



**The Supreme Court of Ohio**

**Annual Report**

**The Year in Review**

**1989**



**THE SUPREME COURT OF OHIO  
ANNUAL REPORT**

**THE YEAR IN REVIEW  
1989**

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Robert E. Holmes  
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**INTRODUCTION**

The year 1989 was an active and constructive year for the Supreme Court of Ohio. The year included: (1) the addition of the first elected woman justice in 60 years; (2) the amendment or adoption of 21 Supreme Court rules and amendment of the civil and appellate rules; (3) the adoption of a code of conduct for Supreme Court employees; (4) increased emphasis on professionalism among the bench, bar, and court personnel at all levels of the Ohio court system; (5) significant activity by ten Supreme Court standing committees and six special committees appointed by the Chief Justice; and (6) continuation of the Supreme Court's off-site court program.

**THE SUPREME COURT**

**Membership**

Justice A. William Sweeney began his third term on the Supreme Court; he has served on the Court since 1977.

Justice Alice Robie Resnick began a six-year term on the Supreme Court. She is the first woman to be elected to the Supreme Court since 1929.

**Caseload Statistics**

In 1989, the Supreme Court disposed of more than 3,200 matters, including merit decisions, dismissals, and jurisdictional and miscellaneous motions.

A total of 2,224 cases were filed in 1989, including 284 original actions, two federal court certifications of state law questions, 70 disciplinary and three character and fitness matters, and 1,865 appeals, as follows: 1,066 motions to certify the record, 620 motions for leave to appeal, 97 direct appeals, 31 certified conflicts, 28 appeals from the Board of Tax Appeals, 11 appeals from the Public Utilities Commission, and 12 capital cases.

On January 1, 1989, there were 998 cases pending; on January 1, 1990, there were 979 cases pending. For additional statistical information, see Appendices A through E.

**Rules**

In 1989, the Supreme Court amended or adopted 21 Court rules and proposed amendments to the civil and appellate rules. The full text of each rule was published in Ohio Official Reports and the Ohio State Bar Association Report; the publication and effective dates are listed in Appendix F.

**Ohio Judicial College Transfer**

The Supreme Court amended Rule V of the Rules for the Government of the Judiciary and Rule X of the Rules for the Government of the Bar to transfer the Ohio Judicial College from the Ohio Judicial Conference to the Supreme Court. The purpose was to

establish a closer working relationship between the Judicial College and the Supreme Court, and to provide enhanced resources to the College in providing continuing education to judges and other court personnel. The amendments were effective July 1, 1989.

#### Statistical Reporting

In April, 1987, Chief Justice Thomas J. Moyer asked the Ohio Judicial Conference to study the judicial statistical reporting system, and to make recommendations for improvement. The Conference appointed the 23-member Court Statistical Reporting Committee, chaired by Justice Alice Robie Resnick, then of the Sixth District Court of Appeals. After more than a year of work, the Committee submitted its recommendations to the Court. On June 28, 1989, the Court adopted new statistical reporting rules. The rules and new reporting forms became effective on January 1, 1990.

#### Continuing Judicial Education

Effective July 1, 1989, Rule IV of the Rules for the Government of the Judiciary and Rule X of the Rules for the Government of the Bar were amended to consolidate continuing legal education reports filed by judges, exempt federal judges from state continuing legal education requirements, and increase the continuing education requirement for part-time and retired judges from 10 to 12 hours.

#### Victims of Crime

The Court amended Rule 1 of the Rules for the Court of Claims, Victims of Crime Compensation Section, to allow reimbursement to attorneys for fees incurred in establishing a guardianship, and to require prior approval of certain attorney expenses in representing a claimant. The amendments were effective July 1, 1989.

#### Code of Judicial Conduct - Judicial Campaigns

Canon 7B(2) of the Code of Judicial Conduct was amended, effective July 1, 1989, to clarify the period during which judicial campaign committees may solicit campaign funds.

#### Admissions Fund

Effective July 1, 1989, the Court amended Section 12 of Rule I of the Rules for the Government of the Bar to provide that the fees collected by the Court for admissions-related services are designated as the Admissions Fund, and must be used for matters relating to the admission of applicants to the practice of law, the certification of foreign legal consultants, and for the administration and operation of the Board of Bar Examiners, the Board of Commissioners on Character and Fitness, and local admissions committees.

#### Municipal and County Court Assigned Judges

Effective August 1, 1989, the Court amended Rule 13 of the Rules of Superintendence for Municipal Courts and County Courts. As amended, the Rule permits the assignment by the Chief Justice of active and retired municipal court judges and active county court judges to municipal and county courts.

### Child Support Enforcement Guidelines

In 1985, the Supreme Court Advisory Committee on Child Support Enforcement was appointed at the request of the Ohio Senate to develop child support guidelines mandated by federal law. The Ohio Child Support Guidelines were adopted by the Court, effective October 1, 1987, and amended effective October 1, 1988. Based on continuing experience and further deliberation, the Committee in 1989 unanimously recommended that the Court transfer responsibility for child support guidelines to the General Assembly. On June 28, 1989, the Court voted unanimously to accept the Committee's recommendation, and to repeal the Guidelines, effective October 13, 1989.

"The Guidelines are mandated by federal law, and the Court believes that the need for ongoing revisions involves policy matters that are more properly determined by the legislature than by the judicial system," Chief Justice Moyer said in announcing the transfer. At the request of the General Assembly, the repeal was later extended to March 1, 1990, to give the General Assembly time to adopt statutory guidelines (see page 14).

### Judicial Ethics and Substance Abuse Education

Effective July 1, 1989, the Court approved an amendment to Rule IV of the Rules for the Government of the Judiciary to require that all judges complete instruction related to ethics and professional responsibility and instruction on substance abuse, including causes, prevention, detection, and treatment alternatives.

### Supreme Court Clerk's Office Fees

Effective October 26, 1989, the Court amended Rules I, III, V, VIII, XIII, XIX and XX of the Supreme Court Rules of Practice to eliminate two filing fees and increase the docket fee to \$40. The amendments were adopted as a result of the enactment of Amended Senate Bill 136. This was the first revision in the docket fee schedule since 1927.

### Reciprocal Discipline

The Court adopted Section 44 of Rule V of the Rules for the Government of the Bar to provide for reciprocal discipline. The new provision, effective December 5, 1989, will streamline the process under which an Ohio attorney who is disciplined in another state may receive comparable discipline in Ohio.

### Tax Appeals

The Court amended Section 4 of Rule VII of the Supreme Court Rules of Practice to require referral of appeals from the Board of Tax Appeals to a Supreme Court Master Commissioner for oral argument unless the Court decides to hear the argument, grants a request to hear it, or permits a party to waive the argument. The amendment was effective December 15, 1989.

### Probate Forms

Effective January 1, 1990, the Court amended Rule 16 of the Rules of Superintendence for Courts of Common Pleas to provide new standard probate forms for adoptions, and

to temporarily suspend the use of standard guardianship forms while new forms are adopted to conform to recent statutory changes.

#### Traffic Rules; Uniform Traffic Ticket; Commission Membership

In December, the Court approved the publication of proposed amendments to Traffic Rules 3(B) and 13(B) and the Uniform Traffic Ticket to conform the rules to recent statutory changes. These amendments were published for public comment on December 25, 1989, and will be submitted to the Court for final consideration in 1990.

An amendment to Traffic Rule 22 to expand the membership of the Traffic Rules Review Commission was approved effective December 5, 1989.

#### Civil and Appellate Rules

Section 5(B) of Article IV of the Ohio Constitution provides that changes in rules governing practice and procedure must be submitted to the General Assembly not later than January 15 of each year; if no action is taken by July 1, the rules become effective automatically. In January, 1989, the Supreme Court, on the recommendation of the Rules Advisory Committee, adopted amendments to Civil Rules 33, 52, 54, 58, and 86, and Appellate Rules 4 and 33. No action was taken by the General Assembly by July 1, 1989, and the rules became effective on that date.

#### Other Rules

The Court also approved amendments to:

- Section II(A)(5) of Rule 65 of the Rules of Superintendence for Courts of Common Pleas to revise the distribution of lists of attorneys eligible to be appointed as counsel to indigent defendants in capital cases;
- Rule X of the Rules for the Government of the Bar and compliance regulations promulgated by the Supreme Court Commission on Continuing Legal Education;
- Section (2)(f)(i) of Rule VIII of the Rules for the Government of the Bar to clarify the investment authority of the Board of Commissioners of the Clients' Security Fund;
- Section (3)(d) of Rule V of the Rules for the Government of the Bar regarding confidentiality of Disciplinary Counsel records;
- Section (1)(a) of Rule V of the Rules for the Government of the Bar authorizing a Vice Chairman of the Board of Commissioners on Grievances and Discipline ;
- Section 1 of Rule VII of the Rules for the Government of the Bar regarding the Board of Commissioners on the Unauthorized Practice of Law; and
- Section (8)(d) of Rule VIII of the Rules for the Government of the Bar to authorize the Administrator of the Clients' Security Fund to sign subpoenas; the subpoenas must be authorized by the Board, the Chairman, or the Vice Chairman, and may be signed by the Chairman, the Vice Chairman, or the Administrator at the direction of the Board .

For further information on rule changes, see Appendix F.



## State of the Judiciary

In his annual State of the Judiciary address to the Ohio Judicial Conference on September 7, 1989, Chief Justice Moyer told the state's judges that "whether we compare Ohio's judiciary to our own past performance, or to national statistics, we continue to make solid improvement."

The Chief Justice recognized the potential impact of the drug crisis on the judiciary, and stated that a major challenge of the future will be handling the increased number of cases created by greater drug enforcement efforts without reducing the quality of justice in Ohio courts. He announced plans for a meeting convened by the Chief Justice, Governor, Lieutenant Governor, Attorney General, President of the Senate, and Speaker of the House to "develop a nonpartisan, forceful, effective program of education, treatment, law enforcement, and judicial action" in the area of substance abuse (see below). He called upon the judiciary to develop innovative plans to meet the crisis and to share these plans with other courts and judges. Later in September, the Chief Justice named a 25-member committee chaired by Justice Craig Wright to study the impact of the drug abuse crisis on the state court system and to recommend a plan of action; the Committee is discussed on page 11.

The Chief Justice also:

- \* announced that the 1990 Judicial Conference Annual Meeting will include a statewide bench-bar conference, since much of what occurs at the Annual Meeting "is of interest to, and can be enhanced by, the participation of leaders of the legal profession";
- \* announced the opening of the Supreme Court Office of Court Technology in January, 1990;
- \* stressed professionalism among all participants in the judicial system, and the importance of "enhancing the Court's role in the education and training of all members of the court family. . . . People are the most important resource of our judicial system, and we believe very strongly in . . . education and training for all court personnel"; and
- \* reported on the efforts of the Supreme Court Committee on Dispute Resolution and legislation creating the state Commission on Dispute Resolution and Conflict Management; the Committee and the Commission are discussed on page 10.

## Invitation to Address General Assembly

In October, 1989, Senate President Stanley J. Aronoff and House Speaker Vernal G. Riffe, Jr. invited Chief Justice Moyer to deliver a State of the Judiciary address to a joint session of the General Assembly. The Chief Justice accepted the invitation, and will make the first-ever address to the General Assembly in early 1990.

## Ohio Drug Summit

On November 30 and December 1, 1989, the Chief Justice, Governor, Lieutenant Governor, Attorney General, Speaker of the House, and President of the Senate convened the Ohio Drug Summit in Columbus. The Drug Summit brought together experts in substance abuse treatment and education, judges, law enforcement personnel, and local government officials to discuss areas of common concern. Participants also met in community groups to develop local plans of action, and representatives from each community group shared their concerns with statewide elected officials. As a result of the Summit, local voluntary task forces have been formed in many of Ohio's counties, and plans have been implemented to address community concerns.

### Code of Conduct

In March, 1989, the Supreme Court adopted a Code of Conduct for Supreme Court employees. The Code is based on attorney and judicial codes of conduct and the Ohio Ethics Law. The Code of Conduct establishes a written standard of conduct to provide guidance to employees in the performance of their duties and to enhance public confidence. The Chief Justice urged judges throughout the state to consider adopting a similar code of conduct for their court personnel.

### Off-Site Court Program

In 1989, the Court held oral arguments in Canton, Wauseon, Ashland, and Dayton as part of the off-site court program. The program continues to emphasize education, with the focus on high school students. The visits include meetings with editors and reporters from high school newspapers, related course work, and briefings prior to and following the oral arguments. In 1989, 1,730 students were part of a total attendance of 2,160 at these sessions.

The Court has visited 11 different sites. In 1987, the Court visited Marietta and Toledo, and in 1988, the Court visited Cincinnati, Cleveland, Warren, Lima, and Youngstown. During the three years of the program, 4,450 students attended sessions as part of a total attendance of 6,352.

### Court Education Activities

During 1989, more than 8,600 individuals visited the Supreme Court in Columbus, of which 6,273 were students.

In 1988, Chief Justice Moyer invited students from Ohio law schools to attend sessions of the Supreme Court. In 1989, five groups of students from Capital University Law and Graduate Center and The Ohio State University College of Law visited the Supreme Court.

For the last two years, the Supreme Court of Ohio has supported the Ohio Mock Trial Program and the Ohio Center for Law-Related Education in order to foster programs on the judicial system for students. The Court has provided financial support and a representative on the executive and steering committees.

The Supreme Court hosted the Youth in Government model Supreme Court program on April 6-8, 1989, with 60 high school students participating.

The Supreme Court continued its law student intern program with the Capital University Law and Graduate Center and The Ohio State University College of Law; 45 students participated during 1989.

For the third year, the Supreme Court participated in the Bench-Bar-Deans Conference sponsored by the Ohio State Bar Association to discuss legal education, admission to the practice of law, and other issues of common interest to the nine Ohio law schools.

### Publication of Administrative Docket

In September, 1989, the Court began publishing an administrative calendar and docket, listing matters to be discussed and actions taken in the Court's administrative conferences.

### Herbert Harley Award

In 1989, Chief Justice Thomas J. Moyer received the Herbert Harley Award from the American Judicature Society. The award, named after the founder of the Society, recognizes individuals who have made a significant contribution to strengthening the cause of justice.

### SUPREME COURT STANDING COMMITTEES AND OFFICES

#### Board of Bar Examiners

~~Chairman: Fritz Byers;~~ Secretary: Marcia J. Mengel

The Board prepared and administered bar examinations in February and July, 1989, to a total of 1,786 applicants .

#### Rules Advisory Committee

Chairman: James L. Young; Secretary: Keith T. Bartlett

The Committee continued its review of rules of practice and procedure, including consideration of possible amendments to the Rules of Evidence. Because of the death of Chairman James L. Young, the Committee did not make formal recommendations during 1989.

#### Board of Commissioners on Grievances and Discipline

Chairman: John G. Mattimoe; Secretary: Jonathan W. Marshall

The year 1989 continued a period of transition for the Board of Commissioners on Grievances and Discipline. The Board appointed Jonathan W. Marshall, former Elections Counsel for the Secretary of State and common pleas judge, as the new Secretary for the Board. Marshall assumed his duties in September.

The Board also:

- streamlined the procedure for issuing advisory opinions pursuant to Section 2(b) of Rule V of the Rules for the Government of the Bar and agreed to study the method of distributing the opinions;
- began monitoring attorneys placed on probation in disciplinary cases as a result of a change in the Disciplinary Rules in 1988; and
- presented numerous continuing legal education programs.

The Board had 72 new cases in 1989, up from 62 in the previous year; 49 cases were certified to the Supreme Court, up from 42 the previous year. The Board also issued 37 advisory opinions in 1989.

#### Office of Disciplinary Counsel

J. Warren Bettis, Disciplinary Counsel

In 1989, the Office of Disciplinary Counsel experienced its busiest year. The Office received 1,845 complaints, up 12 per cent from 1988. After investigation, the Office dismissed 1,552 cases, and took formal action before the Board of Commissioners on Grievances and Discipline in 19 cases. The Office also reviewed 231 appeals from decisions of certified grievance committees of bar associations and investigated 21 allegations of unauthorized practice of law.

In addition, the Office of Disciplinary Counsel participated in 33 ethics seminars throughout the state, providing information to nearly 5,000 lawyers.

To improve efficiency, Disciplinary Counsel closed its Cleveland office and consolidated its operations in Columbus.

Board of Commissioners on Character and Fitness

~~Chairman: Judge J. David Tobin; Secretary: Marcia J. Mengel~~

The Board of Commissioners provided assistance to the Court in revising Rule I of the Supreme Court Rules for the Government of the Bar to enhance the character and fitness requirements for admission to the bar. The Board implemented the amendments to Rule I, including the appointment of special investigators in character and fitness cases and the development of new character and fitness forms. The Board also planned a seminar on character and fitness considerations in the bar admissions process to be presented in early 1990.

Board of Commissioners on the Unauthorized Practice of Law

Chairman: Kenneth F. Seibel; Secretary: Keith T. Bartlett

The Board of Commissioners on the Unauthorized Practice of Law increased its level of activity during 1989. The Board recommended that the Chief Justice appoint a special task force, including representatives of the Board, Ohio State Bar Association, Attorney General, bar associations, and judges, to study the unauthorized or unlicensed practice of law.

In addition, the Board received and disposed of four complaints filed by local bar associations alleging the unauthorized practice of law, and revised its forms for reporting by local bar associations.

Traffic Rules Review Commission

~~Chairman: Kirwan M. Elmers; Secretary: Richard A. Dove~~

The Traffic Rules Review Commission recommended amendments to Sections 3(B) and 13(B) of the Traffic Rules and the uniform traffic ticket in response to recent legislation.

Board of Commissioners of the Clients' Security Fund

Chairman: Judge Richard N. Koehler; Administrator: James E. Green

The year 1989 brought changes to the Clients' Security Fund. In February, the Board named James E. Green, a former Assistant Franklin County Prosecuting Attorney, as the new Administrator of the Fund. In the spring, the Clients' Security Fund offices were relocated from Cleveland to Columbus. In 1989, the Board considered 61 claims and made 32 awards totaling approximately \$215,000. The Board also recommended several amendments to Rule VIII of the Rules for the Government of the Bar, participated in several educational forums, and agreed to expand its efforts in public information and education.

Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases

Chairman: Judge Everett Burton; Secretary: Keith T. Bartlett

In 1989, the Committee continued to develop procedures to administer the continuing legal education requirements and experience standards for the appointment of counsel for indigent defendants in capital cases pursuant to Rule 65 of the Rules of Superintendence for Courts of Common Pleas. The Committee certified 196 attorneys as counsel for indigent defendants in capital cases, co-sponsored two educational seminars, and recommended an amendment to Rule 65 to streamline the distribution of counsel lists.

### Commission on Continuing Legal Education

Chairman: Elbert J. Kram; Secretary: Diane C. Lahm

In 1988, the Commission on Continuing Legal Education was created by the adoption of Rule X of the Rules for the Government of the Bar, which requires each lawyer admitted in Ohio to complete 24 hours of continuing legal education every two years beginning in 1989. The 19-member Commission, which is responsible for administering, interpreting, and enforcing the requirements of the Rule, opened the Office of Continuing Legal Education in August, 1988.

In January, 1989, a booklet outlining the requirements of Rule X was mailed to the approximately 37,000 attorneys registered in Ohio. During 1989, the Commission staff reviewed and processed 7,600 applications for accreditation of continuing legal education activities representing 1,200 different sponsors, and published and distributed a list of approved programs. In addition, 1,400 programs and activities that took place in 1988 were approved for "phase-in" credit, and approximately 35,000 individual requests for credit were processed.

In preparation for the first reporting cycle ending December 31, 1989, the Commission staff worked with the Court Computer Services Department to develop a comprehensive system to track the attendance of all Ohio lawyers at continuing legal education programs and activities; the Commission sent a progress report to all attorneys in August, 1989. On November 30, 1989, the Commission mailed transcripts and reporting forms to 20,600 attorneys whose last names begin with letters A-L and who are required to report by January 31, 1990.

### Ohio Judicial College

Chairman: Judge George M. Glasser; Executive Director: Laurence B. Stone

The Supreme Court initiated an informal educational program for judges in 1973. In 1976, the Judicial College was established to provide a formal educational program for judges; the College expanded its efforts to include referees in 1988.

Effective July 1, 1989, the Ohio Judicial College was transferred from the Ohio Judicial Conference to the Supreme Court (see page 1). The move is expected to make more educational offerings available to judges, and to allow expansion of educational programs to other court personnel.

A new Rule V of the Rules for the Government of the Judiciary established a new Board of Trustees for the College. The College also employed a new assistant director.

In 1989, the Judicial College presented 35 days of courses to 1,928 attendees. In addition, under a grant from the State Justice Institute, the College developed and presented monthly two-hour presentations for domestic relations referees, using audio-teleconferencing techniques, with 582 participants.

## SUPREME COURT SPECIAL COMMITTEES

### Committee on Court Technology

Chairman: Judge Thomas Swift; Staff Liaison: Edward J. Nyhan

In July, 1988, Chief Justice Moyer announced the appointment of the Supreme Court Committee on Court Technology and charged the Committee with the development of a comprehensive plan for the application of technology in the courts.

In its interim report to the Chief Justice in mid-1989, the Committee recommended the establishment of an Office of Court Technology, with responsibility to: (1) provide staff support for planning, (2) identify emerging technologies, (3) serve as a clearinghouse of information, (4) conduct pilot projects, (5) provide training for court personnel, (6) provide technical consulting services to courts, and (7) develop computer software. The Office is scheduled to open in January, 1990.

The Committee recommended the creation of a permanent advisory committee to make recommendations to the Court on strategic policy and planning considerations. The Committee drafted and sent to the Rules Advisory Committee proposed rule changes regarding the use of facsimile transmission of court documents. The Committee also recommended the adoption of a standard statewide case numbering system and the use of the Supreme Court attorney registration number as a universal identification number in every court.

In 1989, the Committee conducted an extensive survey of judges, clerks of court, and court administrators to determine the status of technology in the courts in Ohio and published the results in a technology newsletter, which has received national attention.

#### Bar Examination Review Committee

~~Chairman: Justice Herbert R. Brown; Staff Liaison: Marcia J. Mengel~~

On April 19, 1989, Chief Justice Moyer appointed the Bar Examination Review Committee to analyze all aspects of the Ohio examination, review examination procedures used in other states, and, if appropriate, recommend revisions in the Ohio examination process. In appointing the eight-member committee, chaired by Supreme Court Justice Herbert R. Brown, Chief Justice Moyer stated, "We should periodically review our examination process to see that it is effectively doing what it ought to be doing -- identifying those applicants who are qualified for admission to the bar."

#### Bench-Bar Committee

~~Chairman: Stephen Cohen; Staff Liaison: Stephan W. Stover~~

In May, 1989, Chief Justice Moyer appointed an eight-member committee to plan a bench-bar conference to be held in conjunction with the Ohio Judicial Conference Annual Meeting in September, 1990. The meeting will provide a forum for judges and lawyers to meet together to share common concerns and discuss the issues that face the judicial system (see page 5).

#### Committee on Dispute Resolution

Chairman: David A. Ward; Staff Liaison: Arthur J. Marziale, Jr.

In the State of the Judiciary address to the Ohio Judicial Conference, Chief Justice Moyer stated, "We want Ohio to be a leader in the search for methods to resolve disputes more efficiently, at less cost, and with greater satisfaction to the parties involved."

In August, 1989, the Supreme Court Committee on Dispute Resolution was appointed to explore new ways to settle disputes within the judicial system. "A courthouse should offer different means of resolving disputes, in addition to the traditional means of going to trial -- to reduce cost and delay and increase satisfaction of the parties with the system of justice," Chief Justice Moyer said in announcing the Committee. "Some disputes can be diverted from court dockets to an array of alternative mechanisms for resolving conflicts. Disputes resolved through alternative mechanisms often yield more satisfactory results because the parties have participated in the decision." These programs may include mediation, arbitration, conciliation, a "multi-door courthouse" concept, and summary jury trials.

In addition, the Court supported the enactment of Amended House Bill 453 of the 118th General Assembly to create a state Commission on Dispute Resolution and Conflict Management. The Commission, composed of appointees from the three branches of government, will be a source of program funding and initiatives. The Chief Justice appointed four members of the Commission, including Samuel H. Porter, who was elected Chairman in December, 1989.

Committee to Study Creeds of Professionalism

Chairman: Eugene R. Weir; Staff Liaison: Richard A. Dove

In August, Chief Justice Moyer appointed the Supreme Court Committee to Study Creeds of Professionalism. "Lawyers are required by the Code of Professional Responsibility and their oath of office to maintain professionalism in their relationships with clients, judges, and other members of the bar," Chief Justice Moyer said in announcing the formation of the Committee. "Creeds of professionalism are adopted to raise the consciousness of attorneys and remind them of that responsibility, thus serving an important purpose to the bar and to the public," he added. The Committee will explore the issue of lawyer professionalism, examine creeds adopted by courts and bar associations in other states and the creed recently adopted by the Cleveland Bar Association, and consider the feasibility of adopting a statewide creed of professionalism.

Committee to Study the Impact of Substance Abuse on the Courts

Chairman: Justice Craig Wright; Staff Liaison: Richard A. Dove

On September 27, 1989, Chief Justice Moyer announced the appointment of a 25-member committee to study the impact of substance abuse on the state court system and to recommend a plan of action. The Committee examined the various substance abuse issues that face the judicial system, including the impact of substance abuse on jail crowding, civil and criminal caseloads, the juvenile justice system, and the need for additional resources. The Committee is expected to submit a report in early 1990.

OFFICE OF THE ADMINISTRATIVE DIRECTOR

Stephan W. Stover, Administrative Director

Court Services Initiative

The Supreme Court has placed emphasis on service, support, and responsiveness to the trial and appellate courts. In 1988 and 1989, the program has included a variety of projects to provide information, technical assistance, and direct and indirect support to the courts.

Court Visitation Program

During the last two years, the Supreme Court staff has made more than 130 visits to more than 110 different courts in Ohio to meet with judges, administrators, and other court personnel and to tour court facilities. These visits provide Supreme Court staff with a better understanding of the issues facing the trial and appellate courts and an opportunity to observe the many innovative programs that have been implemented by Ohio's courts. As a result of these visits, the Supreme Court staff has assisted local courts with security, technology, and facility planning, and has coordinated direct exchanges of information between and among courts on a variety of issues. In 1989, the Court staff visited 61 courts.

### Technical Assistance Program

In 1988, the Supreme Court, in conjunction with the National Center for State Courts, established the Technical Assistance Program to foster innovative programs and stimulate improvements in the administration of Ohio's courts. In 1989, the Program funded or provided direct technical assistance to 19 projects; preference was given to projects with broad applicability, and the results were shared with other courts. In addition, nearly half of the Technical Assistance Program budget was allocated for court personnel education and training.

Examples of projects include:

- a court security project in which the Technical Assistance Program provided a double benefit. In 1988, Judge Michael Voris of Clermont County received a grant to attend a national court security seminar and for an on-site consultation. Judge Voris then shared the information he gained with judges and court staff at court security seminars hosted by the Supreme Court in March and June, 1989; a third seminar is scheduled in January, 1990;
- a study in Hamilton County Municipal Court involving the use of facsimile transmission among the departments of the court;
- a one-day educational conference sponsored by the Franklin County Municipal Court Probation Department for in-house staff and the staff in the probation departments of surrounding counties; and
- The "Loaned Deputy Clerk Program," an exchange program designed for the municipal court deputy clerks in Bowling Green, Medina, and Cuyahoga Falls.

David Steelman, Northeast Regional Director of the National Center for State Courts, in describing the Technical Assistance Program, stated that "no other state system has such a program" that coordinates research and consulting services and involves the state and the National Center in a cooperative effort. "This program has been praised by national leadership in court administration, and is a model for other states to follow."

### Judge and Administrator Meetings

In 1988, the Court held meetings for judges at all levels of the court system to provide information on programs and activities of the Supreme Court, to listen and respond to questions, comments, and concerns, and to exchange information. In 1989, the program was expanded to include periodic meetings of administrators. The Supreme Court staff has assisted in the creation of informal organizations of the administrators of the 12 appellate districts and the urban municipal courts.

### Education and Training

#### Court Personnel Education and Training Committee

In 1989, the Supreme Court staff participated in the creation of the Court Personnel Education and Training Committee, consisting of representatives of the Ohio Association of Court Administrators, Ohio Clerk of Courts Association, Ohio Association of Municipal Court Clerks, Ohio Bailiffs Association, Ohio Chief Probation Officers Association, Ohio Shorthand Reporters Association, and Ohio



Urban Juvenile Court Administrators Association to establish a formal program of education for court personnel. The first seminar sponsored by the Committee, held on October 26, 1989, in Columbus, was attended by more than 300 court personnel. Based on the results of a needs assessment survey completed by 2,500 court personnel, the Committee is planning several programs for 1990. The programs are largely funded by the Supreme Court Technical Assistance Program, and it is anticipated that they will be administered by the Ohio Judicial College.

#### Prebench Orientation

A day-long orientation program for judges elected in November was conducted on December 19, 1989. The newly elected judges were briefed on the offices and activities of the Supreme Court, and experienced judges discussed the responsibilities of a judge.

#### Mentor Program

In 1989, the Court formalized the Mentor Program for newly elected judges. Late in the year, 17 newly elected municipal judges were paired with 29 experienced judges to assist them in making the transition to the bench.

#### Continuing Legal Education Consortium

In 1989, the Supreme Court, the Attorney General, and the Legislative Service Commission established a consortium to develop a curriculum of continuing legal education courses for government attorneys. In 1989, six courses were offered in 18 sessions, with a total of 17.5 hours of possible credit. Courses were offered at no charge.

### Legislation

In 1989, the Supreme Court established a program to monitor legislation of interest to the judicial system. The Supreme Court staff followed more than 100 bills in the 118th General Assembly, provided regular reports to the Court, responded to inquiries, and testified on selected legislation.

#### House Select Committee on Court Reorganization

In 1989, House Speaker Vernal G. Riffe, Jr. reappointed the House Select Committee on Court Reorganization, chaired by Representative Michael Verich. The Supreme Court staff has continued to provide information and support to the Committee.

#### 1989 Legislation

##### Amended Senate Bill 136 - Court Fees

At the request of the Supreme Court, the General Assembly enacted Amended Senate Bill 136 to revise the filing fee schedule applicable to actions filed in the Supreme Court. The Act became effective on October 26, 1989.

##### Substitute House Bill 390 - New Judicial Positions

Using the proposed objective criteria for the creation of new judicial positions, the Supreme Court supported the enactment of Substitute House Bill 390. The Act, which creates new positions in the Sixth, Eighth, and Eleventh District Courts of Appeals and in the Montgomery, Franklin, and Summit County Courts of Common Pleas, is effective January 17, 1990.

## Substitute House Bill 591 - Child Support Guidelines

In June, 1989, the Supreme Court, acting on the recommendation of the Advisory Committee on Child Support Enforcement, transferred responsibility for the child support guidelines to the General Assembly. The Supreme Court staff assisted the General Assembly in developing legislation to codify the guidelines, and worked with representatives of the legislative and executive branches to ensure compliance with federal mandates. It is expected that the General Assembly will act on this legislation early in 1990.

## Criteria for the Creation of Judicial Positions

At the request of the Chairman of the House Select Committee on Court Reorganization, the Supreme Court staff developed proposed "Objective Criteria for the Creation of New Judicial Positions" to assist the Court and the General Assembly in the evaluation of requests for new judicial positions. In 1989, the Court used the proposed criteria to evaluate requests for additional judicial positions from ten courts, six of which were supported by the Supreme Court and approved by the legislature.

## Automated Legal Research

In April, 1989, the Supreme Court entered into contracts to provide automated legal research services for all courts in the state at substantial savings. The Supreme Court negotiated master subscriptions with Mead Data Central, Inc. (LEXIS) and West Services, Inc. (WESTLAW) that eliminate monthly subscription fees for appellate and trial courts. If a court uses both services, the elimination of the subscription fee could save \$200 a month. In addition, the contract provides free training and reduces the hourly rate for legal research by as much as 28 per cent.

## Affidavits of Disqualification

The Ohio Constitution and state statutes authorize the filing of affidavits of disqualification as a procedure for removal of a judge from responsibility for a case if the judge exhibits bias or prejudice. In 1988 and 1989, there were significant improvements in the administration and disposition of affidavits of disqualification. In 1988, the Chief Justice published ten opinions in chambers to begin to establish a body of case law in this area. Eleven decisions were published in 1989, and additional opinions are planned for publication in 1990.

In 1989, 244 affidavits of disqualification were filed, up 21 per cent from 1988, but well below the record 290 in 1987.

## Assignment of Judges

In 1988, Guidelines for the Assignment of Judges were adopted to clarify issues related to judicial assignments and to provide an efficient and effective method for the temporary assignment of judges. In 1989, the Chief Justice made 2,235 assignments.

## LAW LIBRARY

Paul S. Fu, Librarian

The Supreme Court Law Library is the largest state supreme court law library in the United States with more than 290,000 printed and microform equivalency volumes.

During the past year, the library made substantial progress in the installation of an integrated on-line library system (NOTIS). The installation of the cataloging module was completed in August, 1989, and the on-line public access catalog is currently being installed; SCROLL (Supreme Court Research On-Line Law Library) has been selected as the name for the new computerized catalog. Upon completion in the early spring of 1990, SCROLL will replace the traditional card catalog and allow search by author, title, subject, or key word, with access from both public terminals in the library and remote terminals anywhere in Ohio. The remaining NOTIS modules -- acquisitions, serials, and circulation -- are expected to be installed in 1990 and 1991, at which time the Supreme Court of Ohio will have the first fully computerized state supreme court law library in the country.

In 1989, a total of 52,151 patrons visited the law library, an increase of five per cent over the previous year. The library added 7,768 printed volumes, 110,016 pieces of microfiche, and 2,157 rolls of microfilm to the collection. In addition, the library staff responded to 31,897 reference questions. The library also provided reference assistance and sent photocopies of legal materials to judges, lawyers, students, and the public throughout the state and nation.

#### CLERK'S OFFICE

Marcia J. Mengel, Clerk

#### Clerk's Office

In January 1989, the Clerk's Office began docketing all disciplinary cases on computer. A chief deputy clerk was added to the staff with the primary responsibility for direct staff supervision and training.

#### Office of Attorney Registration

The responsibilities of the Attorney Registration Office increased in 1989 as a result of the implementation of the continuing legal education rule; the Office received numerous inquiries for information, such as attorney registration numbers used in completing continuing legal education forms.

In 1989, the staff completed the design, mailing, and processing of certificate of registration materials for the 1989-91 registration period. At the end of the year, 35,633 attorneys had registered: 30,538 attorneys were registered as active, 4,833 as inactive, and 262 as corporate. The Attorney Registration Office also amended the policy regarding the availability of lists of attorneys registered in Ohio, making the lists available more quickly and in a variety of formats.

#### Admissions Office

Substantial revisions to Rule I of the Rules for the Government of the Bar relative to admissions became effective on January 1, 1989. The Admissions Office implemented these revisions during the year, and, as a result, the admissions staff was increased, adding one full-time employee and one part-time employee.

At the admissions ceremony in May, 468 applicants were admitted to the bar, and in November, there were 1,041 new admittees.

## **REPORTER'S OFFICE**

Walter S. Kobalka, Reporter

During the 1989 term, the Reporter's Office published 295 full Supreme Court opinions, 26 abbreviated entries, and 62 miscellaneous orders and orders in chambers, for a total of 383 edited works of the Court. In addition, 384 court of appeals opinions and 48 trial court opinions were published.

Supreme Court opinions, announcement lists, rules, and notices accounted for 50 per cent of the pages available in the Ohio Official Reports, up from 40 per cent in 1985. Court of appeals opinions accounted for 36 per cent of the available pages, down from 46 per cent in 1985. Trial court opinions accounted for four per cent of the available pages, up from two per cent in 1985.

The Reporter's Office, in cooperation with the Computer Services Department, began electronic transmission to the publisher of opinions, announcement lists, rules, and notices, which reduces the time between editing and publication in the weekly advance sheets.

## **COMPUTER SERVICES DEPARTMENT**

Edward J. Nyhan, Manager

The Supreme Court continued pursuit of its goal to keep Ohio at the forefront of technological advances in judicial administration.

Committee on Court Technology (see page 9)

### **Court of Appeals Pilot Computer Network**

In 1988, the Court staff began its test of existing technologies by establishing a pilot computer network consisting of the twelve courts of appeals. In 1989, the network was completed, and prototype appellate court case management software is currently being tested.

### **Case and Issues Tracking Systems**

In 1989, the Computer Services Department, in conjunction with the Clerk's Office, developed a number of improvements to the Court's case tracking system used by the Clerk to index, docket, and retrieve cases filed in that office. In addition, an issues tracking prototype has been developed and is being evaluated by a staff committee.

## **PUBLIC INFORMATION OFFICE**

Harry Franken, Communications Director

The Public Information Office provided a substantial program of public information and education, including weekly announcements of Court decisions, publication of summaries of 361 opinions and other actions of the Supreme Court, 66 news releases and 43 memoranda to the news media on decided and pending cases. In addition, the Public Information Office responded to more than 1,100 requests for assistance or information from the public. The Office continued an education program with the Ohio State University School of Journalism.

## **FISCAL OFFICE**

M. K. Rinehart, Fiscal Officer

The Supreme Court Fiscal Office provides support service for the Court and its staff, including mail, purchasing, supplies, record storage and retrieval, and expense reimbursement. In 1989, the Office processed six payrolls each month and distributed 17,060 payroll warrants and electronic fund transfers statements. As provided by recent legislation, the Court added 88 common pleas clerks to the payroll in 1989, bringing the total payroll to 930.

## **MASTER COMMISSIONERS**

James R. Jump, Counsel to the Court

The Master Commissioners continued to provide research support for the Court in 1989, primarily in cases in which appeal to the Court is a matter of right, including death penalty cases and appeals from the Public Utilities Commission of Ohio and the Board of Tax Appeals, and in original actions filed in the Court.

Two new master commissioners were added to the staff during 1989, one to work on death penalty cases, the other to hear oral arguments in cases appealed from the Board of Tax Appeals, as provided in Section VII(4)(A) of the Supreme Court Rules of Practice (see page 3).

## **COURT OF CLAIMS**

Miles Durfey, Clerk

### **Civil Case Management**

During 1989, 664 cases were decided by the judges of the Court of Claims; the number of dispositions was down slightly from the previous record year. The number of pending cases at the end of the year was 571, the lowest level since 1985.

A record 955 civil administrative determinations were filed in 1989, with a record 1,300 dispositions. Of the number filed, 395 were cases originating from penal institutions. A total of 855 cases of this type were filed in 1988-1989, and of this number 800 were disposed of in 1989. By the end of 1989, the number of civil administrative determinations pending had dropped to 305, the lowest level since 1983.

### **Victims of Crime Case Management**

A record 4,239 victims of crime cases were filed in 1989, up 18 per cent over 1988. During 1989, a record 4,059 victims of crime cases were disposed of by the single commissioner. At the end of 1989, 2,068 cases were pending. The number of cases pending before the panel commissioners and the court were 74 and 14, respectively.

## **OHIO JUDICIAL CONFERENCE**

Chairman: Judge John J. Leskovyansky; Executive Director: Allan Whaling

The Ohio Judicial Conference, established pursuant to Sections 105.91 to 105.97 of the Revised Code, is open to all of the judges in Ohio on a voluntary membership basis. The Conference operates through ten standing and five special committees, and within the framework of its five member associations of appellate, common pleas, probate, juvenile, and municipal and county judges.

The Judicial Conference works in conjunction with the Supreme Court on a variety of issues. In 1989, the Judicial Conference participated in planning the Prebench Orientation and the Mentor Program, discussed on page 13.

Other examples of Conference activity include:

Communication: publishing the "Ohio Judge Directory" and the "For the Record" newsletter;

Legislation: tracking bills on behalf of judicial associations and responding to legislative inquiries; and

Education: offering an open forum for exchange of ideas among all judges, publishing the four-volume set of Ohio Jury Instructions and the Ohio Judges Resource Manual, sponsoring the Conference Annual Meeting, and offering staff assistance for meetings and other projects of the member associations.

MATTERS DECIDED

JURISDICTIONAL MOTIONS

	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>
Motions to Certify .....	851	966	944	869
Motions for Leave .....	<u>521</u>	<u>655</u>	<u>657</u>	<u>663</u>
TOTAL	1,372	1,621	1,601	1,532

MERIT DOCKET

Original Actions .....	230	187	248	152
Direct Appeals .....	77	104	57	91
Certified Conflicts .....	30	39	13	27
Appeals from Board of Tax Appeals .....	32	47	11	35
Appeals from Public Utilities Commission.....	27	9	7	19
Capital Cases .....	8	18	9	8
Merit Cases Pursuant to Allowance .....	141	151	180	225
Certified State Law Questions .....	<u>1</u>	<u>0</u>	<u>N/A</u>	<u>N/A</u>
TOTAL	546	555	525	557

CASES FILED

	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>
Jurisdictional Motions				
Motions to Certify .....	1,066	1,100	1,159	1,057
Motions for Leave .....	620	670	687	676
Original Actions .....	284	205	212	174
Direct Appeals .....	97	106	76	91
Certified Conflicts .....	31	39	32	23
Appeals from Board of Tax Appeals .....	28	46	25	47
Appeals from Public Utilities Commission .....	11	34	13	15
Capital Cases .....	12	13	13	18
Certified State Law Questions .....	<u>2</u>	<u>3</u>	<u>N/A</u>	<u>N/A</u>
 TOTAL	 2,151	 2,216	 2,217	 2,101

APPENDIX B



CASES ALLOWED

	<u>1989</u>	<u>1988</u>	<u>1988</u>	<u>1986</u>
Motions to Certify.....	144	165	171	174
Motions for Leave.....	<u>17</u>	<u>38</u>	<u>24</u>	<u>28</u>
TOTAL	161	203	195	202

CASES PENDING

<u>CASE TYPE</u>	<u>PENDING AS OF 1/1/90</u>	<u>PENDING AS OF 1/1/89</u>	<u>PENDING AS OF 1/1/88</u>	<u>PENDING AS OF 1/1/87</u>
Motions to Certify & Motions for Leave	691*	680	653	1,063
Direct Appeals	97	88	79	94
Appeals from Board of Tax Appeals	45	53	51	38
Appeals from Public Utilities Commission	10	38	12	12
Certified Conflicts	32	37	38	21
Capital Cases	20	18	23	22
Habeas Corpus	20	17	11	23
Other Original Actions	60	64	49	106
State Law Questions	<u>4</u>	<u>3</u>	<u>N/A</u>	<u>N/A</u>
TOTAL	979	998	916	1,379

\* 179 of these are motions that were allowed in and were pending on the merits as of 1/1/90.

DISCIPLINARY AND CHARACTER/FITNESS CASES

FILED

<u>DISCIPLINARY DOCKET</u>	<u>1989</u>	<u>1988</u>
Regular disciplinary cases .....	44	35
Automatic suspensions for felony conviction .....	16	9
Resignations .....	8	10
Miscellaneous disciplinary matters .....	2	0
Disciplinary cases involving judges .....	<u>0</u>	<u>0</u>
<b>TOTAL</b>	<b>70</b>	<b>54</b>
 <u>CHARACTER AND FITNESS DOCKET</u>		
Character and Fitness .....	3	3

DECIDED

<u>DISCIPLINARY DOCKET</u>	<u>1989</u>	<u>1988</u>
Reprimands .....	9	8
Definite suspensions .....	6	11
Definite suspensions with probation .....	3	5
Indefinite suspensions .....	7	13
Disbarments .....	4	3
Automatic suspensions for felony conviction .....	15	9
Resignations .....	6	9
Miscellaneous disciplinary matters .....	2	0
Disciplinary cases involving judges .....	<u>0</u>	<u>0</u>
<b>TOTAL</b>	<b>52</b>	<b>58</b>
 <u>CHARACTER AND FITNESS DOCKET</u>		
Character and Fitness .....	3	2

## 1989 RULE CHANGES

Gov. Jud. R. V and Gov. Bar R. X - Judicial College Transfer  
Final publication: April 24, 1989  
Effective: July 1, 1989

Superintendence Rules - Statistical Reporting  
Final publication: July 24, 1989  
Effective: January 1, 1990

Superintendence Rules - Statistics Forms  
Final publication: December 18, 1989  
Effective: January 1, 1990

Gov. Jud. R. IV and Gov. Bar Rule X - Continuing Judicial Education  
Final publication: July 17, 1989  
Effective: July 1, 1989

V.C.C.R. 1 - Victims of Crime  
Final publication: July 3, 1989  
Effective: July 1, 1989

Code of Judicial Conduct, Canon 7B(2) - Judicial Fund raising  
Final publication: July 3, 1989  
Effective: July 1, 1989

Gov. Bar R. I, Section 12 - Admissions Fund  
Final publication: May 15, 1989  
Effective: July 1, 1989

M.C. Sup. R. 13 - Municipal Courts; Assignment of Judges  
Final publication: July 31, 1989  
Effective: August 1, 1989

C. P. Sup. R. 75 - Child Support Guidelines; Repeal  
Publication: July 17, 1989  
Effective: October 13, 1989  
Extension of repeal to March 1, 1990; published October 23, 1989

Gov. Jud. R. IV - Ethics & Substance Abuse; Part-time Judges  
Publication: July 17, 1989  
Effective: July 1, 1989

S.C. Prac. R. I, III, V, VIII, XIII, XIX, and XX - Rules of Practice  
Clerk's Fees  
Publication: September 4, 1989  
Effective: October 26, 1989

Gov. Bar R. V(44) - Disciplinary Counsel; Reciprocal Discipline  
Final publication: December 25, 1989  
Effective: December 5, 1989

**S. C. Prac. R. VII, (4) - Tax Appeals**

**Final publication: December 11, 1989**

**Effective: December 15, 1989**

**C.P. Sup. R. 16 - Probate Forms**

**Final publication: December 25, 1989**

**Effective: January 1, 1990**

**Traf. R. 3(B) and 13(B); Uniform Traffic Ticket**

**Final publication: March 5, 1990**

**Effective: February 26, 1990**

**Traf. R. 22 - Traffic Rules Review Commission**

**Final publication: December 25, 1989**

**Effective: December 5, 1989**

**Civ. R. 33, 52, 54, 58, and 86 and App. R. 4 and 33**

**Final publication: July 17, 1989**

**Effective: July 1, 1989**

**C.P. Sup. R. 65 - Counsel Lists; Effective Dates**

**Final publication: July 17, 1989**

**Effective: July 1, 1989**

**Rule VIII(2)(f)(i) - Clients' Security Fund; Investments**

**Final publication: October 2, 1989**

**Effective: October 1, 1989**

**Gov. Bar R. V(3)(d) - Disciplinary Counsel; Confidentiality**

**Publication: November 13, 1989**

**Effective: October 11, 1989**

**Gov. Bar R. V(1)(a) - Board of Commissioners on Grievances and Discipline; Vice Chair**

**Publication: November 27, 1989**

**Effective: November 8, 1989**

**Gov. Bar R. X - Continuing Legal Education Amendment & Compliance Regulations**

**Final publication: December 11, 1989**

**Effective: December 15, 1989**

**Gov. Bar R. VII - Board of Commissioners on Unauthorized Practice of Law; Travel Expense Reimbursement**

**Final publication: January 1, 1990**

**Effective: January 1, 1990**

**Gov. Bar R. VIII(8)(d) - Clients' Security Fund Subpoenas**

**Final publication: January 1, 1990**

**Effective: January 1, 1990**

