 10 years or have served at least five years as a trial court judge. Candidates for appointment presented by the Judicial Nominating Commission must be the "most highly qualified candidates," per Public Law 427 of 1971. Considerations include the candidate's legal education, legal writings, reputation in the practice of law, physical condition, financial interests, and activities in public service.

Even though the Supreme Court has met in the same location longer than any other court of last resort in America, it has actually had several homes during its nearly 200 years. During most of Indiana's territorial days, the Court sat in "Territorial Hall" in Vincennes, Indiana, a simple framed building that was later moved to the original estate of William Henry Harrison. When the capitol moved to Corydon in 1813, the Court moved with the rest of Indiana's fledgling government into a two-story limestone and log structure originally intended to serve as the courthouse for Harrison County. When the state capitol relocated to Indianapolis in December 1825, the General Assembly rented meeting space in the Marion County Courthouse. In 1835, the Court began holding court in the newly-completed first State House. Although the Court held hearings there, from 1832-1857 the Court had its offices and meeting room in a large two-story brick building known as the Governor's Mansion, located on Monument Circle where the Indiana Soldiers and Sailors Monument now stands. During the 1860s, the State House deteriorated to the extent that the limestone foundation failed, the stucco chipped off, and the ceiling in the Representative Hall collapsed. In 1867, the legislature authorized "the erection of a brick building, on

ground owned by the State [in Indianapolis], for the use of the Supreme Court and the officers of the State." This Judicial Building is where the Court had its offices and held proceedings until the new State House was completed in 1888. Other state officers had offices there as well. The Court almost gained a new Judicial Building in the 1990s, when the State spent millions of dollars on architectural plans for the erection of a Judicial Building on state-owned land just north of the current State House. The bill authorizing the Judicial Building failed to become law, however. Today, most of the Supreme Court's various agencies are housed in rented Indianapolis office space. The Justices and their staffs, and a few court employees, continue to maintain offices in the State House, and the Court continues to hear and decide cases in its historic State House courtroom and conference room as it has for nearly 120 years.

The Supreme Court's first Judicial Building, which housed the Court from 1867-1888.

B. THE CASE WORK OF THE INDIANA SUPREME COURT

As evidenced in the section of this report titled, "Significant Events of Fiscal Year 2005-2006," 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 appeals in which a sentence of death or life imprisonment without parole has been entered, appeals of final judgments declaring a state or federal constitution unconstitutional, appeals involving waiver of parental consent to abortion, and appeals involving mandates of funds. In addition, the Court has direct jurisdiction over cases involving attorney or judicial discipline, original actions, review of the decisions of the Tax Court, certified questions from federal courts, and review of certain final decisions of the Board of Law Examiners.

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

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. During fiscal year 2005-06, Chief Justice Shepard served as President of the National Conference of Chief Justices and celebrated his 20th anniversary on the Indiana Supreme Court. He is married and has one daughter.

Brent E. Dickson

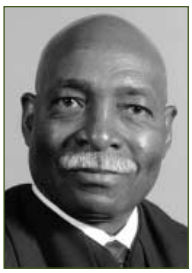
Brent E. Dickson was appointed as the 100th Justice of the Indiana Supreme Court on January 4, 1986, after seventeen years as a general practice and trial lawyer in Lafayette, Indiana. As a lawyer, he was certified as a Civil Trial Advocate by the National Board of Trial Advocacy. Born in Gary, Indiana, 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 has for several years also taught evening courses on Indiana Constitutional Law as an adjunct professor at the Indiana University Schools of Law in Bloomington and Indianapolis. During fiscal year 2005-06, Justice Dickson celebrated his 20th anniversary on the Indiana Supreme Court. Justice Dickson and his wife have three adult sons and seven grandchildren.

Frank Sullivan, Jr.

Frank Sullivan, Jr., was appointed to the Indiana Supreme Court effective November 1, 1993, by Governor Evan Bayh. He chairs the court's Judicial Technology and Automation Committee and has been an active participant in bench, bar, and legal education activities. Sullivan came to the state's highest court with a background in government service and private law practice. He served as Indiana State Budget Director from 1989 through 1992. Prior to state service, he practiced law in Indianapolis. Sullivan is a member of the Board of Visitors of the Indiana University School of Law—Bloomington and the Valparaiso University School of Law National Council. He is also a Fellow of the Indiana State and American Bar Foundations and a member of the American Law Institute and an adviser to its "Restatement of the Law Third Economic Torts and Related Wrongs" project. Sullivan is Vice-Chair of the Executive Committee of the Appellate Judges Conference of the American Bar Association Judicial Division and in line to become its Chair in 2008. From 2002-2005, he co-chaired the ABA's Judicial Clerkship Program that encourages minority law students to seek judicial clerkships. Sullivan is a native of South Bend. He is a graduate of 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). He is married to Cheryl G. Sullivan; they 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 during this fiscal year served as Chair of the Nominating and Governance Committee of the United States Olympic Committee. He is a Trustee emeritus of Brown University and a member of the American Law Institute. He is married and has four grown daughters and five grandchildren.



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

IV. BUDGETARY MATTERS

The Supreme Court operated under a biennial budget, previously approved by the General Assembly, for the period from 2005-2006. The Court has continued its efforts to provide greater service at reduced expense through efficiency.

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

A. DIVISION OF SUPREME COURT ADMINISTRATION

KEVIN S. SMITH, ADMINISTRATOR

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

THE DIVISION AS THE COURT'S CENTRAL STAFF COUNSEL

The Supreme Court Administrator, the Deputy Administrator, and the Division's three staff attorneys serve as central staff counsel to the Court. In this role they perform a myriad of functions. However, most of their duties pertain to providing the Court with legal research, analysis, and advice through legal memoranda; assisting the Court with drafting orders and opinions related to motions and other matters requiring rulings in cases pending before the Court; responding to inquiries from practitioners and the public concerning Supreme Court practice and procedure; and reviewing and assisting the Chief Justice with original actions.

During this fiscal year, the Division's staff attorneys drafted 230 legal memoranda on a myriad of topics to assist the Supreme Court in its role as Indiana's court of last resort. Further, the Division assisted the Court in drafting and issuing approximately 1,230 orders and opinions. Also, with regard to the specific duties of the Supreme Court Administrator prescribed by the Indiana Rules of Procedure concerning original actions (which are proceedings that challenge a trial court's jurisdiction and originate in the Indiana Supreme Court rather than originating first in a trial court), the Division reviewed scores of writ applications and submitted at least 38 to the Chief Justice or an Acting Chief Justice for consideration.

Finally, the Divisions' attorneys are very active in legal education and in providing service to the profession through, among other things, involvement with the Indiana State Bar Association. They are active participants in the ISBA's Appellate Practice Section and also the American Bar Association's Council of Appellate Staff Attorneys.

THE DIVISION AS THE COURT'S CASE PROCESSOR AND BUSINESS ADMINISTRATOR

The Division of Supreme Court Administration is also responsible for the day-to-day fiscal administration of the Court, including the procurement of supplies, the negotiation and oversight of equipment lease contracts, the processing of payroll,

the payment of bills, the preparation of expense vouchers, and the administration of employee benefits. It also assists the Chief Justice with the preparation of the Court's budget. Further, it accumulates Court statistics and prepares reports about the work of the Court. Its staff members often serve as the Court's liaison to its various agencies, the practicing bar, and to the general public. Much of the physical handling of cases reviewed by the Court is managed by the Division, and the Division's staff answers inquiries from attorneys and the public about the Indiana Supreme Court.

Finally, as mentioned elsewhere in this Annual Report, during this fiscal year the Clerk of the Supreme Court, Court of Appeals, and Tax Court completed the formal transition from a free-standing elected office to an office appointed by the Chief Justice. This transition began with the passage of legislation in 2004 and ended when Clerk David C. Lewis, whose term was scheduled to expire in December 2006, resigned in February 2006 and the Chief Justice thereafter appointed Supreme Court Administrator Kevin S. Smith to assume, in addition to his responsibilities as Administrator, the title and responsibilities of Clerk. The combining of the Clerk and Administrator positions into a single position has led to reorganization within the Division of Supreme Court Administration and the Clerk's Office to capitalize on economies of scale, eliminate redundancies, and increase the efficiencies of both offices. It also demonstrates the Supreme Court's continued commitment to stewarding the State's limited financial resources in a fiscally responsible manner by streamlining operations and reducing personnel costs when possible.

B. CITIZEN EDUCATION: "COURTS IN THE CLASSROOM"

DR. ELIZABETH R. OSBORN, ASST. TO THE CHIEF JUSTICE FOR COURT HISTORY AND PUBLIC EDUCATION

INTRODUCTION

The Indiana Supreme Court's central education outreach program, "Courts in the Classroom (CITC)," was launched in Fall 2001 with the installation of "webcast" technology in the Supreme Court Courtroom. This equipment, which includes four remotely operated cameras, enables oral arguments to be webcast live on the Internet and then archived for later viewing. The CITC project has been recognized in previous years by the National Center for State Courts as a model for educating the public about the judiciary and was featured in the National Center's 2005 *Modern Trends* publication.

Students participating in Benjamin Harrison Day festivities in the Supreme Court Courtroom.

In fiscal year 2005-06, the value of CITC's contribution to public education was recognized by both lawyers and historians for the programming it creates. In late 2005, CITC received the annual "Liberty Bell Award" from the Indiana State Bar Association's Young Lawyers Division and in 2006, CITC received a Certificate of Merit from the American Association of State and Local Historians.

Over the last five years this program has grown from the initial idea of making the workings of the Court more accessible to Hoosiers through the broadcast of oral arguments, to include on-line lesson plans, scripted trials, museum-style exhibits, searchable databases, virtual tours of Indiana courthouses, and a variety of other resources for teachers. CITC continues to develop partnerships with education players around the state in the production of scripted trials for use in classrooms or small group settings, the publication of Indiana-based material about the workings of the trial and appellate courts, and in hosting lectures and teacher workshops. As more and more resources and video have been added to the website, visits to the CITC webpage by teachers, students, and lawyers continue to grow. In 2005, 60,924 computers logged in to webcasts broadcast by the CITC staff, an increase of about 400% in one year. The Indiana Supreme Court, through its educational outreach programming, is playing a key role in citizenship education for Indiana teachers, students, and citizens.

WEBCASTING: IT'S NOT JUST ABOUT ORAL ARGUMENTS ANYMORE

ORAL ARGUMENTS

CITC continued to webcast all Supreme Court, and selected Court of Appeals, oral arguments held in the Indiana Supreme Court Courtroom. In addition, with the help of the Indiana Higher Education Telecommunications System, CITC broadcasted live an oral argument held at Indiana University East in Richmond, Indiana. The broadcast of oral arguments continues to be a staple of the CITC's repertoire, and the 2005-06 fiscal year saw the addition of more than 57 new oral arguments to the court's website. Attorneys report they use the oral argument webcasts and database to help in their own preparation, as a teaching tool for CLE session, for mentoring new lawyers, and to help their clients view the argument without having to drive or fly to Indianapolis.

K-12 TEACHER TRAINING

In addition to the webcast of oral arguments, CITC provided a wide variety of other programs this

Constitution Day activities in the Supreme Court Courtroom, hosted by the Supreme Court's "Courts in the Classroom" program.

fiscal year, including several new programs specifically for K-12 teachers: a Constitution Day program, a full-day teacher institute on Citizenship and Character, and one day of the "Project Citizen: Central Region Summer Teacher Institute."

COURTROOM EVENTS FOR STUDENTS AND LAWYERS

Building on the roots of the 2002 project with Freetown Village Inc., in 2005 CITC formed a partnership with the Indiana Historical Bureau, the Indiana State Archives, the Leora Brown School, and the Indiana State Bar Foundation to create curriculum materials and to host courtroom events related to a series of important slavery-related decisions handed down by the Indiana Supreme Court from 1820–1860.

Also, the Indiana Supreme Court introduced its Legal History Lecture Series. The first event featured a courtroom seminar that included the unveiling of a newly developed database index of Supreme Court cases and the release of a biography on long-time Indiana Supreme Court Justice Isaac Blackford.

CITC programming highlighting the service of Benjamin Harrison continued this fiscal year with the annual student reenactment of *Ex Parte Milligan* (1866).

ON-LINE COURT HISTORY RESOURCES

SEARCHABLE DATABASES AND DOCUMENT COLLECTIONS

In addition to the searchable database index of Indiana Supreme Court cases dating from 1816–1872 mentioned earlier, this fiscal year, digitized (and searchable) versions of key documents from Indiana's territorial times to statehood became accessible at **www.statelib.lib.in.us/www/isl/indiana/manuscripts/inlawyers/index.htm**.

COURT HISTORY EXHIBITS

In the "Court History Museum" section of CITC's website, users can now explore exhibits focusing on former Supreme Court Judge John V. Hadley, Indiana's law schools, Indiana lawyers who served or are serving in Indiana's legislature, the history of the Indiana Supreme Court, and the various locations where the Court has met.

COUNTY COURTHOUSES

CITC's newest on-line project is the creation of virtual tours of several of Indiana's county courthouses, with the intent to have all available eventually.

PUBLISHING PROJECTS

Fiscal year 2005-06 saw the printing of numerous resources for teachers, lawyers, and those interested in the history of Indiana's judicial branch, including one book, several pamphlets, and two workbook-style student handbooks.

C. DIVISION OF STATE COURT ADMINISTRATION

LILIA G. JUDSON, EXECUTIVE DIRECTOR

The mission of the Indiana Supreme Court Division of State Court Administration ("the Division") is to assist the Indiana Supreme Court in its leadership role as the administrator and manager of Indiana's judicial system, its courts, officers and related offices and programs. In particular, the Division examines and recommends improvements in the methods, procedures and administrative systems used by the courts, by other offices related to and serving the courts, and by the clerks of courts. It collects and reports information on the judicial workload of all trial and appellate courts, the receipt and expenditure of funds by all the courts and their related offices, and generally the volume, condition and type of business conducted by the courts. It helps the Chief Justice and Supreme Court manage and regulate judicial workloads, manage and distribute state funding provided for the operation of the courts and related offices, certify and regulate court programs and initiatives, promulgate and implement rules and procedures, and provide technology and automation to the courts. The Division provides staff support to the Indiana Commission on Judicial Qualifications and Judicial Nominating Commission,

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

Following is a report on the continuing and new functions and accomplishments of the Division.

TRIAL COURT MANAGEMENT

JUDICIAL SERVICE REPORTS

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

WEIGHTED CASELOAD MEASURES AND CASELOAD REDISTRIBUTION PLANS

Since the mid 1990s, the Division has employed a weighted caseload (WCL) measurement system to analyze the statistical caseload data collected from the courts and report on judicial resource needs. Each year, the Division publishes a Weighted Caseload Report that provides a uniform, statewide method for comparing trial court caseloads.

The WCL system is used to evaluate new filings only. It allows courts to forecast the amount of judicial time that would be necessary to process the cases being filed in a particular court or county.

To assist policy makers in accurately assessing a county's need for additional judicial officers, the Division also publishes a report on the relative severity of judicial resource need. The "relative severity of need" concept provides a relative comparison of the need for new judges in each county.

The Weighted Caseload Measures is available at **www.in.gov/judiciary/admin/ courtmgmt.**

DEPLOYMENT OF TRIAL COURT INFORMATION ON THE INTERNET

Rapid advancements in technology and the efficiency it affords have prompted some of Indiana's courts to seek ways to post docket information on the Internet. In an effort to both encourage and ensure that only public court information is deployed, and deployed appropriately, the Court promulgated Trial Rule 77(K). This rule provides that before any court or clerk deploys any court information on the Internet, it must seek and receive authorization from the Division.

During 2005, Division staff amended the approval process and reviewed and approved numerous such requests. The list of approved counties can be viewed at **www.in.gov/judiciary/ trialcourts/tr77-approval.html.**

The Division's Judicial Technology and Automation Committee (JTAC) staff, which is responsible for the development and maintenance of the Indiana Judicial website, developed individual web pages for each of Indiana's counties, listing contact information for all clerks and courts. The county websites also contain other useful information, such as the local court rules, directions to the county courts and photographs of the often architecturally unique courthouses. The local websites are listed at **www.in.gov/judiciary/trialcourts/.**

STATE OFFICE OF GUARDIAN AD LITEM/COURT APPOINTED SPECIAL ADVOCATE

In child abuse and neglect cases, the attorneys and court often can become focused on the implicated adults with little attention paid to the needs of the child-victims. Guardian ad Litems and Court Appointed Special Advocates serve as representatives of children in child abuse and neglect cases, so that their interests are protected and their voices are heard. In 1989, the General Assembly established a program for Guardian Ad Litem and Court Appointed Special Advocate ("GAL/CASA") services, to be administered by the Division.

Through this program, counties are encouraged to provide appropriate GAL/CASA services by receiving matching state funding administered by the Division and disbursed pursuant to a statutory formula. In addition, the State Office of GAL/CASA ("State Office") provides training and support services for local GAL/CASA programs.

Seventy-four of Indiana's 92 counties applied for state GAL/CASA funds in 2005. Sixty-five counties in Indiana funded a volunteer-based GAL/CASA program, staffed by 138 paid personnel. Of the 65 counties with volunteer-based programs, 32 counties had court-based programs, 22 counties had programs that were separate non-profit entities, and 9 counties had programs that were operated under the umbrella of another non-profit entity. The remaining 29 counties appointed either attorney GALs or utilized other, paid GALs. GAL/CASA volunteers donated an estimated 511,273 hours in 2005. If the

contribution of GAL/CASA volunteers is calculated using the rate customarily paid to non-volunteer appointed GALs ($50 hourly), the volunteers contributed an estimated $25.6 million to the State of Indiana in 2005.

The State Office determined that there were at least 1,940 active GAL/CASA volunteers statewide including 542 newly trained volunteers, and GAL/CASA volunteers advocated for 16,199 children involving 15,029 cases. Even so, there were at least 4,226 children still waiting for a GAL/CASA volunteer to be appointed to their cases at the end of 2005.

On September 16, 2005, the State Office held its annual meeting for GAL/CASA directors and staff, and on September 17, the State Office sponsored the Ninth Annual Indiana State GAL/CASA Conference. Over 400 GAL/CASA volunteers, local program directors, service providers, board members, child welfare personnel and local program staff attended the annual CASA conference. The State Office also held a two-day new directors' training in 2005, which focused on the skills required for managing a quality volunteer advocacy program, and conducted numerous other training sessions for GAL/CASA program directors, staff and volunteers.

In 2002, the State Office and the Advisory Commission decided that Indiana GAL/CASA programs would support the National CASA Association's quality assurance initiative. Through this initiative, each GAL/CASA program demonstrates compliance with national standards. At the end of 2005, 44 of Indiana's 65 counties with programs had successfully become members of the National CASA Association.

The Court with representatives of Indiana University-East following the oral argument held there on April 17, 2006.

In 2005, the Indiana General Assembly amended the statute regarding GAL/CASA matching funds. The amended statute requires that GAL/CASA programs be certified by the Supreme Court to be eligible for matching funds. The Indiana General Assembly also passed legislation in 2005 requiring the appointment of a GAL/CASA for every child in every Child in Need of Services, or "CHINS," case. The new requirement has created significant challenges for GAL/CASA programs and the judiciary. Additional volunteers and funding are desperately needed in underserved and un-served areas across Indiana.

THE FAMILY COURT PROJECT

With funding first provided by the Indiana Legislature in 2000, the Indiana Supreme Court directed the Division to launch the Indiana Family Court Project. The purpose of the project is the development of effective models for coordinating the multiple cases of families involved in the judicial process. This is a state grant program that provides funds to courts that develop methods to share information and coordinate diverse cases facing the same family. Each family court project requires the committed involvement of the local judiciary, family law bar and community program leaders and service providers. As of the printing of this report, 23 counties are participating in the program as part of 13 single and regional family court projects.

In 2005, the Division concluded the preparations for three new family court projects, which started operations in 2006. This brought the total of programs statewide to 16. St. Joseph and Allen Counties instituted individual projects while four rural Indiana Counties (Martin, Orange, Crawford and Pike) joined forces to form a single regional project.

APPROVAL OF LOCAL ALTERNATIVE DISPUTE RESOLUTION PLANS FOR DOMESTIC RELATIONS CASES

By statute and Administrative Rule, the Division is charged with approving local plans for alternative dispute resolution (local ADR plans). The statute allows counties to charge an additional $20 to all parties filing petitions for legal separation, paternity, or dissolution of marriage, and to deposit this money into a special fund. The fund must be used to foster alternative dispute resolution, mediation, reconciliation, non-binding arbitration, and parental counseling in domestic relations cases. Additionally, the fund must primarily benefit litigants who have the least ability to pay. Parties referred to services covered by the fund may be required to make a co-payment in an amount the court determines, based on the litigant's ability to pay.

To participate in this ADR program, the judges in a county must develop a plan consistent with the statute, submit it to the Judicial Conference of Indiana, and, pursuant to Rule 1.11 of the Rules for Alternative Dispute Resolution, their plan be approved by the Executive Director of the Division. Division staff work with courts to help them develop their ADR plans pursuant to guidelines developed by the Domestic Relations Committee of the Judicial Conference.

Thus far, the Division has approved ADR plans for 18 counties (Allen, Boone, Brown, Clark, Henry, Jackson, Lake, Lawrence, Marion, Monroe, Montgomery, Owen, Perry, Porter, Putnam, Shelby, Starke and Tippecanoe) and is helping several more through the process. Many of these programs are fairly

new, so available data is limited. Counties such as Allen, that have had an ADR plan in place for some time, however, have reported that a majority of mediated cases are getting resolved. Also, a total of 1,252 children were affected by the ADR fund plans in 2004 and 1,160 children in 2005. Sixty-three percent of the cases accepted under ADR Fund Plans in 2005 comprised dissolutions involving children.

ELECTRONIC FILING AND ELECTRONIC SERVICE PILOT PROJECTS

In an effort to encourage advancements in trial court technology, the Supreme Court promulgated Administrative Rule 16, which provides guidance to courts seeking to implement systems for electronic filing. The Rule also charges the Division with developing the necessary factors for an e-filing system and reviewing and approving plans for pilot e-filing systems. Courts interested in implementing pilot e-filing systems must submit to the Division proposed plans.

The Division intends to disseminate an appendix containing the necessary elements to Administrative Rule 16 in late 2006 or early 2007. The Division has worked closely with Justice Brent Dickson and JTAC in developing the appendix. The goal is to outline the critical elements implicated by the Indiana Rules of Court, without making the elements too restricted for application. The Division also anticipates creating or adapting a model plan for use by future applying courts.

PRO BONO DOMESTIC RELATIONS MEDIATION TRAINING

During 2005, the Division, in cooperation with the Pro Bono Commission, the Commission for Continuing Legal Education, and the Family Law Project, sponsored a unique and innovative Pro Bono Domestic Relations Mediation Training. The Indiana University School of Law – Indianapolis hosted the event. The training was provided free of charge to 32 attorneys who agreed to provide free mediation in family law cases over a two-year period. In exchange, the 40-hour domestic relations mediation training qualified the 32 participants as registered family law mediators.

INFORMATION/RECORDS MANAGEMENT – SUPREME COURT RECORDS MANAGEMENT COMMITTEE

The Information Records Management section of the Division assists trial court clerks and judges in meeting the requirements of the Indiana Supreme Court Administrative Rules and trial rules governing court records. The Administrative Rules set standards for records creation, maintenance, access, and disposal, while Trial Rule 77 in particular provides requirements for case files, indexes, chronological case summaries, and records of judgments and orders.

In 2005, Information Management staff made 45 visits to 24 different counties to review microfilming programs for compliance with Administrative Rule 6, the application of court retention schedules, and the use of optical imaging for judicial records. Staff continued working with Vigo County on their image recording process, and approved scanned imaging systems in Allen, Boone, Miami, Sullivan, and Wabash counties. In addition, staff made presentations at the Association of Clerks of Circuit Courts of Indiana regional meetings, and to city and town judges.

Information Management personnel also continued working with the Genealogical Society of Utah and the Indiana Commission on Public Records in microfilming trial court records. In December, the section director produced a video with the cooperation of the Allen County Public Library on how to inventory court records in preparation for microfilming. The video is expected to reduce travel for the section.

CERTIFIED COURT INTERPRETER PROGRAM

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

PROTECTION ORDER PROCEEDINGS

The Indiana General Assembly has charged the Division with the responsibility for designing or updating the forms used in protection order proceedings. To fulfill this duty, Division staff works closely with the Indiana Judicial Conference Protection Order Committee. The Committee explores ways to improve the protection order process.

During 2005, Division staff assisted the Committee in its three major projects: (1) developing a set of best practices to be integrated into a Protection Order Deskbook; (2) working with the Indiana State Police to improve the statewide protection order registry; and (3) designing new forms and modifying existing forms.

Also in 2005, the Committee received the results of a survey that had been distributed to trial court judges and magistrates in late 2004. The survey results have been used in the development of the best practices that will be integrated into the Protection Order Deskbook.

CONTINUITY OF OPERATIONS PLANNING FOR THE TRIAL COURTS

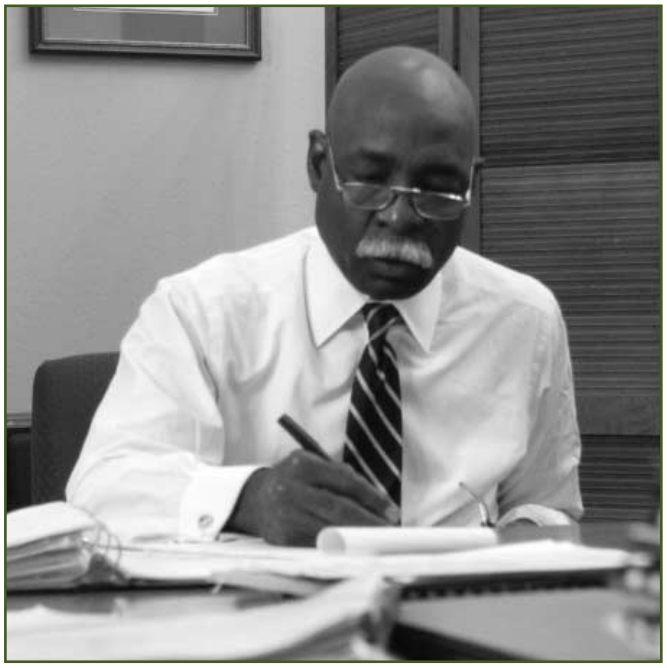
Sparked by concerns for the continued operation of judicial institution in the aftermath of natural or other disasters, the Chief Justice charged the Division to work with the Judicial Conference Court Management Committee and help Indiana's trial courts plan for disasters. The Committee, with assistance from the Division, began the process of helping Indiana's trial courts prepare for interruptions in their operations caused by natural disasters, human malevolence or infectious outbreaks of disease. Plans to address these situations are commonly known as "COOPs" (Continuity of Operations Plans).

The Committee produced a judiciary pandemic preparedness plan template; an Indiana Emergency Response Plan template; proposed Administrative Rules 17 and 14(A)(4) to address temporary suspension of litigation and filing deadlines if the emergency is deemed to warrant suspension; a petition (form) to Indiana Supreme Court for an affected trial court to seek the

declaration of an emergency and application of emergency rules; and learning guides for the application of the isolation and quarantine statutes.

DESKBOOK FOR APPOINTED JUDICIAL OFFICERS

During 2005, Division and Judicial Center staff undertook a joint project to develop a standard personnel policy and to update a 1998 Deskbook for such officers. The task force, headed by Senior Judge Richard Payne and assisted by Division and Judicial Center staff, completed its task and produced a 2006 Edition of the Judicial Officer's Deskbook. The Deskbook will serve as a resource for magistrates, commissioners, referees, temporary judges, senior judges and judges *pro tempore* regarding enabling legislation, scope of authority and benefit information.



Justice Rucker at work in his State House office.

COURT SERVICES

ACCOUNTS MANAGEMENT, PAYROLL AND CLAIMS, JUDICIAL BENEFITS COORDINATION

The Division maintains and administers 19 accounts, totaling approximately $98 million. This fiscal responsibility includes the administration of payroll and benefit programs for all state trial court judges, prosecuting attorneys, and other local judicial officials paid with state funds. The annual payroll accounts for these purposes total approximately $64 million, and cover approximately 700 individuals. As part of this "paymaster" function, the Division processes and pays more than 1,200 claims per year for special and senior judge services.

During 2005, the Division conducted numerous education sessions, usually in conjunction with the annual Indiana Judicial Conference, regarding judicial benefits, retirement, and payroll. The Division also updated and published, pursuant to Administrative Rule 5 (A), a schedule for payment of Senior Judges.

SPECIAL JUDGES, ATTORNEY DISCIPLINE, AND EMPLOYMENT LAW ADVICE

The Division's legal staff currently 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 2005, the Division legal staff assisted the Supreme Court in disposing of 103 disciplinary matters. During fiscal year 2006-07, responsibility for attorney disipline cases will transfer to the Division of Supreme Court Administration.

Supreme Court rules governing the method of special judge selection call for the establishment of local rules for such selection and certification to the Supreme Court in certain circumstances. The Division monitors local rules establishing plans for special judge selection and processes requests for the appointment of special judges by the Supreme Court. In 2005, the Division received 139 new requests for special judge appointments.

Finally, the Division's legal staff provides counsel and advice to trial court judges on employment law matters related to their court employees, and serves as staff counsel to the Board of Law Examiners in appeal hearings brought by bar applicants denied admission.

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. The Division administers this senior judge program, which includes processing certification applications and orders of certification, requests for appointments, weighted caseload comparisons and orders of appointment. The Division also administers senior judge benefits and processes claims for payment of per diem expenses. Small at first, this program has grown into an invaluable resource of seasoned judicial officers who serve at minimal cost to the state and no cost to the counties. In 2005, Indiana had 90 certified senior judges who served a total of 3,741 days. These days are equivalent to approximately 15.5 full-time judicial officers.

HELPING COURTS AMEND, RENUMBER AND POST LOCAL RULES

During 2005, the Division's legal staff assisted most of Indiana's trial courts with posting, amending, and renumbering their local rules. The effort continues with the goal being to have 100% of all local rules appropriately numbered and posted on Indiana's judicial website. Effective January 1, 2007, all courts of record in a county must use one set of local rules and must renumber all existing local rules in order for such rules to continue to be effective.

TEMPORARY JUDICIAL SERVICE

The Division oversees two programs for temporary judicial services. First, the Division maintains a roster of private judges and administers requests and appointments of private judges. Requests for private judges are rare, with the first one taking place in 2004 and another in 2005. For the most current list of registered private judges, please go to **www.in.gov/judiciary/admin/private-judges/roster.html**. Second, the Division is responsible for administering requests for judges pro tempore and preparing the orders appointing them. In 2005, the Supreme

Court made 12 such appointments. The circumstances surrounding these appointments range from absences due to military service, temporary medical conditions, and vacancies created by retirement or death that exist until the governor fills the vacancy.

CIVIL LEGAL AID FUND

Since 1997, the Division has administered the distribution of a $1 million annual appropriation from the Indiana General Assembly to aid qualified organizations providing legal assistance to indigent persons in civil cases. This fiscal year, the Division made distributions to eleven organizations providing civil legal aid services to Indiana's poor. Data collected in 2005 indicates that the vast majority of cases handled by these providers continues to involve domestic relations matters such as divorce, separation, custody, visitation, paternity, termination of parental rights, and spousal abuse. These eleven organizations provided services to over 23,000 clients.

COURT IMPROVEMENT GRANT

The Indiana Supreme Court continued its Court Improvement Program in 2005 under the leadership of its Court Improvement Executive Committee. The Division serves as the fiscal administrator of federal grant funds earmarked for improving the system for abused and neglected children in foster care, while the Indiana Judicial Center provides substantive program administration.

Justices Sullivan and Boehm after an oral argument held in Richmond, Indiana.

Beginning January 1, 2006, three grants were awarded: the Family Court Project, which encourages the use of mediation or facilitation services in family court cases involving Children In Need of Services, will receive $60,000 per year for two years to allow continued expansion throughout the state; the Vanderburgh Superior Court has received $25,000 to continue its Parents' Drug Court Program; and the Porter County Family Court has received $20,000 to continue its CHINS facilitation program.

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

COMMUNICATION LINK WITH JUDGES AND CLERKS

The Division staff continues to provide a communication link with the trial courts, clerks and their staffs through a quarterly newsletter, the *Indiana Court Times*, and routine e-mail communications. The Division maintains an updated e-mail directory for all judges and magistrates and provides JTAC-funded email service for courts and clerks who cannot fund it.

TECHNOLOGY

TRIAL COURT TECHNOLOGY AND AUTOMATION

During 2005, the Indiana Supreme Court Judicial Technology and Automation Committee (JTAC), staffed by the Division, made significant decisions regarding its flagship project: providing Indiana trial courts and clerks with a statewide, connected Case Management System (CMS). The system will link trial courts with each other and with other users of judicial information, such as Indiana's State Police, Department of Revenue, Department of Corrections, as well as the general public and other stakeholders. It is the largest technology project ever undertaken by the Indiana Supreme Court.

The Committee, which is chaired by Justice Frank Sullivan, Jr., was created by Supreme Court administrative rule to assess information technology needs and develop a long-range implementation strategy for Indiana's judicial system. In 2005, JTAC's relationship with its previous project vendor, Computer Associates, was mutually ended with a complete refund to JTAC of all monies paid to the vendor for this project. Because of the project's importance and the significant advancements in case management technology since the process began, the Committee's Statewide Governing Board and stakeholder group recommended to the Court to continue the project and advertise for replacement vendors. As part of the review process for finalist vendors, JTAC representatives, clerks, judges and other experts have traveled to states where a vendor's product is in use to assess its functionality in actual practice.

While the CMS project remains JTAC's highest priority, 2005 was a groundbreaking year for several other JTAC initiatives aimed at helping courts and clerks to better serve the public – and justice. JTAC's Jury Pool Project was completed to both state and national acclaim. In the past, only 60 to 80 percent of eligible jurors were included in county jury pool lists. This project, completed with the help of partners and state agencies, created the most inclusive and diverse jury pool ever available for each county – with more than 99 percent of all eligible jurors included. It was provided to all counties free of charge.

JTAC also received a $1 million federal grant to help counties meet new federal requirements for reporting serious violations by commercial driver license holders. The new rules required that these violations be transmitted and entered into BMV records within 10 days of the conviction or judgment date, yet thousands of forms were still being mailed or faxed by the courts to the

BMV, necessitating manual data entry. As a result, the majority of violations were not being entered into the records within the mandated time period. In addition to facilitating the electronic transmission of conviction information from courts with existing local case management systems, JTAC created a secure, web-based application that allowed counties to send the information electronically several times a day, saving time, effort and money at both the state and local levels. JTAC staff made hundreds of visits to local court and clerk offices to assess their needs and provide training.

The Court's website, which JTAC maintains, continues to be a vital source of court information. The site had 15 million hits in 2005, and was named #1 in the country in a national court competition and #3 in the world in an international court competition.

APPELLATE COURT AUTOMATION AND TECHNICAL SERVICES

In 2005, many enhancements to the online presence of the appellate-level judiciary occurred. A newly designed website now allows attorneys to complete their annual registration and the payment of registration fees entirely through the Internet. Through the same application, attorneys may also update their addresses and may view their continuing legal education hours. Another technology enhancement launched this fiscal year enables attorneys to view Continuing Legal Education course offerings online. The staff deployed two new web servers and migrated a program for completing quarterly caseload status reports online to a more robust server.

COMMISSIONS AND COMMITTEES—STAFF SUPPORT

JUDICIAL NOMINATING COMMISSION/INDIANA COMMISSION ON JUDICIAL QUALIFICATIONS

Pursuant to I.C.§ 33-24-6-3(4), the Division provides legal and administrative staff support to the Indiana Commission on Judicial Qualifications and the Indiana Judicial Nominating Commission. The Qualifications Commission investigates and prosecutes allegations of ethical misconduct by Indiana judges, judicial officers, and candidates for judicial office. 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. More detailed information about the Commission, its members and activities is found elsewhere in this Annual Report, and also may be found at **www.IN.gov/judiciary/jud-qual**.

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

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

The most prominent rule amendments adopted by the Court in 2005 dealt with: 1) amending the Jury Rules to provide for selection of jury pools from lists approved by the Supreme Court, rather than only voter registration lists; 2) amending Trial Rule 56 to make summary judgment hearings mandatory only when a timely request for a hearing is made; 3) amending Admission and Discipline Rule 23 § 21(k) regarding the procedures for a lawyer to withdraw permanently from the practice of law; and 4) amending Administrative Rule 1 to require courts in each county to adopt caseload allocation plans on a regularly scheduled basis.

Among other issues, the Committee also devoted substantial time to studying proposals regarding attorney surrogates, registration of paralegals, and appeals of class action certification issues. The Committee also conducted preliminary discussions with representatives of the State Bar Association, the Attorney General's Office and the Prosecuting Attorneys Council regarding possible changes to Admission and Discipline Rule 24 addressing the unauthorized practice of law. Further, the Committee was asked to consider a change to the briefing schedule for appeals from the Tax Court. The Committee is working with Tax Court Judge Fisher on this proposal.

PUBLIC DEFENDER COMMISSION

The Division is responsible for providing staff support to the Indiana Public Defender Commission, which sets standards for indigent defense services in non-capital cases and recommends standards to the Indiana Supreme Court for application in capital cases.

In capital cases, counties with qualifying public defender programs receive reimbursement for 50 percent of eligible expenses. In other criminal cases, qualifying counties receive up to 40 percent reimbursement of indigent criminal defense costs. Through this system of reimbursement, the Legislature and the Supreme Court intend to encourage counties to provide qualified indigent defense in criminal cases.

In 2005, appropriations to the Public Defense Fund, which is non-reverting, totaled $10 million. As of the time of this report, 53 counties had comprehensive plans approved by the Commission for delivery of indigent services. Over 60 percent of the state's population resides in counties eligible to receive reimbursements in non-capital cases under the program.

In fiscal year 2004-05, the Commission disbursed $9,345,337 for non-capital cases and $499,488 for capital cases. Additionally, $125,003 and $2,094,797 were approved for the fourth quarter of the fiscal year for capital and non-capital cases respectively. These disbursements were paid in the 2005-06 fiscal year.

INDIANA CONFERENCE FOR LEGAL EDUCATION OPPORTUNITY (CLEO)

The Indiana Conference for Legal Education Opportunity (Indiana CLEO) program began as a vision of the Chief Justice to change the landscape of the Indiana legal and professional community by increasing the number of Indiana attorneys who

come from minority, low-income and educationally disadvantaged backgrounds. The Indiana CLEO enabling legislation provides that the Division administer the program.

A six-week Summer Institute is the starting point and cornerstone of the Indiana CLEO program. The Summer Institute prepares participants for the rigors of law school by providing concentrated classroom instruction and practical legal applications. The Summer Institute also offers the opportunity to form a network with Indiana legal professionals and law students to assist CLEO Fellows once law school begins in the fall. Those who successfully complete the Summer Institute receive a substantial stipend on the years the student attends law school.

This fiscal year, the Summer Institute was held at Valparaiso University School of Law, and CLEO received a new coordinator, Robyn Williamson.

COMMISSION ON RACE AND GENDER FAIRNESS

Committed to the fundamental principle that every litigant is entitled to equal access and fair treatment in our courts, the Supreme Court created the Commission on Race and Gender Fairness in 1999 to examine issues involving race and gender fairness in Indiana's judicial system. After three years of research, the Commission made recommendations in five specific areas to the Supreme Court: Makeup of the Profession; Language and Cultural Barriers; Criminal and Juvenile Justice; Civil, Domestic and Family Law; and Employment. After review, the Supreme Court approved the majority of the recommendations, and asked the Commission to set priorities for implementing those. The Supreme Court has already implemented the Commission's first recommendation – establishing a foreign language certified court interpreter program in Indiana. Since that time, the Commission has prioritized the remaining 29 recommendations and continues to implement these.

Governor Mitch Daniels, seated with Chief Justice Shepard and Chief Judge James Kirsch, at a meeting of the appellate courts' justices and judges.

During October 2005, the Commission hosted Diversity Summit 2005 at the Madame Walker Theatre and Indiana University Law School - Indianapolis. Approximately 175 individuals attended, representing members of the judiciary, law schools, bar associations, law enforcement, and the general public.

Also in 2005, Division staff helped the Commission produce videos and DVDs in Spanish, with English subtitles, explaining to accused individuals their constitutional rights and possible penalties that they may face. Certified Spanish interpreters translated the scripts for and appeared in the videos and DVDs. The videos and DVDs were distributed to Indiana judges for use for the initial hearings of Spanish-speaking individuals. In addition to the continued implementation of its recommendations, the Commission is currently examining the demographics of the legal profession through a study that the Commission plans to publish.

INDIANA PROJECT ON SELF-REPRESENTED LITIGANTS – PRO SE COMMITTEE

The Division continued its efforts to assist the Indiana Supreme Court Pro Se Advisory Committee maintain a Self Service Center on the judicial website and help trial courts and their staffs respond to the growing numbers of self-represented litigants. The Pro Se Advisory Committee consists of judges, court clerks, community members, librarians, attorneys, and other service providers.

The self-service website (found at **www.in.gov/judiciary/selfservice**) provides pleading forms for unrepresented parties to use in certain simple proceedings and appropriate instructions.

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

CASE DISPOSITIONS

During the reporting period, 1,589 grievances were filed with the Commission, approximately the same number as in the previous year. Sixty-two of those grievances were initiated by the Commission in its own name based upon information coming to its attention from a variety of reporting sources, including reports from lawyers and judges. Third-party complainants filed the balance of the grievances.

During the reporting period, the Commission filed 42 Verified Complaints for Disciplinary Action with the Supreme Court. These Verified Complaints, together with amendments to pending Verified Complaints, represented findings of probable cause by the Commission in 76 separate counts of misconduct.

The Court issued 52 final orders disposing of lawyer discipline cases, representing the completion of one hundred eight separate

matters. By disposition type, those cases were resolved as follows:

Private Reprimands	3
Public Reprimands	10
Suspensions with Automatic Reinstatement	10
Suspensions with Conditional Reinstatement	4
Suspensions without Automatic Reinstatement	14
Resignations Accepted	7
Disbarments	0
Judgments for Respondent	1
Dismissals for other reasons	3
Total	**52**

The Commission resolved eight cases administratively through the issuance of private administrative admonitions. In addition to these concluded matters, the Court issued an order of interim suspension in one case upon the request of the Commission. The Court also ordered the suspension of the law licenses of 65 active and inactive lawyers for their failure to pay annual attorney registration fees, and one lawyer for failing to satisfy costs taxed against him in connection with a disciplinary matter.

REINSTATEMENTS

During the reporting period, eight previously disciplined lawyers filed petitions to have their law licenses reinstated. The Supreme Court issued three final orders in lawyer reinstatement proceedings, dismissing one case before hearing, granting a motion to withdraw a petition for reinstatement in one case after hearing, and granting conditional reinstatement in one case.

NON-COOPERATING LAWYERS

Admission and Discipline Rule 23(10) provides 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 is 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 35 new show cause petitions for non-cooperation against 26 lawyers. The following describes the disposition of those matters and non-cooperation matters carried over from prior years:

Show Cause Petitions Filed	35
Dismissed after cooperation	0
Pending on 6/30/06 without show cause order	0
Dismissed subject to payment of costs	1
Show Cause Orders Issued—No Suspension	26
Dismissed after cooperation	21
Dismissed after cooperation subject to payment of costs	1
Dismissed due to other discipline	3
Show cause orders pending on 6/30/06	6
Suspensions for Non-Cooperation	8
Suspended and still in effect on 6/30/06	5
Indefinitely suspended	2
Reinstated due to cooperation	1
Reinstated after cooperation subject to payment of costs	1
Non-Cooperation Suspensions Converted to Indefinite Suspensions	6

TRUST ACCOUNT OVERDRAFTS

The Disciplinary Commission was notified by financial institutions of 122 of overdrafts on attorney trust accounts. The following are the results of overdraft inquiries during the reporting year:

Carried Over From Prior Year	7
Overdraft Reports Received	122
Inquiries Closed	111
Reasons for Closing:	
Bank Error	30
Deposit of Trust Funds to Wrong Trust Account	5
Disbursement From Trust Before Deposited Funds Collected	4
Referral for Disciplinary Investigation	15
Disbursement From Trust Before Trust Funds Deposited	17
Overdraft Due to Bank Charges Assessed Against Account	3
Inadvertent Deposit of Trust Funds to Non-Trust Account	5
Overdraft Due to Refused Deposit for Bad Endorsement	6
Law Office Math or Record-Keeping Error	18
Death, Disbarment or Resignation of Lawyer	1
Inadvertent Disbursement of Operating Obligation From Trust	7
Non-Trust Account Inadvertently Misidentified as Trust Account	0
Inquiries Carried Over Into Following Year	11

COMMISSION MEMBERS

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

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 applicants are admitted to practice law in our state. The Board considers the character and fitness of applicants and supervises the entry of lawyers to the bar through the Indiana Bar Examination and through the process of admission on Foreign License and admission on Business Counsel License, which is available to eligible attorneys from other states.

CHARACTER AND FITNESS

From July 1, 2005 to June 30, 2006, applications to sit for the bar were received from 925 individuals. Before an applicant can sit for the bar, he or she must meet with one of the 272 members of the Supreme Court Character and Fitness Committee. During this fiscal year, the Justices of the Supreme Court appointed twelve new members to the Character and Fitness Committee. The Committee includes attorneys from each county in the state.

As a result of the character and fitness interviews and review by

the Board office, thirty-one 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-three individuals were referred to the Judges and Lawyers Assistance Program (JLAP) for evaluation or assessment. JLAP also provided monitors for eight individuals admitted on conditional admission under Admission and Discipline Rule 12, Section 6 (c).

THE BAR EXAMINATION

The Board's main responsibility is the two bar examinations that the Board writes and grades each year. This fiscal year, the Board received 925 applications to sit for the bar examination, and administered exams to 827 applicants. This testing time included the extended time granted for the 26 examinees that received testing accommodations. Accommodations given included providing additional time, separate test areas, individual monitors and large print materials. Computer testing was permitted, but it was limited to six applicants requiring non-standard testing.

REVIEW OF TEST RESULTS

In July 2005, 576 applicants were tested. After that examination, forty-eight unsuccessful examinees requested review by the Board. Of those forty-eight, seven passed on review. In February 2006, 251 applicants were tested. Following that examination, 26 unsuccessful applicants requested review by the Board. Of those 26, one passed on review.

ADMISSIONS

During the fiscal year, 669 attorneys were admitted to practice in the State of Indiana, of which 607 were admitted on examination, 53 attorneys on foreign license, and nine on Business Counsel License. Eight of the attorneys admitted on examination were admitted on conditional admission under Admission and Discipline Rule 12, Section 6(c).

FOREIGN LICENSE

Of the 53 attorneys admitted on foreign license from other states or U.S. territories, 33 were admitted in one other state prior to their admission in Indiana. Fourteen of the 53 attorneys were admitted in two other states prior to their admission in Indiana. Six of the 53 were admitted in three states prior to their admission in Indiana. The frequency of the admission from jurisdictions was as follows:

California	3	Missouri	3
Connecticut	1	Montana	1
Colorado	2	North Carolina	3
District of Columbia	8	New Jersey	3
Delaware	1	New York	1
Florida	5	Ohio	6
Georgia	2	Oklahoma	1
Illinois	20	Pennsylvania	2
Kansas	1	Tennessee	4
Kentucky	5	Texas	2
Louisiana	1	Utah	1
Massachusetts	2	Washington	1
Michigan	2	West Virginia	1
Minnesota	3	Wisconsin	3
Mississippi	1		

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

The Board of Law Examiner's Committee on Foreign License reviews each attorney application and investigative report for admission on foreign license. If approved, a member of that Committee, prior to admission, personally interviews the applicant. If not approved, the applicant must appear before the full Board. The Board required 12 applicants to appear before it regarding their character and fitness and their eligibility for admission on foreign license. After being denied by the Board, two applicants requested hearings, both resulting in admission. Twenty-six applicants met the five-year provisional practice requirement in Indiana and their licenses were made permanent. In 2006, the licenses of twelve foreign license admittees expired because they failed to meet the practice requirements of Admission and Discipline Rule 6 or because they failed to qualify for renewal.

BUSINESS COUNSEL LICENSE

The Indiana Business Counsel License allows attorneys licensed in other states whose sole employer is a person or entity engaged in business in Indiana other than the practice of law to be admitted to practice without examination. Nine applicants were granted a provisional Business Counsel License. Eight had personal interviews and one went before the full Board. The frequency of admission from jurisdictions is:

California	2	Montana	1
Colorado	1	North Carolina	1
Illinois	1	Ohio	1
Kansas	1	Texas	1
Minnesota	2	Washington	1
Missouri	1		

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

EMERGENCY BAR ADMISSION FOR LAWYERS DISPLACED DUE TO HURRICANE KATRINA

On September 9, 2005, by order of the Indiana Supreme Court, qualified attorneys from Louisiana, Mississippi or Alabama displaced due to Hurricane Katrina were given the opportunity to receive a temporary provisional license to practice law in Indiana after certifying they were in good standing with their state regulatory authority and would practice in association with an Indiana lawyer who is in good standing.

Four attorneys, all from Louisiana, were admitted on this basis. One of those attorneys has since taken the bar examination and was admitted during the May 12, 2006 admission ceremony. Two have applied for admission on Foreign License. All emergency admissions ended June 30, 2006.

TECHNOLOGY

In March 2006, the Executive Director and staff members met with Adam Wasserman, Executive Vice President and

Co-Founder of ExamSoft Worldwide, Inc. ExamSoft is assisting the majority of jurisdictions that offer computer testing as an option for taking the essay portion of the bar examination. The meeting included discussion of costs, test site requirements, staff and monitor training, test security, registration requirements, technical assistance at the test site and exam delivery. The ExamSoft program permits bar applicants to use personal laptops to take the essay examination and provides for an Internet-based exam delivery option. Examsoft is being used by 22 states and at 130 colleges. The State Board of Law Examiners will be obtaining additional information on computer testing so that computer testing can be offered as an option in the near future.

CERTIFIED LEGAL INTERNS

Under Admission and Discipline Rule 2.1, the Board is 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. The Board certified 447 students and 36 graduates to serve as legal interns during the reporting period.

The historically renovated Supreme Court Courtroom.

FORMATION OF ASSOCIATIONS FOR THE LEGAL PROFESSION

The Board provides applications and approves the formation and renewal of professional corporations, limited liability companies and limited liability partnerships for the legal profession. There were 735 active professional corporations, 97 limited liability companies, and 143 limited liability partnerships. 65 new professional corporations, 27 limited liability companies, and eight limited liability partnerships were formed. Five professional corporations, one limited liability company, and four limited liability partnerships were dissolved or became inactive.

In addition, this fiscal year the Board was involved in an original action before the Indiana Supreme Court concerning whether a legal professional corporation may use a descriptive word in its name. Specifically, the Board disapproved a professional corporation renewal application from "The Bankruptcy Law Office of Mark S. Zuckerberg, P.C." on the ground that the applicable rules did not permit the inclusion of the word "bankruptcy" in the professional corporation's name. The Supreme Court ruled that the professional corporation at issue in this matter could continue to use "bankruptcy" in its name unless/until the Court substantively changed the applicable rules, but limited its ruling to the petitioning professional corporation and one other P.C. that was not a party, "Michael C. Murphy Elder Law, P.C."

PLEADS SEMINAR

On November 9, 2005, the Board's President, Cynthia Gillard, Vice-President Alonzo Weems, and Executive Director Mary Place Godsey participated in a seminar presented by the Professional Legal Education, Admission and Development Section of the Indiana State Bar Association ("PLEADS"). During the presentation entitled, "Behind the Curtain: Character and Fitness Reviews for Aspiring Indiana Bar Applicants," the Board members and the Director spoke about the character and fitness requirements of the Rules for Admission to the bar, and two members of the Supreme Court Committee on Character and Fitness interviewed student actors-applicants to demonstrate what typically occurs during the personal character and fitness interview.

MEMBERS OF THE BOARD OF LAW EXAMINERS

The Indiana Supreme Court appoints the members of the Board of Law Examiners. As of June 30, 2006, the Board's officers were: Alonzo Weems of Indianapolis, President, Sheila Corcoran of Evansville, Vice-President, Leslie C. Shively of Evansville, Treasurer, and the Honorable Stephen R. Heimann of Columbus, Secretary. Their terms as officers run from December 1, 2005 to December 1, 2006. The remainder of the Board at fiscal year-end was Arend J. Abel of Indianapolis; Kathryn A. Brogan of Fort Wayne; Cynthia S. Gillard of Elkhart; Gilbert King, Jr. of Gary; Professor JoEllen Lind of 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 to the Judges ADR Committee. 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 Indiana Admission and Discipline Rule 30. The Commission employs a part-time Executive Director, three full-time administrative assistants and a full-time mediation services coordinator/office manager.

The following individuals served on the Indiana Commission for Continuing Legal Education during fiscal year 2005-06: John L. Krauss, Chair; Susan G. Gainey, Vice-Chair; Gerald M. Bishop, Treasurer; Michael E. Tolbert, Secretary; Robert Houston III, Immediate Past-Chair; Robert J. Ewbank; Joseph H. Yeager, Jr.; Sandra Miller; the Honorable John T. Sharpnack; and the Honorable Nancy Eshcoff Boyer. In 2006, the Supreme Court appointed Jeffry Lind and Dr. Barbara Bichelmeyer as Commissioners. The Honorable David Avery served as a liaison to the CLE Commission by virtue of his position as Chair of the ADR Committee of the Judicial Conference of Indiana.

CLE CELEBRATES 20 YEARS

2006 marked the 20th year of CLE in Indiana. The Commission partnered with the Indiana Supreme Court and Valparaiso University School of Law to celebrate this milestone with a Law Review dedicated to CLE issues and a Symposium entitled "The Art and Science of Educating Attorneys." the Honorable Robert Staton, retired Judge of the Court of Appeals, was recognized by Acting Chief Justice Frank Sullivan, Jr., for his efforts in advocating for a CLE system in Indiana. The original CLE Commission and task force were also honored. The early work by Judge Staton and the task force resulted in the Supreme Court's rules for mandatory CLE in 1986. The Symposium included national speakers on matters of attorney and judicial education and a roundtable of regulators from Indiana, Delaware, Kansas, Kentucky and Pennsylvania.

ACCREDITATION OF CLE COURSES AND HOURS

In fiscal year 2005-06, the Commission reviewed 7,013 CLE courses. Of these, 2,889 were courses for which an application for continuing legal education ("CLE") accreditation was made, and 3,978 were courses given by approved sponsors (where no application is required). The Commission denied accreditation to 188 applications and 162 approved sponsor courses (fewer than 5%). A total of 15,160 attorneys reported CLE credits to the Commission, amounting to 213,760 hours of CLE credits (29,172 of which were ethics credits).

Attorneys are allowed to take a limited number of credits in non-legal subject ("NLS") areas in order to enhance their proficiency in the practice of law. During fiscal year 2005-06, 196 NLS courses were reviewed: 45 were by approved sponsors and 151 were by non-approved sponsors. The Commission approved 185 NLS courses and denied accreditation to 11 courses. Attorneys reported a total of 2,380 NLS credits during this period.

A rule amendment, effective January 1, 2005, allows Indiana attorneys to take a limited number of CLE hours through interactive distance education or in-house courses. These courses must meet strict guidelines to be approved, and to be considered, the applications seeking accreditation for such courses must be submitted at least 30 days in advance of the program. The Commission approved 692 distance education courses and denied 182. A total of 1,276 attorneys reported 4,450 hours of distance education. The Commission approved ten in-house programs, and denied six. Fifty-five attorneys reported a total of sixty-nine hours of in-house CLE.

Newly admitted attorneys must complete programs designated by the Commission as appropriate for new lawyers. The Commission requires newly admitted lawyers to complete a six-hour Applied Professionalism Course for Newly Admitted Attorneys, and the commission makes grants available to providers to allow them to give the course for little or no cost to the newly admitted attorneys. During this fiscal year, 433 newly admitted attorneys attended these courses.

The Commission approved 6,333 courses as appropriate for newly-admitted attorneys, 2,293 of which were approved as a result of an application. Approved sponsors presented 3,506 such courses.

MEDIATOR REGISTRY

The Commission continues to be active in the area of mediation, administering and regulating a registry of court approved mediators in Indiana. The first mediator registry was distributed in June 1997. In this initial registry, there were 235 listings for civil mediators and 110 listings for domestic relations mediators. As of June 30, 2006, those listings stood at 624 listings for civil mediators and 532 listings for registered domestic relations mediators. To remain on the registry, a mediator must report at least six hours per three-year education period of Continuing Mediation Education (CME) approved by the Commission.

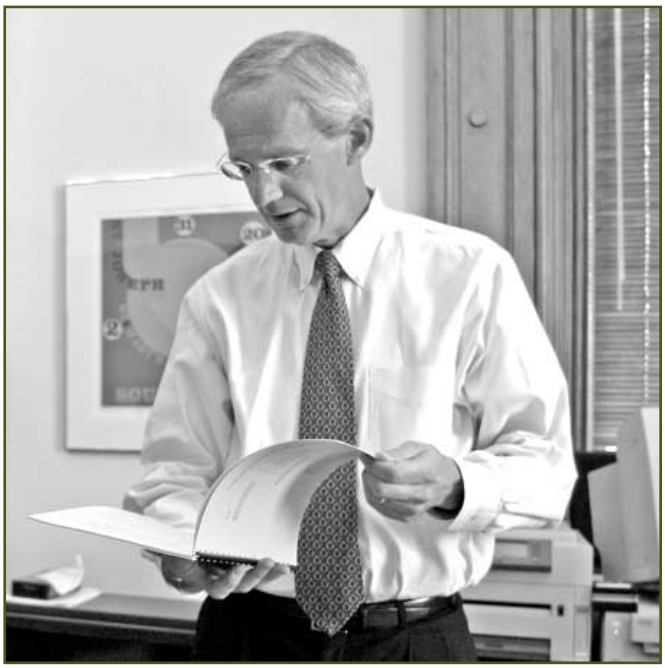
In fiscal year 2005-06, 100 people were trained in basic civil mediation and 113 were trained in basic domestic relations mediation. Pursuant to the new CME rule, 283 mediators have reported 1,193 continuing mediation hours.

ATTORNEY SPECIALTY CERTIFICATION

In the area of attorney specialization, the Commission has accredited four Independent Certifying Organizations (ICOs) in eight practice areas. The newest practice area is Estate Planning and Administration, which the Indiana State Bar Association administers. This practice area was added June 15, 2006, and the first exam is scheduled for sometime in late 2006.

To assist in its review of the ICO specialty applications, the Commission appointed a panel of experts to review testing procedures used by applicants for accreditation as an ICO. This panel, consisting of law professors, judges and practitioners, is currently comprised of Hon. Wayne S. Trockman (Chair), Dean Tom Allington, Lonnie Collins, Bill Jenner, Hon. Melissa S. May. Dr. Howard Mzumara (psychometrician). Professor James H. Seckinger, and Professor David Vandercoy.

As of June 30, 2006, there were 134 listings for Indiana attorneys who are specialists in their particular areas of law. These attorneys are certified in the practice areas of Family Law (61 specialists, certified by the Indiana State Bar Association); Consumer Bankruptcy (14 specialists, certified by the American Board of Certification); Business Bankruptcy (21 specialists, certified by the American Board of Certification); Creditors Rights (6 specialists, certified by the American Board of Certification); Civil Trial Advocacy (16 specialists, certified by the American Board of Certification); Criminal Trial Advocacy (1 specialist, certified by the National Board of Trial Advocacy); and Elder Law (16 specialists, certified by the National Elder Law Foundation).



Justice Sullivan reviews a brief in his State House office.

CLE STAFF ACCOMPLISHMENTS

The Commission has been active on the state and national level. Anne Davidson, Office Manager and Mediation Services Coordinator, was President of the national association of CLE regulators (O.R.A.C.L.E.) in 2004-05. She continues to serve on its Executive Committee, Planning Committee, and Membership Committee. Executive Director, Julia Orzeske, who served as Chairperson of O.R.A.C.L.E. in 2000-01, served as Chairperson of O.R.A.C.L.E.'s Management Committee during this fiscal year. In addition, Ms. Orzeske has been appointed Chair of the Indiana State Bar Association's Annual Meeting, which will be held in October 2006. Also, the Commission's office houses the first Executive Director of O.R.A.C.L.E., Cheri Harris.

Finally, during this fiscal year the Commission continued to maintain an internet presence. Attorneys for the first time were able to pay their annual fees on-line by credit card. The Commission is in the process of enabling the payment of CLE delinquency fees on-line and hopes this will become available in early 2007.

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

MEG BABCOCK, COUNSEL

The Indiana Judicial Nominating Commission and the Indiana Commission on Judicial Qualifications are established by Article VII, Section 9, of the Indiana Constitution. The same seven members serve on each commission. The Chief Justice of Indiana, Randall T. Shepard, is the ex officio Chairman of both commissions. The remaining six members are made up of three lawyers elected by other lawyers in their districts, and three non-lawyers who are appointed by the Governor. All serve three-year terms. The elected and appointed Commission members serving in 2005-06 were James O. McDonald, Esq., of Terre Haute; Derrel E. Zellers of Tell City; James H. Young, Esq., of Indianapolis; Payton Wells of Indianapolis; and Sherrill Wm. Colvin, Esq., of Fort Wayne. John O. Feighner, Esq., of Fort Wayne completed his term during the fiscal year. The Governor's appointment to a vacated Third District seat is pending.

Although comprised of the same members, the two commissions perform distinct functions within the judiciary.

The Nominating Commission appoints the Chief Justice of Indiana from among the five Supreme Court Justices. It also solicits and interviews candidates to fill vacancies on the Supreme Court, the Court of Appeals, and the Tax Court. The Nominating Commission selects three candidates for each vacancy, and the Governor appoints one of the nominees to fill the vacancy. There were no vacancies in fiscal year 2005-06. The Nominating Commission also certifies former judges as Senior Judges to help qualifying courts with their caseloads.

During fiscal year 2005-06, the Nominating Commission recertified 86 Senior Judges, certified five new Senior Judges, and declined to certify five applicants for Senior Judge status.

The Qualifications Commission investigates allegations of ethical misconduct brought against Indiana judges, judicial officers, and candidates for judicial office. Periodically, the Commission privately cautions judges who have committed relatively minor or inadvertent violations of the Code of Judicial Conduct. In the most serious cases, the Qualifications

Commission prosecutes formal disciplinary charges in public proceedings. These charges ultimately are resolved by the Supreme Court. Additionally, the Qualifications Commission and its staff provide judges and judicial candidates with advice about their ethical obligations.

During fiscal year 2005-06, the Qualifications Commission considered 357 complaints alleging judicial misconduct. It dismisssed 178 complaints summarily because they did not raise valid issues of judicial misconduct, but instead were complaints about the outcomes of cases or otherwise were outside the Commission's jurisdiction. Another 143 were dismissed on the same grounds after Commission staff examined court documents or conducted informal interviews.

Of the remaining 36 cases on the Qualifications Commission's docket, the Qualifications Commission requested the judges' responses to the allegations and conducted investigations. Of those, 13 complaints were dismissed after the Qualifications Commission concluded the judges had not violated the Code of Judicial Conduct. The Qualifications Commission privately cautioned 13 judges for deviations from their ethical obligations. The Qualifications Commission's decision to caution a judge rather than proceed to formal, public charges depends upon the seriousness of the violation, the judge's acknowledgement of the violation, whether or not the conduct was intentional or inadvertent, whether the judge has a history of meritorious complaints, and other mitigating or aggravating circumstances. The subjects of the 13 cautions, in order of frequency, related to: misuse of the court's power (4), delayed rulings (3), allowing the appearance of partiality (2), deviations from precedent or court rules (2), staff conflicts (2), improper campaign conduct (1), nepotism (1), and failure to disqualify (1). (Some cautions related to more than one violation.)

Chief Justice Shepard was recognized at the Annual Meeting of the Indiana Judicial Conference for serving 24 years as a jurist on Indiana's trial and Supreme Court benches.

Three public disciplinary proceedings were resolved during the fiscal year.

In *Matter of Danikolas*, the Supreme Court issued an opinion in December 2005 suspending the judge for 60 days without pay after the Court concluded the Commission proved that the judge had improperly retaliated against a magistrate when he terminated her employment.

In *Matter of Pfaff*, the Commission charged the former judge with accosting a man at gunpoint, then providing false statements about the event. In July 2005, the case proceeded to a hearing before the Honorable Steve David, Boone Circuit Court, the Honorable Daniel F. Donahue, Clark Circuit Court, and the Honorable Susan Orr Henderson, Fountain Circuit Court. After the Masters reported to the Supreme Court their conclusions that the judge should be removed from office, the judge resigned. In November 2005, the Court accepted the resignation and issued an order prohibiting him from any future judicial service.

In another case, the Commission found probable cause to file charges against the Honorable Christopher Haile for issuing an *ex parte* custody order. Commissioner Haile agreed to accept a Commission Admonition in lieu of public charges; therefore, charges were not filed, and the Commission publicly admonished him. (Public Admonition of Hon. Christopher B. Haile, Marion Sup. Ct., Civ. Div. 11, Oct. 17, 2005.)

The Commission filed charges against one judge during the fiscal year. In *Matter of Cruz*, the Commission charged Commissioner Cruz with misconduct after his arrest for driving while intoxicated. The parties entered into a settlement agreement instead of proceeding to a hearing. At the conclusion of the fiscal year, the agreement was pending before the Supreme Court for its approval. Also at the end of the fiscal year, six cases were pending before the Commission.

Finally, Commission counsel responded to several hundred requests for advice from judges and judicial candidates about their obligations under the Code of Judicial Conduct.

A more detailed report about the Commission, its members and activities may be found at **www.IN.gov/judiciary/jud-qual**.

H. JUDICIAL CONFERENCE OF INDIANA/ INDIANA JUDICIAL CENTER

JANE SEIGEL, EXECUTIVE DIRECTOR

OVERVIEW

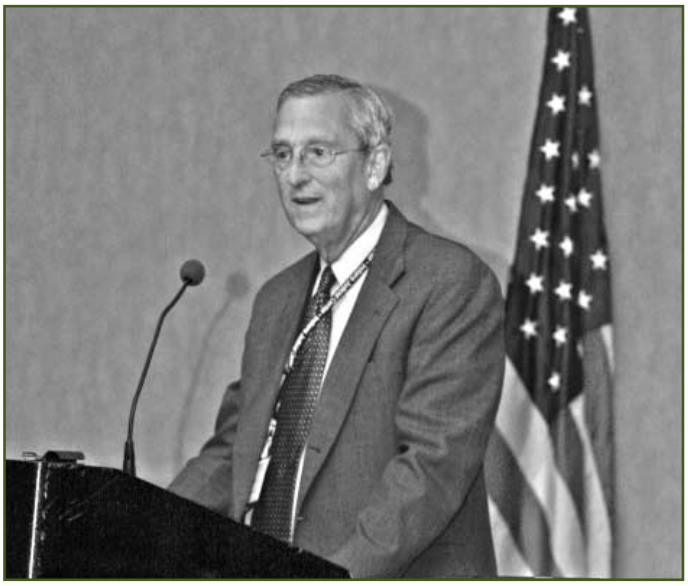
The Judicial Conference of Indiana, through its agency the Indiana Judicial Center, provides a variety of services for judges, court personnel, and the public. The Conference provides continuing judicial education for Indiana's judicial officers, trains probation officers, administers the interstate 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.

JUDICIAL EDUCATION ACTIVITIES

In fiscal year 2005-06, the Judicial Center presented 21 days and 165 hours of continuing judicial education instruction. Total attendance at these programs was 1,188. The educational conferences conducted in 2005-06 for judicial officers included:

- Annual Meeting of the Judicial Conference of Indiana in September (3 days);
- City and Town Court Judges Annual Conference in October (2 days);
- Domestic Relations Workshop in November (2 days);
- Winter Conference in December (1 day);
- General Orientation Program for Recently Appointed Judicial Officers in February (3 days);
- Spring Judicial College Program in April (3 days);
- Indiana Graduate Program for Judicial Officers (5 days); and
- Juvenile Court Judges Annual Conference in June (2 days).



Justice Boehm addresses Indiana trial judges at the Annual Meeting of the Indiana Judicial Conference in September 2005.

The 2005 Annual Meeting of the Judicial Conference of Indiana was held on September 14-16 in Indianapolis. Over forty hours of continuing education programming was made available to the 480 participants in attendance. Some of the featured education sessions at the 2005 Annual Meeting included personality disorders, political activity, best practices in cash and surety bonds, judicial ethics, civil commitments, mental health issues in county jails, and avoiding reversal. Update sessions on legislation, family law cases, and criminal law/procedure cases were also included in the education line-up.

Each year, the Judicial Center offers continuing education to Indiana's 75 city and town court judges. On October 20-21, 2005, 64 city and town court judges attended a two-day, twelve-hour program in Indianapolis. Education was offered on such topics as the case for clarity in alcoholism diagnosis and sentencing, search and seizure law and the anatomy of traffic stops, judicial ethics, and update sessions from the Bureau of Motor Vehicles and State Board of Accounts.

In November 2005, the Judicial Center sponsored a two-day, eight-hour Domestic Relations Workshop for 67 judicial officers. The program focused on the art and science of interviewing children in dissolution cases. Informative sessions on understanding custody–evaluations, developmentally based parenting time schedules, and interpreting psychological reports were included.

In December 2005, the Judicial Center offered a one day program on "Preserving Public Confidence in a Fair & Impartial Court System" at a snowy Winter Conference. One hundred twenty-two judicial officers attended. Sessions included presentations on the future of judicial independence in an age of public skepticism, access to justice and constitutional rights versus political pressure, and a panel discussion on preserving public confidence in the courts.

In February 2006, the Judicial Center conducted a three-day general jurisdiction orientation program for recently appointed judicial officers. Twenty-four judicial officers attended the program and received 14.75 hours of instruction on such topics as jury selection and jury management issues, courtroom control and demeanor, criminal case load management, domestic relations cases, civil docket management, ethical issues and concerns for judges, and the rules of evidence.

In its seventh year, the Spring Judicial College was held on April 19-21, 2006, in Indianapolis. The program's objective was to offer expanded courses on a wide variety of topics with smaller classes to enhance group participation. Over 57 hours of continuing judicial education were offered over the three-day period to 300 judicial officers. Some of the courses included international law, the epidemic of methamphetamine, recognizing mental illness in court, immigration issues in criminal court, landlord-tenant relations, judicial speech and conduct in the post-*White* era, issues in family violence and high conflict divorce, dealing with the media and effective public outreach, techniques for dealing with the self-represented litigant in court, hearsay rules, and everything you wanted to know about sex offenders, among others.

On June 4-9, 2006, the Indiana Graduate Program for Judicial Officer was offered to a fifth group of judicial officers. This was the first year of a two-year program. Thirty-five judicial officers took part in the week long program. Classes were offered on information privacy, immigration law, and developments in American jurisprudence. On the last day, participants took a final exam in each class.

On June 22-23, 2006, the Annual Meeting of Juvenile Court Judicial Officers was held in Bloomington. The two-day program offered seven hours of continuing education to 101 judicial officers on children and mental health issues, monitoring mental health treatment and determining if treatment is successful, availability of state mental health services, the Department of Child Services and the Regional Service Councils, recent legislation, and recent juvenile cases.

PROBATION ACTIVITIES

The Judicial Center, pursuant to Indiana Statutory law, administers the Interstate Compact for the transfer of adult and juvenile probationers in and out of Indiana, and also serves as the intermediary for the return of juvenile runaways, absconders, and escapees. This fiscal year, the Center handled the transfer of 1,441 probationers into the state and 2,339 probationers out of the state. The total compact cases supervised as of June 30, 2006, was 1,841 in the state and 4,818 out of the state. The Center processed 136 runaways; however 51 of these cases were court-ordered requisition returns. This time-consuming category continues to grow significantly.

Chief Justice Shepard gives Henry Woolf, retired Lord Chief Justice of England and Wales, a tour of the Indiana Supreme Court's facilities.

The Judicial Center also staffs the Indiana State Council for Interstate Adult Offender Supervision ("State Council") and funds the expenses of the State Council partially through appropriations made by the General Assembly to the Center and partially through the fees paid by persons transferring under the compact. Indiana's State Council met on a regular basis this fiscal year to discuss Compact rules and their effect on probation and parole. Since the Interstate Compact became effective in August 2004, the Judicial Center has proposed several rules changes on behalf of Indiana's State Council.

Finally, in fiscal year 2005-06 the Center administered the probation officers' certification examination to 158 applicants, and provided 15 days of instruction for a total of 1,409 probation officers.

During the fiscal year, he Probation Officers Advisory Board, run by the Judicial Center, continued its study of the use of risk-and-needs assessment instruments by convening the Indiana Risk Assessment Task Force, which is partially funded by a technical assistance grant from the National Institute of Correction. The Task Force members include representatives from probation, Department of Correction, community corrections, reentry courts, court alcohol and drug programs, and drug courts. The Task Force, which is staffed by the Indiana Judicial Center, will select one or more tools to determine an offender's risk to re-offend, with the understanding that the tools will also measure needs. The Advisory Board also completed its review of issues with intra-state transfers of probation and forwarded its recommendations to the Judicial Conference of Indiana Probation Committee. The Advisory Board is continuing to develop a "best practices" manual for probation supervision.

Also during the fiscal year, the Judicial Center collected information concerning the implementation of home detention in Indiana and presented a report to the Indiana General Assembly on January 11, 2006.

RESEARCH ACTIVITIES

The Center also continued its mission of providing legal research services to trial court judges in fiscal year 2005-06. As part of this effort, it distributed 41 issues of Case Clips by e-mail, which are maintained on the Center's website. The Center's web page continues to be updated by providing committee minutes and other documents of interest as well.

LEGISLATIVE ACTIVITIES

During this fiscal year, the Judicial Center continued to review and provide information to Indiana judges concerning Indiana General Assembly session activities relevant to the judiciary and published eight weekly e-mail "Friday Updates" from January to March 2006. The ninth and final e-mail memorandum summarized the session for judicial officers and chief probation officers.

JUVENILE SERVICES ACTIVITIES

The Center maintains a roster of in-state facilities that provide residential services to children in need of services and delinquent children. The roster continues to be available to courts with juvenile jurisdiction and chief probation officers. Updated information on over 100 facilities is provided on a monthly basis.

The Indiana Judicial Center and the Division of State Court Administration, through an executive committee, administer the Court Improvement Program ("CIP") in Indiana. Recently, funds have been awarded to courts with CHINS facilitation programs, to CHINS Parents' Drug Court, and to reduce the back-log of termination of parent-child relationship cases. The Deficit Reduction Act of 2005 provides two new grants under the CIP. One is for data collection and analysis, to help ensure that foster children's needs for safety, permanency, and well-being

are met in a timely and complete manner. The other is for training judges, attorneys, and other legal personnel in child welfare cases and conducting cross-training with child welfare agency staff.

COURT ALCOHOL AND DRUG PROGRAM ACTIVITIES

The Indiana Judicial Center continued its administration of the Court Alcohol and Drug Program in fiscal year 2005-06. The Center's staff and the Education Subcommittee of the Court Alcohol and Drug Program Advisory Committee provided education and training opportunities consisting of the Court Alcohol and Drug Program annual meeting, two staff orientations, two director orientations, and criminal justice training. The Annual Administrative Meeting of Court Alcohol and Drug Programs was held on March 1, 2006, with 23 judges and 43 program directors or representatives attending from 42 programs. The Annual Meeting of Court Alcohol and Drug Programs was held on March 2 and 3, 2006, with 335 judges, magistrates, program directors, and staff participating.

Federal district judge David Hamilton, Attorny General Steve Carter, and Chief Justice Shepard discuss points of law with Lord Chief Justice Woolf.

Policy issues examined this year include transfer and referral issues, determining client eligibility, the scope of services that programs can provide, accessibility of client records, and continued concerns related to program procedures. Recommendations will be made in early FY 2006-07 regarding clarifying and further defining criteria for eligibility for receipt of court program services and appropriate access to client records.

The Center's staff recertified 14 court alcohol and drug programs and provided a provisional certifcation to one new program. The Court Substance Abuse Management Specialist ("CSAMS") credential was implemented January 1, 2005. During this fiscal year, the CSAMS written test was given in September, December, and March with 37 candidates sitting for the test, and the CSAMS credential was awarded to fourteen candidates who met all requirements stated in the governing rules. The Certification Subcommittee of the Court Alcohol and Drug Program Advisory Committee began looking at possible rule revisions for 2007. An Education Criteria Checklist was implemented to approve those substance abuse education curricula that meet the requirements of the governing rules. Five curricula offered in 11 different formats have been approved since implementation of this process.

Judge Barbara Brugnaux formed the bilingual task force in 2005 in an effort to identify the scope of the challenges facing Indiana's court alcohol and drug programs in serving Spanish-speaking clients. Program representatives identified a need to survey all of the Court Alcohol and Drug Programs on the services available in Spanish within their communities, and the services to which they would like their clients to have access. The Center sent a survey to the Court Alcohol and Drug Program directors in July 2005. Fifty of 53 court alcohol and drug programs responded to the survey. In February 2006, the task force compiled the survey results into the Court Alcohol and Drug Program Resource Guide for Spanish-Speaking Clients. In addition to developing the guide, the task force identified the need to develop a network of service providers willing to provide alcohol and drug education programs in Spanish in areas where those services are not available.

DRUG COURT ACTIVITIES

The Center also oversees drug courts in Indiana. A "drug court" is not really a separate court, but rather a court procedure under which the prosecutor and defense counsel consent to permit defendants in drug or alcohol-related crimes to avoid prison only if they comply with a tight set of treatment requirements and extremely close monitoring directly by the judge. Those who successfully complete the program and comply with its conditions may have their charges dismissed. As of June 30, 2006, there were 27 operational drug courts (22 adult and four juvenile) with an additional seven in the planning stages (six adult and one juvenile). IJC certified thirteen drug courts operating under Indiana Code § 12-23-14.5 in FY 2005-06. At the end of the fiscal year, there were approximately 1000 persons participating in Indiana drug courts. The Center hosted the 2006 Drug Court Workshop, which featured a plenary session on methamphetamine treatment. Seven judges and 150 drug court professionals representing 24 jurisdictions were in attendance. Also, in January 2006 the Center hosted the 2006 Drug Court Planning Initiative, which featured the Bureau of Justice Assistance Drug Court Planning Initiative curriculum presented by National Drug Court Institute staff and faculty. Forty-three drug court professionals attended, representing seven jurisdictions.

In December 2005, the Center contracted with NPC Research to conduct process evaluations, outcome evaluations, and cost-benefit analyses of five adult drug courts and process evaluations of three juvenile drug courts. The evaluation activities began in January 2006 and will commence in December 2006.

Also, the Center assisted the Supreme Court and the Division of State Court Administration in administering a Drug Court Grant Program that funded thirteen drug courts for a total of $50,000.

OTHER ACTIVITIES AND PROJECTS

In March 2006, the Judicial Center arranged the annual series of five informal meetings between members of the Supreme Court, the Court of Appeals, the Tax Court, and the trial court judges in the various trial districts of the Judicial Conference of Indiana.

Also during this fiscal year, the Indiana Judicial Center partnered with the Supreme Court, Division of State Court Administration, and Ivy Tech Community College to provide WorkPlace Spanish® Training for the Indiana Judicial System. The course consists of 24 hours of classroom instruction and the textbook includes a CD-Rom to help staff maintain the skills learned during the course. The course was and continues to be offered to court staff at no cost to the counties or participants.

The Indiana Judicial Center's International Committee hosted several visiting judges from Ukraine and held a luncheon in their honor in the Supreme Court Library.

COMMITTEE ACTIVITIES

The committees of the Judicial Conference of Indiana were extremely busy this year.

The **Domestic Relations Committee** neared completion of a Domestic Relations Benchbook for Indiana's judiciary.

The **Protection Order Committee** began updating the Protection Order Deskbook and revising the forms.

The **Community Relations Committee** partnered with the Hoosier State Press Association to publish the "Bench and Media Guide to Interaction," intended as a quick reference for judges and journalists seeking information on issues involving courts and the media. In addition, the Community Relations Committee and Center hosted the National Center for Courts and Media's workshop for Indiana judges and journalists. The goals of the workshop were to inform judges on First Amendment issues that sometimes arise during trials and judicial proceedings and to help journalists improve their performances in covering the courts. The workshop, attended by 40 judges and journalists, was facilitated by a producer from CNN and a retired associate justice of the Supreme Judicial Court of Massachusetts. The National Center for Courts and Media plans to return to Indiana in 2007 for a follow-up workshop.

The **Court Management Committee** completed its work with counties to obtain wireless duress systems and hand-held metal detectors by administering funds awarded under a grant from the Department of Homeland Security. This Committee is also working to develop a template that Indiana courts can use to produce disaster preparedness plans designed to address all types of business disruption, from earthquakes and flooding to public health emergencies.

The **Jury Committee** is continuing its work with the Supreme Court, Division of State Court Administration, and the Judicial Technology & Automation Committee on the central repository for jury pool sources for trial courts to use in creating jury pools that comply with the intent of Jury Rule 2. The first master list was released in Fall 2005 and the project team continues to investigate ways to improve the master list.

The **Ethics and Professionalism Committee** continued its work on the E-Journal entitled "Judicial Balance: Lessons for Law and Life." In addition to all Indiana judges receiving this publication by e-mail, it is also distributed to the Judicial Division of the American Bar Association, the National Association of Women Judges, the National Center for State Courts, the Brennan Center, the Maine judiciary, and several judges from around the country.

From October 29 to November 5, 2005, the **International Law Committee** hosted a delegation of judges from Ukraine. Through this, the Committee was able to share aspects of American society and the American justice system with the Ukrainian judges, while at the same time learn about Ukrainian social and legal customs.

The **Special Courts Committee** began a study of the court structure in Indiana and will soon make recommendations for improvements to the current court structure.

The **Judicial Administration Committee** continued and is near completion of its work on a Benchbook for use by courts in dealing with issues related to pro se litigation. In addition, this Committee began to review the judicial weighted caseload system.

The **Criminal Instructions Committee** neared completion of its annual supplement, which will be published by January 1, 2007.

The **Civil Instructions Committee** completed several updates that have been published throughout the year.

Finally, the following Committees are also working on revisions or updates to various publications: **Civil Benchbook Committee, Criminal Benchbook Committee, Juvenile Benchbook Committee, Probate Committee**, and **Special Courts Committee**.

I. INDIANA STATE PUBLIC DEFENDER'S OFFICE

SUSAN K. CARPENTER

Indiana led the nation in recognizing the need for a mechanism to challenge convictions or sentences that otherwise could not be directly appealed. In 1883, the Indiana Supreme Court decided that collateral attack by coram nobis action did lie to challenge a guilty plea coerced by mob violence. In 1945, the Legislature created the Public Defender of Indiana to provide services to indigent inmates seeking collateral challenge of their convictions. The first Public Defender, Frank L. Greenwald, appointed as is the case now by the Indiana Supreme Court pursuant to statute, served from 1945 to 1947. His successor, James Cooper, held office from 1947 to 1956 and hired the first deputies public defender – one of whom was the Honorable Richard M. Givan, later Chief Justice of the Indiana Supreme Court. Robert Baker (1957 – 1966), Mel Thornburg (1966 - 1970), and Harriette Bailey Conn (1970 – 1981) complete the roster until the 1981 appointment of the current Public Defender of Indiana.

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

CAPITAL CASES

In fiscal year 2005-06, deputies filed and litigated one case in which the client received penalty phase relief based on mental retardation. Deputies appealed and argued the denial of relief in two cases and began investigation preparatory to filing a petition in one new case that had been affirmed on direct appeal. The Supreme Court re-affirmed that one client had waived his right to state post-conviction relief by failing to file his petition by the date established by the Court. Conflict counsel litigated one case at hearing; relief was denied and the case is being appealed. The Supreme Court heard oral argument in two capital direct appeals and in two capital interlocutory appeals, and briefing continued in one capital direct appeal. Governor Daniels commuted one death sentence to life without parole. Three individuals were executed.

NON-CAPITAL CASES

Demand for our services is largely a function of the Department of Correction's population, which remains at over 25,000 inmates. Pro se filings in 2005-06 equaled 543 (585 in 2004-2005, 620 in 2003-2004, and 640 in 2002-2003). Since July 1991, 2,285 cases have formally been found to be without arguable merit and 1,468 clients agreed the case was without merit and withdrew the petition or waived our representation. In these cases found lacking arguable merit, state resources are not expended on hearing or appeal services by this agency, but inmates have the option of proceeding pro se or hiring private counsel.

J. INDIANA SUPREME COURT LAW LIBRARY

TERRI L. ROSS, LIBRARIAN

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

Historical restoration artisans from The Garland Guild uncovered several different paint schemes that have adorned the Library's walls throughout its 118-year history. In 2007, the Supreme Court will restore the Library to its original paint scheme.

The Law Library contains a comprehensive collection of legal materials that must be kept current. During this fiscal year, the Law Library's staff received and processed approximately 571 volumes as additions or replacements for volumes already in the library collection and approximately 839 volumes were discarded. The staff also undertook a major effort to catalog and inventory the Library's collection by barcoding volumes. Over 23,000 items, excluding periodical subscriptions, were barcoded and added to the Library's online catalog. More than half of these additions were previously unprocessed materials from the Fifty States collection and include state case reports, statutes, and legislative materials.

The Library produced over 141 interlibrary loans for the Supreme Court, Court of Appeals, Tax Court, state trial courts, state agencies, and reciprocal libraries. Interlibrary loan service is provided through the Online Computer Library Center.

From July 1, 2005 to June 30, 2006, over 948 items were circulated and returned using the Library's SIRSI-based automation system. The Library's web-based catalog, which was launched to the public in 2004, is accessible through the Indiana Shared Library Catalog consortium. The Supreme Court Law Library catalog is also searchable through the statewide INSPIRE database. The online catalog and web page have increased the visibility of the Library. In the last fiscal year, there were 12,082 hits made to the catalog and 68,399 visits made to web pages in the Library's directory.

Also during this fiscal year, the Supreme Court began a major renovation project. New reproduction chandeliers and stack lighting were installed to improve insufficient lighting previously installed in the Library. New electrical wiring was added to provide additional computer resources, and wireless Internet access was added to the list of new library services provided to patrons. Finally, historic paint restoration artisians from the Garland Guild uncovered the Library's original paint scheme, as well as several succeeding ones, in preparation for paint restoration work to occur in 2007. Despite the Library being closed for approximately two months to accommodate this first phase of renovation, over 1,544 visitors came to the Supreme Court Law Library during this fiscal year.

Other new services include expanded public patron access to selected Westlaw databases, HeinOnline, and citator services. HeinOnline is an image-based searchable collection of major library collections. It includes journal and periodicals, Federal Register documents, treaties and agreements, and U.S. Supreme Court materials. Core legal history treatises and materials have been added to this subscription service. The addition of HeinOnline has allowed the Library to provide more efficient and faster document delivery services to court users and patrons located outside the physical confines of the State House.

The Library continues as a depository for publications produced under grants from the State Judicial Institute. Items received are cataloged, and a listing of new titles is periodically provided to the state judiciary. These publications are available for loan to judges and court staff throughout the state. The Library is also designated as a selective federal depository for United States government publications.

Finally, the Library continued its efforts to find cost effective means of providing service to its patrons. By eliminating duplicative and/or infrequently used materials, the Library freed up valuable space and saved approximately $12,000, which the Library then used to enhance the Library's on-line services. The enhancement of on-line services also reduced bindery costs by 50% over the previous fiscal year.

K. INDIANA JUDGES AND LAWYERS ASSISTANCE PROGRAM

TERRY L. HARRELL, EXECUTIVE DIRECTOR

The Indiana Judges and Lawyers Assistance Program (JLAP) was created in October 1997 when the Indiana Supreme Court adopted Rule 31 of the Rules for Admission to the Bar and the Discipline of Attorneys, Indiana Rules of Court. JLAP provides assistance to judges, lawyers, and law students who may experience physical or mental impairments that result from disease, chemical dependency, mental health problems, or age and that could impair one's ability to practice in a competent and professional manner. The purpose of JLAP is to assist the impaired in recovery; to educate the bench and bar; and to reduce the potential harm caused by impairment to the individual, the public, the profession, and the legal system. All interactions and communications with JLAP are confidential under Admission & Discipline Rule 31 § 9 and Rule 8.3(d) of the Rules of Professional Conduct. No information is ever released without the signed consent of the party involved.

The Supreme Court appoints the Judges and Lawyers Assistance Committee ("JLAP Committee"), composed of five judges, seven attorneys, one law student, and two members that can be from any of the three categories, to oversee JLAP. The 2006 Committee included: Timothy O. Malloy of Highland, Chair; John R. Vissing of Jeffersonville, Vice-Chair; Tonya J. Boller (also the law student representative) of Indianapolis, Treasurer; the Honorable Donald L. Daniel of Lafayette, Secretary; the Honorable J. Blaine Akers of Brazil; the Honorable Jonathan J. Robertson of Brownstown; the Honorable Michael A. Robbins of Bedford; the Honorable David A. Shaheed of Indianapolis; Michele S. Bryant of Evansville; Edmond W. Foley of South Bend; David F. Hurley of Indianapolis; Kimberly A. Jackson of Terre Haute; Daniel G. McNamara of Fort Wayne; Shane Service of Indianapolis; and Stephanie J. Shappell of Crown Point. The JLAP Committee has continued to employ a full-time Executive Director, a part-time Clinical Director, and a part-time Administrative Assistant.

Justice Sullivan and Justice Dickson at a Court conference.

MARKETING EFFORTS

Last fall, JLAP, with help from the Indiana Commission for Continuing Legal Education ("CLE") and the Indiana State Bar Association, distributed a survey to every attorney in Indiana, and also handed out the survey at local bar association meetings, law school classes, and the Annual Meeting of the Judicial Conference, to determine how widely word of JLAP had spread and how accurate perceptions in the legal community were about what JLAP does. A summary of the survey results is posted on our website at **www.in.gov/judiciary/ijlap**. What was most exciting about the results was that 92 percent of the attorneys completing the survey said that they would refer a colleague to JLAP for assistance. The primary concern about using JLAP continues to be confidentiality and the perceived stigma that lawyers fear may attach to those whose use of JLAP is discovered. JLAP staff and volunteers continue to follow strict guidelines regarding confidentiality, and are doing what we can to counteract the stigma issue. Further, people who recognize a personal problem and seek help for it should be respected for having the insight, humility, and wisdom to admit their need and seek assistance, rather than ostracized. The second concern appeared to be uncertainty about when a referral is appropriate. The easiest response to this is that anyone can make an anonymous call to JLAP and run a hypothetical by us to see if a referral would be appropriate.

This fiscal year, the JLAP Committee continued to develop the JLAP website. Our goal is to provide members of our legal community with as many routes to help possible. We recognize that some people might be more comfortable calling a colleague than calling a Supreme Court agency; therefore, we added the names and telephone numbers for many of our volunteers to the website. (Of course, having a telephone number included on the website is optional for our volunteers.)

In addition, JLAP staff and volunteers continued efforts to educate judges, lawyers, and law students about the common impairments and what services are available through JLAP.

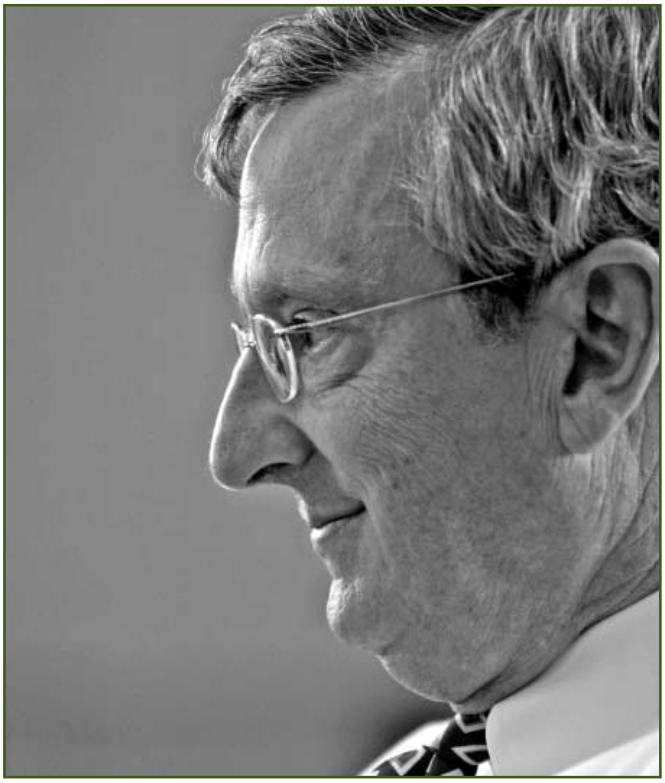
Education is an integral part of the work done at JLAP and is a key to JLAP's efforts to reach those in need early, before disciplinary or licensing agencies are involved. Below is a list of our presentations statewide, with the attendance figures as noted parenthetically, where available:

- Allen County Bar Association's Applied Professionalism Course
- Bartholomew County Bar Association (35)
- The Indiana Department of Legal Management, Office of Legal Counsel (30)
- Indiana Judicial Center New Judge Orientation – "JLAP 101" (100)
- Indiana Judicial Center Fall Conference – "Mitigating the Effects of Stress" (40)

- Indiana State Bar Association's Solo and Small Firm Conference (300)
- Indianapolis Bar Association's Applied Professionalism Course (twice) (200)
- Indianapolis Bar Association's "Enhancing the Attorney/Client Relationship" Conference (70)
- Indianapolis Bar Association: "The Ethics of Assisting with an Impaired Lawyer's Practice" (20)
- Indiana Public Defender Council (100)
- Sherman Minton American Inn of Court (50)
- Lake County Bar Association's "Applied Professionalism" Course (30)
- Law Schools
  - First JLAP Presentation at Notre Dame Law School (10)
  - Professional Responsibility Class – IU Indianapolis
  - Legal Writing Instructors Meeting – IU Bloomington
- Practice Skills Summit sponsored by ICLEF and the Young Lawyer's Section of the Indiana State Bar Association (100)
- St. Joseph County Bar Association (40)
- Terre Haute Bar Association (30)

JLAP SUPPORT GROUPS

JLAP continues to run a Mental Health Support Group and a Substance Abuse Support Group in Indianapolis. These groups provide a confidential setting for members of the legal community to discuss mental health or substance abuse issues and support each other in the unique challenges of coping with these issues and working in the legal profession. This fiscal year, we added an additional lawyer support group in Jeffersonville, Indiana, focused on coping with stress and achieving a healthy worklife balance in the legal profession. All three groups meet monthly.



Theodore R. Boehm, the 104th Justice of the Indiana Supreme Court.

VOLUNTEER TRAINING 2006

In May 2006, JLAP provided its third JLAP Volunteer Training. The training, which was held in Jeffersonville, differed from our past trainings in several ways. It was shorter (only a half day), and focused on the nuts and bolts of being a JLAP volunteer, rather than on the academic topics. These changes were in response to feedback from the 2004 JLAP Volunteer Training. In 2004, lawyers said that they found the speakers very interesting but were unclear about what being a JLAP volunteer really meant. To answer that question, this year the training provided significant role plays and interaction aimed at teaching JLAP volunteers how to link a struggling colleague with the help that he or she needs.

UTILIZATION

This fiscal year, JLAP logged 175 calls for help, ranging from a simple request for information or referral to asking JLAP to coordinate a group intervention. (JLAP's call statistics track only the original "call for help" and do not include calls after a case file is opened, or routine calls received regarding JLAP's daily operations or educational programs.) JLAP had 49 calls for help with substance abuse issues, 36 calls for help related to mental health issues, eight calls for assistance with physical impairment issues, two calls for assistance with issues related to aging, and 80 calls with an unidentified impairment at the time of the initial call. (Although many cases contain multiple issues (e.g., depression and alcohol dependence), for statistical purposes JLAP uses the primary issue identified in the initial call for help.)

Not all calls for help become a case. A simple call for a referral or a one-time consultation will not result in a case being opened. A case is opened when we meet personally with a client and/or determine that there will be ongoing contact with the client or with a third party.

As of June 30, 2006, JLAP had 104 active cases and 268 inactive or closed cases. Active cases included 27 referrals from the Board of Law Examiners, 14 disciplinary related-referrals, 46 self-referrals, and 17 third party referrals. Third party referrals typically come from employers, colleagues, treatment providers, or family.

MONITORING

JLAP offers monitoring as a service to provide accountability and supervision of those trying to break free from addictions. JLAP has developed several different kinds of monitoring agreements to further this service.

JLAP's most formalized monitoring agreements exist with the Disciplinary Commission, the Commission on Judicial Qualifications, and the State Board of Law Examiners. Participants sign a consent allowing JLAP to monitor their recovery program and make regular reports to the appropriate disciplinary or licensing body. Participants may also enter into less formal "interim monitoring agreements" with JLAP in anticipation of disciplinary action, reinstatement, or issues that might surface during the

character and fitness component of the Bar application process. These agreements monitor the individual's recovery program but make no reports until and unless the participant releases JLAP to do so. Finally, JLAP has developed monitoring agreements where reports are made to an employer, local judge, or colleague rather than a disciplinary or licensing agency. In these latter agreements, the participant is generally in an earlier stage of impairment and less harm has occurred.

As of June 30, 2006, JLAP was monitoring fifteen formal agreements and nine interim agreements. Of the formal agreements, seven deal with substance abuse issues, five deal with mental health issues, and three deal with both substance abuse and mental health issues. Of the interim agreements, four deal with substance abuse issues, one deals with a mental health issue, and four deal with both substance abuse and mental health issues.

At the close of this fiscal year, JLAP did not have any active monitoring agreement where reports are made to an empolyers local judge or colleges.

ABA COMMISSION ON LAWYER ASSISTANCE PROGRAMS

Finally, JLAP staff continued 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). This past year, JLAP Clinical Director Timothy J. Sudrovech attended the CoLAP Annual Workshop. In addition, Executive Director Terry L. Harrell and 2005 JLAP Chair David F. Hurley attended the business meeting for CoLAP in Chicago and participated in a regional meeting of the lawyer assistance programs in the Midwest. In the spring of 2006, Executive Director Terry L. Harrell joined a CoLap subcommittee focused on developing a national program to assist the state programs in meeting the needs of the judiciary.

L. CLERK OF THE SUPREME COURT, COURT OF APPEALS, AND TAX COURT

KEVIN S. SMITH, CLERK
DAVID A. SCHANKER, DEPUTY CLERK

INTRODUCTION

The Clerk of the Supreme Court, Court of Appeals, and Tax Court, serves as the gateway to Indiana's appellate courts and Tax Court. Its primary responsibilities are: (1) processing documents filed in appeals from the rulings of trial courts in all of Indiana's 92 counties, as well as from the decisions of administrative agencies; (2) collecting all associated filing fees, which are deposited in the State's general fund; and (3) issuing the orders and opinions of the appellate courts and Tax Court. It is also the statutory duty of the Clerk to maintain and preserve on microfilm the decisions and records of cases before the Indiana Supreme Court, Court of Appeals, and Tax Court. In addition, the Clerk maintains the roll of Indiana's approximately 17,000 attorneys and responds to public inquiries regarding the professional status of attorneys. The Clerk collects annual attorney licensing fees and distributes those fees to the Supreme Court Disciplinary Commission and Commission for Continuing Legal Education. The Clerk is also responsible for administering oaths, and frequently throughout the year is called upon to do so by various state agencies. In conjunction with the State Board of Law Examiners, the Clerk twice per year processes and administers the oath of attorneys to newly admitted attorneys. The Clerk conducts annual elections for the attorney members of the Judicial Nominating Commission and administers the selection process for the chairpersons of medical review panels. A staff of fourteen assists the Clerk in meeting the requirements of his office.

Chief Justice Shepard reviews materials in the Robing Room before an oral argument.

APPOINTMENT OF THE CLERK

During the 2004 legislative session, the Indiana General Assembly passed Senate Enrolled Act 72, which changed the Clerk of Courts from a statewide elected office to a position appointed by, and serving at the pleasure of, the Chief Justice of Indiana. This significant change meant that upon the resignation of then-Clerk David C. Lewis (or the completion of his term), the Clerk's Office would no longer be an independent agency headed by a state officeholder, but instead would become a part of the Judicial Branch. When Mr. Lewis resigned effective February 10, 2006, Chief Justice Shepard appointed Kevin S. Smith, the Supreme Court Administrator, to the position of Clerk, which he holds concurrently with his duties as Administrator, and the Clerk's Office became part of the Division of Supreme Court Administration. David Schanker, who served the elected Clerk as Chief of Staff since July 1999, was promoted to Deputy Clerk of Courts as part of the organization change.

RECENT SERVICE ENHANCEMENTS

Roll of Attorneys. Online access to the Roll of Attorneys has been available since 2004, providing the public with contact and professional status information on all Indiana attorneys. In 2006, for the first time, attorneys will be able to complete their annual registration and pay their annual fees online. The system, which is accessible through the Clerk's webpage (**www.in.gov/ judiciary/cofc**), uses a secure log-in and gives attorneys the ability to change their home and business addresses at any time throughout the year.

Pro Se Guides. The appellate courts handle hundreds of cases each year from appellants who are not represented by counsel. To assist these appellants and provide a resource for people contemplating an appeal, the Clerk published the *Pro Se Guide to Appellate Procedure* and the *Pro Se Guide to Tax Court Procedure*. These documents are plain-English, user-friendly explanations of the appeals and tax court processes in Indiana, and they are available on the web, in the Clerk's Office, in prisons, and in county clerks' offices throughout the state.

Records Department. In September 2005, the Clerk's Office Records Department placed in service a digital microfilm reader. This machine converts documents on microfilm to digital form, which enables the Clerk's Office to transmit documents from archived cases via e-mail and to burn them onto CDs. This capability has proven both cost- and time-efficient; case records consisting of hundreds of pages can be digitized and transmitted instantly for a fraction of the cost of printing and mailing.

Efforts to Improve Overall Service. One of the new Clerk/Administrator's first acts was to distribute a questionnaire to every attorney who had been counsel of record in an appeal in 2005 (nearly 3,000), soliciting responses to questions concerning the quality of services they received from the Clerk's Office. The results were overwhelmingly positive. The few responses containing constructive criticisms were addressed, resulting in improvements to the service the office provides. We thank those attorneys who responded.

Cases have been filed and maintained in the Clerk's Office in virtually the same manner for the last 100 years. The paper filings are accumulated and bound with string, attached to which is a paper tag containing the handwritten cause number. They are moved to and from the courts on wheeled carts. The anticipated electronic filing and case management system will likely make pictures like this a thing of the past.

APPELLATE ELECTRONIC FILING PROJECT

In August 2005, the Supreme Court authorized the Clerk to form an Appellate E-Filing Advisory Committee to examine the possibility of bringing electronic filing to Indiana's appellate courts. The Committee's members include senior staff of the appellate courts and judicial agencies and a representative from the appellate practice section of the Indiana State Bar Association. During the following months, the Committee examined the available technology, the systems implemented in other jurisdictions, and the many issues implicated by the different types of systems. The Committee hosted three vendor demonstrations and submitted a progress report and recommendations to the Supreme Court in March 2006.

In May 2006, the Supreme Court gave the Clerk formal approval to move forward with appellate e-filing. In the coming year, the Clerk will initiate a public bidding process, starting with the issuance of a Public Notice of Contracting Opportunity, to find the appellate e-filing solution that best meets the needs of Indiana's appellate courts and tax court. ■

APPENDIX

INDIANA SUPREME COURT

FISCAL 2005-2006 CASE INVENTORIES AND DISPOSITION SUMMARY

	Cases Pending as of 7/1/05	Cases Transmitted in Fiscal 2005-2006	Cases Disposed of in Fiscal 2005-2006	Cases Pending as of 6/30/06
Civil Direct Appeals	1	1	2	0
Civil Transfers	99	324	348	75
Tax Court Petitions for Review	3	13	10	6
Criminal Direct Non-Capital	2	4	3	3
Capital Cases	3	10	7	6
Criminal Transfers	51	590	587	54
Original Actions	0	39	38	1
Certified Questions	2	1	2	1
Mandate of Funds	0	0	0	0
Attorney Discipline	71	112	103	80
Board of Law Examiners	0	2	2	0
Judicial Discipline	2	1	2	1
Rehearings	0	17	17	0
Other	1	3	4	0
TOTAL	**235**	**1117**	**1125**	**227**

TOTAL DISPOSITIONS: 1125

Criminal	597	54%
Civil, Tax, and Other	364	32%
Certified Questions	2	<1%
Original Action	38	2%
Attorney Discipline	103	10%
Board of Law Examiners	2	<1%
Judicial Discipline	2	<1%
Rehearings	17	<1%

MAJORITY OPINIONS AND PUBLISHED DISPOSITIVE ORDERS: 192

Criminal	55	29%
Civil, Tax, and Other	67	35%
Certified Questions	2	<1%
Original Action	1	<1%
Attorney Discipline	61	32%
Judicial Discipline	2	<1%
Rehearings	4	<1%

	Direct Appeal Crim.	Direct Appeal Civil	Transfer Petitions Crlm.	Transfer Petitions Civil and Tax	Original Action	Atty. Disc.	Jud. Disc.	Rehearing Opinions	Certified Questions	Other	TOTAL
Shepard, C.J.	1	1	12	5	0	0	0	0	1	0	**20**
Dickson, J.	0	0	4	19	0	0	0	2	0	0	**23**
Sullivan, J.	1	0	10	11	0	0	0	2	0	2	**26**
Boehm, J.	2	0	8	19	0	0	0	0	1	0	**32**
Rucker, J.	0	1	10	5	0	0	0	0	0	0	**16**
By the Court	5	0	2	2	1	61	2	0	0	2	**75**
TOTAL	**9**	**2**	**46**	**61**	**1**	**61**	**2**	**4**	**2**	**4**	**192**

NON-DISPOSITIVE OPINIONS

	Concurring	Dissenting	Concur/Dissent in part	Recusal Opinion	Total
Shepard, C.J.	5	3	1	0	**9**
Dickson, J.	6	3	1	0	**10**
Sullivan, J.	0	5	2	0	**7**
Boehm, J.	2	4	3	0	**9**
Rucker, J.	2	8	2	0	**12**
TOTALS	**15**	**23**	**9**	**0**	**47**

CERTIFIED QUESTIONS

	Pending 7/1/05	Received	Accepted	Rejected	Dismissed	Opinions	Pending 6/30/06
Federal District Court	2	1	1	0	0	2	1
Federal Appellate Court	0	0	0	0	0	0	0
TOTAL	**2**	**1**	**1**	**0**	**0**	**2**	**1**

CASES IN WHICH ORAL ARGUMENTS WERE HELD

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	TOTAL
Criminal (before grant of trans.)	0	0	1	2	1	0	0	0	0	1	0	1	**6**
Criminal (after grant of trans.)	0	0	4	0	2	0	1	0	0	0	1	2	**10**
Civil/Tax (before grant of trans./rev.)	0	0	2	0	0	0	0	0	1	0	0	1	**4**
Civil/Tax (after grant of trans./rev.)	0	0	5	3	4	4	1	0	1	2	2	6	**28**
Criminal Direct Appeals	0	0	0	0	0	0	1	0	0	1	1	2	**5**
Civil Direct Appeals	0	0	0	0	1	0	0	0	0	0	0	0	**1**
Certified Questions	0	0	0	1	0	0	0	0	0	0	0	0	**1**
TOTAL	**0**	**0**	**12**	**6**	**8**	**4**	**3**	**0**	**2**	**4**	**4**	**12**	**55**

CAPITAL CASES

	Opinions					
	Direct Appeals	PCR	Interlocutory Appeals	Successive PCR	Rehearing	TOTAL
Shepard, C.J.	1	0	0	0	0	**1**
Dickson, J.	0	0	0	0	0	**0**
Sullivan, J.	0	1	0	0	0	**1**
Boehm, J.	2	0	0	0	0	**2**
Rucker, J.	0	0	0	0	0	**0**
By the Court	0	0	0	5	0	**5**
TOTAL	**3**	**1**	**0**	**5**	**0**	**9**

PETITIONS FOR EXTENSIONS OF TIME AND MISCELLANEOUS ORDERS

Petitions for Extension of Time Processed 31

Special Judge Requests 105

Other Miscellaneous Appellate Orders 356

TOTAL **492**

DISCIPLINARY CASES PENDING BEFORE HEARING OFFICER/COURT ON JULY 1, 2005

Before the Court for Hearing Officer Appointment	3
Pending Before Hearing Officer	42
Reinstatement pending before Hearing Officer	6
Briefing Stage	5
Briefed/Resignation Tendered/Conditional Agreement Tendered	10
No Verified Complaint Filed/Suspended Upon Notice of Conviction	5
TOTAL CASES PENDING 7/1/2005	**71**

NEW DISCIPLINARY MATTERS RECEIVED DURING FISCAL YEAR 2005-2006

Verified Complaints for Disciplinary Action	42
Petitions to Show Cause	35
Administrative Admonitions Tendered	8
Affidavits of Resignation	2
Petitions for Reinstatement	6
Petitions to Terminate Probation	2
Petitions to Convert Suspension to Indefinite	3
Notices of Foreign Discipline	3
Notices of Guilty Finding	2
Contempt of Court	4
Failure to Pay Fees	5
TOTAL NEW CASES FILED FISCAL YEAR 2005-2006	**112**

DISCIPLINARY CASES DISPOSED DURING FISCAL YEAR 2005-2006

By Per Curiam Opinion1	7
By Anonymous Per Curiam Opinion Imposing Private Reprimand	1
By Order Imposing Public Reprimand	8
By Order Imposing Private Reprimand	2
By Order Imposing Suspension	20
By Administrative Admonition	8
By Order - Compliance to Show Cause	23
By Order Accepting Resignation	7
By Order Imposing Reciprocal Discipline	1
By Order of Judgment for the Respondent	1
By Order Terminating Probation	2
By Order Finding Contempt of Court	1
By Order Dismissing or Withdrawing Action	10
By Order Withdrawing Petition for Reinstatement	1
By Order Granting Reinstatement	1
By Rejecting Private Administrative Admonition	1
By Order Converting to Indefinite Suspension	7
Miscellaneous Orders	2
TOTAL CASES DISPOSED DURING FISCAL YEAR 2005-2006	**103**

DISCIPLINARY CASES PENDING JULY 1, 2006

Before the Court for Hearing Officer Appointment	5
Pending before Hearing Officer	33
Reinstatement pending before Hearing Officer	9
Briefing Stage	10
Briefed and before the Court	13
Conditional Agreement tendered	3
Show Cause Petition pending service	7
TOTAL PENDING AS OF July 1, 2006	**80**

ANALYSIS OF SUPREME COURT DISPOSITIONS

CRIMINAL CASES

Opinions on direct appeals	9
Direct appeal disposed of by order	1
Opinions on petitions to transfer	46
Opinions on rehearing	2
Orders on rehearing	8
Petitions to transfer dismissed, denied, or appeal remanded by unpublished order	541
Other opinions	0
TOTAL	**607**

CIVIL CASES

Opinions and dispositive orders on certified questions	2
Opinions on direct appeals	2
Direct Appeals disposed of by order	0
Opinions on rehearing	2
Orders on rehearing	5
Opinions on mandate of funds	0
Opinions on Tax Court petitions for review	1
Dispositive orders on Tax Court petitions for review	9
Opinions on petitions to transfer	60
Petitions to transfer denied, dismissed, or appeal remanded by unpublished order	288
Other opinions	0
Other dispositions, civil	4
TOTAL	**373**

ORIGINAL ACTIONS

Opinions issued	1
Disposed of without opinion	37
TOTAL	**38**

ATTORNEY DISCIPLINARY MATTERS

Opinions and published orders	61
Other dispositions	42
TOTAL	**103**

PETITIONS FOR REVIEW OF STATE BOARD OF LAW EXAMINERS MATTERS

Petitions for review	2
TOTAL	**2**

JUDICIAL DISCIPLINE MATTERS

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

TOTAL DISPOSITIONS	**1125**

Cases Pending as of June 30, 2006

	Pending Cases as of June 30, 2006 (does not include Pets. for Rehearing)	Pending Petitions For Rehearing as of June 30, 2006
Shepard, C.J	6	0
Dickson, J	6	0
Sullivan, J	13	0
Boehm, J	15	0
Rucker, J	11	0
To the Court	6	0
Unassigned Civil Cases	47	
Unassigned Tax Court Petitions for Review	3	
Unassigned Criminal Transfer Cases	38	
Unassigned Criminal Direct Appeals	0	
Unassigned Civil Direct Appeals	0	
Unassigned Original Actions	1	
Unassigned Certified Questions	0	
Unassigned Other	0	
Judicial Discipline	1	
Pending Bar Examination Reviews	0	
Attorney Discipline	80	
TOTAL	**227**	**0**

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