

OHIO JUDICIAL CONFERENCE

Executive Committee Meeting

September 8, 2010

Embassy Suites, Dublin

MINUTES

In attendance:

Officers: Judges Sheila G. Farmer, Thomas A. Swift, Jim D. James, and John M. Durkin

Members: Judges Teresa L. Ballinger, John F. Bender, Joyce A. Campbell, John S. Collier, Theresa Dellick, John M. Durkin, William R. Finnegan, Kathleen L. Giesler, L. Alan Goldsberry, Howard H. Harcha, III, Patrick N. Harris, Jonathan P. Hein, Steven L. Hurley, Reeve W. Kelsey, David Lewandowski, Jan Michael Long, Eugene A. Lucci, Thomas J. Marcelain, Philip Alan B. Mayer, Beth W. Root, John J. Russo, Michael J. Sage, James A. Shriver, Thomas F. Zachman, retired, and Mary Pat Zitter

Supreme Court: Chief Justice Eric Brown, Steve Hollon and JoEllen Cline

Staff: Mark Schweikert, Donna Childers, Kristin Schultz, Chris Arndt, Trina Bennington, Alyssa Guthrie, Jennie Long, Mike Rodgers, Louis Tobin, and Jayma Umbstaetter

I. Call to Order

Chair Sheila G. Farmer called the meeting to order.

A. Roll Call

Roll call by sign-in sheet. Quorum present.

B. Minutes, May 7, 2010

Motion to approve the May 7, 2010 minutes:

Motion by Judge Thomas M. Marcelain and seconded by Judge L. Alan Goldsberry. The minutes were approved unanimously.

II. Financial Report:

A. Budget: Mark Schweikert reported that in FY2010, we spent 86% of our appropriation in the Rotary account. Revenues were projected at \$330,000 and we actually received \$340,000. We were also below projections on expenditures. We spent 99% of the GRF appropriation and returned \$10,000 to the state. We are tightly budgeted but it was a successful year in terms of the budget.

FY2011 started in July. The budget appropriations are the same as in FY2010 and we are projecting a similar result.

FY2012-2013; Jayma and Mark are working on the budget request which is due November 1st. The governor has asked all agencies to submit a flat request and a 10% reduction based on FY2010 appropriations.

Mark Schweikert met with the Judicial Conference officers at the summer retreat where it was decided to reduce costs and save money by stopping the printing of Judicial Conference publications such as Bill Board, For the Record, and the Biennial Report and instead post these publications on the Judicial Conference website. This would save approximately \$20,000 per year. The Rotary fund consists of dues, annual meeting registrations, Ohio Jury Instructions royalties, etc. and the fund would help the Judicial Conference survive a year or two if significant reductions in GRF are requested by the governor. The officers may consider reducing face-to-face committee meetings and rely more on conference calls for committee meetings if significant reductions are required so as not to reduce staff.

Motion to approve the Budget report:

Motion by Judge Thomas M. Marcelain and seconded by Judge Thomas A. Swift. The budget report was approved unanimously.

III. Supreme Court Perspective:

A. Chief Justice Eric Brown: Chief Justice Brown thanked everybody for inviting him to the meeting. Justice Brown noted that he is very interested in hearing the judges' suggestions, concerns and questions. The work of the Supreme Court continues to proceed smoothly and is working well. It is important to him to have good continuity and a seamless transition. He noted that he met this morning with the judicial association presidents and Judicial Conference officers and looking forward to working with the judges on budget issues and to provide justice to the people. He mentioned that the Supreme Court is also looking at saving on publications costs by posting online and using technology to be more effective and cost saving. The Chief noted that he is looking forward to bringing the Supreme Court and Judicial Conference together and strengthening the relationship, while at the same time allowing the Judicial Conference to have an independent voice. The Chief asked for questions. There was a question regarding grant sources. Steve Hollon answered: the largest source for grants is from the Federal Government through the Ohio Department of Job and Family Services CIP funds. Steve believes that won't be depleted. United States Senator Kohl from Wisconsin has attempted to introduce legislation to increase funding to local courts through state supreme courts as it relates to interpreter services. Grant funding sometimes needs to be matched by state funds. The Supreme Court is contemplating bringing a staff member on to manage grants. The Chief encouraged judges to let him know if he can be helpful at the local level.

IV. Judicial Conference

A. Chair's Report: Chair Farmer thanked the Chief for his support and openness.

1) Chief Justice Moyer Legacy Fund: Chair Farmer reported that the Chief Justice Moyer Legacy Fund will establish an Ohio State University professorship at the Moritz College of Law at the cost of one million dollars and a fund set up at the Ohio State Bar Educational Foundation of an additional \$300,000 to be ongoing and contributed to for grants to the remaining law schools in the state to give fellowships in professionalism and civility. Originally, each judicial association had decided to give the same amount of money. The legacy fund has established a goal from the judiciary of \$50,000. Retired Judge Jack R. Milligan will speak at the Annual Meeting. It is time for the Judicial Conference to make a pledge (which will come from the Rotary fund). Judge Farmer noted that the Ohio Court of Appeals Judges Association has agreed to contribute \$5,000 over 5 years. Judge Farmer said that they are asking each judicial association to do the same; \$5,000 over a 5 year period which equals \$30,000.

Motion that the Judicial Conference on behalf of the judges of the state of Ohio pledge \$4,000 per year for 5 years to be contributed to the Chief Justice Moyer Legacy Fund: Motion by Judge Thomas A. Swift and seconded by Judge Jim D. James. The motion was approved unanimously.

Judge Farmer noted that there will be a gala dinner on December 3 at \$400/couple or \$250/person at the Columbus Hilton Easton presented by the Chief Justice Thomas J. Moyer Legacy Fund Committee. She also noted that most of the contributions will come from law firms throughout the state.

2) 2010 Annual Meeting (The Intersection of Law, Science and Ethics) report: Judge Farmer noted that there are 280 registrants which is a little down due to Rosh Hashanah and budget concerns. She noted that Session 1 (Cy Pres and Class Actions) has been cancelled. Session 3 (Court Technology) has been refined and will have a featured speaker, Matt Curtin who will discuss the issues surrounding how facts might be established when the evidence is electronic. Session 11 has been refined to focus solely on the issue of spousal support. There will be an optional presentation on OPERS offered at 2:00 p.m. on Friday. We have submitted an application to earn self-study CLE credit for those who are unable to attend Thursday's program (due to Rosh Hashanah). The hours are limited to 6.0 hours that a judge can receive, which is slightly less than they are receiving on Thursday (6.25). The method we have asked for self-study would be a DVD of the recorded presentation. This announcement will not be made at the meeting tomorrow as it is not approved yet.

3) Officer's Retreat (August 12-13): Judge Farmer reported that the officers had their retreat August 12-13 in northeast Ohio. Budget issues were discussed and cut-backs as noted earlier. She noted that they are still in favor of face-to-face meetings but if the committees can function effectively, she encouraged the conference call method. After the officers discussed the idea of establishing an access to justice committee with Chief Justice Brown, the idea was deferred to the Supreme Court.

4) Legislative Liaison Introduction, Mike Rodgers: Judge Farmer introduced Mike Rodgers, new legislative liaison replacing Andre Imbrogno. The group welcomed Mike.

B. Executive Director Comments: Mark Schweikert noted that this is Judge Farmer's last Executive Committee meeting as Chair of the Judicial Conference. He thanked her for her leadership and the group applauded her. Mark thanked the Judicial Conference staff for all of their hard work on the Annual Meeting.

1) OJC Committees to be re-organized for next Biennium: Mark Schweikert noted it is time for the Judicial Conference committees to be re-organized. Judge Swift will be contacting the co-chairs to ask interest in continuing to serve in that capacity. We will lose some co-chairs due to retirements.

2) Ad Hoc committee on Judicial Appointments to Boards and Commissions: Mark reported that the Judicial Conference approved creation of the Ad Hoc Committee on Judicial Appointments to Boards and Commissions at the May executive committee meeting. Judge Farmer has appointed retired Judge John Donnelly and Judge David Ellwood to co-chair the committee. Each association will be asked to designate a member on this committee. The committee will look at the practices and guidelines on the "how tos" on making appointments and the ethical considerations. The Board of Commissioners on Grievances and Discipline has agreed to staff it and point out issues but will not have a voting member.

3) Supreme Court Advisory Committee to review caseload statistics guidelines: the Judicial Conference's request to make an appointment to the Supreme Court's Advisory Committee to review caseload statistics guidelines is still pending.

4) Progress on Strategic Plan Protocol between the Judicial Conference and Supreme Court: the Judicial Conference anticipates that the work on the strategic plan protocol between the Judicial Conference and the Supreme Court will resume after the election.

5) Ohio Justice Reinvestment Initiative: Mark referred the group to the summary of a recent meeting of the Council of State Governments (7/26/2010) in the packet. Mark plans to review this in more detail with the Ohio Common Pleas Judges Association board meeting this afternoon. Key areas of focus are felonies 4s & 5s and people in prison for a short term. He said some people believe that they should be focusing more on risk levels than felony levels because there are some folks who are charged with 4s & 5s that might have been charged with a felony 2 or 3 and entered into a plea agreement and there are some high risk people that wind up in prison on lower felony charges. More focus on retaining prison beds for people that are higher risk rather than lower risk. There is not yet a widely used risk scale. There is an expectation that the ODRC will issue such a scale in the spring. There is also a focus on probation noting that municipal probation departments and common pleas probation departments in the same counties are supervising the same offenders. There is a proposal to look at a more efficient way in supervising these offenders. There is concern that there is not a lot of data available on services by local probation departments. There is concern about there not being enough outpatient treatment throughout the state. There is concern about inconsistencies in standards for revocation of community control. The Reinvestment project has moved out of the analysis stage and into the policy development stage. There will be a breakout on this topic on Friday afternoon. The Judicial Conference Community Corrections Committee is looking at developing a more intensive meeting with the Ohio Justice Reinvestment Initiative. The Justice Reinvestment reports through its core leadership group which includes Justice Stratton and Steve Hollon.

6) Biennial Report: will be distributed at the general business meeting on Thursday; Mark noted that the Biennial Report has gone through some changes with a lot more information included yet presented in a less expensive package in order to reduce cost. The Judicial Conference is required by statute to report to the General Assembly every two years on the activities of the Judicial Conference. In the future, only a few copies will be printed of the Biennial Report for the General Assembly and the rest presented mainly through electronic means. Judge Farmer noted that the Biennial Report is a great tool to help judges help others to understand what the Judicial Conference does and the vital function of the Judicial Conference.

7) HJR9, SJR10, SJR11: deals with changing the mandatory retirement age for judges; appeared to be moving well through the general assembly; the House and the Senate had both introduced duplicate bills; partisan politics entered and when it got to the floor of the House there was a provision added that required party affiliation be placed on the ballot. This became controversial so it was sent back to committee; when the Senate saw what the House did they added an amendment that required any judicial appointments by the governor to go before the Senate for confirmation. The Judicial Conference is monitoring this closely. There are some judges that are in a position to be affected by such a change in the next two election cycles.

8) Judicial Legislative Exchange: The Judicial Conference annually sponsors a judicial legislative exchange that takes place in Columbus when the judge comes and spends a day with his/her legislator. The reciprocal meeting where the legislator spends a day with the judge in his/her court is a little more difficult to arrange. A regional reciprocal exchange was planned by Alyssa and Donna in Cuyahoga County with six out of thirteen legislators participating. Judge John J. Russo, Cuyahoga Co. Common Pleas Court noted the positive atmosphere at the exchange and that this is a great way to build relationships and a great experience.

9) Question regarding next budget with regard to casinos: Judge Goldsberry asked if there is a threat that local government monies from the State will be affected by projections for income from casinos? Mark noted that there is a local government reform commission that is due to report soon. There is a lot of controversy amongst county officials about what kind of authority the county commissioners should have over various county officials. The CCAO is very active and concerned about this issue. It may be awhile before these funds begin coming in and may not reach the projections due to the economy. There is a lot of concern amongst county commissioners that the state will try and balance the state budget on the backs of the counties.

V. Old Business

A. Nominating Committee: Chair of the Nominating Committee is Judge Everett Krueger; Judge Farmer reported in his absence. The Nominating Committee will nominate Judge James Shriver, Clermont Co. Municipal Court at the general business meeting tomorrow, Thursday, September 9 and upon election he will become the Ohio Judicial Conference Second Vice Chair; Judge John M. Durkin will move to the First Vice Chair, Judge Jim James will move to Chair Elect, and Judge Thomas A. Swift will move to Chair. The report of the nominating committee was accepted with applause and no further discussion.

VI. New Business

A. 2011 Calendar: referred to in the packet.

VII. Judicial Association Reports

Ohio Courts of Appeals Judges Association: As Secretary/Treasurer, Judge Farmer gave the report [Chief Justice of the association, Judge Blackmon and Chief Justice Elect, Judge Donofrio are at the OCAJA Fall Conference]. The association met last night and the association's executive committee made a formal motion to endorse the continuation and support of the Ohio Judicial Conference and ask each judicial association to join them in that resolution. The winter meeting will be in February. The OCAJA was the first to contribute (\$5,000 over 5 years) to the Chief Justice Thomas J. Moyer Legacy Fund on condition that the other judicial associations do the same.

Ohio Common Pleas Judges Association: Judge Michael Sage reported that the summer conference was in June at Miami University in Oxford. He thanked Chief Justice Brown for speaking to the association at the summer conference. Mark Schweikert added that there was a local Miami (Dr. Andy Caton) professor who presented about the Northwest Territory and the legal system in Ohio and it was a tremendous presentation. The next meeting is December 8-10 at Embassy Suites, Dublin. The association's officer positions have had some rearranging due to some health issues and a common pleas judge board member promoted to the Court of Appeals. Judge Reginald Routson will therefore move to the position of incoming President. The association is focused on the Ohio Justice Reinvestment Initiative with regard to funding. If this is about reducing the state's prison population by pushing them down on the local level, this affects all jurisdictions with regard to the amount of money available in each community and how they will be impacted. Judge Sage asked everybody to follow this and be ready with input on the issue.

Ohio Association of Domestic Relations Judges: Judge Steven Hurley reported that the summer meeting was in June at the Great Lodge in Mason jointly with the juvenile and probate associations. The board meets this evening jointly with the Judicial Conference Domestic Relations Law & Procedure Committee. The winter meeting is December 7.

Ohio Association of Juvenile Court Judges: Judge Mary Pat Zitter reported the association is studying the specialized curriculum for the ongoing education of juvenile court judges. The association continues having informal meetings with the CCAO (County Commissioners Association). Two juvenile court judges, Judge Anthony Capizzi, Montgomery County and Judge David Stucki, Stark County were re-elected to serve on the National Council of Juvenile and Family Court Judges Board. The winter meeting is December 2-3.

Ohio Association of Probate Judges: Judge Philip Alan B. Mayer reported the combined probate, juvenile and probate summer conference will be next year June 6-8 at the Hilton Polaris. The association is sponsoring education sessions for court investigators set for September 28 as well as a deputy clerks session in October. The association is working on the Uniform Development Transfer Act as well as the Probate Modernization Bill. There is a Summit on Aging that the association co-sponsors with the Ohio State Bar Association, Supreme Court, and Attorney General at the Polaris Hilton on October 15. The American Judges Association Annual conference is October 3-8.

Association of Municipal/County Judges of Ohio: Judge James Shriver reported that the judicial association was successful in amending legislation that restored local funding of life insurance benefits for municipal and county court judges. Judge Shriver thanked Steve Hollon and JoEllen Cline for their assistance with that legislation. The association was also successful with HB338 which has restored municipal judges' authority to suspend jail sentences, to permit municipal judges on a community control violation hearing to incarcerate that individual and then place that individual back under reporting to community control sanctions, and removed the requirement that explained the circumstances surrounding the issuance of citation on a minor misdemeanor at an arraignment court while pleading guilty no contest which had been a Judicial Conference platform issue. Judge Shriver thanked Mark and staff for their assistance with these three HB338 amendments. The association was also successful in amending some traffic law statutes; changed the no operator's license law that will now allow a second offense to be a misdemeanor of the first degree for a person who has never been issued a license. The association is working on more traffic law revisions. The summer conference was at Kalahari resorts in Sandusky. The conference next summer 2011 will be at the Great Wolf Lodge, Mason.

VIII. Committee Reports

Ad Hoc Committee on Appointments by Judges: no report as the committee is not formed yet.

Alternative Dispute Resolution: Judge L. Alan Goldsberry reported that the committee is aware that the Commission on Dispute Resolution is exploring the idea of conducting a survey on mediator salaries and methods of funding them.

Civil Law and Procedure: Judge William R. Finnegan reported that the committee met last in February and will meet this afternoon. The committee is monitoring the various foreclosure bills, various proposals relating to a specialized workers compensation docket, and a proposal to increase the jurisdictional limits of the common pleas and municipal courts.

Community Corrections: Judge Howard H. Harcha, III reported that the committee met with the Ohio Justice Reinvestment group. The committee chairs met with the ODRC to review data they've collected showing trends in commitments and releases. They hope to provide a snapshot to each county with this information.

Court Administration: Judge James A. Shriver welcomed new co-chair, Judge John J. Russo. He referred the group to the report in the packet.

Court Technology: Judge Jonathan P. Hein reported that the Court Technology Conference 2011 and the next several years will be in central Ohio. The committee would like to include the clerk's association, prosecutor's associations, and other office holders. Next year the day of the week will be Tuesday instead of Friday.

Criminal Law and Procedure: Judge Joyce Campbell reported that committee is thrilled to have Mike Rodgers assisting the committee. She referred the group to the report in the packet. Mark noted that Judge Corzine is retiring and will need to be "replaced". Judge Farmer noted that he has done an excellent job and will be greatly missed. He was not present today as he was having a medical procedure.

Domestic Relations Law and Procedure: Judge David Lewandowski reported that a bill was enacted which requires full disclosure of financial matters in divorce cases and authorizes courts to accept modifications to property divisions where the parties agree on changing something that is now no longer possible with the decline in real estate values and deals that people made three years ago and are no longer viable. The committee is working with the state bar on the Collaborative Family Law proposal. He noted that there is a session at the annual meeting on Spousal Support.

Judicial Compensation: Judge Farmer referred the group to the report in the packet. She noted that there will be a special OPERS session at 2:00 pm following the Annual meeting for those judges concerned about the reform proposals. Some judges are considering retirement before the changes are effective. Mark Schweikert noted that there are several judges who are attending the stakeholders meetings on behalf of the Conference. The COLA provision is getting lots of attention and discussion. The judges are concerned that they will be excluded from the current 3% fixed COLA and put into something that might be a variable COLA.

Judicial Education: Judge John Durkin reported that they are excited about the Annual Meeting and the presenters. He thanked Kristin Schultz and the entire staff for their hard work.

Judicial Ethics and Professionalism: Judge Thomas Marcelain reported that the committee is focused on a recent decision on judicial elections and the value of merit selection.

Jury Instructions: Judge John Bender reported that the "User's Guide" has been a major project and will hopefully be very helpful for judges in using OJI. Major issue coming up is renegotiation of publishing contracts. Each year the print revenues continue to go down and online revenues continue to go up. Judge Bender believes that it is conceivable that in approximately 5 years OJI will not be in print. The committee will most likely need to deal with the recent Supreme Court decision over Colon 1 and 2.

Jury Service: Judge Reeve W. Kelsey referred the group to the report in the packet and noted that the committee will meet this afternoon. Judge Farmer asked if the committee got a sponsor for the Omnibus Jury bill. Judge Kelsey said that hopefully Representative Szollosi may be picking up the Jury Modernization Bill.

Juvenile Law and Procedure: Judge Jim James referred the group to the report in the packet. The committee will ask the Executive Committee to approve a judicial impact statement at the next meeting.

Legislative: Judge Jan Michael Long thanked Chair Farmer for her strong support in working with the Legislative committee. Judge Long referred the group to the report in the packet with attention to the upcoming Judicial Conference's 50th Anniversary, Judicial-Legislative Exchange Program, and the printing of Bill Board to the general assembly. Donna referred the committee to the proposed 2011-2012 OJC Legislative Platform document in the packet. Mark noted the last two items on the proposed platform. The Ad Hoc Committee on Cross Jurisdictional Issues had a lot of discussion about civil protection orders. HB10 passed which enacted the proposal that juvenile courts would have jurisdiction to issue civil protection orders where the respondent was a juvenile. The second part of that recommendation was not enacted which has to do with municipal courts having authority to issue civil protection orders. That is limited to common pleas court now. The municipal association had some concerns. Judge Shriver noted that he would take it to the next board meeting in October and then report again at the Judicial Conference Executive Committee in November. Donna noted that there is some question as to the level of commitment to the judicial assaults on the last two platforms. Mark noted that there will be a vote on the 2011-2012 platform at the November meeting and that the committee should be prepared on these issues.

Magistrates: Judge Beth Root referred the committee to the report in the packet and added the OAM fall conference is set for September 29-October 1 in Columbus. She asked the judges to encourage their magistrates to attend.

Personnel and Office Administration: Judge Thomas Swift welcomed Mike Rodgers and complimented the staff on an excellent job through the years for all of their hard work.

Probate Law and Procedure: Judge Jan Michael Long referred the group to the report in the packet and added that the probate judges association met with Senator Seitz earlier this year regarding a bill that was recently introduced that would give jurisdiction to probate courts to involuntarily commit individuals who have certain drug and alcohol issues to treatment facilities. The association has some concerns and plans to meet with Senator Seitz.

Public Confidence and Community Outreach/Court Comment Subcommittee: Judge Eugene Lucci referred the committee to the report in the packet and added that the rapid response system may need to be combined with the OSBA's program.

Publications: There is a report in the packet.

Retired Judges: Retired Judge Thomas Zachman thanked Chair Farmer for her support. He referred the group to the report in the packet.

Specialized Courts: Judge Patrick Harris noted that the committee will be meeting this afternoon with the OSDPN. Some issues are to put together a library of resources and survey of all of the specialized dockets for those looking to improve their program or for those looking to set up a specialized docket and the proposed rule change of the rule of superintendence regarding specialized dockets and a checklist that is being put together.

IX. Other Business: none

Judge Farmer reflected that in her term it has sometimes been the best of times and also the worst of times with the passing of Chief Justice Moyer and Judge Adkins and with the budget crisis. She thanked the officers both past and present, and the presidents and vice chairs of the judicial associations for all of their hard work. She spoke of the amazing work the judges of Ohio do for the judiciary and the Judicial Conference. She thanked the Judicial Conference staff for all of their hard work. She thanked Mark Schweikert for being such a breath of fresh air and she thanked the

Supreme Court, JoEllen, Steve and Rick who have always answered her phone calls and responded. The group applauded Chair Farmer.

X. 2010 Meetings:

Friday, November 5 (10:00-2:00) Executive Committee meeting; Ohio Judicial Center

XI. Adjournment

Motion to adjourn: Motion by Judge Thomas M. Marcelain and seconded by Judge Jan Michael Long. The motion was approved unanimously.



Civil Law & Procedure Committee Report

Executive Committee Report, September 16, 2009

Co-Chairs

Judge James A. Brogan
Judge William R. Finnegan

Members

Judge Richard Edward Berens
Judge Warren J. Bettis
Judge Neal B. Bronson
Judge Richard L. Collins, Jr.
Judge Peter J. Corrigan
Judge Matthew J. Crehan
Judge Clair E. Dickinson
Judge John A. Enlow
Judge Thomas J. Grady
Judge Victor M. Haddad
Judge Ronald E. Hadley, *retired*
Judge Harland H. Hale
Judge James J. Heath
Judge Reeve W. Kelsey
Judge Andrew D. Logan
Judge Richard Markus, *retired*
Judge Jerry R. McBride
Judge Nodine Miller, *retired*
Judge Paul Mitrovich
Judge Russell J. Mock
Judge Beth A. Myers
Judge Mark O'Connor
Judge Charles L. Pater
Judge Beverly Y. Pfeiffer
Judge Kenneth R. Spanagel
Judge Anne Taylor
Judge Mary Jane Trapp
Judge Phillip M. Vigorito
Judge John T. Wallace
Judge Jeffrey M. Welbaum
Judge Gene A. Zmuda
Magistrate George Reynolds

The Civil Law & Procedure Committee analyzes pending legislation with a judicial impact on civil laws and procedures and reviews issues and proposals of relevance to judges with civil jurisdiction. It makes recommendations to improve the Ohio Revised Code, Ohio Rules of Civil Procedure, and relevant Supreme Court Rules of Superintendence.

The Committee met on September 16, 2009, immediately before the Executive Committee's meeting. At that meeting, the Committee reviewed and discussed legislative proposals having a potential impact on civil laws and procedures.

The Committee discussed legislative proposals intended to address the increasing number of mortgage foreclosures in Ohio. House Bill 3, for example, imposes a six-month moratorium on residential mortgage foreclosure actions; requires creditors filing foreclosure complaints to transmit a payment to the Department of Commerce; and proposes regulations for residential mortgage servicers operating in Ohio. As introduced, the bill also contained provisions authorizing judges to modify mortgage terms.

The Committee identified potential constitutional and practical problems with House Bill 3's provisions, which it shared with the General Assembly through correspondence and testimony. The House has passed a substitute version of the bill that removes the judicial modification provisions and halves the filing payment from \$1,500 to \$750. The Civil Law & Procedure Committee will continue to closely monitor House Bill 3's progress in the Senate.

During the Committee's September 16, 2009 meeting, the committee also discussed a proposal being considered for introduction in the General Assembly that would increase the monetary jurisdiction of municipal courts and county courts and the small claims divisions of those courts.

The Committee plans to meet again on December 11, 2009.



Community Corrections Committee

Executive Committee Report

September 16, 2009

Co-Chairs

Judge James L. DeWeese
Judge Howard H. Harcha, III

Members

Judge Forrest W. Burt
Judge John A. Connor
Judge Gary Dumm
Judge Donna Congeni Fitzsimmons
Judge L. Alan Goldsberry
Judge Michael J. Holbrook
Judge Michael P. Kelbley
Judge Jeffery B. Keller
Judge Thomas M. Marcelain
Judge Jerry R. McBride
Judge David H. McKenna
Judge Paul H. Mitrovich, *retired*
Judge Michael K. Nunner
Judge Scott W. Nusbaum
Judge Dominick E. Olivito, Jr.
Judge Colleen M. O'Toole
Judge Laurie J. Pittman
Judge Connie S. Price
Judge Mary Margaret Rowlands
Judge Michael J. Russo
Judge Michael J. Ryan
Judge James A. Shriver
Judge Diane S. A. Vettori
Judge John R. Willamowski
Judge Dean L. Wilson

The Community Corrections Committee provides a judicial perspective and advice on legislation and innovation in the field of Community Corrections. The committee reviews community corrections programs, policies and proposals, makes recommendations to the judiciary and provides input as needed into the planning of various workshops, trainings and forums for judges, and court personnel on the subject of community corrections, jails, sentencing alternatives or other related topics.

The committee worked with ODRC to plan/present a concurrent session for the 2009 Annual Meeting. Presenters will discuss the implications of HB130, sentencing problems, PRC statute, electronic commitment, and other issues. Dr. Ed Latessa, University of Cincinnati, Center for Criminal Justice Research, will also present and will talk about the development of the risk and needs assessment system for Ohio.

The next scheduled conference call is November 4th at Noon. Other meetings will be scheduled as needed.



Court Administration Committee

Executive Committee Report, Sept. 16, 2009

Co-Chairs

James A. Shriver
Lynn Slaby

Members

Larry Allen
J. Timothy Campbell
Jo Ellen Cline
Lisa L. Coates
John S. Collier
Ethna M. Cooper
John M. Durkin
Edward J. Elum
Eileen T. Gallagher
Karla J. Grady
Thomas R. Herman
Robert C. Hickson, Jr.
Steven Hollon
Thomas A. Januzzi
James D. Jensen
William A. Klatt
Charles F. Kurfess
Linton D. Lewis, Jr.
Jerry R. McBride
Robert P. Milich
Kathy S. Mowry
Deborah J. Nicastrò
Michael K. Nunner
Colleen M. O'Toole
Barbara R. Oswick
John J. Russo
Charles A. Schneider
Paul E. Spurgeon
Melody J. Stewart
John B. Street
Kim Switzer
Tygh M. Tone
Robert S. Wynn

Platform and Legislative Initiatives.

Judicial Assault. House Bill 89 and House Bill 103 have been introduced to deal with judicial assaults. House Bill 103 passed out of the House Judiciary Committee without including the changes desired by the Judicial Conference. We will continue to monitor the legislation and work to obtain the amendments should the bill move through the lawmaking process. Among other things, those amendments would have improved existing intimidation and retaliation statutes and removed a new threatening statute.

Wedding Fees. Though not in the platform, this issue was endorsed by the OJC Executive Committee as part of the overall legislative agenda. The initiative amends O.R.C. sections 1907.18 and 1907.26 to clarify that county court judges, just like other judges, cannot retain any fees they collect for performing weddings. This will provide consistency within the O. R.C. as well as bring the O.R.C. into compliance with the Ohio Constitution's prohibition that judges cannot receive any fees or other perquisites. We have approached several members of the Ohio General Assembly (Rep. Huffman, Letson, and Fende) in an effort to obtain a bill sponsor. The OJC Executive Committee endorsed the Judicial Impact Statement at its February 2009 meeting.

Private Judging. On March 23, 2009 a letter was sent to the Ohio Association for Justice and the Ohio Association of Civil Trial Attorneys to initiate a meeting to discuss whether there is a way for our organizations to resolve our differences over this issue. An initial phone call from Brian Riley indicated that OACTA was interested in meeting with the Judicial Conference, but no invitation has been issued.

Magistrate Proposal. The Committee does not desire to single out any association of court employees for special endorsement. Should the Magistrate Committee propose an endorsement of magistrates on behalf of the Ohio Association of Magistrates, the members of the Court Administration Committee propose the following language:

The Ohio Judicial Conference recognizes the Ohio Association of Magistrates (OAM) as ~~a non-member judicial~~ an association, whose mission is to assist magistrates, through education and professional development, to better serve their courts and the justice system.

The Executive Committee of the Ohio Judicial Conference encourages judges to consider supporting magistrate membership in the OAM and attendance at OAM Spring and Fall Conferences when participation would benefit their courts and the justice system and when budget and workload conditions permit.

The Executive Committee encourages Co-Chairs of the Ohio Judicial Conference Standing Committees to consider appointing magistrates to serve on the Standing Committees as authorized by Article V of the Ohio Judicial Conference Constitution whenever the judges serving on the committee agree that the service of magistrates would be welcome and enhance committee discussion, would be appropriate to the subject matter of the committee, and would improve the quality of the work and the productivity of the committee.

Note: Four members voted not to endorse magistrates over other court employees, 11 voted against the magistrate committee's proposal and in favor of the court administration committee's language, and 2 voted in favor of the magistrate committee's proposal.

Court Costs and Filing Fees. The Court Administration Committee continues to work with Representative Matt Huffman as he develops legislation to implement the recommendations of the Joint Committee to Study Court Costs and Filing Fees (July 2008).

Deduction of Fines and Costs from Bail Postings. The Court Administration Committee conducted research into the practice of obtaining consent to subtract fines and costs from bail. The committee determined that existing statutes and rules (Criminal Rule 46 H) are consistent with case law. The committee endorsed the practice of continuing bond until fines and costs are paid, but emphasized that fines and costs cannot be deducted from a cash bond without the voluntary consent of the person who posted the bond.

Strategic Planning. The Committee completed a strategic planning document and forwarded it to the OJC Strategic Planning Committee. The Committee recommended several changes in the strategic plan to better accommodate the work of the Court Administration Committee.

Subcommittee Progress. Our two subcommittees are making steady progress on their projects.

- The Court Administration's Subcommittee on Court Reporting and Transcripts (Chaired by Judge Jerry McBride) has made recommendations for changing Appellate Rule 9, Sup. R. 11 and 13, and is now working on making recommendations to change similar sections of the Ohio Revised Code.
- The Court Administration's Subcommittee on the Local Budget Process (Chaired by Judge Deborah Nicastro) has developed training materials and a training program to help judges and funding authorities better understand the budget process and the role that each plays in that process. These materials will be offered as part of the educational courses on Friday of the Annual Meeting in three separate breakouts.

Miscellaneous Issues. The Committee has representatives working on indigent defense issues and implementation of law library reforms enacted by the 127th G.A. The Committee also has prepared enactment information on changes in the reimbursement of acting judges and increases in court costs, fees, and surcharges (see attached).

House Bill 1 (Budget Bill), 128th GA

LOCAL COURTS

Acting Judge

ORC Sections 1901.121,
1907.14

These changes eliminate the responsibility of the Supreme Court of Ohio to reimburse local funding authorities the compensation paid to acting judges. *Effective October 16, 2009.*

Indigent Defense Support Fund (IDSF) Effective October 16, 2009

Code Reference	Description of change	Cost/Fee Increase
R.C. 2937.22	Imposes a \$25 surcharge on bail postings. The \$25 goes to the Indigent Defense Support Fund	Surcharge increases from \$0 to \$25.
R.C. 2949.091 (A)(1) and A(2). This applies to adult offenders and juvenile offenders (child determined to be a delinquent or a juvenile traffic offender)	Increases costs to be assigned on felony, misdemeanor, and traffic offenses. These costs and increases (\$15, \$5, and \$10) go to the Indigent Defense Support Fund.	Costs on felony offenses are increased from \$15 to \$30. Costs on misdemeanor and moving traffic offenses are increased from \$15 to \$20. Costs on non-moving traffic (except parking) offenses increase from \$0 to \$10.
R.C. 4507.45	Increases license reinstatement fee. The \$10 increase goes to the Indigent Defense Support Fund.	Fee for reinstatement fee is increased from \$30 to \$40.
R.C. 4509.101	Increases financial responsibility reinstatement fee. The increases (\$25, \$50, \$100) go to the Indigent Defense Support Fund.	Fee increases from \$75 to \$100 for first violation. Fee increases from \$250 to \$300 for second violation. Fee increases from \$500 to \$600 for three or more violations.
R.C. 4510.22	Increases the driving under suspension reinstatement fee. The \$10 increase goes to the Indigent Defense Support Fund.	Fee increases from \$15 to \$25.



Court Technology Committee

Executive Committee Report September 16, 2009

Co- Chairs

Judge Chad L. Carey
Judge Jonathan P. Hein

Members

Judge Gary L. Byers
Judge Timothy P. Cannon
Judge Anthony Capizzi
Judge Patricia A. Delaney
Judge June Rose Galvin, *retired*
Judge Guy C. Guckenberger, *retired*
Judge James L. Hoover
Judge Alfred W. Mackey
Judge Lee W. McClelland
Judge Kathy S. Mowry
Judge Deborah J. Nicastro
Judge Colleen O'Toole
Judge Joseph D. Russo
Judge Keith M. Spaeth
Judge James F. Stevenson
Judge Melody J. Stewart
Judge Michael J. Voris
Judge John W. Wise
Judge Stephen Wolaver
Judge Robert S. Wynn
Judge Thomas F. Zachman, *retired*

The Court Technology Committee explores new developments in court technology and policies related to these developments. This committee also serves as a resource to help Ohio judges effectively use technology.

The Court Technology Committee will hold its next meeting on September 16, 2009 at 6 pm at Embassy Suites.

Court Technology Conference

The Hyatt Regency in Columbus was the site of the 2009 Technology Conference sponsored by the Court Technology Committee of the Judicial Conference. Over 123 Judges, technology administrators, court staff, and probation staff gathered to view displays and hear presentations from 45 vendors.

Five special presentations were made by Judges who understand and use the advantages of technology. Judge Gary Byers, from Maumee Municipal Court, compared the iPhone and the Palm Smart Phone. Retired Judge Tom Zachman, from Brown County Municipal Court, outlined the improvements and expected uses for the approaching release of the Microsoft's Windows 7 operating system. Judge John Wise, from the Fifth District Court of Appeals, extolled the virtues of preparing documents without typing by use of Dragon Speaking software. Judge Deborah Nicastro, from Garfield Heights Municipal Court, demonstrated aspects of the paperless courtroom that she has already implemented. Finally, Retired Judge Milt Nuzum, now the Director of the Judicial College, along with David Saffle, the Director of Network and Technology Resources for the Supreme Court, demonstrated the Elluminate system which is available to all courts for video conferencing services.

Monitoring the OCN Project

The OJC Court Technology Committee will continue to monitor the OCN project and its recent move into the roll-out phase. The committee will be briefed on the status of the project and any recent developments in a future meeting. The committee will also be selecting a pilot court judge to write an article in *For the Record* to brief the entire state on the functionality and every day use of OCN.

Ohio Judicial Conference Annual Meeting

Court Technology Committee members Retired Judge Tom Zachman, Judge John Wise, Judge Gary Byers and Judge Jonathan Hein will be presenting during Session 1 on Friday of the Annual Meeting. Topics will cover Windows 7, Dragon Speaking and the iPhone.

Future Meetings:

TBA



Criminal Law & Procedure Committee Report

Executive Committee Report, September 16, 2009

Co-Chairs

Judge William J. Corzine
Judge Janet A. Grubb

Members

Judge Nadine L. Allen
Judge James E. Barber
Judge Amy Berling
Judge David Branstool
Judge James A. Brogan
Judge James M. Burge
Judge Phil W. Campbell
Judge Kelly J. Cottrill
Judge Dale A. Crawford, *Retired*
Judge Frederick W. Crow, III
Judge Vincent Anthony Culotta
Judge Gary Dumm
Judge Sean C. Gallagher
Judge Thomas J. Grady
Judge William A. Grim
Judge Guy C. Guckenberger,
Retired
Judge Elizabeth S. Gutmann
Judge Thomas M. Hanna
Judge Thomas E. Harris
Judge Gary W. Herman
Judge Linda J. Jennings
Judge Lorene Johnston
Judge Joseph W. Kirby
Judge P. Randall Knece
Judge N. Edward Lane, Jr.
Judge Alan R. Mayberry
Judge Stephen B. McIlvaine
Judge David H. McKenna
Judge Colleen M. O'Toole
Judge John W. Rudduck
Judge Nancy Margaret Russo
Judge Jon P. Schaefer
Judge James A. Shriver
Judge John M. Solovan, II
Judge Kenneth R. Spanagel
Judge Paul E. Spurgeon
Judge Julia A. Stautberg
Judge Charles D. Steele
Judge John Trebets
Judge David Andrew Trimmer
Judge Diane S.A. Vettori
Judge Mark W. Wall
Judge Michael W. Ward
Judge Richard K. Warren
Judge Jeffrey M. Welbaum
Judge Annalisa S. Williams
Judge Stephen Wolaver

The Criminal Law & Procedure Committee analyzes pending legislation with a judicial impact on criminal laws and procedures and reviews issues and proposals of relevance to judges. It makes recommendations to improve the Ohio Revised Code, Ohio Rules of Criminal Procedure, and relevant Supreme Court Rules of Superintendence.

The Committee met on July 19, 2009. The Committee has been reviewing proposed reforms to Ohio's criminal sentencing laws introduced in the legislature as measures designed to ease Ohio's prison overcrowding problem. The proposals include increasing the felony theft threshold, encouraging community control sanctions for felony nonsupport violations, removing absconding from Adult Parole Authority supervision as an escape offense, and increasing the number of credit days an offender can earn while incarcerated. Co-chair Corzine has participated in discussions with members of the General Assembly, DRC, and other interested parties about modifying the proposals to ameliorate the proposals' potentially negative impact on the criminal justice system. The discussions have been productive and have resulted in a substitute bill that tempers the negative judicial impact of the original proposals and expands judicial discretion in several areas of criminal sentencing.

The Committee has also been working on Senate Bill 77, which would require that custodial police interrogations be electronically recorded; create procedures for conducting police lineups; create evidence retention standards; and expand eligibility for post-conviction DNA testing. Co-chair Corzine has participated in interested party discussions about modifying the bill to ameliorate its potentially negative judicial impact.

The Committee has been reviewing and discussing other recently introduced legislation that covers a range of topic areas, including, among other things, traffic offense sentencing, OVI sentencing, and animal cruelty. At the Committee's direction, Conference staff is sharing with the General Assembly concerns and potential areas for modification in that legislation.

The Committee will meet again on December 2, 2009.



Chair

Judge John M. Durkin

Members

Judge Peggy L. Bryant
Judge James L. Flannery
Judge Carol J. Dezso
Judge Peter M. Sikora
Judge Beverly K. McGookey
Judge Joyce A. Campbell

Judicial Education

Executive Committee Report, September 16, 2009

The Judicial Education Committee works with the Executive Committee, judicial association presidents, the Judicial College, and the Judicial Conference staff to develop, organize, and present the Annual Meeting Education Program.

2009 Annual Meeting

The 2009 Annual Meeting is focusing on “Judicial Reasoning and Philosophy” with the sub-title being “Making Good Judicial Decisions.” The 2009 Annual Meeting is being held September 17-18, 2009 at the Embassy Suites-Dublin. Former U.S. Magistrate Judge and Sedona Conference Advisory Board member, Ronald Hedges, will speak on judicial philosophy and modern discovery. Andrew Wistrich, federal judge and co-author of “Blinking on the Bench” will propose an entirely new model of judging that provides a more accurate explanation of judicial behavior. Cornell University Law School professor, Emily Sherwin, a regular participant in the roundtable conferences of the University of San Diego’s Institute for Law and Philosophy, will talk about “Demystifying Legal Reasoning.”

Well-known judicial educator, Thomas Langhorne, Esq. of Virginia will present on Thursday afternoon on the roles personality, logic and values play in judicial decision making.

Friday sessions will include presentations on court interpreters, court funding issues, unconscious racial bias, court technology, and a review of cases from the past term of the Supreme Court of Ohio. A *separate seminar* has been added right after the Annual Meeting. This separate program on balancing victims’ rights and defendants’ rights in criminal law proceedings is brought to Ohio by the National Center for State Courts, in cooperation with the Ohio Judicial Conference and the Supreme Court of Ohio Judicial College. Separate registration is required for this course.

There have been many registrations coming in for the annual meeting and attendance for the 2009 OJC Annual Meeting is expected to be high.

Respectfully submitted,

Judge John M. Durkin



Co-Chairs

Judge Sheila G. Farmer
Judge Everett H. Krueger

Members

Judge L. Alan Goldsberry
Judge Janet A. Grubb
Judge Jan Michael Long
Judge A.J. Wagner

Judicial Compensation & Benefits Committee Report

Executive Committee Report, September 16, 2009

With pressure from the news media and some members of the legislature, the Ohio Retirement Study Council asked each of the state employee pension plans to submit a report on their plan to ensure long term solvency. The OPERS report was submitted on September 4, 2009 and although the compensation committee has distributed the report to its members we have not yet had an opportunity to confer together regarding its implications. The compensation committee will continue to monitor this issue and take action to ensure that the concerns of Ohio judges are heard.

Legislation will be required for implementation and other employee organizations will be active on this topic as well. It is also likely that the ORSC will be interested in consistency throughout the various state plans.

A summary of the report from OPERS is provided below:

Goals:

- (1) adopting sufficient changes to ensure OPERS funding will remain within the required statutory 30-year limit through at least 2012. Target is to reduce liabilities by \$4-\$8 billion through plan design changes, and
- (2) providing sufficient funding to allow OPERS to continue to provide meaningful health care to its members.

Actions being considered:

- Purchase Service Credit – modify the formula for service credit purchases to be actuarially neutral rather than subsidized by the System participants.
- Minimum Earnable Salary – increase the minimum earnable salary eligible for full service credit to \$1,000 per month with lesser amounts pro-rated.
- Membership Determination statute of limitations – establish a 5-year limit for individuals to initiate a membership determination.
- Board authority to establish the mitigating rate – provide the Board rather than the actuary the authority to establish the mitigating rate.
- Disability program changes to assist disabled recipient returning to work.
- Increase the retirement eligibility age by 2 years for all divisions

Specific recommendations are:

- Unreduced retirement available at age 67 with 5 years of service or at any age with 32 years. Reduced retirement available at age 62 with 5 years of service or age 57 with 25 years of service. The minimum age to retire and be eligible for health care would be 55.
- Modify the formula benefit for members of the general division to require 35 years of service before the formula increases to 2.5%.

- Modify the Cost of Living increase to equate to CPI, not to exceed 3%.
- Modify the final average salary calculation to be based on a 5-year average salary with annual increases limited to 10% (anti-spiking provision).
- Modify early retirement age reduction factors to be actuarially neutral rather than subsidized.
- Eliminate the minimum benefit calculation.
- Require intersystem transfers to be actuarially neutral rather than subsidized.
- Limit retroactivity of benefits for inactive participants to within 90 days of application receipt.
- Require members hired after the date of legislation to automatically be enrolled in the new plan (no transition).

The above plan is estimated to reduce the System's liabilities by \$4.9 billion within 22 years.

Transition to this new plan will be important. The OPERS Board wants to consider a 5 year transition period and wants to include additional stakeholder meetings before deciding on a final implementation schedule.



**Judicial Ethics &
Professionalism**

Co-Chairs

Judge Colleen C. Cooney
Judge Thomas J. Marcelain

Members

Judge Mary DeGenaro
Judge David A. Ellwood
Judge Otho Eyster
Judge Carrie E. Glaeden
Judge Michael R. Goulding
Judge William D. Hart
Judge David E. Henderson
Judge Michael F. Higgins
Judge John E. Holcomb
Judge Robert E. Messham, Jr.
Judge John R. Milligan, *retired*
Judge Russell J. Mock
Judge James D. Piergies
Judge Laurie J. Pittman
Judge Jack R. Puffenberger
Judge Matthew P. Puskarich
Judge Joseph D. Russo
Judge Gregory F. Singer
Judge David Sunderman
Judge Kathleen Ann Sutula
Judge William Weaver, *retired*
Judge Mary L. Wiseman
Judge Joseph M. Worley
Judge J. Craig Wright, *retired*
Judge Norman Zimmelman

Judicial Ethics and Professionalism Committee

Executive Committee Report, September 16, 2009

The Judicial Ethics & Professionalism Committee reviews the ethical guidelines that govern judges, advocates for improvements in those guidelines, and serves as a resource to help judges resolve problems that concern those guidelines and judicial ethics more broadly.

The committee met on August 25, 2009. Judge Matthew Puskarich has completed an article on the “*Stuard*” case that will appear in the forthcoming *For the Record*. Judges Cooney and Sunderman are working on an article regarding Code of Judicial Conduct Rule 3.9 (service as an arbitrator or mediator) and other rules with a possible goal being new legislation or a rule amendment broadly authorizing judges to do mediation and arbitration.

Judges Joan Synenberg and Roger Kline have joined the Judicial Advisory Group (JAG). It has been some time since the JAG had a seminar or program to help member judges better understand the work of the JAG. Staff is working with Scott Mote to develop such a program for JAG members.

The committee discussed the recent Ohio Courts Statistical Summary and overage rates in light of the *Sargeant* case. One of the graphs shown in the summary has a line drawn through the 10% over time demarcation. Committee members want a presentation on the rules for completing case management reports to help foster consistency in the way courts report cases.

The committee then discussed the issue of voluntary reduction in judicial compensation. There are two scenarios that were brought to the committee’s attention: one where a *candidate* for office promises to reduce his/her compensation if elected; the other where a sitting judge is asked to voluntarily take a reduction in pay by someone else (such as a funding authority representative).

In Ohio Attorney General Opinon No. 2003-027, the attorney general states, “Based upon *State ex rel. Hess v. City of Akron*, 132 Ohio St. 305, 7 N.E.2d 411 (1937), an elected county official or a member of a board of elections may voluntarily waive a portion of the compensation that he is statutorily entitled to receive. When such a waiver is executed and the county auditor is presented with a proper order or voucher for payment of less compensation than is prescribed by statute, the auditor is required pursuant to R.C. 319.16 to issue a warrant on the county treasury for the amount of compensation set forth in the order or voucher.” However, the attorney general’s opinion specifically states that it does not include a situation where a *candidate* (emphasis

added) seeking election to a public office offers or agrees to accept no compensation or less compensation than is provided by statute. The opinion then refers to *Prentiss v. Dittmer*, 93 Ohio St. 314, 112 N.E. 1021 (1916). The *Prentiss* case (which has not been overruled or reversed) provides “[a]n offer by a candidate for common pleas judge [to] accept for his judicial services only the stipulated salary payable by the state, and that he will accept nothing that may be due and payable to him from the local or county treasury, is against public policy and an offense within the purview of [G.C. 5175-26], which, if proven, invalidates his election.” Obviously, the General Code is no longer with us. It has no correlation in the ORC, but R.C. section 3599.01 [Bribery] provides, “(A) No person shall before, during, or after any primary, convention, or election:

- (1) Give, lend, offer, or procure or promise to give, lend, offer, or procure any money, office, position, place or employment, influence, or any other valuable consideration to or for a delegate, elector, or other person;”

Committee members are further researching this matter.

The next meeting of the committee will be on October 19, 2009 via telephone conference call at noon.

Respectfully submitted,

Judge Colleen Cooney and Judge Thomas Marcelain
Co-chairs



Jury Service Committee

Executive Committee Report, September 16, 2009

Co-chairs

Judge Jeffery B. Keller
Judge Reeve W. Kelsey

Members

Judge W. David Branstool
Judge Mark A Comstock
Judge Denise Ann Dartt
Judge John E. Enlow
Judge P. Daniel Fedders, *retired*
Judge Donna C. Fitzsimmons
Judge Thomas P. Gysegem
Judge Russell D. Kegley
Judge Everett H. Krueger
Judge Charles F. Kurfess, *retired*
Judge Robert G. Lavery
Judge Julie M. Lynch
Judge Richard E. Parrott
Judge Beverly Y. Pfeiffer
Judge Reginald J. Routson
Judge Steve C. Shuff
Judge Dean L. Wilson
Judge Mary Wiseman
Judge Charles Wittenberg, *retired*
Judge Gary L. Yost

Jean Atkin, Esq.
Tom Shields

The Jury Service Committee examines all aspects of jury service and makes recommendations for the proper and efficient functioning of the jury system.

The committee met by teleconference on April 10, 2009 and is meeting by actual meeting on September 16, 2009 in Dublin, Ohio. The committee discussed the prior amendment to Criminal Rule 24 and a judge's ability in non-capital cases to now retain alternate jurors after the jury retires to deliberate. The committee decided that a similar change in the rule on the civil side (Civil Rule 47) should be made. Judge Kelsey drafted a proposed amendment to Civil Rule 47 and circulated it among the committee.

The committee discussed the problems of jurors using the internet by way of e-mail, twitter, social web sites, etc. to obtain outside information about the case on which they are serving. Committee judges generally indicated that they are expanding on the general instructions contained in OJI to caution jurors not to communicate with anyone outside the courtroom about the parties, witnesses, participants, claims, evidence, or anything else related to the case. Judge Keller researched sanctions for juror misconduct and provided a report to the committee.

The committee reviewed the U.S. Supreme Court case of *Rivera v. Illinois*. In *Rivera*, the defendant (in a first degree murder case) attempted to use a peremptory challenge to remove Deloris Gomez, a potential juror. The court denied the defendant's challenge because the trial judge concluded that the motive was discriminatory. Ms. Gomez ultimately became the foreperson and the defendant was convicted as charged. The Illinois Supreme Court determined that the trial judge committed error by denying the defendant's peremptory challenge of Ms. Gomez. However the Illinois Supreme Court also found this error was not reversible error. The U.S. Supreme Court agreed, stating, "Because peremptory challenges are within the State's province to grant or withhold, the mistaken denial of a state-provided peremptory challenge does not, without more, violate the Federal Constitution." Some in the Committee questioned whether more guidance on peremptory challenges should be in the rules.

The committee continues to monitor the progress of the NCSC's Jury Manager's Toolbox, an internet-based computer program for use in analyzing jury management activities.

Respectfully submitted,

Judge Reeve W. Kelsey, co-chair

Judge Jeffery B. Keller, co-chair

RULE 47. Jurors

(D) Alternate jurors. The court may direct that no more than four jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the regular jurors. ~~An~~The court may retain alternate juror who does not replace a regular juror shall be dischargedjurors after the jury retires to ~~consider its verdict.deliberate.~~ The court must ensure that a retained alternate does not discuss the case with anyone until that alternate replaces a juror or is discharged. If an alternate replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew. Each party is entitled to one peremptory challenge in addition to those otherwise allowed by law if one or two alternate jurors are to be impaneled, and two peremptory challenges if three or four alternate jurors are to be impaneled. The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed shall not be used against an alternate juror.



Legislative Committee Executive Committee Report September 16, 2009

Co-Chairs

Jan Michael Long
John R. Willamowski

Judicial Members

Judge Diane V. Grendell
Judge Lance T. Mason
Judge Joseph J. Vukovich

The Legislative Committee has been engaged in routine and ongoing business.

Bill Board. We published a summer issue that provided updates on the budget and other activities of the 128th General Assembly.

Platform. We have been making progress on our platform. See attached update.

Law and Procedure Committees. We ask the committees to set their meeting schedules for 2010.

**Progress Report
2009-10 Legislative Platform
Executive Committee; 9-16-2009**

PLATFORM ISSUE	ACTIONS/STATUS
Felony Sentencing. Simplify Ohio's felony sentencing statutes consistent with recommendations from the Ohio Sentencing Commission.	The OJC will support the recommendations of the Ohio Sentencing Commission.
Protection Orders. Give juvenile courts exclusive original jurisdiction over petitions for civil stalking protection orders when the respondent is a minor.	House Bill 10 was introduced in Feb 2009 by Rep. Brown.
Court Costs. Judges support court costs that are nominal and that are directly linked to court-related activities.	OJC Policy Statement on Court Costs. This position was also endorsed by the Joint Committee to Study Court Costs and Filing Fees.
Clevenger. Develop a legislative response to the holding in <i>State v. Clevenger</i> that courts may not waive court costs after sentencing.	Proposal developed. This position was also endorsed by the Joint Committee to Study Court Costs and Filing Fees.
Quinones. Amend R.C. 1901.26, 2743.70, 2949.091, and 2949.093 in response to <i>Middleburg Heights v. Quinones</i> to clarify that costs are assessed on cases and not counts.	Proposal developed. This position was also endorsed by the Joint Committee to Study Court Costs and Filing Fees.
Indigent Defense. Improve funding for public defenders and appointed counsel, and ensure that any increased funding is used to improve the overall quality of indigent defense.	OJC Policy Statement on Court Costs. This position was also endorsed by the Joint Committee to Study Court Costs and Filing Fees. House Bill 1 raised court costs to pay for indigent defense. We wrote letter to Speaker Budish and President Harris opposing this use of court costs.
Retirement Assets. Clarify that qualified domestic relations orders provisions of House Bill 98, 125 th GA are to be implemented automatically.	Proposal developed. Reps. Harwood and Huffman have agreed to co-sponsor this legislation.
Disclosure of Assets. Establish a statutory requirement for full disclosure of assets in divorce.	House Bill 238 was introduced by Rep. Harwood.
Modification of Property Division. Authorize the court to modify final property division by consent of the parties.	House Bill 244 was introduced by Rep. Harwood.
Property Disposal. Create a procedure for the return or disposal of personal property, including weapons, held by law enforcement upon the expiration or termination of a protection order.	Proposal developed. (Note: Several legislators have refused to sponsor legislation that would include this proposal.)

<p>Child Support Age Limit. Amend R.C. 3119.86 to establish a statutory requirement to extend child support through age 19 if the child is in high school.</p>	<p>Proposal developed.</p>
<p>Judicial Qualifications and Compensation. Enhance the process for selecting judges for appointment, expand judicial candidate education requirements, establish a commission to review the allotment of judges across the state and encourage the best qualified candidates to seek office through competitive judicial compensation established by the Judicial Compensation Commission.</p>	<p>Proposal developed.</p> <p>Obtained introduction of HB 173 in 127th GA.</p>
<p>Judicial Assault. Seek statutory changes to Title 29 of the Ohio Revised Code consistent with Substitute Senate Bill 100, 127th GA that would ensure that the penalty for assaulting a judge is treated the same as assaulting a peace officer.</p>	<p>House Bill 89 was introduced by Rep. Zehringer;</p> <p>House Bill 103 was introduced by Reps. Fende & Harwood.</p> <p>Point Judges: Hank Harcha and Eugene Lucci Judge Trapp talked to Rep. Fende.</p>
<p>Placement of Dependent or Neglected Children. Permit juvenile courts to order PPLA if not requested by children services agency in response to <i>In re A.B.</i>, 2006.</p>	<p>Proposal developed.</p>
<p>Juvenile Competency. Establish procedures to determine juveniles' competency in delinquency proceedings.</p>	<p>Proposal being developed by a working group formed by the Supreme Court of Ohio.</p>
<p>Jury Privacy. Clarify R.C. 2313.11(C) and (D) consistent with <i>State v. Bond</i> regarding presence of counsel during an in-camera hearing with jurors.</p>	<p>Proposal developed.</p> <p>Letter to Rep. Dodd requesting sponsorship</p> <p>Judge Branstool suggested we contact Dodd</p>
<p>Jury Costs. Revise R.C. 2335.28 and 2947.23 to allow, under certain circumstances, judges the discretion to assign the costs associated with summoning jurors that are not sworn.</p>	<p>Proposal developed.</p> <p>Letter to Rep. Dodd requesting sponsorship</p> <p>Judge Branstool suggested we contact Dodd</p>
<p>Jury Service. Revise and update the Ohio Revised Code as it provides for jury use.</p>	<p>Proposal developed.</p> <p>Letter to Rep. Dodd requesting sponsorship</p> <p>Judge Branstool suggested we contact Rep. Dodd</p>
<p>Probate Fees. Increase certain fees charged by probate courts.</p>	<p>Obtained introduction of HB 564, 127th.</p> <p>This position was also endorsed by the Joint Committee to Study Court Costs and Filing Fees.</p> <p>Rep. Stebelton has agreed to sponsor in 128th. Reps. Skindell and Bolon have expressed interest in this proposal.</p>

<p>Modernization. Modernize the language of probate statutes (Chapters 2101, 2106, 2107, 2109, 2111, 2113, 2117, 3101, 5122, 5123).</p>	<p>Bill draft prepared by LSC. Larry Belskis is seeking a sponsor.</p>
<p>Personal liability. Revise R.C. 2101.11 and 2151.13 to eliminate personal liability for judges arising from the appointment of appointees and employees.</p>	<p>Proposal developed. Rep. Batchelder has indicated that he will sponsor the proposal or find someone else to sponsor.</p>
<p>Guardianship. Expand the probate court’s jurisdiction to protect the person and assets of an alleged incompetent.</p>	
<p>Misdemeanor Pleas. Repeal R.C. 2937.07’s “explanation of the circumstances” requirement for misdemeanor “no contest” pleas.</p>	<p>Proposal developed. We have consulted with Jo Ellen Cline for help with this due to the fact that a Supreme Court ruling declared that the statute provides for a substantive right that cannot be superseded by Criminal Rule 11.</p>
<p>Motorcycle Endorsement. Identify a penalty for an R.C. 4510.12(A)(2) motorcycle endorsement violation.</p>	<p>Introduced as HB 17, 128th</p>



Magistrates Committee Executive Committee Report September 16, 2009

Co-Chairs

Judge Carol J. Dezso
Judge Beth W. Root

Members

Judge Nadine L. Allen
Judge Richard A. Bernat
Judge Leslie Ann Celebrezze
Judge Mark A. Comstock
Judge Matthew W. McFarland
Judge Timothy N. O'Connell
Judge Bruce A. Winters

Magistrate David Jump
Magistrate Jonathan Starn

The Magistrates Committee consists of judges who have an interest in the role of magistrates in our courts. The committee examines magistrate qualifications, duties, training, and compensation. The committee also identifies those activities of magistrates that are of greatest importance to judges. This committee also collaborates with the Ohio Association of Magistrates on magistrate issues.

At the February 2009 OJC Executive Committee meeting this committee made a motion to the executive committee, based on a request from The Ohio Association of Magistrates, to recognize the magistrates as judicial officers and the OAM as a non-member judicial association; to see more magistrates participating on Judicial Conference committees and to encourage judges to provide funding for magistrates to participate in the Association and various seminars, conferences, etc. The motion was tabled until the May meeting which gave the Court Administration Committee the opportunity to craft alternate language.

At the May 2009 OJC Executive Committee meeting the motion was withdrawn.

Action item – Executive Committee action requested:

The proposal has since been revised (see reverse side of this report). The Magistrates Committee of the Ohio Judicial Conference recommends that the Executive Committee approve the proposal as revised and submitted.

**FIRST DRAFT OF PROPOSED STATEMENT FOR OHIO JUDICIAL
CONFERENCE EXECUTIVE COMMITTEE**

The Ohio Judicial Conference recognizes the Ohio Association of Magistrates (OAM) as a non-member judicial association, whose mission is to assist magistrates, through education and professional development, to better serve their courts and the justice system. The Executive Committee of the Ohio Judicial Conference encourages judges to support magistrate membership in the OAM and attendance at OAM Spring and Fall Conferences.

The Executive Committee also encourages Co-Chairs of Ohio Judicial Conference Standing Committees to appoint magistrates to serve on the Standing Committees as authorized by Article V of the Ohio Judicial Conference Constitution.

REVISED
DRAFT OF PROPOSED STATEMENT FOR
OHIO JUDICIAL CONFERENCE
EXECUTIVE COMMITTEE

The Ohio Judicial Conference recognizes the Ohio Association of Magistrates (OAM) as a non-member association, whose mission is to assist magistrates, through education and professional development, to better serve their courts and the justice system. The Executive Committee of the Ohio Judicial Conference encourages judges to support magistrate membership in the OAM and attendance at OAM Spring and Fall Conferences.

The Executive Committee also encourages Co-Chairs of Ohio Judicial Conference Standing Committees to appoint magistrates to serve on the Standing Committees as authorized by Article V of the Ohio Judicial Conference Constitution.



Ohio Jury Instructions Committee

Executive Committee Report, September 16, 2009

Co-chairs

Judge John F. Bender
Judge H.F. Inderlied, Jr., *retired*

Members

Judge Patrick Carroll
Judge Mary E. Donovan
Judge John A. Enlow
Judge Christine McMonagle
Judge Patricia S. Oney
Judge Jeffrey L. Reed
Judge Richard M. Rogers
Judge Lee Sinclair
Judge Mary Jane Trapp
Judge Stephen Wolaver

Brian Gentile, Esq.
Jennifer Hansen, Esq.
Shawn K. Judge, Esq.
Gregory M. Travalio, Esq.

The OJI Committee meets seven times a year on weekends and at a summer retreat to draft Ohio Jury Instructions for newly enacted legislation and to update existing instructions as needed and required by intervening legal opinions or events.

The Committee last met on August 16-19, 2009 for its summer session. Recently, the committee has worked on jury instructions related to: failure to report child abuse; unanimity comment to aggravated burglary; and punitive damages. Upcoming work will include: securities; tortious interference with expectancy of inheritance; employer intentional tort; and civil rights.

The Committee's next meeting is September 18-19, 2009 at the Embassy Suites – Dublin.

Respectfully submitted,

John F. Bender, co-chair
H.F. Inderlied, co-chair



Public Confidence & Community Outreach Committee

Executive Committee Report, September 16, 2009

Co-chairs

Judge Eugene A. Lucci
Judge Deborah J. Nicastro

Members

Judge Mary J. Boyle
Judge Timothy P. Cannon
Judge Frank D. Celebrezze, Jr.
Judge Richard L. Collins, Jr.
Judge Mike Fain
Judge Sheila G. Farmer
Judge David M. Gormley
Judge Diane V. Grendell
Judge Patrick Noll Harris
Judge David E. Henderson
Judge P. Randall Kneze
Judge Julie M. Lynch
Judge Frances E. McGee
Judge Mark Mihok
Judge Keith P. Muehlfeld
Judge Mark S. O'Connor
Judge James D. Piergies
Judge Robert P. Ringland
Judge Stephanie Wyler
Judge Gene A. Zmuda
Judge Joseph J. Zone

The Public Confidence and Community Outreach Committee promotes activities that instill public confidence in the Ohio judiciary by helping judges educate the general public about the function and operation of the state's judicial system.

The Committee met on August 27, 2009 by way of telephone conference call.

The Committee has completed the various articles on judicial independence and those articles have been forwarded electronically to the members of the Executive Committee.

Action Item Executive Committee action requested

The Public Confidence and Community Outreach Committee has completed the various articles on judicial independence and those articles have been forwarded in advance to the members of the Executive Committee. The PCCO Committee asks that the Executive Committee of the Ohio Judicial Conference approve and adopt those articles and instruct the PCCO committee as to further action regarding the articles.

The Committee conducted a survey of Ohio judges. So far the response has been limited. 99 judges responded to the survey, but an additional electronic request for participation may bring in additional responses. 95 judges said they visit the Ohio Judicial Conference website; 86 judges have a copy of the Judges' Resource Manual; 90 judges read fyi; 98 judges read For the Record; most judges do something for community outreach; many judges would like the OJC to produce some "canned" programs for local use; 86 judges would like to receive periodic e-mails from the OJC containing community outreach ideas; 78 judges would be interested in attending an OJC-sponsored workshop on community outreach and public confidence in the judicial system.

A subcommittee has been formed to revisit the issue of unfair public criticism of judges. The subcommittee, chaired by Judge Grendell, has developed a proposed procedure for responding to unjust public criticism of judges. A tentative on-call list of judges has been prepared.

Action Item Executive Committee action requested

The Public Confidence and Community Outreach Committee, through a subcommittee, has developed a proposed procedure for responding to unjust public criticism of judges and a tentative on-call list of judges. Those items have been forwarded, in advance, to the members of the Executive Committee. The PCCO Committee asks that the Executive Committee of the Ohio Judicial Conference approve and adopt that procedure and the on-call list.

The Committee continues to work on updating the "Electing Judges" brochure and the Outreach That Works Library. The Committee has begun sending out e-mails of community outreach ideas with Judge Gormley greatly assisting the project by supplying several proposed ideas.

Respectfully submitted,

Judge Eugene A. Lucci, co-chair
Judge Deborah J. Nicastro, co-chair

TENTATIVE PROCEDURE FOR RESPONDING TO UNJUST CRITICISM CLAIM

REVIEW & VOTE – QUESTIONS TO ANSWER

- I. Should our committee respond?
When the committee learns of the public criticism, the on-call judges will begin the investigation process with the first step in contacting the judge to see if they want a response issued. If so, then the OJC Executive Director will seek approval from the OJC officers. If given, the committee chair will issue the response.

NOTE: Until protocol is approved handle on case-by-case basis.

- A. How were we notified of this judicial criticism? Any of these methods

1. Impugned Judge
2. Media
3. Bar Association
4. Other

- B. Why should we respond?

1. How reliable is fact pattern? On-call judges will initiate investigation to determine. Make sure a grievance hasn't already been filed.
Who investigates? (2 judges assigned on quarterly rotation)

NOTE: Most frequent times likely to be around elections; stay away from specifics but respond to media as to procedural issues, what pertains to law, etc.

How do we first decide if criticism serves to erode the public trust and/or confidence in the judiciary? Limit to issues that pertain to administration of justice and the law itself; avoid administrative kinds of things.

2. Does impugned judge want us to respond? On-call judges investigating the criticism will find out during the course of the investigation. There have been instances where a judges' request has been denied (e.g. Judge Puffenberger with retire/rehire issue).
3. Do the two on call judges want us to respond?
4. Does our Director want us to respond? Which method does the Director choose?
5. How do we provide guidance?
6. Should we work in conjunction with other associations?
 - a) Bar Associations
 - b) Supreme Court
 - c) Other

- Determine if other assn has responded to a similar complaint or just do our own investigation?
- Take advantage of available resources or existing education materials or work with PIO to disseminate response(s).
- Depends on outcome of investigation; play it by ear.

7. What method should we use to respond?

a) Media

- 1) Writing (use retired judges)
- 2) Telecommunication
- 3) Bar Associations
- 4) Other

C. How timely should we expect to be?

Investigation should take place within 3 days

Response should be facilitated within 1 to 2 weeks

(It depends on the case)

D. What educational opportunities should we consider?

We will advertise/market to judges via OJC website, *For the Record*, and specifically to new judges

(other venues)

E. Document entire approach and accomplishments.

What worked and what didn't work – report to OJC executive director

F. Report to committee.

PROCESS:

- Committee is made aware of a criticism; heads-up to OJC Executive Director
- On-call committee member-judge(s) to contact Judge to see if they want a response issued;
- Investigate complaint then report back to committee and to OJC Executive Director to communicate to OJC officers for approval before issuing a response.
- Check with other associations/organizations to see if they have dealt with a similar situation.
- Determine if it is appropriate to respond (perhaps educational, even if individual judge does not want a response as it might be of benefit to all judges). Model the other associations' response if suitable.



Chair

Judge Thomas A. Swift

Personnel & Office Administration Committee

Executive Committee Report, September 16, 2009

Legislative Liaison/Analyst – Corie Marty resigned as Legislative Liaison/Analyst on June 26, 2009. She will be missed.

Mark Schweikert, Executive Director, and Donna Childers, Legislative Activities Coordinator, reviewed about 200 applications for the Legislative Liaison/Analyst position and interviewed several candidates. Louis Tobin was selected and hired on September 14, 2009. Louis received his Juris Doctorate in May 2007 from the University of Pittsburgh – School of Law. He most recently worked in the Ohio House of Representatives as a Legislative Aide. Welcome, Louis!

Administrative Policies – The Officers approved changes to the following OJC Administrative Policies:

- **Adm. P. 5 (Equal Employment Opportunity)** - deleted inapplicable language.
- **Adm. P. 13 (Time Management)** – added language to include the new comp time/overtime request form.
- **Adm. P. 13 (Time Management) - Attachment A – Request to Earn Compensatory Time or Overtime Form** – approved new form.
- **Adm. P. 32 (Travel) – Attachment C** - changed language from social security number to OAKS EmplId.
- **Adm. P. 35 (Records Management)** - added language to address public records access.



Publications Committee

Executive Committee Report, September 16, 2009

Co-Chairs

Judge Randall L. Basinger
Judge Nancy D. Hammond

Members

Judge Stephen F. Belden
Judge Leslie Ann Celebrezze
Judge John E. Corrigan
Judge June Galvin, *retired*
Judge Kenneth R. Spanagel

The Publications Committee provides guidance to Judicial Conference staff in its efforts to produce publications that meet the needs of Ohio judges by providing timely and relevant information, by encouraging dialogue, and by enhancing the Judicial Conference's ability to serve as the voice of Ohio judges.

The Publications Committee held its first meeting of 2009 on February 6th. The meeting was a conference call. The next meeting will be on September 16th, 2009 at the Embassy Suites.

Library of Reasoned Orders (LRO)

Judges Eve V. Belfance and Thomas A. Januzzi will be replacing retired Judge Joyce J. George as co-chairs of the LRO committee. Judge Belfance will also replace Judge Fain as the LRO committee liaison to the Publications Committee. The LRO has grown to 233 orders and grows at an average of 5 – 7 orders a month. Recently a “keyword” search function has been added to allow users to search the description of the orders.

For the Record

The Second Quarter FtR has been printed and includes articles honoring Justice Terrence O'Donnell as the “Distinguished Judicial Figure” for this issue, Judges Stucki, Trap and Trebets were also honored for their judicial excellence, the undertakings of the OJC Strategic Planning Committee, articles on Court Security, Tips and Techniques for Judges giving media interviews, an overview of what types of online courses the Judicial College will offer, an article on the generosity of Ohio lawyers and a judicial reaction to “Jessica’s Law.”

The committee is always seeking new story ideas and submissions. If you have items for upcoming editions, please contact Chris Arndt, Project Specialist, at the Conference.

Ohio Lawyer Board of Editors

The committee will be selecting a judge to sit on the *Ohio Lawyer* Board of Editors at its next meeting. The judge will replace Executive Director Mark Schweikert in reviewing possible articles for the publication.

Upcoming Meetings:

2009

- September 16th – 1:30 pm
- October 9th – 12:00 pm



Retired Judges Committee

Executive Committee Report, September 16, 2009

Co-chairs

Judge Mary Grace Trimboli
Judge Thomas F. Zachman

Members

Judge J. Ronald Bowman
Judge Mary Cacioppo
Judge James P. Celebrezze
Judge R.R. Denny Clunk
Judge P. Daniel Fedders
Judge Mark S. Froehlich
Judge June R. Galvin
Judge Joyce J. George
Judge George M. Glasser
Judge Lawrence Grey
Judge Ronald E. Hadley
Judge James L. Hoover
Judge Fred Inderlied
Judge Charles F. Kurfess
Judge William J. Martin
Judge Lynett McGough
Judge Nodine Miller
Judge John R. Milligan
Judge Larry W. Moore
Judge John C. Newlin
Judge Judith A. Nicely
Judge John P. O'Connor
Judge John P. Petzold
Judge Lynn C. Slaby
Judge David G. Sunderland
Judge Sumner E. Walters
Judge W. Richard Walton
Judge Charles Wittenberg
Judge William H. Wolff, Jr.

[All members are retired.]

The Ohio Judicial Conference Retired Judges Committee reviews and makes recommendations on issues faced by retired judges.

On May 4, 2009, the Committee met by conference call. One of the topics was the change to Rule IV of the Rules for the Government of the Judiciary of Ohio. This rule has been amended to increase the number of hours of instruction that full-time judges, part-time judges and retired judges eligible for assignment to active duty must complete. These judges must now complete a minimum of 40 hours of instruction every two years on subjects devoted to the law and judicial administration. Several judges on the call expressed concern that the Supreme Court was not aware of retired judges' concerns when the amendment of the rule was proposed and adopted. Retired judges generally did not think the proposal was intended to apply to them and did not comment on the proposal. The Committee decided to communicate with all committee members and Judge Farmer on this issue, and an e-mail and survey was sent out. A copy of the survey is attached to this report. Of the seven judges responding, the majority (five) favored "The OJC Retired Judges Committee should request the OJC Executive Committee seek further amendment to the rule to exempt Retired Judges from the additional CLE requirement." Two retired judges selected "The OJC Retired Judges Committee should request the OJC Executive Committee seek a deeper discount for Retired Judges at the OJC Annual Meeting. (retired judges are currently charged \$150.00 as compared to \$270.00 for active sitting judges.)"

The survey results and the concern were communicated to OJC Chair, Judge Farmer.

The Retired Judges Committee is planning for the "Jumping the Retirement Hurdle" seminar for Friday, April 16, 2010 in Columbus. This program is designed for those contemplating retirement in the not-too-distant future and for those recently retired.

OPERS is holding a series of stakeholder meetings in Columbus. Committee members were so advised and urged to attend. The proposal to increase mandatory judicial retirement age to 75 was discussed by the committee and it was decided that the committee would not further address this proposal.

The next committee meeting will be a conference call on October 27, 2009 at noon.

Respectfully submitted,

Mary Grace Trimboli, co-chair
Thomas F. Zachman, co-chair

Retired Judges' Survey
June 2009

The Supreme Court of Ohio amended Ohio Gov. Jud. Rule IV (Judicial CLE) to increase the required CLE hours for *all* judges to 40 hours per 2-year period, with 20 hours maximum carryover. The rule amendment, as originally proposed, did not indicate that retired judges would be subject to this increased CLE requirement. Some members of the Retired Judges' Committee have expressed concern that the Supreme Court was not aware of the concerns of retired judges when they made this decision because retired judges did not think the proposal was intended to apply to them and did not comment. This survey seeks guidance as to further action, if any.

Regarding the implementation of the amended Rule IV of the Gov. Jud. Rules:
(*please check only one* – your preferred choice)

- The OJC Retired Judges Committee should take no further action at this time.
- The OJC Retired Judges Committee should request the OJC Executive Committee seek re-opening the amendment to public comment.
- The OJC Retired Judges Committee should request the OJC Executive Committee seek further amendment to the rule to exempt Retired Judges from the additional CLE requirement.
- The OJC Retired Judges Committee should request the OJC Executive Committee seek a deeper discount for Retired Judges at the OJC Annual Meeting. (retired judges are currently charged \$150.00 as compared to \$270.00 for active sitting judges.)

Additional Comments:

Please return this survey to Mark Miars, Ohio Judicial Conference,
mark.miars@sc.ohio.gov. or 4th Floor, 65 South Front Street, Columbus, Ohio 43215.
Thank-you.



Specialized Dockets Committee

Executive Committee Report

September 16, 2009

Co-Chairs:

Judge John M. Durkin
Judge Elinore Marsh Stormer

Members:

Judge Jerry E. Ault
Judge Charles E. Brown, Jr.
Joyce A. Campbell
Judge Anthony Capizzi
Judge John E. Corrigan, *retired*
Judge Denise N. Cubbon
Judge Patrick P. Cuning
Judge Glenn H. Derryberry
Judge Donna Congeni Fitzsimmons
Judge Elizabeth S. Gutmann
Judge Harland H. Hale
Judge Howard E. Hall
Judge Patrick Noll Harris
Judge Mary Katherine Huffman
Judge Cheryl S. Karner
Judge Michael P. Kelbley
Judge Deborah A. LeBarron
Judge Alfred W. Mackey
Judge Steven E. Martin
Judge James L. Miraldi
Judge Noah E. Powers, II
Judge Carol Ann Robb
Judge Michael J. Sage
Judge Kenneth J. Spicer
Judge Julia A. Stautberg
Justice Evelyn Lundberg Stratton
Judge Kathleen Ann Sutula
Judge Maureen Ann Sweeney
Judge Linda Tucci Teodosio
Judge Thomas A. Teodosio
Judge John T. Wallace
Judge Steven O. Williams

The Specialized Dockets Committee exchanges ideas, discusses issues and recommends policies related to the operation and administration of Ohio courts with specialty dockets (mental health courts, drug courts, re-entry courts, etc.). The Specialized Dockets Committee is working to identify additional resources available to these courts and to develop a procedural framework in order to facilitate the continued operation of these dockets.

The committee worked with the Supreme Court Specialized Dockets Section to plan/present two concurrent sessions for the 2009 Annual Meeting.

- **Dr. Kathy Burns, System Chief Clinical Officer, Franklin County ADAMH Board, will present on the subject of psychiatric illness and psychotropic medications.**
- **Dr. Greg Brigham, Chief Research Officer at Maryhaven in Columbus will talk about abuse of alcohol and drugs, and effective treatments.**

The next meeting of the committee is scheduled as a joint meeting with the OSDPN on November 18th at the Doubletree Hotel in Worthington.