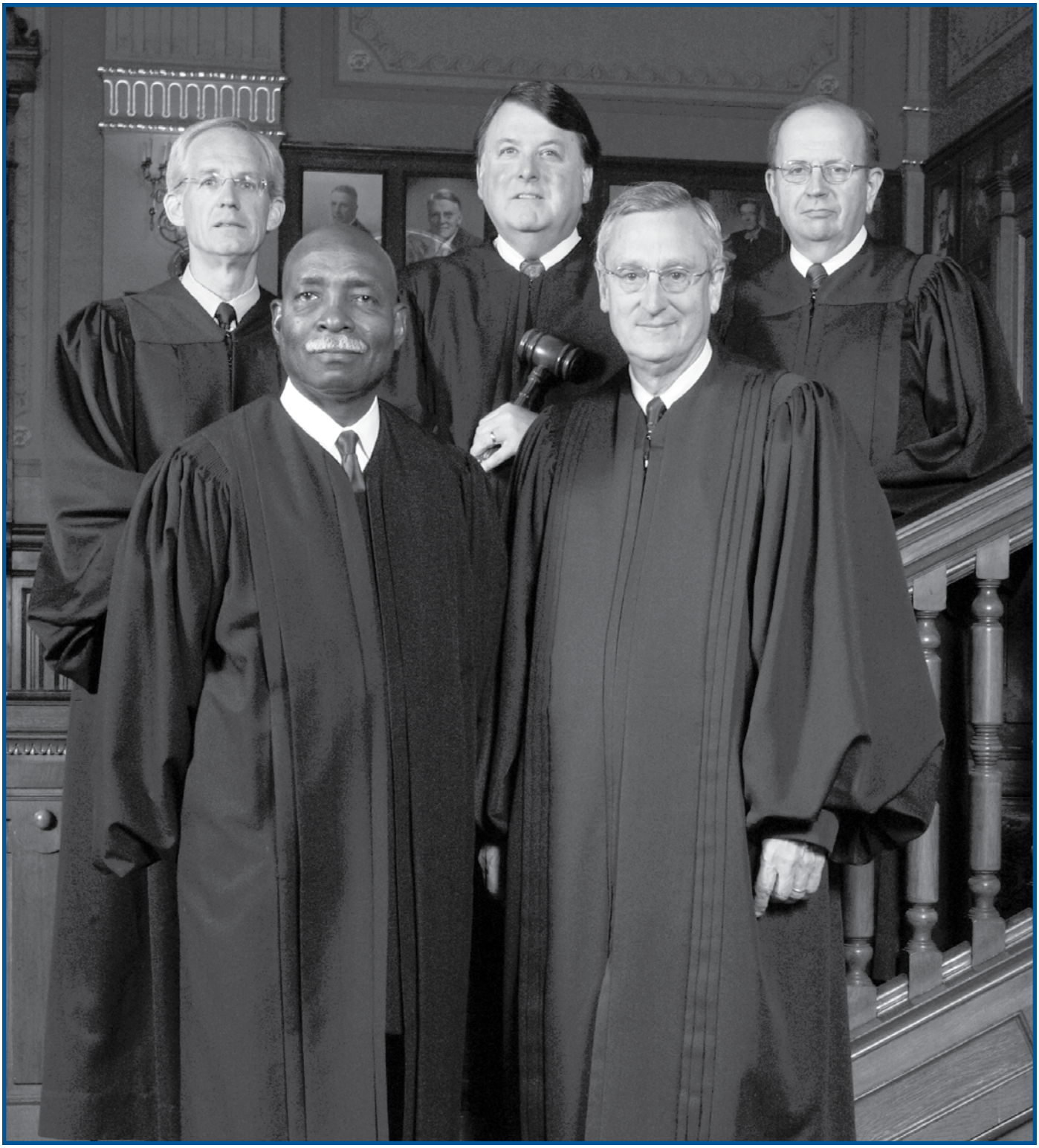
INDIANA SUPREME COURT

2008
2009

ANNUAL REPORT



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

Photo credits: Cover photograph by Lindsey Borschell. Photographs on pages 11-12 by Jim Barnett, Indianapolis. Photographs on inside front cover and pages 2, 3, 6, 9, 15, 21 and 48 by John Gentry, Indianapolis. All others by staff and friends of the Court. A special thanks to Lindsey Borschell and John Newman for their assistance.

Table of Contents

I. Introduction 1

II. Significant Events of Fiscal Year 2009 2

III. The Indiana Supreme Court 9

Brief History 9

Indiana's "Court of Last Resort" 10

Biographies of the Justices 11

IV. Budgetary Matters 13

V. Activities of the Affiliated Agencies and Divisions of the Court 14

Division of Supreme Court Administration 14

Division of State Court Administration 16

Judicial Conference of Indiana/ Indiana Judicial Center 24

Board of Law Examiners 28

Commission for Continuing Legal Education 31

Indiana Supreme Court Disciplinary Commission 32

Indiana Judges and Lawyers Assistance Program 36

Indiana Judicial Nominating Commission/ Indiana Commission on Judicial Qualifications 38

Citizen Education: "Courts in the Classroom" 39

Indiana Supreme Court Law Library 41

Indiana State Public Defender's Office 42

Appendix 43

Case Inventories and Disposition Summary 43

Total Dispositions 43

Majority Opinions and Published Dispositive Orders 44

Non-Dispositive Opinions 44

Certified Questions 45

Cases in Which Oral Arguments Were Held 45

Capital Case Opinions 45

Petitions for Extension of Time & Misc. Orders 45

Discipline, Contempt, and Related Matters 46

Analysis of Supreme Court Dispositions 47

Cases Pending as of June 30, 2009 48

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 2009 (July 1, 2008 through June 30, 2009) and a description of the activities of the Court and its affiliated agencies. Section II, Significant Events of Fiscal Year 2009, includes brief highlights from the past fiscal year. Additional details on many of the programs listed in Section II can be found in the sections that follow. For more information about the Court, its history, and its various agencies and programs, visit our web site, *www.IN.gov/judiciary*.

II. Significant Events of Fiscal Year 2009

The Indiana Supreme Court works diligently to administer justice for the citizens it serves through the opinions it issues and the many projects and programs it operates. This section summarizes that work for the fiscal year of July 1, 2008 through June 30, 2009. It begins with highlights of the Court's appellate work and then to highlights of the many other aspects of the Court's multifaceted work and accomplishments.

THE APPELLATE WORK OF THE INDIANA SUPREME COURT

The Indiana Supreme Court is called upon to make decisions in hundreds of legal disputes each year, the overwhelming majority of which are either criminal cases or lawsuits between private parties. But the most visible of its cases are often those that in which the government is a party, such as those involving claims that statutes are unconstitutional, election disputes, and objections to the enforcement of regulations. Several such cases were decided this year.

In one such case, the plaintiffs claimed that the Governor and General Assembly had failed to provide the degree of quality education to public school students that, the plaintiffs contended, the Indiana Constitution requires. In *Bonner v. Daniels*, 907 N.E.2d 516 (2009), the Court held that while the Constitution requires the General Assembly to maintain a system of free public schools, it delegates to the Legislature the authority to set the standards for educational quality.

The Court decided three cases this year involving elections and elected officials. On the eve of the 2008 Presidential election, the Court was called upon to determine the proper court to rule on the use of satellite voting sites in Lake County and to review the proposed method of counting certain absentee ballots in Marion County. In *Burke v. Bennett*, 907 N.E.2d 529 (Ind. 2009), the Court also decided a dispute over whether the candidate who had received the most votes in the 2007 Terre Haute mayor's election was eligible for the office. Two other cases involved the Attorney General: *State v. American Family Voices*, 898 N.E.2d 293 (Ind. 2008), was an effort on the Attorney General's part to enforce a statute that restricts certain autodialer calls; and *Zoeller v. East Chicago Second Century*, 904 N.E.2d 213 (Ind. 2009), was a dispute over the distribution of riverboat gaming proceeds in East Chicago.

In 2008, the Indiana General Assembly restructured the way services for abused, neglected, and delinquent children are financed in Indiana, shifting the principal responsibility for such costs from individual counties to the state budget. In writing this legislation, the Legislature specified a procedure for appellate review of situations in which the Department of Child Services believes that a juvenile court judge has ordered more expensive services for a child than the circumstances warrant. This procedure involves an expedited appeal to the Indiana Court of Appeals and, ultimately, the Supreme Court. In the first such appeal decided

by the Supreme Court, *In re* T.S., 906 N.E.2d 801 (Ind. 2009), the Court held that a juvenile court must accept the Department's recommendations unless the court finds by a preponderance of the evidence that the recommendation is "unreasonable" or "contrary to the welfare and best interests of the child."

Case on Remand from the United States Supreme Court

In *Edwards v. State*, 866 N.E.2d 252 (Ind. 2007), the Court held that the U.S. Constitution required criminal defendant Ahmad Edwards's request to represent himself at trial, rather than have an attorney appointed to defend him, to be honored, despite the fact that he was severely mentally ill. The U.S. Supreme Court reviewed the case and reached a contrary result, holding in *Indiana v. Edwards*, 128 S. Ct. 2379 (2008), that the Constitution did not prevent Indiana from requiring that an attorney defend an individual in such circumstances. As is customary in such appeals, the U.S. Supreme Court returned the case to this Court to apply its holding to the facts. In *Edwards v. State*, 902 N.E.2d 821 (Ind. 2009), the Court held that because the record showed that Edwards suffered from a severe mental illness, requiring that an attorney defend him at trial had not violated his constitutional rights.

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

The Indiana Supreme Court has mandatory and exclusive jurisdiction over criminal cases where the defendant has been sentenced either to death or to life without possibility of parole ("LWOP"). The Court reviewed two death penalty and four LWOP cases this fiscal year.

The Court affirmed the death sentence of Roy Lee Ward for the rape and murder of a fifteen-year-old girl and reaffirmed the death sentence of Tommy Pruitt for killing a police officer. At year-end, the Court had an appeal pending by Matthew Eric Wrinkles, whose convictions and death sentence for three murders had previously been affirmed and reaffirmed by the Court, after his requests to set aside his sentence had been denied by the federal courts.

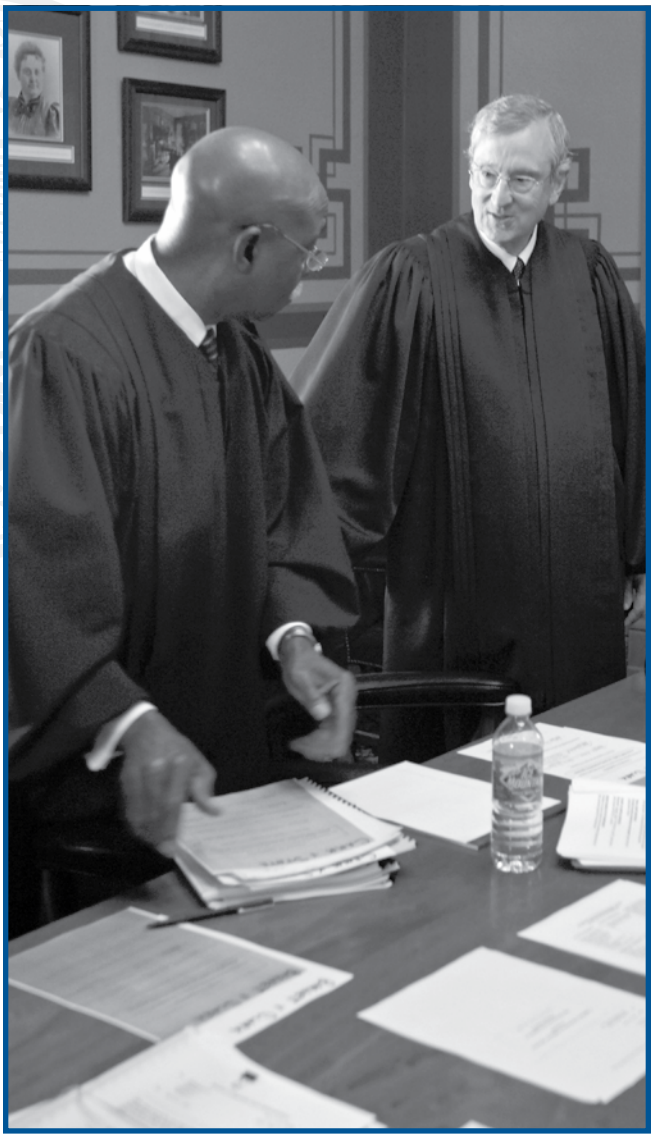
The Court affirmed the LWOP sentences of Robert J. Bassett, Jr., who had been convicted of murdering his girlfriend and three children, and Juan C. Lucio, who had been convicted as an accomplice to two murders. In the case of Frank Dennis, who had been convicted of murdering an informant's girlfriend, the Court vacated the LWOP sentence and ordered instead a 65-year term. Because this term was ordered to run consecutively to Dennis's other sentences, the sentence totaled 190 years. The Court reversed David R. Camm's murder convictions and LWOP sentence on grounds that evidence that should not have been heard by the jury was used at trial against him. Lastly, the Court affirmed a trial court's decision to deny Larry Newton's request to file a belated appeal, finding the request procedurally barred. Newton had been convicted of murder in 1995 and received an LWOP sentence in accordance with a plea agreement.

Discretionary Jurisdiction

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

The Court in fiscal year 2009 disposed of 1,163 cases, 954 of which had first been appealed to the Court of Appeals. Of these 954 petitions to transfer, 602 (63%) were criminal cases and the remaining 352 (37%) were civil cases. The Supreme Court accepted jurisdiction and issued opinions or published dispositive orders in approximately 9.5% of all transfer cases (13.7% of civil cases and 7.0% of criminal cases). In the remaining 90.5%, the Supreme Court declined review and the decision of the Court of Appeals became final.

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



Justice Rucker (left) and Justice Boehm (right) confer before an oral argument.

Justice Dickson (left) at the celebration of the 40th anniversary of the founding of Indiana University Purdue University Indianapolis (IUPUI). Former Dearborn Circuit Judge G. Michael Witte (right) is also pictured.

Civil Transfer and Tax Cases

This year, the Court received 328 civil transfer petitions as compared to 398 last year, disposed of 352 compared to 380 last year, and issued 48 published opinions in civil transfer cases. It also received nine appeals from decisions of the Tax Court and issued opinions in two such cases.

The Court decided a number of cases dealing with various aspects of family law. In two cases where the Indiana Department of Child Services sought to terminate the parental rights of incarcerated parents, *R.Y. v. Indiana Dep't of Child Services*, 904 N.E.2d 1257 (Ind. 2009), and *In re J.M.*, 908 N.E.2d 191 (Ind. 2009), the Court concluded that the Department had not presented clear and convincing evidence that warranted termination of parental rights. Regarding adoption, the Court also issued two decisions. In one case, *In re Adoption of Infants H.*, 904 N.E.2d 203 (Ind. 2009), the Court addressed the applicability of the Interstate Compact on the Placement of Children to an adoption in Indiana by a resident of another state. In the other case, *In re Adoption of Unborn Child of B.W.*, 908 N.E.2d 586 (Ind. 2009), the Court addressed the provisions of the adoption statute that allow a court to imply a parent's consent to the adoption. The Court also addressed the propriety of transferring child custody from an infant's maternal grandmother to the infant's biological father in *In re Paternity of K.I.*, 903 N.E.2d 453 (Ind. 2009); the child support obligations of an incarcerated parent in *Clark v. Clark*, 902 N.E.2d 813 (Ind. 2009), and *Becker v. Becker*, 902 N.E.2d 818 (Ind. 2009); and the proper method for calculating child support in certain previously unaddressed circumstances in *Young v. Young*, 891 N.E.2d 1045 (Ind. 2008). Lastly, in *Bailey v. Mann*, 895 N.E.2d 1215 (Ind. 2008), the Court discussed the treatment of jointly leased automobiles in property settlement agreements.

The Court also decided several cases in the area of environmental law. In *Cooper Industries v. City of South Bend*, 899 N.E.2d 1274 (Ind. 2009), the Court found that the statute of limitations had run on the City's common-law environmental damage claims against Cooper Industries, LLC, the corporate successor to Studebaker Corporation, but that the City could still sue using the terms of an environmental legal action statute.

Where a corporation faced an environmental damage claim, the Court concluded in *Dreaded, Inc. v. St. Paul Guardian Insurance Co.*, 904 N.E.2d 1267 (Ind. 2009), that the corporation was not entitled to reimbursement from its insurance company for the costs of defending the claim because the corporation had waited over three years to notify the insurer of the claim. In another insurance coverage dispute, *Travelers Casualty and Surety Co. v. United States Filter Corp.*, 895 N.E.2d 1172 (Ind. 2008), where ownership of a number of industrial blast machines had passed through the hands of several corporations, the Court addressed whether the insurance on the machines could be assigned to the subsequent owners without the consent of the insurer.

Whether a lawsuit has been filed within the time period required by law was an issue for the Court in four tort cases, two relating to the statute of limitations for bringing wrongful death claims, *Newkirk v. Bethlehem Woods Nursing and Rehabilitation Center*, 898 N.E.2d 299 (Ind. 2008) and *Technisand v. Melton*, 898 N.E.2d 303 (Ind. 2008); and two others for medical malpractice, *Herron v. Anigbo*, 897 N.E.2d 444 (Ind. 2008) and *Overton v. Grillo*, 896 N.E.2d 499 (Ind. 2008). In other medical malpractice cases, the Court discussed the defense of assumption of risk and impact of informed consent in *Spar v. Cha*, 907 N.E.2d 974 (Ind. 2009), and the responsibility of the Indiana Patient's Compensation Fund for damages when a patient and a health care provider reach a settlement in *Atterholt v. Herbst*, 902 N.E.2d 220 (Ind. 2009). At issue in *Butler v. Indiana Dep't of Insurance*, 904 N.E.2d 198 (Ind. 2009), and *Stanley v. Walker*, 906 N.E.2d 852 (Ind. 2009), was the evidence a jury should be allowed to review in calculating damages resulting from medical injuries.

In a personal injury case, *Bush v. State Farm Mutual Automobile Insurance Co.*, 905 N.E.2d 1003 (Ind. 2009), the Court concluded that the parents of an uninsured driver killed in an accident by another uninsured driver could not recover damages under the terms of the policy because the parents had not sustained bodily injury or death. In another, *Jackson v. Scheible*, 902 N.E.2d 807 (Ind. 2009), the Court addressed the liability of a land-contract seller of a residence for an accident caused by a tree on the property obscuring the view of oncoming traffic where the seller had not retained possession or control of the condition of the property after the sale.

The Court decided a business dispute over website design in *Conwell v. Gray Loon Outdoor Marketing Group*, 906 N.E.2d 805 (Ind. 2009). Gray Loon custom-designed a website for Conwell's company, made requested changes to it, and hosted the site. Because Conwell failed to pay for the changes and the hosting fees, Gray Loon took the webpage offline. The Court held that under federal copyright law, Gray Loon was the owner of the webpage that it had designed and had acted within its rights when it took the site offline.

Employment relationships were the source of two cases decided by the Court this year. In *Filter Specialists, Inc. v. Brooks*, 906 N.E.2d 835 (Ind. 2009), the Court held that there was substantial evidence to support a municipal human rights commission's findings that two employees were discharged because of their race. In *Gary Community School Corp. v. Powell*, 906 N.E.2d 823 (Ind. 2009), the Court found an employee eligible for medical leave under the federal Family and Medical Leave Act.

In two landlord-tenant disputes, the Court decided a dispute over unpaid rent and other damages in favor of the landlord, *Klotz v. Hoyt*, 900 N.E.2d 1 (Ind. 2009), and an eviction dispute in favor of the tenant, *Morton v. Ivacic*, 898 N.E.2d 1196 (Ind. 2008). In two probate cases, the Court addressed the reformation of testamentary trust instruments in *Carlson v. Sweeney*, 895 N.E.2d 1191 (Ind. 2008), and the presumption that a person is not entitled to compensation for services rendered to a family member in *Estate of Prickett v. Womersley*, 905 N.E.2d 1008 (Ind. 2009).

In the two tax cases decided by the Court this year, the Court affirmed the judgment of the Indiana Tax Court in *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009), on the question of the percentage of Miller Brewing Company's nationwide income that is subject to Indiana income tax, but reversed the Tax Court in *Indiana Dep't of State Revenue v. Kitchin Hospitality, LLC*, 907 N.E.2d 997 (Ind. 2009), on whether the purchase of gas, electricity, and other utilities by hotels is subject to Indiana sales tax.

Criminal Transfer Cases

This year, there was an overall decrease in the number of criminal transfer petitions received, and disposed of. Whereas the Court received 629 last year, it received 609 this year; last year the Court disposed of 635 such cases, this year 602. The Court issued 42 published opinions in criminal transfer cases this year.

The Court issued three opinions regarding Indiana's sex offender registry. On the facts of two of the cases, *Wallace v. State*, 905 N.E.2d 371 (Ind. 2009), and *State v. Pollard*, 908 N.E.2d 1145 (Ind. 2009), the Court found that statutes collectively referred to as the Indiana Sex Offender Registration Act violated the prohibition on *ex post facto* laws contained in the Indiana Constitution because the Act imposed burdens that had the effect of adding punishment beyond that which could have been imposed when the crime was committed. On the facts of the third case, *Jensen v. State*, 905 N.E.2d 384 (Ind. 2009), the Court found that changes to the Act did not add punishment and therefore the Constitution was not violated. In a case involving the application of the Act to a juvenile, the Court concluded in *J.C.C. v. State*, 897 N.E.2d 931 (Ind. 2008), that the law requires a juvenile court to evaluate whether the juvenile has been rehabilitated after completing a sex-offender treatment program before it orders the juvenile to register as a sex offender.

Oral argument is an opportunity for attorneys to present their arguments to the justices in person, and an opportunity for the justices to probe those arguments in a formal, contemporaneous forum. Here, Justice Sullivan (left) and Justice Dickson (right) listen to an attorney present his client's case.

Appellate review of sentences imposed by trial court judges in criminal cases drew the Court's attention in several cases, as it has in recent years. In *Cardwell v. State*, 895 N.E.2d 1219 (Ind. 2008), the Court enunciated the standards it uses when reviewing a claim that a sentence is inappropriate in light of the nature of the offense and the character of the offender. In *McCullough v. State*, 900 N.E.2d 745 (Ind. 2009), the Court held that appellate review of sentences extends to certain requests by the State that a more severe sentence be imposed.

The Court's decision in *Mosley v. State*, 908 N.E.2d 599 (Ind. 2009), examined a question of appellate procedure and professional responsibility: whether attorneys in Indiana are allowed to withdraw from what they consider to be non-meritorious criminal appeals by filing an "*Anders*" brief to the appellate court. (The *Anders* procedure, as authorized by a U.S. Supreme Court decision of that name, permits counsel to withdraw but only after preparing a brief detailing why counsel believes no meritorious claims exist.) The Court held that *Anders* withdrawals are impermissible in Indiana and that attorneys are required to submit an ordinary appellate brief in every criminal appeal.

The Court's decision in *State v. Davis*, 898 N.E.2d 281 (Ind. 2008), held that a person accused of a crime was entitled to have the charges dismissed where that person had been confined because of mental incompetence for a period of time longer than the maximum sentence for the crime and would never be competent to stand trial. The opinion in this case was based on the rationale of a 1972 decision of the U.S. Supreme Court in an appeal from the Indiana Supreme Court, *Jackson v. Indiana*, 406 U.S. 715 (1972).

The Court frequently encounters claims that a police officer violated a person's constitutional rights in connection with a traffic stop. In one such case this year, *State v. Washington*, 898 N.E.2d 1200 (Ind. 2008), the Court held that an officer who makes a valid traffic stop can inquire as to possible further criminal activity. In another case, *Bannister v. State*, 904 N.E.2d 1254 (Ind. 2009), the Court held that a traffic stop initiated following a random computer check on the license plate was valid. This area of criminal law will likely be a busy one in the future as the result of two U.S. Supreme Court decisions in 2009, *Arizona v. Johnson*, 129 S. Ct. 781 (2009), and *Arizona v. Gant*, 129 S. Ct. 1710 (2009), in which defendants' constitutional rights in connection with traffic stops were analyzed.

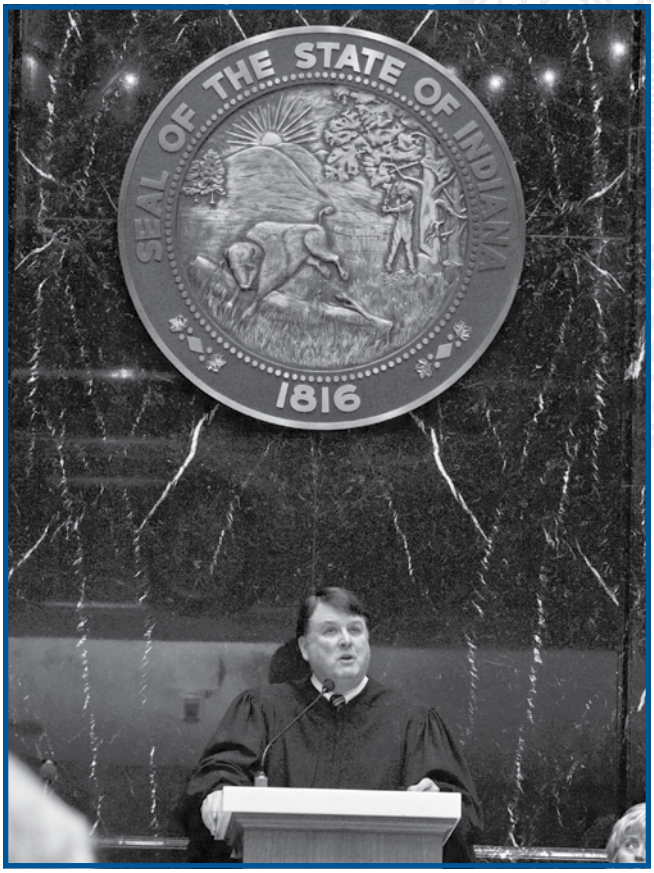
In June 2009, the U.S. Supreme Court decided *Melendez-Diaz v. Massachusetts*, 129 S. Ct. 2527 (2009), which addressed whether a criminal defendant has a constitutional right to cross-examine a crime lab analyst in person at trial regarding evidence tested in the lab. The Court had two cases pending at year-end awaiting the U.S. Supreme Court's direction on this subject.

Lastly, in a series of cases with broad applicability, the Court held in *Meredith v. State*, 906 N.E.2d 867 (Ind. 2009), that a paper temporary license plate must be displayed in the space for license plates, not inside the rear window; in *State v. Manuwal*, 904 N.E.2d 657 (Ind. 2009), that a person can be found guilty of driving while

intoxicated whether on public or private property; and in *Graham v. State*, 903 N.E.2d 963 (Ind. 2009), that a defendant who does no more than refuse to present his or her arms for cuffing does not "forcibly" resist arrest.

STATE OF THE JUDICIARY

On January 14, 2009, Chief Justice Shepard fulfilled his obligation under the Indiana Constitution by delivering his annual State of the Judiciary address to a joint session of the Indiana General Assembly. His address, which was the twenty-second State of the Judiciary he has given, was entitled "A Court System for Tough Times." It focused on the Court's role in rebuilding America's confidence during a difficult economy. Chief Justice Shepard announced a plan for the judicial branch to train judges, lawyers and mediators on how to best handle foreclosure cases. He stated, "I promise you that by summer Indiana will have trained more judges and pro bono lawyers and mediators to help people facing foreclosure than any other court system in America." Indiana trial courts had seen about a 50% increase in the number of foreclosure cases filed in the past five years. Chief Justice Shepard realized that sorting out which foreclosure cases should and should not be eligible for loan modification takes knowledge, skill, commitment, and compassion. His pledge to help homeowners led to a massive training effort involving cooperation between many state agencies. The Supreme Court's dedication to helping courts across the state as they deal with the influx of foreclosure cases was also a commitment to helping homeowners and helping bring about economic recovery. By the end of the fiscal year, the Court was well on its way to accomplishing its goal of training more than 700 legal professionals on how best to handle foreclosure cases. The Supreme Court continues to work on efforts to stem the foreclosure crisis and encourage attorneys and mediators to accept some foreclosure cases on a pro bono basis.



Each year in January, Chief Justice Shepard addresses a joint session of the General Assembly, the Governor, Judges, and members of the public in his "State of the Judiciary" speech. The annual address in the chambers of the Indiana House of Representatives is required by Article 7, Section 3 of the Indiana Constitution. The Chief Justice discusses the Court's on-going projects, accomplishments, and future plans. The title of his 2009 speech was "Responding to a Tough Economy."

JUDICIAL TECHNOLOGY AND AUTOMATION COMMITTEE

The Supreme Court's enormous task of linking all trial courts and other users of court data with a statewide case management system made substantial progress this fiscal year. The work is the responsibility of the Supreme Court's Division of State Court Administration Judicial Technology and Automation Committee ("JTAC"). Three major accomplishments associated with the project deserve special attention. National honors were bestowed on JTAC, grant money was awarded to the program, and additional trial courts continued to "go live" with Odyssey. The national honors included the first-place "Cygnus 2008 Innovation Award for Software," given at the International Association of Chiefs of Police Conference in San Diego, California, for the electronic Citation and Warning System ("eCWS"), and an award given by the Information Integrity Coalition at a ceremony in Illinois for providing accurate, consistent and reliable information. JTAC received grants from the Federal Motor Carrier Safety Administration and the Indiana Criminal Justice Institute. Finally, Warren, Tipton, Floyd and Parke counties converted to the Odyssey case management system. The Greenwood City Court became the first city court to use the system. The single busiest court in the state measured by filings, with over 180,000 new infraction and ordinance violation cases filed each year, the Marion County Superior Court Criminal 13, or "traffic court," began using Odyssey.

DIRECTOR OF APPELLATE COURT TECHNOLOGY

Robert Rath was named as the first-ever Director of Appellate Court Technology for the Indiana Supreme Court. Rath is uniquely qualified for the position with extensive information technology experience, a law degree, and bilingual skills. As Director of Appellate Court Technology, Rath will play a crucial role in developing a stronger vision for how the Court utilizes technology. He will review Court processes, identify how changing technology may improve Court functions and services, and oversee the procurement and implementation of a state-of-the-art system for Indiana's appellate courts that will include modern electronic case management, document management, and electronic filing.

FAMILY COURT INITIATIVE

Twenty-three counties participated in the Family Court Project, which promotes a common-sense approach to the resolution of legal issues affecting the safety and stability of children by coordinating multiple cases pending before multiple judges

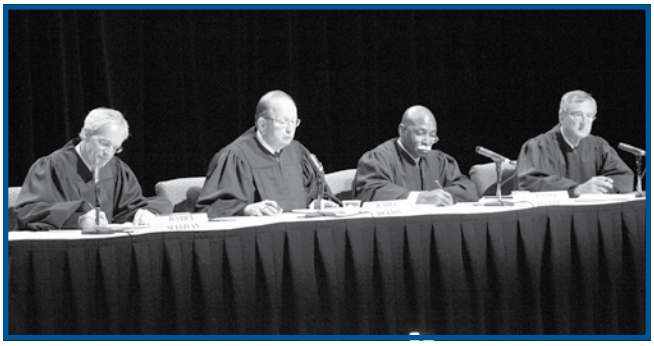
including the same family. The Project unveiled an informational video for people considering representing themselves in family law cases. "Family Matters: Choosing to Represent Yourself in Court" provides important information about the legal process and the responsibilities that people take on when they decide to appear in court without an attorney. The video is available online at *www.in.gov/judiciary/webcast/prose.html* and was distributed in DVD format across the state.

WORKING WITH THE NEWS MEDIA

During the year, a number of programs and cases attracted the attention of the news media. In July, the Supreme Court announced it would allow a documentary filmmaker access to the Lake County juvenile court. Karen Grau of Calamari Productions produced a series of reports to air on MSNBC focusing on the children served by the court. Print, television, and radio reporters also covered Supreme Court oral arguments on numerous occasions. Lilia Judson, Executive Director of the Division of State Court Administration was featured in the *Indianapolis Star* in the "My Big Break" section with the headline, "US Education Was Pathway To Helping Others." The autobiographical piece detailed Judson's responsibilities with the Court and highlighted her personal and professional achievements, including her election as Vice-President of the Conference of State Court Administrators. The Court also issued more than 80 press releases about programs, initiatives, and events.

THE COURT ONLINE

In addition to working with the news media, the Court worked to provide citizens with information online. The Court launched a retention website to allow voters to learn about the judges and justices who were on the November 2008 retention ballot. The user-friendly website gave voters access to biographical information and allowed readers to learn about the decisions these jurists had rendered during their tenures. Chief Justice Shepard, Justice Boehm, and Justice Dickson were solidly retained, each capturing more than one million "yes" votes. The Court also launched its own YouTube Channel to host new media such as the Family Court Project video. Web surfers continued to show interest in finding court information online, with approximately 1.9 million visitors to the *www.courts.in.gov* website during the fiscal year.



Most Supreme Court oral arguments are heard in the Court's State House Courtroom, but occasionally the Court travels to other venues in Indiana to hold oral argument. Here, the Court holds oral argument at Indiana University School of Law, Bloomington. (left to right) Justice Sullivan, Justice Dickson, Justice Rucker, Justice Boehm.

Following an oral argument, attorneys in a case answer questions from the press in the atrium outside the Courtroom.

THE COURT ON THE ROAD

The Indiana Supreme Court held oral argument at the Indiana University School of Law in Bloomington (now known as "the Michael Maurer School of Law). The case, *Klotz v. Hoyt*, involved a landlord-tenant dispute. Chief Justice Randall T. Shepard described it as an opportunity for the law students to see firsthand how the Supreme Court operated. The oral argument was also webcast live.

LOWERING THE LANGUAGE BARRIER

To serve people who do not speak English, the Supreme Court has launched a number of programs designed to ensure equal access to justice. The Court Interpreter Certification Program continued to serve as a tool to remove language barriers within the court system. At the end of the fiscal year, approximately 65 interpreters had been certified through the Court's program. In addition, the Indiana Supreme Court awarded $240,000 in court-interpreter grants that will be used in 40 counties to help local trial courts break down language barriers faced by non-English-speaking litigants. The Supreme Court also renewed its contact with Language Line Services, which provides over-the-phone interpreter services in more than 140 languages for trial courts.

CIVIL LEGAL AID

The Indiana Supreme Court continued its commitment to ensuring that courthouses across the state remain effectively open for all citizens. The Supreme Court distributed $1.5 million through the Civil Legal Aid Fund to qualified legal aid organizations. It is estimated that more than 23,000 indigent people received services through the legal groups assisted by these funds.

NEW BLE BOARD MEMBERS NAMED

The Indiana Supreme Court appointed two new members to the State Board of Law Examiners. Chief Justice Randall T. Shepard announced the appointment of the Honorable Barbara L. Brugnaux and Gary K. Kemper, who will serve five-year terms that began on December 1, 2008. They replaced Sheila M.

Corcoran of Evansville and the Honorable Stephen R. Heimann of the Bartholomew Circuit Court, who both completed ten years of service to the Board in November 2008.

DISCIPLINARY COMMISSION

The Indiana Supreme Court appointed Catherine A. Nestrick of Evansville and Tony Walker of Gary to the Disciplinary Commission. Ms. Nestrick and Mr. Walker replaced attorneys Diana L. Bender of Evansville and Robert L. Lewis of Gary.

PUBLIC DEFENDER COMMISSION

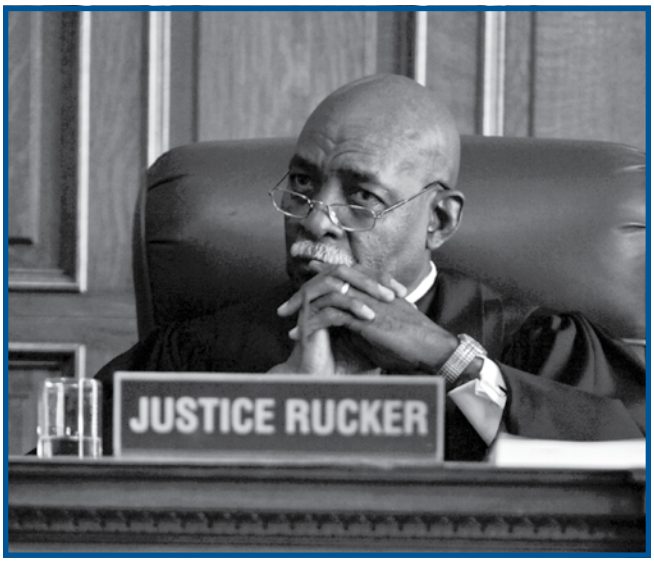
The Indiana Supreme Court announced the appointment of three new members to the Public Defender Commission. State Representative Vernon G. Smith, State Representative Greg Steuerwald, and State Senator Brent Steele joined the eleven member Commission. Smith and Steuerwald were appointed by Indiana House Speaker Patrick Bauer to replace former Representatives Phil Hoy and Amos Thomas. David Long, Indiana Senate President *Pro Tempore*, appointed Senator Steele to replace Senator Joe Zakas.

COMMISSION ON JUDICIAL QUALIFICATIONS

Two new members were named to the Indiana Commission on Judicial Qualifications. Christine H. Keck of Evansville was appointed by Governor Mitch Daniels to replace Joan M. Hurley of Sellersburg. Her term began in November 2008 and will continue through December 2010. Attorney John O. Feighner of Fort Wayne was elected by attorneys to replace attorney Sherrill W. Colvin, also of Fort Wayne.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

The Indiana Supreme Court named Maggie L. Smith to the Committee on Rules of Practice and Procedure. Smith's term began January 1, 2009 and will continue through June 30, 2014. Smith replaced Mary Nold Larimore, who served on the Committee for ten years.



Justice Rucker considers an attorney's response to a question at oral argument.

Chief Justice Shepard addresses a class of students at Crispus Attucks Medical Magnet High School on the occasion of Lincoln's 200th birthday.

MEMBERS OF THE COURT AS PART OF THE COMMUNITY

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

Chief Justice Randall T. Shepard taught for the fourth time at the New York University School of Law for its New Appellate Judges Seminar. He also collaborated with Justice Sandra Day O'Connor at Georgetown University Law Center on the Sandra Day O'Connor Project, focusing on preventing state judicial elections from becoming more politicized, and he gave the keynote address at Albany Law School's symposium on conflicts over land use and religious expression. Closer to home, Shepard served as the commencement speaker ("Graduating into the Great Recession!") for the May 9th University of Evansville graduation, where he received an honorary degree. Also in May, Chief Justice Shepard received an honorary degree from the University of Notre Dame. Standing for retention in November 2008, Chief Justice Shepard received the highest favorable percentage and the largest number of votes to retain ever recorded for a justice.

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

Justice Frank Sullivan has been an active participant in bench, bar, and legal education activities throughout the state, speaking in numerous venues to judges, lawyers, and law students. During the past year, this included a large number of presentations to state leaders of the executive and legislative branches on court technology initiatives. At the national level, Justice Sullivan chaired the American Bar Association's Appellate Judges Conference. In that capacity, he helped plan and present the annual "Summit for Appellate Judges, Lawyers, and Staff Attorneys," a major professional development program for judges and lawyers from

throughout the country who preside over, work in, and practice before federal and state appellate courts. He also helps plan and present the ABA's annual Judicial Clerkship Program that encourages minority law students to seek judicial clerkships. During the past year, Justice Sullivan spoke to appellate lawyers in Indianapolis on the proper use of unpublished appellate decisions; at the Indiana University Maurer School of Law – Bloomington on judicial decision-making; at the annual meeting of the Seventh Circuit Bar Association on issues relating to the use of a state's substantive law in federal court cases; and at the annual meeting of the ABA on recent U.S. Supreme Court decisions concerning federal pre-emption of state law.

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

Justice Robert D. Rucker served as the commencement speaker for the 2009 Valparaiso University School of Law graduation, which was held Saturday, May 23, 2009, at the Chapel of the Resurrection on campus. Justice Rucker, a 1976 Valparaiso University Law School graduate, was honored that his alma mater asked him to address the 160 graduates of the class of 2009. Justice Rucker has also been named Chairperson of the National Bar Association's Judicial Council.

III. The Indiana Supreme Court

BRIEF HISTORY

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

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

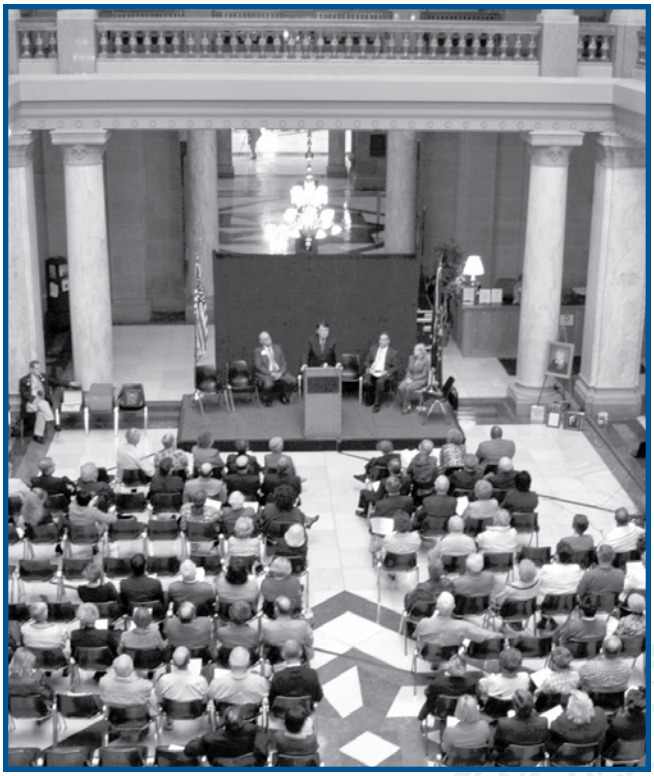
The current Supreme Court has as its foundation a constitutional amendment ratified by the people in 1970. The Amendment took effect January 1, 1972, and represented an almost complete rewriting of the 1851 Constitution's Judicial Article. It removed members of the Supreme Court from partisan elections and established a process for voter confirmation before retention in office. Justices, as they are now called, are subject to statewide yes-or-no votes on the question of their retention in office. With approval by the electorate, they serve ten-year terms and are subject to identical retention votes at ten-year intervals thereafter. Under current law, retirement is required at age 75.

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

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

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

At the swearing-in ceremony for new lawyers, Justice Boehm talks with attorney Douglas Church of Noblesville, then president of the Indiana Bar Association.



Justices are frequently asked to present awards to attorneys and citizens alike for their many contributions to the functioning of the state judicial system. Here, Chief Justice Shepard presents an award in the north atrium of the State House.

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

The Court almost gained a new Judicial Building in the 1990s, when the State spent millions of dollars on architectural plans for the erection of a Judicial Building on state-owned land just north of the current State House. The bill authorizing the Judicial Building failed to become law, however.

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

INDIANA'S "COURT OF LAST RESORT"

As evidenced in the section of this report titled, "Significant Events of Fiscal Year 2009," the Court is very active in providing leadership for the judicial branch of government. The principal business of the Court, however, is deciding cases, and because the Court is the highest state court in Indiana, it is the court of final review when the meaning of the state constitution, state law, or state rule is at issue.

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

The Court's "transfer caseload" has grown considerably over the last several years. In fiscal year 2002, the Court received 737 transfer petitions. The following fiscal year, that number increased to 826. In fiscal year 2006, that number topped 900 and has remained above that mark ever since, even surpassing 1,000 in fiscal year 2008.

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

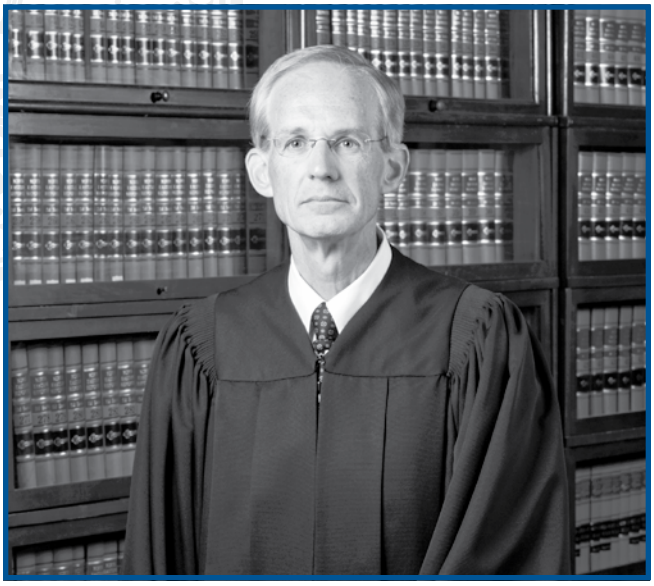
A complete statistical summary of the Court's activities for the past year can be found in the Appendix of this Annual Report.

Justice Sullivan, as Chair of the ABA Judicial Division's Appellate Judges Conference, conducted the AJC Executive Board mid-year meeting in Boston. Also pictured, left to right: Judge Connie Callahan, U.S. Circuit Court of Appeal for the Ninth Circuit; Judge Martha Warner, Florida Court of Appeals; Justice Mark Martin, North Carolina Supreme Court; and Justice Hank Ridgely, Delaware Supreme Court.

BIOGRAPHIES OF THE JUSTICES

Randall T. Shepard of Evansville was appointed to the Indiana Supreme Court by Governor Robert D. Orr in 1985 at the age of 38. He became Chief Justice of Indiana in March 1987. The voters have retained him in office three times, most recently in November 2008 with the highest percentage and largest number of votes ever registered for a justice. He was Judge of the Vanderburgh Superior Court from 1980 until his appointment, and before that 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. A seventh-generation Hoosier, Chief Justice Shepard graduated from Princeton University *cum laude* and from Yale Law School. He earned a Master of Laws degree in the judicial process from the University of Virginia. He has served as chair of the ABA Appellate Judges Conference and of the Section of Legal Education and Admissions to the Bar, President of the National Conference of Chief Justices, and Trustee of the National Trust for Historic Preservation. Chief Justice John Roberts recently appointed him to the U.S. Judicial Conference Advisory Committee on Civil Rules. He teaches periodically at the law schools of NYU and Yale. He is married and has one daughter.

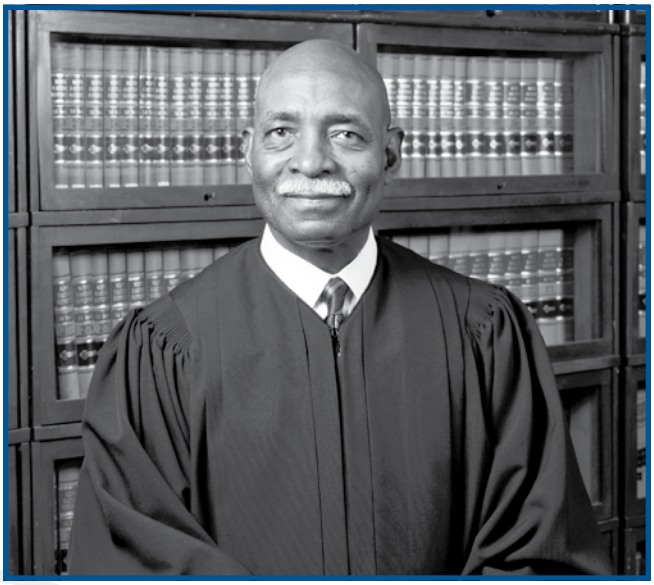
Brent E. Dickson was appointed to the Indiana Supreme Court in January 1986 by Governor Robert D. Orr after seventeen years as a general practice lawyer in Lafayette, Indiana, where he earned certification as a Civil Trial Advocate by the National Board of Trial Advocacy. Born in Gary, Indiana, in 1941, he was educated at public schools in Hobart, Indiana; Purdue University (B.S. 1964); and Indiana University School of Law at Indianapolis (J.D. 1968). Justice Dickson's writings, speeches, and activities reflect his longstanding interests in fostering attorney civility, preserving and enhancing our jury trial system, developing and encouraging mediation, and promoting the study and application of state constitutional law. Working to enforce and enhance the high standards of the legal profession, he has long served as the court's liaison to its Disciplinary Commission and Board of Law Examiners. He is co-founder of the Sagamore Chapter of the American Inns of Court in Indianapolis, an elected member of the American Law Institute, a registered mediator, and has been an active participant in a host of local, state, and national judicial and legal organizations. For over ten years, Justice Dickson served as an adjunct professor at Indiana University's Schools of Law, teaching an evening course in Indiana Constitutional Law. During his tenure as a justice, he also has helped the court tackle the challenges of digital technology and the interrelationship between privacy and openness of court records in light of the advent of the Internet by serving as chair of the Supreme Court Records Management Committee, the Judicial Data Processing Oversight Committee, and the Task Force on Access to Court Records. Justice Dickson and his wife, Jan Aikman Dickson, have three adult sons and eight grandchildren.



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

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

Theodore R. Boehm was appointed to the Supreme Court by Governor Evan Bayh in 1996. He served as a law clerk at the 1963 Term of the United States Supreme Court, and then joined the Indianapolis law firm of Baker & Daniels where he became a partner in 1970 and managing partner in 1980. In 1988, he joined General Electric as General Counsel of GE Appliances and in 1989 became Vice President and General Counsel of GE Aircraft Engines. In 1991, he joined Eli Lilly Company and then returned to Baker & Daniels in 1995. Justice Boehm was Chairman and CEO of the organizing committee for the 1987 Pan American Games in Indianapolis, and was the first President and CEO of Indiana Sports Corporation. He is currently chair of the Indianapolis Cultural Development Commission, and serves on the Nominating and Governance Committee of the U.S. Olympic Committee and the boards of directors of Metropolitan Public Broadcasting of Indianapolis, Inc., Indianapolis Convention and Visitors Association, Inc., Indianapolis Legal Aid Society, Inc., and Indiana Sports Corporation. He is a member of the American Law Institute and the American, Indiana State and Indianapolis Bar Associations. He grew up in Indianapolis, received his A.B. from Brown University in 1960, *summa cum laude*, and graduated *magna cum laude* in 1963 from Harvard Law School, where he was an editor of the Harvard Law Review. He is married and has four grown daughters and five grandchildren.



Robert D. Rucker was appointed to the Indiana Supreme Court by Governor Frank O'Bannon in 1999. Born in Canton, Georgia, Justice Rucker grew up in Gary, Indiana, and is a veteran of the Vietnam War. He is a graduate of Indiana University (B.A. 1974) and Valparaiso University School of Law (J.D. 1976). In 1998, he earned a Master of Laws degree in the judicial process from the University of Virginia Law School. Prior to his appointment to the Indiana Supreme Court, Justice Rucker served as a Judge on the Indiana Court of Appeals, having been appointed to that position in 1991 by Governor Evan Bayh. While on the Court of Appeals, Justice Rucker served as vice-chair of the Indiana Commission for Continuing Legal Education. As a lawyer, Justice Rucker served on the board of directors of the Indiana Trial Lawyers Association and on the board of directors of the Northwest Indiana Legal Services Organization. He also served as a deputy prosecuting attorney for Lake County, City Attorney for the City of Gary, and engaged in the general practice of law in East Chicago. Justice Rucker is a member of the American Bar Association, the Indiana Judges Association, the Indiana State Bar Association, the Marion County Bar Association, and is a Fellow of the Indianapolis Bar Foundation. Justice Rucker also serves as Chair of the Judicial Council of the National Bar Association. Justice Rucker is married and has two sons and a daughter.

The May 2009 admission ceremony was held in the Indiana Roof Ballroom.

IV. Budgetary Matters

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

Court Agencies	FY 2009	FY 2010	FY 2011
State Court Administration	**$115,482,401**	**$126,325,098**	**$125,734,047**
Trial Judges and Prosecutors Salaries/Benefits	$76,205,557	$84,501,179	$84,501,179
JTAC	$13,829,775	$12,065,345	$12,274,294
Transfers to Counties/Trial Courts, and Other Programs	$21,697,069	$25,408,574	$25,408,574
Title IV-D*	$3,750,000	$4,350,000	$3,550,000
Supreme Court Administration	**$9,916,234**	**$9,566,234**	**$9,566,234**
Judicial Training & Development	**$3,573,008**	**$3,121,182**	**$3,121,182**
Other	**$1,901,830**	**$2,309,536**	**$2,309,536**
Total	**$130,843,473**	**$141,322,050**	**$140,730,999**

Approximately 77.4% of the Court's appropriations for fiscal year 2009 came from the State's General Fund and Property Tax Replacement Fund. The remainder derived from dedicated funds (such as attorney annual licensing fees, bar examination fees, and special assessments associated with trial court filing fees), federal grants, and Title IV-D reimbursements. The Court wishes to express its appreciation and gratitude to the people of the State of Indiana for providing these funds to it during these trying fiscal times. As a matter of perspective, the total amount budgeted for the Supreme Court, its agencies, and the salaries of Indiana's 400+ trial-level judicial officers and 200+ prosecutors, deputy prosecutors, and prison deputies accounted for ***less than one percent*** of Indiana's total fiscal year 2009 budget.

*Title IV-D federal reimbursements are shared equally with the Indiana Prosecuting Attorneys Council ("IPAC"). During fiscal year 2009, after deducting transfers to IPAC and expenses accrued in collecting and preparing claims, the Supreme Court received $1,299,905 of the stated amount, and estimates that its net share for fiscal year 2010 and fiscal year 2011 will be about the same as fiscal year 2009.

V. Activities of the Affiliated Agencies of the Court

DIVISION OF SUPREME COURT ADMINISTRATION

Kevin S. Smith, Clerk/Administrator

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

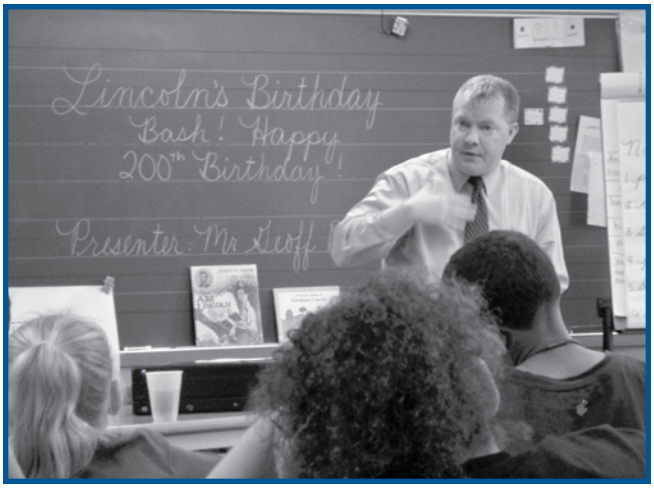
Organizationally, the Division is comprised of two main offices: the Office of Supreme Court Administration, and the Office of the Clerk of the Supreme Court, Court of Appeals, and Tax Court. For decades, the Division had been comprised only of the Office of Supreme Court Administration. The Division's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

THE OFFICE OF SUPREME COURT ADMINISTRATION

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

The Court's Central Legal Counsel

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



Staff attorney Geoff Davis addresses a group of elementary students as part of the "Why Lincoln was a Lawyer" program, which commemorated Lincoln's 200th birthday. The Court's employees often give their time to activities promoting the legal system.

During this fiscal year, the Division's attorneys drafted 268 legal memoranda on a myriad of topics to assist the Supreme Court in its role as Indiana's court of last resort and superintended 1,140 matters transmitted to the Court for its consideration. Further, the Division assisted the Court in drafting and issuing approximately 2,060 orders and opinions. With regard to the specific duties of the Supreme Court Administrator prescribed by the Indiana Rules of Procedure concerning original actions (proceedings that challenge a lower court's jurisdiction and originate in the Indiana Supreme Court rather than originating first in a lower court), the Administration Office's attorneys reviewed scores of writ applications and submitted those that could be filed, at least 37, to the Chief Justice or an Acting Chief Justice for consideration. They also assisted the Court in promulgating a new appellate rule, Indiana Appellate Rule 14.1, which provides an expedited appellate review procedure for appeals of court-ordered placement or services for children alleged to be "Children in Need of Services" or juvenile delinquents. This new procedure was created, with valued input and assistance from several members of the Indiana Court of Appeals, in response to revisions made by the General Assembly to Indiana Code sections 31-34-4-7(f), 31-34-19-6.1(f), 31-37-5-8(g), and 31-37-18-9(d). It became effective on January 1, 2009, and at the close of the fiscal year the Supreme Court and Court of Appeals had already reviewed several appeals under the new rule.

The Administration Office's attorneys continued to be very active in legal education and in serving the profession through, among other things, involvement with the Indiana State Bar Association ("ISBA") and local bar association Appellate Practice Sections and the American Bar Association's Council of Appellate Staff Attorneys ("CASA"). Mr. Smith served on CASA's Executive Board, several of the Court's staff attorneys served on various CASA and ISBA committees, and nearly all of attorneys in the

office spoke to Indiana school children on February 12, 2009 as part of the Court's "Why Lincoln was a Lawyer" program. In addition, staff attorney Geoff Davis volunteered in the ISBA's "Talk to a Lawyer Today" call-in program and served as a member of the Indiana State Board of Law Examiners' Character and Fitness Committee; staff attorney Paula Cardoza spoke at the Indianapolis Bar Association's continuing legal education seminar on commercial law; and the Administration Office's attorneys continued writing their regular column, "Appellate Practice from Inside the Division of Supreme Court Administration," in the ISBA Appellate Practice Section's newsletter, *The Appellate Advocate*.

The Court's Case Processor and Business Administrator

The Administration Office is also responsible for the day-to-day fiscal administration of the Court, including the procurement of supplies, the negotiation and oversight of contracts, the processing of payroll, the payment of bills, the preparation of expense vouchers, and the administration of employee benefits and personnel-related matters. It also assists the Chief Justice with the preparation of the Court's budget. During this fiscal year, the Administration Office processed approximately 1,388 invoices and 443 expense and travel reimbursement requests.

Further, the Administration Office accumulates Court statistics, prepares regular reports for the Court concerning the Court's workload, sets and maintains the Court's weekly conference agenda, and schedules the Court's oral arguments. Its staff members often serve as the Court's liaison to its various agencies, the practicing bar, and to the general public. Much of the physical handling of cases reviewed by the Court is managed by the Office, and the Office's staff answers numerous daily inquiries from attorneys and the public about the Indiana Supreme Court.

Justice Dickson during a court conference. The five justices meet generally once a week in the Conference Room to discuss the Court's business. These conferences allow the justices to discuss the myriad of issues in an atmosphere allowing for the free exchange of ideas.

Chief Justice Shepard gives freely of his time speaking about the Court and the judicial system, as do all the Justices. Here he speaks to a group of law students visiting from Thailand.

THE OFFICE OF THE CLERK OF THE SUPREME COURT, COURT OF APPEALS, AND TAX COURT

Overview of the Clerk's Office

The Office of the Clerk of the Supreme Court, Court of Appeals, and Tax Court ("Clerk's Office") serves as the gateway to Indiana's appellate courts and Tax Court. Its primary responsibilities are: (1) processing documents filed in appeals from rulings in Indiana's trial courts and administrative agencies; (2) collecting all associated filing fees, which are deposited in the State's General Fund; and (3) issuing orders and opinions of the appellate courts and Tax Court. It is also the statutory duty of the Clerk to maintain and preserve on microfilm the decisions and records of cases before the Indiana Supreme Court, Court of Appeals, and Tax Court. In addition, the Clerk maintains the roll of Indiana's approximately 19,936 attorneys and responds to public inquiries regarding attorneys' professional status. The Clerk collects attorneys' annual licensing fees and distributes those fees to the Supreme Court Disciplinary Commission, Commission for Continuing Legal Education, and the Judges and Lawyers Assistance Program. The Clerk is also responsible for administering oaths and often is called upon to do so by various state agencies. In conjunction with the State Board of Law Examiners, the Clerk processes and administers the oath of attorneys twice per year to newly admitted attorneys. The Clerk conducts annual elections for the attorney-members of the Judicial Nominating Commission and administers a selection process for chairpersons of medical review panels. A staff of sixteen assists the Clerk in meeting the requirements of his office.

Significant Events of Fiscal Year 2009

This fiscal year saw planned renovations to the Clerk's Office space in the State House brought to completion. After several months of being temporarily housed at 30 South Meridian Street to permit the renovation work, the Clerk's Office's staff returned to their renovated and revitalized office space. The changes included restoration of the ceiling and wall paint schemes to

their original 1888 appearance, and replacement of the large service counter with a new service counter located in the interior doorway between Rooms 216 and 217. The new service counter configuration provides increased security to Clerk's Office staff while giving the public a "waiting area" (formerly the small office located in Room 216) removed from the hustle and bustle of the office. It also freed up much-needed floor space taken up by the previous large service counter for use as increased work space for the Clerk's Office's cramped employees.

Also, this year the Clerk, the Deputy Clerk, and most of the staff spent significant time meeting with the new Appellate IT Director and the new Business Analyst discussing the office's various business processes and new technologies that might be available to bring the Clerk's Office into the 21st Century. The information gleaned from these meetings will be used by the Appellate IT Director and Business Analyst to formulate many of the requirements for a new case management system for Indiana's appellate courts.

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

TRIAL COURT MANAGEMENT

Judicial Service Reports

One of the core responsibilities of the Division is collecting statistical information about the operation of Indiana's courts and their offices. As required by Indiana Code section 33-24-6-3 and Indiana Supreme Court Administrative Rules 1 and 2, the Division collects and publishes information on the caseload and fiscal activities of all courts and probation departments throughout the state. The information, which is published annually in *The Indiana Judicial Service Report* and *The Indiana Probation Report*, was put into a slightly different format for 2008. 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.

Indiana trial courts and probation departments submit statistical reports, including quarterly statistical reports (caseload, probation supervisions, and juvenile law services information) and financial reports to the Division online using the Indiana Courts Online Reports ("ICOR") system. The electronic filing of such reports not only expedites the Division's publication of the annual reports, mentioned previously, but also provides greater ability to analyze the data when reviewing court services.

Weighted Caseload Measures and Caseload Allocation Plans

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

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

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

The most recent WCL measures are available at *www.in.gov/judiciary/admin/courtmgmt*.

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

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

During 2008, Division staff reviewed and approved many Internet-related requests. The list of approved counties can be viewed at *www.in.gov/judiciary/trialcourts/tr77-approval.html*. Of the 92 counties in Indiana, 52 have now been approved to post their docket information, as were five city courts. Most post chronological case summaries and party and calendar information.

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

Administrative Rule 9 addresses public access to court records. The rule governs all case and administrative court records maintained and generated by every court and court agency in the state court system. One significant provision in the rule requires that the Division review and grant or deny requests for bulk compilations of court information. Administrative Rule 9 defines "bulk distribution" as "the distribution of all, or a significant subset of the information in court records in electronic form, as is, and without modification or compilation." This duty also requires the development and execution of a user agreement between the Division and the requesting party. The agreements expire annually, but may be renewed. During calendar year 2008, the Division received fifteen renewal requests for bulk records and executed the requisite user agreements. A list of the approved bulk records requesters, along with copies of their user agreements, may be found at *www.in.gov/judiciary/admin/courtmgmt/bulk-data*. Many trial courts post court information on the Internet as permitted by Trial Rule 77(K). If a court contracts with a third-party vendor to do so, the vendor must also execute a bulk data-user agreement with the Division.

Education about and assistance with the application of the provisions of Administrative Rule 9 on public access to court records continues to be a significant Division function. During the 2009 fiscal year, the Division provided training to Marion County court staff and accepted an invitation to give a presentation to court staff in St. Joseph County. Also, during the 2009 fiscal year, the Division began an extensive update of the online Administrative Rule 9 Handbook.

State Office of Guardian Ad Litem/ Court Appointed Special Advocate

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

In 1989, the General Assembly established a program for GAL/CASA services to be administered by the Division. Through this program, any county that operates a certified GAL/CASA program receives a matching state grant that is administered and disbursed by the Division. To be certified, programs must comply with the Supreme Court's GAL/CASA Program Standards and Code of Ethics and provide annual statistics, a budget, and a financial statement regarding the use of the grant funds. The Division's State Office of GAL/CASA ("State Office"), through its State Director and Program Coordinator, oversee the certification process and ensure compliance with the program standards. The State Office also holds an annual conference and provides training and support services for local GAL/CASA programs.

Court Appointed Special Advocate Harriett "Happy" Curts (left) a retired teacher, was honored for her volunteer commitment in representing fourteen children over the past several years. Presenting the award is Leslie Rogers Dunn.

During calendar year 2008, 65 of Indiana's 92 counties received certification and state GAL/CASA matching funds. These programs were staffed by 211 paid personnel. Of the 65 counties with volunteer-based programs, 33 had court-based programs, 21 had programs that were separate non-profit entities, and eleven had programs that were operated under the umbrella of another non-profit entity. The remaining 27 counties appointed either attorney GALs or utilized other, paid GALs.

There were at least 2,498 active GAL/CASA volunteers statewide in calendar year 2008, including 911 newly trained volunteers (an increase of 50% in new volunteers over 2007, due largely to additional funding provided by the General Assembly). GAL/CASA volunteers donated an estimated 422,841 hours in 2008. If the contribution of GAL/CASA volunteers is calculated using the estimated average rate paid to non-volunteer appointed GALs ($50 hourly), the volunteers contributed an estimated $21 million dollars to the State of Indiana. GAL/CASA volunteers advocated for 6,737 children in CHINS cases and 2,011 children in termination of parental right cases filed in 2008. Even so, over 4,000 children were still awaiting appointment of a GAL/CASA at the close of 2008, especially in urban areas that have a high number of children in foster care.

In November 2008, the State Office held its annual meeting for GAL/CASA directors and staff and sponsored the Twelfth Annual Indiana State GAL/CASA Conference. Over 600 GAL/CASA volunteers, local program staff and directors, service providers, and other child welfare personnel attended. The State Office also provided training for new GAL/CASA program directors, held a mandatory grantees meeting for all program directors, and provided numerous other local and regional training sessions. The State Office also continued its partnership with the Indiana Retired Teachers Association ("IRTA") by having staff speak at several district and local IRTA meetings to encourage retired teachers to serve as GAL/CASA volunteers. A retired teacher/CASA volunteer won IRTA's 2008 Volunteer of the Year Award, which was presented by Chief Justice Randall Shepard at a ceremony at the State House.

The Indiana Family Court Project

The Family Court Project was initiated in 1999 as a cooperative effort between the General Assembly and the Indiana Supreme Court to develop models for coordinating multiple cases involving the same family pending before multiple judges.

The Supreme Court selects new counties to join the project every two years, and in 2008, Clark County and Vanderburgh County became the most recent additions. During calendar year 2008, 23 counties participated in the Family Court Project, serving a total of 3,044 families (including 4,168 children). These projects receive assistance from the Family Court Program manager under the direction of the Division of State Court Administration.

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

In September 2008, the Family Court Project unveiled *Family Matters: Choosing to Represent Yourself in Court*, an informational video to help litigants make informed decisions regarding legal representation. The initial phase of the project created a statewide version of the video that provides general information applicable to litigants in any Indiana county. This version is posted on the Supreme Court web site at *www.in.gov/judiciary/webcast/prose.html*, as well as on YouTube. In the first six months the video was posted online, it was viewed almost 1,800 times. In addition, the video has been customized with county-specific information for use in Johnson, Lake, and Monroe counties. Each county has developed a local plan for using the video and integrating it into its current programming for self-represented litigants. Late in the 2009 fiscal year, the Family Court Project began an effort to fund and produce a second video outlining the role of Alternative Dispute Resolution in family law cases. The video is expected to be distributed during the fiscal year 2010.

Alternative Dispute Resolution Plans for Domestic Relations Cases

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

A county wishing to participate in an ADR program must develop an ADR plan consistent with the statute and approved by a majority of the county's judges with jurisdiction over domestic relations and paternity cases. The Executive Director of the Division must then approve the plan, in accordance with ADR Rule 1.11. The counties must annually file a report summarizing their ADR programs. At the close of the fiscal year, 26 counties had approved ADR plans (Allen, Boone, Brown, Clark, Crawford, DeKalb, Delaware, Henry, Jackson, Johnson, Lake, Lawrence, Marion, Martin, Monroe, Montgomery, Orange, Owen, Perry, Pike, Porter, Putnam, St. Joseph, Shelby, Starke, and Tippecanoe).

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

During calendar year 2008, ADR services were provided by counties with approved ADR plans in 2,213 cases, which affected 2,958 children.

Electronic Case Filing and Electronic Service Pilot Projects

Administrative Rule 16, which took effect in 2006, requires trial courts interested in establishing an electronic filing project to submit a plan to the Division. To date, no trial courts have implemented e-filing under Administrative Rule 16. A Lake County plan was approved in 2007 for implementation in 2008, but technical problems prevented implementation. A White County plan submitted in 2007 remains pending, and this fiscal year Marion County submitted a proposal for a pilot e-filing project that the Division is reviewing. The Division hopes to create or adapt a model plan for use by future applying courts based partially on the plans it has previously approved.

Protective Order Proceedings

The Indiana General Assembly has charged the Division with designing and updating forms used in protection order proceedings. To fulfill this duty, the Division works closely with the members of the Indiana Judicial Conference Protection Order Committee. Trial court judges, magistrates, commissioners, and clerks of the circuit courts comprise the membership of the committee, with the Indiana Judicial Center and Division providing staffing support. The committee has developed a comprehensive set of forms that fall into three main categories: (1) protective orders, (2) no-contact orders, and (3) workplace violence restraining orders. All forms are located on the Protection Order Forms website, located at *www.in.gov/judiciary/forms/po.html*.

In calendar year 2008, the committee focused on revising the Protection Order Deskbook, creating and modifying the forms that are on the Protection Order website, and working closely with the online Protection Order Registry run by the Judicial Automation and Technology Committee ("JTAC"). The committee's projected plans for 2009 include the completion the revision of the Protection Order Deskbook and the continuation of its cooperative work with the on-line Protection Order Registry developed by JTAC.

Information/Records Management – Supreme Courts Records Management Committee

The Information Management Section of the Division assists trial courts and clerks in meeting the requirements of administrative rules and trial rules governing trial court records, including microfilming, scanning, and the long-term retention and disposal of records. In calendar year 2008, staff made 21 visits to fourteen counties to assist clerks and judges with records preservation, disposal of records, and help concerning information technology.

The Information Management Section works closely with the Indiana Supreme Court's Records Management Committee, which in September 2008 celebrated its 25th anniversary. John Newman, the section's director since its inception in 1986, retired in July 2008 in a ceremony held in the Supreme Court's Courtroom.

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 recommended to the Supreme Court that a certified court interpreter program be developed for Indiana. In response, the Supreme Court authorized the Executive Director of the Division to join with the National Center for State Courts to implement an Indiana court interpreter testing system. Indiana's Court Interpreter Certification Program was officially launched in January 2003.

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

John Newman (left) began his career in state government in 1970 as State Archivist, dedicating his career to making state records easily accessible. In 1986, Newman was named the Indiana Supreme Court's Director of Information Management. Visiting all 92 counties many times, Newman began helping trial courts maintain records. At his retirement in 2008, Justice Dickson (right) presents a certificate of appreciation.

The second phase is a written exam comprised of two components. The first component, a multiple-choice exam in English, tests candidates on general English vocabulary, court-related terms and usage, common English idioms, and court interpreter ethics and professional conduct. Candidates must receive a score of at least 70% to go on to the next phase. The second component requires candidates to translate several sentences containing legal terms from English into Spanish.

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

During calendar year 2008, Indiana tested only in the Spanish language. Fifty-one candidates took the oral exam with thirteen passing the oral exam in its entirety. Twelve other candidates passed sections of the exam. To date, Indiana has increased the State pool of certified interpreters to 65. Indiana continues to be a leader in interpreter oral proficiency, with an examination passage rate nearly two times the national average.

In addition, in 2008 the Indiana Supreme Court continued its commitment to quality interpretation by adopting an Interpreter Code of Conduct to reinforce the high ethical standards expected of court interpreters in Indiana.

Also in 2008, 34 county court systems used the Language Line Program for telephone interpreter services for languages ranging from Amharic to Yoruba. Implemented in 2005, the Language Line Program allows trial courts to utilize telephonic interpreter services in more than 140 languages, and particularly with regard to less regionally-familiar languages. In most instances, Language Line provides an interpreter within minutes of receiving the telephone call requesting its services.

Continuity of Operations Planning for Trial Courts

Administrative Rule 17 provides a procedure for the issuance of emergency orders by the Supreme Court to ensure the orderly and fair administration of justice in the event that a natural disaster, civil disobedience, widespread disease outbreak, or other exigent circumstance requires closure of the courts or inhibits the ability of courts and litigants to comply with deadlines. The rule was invoked this fiscal year to address the temporary relocation of Grant Superior Court 2 due to illness caused by conditions in the courthouse.

In addition, last fiscal year the Division engaged a consultant to assist pilot counties in developing Continuity of Operations Plans ("COOPS"). The consultant worked extensively with the first pilot county, Howard County, to help its judiciary develop COOP and pandemic plans. This fiscal year, the consultant also began working with courts in Warren, Morgan, and Allen Counties to help them develop COOPs. At the close of this fiscal year, the Division hired a full-time employee to assist trial courts across Indiana in developing COOPs.

Court Reform and Education Scholarship Grant Programs

In the spring of 2008, the Supreme Court launched two new grant programs: a Court Reform Grant Program administered by the Division, and an Education Scholarship Program administered by the Indiana Judicial Center. Both programs are funded from federal reimbursements for previously uncollected expenses associated with Title IV-D enforcement actions.

The Court Reform Grants are intended to assist courts in conducting organizational assessments and implementing recommended improvements. The Division identified five project categories that would receive priority consideration: development of a multi-jurisdictional drug court or other problem-solving court; measuring court performance through use of *CourTools*, a set of ten trial-court performance measures developed by the National Center for State Courts; unified court administration; modern jury management systems; and modern court-reporting technology. Grants were awarded in calendar year 2008 to Fountain and Warren Counties to study the feasibility of a shared drug court for these two rural counties. Marion and Allen Counties received funding to study the use of *CourTools*. Clark County received funding to study the feasibility of unifying probation services and combining core administrative functions in its four courts. Hamilton County received funding to study ways to improve criminal case processing. Elkhart County received funding to purchase a computer-assisted court reporting system.

The Education Scholarship Program helps judicial officers expand their professional development by attending seminars, conferences, or other programs unavailable through the Indiana Judicial Center. Grants awarded through the scholarship application process enable them to attend sessions sponsored by pre-approved providers (such as the National Judicial College, the National Council of Juvenile and Family Court Judges, and the American Bar Association) or sessions sponsored by other providers that would enhance the judicial officers' professional development. Grants of up to $3,000 are awarded for a session. So far, 28 judicial officers have taken advantage of this program.

COURT SERVICES

Accounts Management, Payroll and Claims, Judicial Benefits Coordination

The Division maintains and administers 21 accounts, which this fiscal year totaled approximately $115 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 accounting for these purposes totaled approximately $76 million this year and covered approximately 700 individuals. As part of this "paymaster" function, the Division processes and pays more than 1,300 claims per year for special and senior judge services.

Employment Law Services

As well as being adjudicators, most trial court judges have the additional responsibility of being employers and office managers. As it has for many years, this fiscal year the Division continued providing trial court judges with an experienced employment-law attorney to provide counsel on employment-related matters. The Attorney General represents the judges if a suit is filed in court, and the employment law attorney may serve as a liaison for the courts with the Attorney General's office. However, the Attorney General does not represent the judges before administrative agencies, such as the EEOC or the Department of Workforce Development; therefore, the employment law attorney serves to fill this gap in representation as well.

In addition, the employment law attorney writes a regular column in the *Indiana Court Times* to keep the trial judges current on law that impacts their personnel-related decisions. Other assistance includes templates for personnel manuals, review of personnel manuals or employee handbooks, and presentations to court staff on a variety of employment and personnel issues as requested by a court.

Special Judges and Disciplinary Commission Grievances

The Division's legal staff serves as counsel to the Supreme Court in matters involving requests for the appointment of special judges, special masters, and senior judges. Division staff also conduct preliminary investigations of disciplinary grievances filed against members and staff of the Indiana Supreme Court Disciplinary Commission and attorneys who are serving as hearing officers in disciplinary cases.

Supreme Court rules governing the method of special judge selection call for the establishment of local rules for 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 2008, the Division received 85 new requests for special judge appointments.

Senior Judge Program

Since 1989, Indiana has been able to tap into an experienced pool of former judges to help alleviate the pressure caused by increasing caseloads. A former judge may apply to the Indiana Judicial Nominating Commission for certification as a senior judge under rules adopted by the Indiana Supreme Court, and any trial court and the Indiana Court of Appeals may ask the Indiana Supreme Court to appoint a senior judge to assist that court. The Division administers the senior judge program. In calendar year 2008, Indiana had 92 certified senior judges who served a total of 3,636 days. These days are equivalent to approximately 20 full-time judicial officers.

Temporary Judicial Service

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

Indiana Code chapter 33-13-15 provides that in certain circumstances litigants can agree to try certain civil cases before a private judge who is compensated by the litigants. The Division maintains a roster of private judges and administers requests and appointments of private judges.

Requests for private judges are rare, with the first one taking place in 2004 and one each in 2005 and 2006, two in 2007, and none in 2008. The most current list of registered private judges can be found at *www.in.gov/judiciary/admin/private-judges/roster.html*.

Indiana law also allows a judge *pro tempore* (temporary judge) to sit in the place of a regular judge who is unavailable. The judge *pro tempore* has the authority of the judge temporarily replaced, subject to the continuing jurisdiction of the Supreme Court. To be appointed a judge *pro tempore*, the individual must be an attorney in good standing with the bar of the Indiana Supreme Court. The Division is responsible for administering requests for judges *pro tempore* and assisting the Supreme Court in preparing the orders appointing them. The circumstances surrounding these appointments range from absences due to military service, temporary medical conditions, and vacancies created by retirement or death that exist until the Governor fills the vacancy. In calendar year 2008, the Supreme Court made four *pro tempore* appointments.

Civil Legal Aid Fund

The Division administers the distribution of a $1.5 million annual appropriation to aid qualified organizations providing legal assistance to indigent persons in civil cases. In calendar year 2008, the Division made distributions to twelve organizations providing civil legal aid services to over 23,000 persons in cases primarily involving divorce, separation, custody, visitation, paternity, termination of parental rights, and spousal abuse. From its inception in 1997 through the end of the 2009 fiscal year, the Division has distributed $13 million through this program.

Court Improvement Grants

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

Communication Links with Judges and Clerks

The Division staff continued this fiscal year to provide a communication link with the trial court judges and clerks and their staffs through its newsletter, the *Indiana Court Times*. Formerly a quarterly newsletter, it is now distributed six times per year. Although still called a newsletter, the *Indiana Court Times* has evolved into a colorful magazine that is published on the Indiana Judicial website at *www.in.gov/judiciary/admin/pubs.html* as well as in hard copy. Also this fiscal year, the Division established a listserv for local trial court administrators in Indiana counties, and continued to develop its judicial outreach program known as "BRIDGES" – Building Relationships Individually, Giving Excellent Service. Through BRIDGES, Division attorneys are assigned to specific trial judges to act as a single point of contact with the Division. The goal is give trial judges "one-stop shopping" at the Division and to provide a structured means to "push" information out to the trial courts. At the end of this fiscal year, seven attorneys had been assigned to twelve judges in the pilot phase of this project.

The Court and the Press

This fiscal year witnessed a number of programs and cases that attracted the attention of the media. The Supreme Court granted a documentary filmmaker access to the Lake County juvenile court to produce six one-hour documentary programs on issues facing the Lake County juvenile court and the children it serves. Dan Spehler, news anchor for the Indianapolis ABC-affiliate WRTV 6, spoke during the Court's Constitution Day program about the importance of the First Amendment, which was briefly featured on the WRTV nightly newscast. The *Indianapolis Star* ran an autobiographical story on Lilia Judson, Executive Director of the Division, detailing her responsibilities with the Court and highlighting her personal and professional achievements. Leslie Rogers Dunn, the Indiana State Director of GAL/CASA, authored an op-ed piece in the *Indianapolis Star* that generated about 60 inquiries from citizens interested in learning more about GAL/CASA volunteer opportunities. And, the Supreme Court's hiring of Robert Roth as its new Director of Appellate Court Techonlogy garnered a featured article in *The Indiana Lawyer*.

TECHNOLOGY

Retention Ballot Website

This fiscal year, the Court launched a website to allow voters to learn about the judges and justices on the November 2008 retention ballot. The user-friendly website gave voters access to biographical information and allowed readers to learn about the decisions that the judges and justices made while serving on the bench.

Trial Court Technology and Automation

Progress continued during this fiscal year toward improving trial court technology in Indiana when three more counties and two additional Marion County Small Claims Courts began using "Odyssey," a computer system that courts and clerks use to record and manage information on pending cases. The Supreme Court's Judicial Technology and Automation Committee ("JTAC") installed Odyssey in Warren, Tipton, Floyd, and Parke counties and in the Center and Franklin Township Small Claims Courts in Marion County. These two small claims courts handle over 18,000 new cases each year.

In addition to the installation of Odyssey in the courts mentioned above, intensive work continued to enhance the Odyssey software to incorporate additional Indiana-specific functionality for courts and clerks. In 2008, the Supreme Court contracted with the developer of Odyssey to build a "supervision" product center within the Odyssey application aimed at enhancing the unique needs of probation, community corrections, and specialty courts such as drug, re-entry, and family courts. In addition to the major efforts to upgrade the Odyssey product, work began in additional counties, including Allen, Hamilton, Madison, and St. Joseph.

As work continued on the implementation of the Odyssey case management system, JTAC had an array of other exciting developments involving critical interfaces between courts, law enforcement, and state agencies:

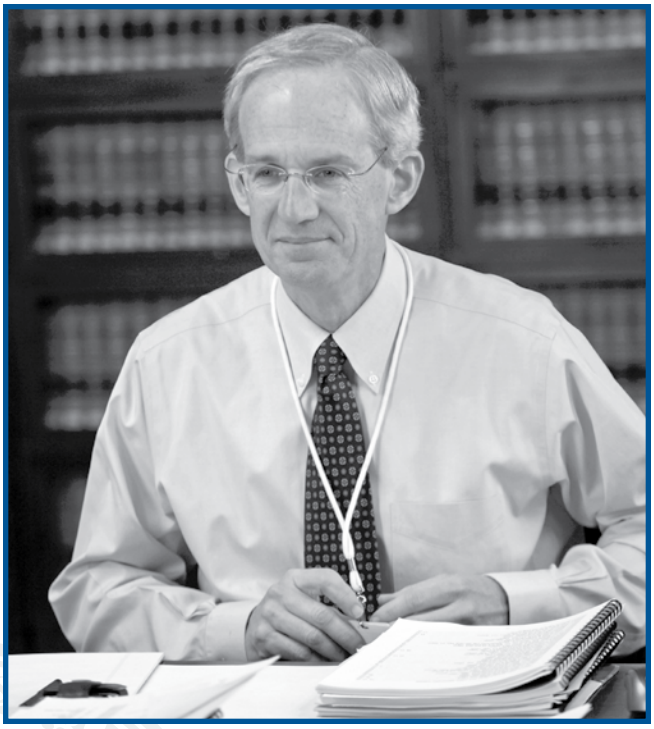
Electronic Tax Warrants – JTAC and the State Department of Revenue ("DOR") collaborated to create an "e-Tax Warrant" interface that allows trial court clerks to process tax warrants electronically. This allows these public records to be entered much faster and more accurately than the old system of manual entry and "snail mail" delivery, reduces lost records and administrative burden for clerks and the DOR, and permits these records to be publicly accessible and easily searchable. The system was launched in Monroe County in late 2007, and an additional 36 counties began using the e-Tax Warrant system.

Department of Child Services – As part of the sweeping changes of House Enrolled Act 1001 signed by Governor Daniels in 2008, probation officers acquired new responsibilities related to the reporting of Title IV-E eligibility for individuals involved in juvenile delinquency cases. The obligation to reimburse third-party providers shifted from the county to the Department of Child Services ("DCS"); however this new payment model required a process whereby data could be exchanged between probation officers in 92 counties and DCS. JTAC and DCS worked together to develop this process, which was implemented this January 1, 2009.

Protection Order Registry – Indiana trial courts regularly issue orders to protect potential victims of domestic violence. Getting those orders into the hands of law enforcement and others who need them as soon as possible after they are issued enhances the safety of those involved in domestic violence disputes. With the assistance of federal funds and a number of state and local agencies, the electronic "Protection Order Registry" ("POR") notifies local, state and national law enforcement databases within minutes of a judge's order. The POR began operation in 2007. By the end of calendar year 2008, 15,660 Orders of Protection, 21,728 No Contact Orders, and 53 Workplace Violence Orders had been created within the POR by the 72 counties using POR. Legislation was enacted in 2009 requiring all courts to utilize the POR beginning July 1, 2009. On the day before this effective date, 91 counties were using the registry. One county was delayed due to a serious fire at the Courthouse.

Electronic Citation and Warning System – With federal funding and the help of law enforcement partners, JTAC developed the "electronic Citation and Warning System" ("eCWS") to use scanners and other technology to increase greatly the speed and accuracy at which traffic tickets are issued. The Indiana State Police implemented the system in 2007, and 105 local law enforcement agencies began using eCWS this fiscal year. A scanner reads the barcode on the driver license and registration, populating the e-ticket to save valuable time during stops and reduce data errors. Used in conjunction with Odyssey, thousands of traffic tickets that previously would have been processed by hand have been filed electronically using eCWS. Work continued on the design and development of the eCWS application for portable, handheld computers, with officers from three agencies piloting the new system beginning in September 2008. These efforts will put eCWS in the hands of motorcycle officers whose primary responsibility is the enforcement of traffic laws.

Marriage License e-File – More than 13,000 Indiana marriage licenses were issued through JTAC's new Marriage License e-File system in calendar year 2008 by 49 counties using it. The system eliminates the need to handwrite applications and record data in paper record books. The system transfers appropriate data electronically to the Indiana State Department of Health ("ISDH"). DCS and the Indiana Prosecuting Attorney's Council began discussions with JTAC and ISDH concerning the sharing of marriage license information so as to enhance Title IV-D child-support enforcement efforts throughout Indiana.



Justice Frank Sullivan.

Jury Management System – The Jury Management System project builds on the success of JTAC's nationally recognized Jury Pool Project, which generates the most inclusive Jury Pool List ever available. The Jury Management System helps courts and clerks create jury lists, labels, summonses, and reimbursement records. It was piloted in 2007 in nineteen Indiana counties, and 29 more counties are now using it.

JTAC-BMV Project – In 2005, JTAC and the Indiana Bureau of Motor Vehicles ("BMV") launched a joint initiative to help courts comply with federal requirements that demanded faster reporting to the BMV of serious violations committed by commercial drivers. By the end of 2008, the average transmission time from courts to the BMV of certain traffic infraction information dropped from 53 to eight days. JTAC continued to work with the BMV so that SR 16s (the court abstract form) for all criminal traffic cases could be sent electronically from the courts to the BMV. By November 2008, this work was successfully completed and now all SR 16s can be submitted electronically, thereby making it possible for an order suspending a driver's license in a serious criminal traffic case to be placed on the individual's official driving record at the BMV within 24 hours.

Indiana Courts Website – JTAC developed and maintains the website (*www.in.gov/judiciary*) for Indiana courts, containing information about among other things, Indiana trial courts, city and town courts, and county clerks. The website has extensive sections on Indiana appellate courts and their agencies, judicial committees, programs and initiatives discussed in this report. Visitors can also access public court records from the Odyssey

case management system and webcasts of oral arguments. Appellate opinions and the Child Support Calculator are the two most popular features of the website.

Awards

JTAC received a number of national awards in calendar year 2008 from such entities as the Center for Digital Government, the Information Integrity Coalition, and the Cygnus Law Enforcement Group.

Appellate Court Automation and Technical Services

The Technical Services Section of the Division provides daily computer-operations support to all computer users in the Supreme Court, Court of Appeals, Tax Court, and all supporting agencies. This fiscal year, the Section worked to replace nearly all of the personal computers ("PCs") within the Supreme Court and its agencies, the Court of Appeals, and the Tax Court with new PCs loaded with Microsoft Vista operating system and Microsoft Office 2007. To provide a smooth transition to the new software, several training classes were developed. The equipment that became surplus was refurbished and provided to trial courts for use with the Odyssey case management system currently being installed throughout the State. In the personnel arena, the Division hired Robert Rath as the first Director of Appellate Court Technology, and Teresa Christopher as a Business Analyst, and they immediately went to work in documenting the Courts and agencies' business processes and implementing new technologies to increase work efficiency and accuracy.

COMMISSION AND COMMITTEES – STAFF SUPPORT

Judicial Nominating Commission/Indiana Commission on Judicial Qualifications

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

Rule Amendments and the Supreme Court Committee on Rules of Practice and Procedure

The Executive Director of the Division serves as Executive Secretary of the Indiana Supreme Court Committee on Rules of Practice and Procedure and, together with Division legal staff, assists the Committee and the Supreme Court in drafting and promulgating amendments to the Indiana Rules of Court. The most prominent rule amendments adopted by the Court this fiscal year dealt with the following: revising the Code of Judicial Conduct; amending the Rules of Evidence relating to the admission of hearsay testimony, and establishing "a preponderance of the evidence" as the standard for resolving questions of fact in determining the admissibility of evidence; amending the Administrative Rules concerning the use of telephonic and audiovisual telecommunications; amending the Rules of Criminal Procedure to establish procedures for transferring probation supervision between counties; amending the Tax Court Rules to provide for the use of mediation; and amending the Appellate Rules to direct interlocutory appeals in death penalty and certain life without parole cases directly to the Supreme Court.

The Committee also devoted substantial time to studying proposals regarding recording custodial police interrogations; the failure of judges to issue timely rulings in cases; residual hearsay; change of venue in paternity cases; refining the definition of pro bono services; judicial notice; and the role of mediators in mediations involving *pro se* litigants.

Public Defender Commission

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

State law authorizes counties to receive reimbursements of 50% of expenditures for indigent defense services in capital cases and up to 40% in non-capital cases from this state fund. There are two sources of money for the public defense fund: the State Auditor distributes $5.4 million yearly to the fund from court fees under Indiana Code section 33-37-7-9(c)(2), and the General Assembly appropriates money for a public defense budget from the state general fund. In 2008, the public defense fund received $14.8 million.

All 92 counties are eligible for reimbursements of indigent defense costs in capital cases, provided they comply with Indiana Supreme Court Criminal Rule 24. Currently, 50 counties qualify for reimbursement from the public defense fund for non-capital public-defense expenses. These counties comprise over 65% of Indiana's population. In 2008, counties participating in the reimbursement program of the public defense fund handled 90,144 indigent defense cases – a significant increase over the 84,118 cases assigned in 2007.

The Indiana Public Defender Commission met four times during this fiscal year to audit and approve claims by the counties. It distributed $13.9 million to the counties on their non-capital defense requests, and $606,705 to the counties for death penalty defense.

Indiana Conference for Legal Education Opportunity

The Indiana Conference for Legal Education Opportunity ("ICLEO") continued to forge ahead in increasing diversity in the Indiana legal profession. In May 2008, 25 ICLEO Fellows graduated from one of the four Indiana law schools. On October 17, 2008, sixteen Fellows were sworn in as members of the Indiana Bar. And in the summer of 2008, 26 students successfully completed the ICLEO Summer Institute hosted on the campus of Indiana University Maurer School of Law-Bloomington.

ICLEO Fellows continued making lasting impressions on the Indiana legal community. Two Indiana University School of Law at Indianapolis 2008 graduates secured law clerk positions with the Indiana Supreme Court; Chasity Thompson, a 1999 Fellow, was honored in the 2008 Edition of "Who's Who in Black Indianapolis"; and Robyn Rucker, also a 1999 Fellow, was the inaugural recipient of the Early Career Achievement Award from Indiana University School of Law at Indianapolis.

Commission on Race and Gender Fairness

In 1999, the Supreme Court created the Commission on Race and Gender Fairness to examine race and gender fairness issues in Indiana's judicial system, among legal service providers, and in public organizations. The Commission, made up of members of the judiciary, bar, state and local governments, academia, law enforcement and corrections, and public organizations, also makes recommendations to the Court to advance the issue of race and gender fairness for the improvement of our courts, and the Division of State Court Administration provides the necessary staff support. This fiscal year, former Indiana Supreme Court justice Myra Selby chaired the Commission and Lake County Circuit Court Judge Lorenzo Arrendondo served as co-chair.

Committee on Self Represented Litigants

The Indiana Supreme Court's *Pro Se* Committee was originally formed in the 1990s to address the needs of individuals who entered Indiana's courts without the assistance of an attorney. In 2000, the Committee launched the Citizens Self Service Center on the Supreme Court's website (*www.in.gov/judiciary/selfservice*), – an on-line repository of information, resources and forms that enable an individual to navigate in our courts in relatively simple matters without an attorney's assistance. The Division maintains the site and a Division staff attorney serves as a contact person to respond to inquiries and provide additional referrals and resources.

As the number of self-represented litigants appearing in court continued to rise, the Supreme Court amended Administrative Rule 4(D), effective January 1, 2008, and reconstituted the *Pro Se* Committee as the "Indiana Supreme Court Committee on Self Represented Litigants." Composed of judges, court clerks, community members, librarians, attorneys, and legal-service providers, the Committee studies and recommends to the Court improvements to the practice, procedures, and systems for serving the self-represented litigants in Indiana's courts. During this fiscal year, the Division conducted in-house training on enhanced customer service for informed referrals to individuals who call the Division, the Indiana Judicial Center, and the Supreme Court seeking information and resources on self representation.

JUDICIAL CONFERENCE OF INDIANA/ INDIANA JUDICIAL CENTER

Jane A. Seigel, Executive Director

Overview

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

Judicial Education Activities

In fiscal year 2009, the Judicial Education Department of the Judicial Center presented 24 days and 168.5 hours of continuing judicial education instruction. Total attendance at these programs was 1,371. These programs are discussed in detail below.

The **2008 Annual Meeting of the Judicial Conference of Indiana** was held on September 9-11, 2008 at the Hyatt Regency Hotel in Indianapolis. This mandatory conference offered 34.5 hours of educational programming to the 513 participants in attendance. Education sessions featured during the three-day event included state bail issues; problem-solving courts; why it mattered that Lincoln was a lawyer; Trial Rule 52 findings by the court; criminal law update; weathering bad news and highlighting good news; being partisan under the Code of Judicial Conduct; judicial branch employee education; and computer classes on the Odyssey Case Management System and the Protection Order Registry.

On October 16-17, 2008, the Judicial Education Department held the **City and Town Court Judges Conference** at the Hilton Indianapolis North Hotel. This two-day, twelve-hour continuing education program was attended by 64 of Indiana's 75 city and town court judges. This program included sessions on access to public records and Administrative Rule 9; employment and personnel management; commercial motor vehicles; the new Indiana Code of Judicial Conduct; and round-table discussions on due process procedures in infraction and ordinance violation cases.

A two-day **Pre-Bench Orientation Program for Newly Elected Judges** was held on December 10-11, 2008 at the 30 South Meridian Street Conference Center. Forty-five newly elected judges attended. Information about duties and responsibilities of both the Indiana Judicial Center and the Division of State Court Administration was provided. Participants were exposed to educational information on the transition to the bench and the impact of the Code of Judicial Conduct; the judge as an employer; and federal employment laws. In addition, a panel of experienced judges sat with the new judges and talked with them about preparing for January 2009 and beyond.

"Judicial Leadership" was the focus of the **Winter Program for Judicial Officers** on December 12, 2008. R. Dale Lefever, Ph.D., Management Consultant from Ann Arbor, Michigan, served as the lead faculty. He led a discussion on leadership in the context of court governance, the purpose and process of judicial leadership, and the characteristics of effective judge-staff relationships. Members of the Strategic Planning Committee of the Board of Directors of the Judicial Conference of Indiana participated in the conference and gave a report on their activities.

All recently elected and appointed judges, magistrates, and full-time commissioners and referees were invited to a week-long **General Jurisdiction Orientation** program held the week of January 26-30, 2009 at the Hyatt Regency Hotel in Indianapolis. Sixty new judicial officers received training on evidence rules; demeanor, civility and courtroom control; jury selection and jury management issues; litigants without lawyers and litigants with language barriers; avoiding reversal; the Code of Judicial Conduct; and the impact of the judicial career. Sessions on management of the various jurisdictional dockets were also offered.

A one-day **Orientation for New Juvenile Court Judicial Officers** was held at the offices of the Indiana Judicial Center in Indianapolis on February 11, 2009. Eleven juvenile court judicial officers came for instruction on handling CHINS cases; termination of parent-child relationship; and delinquency cases.

In its tenth year, the **Spring Judicial College** program was held on April 15-17, 2009 at the Hilton North Hotel in Indianapolis. This program offered longer courses on a variety of topics with smaller class sizes to enhance group participation. Fifteen simultaneous full and half-day courses were presented during this three-day conference that drew record-level attendance of 348 judicial officers. A majority of the conference participants attended more than one program. Some of the courses offered at the 2009 Spring program included the origins of the independent judiciary and the Constitution without a Bill of Rights; evidence-based sentencing and dispositions for drug offenders; the use of arbitration in civil and domestic relations matters; evidence rules on admission of exhibits; zombie debt; the changing face of foreclosure; the special charge of OWI; and compassion fatigue, among others.

On May 31-June 5, 2009, the sixth class of the **Indiana Graduate Program for Judicial Officers** met for their second week of the two-week Graduate Program at the Brown County Inn in Nashville, Indiana. Twenty-seven judicial officers participated in the program, which offered education courses in race and the constitution; excursions to German/European law; immigration law; and international law in Indiana.

The Juvenile Judges Annual Meeting was held on June 18-19, 2009 at the Renaissance North Hotel in Carmel, Indiana. One hundred ten judicial officers were in attendance. The program agenda included sessions on recent legislation; case law update; positive youth development; HEA 1001-2008; mental health screening and assessment; and the adolescent brain.

General Court Staff Education

In fiscal year 2009, the Judicial Center presented one day of instruction for court staff. The inaugural staff training workshop – a program for jury administrators – was held on November 14, 2008. One hundred fourteen court staff, clerks, and jury administrators attended the training, receiving five hours of instructions on jury administration.

The Center also worked with the National Center for State Courts to provide an on-line supervision course. This eight-hour web-based course focused on developing effective court staff management skills. The twenty-one participants had access to the course materials over a three-month period and could complete the course at their own pace.

Additional courses were developed by the Judicial Center and Division of State Court Administration to train staff on customer service, dealing with self-represented litigants, court procedures, and understanding the difference between legal information and legal advice. These courses were provided to trial court staff, clerks, and Supreme Court staff. In addition, a course to train judges as trainers on dealing with self-represented litigants was offered as a part of the Spring Judicial College to assist judges in training their own staff on this topic.

Finally, at the request of the of the Court Management Committee, attorneys for the Judicial Center and the Division of State Court Administration developed a curriculum to assist judges in training staff on the topic of staff ethics.

Probation Activities

The Judicial Center, pursuant to Indiana statutory law, administers the Interstate Compact for the transfer of adult and juvenile probationers in and out of Indiana, and also serves as the intermediary for the return of juvenile runaways, absconders, and escapees. The total number of compact cases supervised as of June 30, 2009 was 2,614 in-state and 2,554 out-of-state, according to the National Interstate Compact Tracking System ("ICOTS"). The Judicial Center processed 155 runaway cases, 43 of which were court-ordered requisition returns.

The Judicial Center also staffs the State Council of the Interstate Compact for Adult Offender Supervision ("State Counsel") and pays for the expenses of the Council through appropriations made by the General Assembly and through a portion of the fees paid by persons transferring under the compact. The State Council met during the fiscal year to discuss Compact rules and their effect on probation and parole. The Interstate Compact for Adult Offender Supervision began using the new ICOTS system in October 2008 and Indiana was one of five pilot states to help implement this program.

Finally, in fiscal year 2009 the Center administered the probation officers' certification examination to 152 applicants, and provided eighteen days of instruction for a total of 1,594 probation officers.

During the fiscal year, the Indiana Judicial Center and the Department of Correction continued to work with researchers to evaluate and implement a newly created public domain risk and needs-assessment instruments for both adult and juveniles. The Judicial Center secured a Byrne Grant from the Indiana Criminal Justice Institute to assist with the funding for this project. Probation departments and other community supervision programs from 22 counties, along with several Department of Correction facilities, assisted the researchers with conducting the necessary interviews to evaluate these tools. The Indiana Risk Assessment Task Force plans to reconvene during Fall 2009 to review the evaluation reports. The Probation Officers Advisory Board developed a "best practices" manual for probation supervision, which is posted on the Judicial Center's web page. Throughout its projects, the Advisory Board is continuing to promote evidence-based practices training and programming.

Also during the fiscal year, the Judicial Center collected information concerning the implementation of home detention in Indiana and presented a report to the Indiana General Assembly on January 15, 2009.

Research Activities

During fiscal year 2009, the Judicial Center also continued its mission of providing legal research services to trial court judges. As part of this effort, it distributed 37 issues of *Case Clips* by e-mail, which are maintained on the Center's website. Also, at the close of the fiscal year, the Judicial Center's Research Department was in the process of preparing a 2009 benchbook CD-ROM containing seven benchbooks for distribution in September 2009.

Legislative Activities

From January to July 2009 the Judicial Center continued its practice of reviewing and providing weekly "Friday Updates" to Indiana judges concerning Indiana General Assembly session activities relevant to the judiciary. For the third year, this publication was provided using an Internet blog, which made it more interactive and allowed for enhanced search capabilities.

Juvenile Services

The Judicial Center continued its maintenance of a roster of instate facilities providing residential services to children-in-need-of-services ("CHINS") and delinquent children. The roster is updated regularly to provide current information on costs, types of services provided, specialized treatment programs available, and targeted population.

The Judicial Center and the Division of State Court Administration administer the Court Improvement Program ("CIP"). During this fiscal year, the CIP awarded over $425,000 to sub-grant recipients to support projects designed to improve the safety, well-being and permanency for children and families involved in child abuse and neglect proceedings. Some of the funded projects included a mental-health specialty-track program for dependency cases; a volunteer-mentoring program to assist children transitioning from the child welfare system with job training and placement; mediation and facilitation programs; summer camp sessions for children adjudicated CHINS; CHINS drug court programs; training and education programs; and publication and distribution of child-welfare resource guides.

CIP funds were also used to support the Family Court Project, the portion of JTAC's work that affects the processing of child welfare cases, and the Indiana Juvenile Court Judicial Officers Annual Meeting, and to provide eight professional development scholarships to trial court judges with juvenile court jurisdiction to help defray the cost of attendance at child welfare-related conferences and the cost of membership in a child welfare-related professional organization.

Also during this fiscal year, the CIP conducted a detailed data collection and analysis project reviewing all Termination of Parental Rights ("TPR") appeals in the State of Indiana from 2003 through 2007. The emphasis of the project was to investigate methods to improve permanency in the lives of children awaiting adoption. The project included an in-depth review of all 539 cases appealed during the period, assembling data on filing issues, timing problems, statutory compliance and others. The analysis of the resulting data centered on the average number of days elapsing at critical stages of each appeal and the total time for each appeal to be completed. A 42-page final report was presented to the CIP Executive Committee. As a result of this review, recommendations to reform, streamline, and expedite the appellate process as it relates to TPR cases were submitted to the Indiana Supreme Court for consideration.

The CIP also implemented a pilot project on court performance measures in child abuse and neglect cases in Allen County. The purpose of the project is to measure the courts progress in achieving safety, performance, and well-being of children involved in the child welfare system by establishing a baseline of current practices, diagnosing needed improvements and then building and tracking improvement efforts. It is anticipated that this pilot project will be replicated in other jurisdictions.

Implementation of P.L. 146-2008; H.E.A. 1001

The implementation of P.L. 146-2008; H.E.A. 1001 ("HEA 1001") was a key focus of the Judicial Center this fiscal year. This legislation transitions funding of placements and services for CHINS and delinquent juveniles from the counties to the State. The Judicial Center, the Department of Child Services ("DCS"), judges, probation officers, GAL/CASAs, service providers, and others worked intensely to assure a smooth transition on January 1, 2009. Many judicial officers, probation officers, attorneys, service providers, DCS staff, and others generously gave their time to discuss and draft the new procedures, forms, and policies needed under this new law. The DCS and the Judicial Center planned and organized procedures for agencies throughout Indiana to provide services and placements for juveniles after January 1, 2009, and posted standardized court orders and reports on the Judicial Center's website.

Probation officers and others reviewed the standards to ensure service providers in the counties would be able to provide services under state contracts. Solicitations for service providers, consultants, and others to submit requests for proposals were also circulated by the Judicial Center. The fourth wave of solicitations, which drew on experienced probation officers for its requirements, concentrated on probation services including day treatment, quality assurance for children in residential placement, residential detoxification, and transition from restrictive placement back to the child's home.

An emphasis on coordinated training also occurred to assist the transition to the new and revised juvenile laws under HEA 1001. Education for the judicial officers affected by the changes in the law occurred at the Annual Meeting of the Judicial Conference of Indiana in September 2008 and at the Juvenile Judges Conference in June 2009. Juvenile and Family Law Section of the ISBA hosted a training session in October 2008. In November 2008, six regional training sessions were offered for probation and judicial officers. A second training was offered during the Probation Officers Annual Meeting in May 2009.

The implementation of HEA 1001 also included developments in technology. In just four months, JTAC, with the help of the Judicial Center and DCS, developed, tested, and launched an application for sharing information between probation and DCS. This application has been critical to the efficient and effective handling of key aspects of juvenile services.

Other efforts to assure implementation of HEA 1001 included: (1) developing a chart of reasonable efforts determinations; (2) frequently updating information on the DCS and Indiana Judicial Center's website; (3) creating the "Friendly Friday Update" authored by the Judicial Center and DCS for distribution via email to judges, probation officers, and others; (4) circulating guidelines about important, yet unclear, portions of these statutes; and (5) frequently collaborating on proposed legislation to help clarify some provisions of the statutes. The level of teamwork between and within the various branches of government in implementing this historic shift in child-services funding has been unprecedented.

Court Alcohol and Drug Program Activities

The Judicial Center continued its administration of the Court Alcohol and Drug Program during fiscal year 2009. 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 two criminal justice trainings. The Court Alcohol and Drug Program staff continued to conduct the required Court Substance Abuse Management Specialist ("CSAMS") training session, which results in a cost-savings of about $20,000 per year. The CSAMS training sessions offered this year included two substance-abuse characteristics courses, two assessment and interviewing courses, and two assessment courses.

Staff recertified sixteen court alcohol and drug programs. The CSAMS credential was awarded to 65 candidates who met all the requirements stated in the governing rules after the administration of the credential exam to 75 candidates. The Certification Subcommittee completed the process of updating the CSAMS credential exam, completed reviewing the certification process, participated in the rules revision, and addressed other program-related certification issues.

The Court Alcohol and Drug Program Annual Meeting was held on March 11th and 12th in Indianapolis, with an administrative meeting for supervising judges and program directors preceding it on March 10th. Policy issues examined included developing program transfer guidelines, expanding services to juvenile courts, and recommending revisions to the Rules for Court-Administered Alcohol and Drug Programs, developing program statistical reporting measures, and recommending statutory amendments regarding program eligibility, among others.

Seventeen education scholarships (paying up to $1,000 each) were requested during fiscal year 2009 by program judges and staff. Sixteen scholarships, totaling $13,617.71 were awarded. Ten grant applications (paying up to $2,500 each) totaling $16,660.18 were approved in fiscal year 2009 for programs to improve their program technology or education programs.

Problem-Solving Courts

On October 1-3, 2008, the Judicial Center hosted the second-annual Problem-Solving Court Workshop for judges and team members of certified drug courts, certified reentry courts, and judicial officers interested in learning more about problem-solving courts. The event offered 21 education sessions, and 186 problem-solving court team members attended the event, including 29 judicial officers.

Drug Courts

The Judicial 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 in exchange for their compliance with a tight set of treatment requirements and extremely close monitoring directly by the judge. Those who successfully complete the program and comply with its conditions may have their charges dismissed. As of June 30, 2009, there were 30 operational drug courts (26 adult and four juvenile) with an additional four adult drug courts in the planning stages. The Judicial Center certified or recertified eleven drug courts in fiscal year 2009.

The Drug Court Performances Measures Task Force established by the Problem-Solving Courts Committee in 2007 continued its work to develop recommendations for statewide drug court performance measures. The task force identified nine categories of performance measures and coordinated a data-collection pilot project to determine the feasibility of collecting the data associated with the measures. Ten courts participated for a period of 90 days, after which the task force met to review the results. The task force anticipates providing a recommendation regarding the adoption of drug court performance measures to the Problem-Solving Courts Committee later in 2009.

In fiscal year 2009, the Judicial Center assisted the Supreme Court and the Division of State Court Administration in administering a Drug Court Grant Program that funded 24 drug courts for a total of $146,887.

Reentry Courts

Effective July 1, 2006, the Judicial Center began overseeing reentry courts established under Indiana Code chapter 33-23-14. The Problem-Solving Courts Committee completed drafts of reentry court rules in 2008 and held a public comment hearing on the rules on October 24, 2008. The Board of Directors adopted the rules on December 4, 2008, and the Judicial Center completed the first reentry court certification review under the reentry court rules in June 2009. As of June 30, 2009, there were six reentry courts in Indiana and three in the planning stages (two adult, one juvenile). Also in fiscal year 2009, the Judicial Center assisted the Division of State Court Administration in administering a Reentry Court Grant Program that funded five reentry courts for a total of $50,000.

Other Activities and Projects

Mortgage Foreclosures Initiatives – The Judicial Center hosted four CLE sessions, held in conjunction with its district meetings, where over 70 judges learned about the latest developments in mortgage foreclosure law as well as statewide prevention efforts and resources available through the Indiana Foreclosure Prevention Network. Also, the Judicial Center offered two 2.8 hour CLE sessions during the Spring Judicial College program for judicial officers. During the legislative season, legislators and other interested agencies consulted the Judicial Center regarding potential court-related issues in several foreclosure-related legislative proposals. Judicial Center staff also participated in the Supreme Court's Mortgage Foreclosure Taskforce and assisted with the Indiana Housing and Community Development Authority's foreclosure prevention initiatives.

Strategic Planning – In June 2008, the Judicial Conference of Indiana's Board of Directors met to discuss and identify several strategic planning goals to assist the judiciary in planning for its future. As a result of this meeting, the Strategic Planning Committee was formed to discuss and research these broad goals. Over the course of fiscal year 2009, this Committee researched these concepts and made regular reports to the Board of Directors. The Committee plans to continue to assist the Board with strategic planning during the next fiscal year as well.

Court Performance Taskforce – The Supreme Court appointed a group of trial court judges from around the state to look at court performance and evaluation issues. This Task Force met numerous times throughout the fiscal year and consulted with

representatives from the National Center for State Courts about possible performance and evaluation tools. The Task Force developed an education session on court performance and evaluation for the Spring Judicial College program held in April 2009 and plans on continuing to develop additional educational opportunities in the future.

WorkPlace Spanish Course – The Indiana Judicial Center continued its partnership with the Division of State Court Administration and Ivy Tech Community College to provide WorkPlace Spanish® Training for the Indiana Judicial System. The course consists of 24 hours of classroom instruction and the textbook includes a CD-ROM to help staff maintain the skills learned during the course. The course is being offered to court staff at no cost to the counties or participants. Since the fall of 2006, approximately 673 people have participated in or submitted enrollment forms for this course.

Committee Activities

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

- The **Alternative Dispute Resolution Committee** provided comments on the mortgage foreclosure legislation proposed this last session, promulgated an ADR rule revision, supported two ADR-related statutory and rule amendments, and began exploring the emerging use of parenting coordinators and court-referred arbitration in civil matters.

- The **Civil Benchbook Committee** worked on updates for the Second Edition of the Civil Benchbook.

- The **Civil Instructions Committee** worked on a plain-language "translation" of the civil pattern jury instructions.

- The **Community Relations Committee** worked with the Supreme Court's "Courts In the Classroom" project to create the Indiana Judges Speakers Bureau, through which volunteer judges speak to K-12 students about courts and the law.

- The **Court Management Committee** continued developing 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 Committee also requested that attorneys from the Judicial Center and the Division of State Court Administration develop a curriculum to assist judges in training staff on the topic of staff ethics.

- The **Criminal Benchbook Committee** worked on revisions and updates to the Criminal Benchbook.

- The **Criminal Instructions Committee** neared completion of its annual supplement, which will be published January 1, 2010.

- The **Criminal Law Policy Committee** continued its role as a liaison with state and private agencies discussing criminal law matters, and reviewed legislation and policies concerning criminal law and sentencing.

- The **Domestic Relations Committee** completed a review of Indiana's child support guidelines.
- In November 2008, the **International Law Committee** hosted a delegation of judges from Ukraine, sharing aspects of American society and the American justice system while learning about Ukrainian social and legal customs.

- The **Judicial Administration Committee** completed a review of the judicial weighted caseload system, which was accepted by the Board of Directors in June 2009.

- The **Jury Committee** continued its work with the Division of State Court Administration and JTAC on a central repository for jury pool sources for trial courts to use in creating jury pools that comply with Jury Rule 2. The fourth master list was released in Fall 2008. The committee also began work on a benchbook to assist courts with jury trial management.

- The **Juvenile Benchbook Committee** received approval to post CHINS and juvenile delinquency forms online. The forms are continually updated to be in compliance with HEA 1001-2008 and the federal Title IV-E regulations. Title IV-E provides federal reimbursement to the state for child-welfare services expenditures.

- The **Juvenile Justice Improvement Committee** continued its role as a liaison with state and private agencies working with juveniles, and reviewed legislation and policies concerning juvenile justice and the courts, and worked with probation officers and DCS on the implementation of state payments of juvenile services under HEA 1001-2008.

- The **Probate Committee** reviewed recent legislation for updates to the Probate Deskbook and are in the process of studying the impact the baby-boomer generation will have on the courts, concentrating on the area of guardianships.

- The **Probation Committee** instituted new policies and procedures for intrastate probation transfers.

- The **Protection Order Committee** worked on revisions to the Protection Order Benchbook and distributed an extensive revision of relevant forms.

- The **Special Courts Committee** continued work on proposed amendments to several small claims rules and revisions to the City and Town Court Judges Manual.

BOARD OF LAW EXAMINERS

Linda L. Loepker, Executive Director

The Board of Law Examiners is responsible for ensuring that individuals admitted to practice have met all of the requirements as specified in the Admission and Discipline Rules of the Indiana Supreme Court. Such admission is achieved through one of three methods (examination, provisional foreign license, or business counsel license) all of which are supervised by the Board. The administration of the examination, provisional foreign license,

and business counsel license processes are funded through application fees. In addition to its admission duties, the Board is responsible for certifying legal interns and for approving the formation, for the purposes of practicing law, of professional corporations, limited liability companies, and limited liability partnerships. Eight Board meetings were held this fiscal year in the execution of these duties.

Character and Fitness

Before any applicant can be admitted to the bar, the Board must make a determination and certify to the Supreme Court that the applicant possess as the requisite good moral character and fitness to practice law. Certification by the Board of a finding of good moral character and fitness is a condition precedent to every admission, whether upon examination, provisional foreign license, or business counsel license. Factors considered include, but are not limited to, candor, honesty, fairness, trustworthiness, and observance of the law. "Good moral character" and "fitness" are more specifically defined in Admission and Discipline Rule 12, section 2, and guide the Board's certification determinations.

For bar examination applicants, certification of character and fitness involves not only the Board, but also the 256 members of the Supreme Court Character and Fitness Committee. The Supreme Court appoints licensed attorneys from each county in the state to this Committee. Each bar examination applicant must have a personal interview with one of the Committee members. At the interviews, the committee members question the applicant regarding their knowledge of and willingness to be bound by the Rules of Professional Conduct. At the conclusion of the interview, the Committee member submits a recommendation to the Board to approve certification of character and fitness, to deny certification, or to not make a recommendation and to defer the decision to the Board. The recommendations and observations of members of this Committee are a vital part of the Board's determination regarding certification.

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

Members of the Board of Law Examiners at one of their regularly scheduled meetings.

In making its decision regarding character and fitness, in addition to the personal interviews, the Board conducts whatever investigation it deems appropriate. This may include obtaining evaluations or assessments of applicants who may have mental health or addiction issues. The Judges and Lawyers Assistance Program ("JLAP") assisted the Board in obtaining evaluations or assessments of 34 applicants this fiscal year.

As a result of the individual interviews, JLAP assessments, and review by the Board office, 73 applicants were required to appear before the full Board to resolve matters of character and fitness. Fifty-four were applicants for the examination and 19 were applicants for admission by provisional foreign license, business counsel license, previous year applicants, or individuals admitted by conditional admission. In addition to personal appearances of applicants, the Board reviewed the files of and obtained additional information concerning 47 applicants for the examination.

The Bar Examination

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

The Board received 899 applications to take the examination. The Board administered the examination over a total of eight days in February and July to a total of 779 applicants. The standard examination is administered for a two-day period. However, some applicants require non-standard testing accommodations. The accommodations can include providing additional time, separate test areas, individual monitors, use of computers, and large-print materials. Of the 779 individuals who took the examination, 23 received accommodations.

Review of Test Results

Pursuant to Admission and Discipline Rule 14, section 1, an applicant who is unsuccessful on the examination and receives a score within nine points of passing may request that his/her exam be reviewed. Members of the Board comprise the Appeals Reviewers. Two of the Reviewers did not participate in the original grading of the examination. In July 2008, 38 unsuccessful examinees requested that their results be reviewed; no applicants passed on review. In February 2009, 19 unsuccessful applicants requested that their results be reviewed; two applicants passed on review.

Admissions

The Indiana Supreme Court holds two main Admission Ceremonies each year. Many of those admitted during the year were sworn in at the main ceremonies in Indianapolis. The October 2008 ceremony was held in Exhibit Hall D at the Convention Center in Indianapolis, and the May 2009 ceremony was held at the Indiana Roof Ballroom.

A total of 639 attorneys were admitted to practice in the State of Indiana during the fiscal year: 584 on examination, 46 on Provisional Foreign License, and nine on Business Counsel License. Fourteen of the 637 attorneys were conditionally admitted under Admission and Discipline Rule 12, section 6(c).

Conditional Admissions

When an individual has satisfied the general qualifications for admission but, because of drug, alcohol, psychological or behavioral problems, the Board has concerns about the individual's character and fitness, the Board may offer the applicant conditional admission under Admission and Discipline Rule 12, Section 6(c). Conditional Admissions, when permitted, are subject to conditions set out in consent agreements. Conditional Admissions are confidential and take many forms all of which require monitoring by the Board. Of the fourteen attorneys admitted under this rule during the reporting period, six also required monitoring and reporting by JLAP. At the close of the fiscal year, the Board was monitoring 32 individuals given Conditional Admission and subject to the terms of a consent agreement. Of those, fifteen were being monitored solely by the Board's staff and seventeen were also being monitored by JLAP.

Admission on Provisional Foreign License

Attorneys licensed in other states may be granted a provisional license to practice law in Indiana upon a finding by the Board that the individual has met the requirements set out in Admission and Discipline Rule 6, section 1. The Board admitted 46 attorneys on provisional foreign license from eighteen different states or U.S. territories. Of those, 33 held licenses in one other state, eight were admitted in two other states, and five were admitted in three or more states prior to their admission in Indiana. The individual states of admission prior to Indiana are the following:

Arizona	1	Michigan	7
California	3	Missouri	2
Connecticut	1	New York	1
District of Columbia	4	Ohio	6
Florida	5	Pennsylvania	1
Illinois	14	Tennessee	1
Kentucky	4	Texas	4
Maine	1	Vermont	1
Maryland	4	Washington	1
Massachusetts	2	Wisconsin	1

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

The provisional foreign license must be renewed annually or it expires. Upon the fifth consecutive renewal of the provisional license the admission will no longer need to be renewed and becomes permanent. Forty-seven attorneys met the provisional practice requirements in Indiana and their licenses were made permanent. The licenses of 21 attorneys admitted on foreign license expired because they failed to meet the practice requirements of Admission and Discipline Rule 6, they failed to qualify for renewal for some other reason, or they did not apply to renew their provisional license.

Admission on Business Counsel License

The Indiana Business Counsel License allows an attorney licensed in another state, whose sole employer is a person or entity engaged in business in Indiana other than the practice of law, to be admitted to practice without examination. The Board granted Business Counsel Licenses to nine applicants this fiscal year, six of whom were admitted in one other state, and three of whom were admitted in two other states, prior to their admission in Indiana. The individual states of admission prior to Indiana are the following:

Arizona	1	Ohio	1
Hawaii	1	Pennsylvania	1
Illinois	1	Tennessee	2
Kentucky	1	Texas	1
Nebraska	1	Virginia	1
New York	1		

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

The Business Counsel License is valid for one year so long as the employment continues as specified in the rule. The license may be renewed for a like term of one year upon submission of verification of employment. Time that an attorney accrues while licensed on a Business Counsel License may be applied to the practice requirement of the Provisional License so long as all other requirements of the Provisional License are met. Failure to maintain the employment requirements of the Admission and Discipline Rule 6, failure to qualify for renewal for some other reason, or failure to renew the business counsel license causes the license to expire. Three licenses expired pursuant to this provision during this fiscal year.

Certified Legal Interns

Under Admission and Discipline Rule 2.1, the Board is responsible for the certification of law school students or graduates to serve as legal interns allowed to perform certain legal tasks under the supervision of an attorney. Serving as a legal intern enables the interns to gain practical legal experience in an approved program under the supervision of qualified attorneys prior to their being admitted to practice.

Law school deans advise the Board of those students who qualify academically, the date of their graduation, and the term of the internships. The supervising attorneys advise the Board regarding their willingness and ability to supervise the interns. If all requirements are met, the Board certifies the legal interns and notifies the Clerk of the Supreme Court, Court of Appeals and Tax Court. This fiscal year, the Board certified 404 students and 63 graduates to serve as legal interns.

Formation of Associations for the Legal Profession

Lawyers seeking to organize or practice by means of professional corporations, limited liability companies or limited liability partnerships must apply to the Board for approval prior to engaging in practice under the entity. Upon approval of the application, the Board issues a certificate of registration. Additionally, upon receipt of a written renewal application, the Board renews those certificates of registration upon a finding that the professional corporation, limited liability company, or limited liability partnership has complied with the applicable statutes and rules. During this fiscal year, there were 838 active professional corporations, 172 limited liability companies, and 179 limited liability partnerships. Of those numbers, 48 professional corporations, 35 limited liability companies, and 21 limited liability partnerships were newly formed.

Members of the Board of Law Examiners

The Indiana Supreme Court appoints the members of the Board of Law Examiners. The terms of members are governed by Admission and Discipline Rule 9 and begin on December 1st of each year. As of December 1, 2008, the Board's officers were: Leslie C. Shively of Evansville, President; Jon B. Laramore of Indianapolis, Vice-President; Gilbert King, Jr., of Gary, Treasurer; and Professor Maria Pabon Lopez of Indianapolis, Secretary. Their terms as officers are for one year and end on December 1, 2009. The remaining members of the Board are Cynthia S. Gillard of Elkhart, Eileen J. Sims of Lebanon, Charlotte F. Westerhaus of Indianapolis, Michael M. Yoder of Kendallville, Gary K. Kemper of Madison, and the Honorable Barbara L. Brugnaux of Terre Haute. Mr. Kemper and Senior Judge Brugnaux received their appointments during this fiscal year, replacing the Honorable Stephen R. Heimann and Sheila Corcoran, who both completed 10 years of service on December 1, 2008.

COMMISSION FOR CONTINUING LEGAL EDUCATION

Julia L. Orzeske, Executive Director

The Commission for Continuing Legal Education was created in 1986. It consists of eleven Commissioners and one liaison to the Alternative Dispute Resolution ("ADR") Committee of the Judicial Conference of Indiana. The Commission's basic duties are to regulate the mandatory minimum continuing legal education requirements of each attorney admitted in Indiana, regulate education programs of mediators who serve Indiana courts under the Indiana ADR Rules, and regulate the Independent Certifying Organizations that certify attorney specialists under Indiana Admission and Discipline Rule 30. The Commission employs a part-time Executive Director, 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 2009: Michael E. Tolbert, Chair; the Honorable Nancy Eshcoff Boyer, Vice-Chair; Joseph H. Yeager, Jr., Treasurer; Sandra Hamilton Miller, Secretary; Gerald M. Bishop, Immediate Past-Chair; Susan G. Gainey; John L. Krauss; the Honorable John T. Sharpnack; Jeffry Lind; Barbara Bichelmeyer, PhD; the Honorable Charles K. Todd, Jr.; the Honorable David Avery; and John D. Ulmer. The Honorable Keith Mark Loyd served as a liaison to the CLE Commission by virtue of his position as Chair of the ADR Committee of the Judicial Conference of Indiana and replaced the Honorable David Avery, whose term ended in September 2008.

Accreditation of CLE Courses and Hours

In fiscal year 2009, the Commission reviewed a total of 6,956 courses of all types, including traditional continuing legal education ("CLE") courses, non-legal subject courses, applied professionalism programs, distance education courses, and in-house courses. Of these, 3,061 were traditional courses (not in-house, non-legal subject, or distance education) for which an application for CLE accreditation was made, and 3,674 were traditional courses given by approved sponsors (where no application is required). The Commission denied accreditation to 79 applications and 28 approved-sponsor courses. A total of 15,969 attorneys reported traditional CLE credits to the Commission, amounting to 217,148 hours of CLE credits (29,849 of which were ethics credits).

Attorneys are allowed to take a limited number of credits in non-legal subject ("NLS") areas to enhance their proficiency in the practice of law. During the fiscal year, 262 NLS courses were reviewed. The Commission approved 251 NLS courses and denied accreditation to eleven courses. Attorneys reported a total of 2,595 NLS credits during this period.

Indiana attorneys are also permitted to take a limited number of CLE hours through interactive distance education or in-house courses. These courses must meet strict guidelines to be approved. The Commission approved 1,127 distance education courses and denied 101. A total of 2,460 attorneys reported 7,410 hours of distance education, less than 3% of the total CLE hours reported by Indiana attorneys. The Commission approved 334 in-house programs, and denied accreditation to 54. Five hundred ten attorneys reported a total of 834 hours of in-house CLE.

The Commission for Continuing Legal Education at one of its regularly scheduled meetings, the Commission discusses plans for the future.

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 to newly admitted attorneys for little or no cost. During this fiscal year, 500 newly admitted attorneys attended these courses.

Mediator Registry

This fiscal year the Commission also continued administering and regulating a registry of court-approved mediators in Indiana. The first mediator registry was distributed in June 1997. In this initial registry, there were 235 listings for civil mediators and 110 listings for domestic relations mediators. As of June 30, 2009, those listings stood at 606 listings for civil mediators and 582 listings for registered domestic relations mediators. The registry has grown over 25% during the last five years, with the numbers of domestic relations mediators increasing about 59% during that period. To remain on the registry, a mediator must pay an annual fee and report at least six hours per three-year education period of Continuing Mediation Education ("CME") approved by the Commission. In fiscal year 2009, 40 people were trained in basic civil mediation and 32 were trained in basic domestic relations mediation.

Attorney Specialty Certification

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

As of June 30, 2009, there were 265 listings for Indiana attorneys who are specialists in their particular areas of law. This represents nearly a 100% increase over the number of such listings five years ago. These attorneys are certified in the practice areas of Family Law (62 specialists, certified by the Indiana State Bar Association); Consumer Bankruptcy (twelve specialists, certified by the American Board of Certification); Business Bankruptcy (24 specialists, certified by the American Board of Certification); Creditors Rights (six specialists, certified by the American Board of Certification); Civil Trial Advocacy (40 specialists, certified by the National Board of Legal Specialty Certification/National Board of Trial Advocacy); Criminal Trial Advocacy (three specialists, certified by the National Board of Legal Specialty Certification/ National Board of Trial Advocacy); Elder Law (18 specialists, certified by the National Elder Law Foundation); and Estate and Planning Administration (100 specialists, certified by the Indiana State Bar Association).

Growth of the Office and its Responsibilities

The Commission's responsibilities have continued to grow rapidly since its inception in 1986. In 1987, the first year for which statistics are available, the Commission reviewed 687 courses. In the past fiscal year, the Commission reviewed more than ten times that number. In 1986, there were approximately 10,500 practicing attorneys. There are now well over 16,000. In addition, within the last twelve years, the Commission has taken on the added responsibilities of mediation registration and education; new attorney education regulation; attorney specialization; and ethics course accreditation. Within the last several years, the Commission has added the new accreditation areas of in-house and distance education courses. The Commission has added no staff, other than a contract attorney for specialization, since 1999.

In addition, Chief Justice Shepard issued a new challenge in his January 2009 State of the Judiciary Address to train more judges, attorneys, and mediators than any other court system in America. To this end, the Commission sponsored more than 35 CLE courses that provided training for more than 700 attorneys. The Commission also sponsored five training programs for mediators in mortgage foreclosure cases. In exchange for this training, each participating mediator agreed to accept two mortgage foreclosure cases on a *pro bono* basis. At the close of this fiscal year, the Commission was well on its way to listing more mortgage foreclosure mediators than any other state in the nation.

CLE Staff Accomplishments

The Commission has been active on the state and national level. Anne Davidson, Office Manager and Mediation Services Coordinator, served on the Membership Committee of the national association of CLE regulators (CLEreg, formerly O.R.A.C.L.E.), and Executive Director Julia Orzeske served on the Bylaws Committee. In addition, Ms. Orzeske was recently appointed to a three-year term on the ABA Standing Committee on Specialization and is an active member of the Indiana State Bar Association PLEADS and ADR sections. She serves on the ISBA Women in the Law, Long Range Planning, and Mentor Match Committees.

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

INDIANA SUPREME COURT DISCIPLINARY COMMISSION

Donald R. Lundberg, Executive Secretary

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

The Indiana Supreme Court Disciplinary Commission at one of their regularly scheduled meetings.

Case Filings and Dispositions

During fiscal year 2009, 1,456 grievances were filed with the Commission, approximately 100 fewer than in the previous year. The Commission initiated 53 of those grievances in its own name based upon information from a variety of reporting sources, including reports from lawyers and judges. Third-party complainants filed the balance of the grievances.

During the reporting period, the Commission filed 62 Verified Complaints for Disciplinary Action with the Supreme Court, fifteen more than in the preceding year. These Verified Complaints, together with amendments to pending Verified Complaints, represented findings of probable cause by the Commission in 81 separate counts of misconduct, ten fewer than in the preceding year.

The Court issued 74 final orders disposing of lawyer discipline cases, nineteen more than in the preceding year, representing the completion of 110 separate matters, 44 more than in the preceding year. By disposition type, those cases were resolved as follows:

Private Reprimands	4
Public Reprimands	24
Suspensions with Automatic Reinstatement	4
Suspensions with Conditional Reinstatement	13
Suspensions without Automatic Reinstatement	19
Resignations Accepted	4
Disbarments	3
Judgments for Respondent	1
Dismissals for Other Reasons	2
Total	**74**

The Commission resolved six cases administratively through the issuance of private administrative admonitions. In addition to these concluded matters, the Court issued orders of interim suspension in seven cases upon the request of the Commission. The Court also ordered the suspension of the law licenses of 131 active and inactive lawyers for their failure to pay annual attorney registration fees.

Reinstatements

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

Trust Account Overdrafts

The Commission was notified by financial institutions of 125 of overdrafts on attorney trust accounts this fiscal year. The following are the results of overdraft inquiries during the reporting year:

Carried Over from Prior Year	36
Overdraft Reports Received	125
Inquiries Closed	130

Reason for Closing:

Bank Error	37
Deposit of Trust Funds to Wrong Trust Account	2
Disbursement from Trust Before Deposited Funds Collected	16
Referral for Disciplinary Investigation	12
Disbursement From Trust before Trust Funds Deposited	17
Overdraft Due to Bank Charges Assessed Against Account	2
Inadvertent Deposit of Trust Funds to Non-Trust Account	9
Overdraft Due to Refused Deposit for Bad Endorsement	3
Law Office Math or Record-Keeping Error	22
Death, Disbarment or Resignation of Lawyer	1
Inadvertent Disbursement of Operating Obligation From Trust	6
Non-Trust Account Inadvertently Misidentified as Trust Account	2
Fraudulent Office Staff Conduct	1
Inquiries Carried Over Into Following Year	31

Case Highlights

The Court decided nine cases through issuance of six per curiam opinions:

In *Matter of Scott A. Benkie and Douglas A. Crawford*, 892 N.E.2d 1237 (Ind. 2008), the respondents, who were law partners, received public reprimands for violating the Rules of Professional Conduct ("Prof. Cond. Rs.") governing lawyer advertising. The respondents produced a brochure stating that the firm has a "commitment to obtaining the best possible settlement for you and your family," and a second brochure describing several prior successful representations, including the area of law, client names, amounts recovered, and other facts. "Legal Advertisement" appeared on each page of both brochures through 2004, at which time it was replaced with "Advertising Material."

The Court contrasted the firm stating it makes a "commitment to obtaining the best possible settlement" with a statement that an attorney *can obtain* the best possible settlement, finding that, while the latter violates Prof. Cond. R. 7.2(c)(3) by promising a result and creating an unjustified expectation on the part of

prospective clients, the respondents' *commitment* did not violate the rule. The Court did find a violation of Prof. Cond. R. 7.2(d)(2) for including information on past performance, explaining that there is no exception for use of quotations from newspaper articles, which are not necessarily accurate and possibly subject to selective editing. The Court found further violation of Prof. Cond. R. 7.3(c) for using the phrase "Legal Advertisement," which may leave the impression that the advertisement had been reviewed by a legal body. The Court rejected the respondents' argument that they should be immunized from sanction because, when they filed the advertising material with the Commission as required under Prof. Cond. R. 7.3(c), they sought the approval of the materials. The Court held that, although the Commission's staff has sometimes provided warnings regarding potential rule violations, the Commission was under no obligation to do so and that such a requirement would create an impossible burden.

In *Matter of Kimberly O. Powell*, 893 N.E.2d 729 (Ind. 2008), the respondent received the most severe sanction available, permanent disbarment, as a result of myriad forms of misconduct. In one example, the respondent collected $750 to assist with an unemployment compensation matter and to enforce a child support order. The respondent settled the child support matter without her client's consent for $200, even though the arrearage exceeded $1,000. The respondent took no action on the unemployment matter and refused to provide any refund after her client terminated the engagement. In another example, the respondent falsely claimed she had substantial experience in handling federal felony drug charges, charged $5,000 for such a case, refused to refund any part of a $2,000 payment after being discharged and attempted to collect an additional $3,100 despite having performed no substantial work on the case. In yet another example, the respondent filed a client's employment discrimination suit in federal court after the deadlines for the claims, failed to respond to the defendant's discovery requests until ordered by the court, and failed to respond to the defendant's summary judgment motion, resulting in an adverse judgment and an assessment of costs of $2,000 against her client.

The respondent further agreed to represent a client in a murder case in Illinois for an "engagement fee" of $10,000 paid by the client's parents, despite having not met the client, having never appeared in an Illinois court, and having no experience representing a murder defendant. Without consulting her client, she advised his parents that he should surrender to the authorities. She did not appear at the client's initial hearing nor do anything for him except advise his parents that he should request a public defender. The respondent then refused the parents' request for a refund and falsely told the Commission she had diligently sought *pro hac vice* admission in Illinois.

The Court found that the respondent violated Prof. Cond. R. 1.1 by failing to provide competent representation; 1.2(a) by failing to consult with a client about the means of achieving an objective and failing to abide by a client's decisions about the objective of representation; 1.3 by failing to act with reasonable diligence and promptness; 1.4(a) by failing to keep a client reasonably informed about the status of a matter and promptly respond to reasonable requests for information; 1.4(b) by failing to explain a matter to the extent reasonably necessary to permit a client to make informed decisions; 1.5(a) by charging an unreasonable fee; 1.5(c) by making an unwritten contingent fee agreement; 1.7(b)(2) by representing a client when there is a concurrent conflict of interest due to the lawyer's personal interests; 1.15(a) by failing to hold property of clients properly in trust; 1.16(a)(3) by failing to withdraw from representation after being discharged and failure to file motion to withdraw after deciding to end representation; 1.16(d) by failing to refund advance payment of fees and expenses that have not been earned or incurred; 8.1(a) by knowingly making a false statement of material fact to the Commission in connection with a disciplinary matter; 8.4(b) by committing the criminal act of conversion; 8.4(c) by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and 23(29)(a)(1) by failing to keep clients' funds in a clearly identified trust account.

In *Matter of Anonymous*, 896 N.E.2d 916 (Ind. 2008), the Court privately reprimanded the respondent, but published an opinion to educate the bar about the proper use of subpoenas. The respondent represented an insurance company against which a third party made a claim, asserting that an insured had caused personal injury to him. Before any legal action had been filed, the respondent served the third party on three separate occasions with a subpoena *duces tecum*, commanding the third party, pursuant to "Indiana Trial Rule 45(B)" and "Trial Rule 34(C) and 45(A)(2) of the Indiana Rules of Procedure" to appear for an examination under oath with specified documents. The third party did not comply with the subpoenas.

The Court held that the respondent had no authority to use subpoenas before litigation had commenced. The Court explained that, by using subpoenas rather than simply making requests on behalf of an insurance company, the respondent purported to issue orders on behalf of a court and tended to give the third party (who apparently was unrepresented) the false impression that he could be held in contempt of court if he failed to appear and produce the requested documents. The respondent violated Prof. Cond. R. 4.4(a) by using means in representing a client that have no substantial purpose other than to embarrass or burden a third person or using methods of obtaining evidence that violate the legal rights of a third person, and 8.4(d) by engaging in conduct prejudicial to the administration of justice.

In *Matter of Robert E. Lehman*, 901 N.E.2d 1097 (Ind. 2009), the respondent was permanently disbarred for having been charged with three counts of willfully understating his income under penalty of perjury on his federal income tax returns for 2002, 2003, and 2004, and pleading guilty to one count of making a false tax return, a federal felony. He was fined $10,000 and sentenced to eight months in prison, followed by one year of supervised release. The respondent's selfish motive and prior history of three disciplinary sanctions were facts in aggravation. The Court found that the respondent violated Prof. Cond. R. 8.4(b) by committing a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects, and 8.4(c) by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

In *Matter of James R. Recker*, 907 N.E.2d 968 (Ind. 2009), finding no misconduct, the Court ordered the discipline case against the respondent dismissed. The respondent contracted with the Putnam Circuit Court to handle its indigent defense cases, there being no centralized public defender office in Putnam County. The Putnam Superior Court contracted with another attorney for

its indigent defense cases. The Supreme Court was called upon to consider the issue of whether the "Office of the Public Defender" in Putnam County was a "law firm," for purposes of Prof. Cond. R. 1.6 and as that term is used in Prof. Cond. R. 1.8(b) and (k), relating to client confidences, when the respondent learned information about a criminal defendant represented by the other public defender and shared that information with an outside party. Both the respondent and the other attorney maintained private practices, but Putnam County provided office space in the old law library of its courthouse for the attorneys. The attorneys had cubicles with no doors and shared an incoming phone line, generic letterhead listing both courts and the words "Office of the Public Defender" without a listing of attorneys, part-time secretarial staff hired by the judges, and centralized file storage under one office manager. The office manager allowed files to be checked out only to attorneys who had an appearance in that particular case.

The respondent had been assigned to represent A.B., who was charged with battery resulting in the death of his girlfriend's child, and also in a CHINS proceeding involving A.B.'s own child. Later, A.B. retained a private attorney to defend him in the criminal matter, and the respondent continued to represent A.B. in the CHINS matter.

Separately, the other public defender was appointed to represent X.Y. in a pending criminal case. A.B., X.Y. and at least one other person shared a holding cell in the Putnam County jail. The county prosecutor visited the public defender offices and informed X.Y.'s public defender that X.Y. had passed a note to the sheriff stating that A.B. had told X.Y. some details of the alleged battery, but that X.Y. wanted to speak with his attorney before telling more. The public defender believed that the prosecutor was suggesting a deal for X.Y. in exchange for sharing the information about A.B.

When the respondent returned to the public defender offices, X.Y.'s attorney told the respondent of her conversation with the prosecutor, revealing A.B.'s name, but not X.Y.'s, and asked the respondent what to do. The respondent believed that X.Y.'s attorney was speaking of a private client. X.Y.'s attorney did not know that the respondent represented A.B.

After his conversation with the other public defender, the respondent called A.B.'s private criminal defense attorney and told him that A.B. was talking about his case with his cellmates. The private attorney contacted A.B., who suspected the informant was X.Y. The prosecutor caught wind of the situation and had X.Y. removed from the cell. X.Y. eventually testified and A.B. was convicted of the murder of the child.

The Court held that the respondent did not violate Prof. Cond. R. 1.6(a), which prohibits revealing information relating to representation of a client without the client's informed consent, or 1.8(b,) which prohibits using information relating to representation of a client to the disadvantage of the client without the client's informed consent. Under Prof. Cond. R. 1.8(k), if lawyers are associated in a "firm," then certain prohibitions that apply to any one of them apply to all of them, including obligations of confidentiality. The Court reasoned that although the common space, staff, letterhead, and phone line might in some circumstances tend to give the impression that both public defenders constituted a "firm," the attorneys did not choose that set up, did not hold themselves out for business there, worked there only on court-assigned cases and were assigned cases by different courts. Further, the office manager released files only to the attorney who appeared in that case. The Court concluded that, at least in Putnam County, the public defenders were not part of a "firm."

Justice Sullivan issued a lengthy dissenting opinion. He focused on the principal interest at stake—the inviolability of client confidences. He noted that XY was placed in jeopardy of his physical safety by the respondent's actions, and reasoned that the question of whether the public defenders shared a firm should be viewed from a reasonable client's perspective, rather than lawyer's perspective. Justice Sullivan opined that a reasonable client would believe they were a firm given that even XY's lawyer must have believed so or she would not have shared his confidential information with the respondent.

In *Matter of Kevin W. Marshall and C. Jerome Smith*, 880 N.E.2d 1182 (Ind. 2009), the respondents, who were law partners, were publicly reprimanded for violating Rules of Professional Conduct relating to attorney fees. They were retained by a client to bring suit against two insurance carriers who had denied the client's claim for fire loss. The parties executed a professional services contract that required the client to pay a $3,000 initial payment against which the law firm would bill at the rate of $150 per hour. After the $3,000 payment was depleted, the firm would continue hourly billing, but would not collect anything except expenses, unless the lawsuit was successful.

A focus group showed a verdict range between $0 and $300,999, and the client rejected a final pre-trial settlement offer of $100,000. In light of the time and expenses already incurred and those anticipated for trial preparation, Marshall told the client about six weeks before trial that any verdict of less than $300,000 would be taken by attorney fees unless they changed the professional services contract. Although the client was not happy with changing contracts, he signed and returned a new contingent fee contract under which the firm would receive one-third of any gross recovery.

After trial, a jury awarded the client $1,000,000, which was paid into the firm's trust account. The settlement statement outlining fees and expenses showed a distribution of $562,235.62 owing to the client. The client disputed the amount of the attorney fees due, and requested payment of the $562,235.62 one month after the deposit of the settlement. The client, via a new attorney, requested, among other things, hourly billing statements, but the firm did not provide them. After the client filed suit against the firm, about four months after the client's initial demand, the parties agreed that the firm would receive about $270,000 plus $11,000 expenses. The firm then paid $610,000 to the client from the trust account.

The Court ruled that the respondents did not violate Prof. Cond. R. 1.8(a) by entering into the second fee agreement without fully disclosing the terms in writing, without giving the client reasonable opportunity to seek independent counsel, and without obtaining written consent from the client. The Court also found no violation of 1.15(b) for failing to provide a full accounting due to a well-founded, good-faith belief that the hourly billing records were irrelevant under the second fee agreement. However, the respondents did violate Prof. Cond. R. 1.15(b) by failing to release the amount the respondents calculated was owed to the client

after the judgment was satisfied. Relying on the Comment to the 2004 version of the rule (which is now incorporated into the rule itself) as guidance, the Court reasoned that attorneys are required to distribute promptly all undisputed portions of funds held for client or third parties. The purpose of the rule is to prevent the client from being coerced into accepting the lawyer's contention in a dispute over attorney fees. The Court explained that even if the respondents were uncertain as to which contract controlled, the number of hours worked, or other factors affecting the proper distribution, the respondents were required to calculate the minimum amount the client was indisputably due, which may have been less than the $562,235.62 number, but clearly would have been more than zero.

Commission Members

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

INDIANA JUDGES AND LAWYERS ASSISTANCE PROGRAM

Terry L. Harrell, Executive Director

The Indiana Judges and Lawyers Assistance Program ("JLAP") provides assistance to judges, lawyers, and law students who may experience physical or mental impairments that result from disease, chemical dependency, mental health problems, or age and that could impair their ability to practice in a competent and professional manner. The purpose of JLAP is to assist the impaired in recovery; to educate the bench and bar; and to reduce the potential harm caused by impairment to the individual, the public, the profession, and the legal system. All interactions and communications with JLAP are confidential under Admission & Discipline Rule 31, section 9, and Rule of Professional Conduct 8.3(d). With exception for homicidal or suicidal ideation, no information is ever released without the signed consent of the party involved.

The Supreme Court appoints the Judges and Lawyers Assistance Committee ("JLAP Committee"), composed of five judges, seven attorneys, one law student representative, and two members that can be from any of the three categories, to oversee JLAP. During the past year, the Court expanded the definition of "law student representative" to include law school administrators or professors in addition to law students. The 2009 Committee included: John R. Vissing of Jeffersonville, Chair; Kimberly A. Jackson of Terre Haute, Vice-Chair; the Honorable Donald L. Daniel of Lafayette, Treasurer; Daniel G. McNamara of Fort Wayne, Secretary; David F. Hurley, Secretary Pro Tem; the Honorable Lorenzo Arredondo of Crown Point; the Honorable Carr L. Darden of Indianapolis; the Honorable David T. Ready of Mishawaka; the Honorable David A. Shaheed of Indianapolis; Matthew J. Banker of Indianapolis; Tonya J. Bond of Indianapolis; Michele S. Bryant of Evansville; Edmond W. Foley of South Bend; and Timothy O. Malloy of Highland. The JLAP staff consists of an Executive Director, a part-time Clinical Director, a part-time Clinical Case Manager, and a part-time Office Manager.

The Judges and Lawyers Assistance Committee at one of its regularly scheduled meetings. This one took place in the conference room of the Indiana Court of Appeals.

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

Utilization

This fiscal year, JLAP logged 198 calls for help, an increase of nearly 30% over last year. They ranged from simple requests for information or referral, to requests for JLAP to coordinate a group intervention. JLAP had 58 calls for help with substance abuse issues, 48 calls for help related to mental health issues, five calls for assistance with physical impairment issues, eight calls for help related to career change or retirement issues, four calls related to practice management issues, four calls for assistance regarding specific behavioral issues, seven calls concerning issues that fit no existing category, and 64 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). Sixty-nine percent of the calls were from or about attorneys, 27% were from or about law students or bar applicants, two percent were from or about judges, and the remaining two percent were calls from attorneys, law students, or judges seeking advice on how to get assistance for friends or family members.

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

As of June 30, 2009, JLAP had 201 active cases: 126 with addiction issues, 118 with mental health issues, 49 with dual diagnosis, seventeen with career change or retirement issues, and eleven with physical issues. (This totals 321 issues because many cases involve more than one issue. For example, it is not unusual for a JLAP client to be addressing depression, addiction, and career transition issues all at the same time.)

Monitoring

JLAP offers monitoring as a service to provide accountability and supervision of those trying to develop a successful recovery program for mental health or addictions problems. A participant makes a choice to participate in the monitoring program and signs a written release of information giving JLAP permission to report on their progress to someone who is in a position to hold the participant accountable. The monitoring program benefits the individual by holding the individual accountable to adhering to his or her own recovery plan. It also protects the public because when an individual on a monitoring agreement fails to comply with his or her own recovery plan, JLAP must report that to the disciplinary or licensing organization or the employer or judge that is part of the agreement. That organization can then take appropriate action to protect the public.

JLAP has developed several different kinds of monitoring agreements to further this service. JLAP's most formalized monitoring agreements exist with the Disciplinary Commission, the Commission on Judicial Qualifications, and the State Board of Law Examiners. Participants sign a consent allowing JLAP to monitor their recovery 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. JLAP views these agreements as an opportunity to intervene in the course of someone's addiction or mental health problems at an earlier point and limit the damage to that person's career, family, health, and reputation.

As of June 30, 2009, JLAP was monitoring 32 formal agreements, nine interim agreements, and one completely voluntary agreement. Of these agreements, 21 involved addictions issues, thirteen involved other mental health issues, and eight involved both addiction and other mental health issues.

JLAP Support Groups

JLAP continued running three support groups for the legal community this fiscal year, and also added a fourth. First, it continued its mental-health support group in Indianapolis, which has existed since 2001. This group provides a confidential setting for members of the legal community to discuss mental health issues and support each other in the unique challenges of coping with these issues and working in the legal profession. Second, it continued its substance abuse group, which has existed since 2003. This group provides the same type of setting for lawyers struggling with addiction issues. Third, it continued its "mixed format" support group in Jeffersonville, which has existed since 2006. In this group, legal professionals can share and support each other in coping with a range of issues (mental health, physical, or addiction) while practicing law. Frequent topics in these groups include how to cope with stress and how to maintain a healthy lifestyle in the legal profession.

Finally, this fiscal year JLAP began a career-transition group in Indianapolis. Group members focus on supporting each other in making career transitions, whatever those transitions may be. Some desire to transition from one type of law to another or out of the practice of law altogether. Others desire to transition back into the practice of law after a break for child rearing or other reasons. Some are contemplating how to structure a gradual transition into retirement. Due to the economy, more lawyers who are unemployed have joined the group but the focus is still on discovering what participants really want to do with their careers. Members divide the time between speakers and brainstorming for each other. Speakers have included those who work as career counselors or coaches, speakers with unusual jobs of interest, and speakers who address the process of career change itself. Any judge, lawyer, or law student may call the JLAP office for more information about these groups.

Education

JLAP staff and volunteers have continued efforts to educate judges, lawyers, and law students about the common impairments that members of the legal profession may encounter and what resources are available through JLAP and elsewhere to prevent and/or assist with these issues. Education is an integral part of JLAP's work 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 JLAP's fiscal year 2009 presentations statewide:

- Adams County Bar Association
- Allen County Bar Association's Applied Professionalism Course
- Allen County Bench Bar Conference
- Elkhart Bar Association
- Floyd County Bar Association
- Indiana Judicial Center New Judge Orientation
- Indiana State Bar Association Annual Meeting – Panel for Elder Law Section
- Indiana State Bar Association's Young Lawyers Section and Indiana Continuing Legal Education Foundation Sponsored Applied Professionalism Course
- Indianapolis Bar Association's Applied Professionalism Course
- Indianapolis Bar Association's Leadership Series
- Lake County Bar Association's Applied Professionalism Course
- Law Schools
  - IU-Bloomington
    - Professional Responsibility Classes
    - How JLAP Can Help Law Students
  - IU-Indianapolis
    - Orientation
    - Professional Responsibility Class
  - Valparaiso University
    - Orientation
    - Professional Responsibility Class

JLAP Activity at the State and National Level

JLAP staff continues to become more involved in the national network of Lawyers Assistance Programs ("LAPs") coordinated by the American Bar Association's Commission on Lawyers Assistance Programs ("CoLAP"). Throughout the past year,

Executive Director Terry L. Harrell participated on the planning committee for the 2009 CoLAP Annual Conference, the CoLAP Judicial Assistance Initiative, the Senior Lawyers Committee, and the Advisory Committee to the Commission on Lawyer Assistance Programs. JLAP Clinical Case Manager Rebecca J. Brooks and JLAP Executive Director Terry L. Harrell attended the CoLAP Annual Conference in October. JLAP Committee members Timothy O. Malloy and Edward W. Foley and JLAP volunteer John M. Duncan also attended the conference. The CoLAP Annual Conference and the Annual Conference for the International Lawyers in Alcoholics Anonymous will be in Indianapolis in the fall of 2010.

JLAP has also been active with the Indiana State Bar Association ("ISBA"). Ms. Harrell served on the ISBA's Professional Legal Education, Admission, and Development Section and on the planning committee for the ISBA's Solo Small Firm Conference. Looking to the future, JLAP hopes to include more programming aimed at the promotion of health, career satisfaction, and the prevention of disease and impairment in lawyers.

INDIANA JUDICIAL NOMINATING COMMISSION/ INDIANA COMMISSION ON JUDICIAL QUALIFICATIONS

Adrienne Meiring, Counsel

The Indiana Judicial Nominating Commission ("Nominating Commission") and the Indiana Commission on Judicial Qualifications ("Qualifications Commission") are established by Article VII, section 9, of the Indiana Constitution. The Chief Justice of Indiana, Randall T. Shepard, is the *ex officio* Chairman of both Commissions. The other six members, who serve three-year terms, are three lawyers elected by other lawyers in their districts and three non-lawyers appointed by the Governor. In addition to the Chief Justice, the elected and appointed Commission members as of June 30, 2008 were: Stephen L. Williams, Esq., of Terre Haute; John O. Feighner, Esq., of Fort Wayne; Christine Keck of Evansville; Mark Lubbers of Indianapolis; John C. Trimble, Esq., of Indianapolis; and Dr. Daryl R. Yost of Fort Wayne. Sherrill Wm. Colvin, Esq., of Fort Wayne, and Joan M. Hurley of Sellersburg, also served during the fiscal year. The Nominating Commission and the Qualifications Commission met five times during the fiscal year.

The Indiana Commission on Judicial Qualifications is a forum for citizens' complaints against judges and provides the means by which standards of judicial conduct are enforced. Here, Adrienne Meiring, counsel for the Commission, speaks to judges at an event sponsored by the Judicial Center.

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. The Nominating Commission also solicits and interviews candidates to fill vacancies on the Supreme Court, the Court of Appeals, and the Tax Court. It selects three nominees for each vacancy, and the Governor appoints one of the nominees to fill the vacancy. There were no vacancies this fiscal year.

The Nominating Commission also certifies former judges as Senior Judges to help qualifying courts with their caseloads. During this fiscal year, the Nominating Commission certified 26 new Senior Judges and recertified 82 Senior Judges. Two Senior Judge applications were rejected during this fiscal year and one individual withdrew his application.

The Qualifications Commission investigates allegations of ethical misconduct brought against Indiana judges, judicial officers, and candidates for judicial office. Periodically, the Commission privately cautions judges who have committed relatively minor or inadvertent violations of the Code of Judicial Conduct. In the most serious cases, the Qualifications Commission prosecutes formal disciplinary charges in public proceedings before the Supreme Court. Additionally, the Qualifications Commission and its staff provide judges and judicial candidates with advice about their ethical obligations, and Commission counsel responded to several hundred requests for advice during the fiscal year.

The Qualifications Commission considered 379 complaints alleging judicial misconduct this fiscal year. It dismissed 200 complaints summarily because they did not raise valid issues of judicial misconduct and instead were complaints about the outcomes of cases or otherwise were outside the Commission's jurisdiction. Another 154 were dismissed on the same grounds after Commission staff examined court documents or conducted informal interviews.

Examples of complaints dismissed because they did not establish ethical misconduct included a claim that the judge presided over a case that was dismissed and refiled by the prosecutor, an allegation that the judge denied a disqualification motion filed because the judge presided over another case involving the same litigant, and a complaint that the judge sentenced a defendant more harshly for using a bat to commit his criminal offense than other offenders who used knives or guns.

Of the remaining 25 cases on the Qualifications Commission's docket, the Commission requested the judges' responses to the allegations and conducted inquiries or investigations. Of those, 4 complaints were dismissed after the Qualifications Commission concluded the judges had not violated the Code of Judicial Conduct. The Qualifications Commission privately cautioned 5 other judges for deviations from their ethical obligations. The Qualifications Commission's decision to caution a judge rather than proceed to formal, public charges depends upon the

seriousness of the violation, the judge's acknowledgement of the violation, whether the conduct was intentional or inadvertent, whether the judge has a history of meritorious complaints, and other mitigating or aggravating circumstances. The subjects of the five cautions, in order of frequency, related to *ex parte* contacts (2), deviations from precedent or court rules (1), inappropriate demeanor (1), and inattention to court administration (1).

The Qualifications Commission concluded another three cases against judges this fiscal year by issuing Public Admonitions in lieu of filing charges. The Commission found probable cause to file disciplinary charges against the Honorable Stephen M. Jessup, Howard Superior Court 2, for making personally and professionally damaging statements about a deputy prosecutor; against the Honorable Daniel C. Banina, Miami Superior Court, for issuing an *ex parte* custody order; and against the Honorable Roger L. Huizenga, Walkerton Town Court, for participating in an *ex parte* conversation with a defendant to negotiate a resolution on her traffic case and for engaging in nepotism by employing his wife as the court clerk. Judge Jessup, Judge Banina, and Judge Huizenga each agreed to accept a Public Admonition in lieu of public charges; therefore, charges were not filed, and the Commission publicly admonished them.

During the fiscal year, the Supreme Court resolved five public disciplinary cases filed by the Commission. In *In re Scheibenberger*, 899 N.E.2d 649 (Ind. 2008), the Court accepted a conditional agreement and suspended the judge for three days without pay for recessing his court session to view a sentencing hearing of personal interest to him in another judge's courtroom and then making inappropriate remarks at the hearing about the defendant. In *In re Felts*, 902 N.E.2d 255 (Ind. 2009), the Court issued a Public Reprimand after the Commission and the judge filed a conditional agreement stipulating that the judge operated a vehicle while intoxicated.

The Supreme Court also resolved the disciplinary case filed against Senior Judge Walter P. Chapala this fiscal year. In 2008, the Qualifications Commission filed charges against the senior judge for conduct occurring in two cases when he was the elected judge of LaPorte Superior Court 1. The Commission alleged that Judge Chapala violated the Code of Judicial Conduct when he suspended the majority of a defendant's sentence after the defendant's family made a large financial donation to court programs, and when he presided over another case involving his daughter-in-law's nephew and instituted contempt proceedings against the sheriff who lawfully extradited the nephew to Michigan for charges pending there. In *In re Chapala*, 902 N.E.2d 218 (Ind. 2009), after the senior judge retired from the bench and the practice of law, the Supreme Court dismissed the matter as moot without prejudice to the Commission refiling the charges should the former judge seek reinstatement as a member of the Indiana bar or admission to the bar of any other jurisdiction.

In 2008, the Court permanently banned Commissioner Nancy L. Broyles from judicial service, after accepting a conditional agreement between the parties stipulating that the Commissioner committed misconduct for various instances of neglect in the handling of PCR cases, which included failing to effectuate a ruling granting a defendant's PCR for nearly two years after the matter was taken under advisement. The related case involving the Honorable Grant W. Hawkins was tried before a panel of Masters on October 6 and 7, 2008. After consideration of the Masters' Report, the Supreme Court in *In re Hawkins*, 902 N.E.2d. 231 (Ind. 2009), suspended the judge for sixty days without pay for failing to take reasonable measures to assure the prompt disposition of matters before judicial officers he supervised and for other instances of mismanagement.

Eight inquiries or investigations were pending at the conclusion of the fiscal year.

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

CITIZEN EDUCATION: "COURTS IN THE CLASSROOM"

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

Introduction

Fiscal year 2009 marked the eighth anniversary of the Indiana Supreme Court's education outreach program, "Courts in the Classroom" ("CITC"). CITC works to promote knowledge about the operation and history of the court to lawyers, educators, and citizens of Indiana. Once again, CITC was recognized nationally for its work educating Hoosiers about the law and its history. This year, the American Association of State and Local Historians awarded the Indiana Supreme Court Legal History Series publications an Award of Merit.

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

Developing and maintaining a wide variety of partners is one key to CITC's success. This fiscal year, CITC continued its successful partnerships with organizations such as the Indiana Department of Education, the Indiana Historical Bureau and State Library, the Benjamin Harrison Home, and the State House Tour Office. New or returning partners included the Indiana Bar Foundation, Indiana State Bar Association, Vincennes State Historic Sites, Vincennes University, and the Indiana Commission for Continuing Legal Education. Fiscal year 2009 saw a continuing expansion of CITC activities in multiple categories: webcasts, courtroom events, teacher resources, and publications. Two full-time staff members and an intern from Indiana University's Masters program in Public History are responsible for conducting all of CITC's efforts.

K-12 Teacher Training and Resources

CITC's programming stretched across the state in fiscal year 2009 in large part because of the considerable resources dedicated to the celebration of the 200th anniversary of the birth of President Abraham Lincoln. CITC, in partnership with the former Fort Wayne Lincoln Museum, created a series of free lesson plans for K-12 teachers focusing on Lincoln and the Law.

Chief Justice Shepard (center) poses with summer workshop participants. To his right is Dr. Elizabeth Osborn, the Court's Director of Public Education and Court History.

These lesson plans, endorsed by the Indiana Abraham Lincoln Bicentennial Commission, are available on the Court's website. The lesson plans, however, were only one facet of the Court's participation in the national Lincoln celebration. On February 12, 2009 (Lincoln's birthday) and again on May 1, 2009 (Law Day), in partnership with the Indiana State Bar Association, CITC staff matched attorneys and judges with classrooms around the state. These volunteer speakers talked about Lincoln and the Law with more than 35,000 Hoosier students.

Not limited to providing programming for students, in June 2009 CITC hosted the second-annual *From the Inside Out: How Indiana's Courts Work* class for teachers. This two-week teacher workshop, for three graduate credits, was offered through the IUPUI School of Education and sponsored by the Indiana Supreme Court in partnership with the Indiana Bar Foundation. The workshop familiarized participants with the daily operations of many different parts of the legal system (not just courts) and provided resources for use in teaching about courts and the law. The teachers involved in this program come in contact with approximately 5,600 students each school year. Participants gave positive reports in their evaluations such as that it was "the best [course] I have ever attended. The hands-on was wonderful."

In addition to creating programming, CITC staff members continued to promote awareness of the materials available for K-12 educators by participating in a variety of education events around the state, including the Indiana Council of Social Studies Annual Meeting, Statehood Day, and the official state celebration of Lincoln's 200th birthday held at the State House.

The resources available on the CITC website continued to grow through the addition of a Judges Speakers Bureau, a new on-line exhibit ("Voting Amendments in the U.S."), and lesson plans for teachers about Lincoln and the Law.

Courtroom Events for Students and Lawyers

While the creation of teacher resources and training is one important part of CITC's mission, reaching out to students is also a key component. Once again this fiscal year, students came to the Indiana Supreme Court's Courtroom specifically to participate in CITC's interactive programs such as *Bound for Freedom* (an interactive play based on a freedom suit filed on behalf of an Indiana slave) and *Ex Parte Milligan Comes to Life* (an adaptation of the famous Indiana case). The chance for large numbers of students (this year over 1,050) to experience CITC's programs is made possible through the support of our many partners and the appellate court law clerks and staff. Also, CITC was able to go "on the road" this year to bring programs to schools around the state, thanks to a generous grant from the Indiana Bar Foundation. In October 2008, CITC was able to conduct its successful *Bound for Freedom* program outside of the State House at the Vincennes State Historic Site. More than 450 students from Knox, Vigo, and Vanderburgh counties participated.

Following up on the success of last year's continuing legal education ("CLE") sessions, the Indiana Supreme Court Legal History Lecture Series, in cooperation with the Indiana Commission for Continuing Legal Education, hosted five new CLE programs this fiscal year. The Court hosted three lectures by Anderson University Professor Brian Dirck, author of *Lincoln and the Law*, and the other two focused on the Northwest Ordinances and the role of lawyers in helping to create land trusts, respectively. In total, more than 800 attorneys attended these free CLE sessions.

Publishing Projects

Another important outreach of CITC is providing materials about the history of Indiana's courts to libraries and schools. In 2009, two new publications, focusing on the lives and careers of Supreme Court Judges Holman and Blackford, were added to CITC's collected works. These items were distributed at no cost to libraries and other educational institutions. Teachers are encouraged to request complete classroom sets of these, or any of our other publications, by contacting Dr. Elizabeth Osborn at *eosborn@courts.state.in.us* or calling 317.232.2550. A complete list of CITC publications can be found at *www.in.gov/judiciary/citc/bookstore.html*.

Webcasting

The broadcast of oral arguments continues to be a staple of CITC's online repertoire with the addition of more than 80 new oral arguments this fiscal year to the website. Since October 2001, CITC has webcast all Supreme Court and selected Court of Appeals oral arguments held in the Indiana Supreme Court

Courtroom. With the help of the Indiana Higher Education Telecommunications System , CITC was able to facilitate the broadcast of a live Indiana Supreme Court oral argument held outside of our courtroom. In this particular case, the off-site argument was held at the IU School of Law in Bloomington. Other webcasts included three lectures hosted by the Indiana Supreme Court Legal History Lecture Series, a July hearing on child-support guidelines, and several meetings of the Pension Management Oversight Commission.

INDIANA SUPREME COURT LAW LIBRARY

Terri L. Ross, Librarian

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

The Library contains a comprehensive collection of legal materials that must be kept current. During this fiscal year, the Library's staff received and processed approximately 1,221 volumes as additions or replacements for volumes already in the Library's collection, and approximately 385 volumes were discarded. The staff also continued a major effort to catalog and inventory the Library's collection by barcoding volumes. Over 4,255 items, excluding periodical subscriptions, were barcoded and added to the Library's online catalog. The Library began restoration and preservation efforts of its historical and rare book collection. A 1663 edition of *Corpus Juris Civilis*, written in Latin, was cleaned and repaired.

The Library produced 124 interlibrary loans for the Supreme Court, Court of Appeals, Tax Court, state trial courts, state agencies, and reciprocal libraries. The Library processed and filled over 307 reference requests for patrons and libraries across the United States. The superseded Indiana statutes collection was also heavily used during the legislative session. Interlibrary loan requests were processed through the Online Computer Library Center. The Library fulfilled loan requests from many institutions, including the Lincoln Presidential Library, the United States Court of Appeals for the Seventh Circuit, other federal court and agency libraries, and eleven universities.

During the fiscal year, over 778 items were circulated and returned using the Library's automated system. Library patrons included users from 27 state agencies. The Library's online catalog, launched to the public in 2004, is accessible through the Shared Catalog of Indiana Online consortium. The Library's holdings are also searchable through WorldCat, the world's largest collection of library holdings. The online catalog and web page contribute to the visibility of the Library; there were 11,816 visits to the catalog and 16,292 visits to the Library's main home page.

Nearly 2,600 patrons visited the Library during this fiscal year. This figure does not include the large number of school students that also tour the State Capitol, the Supreme Court, and our Library throughout the year.

The Indiana Department of Administration's extensive State House HVAC project continued in the State House this year and included removal of older heating and air registers in the Library. This necessitated the reconstruction of the woodwork surrounding several window wells. The window casings were replicated and stained in anticipation of the installation of smaller HVAC units.

Library staff members continued their outreach services and professional development throughout the year. The Librarian, Terri Ross, gave presentations to law library students at local universities and to private firm legal administrators and met with future librarians to provide career advice and assistance with class projects. She also attended several digitization workshops and the annual meeting of the American Association of Law Libraries.

Ms. Ross also resumed service as a member of the Indiana Supreme Court Planning Committee on Self-Represented Litigants. The Committee met to discuss issues that state courts face in dealing with the increasing number of self-represented litigants who access the Indiana judicial system without the assistance of an attorney. Ms. Ross gave several training presentations to local court staff in order to assist them in providing service to self-represented litigants.

Library staff also continued assisting researchers in finding information on Indiana Supreme Court justices for a forthcoming book in the Supreme Court Legal History series. They helped teach the legal research portion of the Courts in the Classroom "Summer in the City" teacher workshop and assisted teachers in finding information for their mock oral arguments. Library staff also attended training sessions on the cataloging, circulation, and serials functions of its new online library catalog system, named Koha. The new catalog was released in early September 2008, and data from the old automated system had to be transferred and cleaned up. The systems were changed to create greater flexibility in the display of information, greater local control over the database, and the opportunity to save money in future contract years. Our Library is the first law library to implement Koha, so this fiscal year library staff consulted with the support vendor and other interested libraries on troubleshooting issues and interface design.

Supreme Court Librarian Terri Ross shares her expertise on legal research with teachers and other educators participating in "From the Inside Out," a hands-on workshop offered through the IUPUI School of Education's "Summer in the City" program.

Finally, the Library continued to serve as a depository for publications produced under grants from the State Justice Institute. Items received were cataloged, and a listing of new titles was posted periodically on the Library's web site. These publications are available for loan to judges and court staff throughout the state. The Library also continued its status as a designated depository for United States government publications.

INDIANA STATE PUBLIC DEFENDER'S OFFICE

Susan K. Carpenter, Public Defender of Indiana

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

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

CAPITAL CASES

In fiscal year 2009, in cases on direct appeal, the Indiana Supreme Court heard oral argument in one capital case (Daniel Wilkes) and affirmed one capital resentence (Roy Ward).

In post-conviction, deputies presented oral argument and the Indiana Supreme Court affirmed the trial court's denial of relief and denied rehearing in one case (Tommy Pruitt). Deputies represented two clients under sentence of death at evidentiary hearings; relief was denied and appeals were initiated in both cases (Wayne Kubsch and Fredrick Baer).

In a case remanded back to state court by the United States Court of Appeals for the Seventh Circuit after habeas corpus proceedings, one deputy and one former deputy (who was also habeas counsel) represented a client who will receive a new trial (Mark Wisehart).

NON-CAPITAL CASES

Demand for the Office's services is largely a function of the Department of Correction's population, which reached 29,182 adult and juvenile inmates on April 30, 2009, an increase of 2% from April 2008. The office has struggled with a backlog of cases for years. In fiscal year 2009, the office continued distribution of older cases office-wide to allow more expeditious resolution and monitoring of pending cases. Given that the Office's services are free and the demand flexible, it cannot control its caseload, but the State Public Defender is pleased to report that the number of post-trial and appeal cases awaiting review remains lower than it was in June 2005:

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

Since July 1991, when the Office received discretion to refuse further representation if full-case investigation (including an evidentiary hearing if appropriate) established the case lacked arguable merit, 4,858 cases have been found to be without arguable merit. In these cases, state resources are not expended by this Office, but inmates have the option of proceeding *pro se* or hiring private counsel.

Noteworthy wins this fiscal year were predominantly in the trial courts, although there were a few on appeal: *Farris v. State*, 907 N.E. 2d 985 (Ind. 2009); *Johnson v. State*, 898 N.E.2d 290 (Ind. 2008); *Thomas v. State*, No. 34C01-0410-PC-375 (PCR granted in trial court, no appeal by State; vacated all of multiple Class A child molest convictions and sentence of 150 years); *Kuchel v. State*, No. 50D01-0602-PC-1 (same; some convictions vacated and aggregate sentence reduced from 134 years to 70); *Centers v. State*, No. 48D03-0704-PC-95 (same; illegal consecutive sentence of 20 years changed to concurrent); *Des Jardins v. State*, No. 31D01-0610-PC-7 (by joint motion; child molest convictions erroneously entered as Class A changed to Class B; sentence reduced from 82 to 36 years); *Malone v. State*, No. 71D02-0412-PC-41 (same; murder conviction changed to voluntary manslaughter; sentence reduced from 58 to 33 years); *Burton v. State*, No. 22D01-0610-PC-4 (same; habitual offender enhancement vacated; sentence reduced from 50 to 20 years); *Leonard v. State*, No. 14D01-0604-PC-318 (same; sentence reduced from 50 to 20 years); *Smith v. State*, No. 49G20-0104-CF-084804 (same; sentence reduced from 50 to 25 years); *Carter v. State*, 46D01-0110-CF-107 (same; illegal consecutive sentence of 40 years changed to concurrent).

Appendix

Indiana Supreme Court

FISCAL 2009 CASE INVENTORIES AND DISPOSITION SUMMARY

	Cases Pending as of 7/1/08	Cases Transmitted in Fiscal 2009	Cases Disposed of in Fiscal 2009	Cases Pending as of 6/30/09
Civil Direct Appeals	0	1	0	1
Civil Transfers	68	328	352	44
Tax Court Petitions for Review	3	9	10	2
Criminal Direct Non-Capital	2	7	5	4
Capital Cases	2	2	2	2
Criminal Transfers	51	609	602	58
Original Actions	3	35	37	1
Certified Questions	0	0	0	0
Mandate of Funds	0	0	0	0
Attorney Discipline	80	124	133	71
Board of Law Examiners	0	0	0	0
Judicial Discipline	2	3	5	0
Rehearings	0	21	17	4
Other	0	1*	0	1*
TOTAL	**211**	**1,140**	**1,163**	**188**

*Unauthorized Practice of Law

TOTAL DISPOSITIONS: 1,163

Criminal	609	52.4%
Civil	352	30.2%
Tax	10	0.9%
Certified Questions	0	0.0%
Original Action	37	3.2%
Attorney Discipline	133	11.4%
Board of Law Examiners	0	0.0%
Judicial Discipline	5	0.4%
Rehearings	17	1.5%
Other	0	0.0%

MAJORITY OPINIONS AND PUBLISHED DISPOSITIVE ORDERS: 188

Criminal	42	22.3%
Civil	48	25.5%
Tax	2	1.1%
Certified Questions	0	0.0%
Original Action	1	0.6%
Attorney Discipline	87	46.3%
Board of Law Examiners	0	0.0%
Judicial Discipline	4	2.1%
Rehearings	4	2.1%
Other	0	0.0%

	Direct Appeal Crim.	Direct Appeal Civil	Transfer Crim.	Transfer Civil	Tax Rev.	Orig. Action	Att. Disc.	BLE	Jud. Disc.	Reh'g	Cert. Quest.	Other	Total
Shepard, C.J.	0	0	5	9	1	0	0	0	0	0	0	0	15
Dickson, J.	4	0	7	9	0	0	0	0	0	1	0	0	21
Sullivan, J.	2	0	7	11	1	0	0	0	0	0	0	0	21
Boehm, J.	1	0	8	14	0	0	0	0	0	2	0	0	25
Rucker, J.	0	0	7	5	0	0	0	0	0	0	0	0	12
By the Court	0	0	1	0	0	1	87	0	4	1	0	0	94
TOTAL	**7**	**0**	**35**	**48**	**2**	**1**	**87**	**0**	**4**	**4**	**0**	**0**	**188**

NON-DISPOSITIVE OPINIONS

	Concurring	Dissenting	Concur/Dissent in part	Recusal Opinion	Total
Shepard, C.J.	3	5	0	0	8
Dickson, J.	1	5	3	0	9
Sullivan, J.	3	3	0	0	6
Boehm, J.	7	6	0	0	13
Rucker, J.	1	10	0	0	11
TOTALS	**15**	**29**	**3**	**0**	**47**

CERTIFIED QUESTIONS

	Pending 7/1/08	Received	Accepted	Rejected	Opinions	Pending 6/30/09
Federal District Court	0	0	0	0	0	0
Federal Appellate Court	0	0	0	0	0	0
TOTAL	**0**	**0**	**0**	**0**	**0**	**0**

CASES IN WHICH ORAL ARGUMENTS WERE HELD

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Total
Criminal before decision on transfer	0	2	0	0	0	0	0	0	0	0	0	1	3
Criminal after transfer granted	1	1	2	5	1	4	4	0	1	1	1	1	22
Civil/Tax before decision on transfer/review	0	0	0	0	0	0	3	1	0	0	0	0	4
Civil/Tax after transfer/review granted	0	1	4	7	7	4	2	3	3	2	4	5	42
Criminal Direct Appeals	1	0	0	0	0	1	0	2	0	1	1	0	6
Civil Direct Appeal	0	0	0	0	0	0	0	0	0	0	0	0	0
Certified Question	0	0	0	0	0	0	0	0	0	0	0	0	0
Attorney Discipline	0	0	0	0	1	0	0	0	0	0	0	0	1
TOTAL	**2**	**4**	**6**	**12**	**9**	**9**	**9**	**6**	**4**	**4**	**6**	**7**	**78**

CAPITAL CASE OPINIONS

	Direct Appeal	PCR	Interlocutory Appeal	Successive PCR	Rehearing	Total
Shepard, C.J.	0	0	0	0	0	0
Dickson, J.	4	0	0	0	0	4
Sullivan, J.	1	1	0	0	0	2
Boehm, J.	1	0	0	0	0	1
Rucker, J.	0	0	0	0	0	0
By the Court	0	0	0	0	0	0
TOTAL	**6**	**1**	**0**	**0**	**0**	**7**

PETITIONS FOR EXTENSION OF TIME & MISCELLANEOUS ORDERS

Petitions for Extension of Time Processed.....39
Special Judge Requests.....90
Other Miscellaneous Appellate Orders.....964
TOTAL.....1,093

DISCIPLINARY, CONTEMPT, AND RELATED MATTERS

Disciplinary Cases Pending Before Hearing Officer/Court on July 1, 2008

Before the Court for Hearing Officer Appointment	10
Disciplinary Action Pending before Hearing Officer	30
Reinstatement Action Pending before Hearing Officer	7
Briefing Stage	5
Before the Court for Decision	11
Show Cause Order Entered, Awaiting Attorney Response	3
Noncooperation Suspension Imposed, Awaiting Attorney Response	14
TOTAL CASES PENDING 7/1/08	**80**

New Disciplinary Matters Received During Fiscal Year 2009

Petitions to Show Cause for Noncooperation	23
Verified Complaints for Disciplinary Action	62
Private Administrative Admonitions Tendered	7
Affidavits of Resignation (tendered before filing Verified Complaint)	2
Petitions for Emergency Interim Suspension	1
Notices of Findings of Guilt (Felony)/Requests for Interim Suspension	7
Notices of Foreign Discipline/Requests for Reciprocal Discipline	5
Petitions for Reinstatement	4
Petitions to Revoke Probation	3
Petitions to Terminate Probation	8
Contempt of Court Proceedings	1
Miscellaneous	1
TOTAL	**124**

Disciplinary Cases Disposed of in Fiscal Year 2009

Dismissal on Compliance with Show Cause Order	14
Terminating Noncooperation Suspension on Compliance with Show Cause Order	3
Converting Noncooperation Suspension to Indefinite Suspension	8
Private Administrative Admonition	6
Rejection of Private Administrative Admonition	2
Private Reprimand	4
Public Reprimand	24
Suspension with Automatic Reinstatement (after Verified Complaint)	3
Suspension without Automatic Reinstatement (after Verified Complaint)	8
Suspension with Conditions/Probation (after Verified Complaint)	13
Disbarment	2
Accepting Resignation	4
Emergency Interim Suspension	0
Interim Suspension on Finding of Guilt (Felony)	8
Reciprocal Discipline (Suspension)	5
Finding or Judgment for Respondent	1
Granting Reinstatement	4
Withdrawal of Petition for Reinstatement	1
Denying Reinstatement	1
Revoking Probation	3
Terminating Probation	8
Finding Contempt of Court	1
Dismissing or Withdrawing Action	8
Miscellaneous	2
TOTAL	**133**

Disciplinary Cases Pending 6/30/09

Before Court for Hearing Officer Appointment	6
Disciplinary Action Pending before Hearing Officer	36
Reinstatement Action Pending before Hearing Officer	7
Briefing Stage	7
Before the Court for Decision	6
Show Cause Order Entered, Awaiting Attorney Response	2
Noncooperation Suspension Entered, Awaiting Attorney Response	7
TOTAL PENDING AT END OF FISCAL YEAR	**71**

ANALYSIS OF SUPREME COURT DISPOSITIONS

Criminal Cases

Opinions on direct appeals	7
Direct appeal disposed of by order	0
Opinions on petitions to transfer	35
Opinions on rehearing	2
Orders on rehearing	4
Petitions to transfer dismissed, denied, or appeal remanded by unpublished order	567
Other opinions/dispositions	0
TOTAL	**615**

Civil Cases

Opinions and orders on certified questions	0
Opinions on direct appeals	0
Direct appeals disposed of by order	0
Opinions on rehearing	2
Orders on rehearing	9
Opinions on petitions to transfer	48
Petitions to transfer denied, dismissed, or appeal remanded by unpublished order	304
Other opinions/dispositions	0
TOTAL	**363**

Tax Cases

Opinions on Tax Court petitions for review	2
Dispositive orders on Tax Court petitions for review	8
TOTAL	**10**

Original Actions

Opinions issued	1
Disposed of without opinion	36
TOTAL	**37**

Mandate of Funds

Opinions and published orders	0
TOTAL	**0**

Attorney Disciplinary Matters

Opinions and published orders	87
Other dispositions	46
TOTAL	**133**

Petitions for Review of State Board of Law Examiners Matters

Petitions for review	0
TOTAL	**0**

Judicial Discipline Matters

Opinions and published orders	4
Other dispositions	1
TOTAL	**5**

TOTAL DISPOSITIONS	**1,163**

CASES PENDING AS OF JUNE 30, 2009

	Pending Cases as of June 30, 2009 *(does not include Rehearing Petitions)*	Pending Petitions For Rehearing as of June 30, 2009
Shepard, C.J.	12	2
Dickson, J.	3	0
Sullivan, J.	7	1
Boehm, J.	6	0
Rucker, J.	9	1
To the Court	1	0
Unassigned Civil Cases	31	
Unassigned Tax Court Petitions for Review	2	
Unassigned Criminal Transfer Cases	38	
Unassigned Criminal Direct Appeals	1	
Unassigned Civil Direct Appeals	1	
Unassigned Original Actions	1	
Unassigned Certified Questions	0	
Unassigned Other	1*	
Pending Bar Examination Reviews	0	
Attorney Discipline	71	
Judicial Discipline	0	
TOTAL	**184**	**4**

*Unauthorized Practice of Law

The five justices of the Indiana Supreme Court in the Conference Room. (left to right) Justice Sullivan, Justice Dickson, Chief Justice Shepard, Justice Rucker, Justice Boehm. These five justices have served together nearly ten years since Justice Rucker was appointed in 1999.

The State House at night. The building was completed in 1888, and is clad in Indiana limestone.

Published by:
IBJ Custom Publishing
41 E. Washington St., Suite 200
Indianapolis, IN 46204
(317) 634-6200
www.ibjcustompublishing.com

Division of Supreme Court Administration
315 State House
Indianapolis, IN 46204
(317) 232-2540

For more information on the Court, its history, and its various agencies and programs, visit our website, www.IN.gov/judiciary

INDIANA
SUPREME
COURT

Division of Supreme Court Administration
315 State House • Indianapolis, IN 46204
(317) 232-2540 • *www.in.gov/judiciary*