



The Supreme Court of Ohio

Annual Report

1990



**THE SUPREME COURT OF OHIO**

**ANNUAL REPORT**

**1990**

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# THE SUPREME COURT OF OHIO

## ANNUAL REPORT

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### INTRODUCTION

The year 1990 was another active and productive year for the Supreme Court of Ohio. The year included: (1) a record 2,557 new cases filed in the Supreme Court; (2) the reelection of two members of the Court; (3) the first State of the Judiciary address by the Chief Justice to the General Assembly; (4) important initiatives in the war against drugs; (5) the continuation of innovative programs in dispute resolution and court technology; (6) the amendment or adoption of 20 Supreme Court rules, and amendments to the Rules of Criminal Procedure and Rules of Evidence; (7) a statewide Bench-Bar Conference; (8) the announcement of an effort to assist emerging democracies in Eastern Europe and the Soviet Union to develop independent judicial systems; and (9) significant activity by ten standing committees and offices, eight special committees, and three committees created as a result of recent legislation.

### THE SUPREME COURT

#### Membership

Justice Andy Douglas and Justice Craig Wright were reelected to six-year terms on the Court commencing in 1991. They have served on the Court since 1985.

#### Caseload Statistics

A record 2,557 cases were filed in 1990, including 313 original actions, one contest of a statewide election, five federal court certifications of state law questions, 92 disciplinary matters, three admission matters, and 2,143 appeals, as follows: 1,234 motions to certify the record, 638 motions for leave to appeal, 160 direct appeals, 32 certified conflicts, 48 appeals from the Board of Tax Appeals, 13 appeal from the Public Utilities Commission, and 18 capital cases.

For additional statistical information, see Appendices A through E.

## KEY ISSUES AND EVENTS OF 1990

### Substance Abuse Issues for the Courts

In January, the Supreme Court Committee to Study the Impact of Substance Abuse on the Courts issued a final report containing 27 recommendations designed to assist Ohio courts in dealing with the growing substance abuse crisis. The recommendations were grouped in four categories: civil cases, criminal cases, juvenile courts, and jail crowding.

By the end of 1990, 18 of the Committee's 27 recommendations were fully or partially implemented by judicial, legislative, or executive action. The implemented recommendations include:

- requiring each court to develop and implement a case management program to assist in the timely disposition of cases;
- allowing courts to use magistrates to preside over certain stages of the criminal process for the purpose of making judges available for trials and administering dockets;
- providing courts with more information regarding available treatment programs to which defendants may be referred and the success of those programs;
- establishing the State Criminal Sentencing Commission to review existing laws, sentencing patterns, and existing and planned prison facilities, and make recommendations on a revised sentencing structure;
- requiring increased training for judges on the unique problems of the juvenile substance abuse offender;
- allowing courts to mandate parental responsibility and involvement in the treatment and probation of juvenile offenders, and permitting the sharing of information regarding problem juveniles among local agencies;
- encouraging the establishment of local task forces to facilitate coordination and cooperation among the justice, treatment, and education communities, and to provide a comprehensive, local approach to substance abuse problems;
- increasing the availability and use of incarceration alternatives for nonviolent substance abuse offenders, including specialized facilities that combine treatment and incarceration, and the use of electronically-monitored house arrest and intensive, supervised probation.

In May, Chief Justice Moyer met with United States Attorney General Richard L. Thornburgh to encourage him to direct more federal drug control funds to state courts. This followed an earlier meeting with William J. Bennett, Director of the Office of National Drug Control Policy.

## Committee on Dispute Resolution

In 1989, Chief Justice Thomas J. Moyer announced the appointment of the Supreme Court Committee on Dispute Resolution. He directed the Committee to investigate alternative, complementary dispute resolution methods that would be efficient and satisfactory to the parties involved, and to explore different processes to resolve disputes that normally are tried in the court system. The Chief Justice has indicated that he expects proposed rules to "begin to weave dispute resolution into the fabric of our judicial system."

The Committee concluded that model projects should be tested and current programs evaluated prior to making recommendations to the Court. The Committee received five grants totaling \$127,000 from the Ohio Commission on Dispute Resolution and Conflict Management, and model projects were established in domestic relations, juvenile, and municipal courts.

The model projects include:

- Municipal Court Mediation Project -- This project to provide small- and medium-sized courts with low-cost mediation programs began in Cambridge, Lancaster, Marietta, and Zanesville. A project coordinator began to recruit and train mediators, create case referral systems, train court employees on the intake process, and build community support for the programs. An implementation manual will be developed to assist other courts in creating low-cost mediation programs.
- Domestic Relations Custody and Visitation Mediation Project -- With the assistance of the Summit County Court of Common Pleas, Domestic Relations Division, and the University of Akron, the Committee established a program for mediation of custody and visitation issues. The program provides trained, in-house mediators for indigent parties and other cases assigned by the court; the program also refers cases to private mediators based on the parties' ability to pay. The goals are to encourage mediation of issues affecting children and compare the satisfaction of the parents and children with mediation to a resolution ordered by a court.
- Juvenile Court Mediation Program -- The Committee, in cooperation with the Dayton Neighborhood Mediation Center and the Montgomery County Court of Common Pleas, Juvenile Division, has funded a pilot project to mediate juvenile assault cases and determine whether mediation is an effective alternative in juvenile courts.

The Committee also will evaluate several existing programs to determine whether they should be adopted by other Ohio courts, consider rule changes, and recommend to the Court methods to increase the use of dispute resolution throughout the state.

## Court Technology

In January, the Supreme Court created the Office of Court Technology and Services in response to a recommendation from the Advisory Committee on Court Technology. In addition to providing computer services and staff support to the various departments of the Supreme Court, the Office is responsible for promoting the appropriate use of information technology in the Ohio court system.

The first major project of the Office was the Ohio Court Technology Conference, the first technology conference in the nation sponsored by a state supreme court. The Conference included 17 sessions dealing with various aspects of technology and 22 exhibits. The 204 attendees included judges, clerks of court, and court staff from a variety of courts throughout Ohio.

The Office received a \$43,857 grant to finance the first phase of the Juvenile Data Network, to identify the most appropriate uses of information technology in the juvenile courts and promote the electronic exchange of information among various state and local agencies in the juvenile justice system.

The Office developed and demonstrated personal computer software that incorporates the key elements of case management: (1) tracking case-related data; (2) scheduling cases; (3) tracking outstanding motions; (4) maintaining attorney information; and (5) assisting in the preparation of statistical reports. The software will be installed in several test sites early in 1991.

The staff also designed and installed a computerized system to track the issues in cases pending before the Supreme Court. In 1991, this system will be available to Supreme Court justices and staff and judges and staff of the courts of appeals.

The Office began planning for "Project Benchmark," to develop a long-term strategy for the use of technology and the electronic exchange of information in the judicial system.

The programming staff created a system to capture and process data submitted to the Court Statistical Reporting Section on the revised reporting forms introduced in January. The first compilation of statewide statistics from this system will be produced in early 1991.

### State of the Judiciary

On February 14, Chief Justice Moyer delivered a historic first State of the Judiciary address to a joint convention of the Ohio General Assembly. Chief Justice Moyer said that the occasion characterized the spirit of cooperation and mutual respect that exists between the two independent branches of government.

In his address, the Chief Justice reported on recent Supreme Court initiatives. He called upon the General Assembly to provide courts with more tools in the battle against substance abuse, especially in the growing area of juvenile crime, and asked the General Assembly to provide additional jail and prison facilities so that there are "no safe harbors for drug abusers and traffickers in Ohio."

### Bench-Bar Conference

On September 6, the Supreme Court, Ohio Judicial Conference, and Ohio State Bar Association sponsored a statewide Bench-Bar Conference, "Justice System at the Crossroad: Challenge of the 90's." The Conference provided nearly 300 judges and attorneys with an opportunity to discuss common concerns and to seek ways of making the justice system more efficient and effective. United States Solicitor General Kenneth Starr was the keynote speaker.



## **RULES AMENDED OR ADOPTED IN 1990**

In 1990, the Supreme Court amended or adopted 20 Court rules and amendments to the Rules of Criminal Procedure and Rules of Evidence. The full text of each proposed and final rule amendment was published in the Ohio Official Reports Advance Sheets and the Ohio State Bar Association Report; the publication and effective dates are listed in Appendix F.

### Rules of Practice and Procedure

Section 5(B), Article IV of the Ohio Constitution provides that changes in rules governing practice and procedure must be submitted by the Supreme Court to the General Assembly not later than January 15. If no action is taken by July 1 of that year, the rules become effective on that date.

In January, the Supreme Court adopted and submitted to the General Assembly amendments to Rules 2, 4, 5, 10, 19, 46, and 59 of the Rules of Criminal Procedure and Rules 101 and 1102 of the Rules of Evidence. These amendments, which were adopted in response to recommendations by the Supreme Court Committee to Study the Impact of Substance Abuse on the Courts, authorized the use of magistrates to handle preliminary criminal matters in common pleas, municipal, and county courts. No action was taken by the General Assembly by July 1, 1990, and the amendments became effective on that date.

### Rules Advisory Committee

The Supreme Court adopted Rule XII of the Rules for the Government of the Bar to establish the membership of the Rules Advisory Committee. Prior to adoption of the rule, the Committee had been established informally by order of the Court.

### Committee to Study the Impact of Substance Abuse on the Courts

The Supreme Court adopted amendments to the Rules for the Government of the Judiciary and Rules of Superintendence proposed by the Supreme Court Committee to Study the Impact of Substance Abuse on the Courts. The amendments are outlined on page 2.

### Judicial Bypass of Parental Notification in Abortion Cases

In response to a United States Supreme Court decision that upheld the constitutionality of Ohio statutes regarding procedures to obtain judicial bypass of parental notification in abortion cases, the Court adopted Rules of Superintendence and forms to implement those statutes.

### Character and Fitness Review

Rule I of the Rules for the Government of the Bar was revised to require that all applications received from persons seeking admission to the Ohio bar by examination be submitted to the National Conference of Bar Examiners for a character investigation and report.

### Continuing Legal and Judicial Education

The Supreme Court adopted several amendments affecting continuing education for lawyers and judges. Lawyer continuing legal education requirements were revised to exclude inactive lawyers from the reporting requirements of Rule X of the Rules for the Government of the Bar, clarify the continuing legal education requirements of suspended attorneys, require that substance abuse instruction be a minimum of 30 minutes in length, and prohibit the accreditation of continuing legal education courses that are held for the purpose of raising funds for political campaigns or candidates. The judicial continuing education requirements were revised to allow judges to satisfy the ethics and substance abuse requirement on a biennial, rather than an annual, basis.

### Limited Practice Certification

The Supreme Court established a procedure under which non-Ohio attorneys who are employed by or associated with a legal services, law school clinical, or public defender program in Ohio can become certified to practice law temporarily in Ohio. The rule was adopted on an interim basis and is in effect until July 2, 1991, subject to further action by the Court.

### Fee Splitting

At the request of the Ohio State Bar Association, the Supreme Court adopted amendments to Disciplinary Rule 2-107 and Ethical Consideration 2-21 concerning the division of fees between and among lawyers.

### Standard Probate Forms

At the request of the Ohio Association of Probate Judges, the Court adopted new standard probate forms 18.2, 18.3, and 18.5.

### Certification of Assigned Counsel in Capital Cases

Based on recommendations from the Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases, the Supreme Court amended Rule 65 of the Rules of Superintendence for Courts of Common Pleas. The amendments strengthen the requirements for certification under the rule and clarify the role of the trial court and the Committee in monitoring the performance of assigned defense counsel in death penalty cases.

## ADDITIONAL COURT ACTIVITIES

### Report to the Ohio Judicial Conference

In his fourth report to the Ohio Judicial Conference on the state of the judiciary, Chief Justice Moyer announced a major initiative to assist the people of Eastern Europe and the Soviet Union in establishing independent judiciaries. The Chief Justice challenged the state's judges to "step outside our world and give the people of other civilized nations the gift of a democratic, independent, fair, and impartial judicial system . . . . Ohio, with its established ethnic communities, nine law schools, and a strong judicial system, is the ideal state to study our system for those persons in Eastern European countries who will be responsible for establishing their judicial systems." He said that during the recent meeting of the Conference of Chief Justices, he met with the Minister of Justice of the Soviet Union, who expressed interest in the program.

Chief Justice Moyer also announced that he will chair a joint committee of the Conference of Chief Justices and the Conference of State Court Administrators that will plan a national conference on the impact of substance abuse on the courts. The Conference goals are to foster communication, promote a common understanding of the drug crisis among all disciplines involved with the court system, and develop specific plans and long-term strategies that states may implement to address the issue of substance abuse in our society.

### Off-Site Court Program

In 1990, the Court heard oral arguments in Gallipolis, Akron, Port Clinton, and Millersburg as part of the off-site court program; 1,070 students were part of a total attendance of 2,942 at these sessions. The program continues to emphasize education, with the focus on high school students, and includes meetings with editors and reporters from high school newspapers, related coursework, and briefings prior to and following oral arguments.

Since 1987, the Court has held sessions in Marietta, Toledo, Cincinnati, Cleveland, Warren, Lima, Youngstown, Canton, Wauseon, Ashland, and Dayton. During the four years of the program, 6,414 students have attended sessions as part of a total attendance of 9,294.

### Youth Drug Summit

On June 14 and 15, the Supreme Court, together with the Governor, Attorney General, and legislative leaders, hosted the "Youth Expressing Solutions . . . For a Better World" conference on the substance abuse crisis. Chief Justice Moyer greeted 126 young adults who attended the two-day conference and encouraged them to express their solutions to the 24 state officials in attendance.

### Court Education Activities

Eight groups of students from Capital University Law and Graduate Center, The Ohio State University College of Law, Toledo University College of Law, and the Ohio Northern University Pettit College of Law attended sessions of the Supreme Court.

The Supreme Court continued its support of the Ohio Center for Law-Related Education and the Ohio Mock Trial Program to foster educational programs on the judicial system. The Court provides financial support and is represented on the executive committee.

In April, the Supreme Court hosted the Youth in Government model Supreme Court program, 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 1990. In addition, the Public Information and Administrative Director's offices sponsored interns.

For the fourth 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 Ohio law schools.

## **SUPREME COURT STANDING COMMITTEES AND OFFICES**

### Board of Bar Examiners

Chairman: Frederick Byers; Secretary: Marcia J. Mengel

The Board prepared and administered bar examinations in February and July to a total of 1,602 applicants.

### Rules Advisory Committee

Chair: Kathleen B. Burke; Secretary: Keith T. Bartlett

The Rules Advisory Committee examined various rules of practice and procedure suggested by the Supreme Court, the Committee on Court Technology, judges, and lawyers. As a result of this review and in response to legislation enacted by the General Assembly, a total of 16 new or amended rules were recommended to the Court and approved for submission to the General Assembly in January, 1991. The amendments include revisions to the Rules of Evidence, Criminal Procedure, Juvenile Procedure, Civil Procedure, and Appellate Procedure, and the Rules of the Court of Claims.

As the result of the decision by the United States Supreme Court in Ohio v. Akron Center for Reproductive Health, legislation enacted by the General Assembly in 1985 concerning parental notification in abortion cases became effective October 5, 1990. To assist trial and appellate courts in implementing the statutes, the Rules Advisory Committee developed Rules 76 and 77 of the Rules of Superintendence for Courts of Common Pleas and Rule 3 of the Rules of Superintendence for Courts of Appeals.

### Board of Commissioners on Grievances and Discipline

Chairman: Frederick L. Oremus; Secretary: Jonathan W. Marshall

The Board of Commissioners on Grievances and Discipline responded to an increased caseload by hearing more cases and increasing the number of recommendations sent to the Supreme Court, and made a number of improvements in its internal regulations.

The Board also:

- issued 24 advisory opinions on ethical questions arising under the Code of Professional Responsibility, Code of Judicial Conduct, Rules for the Government of the Bar, and Rules for the Government of the Judiciary;
- conducted a second statewide training seminar for members of certified grievance committees;
- presented more than 35 continuing legal education programs for Ohio judges and lawyers;
- appointed a special committee to examine Gov. Bar R. V and recommend improvements in the Rule to the Board and the Supreme Court.

The Board had 73 new cases in 1990; 63 cases were certified to the Supreme Court, up from 49 the previous year. Eighty-two cases were decided in 1990.

### Office of Disciplinary Counsel

J. Warren Bettis, Disciplinary Counsel

The Office of Disciplinary Counsel experienced its busiest year ever, receiving 2,071 new complaints, an increase of 12 per cent from 1989. After investigation, the Office dismissed 2,125 cases, and took formal action in 15 cases. The Office also reviewed 222 appeals from decisions of certified grievance committees of bar associations, investigated 23 allegations of unauthorized practice of law, and filed one complaint with the Board of Commissioners on the Unauthorized Practice of Law.

In addition, the Office of Disciplinary Counsel participated in 18 ethics seminars throughout the state.

### Board of Commissioners on Character and Fitness

Chairman: Gerald B. Lackey; Secretary: Marcia J. Mengel

In February, the Board of Commissioners on Character and Fitness sponsored its first seminar on character and fitness considerations in the admission process. The seminar was designed for members and staff of local bar association admissions committees. Approximately 140 persons attended, representing 45 bar associations in Ohio.

The Board also had a substantial increase in the number of cases brought before it, primarily as a result of changes to the admissions rule effective in 1989.

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 continued the increased level of activity begun in 1989. During 1990, seven complaints alleging the unauthorized practice of law were filed with the Board; four of these complaints were formally considered by the Board and authorization was granted to seek injunctions in the court of common pleas.

The Board also created a subcommittee to inform the bench, bar, and public of the Board's responsibilities and activities; evaluated the feasibility of seeking a rule amendment to permit the Board to issue advisory opinions; developed a procedure whereby the parties to a complaint can stipulate facts and waive an appearance before the Board; and issued its first written opinions detailing the basis of its decisions to further educate the bench, bar, and public of the types of activities that constitute the unauthorized practice of law.

Traffic Rules Review Commission

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

The Commission recommended several amendments to the Traffic Rules to conform to a legislative enactment. The Commission also reviewed and recommended revisions to the Uniform Traffic Ticket for the first time in five years. These revisions were made to conform the Ticket to legislation and in response to suggestions made by judges and law enforcement officers.

Board of Commissioners of the Clients' Security Fund

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

There was a 23 per cent increase in the reparations awarded to clients who were harmed by the misconduct of lawyers. A total of 71 new claims were docketed, which represented a 31 per cent increase from 1989, and \$265,785 in claims was awarded. The Board and staff of the Clients' Security Fund have taken a more active role in public education and information and ethics training.

The offices of the Clients' Security Fund were relocated in 1990.

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

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

The Committee undertook a comprehensive review of Rule 65 of the Rules of Superintendence for Courts of Common Pleas, and recommended proposed amendments to the criteria for certification as counsel in death penalty cases. More than 850 attorneys have been certified for appointment as counsel for indigent defendants in capital cases.

The Committee also issued its first report, advising the Court of the Committee's experience with the Rule and the status of representation for indigent defendants charged with capital offenses.

The Committee approved two continuing legal education seminars to fulfill the specialized training requirement of C.P. Sup. R. 65, continued to certify new applicants who met the requirements of the Rule, and removed the names of attorneys who had not fulfilled the two-year continuing education standards from the certification list.

Commission on Continuing Legal Education

Chairman: R. Douglas Wrightsel; Secretary: Diane C. Lahm

The Commission on Continuing Legal Education implemented its reporting system. In January, 17,150 attorneys were required to report the completion of at least twelve hours of continuing legal education. By March 31, 15,866, or 92.5 per cent, were in full compliance with Gov. Bar R. X. The level of noncompliance was below the Commission's original projection of 12 per cent, and represents a low percentage of noncompliance for the first report period compared to other states with continuing legal education requirements. In December, the Secretary filed the Commission's first report of noncompliance and recommendations of sanctions.

In addition, the Commission processed 8,300 applications for accreditation of continuing legal education activities from 1,900 sponsors, and considered 25 appeals from the Secretary's denial of accreditation. Final reporting transcripts were mailed to 15,100 attorneys who are required to report by January 31, 1991.

Ohio Judicial College

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

The Judicial College presented 56 days of courses to 2,590 attendees; this represents a 60 per cent increase in course days, a 34 per cent increase in attendance, and a 77 per cent increase in attendee days, from 1989.

Under a grant from the State Justice Institute, the College continued its program of monthly two-hour presentations for domestic relations referees, using audio-teleconferencing techniques, with 469 participants. The College also conducted teleconferences to promptly inform judges and referees about newly-enacted legislation.

A two-day orientation program for newly-elected judges was conducted in December. The 45 judges in attendance were briefed on the activities of the Supreme Court, and experienced judges discussed various aspects of judicial responsibility.

## SUPREME COURT SPECIAL COMMITTEES

### Bar Examination Review Committee

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

In 1989, Chief Justice Moyer appointed the Bar Examination Review Committee to study all aspects of the Ohio examination, review examination procedures used in other states, and, if appropriate, recommend revisions in the examination process.

In its December report to the Court, the Committee recommended restructuring the content, administration, and grading of the bar examination, to include scaling the grades given for the essay portion of the test and grading all essay answers for every candidate. This would nearly double the number of essay answers graded, and each bar examiner would be permitted to have an attorney grader to assist in grading.

### Bench-Bar Committee

Chairman: Steve Cohen; Staff Liaison: Stephan W. Stover

The Committee planned and hosted the Bench-Bar Conference, which is discussed on page 4.

### Committee to Review Canon 7 of the Code of Judicial Conduct

Chairman: Judge Robert G. Tague; Staff Liaison: Keith T. Bartlett

In February, the Supreme Court Committee to Review Canon 7 of the Code of Judicial Conduct was appointed to review Canon 7 as the result of issues and concerns raised in Opinion 89-15 issued by the Board of Commissioners on Grievances and Discipline.

The Committee conducted a thorough review of Canon 7 and the Opinion relating to judicial campaign conduct and advertising, and in May recommended amendments to Canon 7. After consideration of the Committee's recommendations, several substantive amendments to Canon 7 and the Commentary were approved by the Court.

### Advisory Committee on Court Technology

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

The Committee continued to provide support to the Court and the newly-established Office of Court Technology and Services. The activities of the Committee are discussed on pages 3 and 4.

### Committee on Dispute Resolution

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

The activities of the Committee on Dispute Resolution are described on page 3.



Committee to Study Creeds of Professionalism

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

The Committee continued its review of lawyer professionalism in Ohio. The Committee conducted a survey of 640 lawyers and judges throughout the state to solicit their views of lawyer professionalism. This survey was instrumental in the development of recommendations to the Supreme Court.

In December, the Committee issued a report containing its findings and ten recommendations, including the formation of a permanent professionalism commission and adoption of an aspirational creed of professionalism. The Court will consider the recommendations in early 1991.

Committee to Study the Impact of Substance Abuse on the Courts

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

In January, the Supreme Court Committee to Study the Impact of Substance Abuse on the Courts concluded its deliberations and issued a final report to the Supreme Court. The recommendations are discussed on page 2.

Task Force on the Unauthorized Practice of Law

Chairman: Joseph F. Cook, Sr.; Staff Liaison: Keith T. Bartlett

In response to a request by the Ohio State Bar Association, the Supreme Court Task Force on the Unauthorized Practice of Law was established in January. The Task Force was directed to conduct a complete review of the status of the unauthorized practice of law in Ohio and Rule VII of the Rules for the Government of the Bar, and to prepare a report for the Court.

The Task Force conducted a survey of local bar associations on their unauthorized practice of law activities, planned public hearings to be held throughout the state during 1991, gathered information from other states, and completed research on topics related to the unauthorized practice of law.

## **STATUTORY COMMITTEES**

State Criminal Sentencing Commission

Chairman: Chief Justice Thomas J. Moyer

In Amended Substitute Senate Bill 258, the General Assembly created the State Criminal Sentencing Commission to conduct a review of Ohio's sentencing statutes and sentencing patterns, and to make recommendations on statutory changes. As 1990 drew to a close, members were being appointed to the Commission by the Supreme Court, the General Assembly, and the Governor. The Commission will begin its work in early 1991.

Mayor's Court Education and Procedures Standards Advisory Committee

Chairman: Judge D. William Evans, Jr.; Staff Liaison: Richard A. Dove

Pursuant to Section 1905.031 of the Revised Code, the Supreme Court appointed the Mayor's Court Education and Procedures Standards Advisory Committee consisting of judges, attorneys, mayors, and a chief of police. This Committee was charged with developing and recommending to the Supreme Court education standards for mayors who conduct mayor's courts. In December, the Advisory Committee's recommendations were approved by the Court and circulated for comment. The proposals will be considered for adoption in early 1991.

Ohio Commission on Dispute Resolution and Conflict Management

Chairman: Samuel H. Porter

The Commission was created by the 118th General Assembly as a source of dispute resolution program funding and initiatives. Each branch of government appoints four members to the Commission. In 1990, the Commission began operations, selected its staff, and awarded 49 grants totaling \$550,000 to courts, universities, primary and secondary schools, local governments, and community groups.

**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. Since 1988, the program has included a variety of projects to provide information, technical assistance, and direct and indirect support to the trial and appellate courts.

Court Visitation Program

During the last three years, the Supreme Court staff has made more than 200 visits to 150 of the 269 courts in Ohio, to meet with judges, administrators, and other court personnel and to tour court facilities. These visits provide an opportunity to observe the programs that have been implemented in Ohio's courts. In 1990, the Court staff visited 71 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 1990, the Program funded or provided direct technical assistance to 18 projects, with grants totaling \$29,921; preference was given to projects with broad applicability, and the results were shared with other courts. An additional \$15,000 of the Technical Assistance Program budget was allocated for court personnel education and training.

Examples of projects include:

- a two-day workshop sponsored by the Franklin County Municipal Court for Franklin County and central Ohio probation officers;
- a one-day conference sponsored by the Cleveland Municipal Court for judges and department managers, designed to increase communication and improve personnel management;
- the development of a policies and procedures manual for the Lucas County Court of Common Pleas.

## Education and Training

### Court Personnel Education and Training Committee

The Court Personnel Education and Training Committee consists 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. Its purpose is to establish a formal program of education for court personnel.

In 1990, the Committee presented four different educational programs. In January, the Court hosted a court security conference with 85 participants. In March, the Committee sponsored "Identifying Stress and Improving Performance in the Courts." In April, May, and June, the program was "The Public, The Media, and You," with instruction on dealing effectively with the public. The Committee also co-sponsored the Court Technology Conference, described on page 4.

### Mentor Program

The Court continued the Mentor Program for newly-elected judges, now in its third year. This year, 33 judges-elect were paired with 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 1990, the consortium was expanded to include other state agencies. Eleven courses were offered in 17 sessions, with a total of 32 hours of credit. Courses were offered at no charge.

## Legislative and Governmental Relations

The staff of the Supreme Court continued to monitor legislation in the 118th General Assembly. The staff cooperated with judges and members of the General Assembly in the creation of 16 new judicial positions in the courts of appeals and courts of common pleas.

Amendments to implement recommendations of the Supreme Court Committee to Study the Impact of Substance Abuse on the Courts were drafted for inclusion in comprehensive drug legislation. These amendments were supported by representatives of the Ohio Association of Juvenile and Family Court Judges and were enacted as part of Amended Substitute Senate Bill 258.

The Supreme Court participated in the evaluation of pilot grant proposals submitted under a program established in Amended Substitute Senate Bill 258. These proposals, which addressed substance abuse problems in regions of the state using an approach that involved the criminal justice, treatment, and education communities, were reviewed by a committee consisting of judicial, legislative, and executive branch representatives. Recommendations were then submitted to the State Coordinating Council, which awarded six pilot grants that addressed needs in 11 counties.

The staff worked closely with the General Assembly and the Ohio Municipal League to develop legislation pertaining to educational requirements for mayors who conduct mayor's courts. The General Assembly, in Amended Substitute Senate Bill 131, asked the Supreme Court to adopt rules prescribing these requirements and formed the Mayor's Court Education and Procedures Standards Advisory Committee, discussed on page 14, to assist the court in developing these rules.

The Court completed the transfer of responsibility for the promulgation of the child support guidelines to the General Assembly. Statutory guidelines were enacted, effective April 12, 1990.

## Trial Court Performance Standards

Ohio was one of the five states selected by the National Center for State Courts to evaluate trial court performance standards as part of a three-year project funded through grants from the State Justice Institute and the Bureau of Justice Assistance. The general division common pleas courts in Hamilton, Meigs, and Stark Counties were selected as test sites; Wayne County Common Pleas Court will also participate. The courts will test 22 performance standards in the following areas: access to justice; expedition and timeliness; equality, fairness, and integrity; independence and accountability; and public trust and confidence.

## Affidavits of Disqualification

The Ohio Constitution and state statutes authorize the filing of an affidavit of disqualification as a procedure for requesting removal of a judge from responsibility for a case on the grounds of bias, prejudice, or interest.

There were continuing efforts to improve the administration of affidavits of disqualification, and the average time from filing to disposition was reduced to 33 days. The number of comprehensive bench opinions issued by the Chief Justice increased, and some of these opinions will be published in 1991.

The number of affidavits filed in 1990 was 186, a 24 per cent decrease from the 244 filed in 1989. This decrease may be due, in part, to the publication of bench opinions, which provide guidance to the bench and bar, and to the improved disposition time, which discourages the filing of affidavits of disqualification for purposes of delay.

### 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 1990, the Chief Justice made 2,400 temporary assignments of judges.

### Court Statistical Reporting Section

The Court Statistical Reporting Section began operation in January. Fifteen regional training sessions were held in the spring, attended by 552 judges, clerks of court, and other court personnel from 287 trial courts. Fourteen court visits were made for further training and consultation, and seven formal presentations were made to various court-related associations.

The Section also developed a manual to support the implementation of statistical reporting rule changes. In conjunction with the Office of Court Technology and Services, a new in-house software program was developed for compiling the judicial statistical reports.

### Automated Legal Research

Since 1989, the Supreme Court has contracted to provide automated legal research services for all courts in the state at substantial savings. The Court has purchased master subscriptions from Mead Data Central, Inc. (LEXIS) and West Services, Inc. (WESTLAW) that have eliminated monthly subscription fees, provided free training, and, in 1990, further reduced the hourly rate for legal research four per cent.

## **LAW LIBRARY**

Paul S. Fu, Librarian

The Supreme Court Law Library, with more than 300,000 equivalent volumes, is the largest state supreme court law library in the nation.

The Law Library is the first state supreme court law library to install a totally integrated online library computer system - NOTIS. Installation of the cataloging module was completed in 1989, and the on-line public access catalog was installed and bar-coding completed in 1990. Of the remaining NOTIS modules, the acquisition and circulation modules are scheduled to be installed in 1991, and the serials module will be installed in 1992.

In July, the Law Library held dedication ceremonies for its online public access catalog, Supreme Court Research Online Law Library (SCROLL). In addition to speed, accuracy, and search by author, subject, title, and keyword, SCROLL can be accessed by both in-house and remote users. With the proper modem and computer equipment, lawyers, judges, and the public can have access to the system from anywhere in Ohio. More than 150 out-of-town users have registered to access the SCROLL database.

In 1990, a total of 49,334 patrons visited the Law Library. The Library added 10,396 printed volumes, 85,548 pieces of microfiche, and 422 rolls of microfilm to the collection. In addition, the Library staff responded to 27,472 reference questions.

## **CLERK'S OFFICE**

Marcia J. Mengel, Clerk

### Clerk's Office

The Clerk's Office processed a record 2,557 new cases and scheduled 239 cases for oral argument in 1990. The Office also continued efforts to improve case tracking and case records management.

### Admissions Office

The Admissions Office processed approximately 3,800 admissions applications, including 1,900 law student registrations, 1,800 bar examination applications, and 100 applications for admission without examination. The Office continued to provide staff support for the Board of Bar Examiners, Board of Commissioners on Character and Fitness, and Bar Examination Review Committee.

At the admissions ceremony in May, 255 applicants were admitted to the bar, and, in November, there were 790 admittees.

### Office of Attorney Registration

A total of 38,245 attorneys were registered with the Court in 1990: 32,224 active, 5,696 inactive, and 325 corporate.

## **REPORTER'S OFFICE**

Walter S. Kobalka, Reporter

During the 1990 term, the Reporter's Office published 354 full Supreme Court opinions, 41 abbreviated entries, and 54 miscellaneous orders and orders in chambers, for a total of 449 edited works of the Supreme Court. In addition, 402 court of appeals opinions and 26 trial court opinions were published in the Ohio Official Reports.

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 37 per cent of the available pages, down from 46 per cent in 1985. Trial court opinions accounted for two per cent of available pages.

The Reporter's Office, in cooperation with the Office of Court Technology and Services, continued electronic transmission to the publisher of opinions, announcement lists, rules, and notices, which reduced the time between editing and publication.

A Request for Proposals for the new Ohio Official Reports publishing contract was distributed to interested legal publishers. The current contract expires on June 30, 1991.

### **OFFICE OF COURT TECHNOLOGY AND SERVICES**

Edward J. Nyhan, Manager

The activities of the Office are summarized on pages 3 and 4.

### **PUBLIC INFORMATION OFFICE**

Harry Franken, Communications Director

The Public Information Office provided a program of public information and education, including weekly announcements of Court decisions, publication of summaries of 463 opinions and other actions of the Supreme Court, an increase of 102 over the previous year, and 87 news releases and memoranda to the news media on decided and pending cases. The Office also initiated the practice of providing the news media with brief summaries of issues to be argued before the Supreme Court.

In addition, the Public Information Office responded to more than 1,386 requests for assistance or information from the public, up from 1,100 the previous year. The Office continued an education program with The Ohio State University School of Journalism, and planned to expand the program in 1991 to include students from Ohio Dominican College.

### **FISCAL OFFICE**

M. K. Rinehart, Fiscal Officer

The Fiscal Office provides administration and support services for the Supreme Court and trial and appellate courts. The primary function of the office is payroll; the Office processed six payrolls each month and distributed 18,074 payroll warrants and electronic fund transfer statements. The Office also provides support services for mail, purchasing, supplies, records storage and retrieval, and expense reimbursement.

## **MASTER COMMISSIONERS**

James R. Jump, Counsel to the Court

The Master Commissioners continued to provide research support for the Supreme Court, primarily in death penalty cases, appeals from the Public Utilities Commission of Ohio and the Board of Tax Appeals, disciplinary cases, original actions, and direct appeals from cases originating in the courts of appeals.

## **COURT OF CLAIMS**

Miles C. Durfey, Clerk

### Civil Case Management

In 1990, 532 cases were decided by the judges of the Court of Claims. The number of pending cases at the end of the year was 457, which is less than one-half the number of pending cases in 1987 and the lowest level since 1984. A total of 632 civil administrative determinations were filed, with 720 dispositions. By the end of 1990, the number of civil administrative determinations pending was 211 cases, the lowest since 1983.

### Victims of Crime Compensation Case Management

A record 5,419 victims of crime compensation cases were filed in 1990, up 27 per cent from 1989. A record 4,511 victims of crime cases were disposed of, up 11 per cent over the previous record year of 1988. At the end of 1990, 2,976 cases were pending. The number of cases pending before the panel commissioners and the Court were 108 and 19, respectively.

## **OHIO JUDICIAL CONFERENCE**

Chairman: Judge John J. Leskovyansky, 1988-90, and Judge Alba L. Whiteside, 1990-92

Executive Director: Allan Whaling

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

Ongoing committee activities included updating Ohio Jury Instructions and the Ohio Judges Resource Manual and supporting federal legislation to reinstate immunity for judges while performing judicial acts. Staff activities included working with judicial associations on state legislation affecting judges, publication of the Ohio Judge Directory and a bi-monthly newsletter, and programming for the Judicial Conference Annual Meeting.

The Conference was awarded a State Justice Institute grant to produce a series of public education videotapes on domestic relations issues. "Family Matters" will include an introduction to the court system and address mediation, domestic violence, the single-parent family, child support, and property settlements.



**CASES FILED**

	<u>1990</u>	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>
 <u>JURISDICTIONAL MOTIONS</u>					
Motions to Certify .....	1,234	1,066	1,100	1,159	1,057
Motions for Leave .....	638	620	670	687	676
 <u>MERIT DOCKET</u>					
Original Actions .....	313	284	205	212	174
Direct Appeals .....	160	97	106	76	91
Certified Conflicts .....	32	31	39	32	23
Appeals from Board of Tax Appeals .....	48	28	46	25	47
Appeals from Public Utilities Commission .....	13	11	34	13	15
Capital Cases .....	18	12	13	13	18
Certified State Law Questions .....	5	2	3	N/A	N/A
Contest of Election .....	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
 TOTAL	 2,462	 2,151	 2,216	 2,217	 2,101

## MATTERS DECIDED

<u>JURISDICTIONAL MOTIONS</u>	<u>1990</u>	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>
Motions to Certify .....	896	851	966	944	869
Motions for Leave .....	<u>517</u>	<u>521</u>	<u>655</u>	<u>657</u>	<u>663</u>
TOTAL	1,413	1,372	1,621	1,601	1,532

### MERIT DOCKET

Original Actions .....	272	230	187	248	152
Direct Appeals .....	82	77	104	57	91
Certified Conflicts .....	26	30	39	13	27
Appeals from Board of Tax Appeals .....	48	32	47	11	35
Appeals from Public Utilities Commission .....	14	27	9	7	19
Capital Cases .....	7	8	18	9	8
Merit Cases Pursuant to Allowance .....	137	141	151	180	225
Certified Questions of State Law .....	<u>2</u>	<u>1</u>	<u>0</u>	<u>N/A</u>	<u>N/A</u>
TOTAL	588	546	555	525	557

### CASES ALLOWED

	<u>1990</u>	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>
Motions to Certify.....	136	144	165	171	174
Motions for Leave.....	<u>27</u>	<u>17</u>	<u>38</u>	<u>24</u>	<u>28</u>
TOTAL	163	161	203	195	202

## CASES PENDING

<u>CASE TYPE</u>	<u>PENDING AS OF 1/1/91</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 and Motions for Leave*	846**	691	680	653	1,063
Original Actions	102	80	81	60	129
Direct Appeals	144	97	88	79	94
Certified Conflicts	34	32	37	38	21
Appeals from Board of Tax Appeals	40	45	53	51	38
Appeals from Public Utilities Commission	7	10	38	12	12
Capital Cases	26	20	18	23	22
Certified Questions of State Law	7	4	3	N/A	N/A
Contest of Election	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>TOTAL</b>	1,207	979	998	916	1,379

\* This category includes jurisdictional motions that were awaiting Court review on the first of the year. It also includes discretionary appeals that had been allowed in by the Court and were therefore pending on the merits on the first of the year.

\*\* One hundred fifty-seven of these cases had been allowed in by the Court and were pending on the merits as of 1/1/91. The remainder were pending as jurisdictional motions.

## DISCIPLINARY AND ADMISSIONS CASES

### FILED

<u>DISCIPLINARY DOCKET</u>	<u>1990</u>	<u>1989</u>	<u>1988</u>
Regular disciplinary cases .....	57	44	35
Automatic suspensions for felony conviction .....	10	16	9
Resignations .....	15	8	10
Reciprocal discipline cases .....	7	N/A	N/A
Disciplinary cases involving judges .....	1	0	0
Miscellaneous disciplinary matters .....	<u>2</u>	<u>2</u>	<u>0</u>
 TOTAL	 92	 70	 54

### ADMISSIONS DOCKET

Character and fitness cases .....	2	3	3
Miscellaneous admissions matters .....	<u>1</u>	<u>0</u>	<u>0</u>
 TOTAL	 3	 3	 3

### DECIDED

<u>DISCIPLINARY DOCKET</u>	<u>1990</u>	<u>1989</u>	<u>1988</u>
Public Reprimands .....	7	9	8
Definite suspensions .....	15	6	11
Definite suspensions with probation .....	5	3	5
Indefinite suspensions .....	12	7	13
Disbarments .....	8	4	3
Automatic suspensions for felony conviction .....	9	15	9
Resignations .....	15	6	9
Reciprocal discipline cases .....	7	N/A	N/A
Disciplinary cases involving judges .....	0	0	0
Miscellaneous disciplinary matters .....	<u>2</u>	<u>2</u>	<u>0</u>
 TOTAL	 80	 52	 58

### ADMISSIONS DOCKET

Character and fitness cases .....	2	3	2
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## 1990 RULE AMENDMENTS

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

Final publication: March 5, 1990

Effective date: February 26, 1990

Crim. R. 2, 4, 5, 10, 19, 46, and 59; Evid. R. 101 and 1102; Magistrates

Final publication: July 16, 1990

Effective date: July 1, 1990

Gov. Jud. R. IV; Continuing Judicial Education

Final publication: April 16, 1990

Effective date: April 16, 1990

Gov. Bar R. XII; Rules Advisory Committee

Final publication: April 30, 1990

Effective date: June 1, 1990

C.P. Sup. R. 75; Child Support Guidelines Repeal

Final publication: February 26, 1990

Effective date: April 12, 1990

S.C. Prac. R. II, V, XVI, and XX; Length of Briefs

Final publication: May 14, 1990

Effective date: July 16, 1990

Gov. Bar R. X; Continuing Legal Education, Inactive Lawyers

Final publication: May 28, 1990

Effective date: May 28, 1990

Gov. Bar R. IX and XX; Limited Practice Certification

Final publication: June 11, 1990

Effective date: July 2, 1990

C.P. Sup. R. 16; Probate Forms

Final publication: April 9, 1990

Effective date: April 9, 1990

S.C. Prac. R. VII; Oral Arguments, Public Utilities Commission

Final publication: June 25, 1990

Effective date: June 25, 1990

Code of Professional Responsibility; DR 2-107; Fee Splitting

Final publication: July 16, 1990

Effective date: August 1, 1990

Gov. Bar R. V and X; Continuing Legal Education Requirements for Suspended Attorneys

Final publication: August 6, 1990

Effective date: September 1, 1990

Code of Judicial Conduct, Canon 7; Judicial Campaign Practices

Final publication: June 25, 1990

Effective date: June 25, 1990

Gov. Jud. R. IV and V; C.P. Sup. R. 9 and 99; M.C. Sup. R. 18 and 99; Recommendations of Supreme Court Committee to Study the Impact of Substance Abuse on the Courts

Final Publication: November 19, 1990

Effective date: January 1, 1991

Gov. Bar R. XIII; Dispute Resolution Fund

Final publication: September 3, 1990

Effective date: September 3, 1990

Gov. Bar R. X, Sections 3, 4, and 9; Continuing Legal Education Reciprocity and Hourly Requirements

Final publication: December 24, 1990

Effective: January 1, 1991

Gov. Bar R. I; Character and Fitness Review Revisions

Final publication: December 10, 1990

Effective: January 1, 1991

C.P. Sup. R. 65; Certification Requirements

Final publication: December 24, 1990

Effective: January 1, 1991

C. A. Sup. R. 3 and 99; C. P. Sup. R. 76, 77, and 99; Parental Abortion Notification Implementation Procedure and Forms

Final publication: October 15, 1990

Effective date: October 5, 1990

Gov. Bar R. X; Continuing Legal Education Accreditation for Political Fund Raisers

Final publication: December 24, 1990

Effective date: January 1, 1991

Traffic Rules 3, 7, and 25; Conforming Amendments

Final publication: December 10, 1990

Effective date: November 28, 1990

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1990

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