

The Supreme Court of Ohio

Annual Report

1993



**THE SUPREME COURT OF OHIO**

**ANNUAL REPORT**

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**Thomas J. Moyer  
Chief Justice**

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Andy Douglas  
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# THE SUPREME COURT OF OHIO

## ANNUAL REPORT

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### INTRODUCTION

For the Supreme Court of Ohio, 1993 was a busy and productive year. Among the highlights:

-- The addition of two new Justices, Francis E. Sweeney and Paul E. Pfeifer, to the Court;

-- An important initiative on court security, highlighted by the appointment of the Supreme Court-Judicial Conference Committee on Court Security;

-- Completion of the first phase of a multidisciplinary effort in the war against drugs, including three Ohio Conferences on Substance Abuse and the Courts, which resulted in revisions to the Justice Chapter of Ohio's drug plan;

-- A formal report from the state Sentencing Commission, chaired by Chief Justice Thomas J. Moyer;

-- A historic visit by a nine-member delegation from Ohio to Ukraine as the second phase in the Ohio-Ukraine Judiciary Program;

-- A visit by a six-member delegation from the Shanghai High People's Court, and the creation of a formal relationship between Ohio and Shanghai judiciaries;

-- Appointment of the Commission on Racial Fairness, which will identify racial bias where it exists and propose methods for eliminating it from the legal profession and the justice system;

-- A final report from the Supreme Court-Ohio State Bar Association Task Force on Gender Fairness;

-- Adoption of new Ohio Trial Court Jury Use and Management Standards;

-- Appointment of a Supreme Court Committee to Study the Rules of Superintendence, which have served as operating rules for Ohio courts since 1972;

-- The appointment of Geoffrey Stern as the new Disciplinary Counsel, replacing J. Warren Bettis, who retired after serving since 1986;

-- Continued progress in seeking federal and state grant funds to maximize the use of general revenue funds;

-- Consideration of 18 proposals to amend or adopt Supreme Court rules and rules of practice and procedure for Ohio courts; and

-- Significant activity by ten standing committees and offices, nine special committees, and a commission and a task force created as a result of legislation.

## **KEY ISSUES AND EVENTS OF 1993**

### Committee on Court Security

Concerned that courtroom violence "threatens the very core of our judicial system," Chief Justice Moyer in May named the Committee on Court Security. Citing reports of courtroom violence in Ohio and across the country, the Chief Justice said, "Our courtrooms are the places for peaceful, reasoned resolution of disputes. To ensure the safety of judges, witnesses, court workers, and attorneys . . . our courtrooms must be safe and secure." He said that the issue is crucial and that security may require spending of increased funds "but these will be necessary expenditures because we cannot allow the chaos of violence to replace the rule of law."

The Committee met during the rest of 1993 and is expected to submit a report to the Court in early 1994. The effort included a security survey of court facilities in Ohio and the preparation of draft standards for court facility security.

### Ohio Conferences on Substance Abuse and the Courts; Revision of the Justice System Portion of Ohio's Alcohol and Drug Addiction Services Plan

Using grant funds from the State Justice Institute and matching state funds, the Court continued a two-year cooperative effort with representatives of state and local entities to prepare a revised Justice Chapter of Ohio's Alcohol and Drug Addiction Services Plan developed by the Ohio Department of Alcohol and Drug Addiction Services. This effort successfully established collaborative planning relationships among the courts, law enforcement, and health and social service agencies that deal with substance abuse offenders and developed a plan for responding to the needs of justice system entities in addressing the impact of substance abuse on the courts.

On February 1, the Court hosted the second Ohio Conference on Substance Abuse and the Courts. Led by trained facilitators, Conference participants reviewed an outline of needs, goals, objectives, and activities developed following the June 1992 Ohio Conference and made further suggestions on items for inclusion in the revised Justice Chapter.

A third Ohio Conference was sponsored by the Court on April 19. Prior to the Conference, participants were asked to review a draft revised Justice Chapter that was prepared based on suggestions made at the second Conference and post-Conference interviews with participants at that Conference. At the Conference, participants provided comments on the draft revised Justice Chapter and suggested further revisions.

Following this Conference, a final version of the revised Justice Chapter was prepared and provided to the Department of Alcohol and Drug Addiction Services for inclusion in its statewide services plan for state fiscal years 1994 to 1998. The Plan was finalized and distributed to the Governor and legislative leaders in June.

The remainder of the project involved a series of regional conferences designed to serve three purposes: educate local courts, law enforcement, funding authorities, and health and social service agencies as to the content of the revised Justice Chapter; solicit input from these entities as to possible items for inclusion in a future Justice Chapter; and encourage the same type of collaborative planning efforts to address substance abuse and the courts that was the hallmark of the state planning efforts.

The regional conferences were held in Cleveland, Bowling Green, Columbus, Marietta, and Middletown in late September. More than 300 persons registered for these conferences and 72 of Ohio's 88 counties were represented. Participants at the regional conferences expressed general agreement with the needs, goals, objectives, and activities identified in the Justice Chapter, and additional areas of emphasis were noted. The most encouraging result from the regional conferences was the interaction among persons from different disciplines, many of whom were meeting for the first time, and their pledges to work together to address substance abuse issues in their local communities.

At year's end, the project was nearing conclusion with preparation of a final project report and plans for implementation of the activities outlined in the Justice Chapter.

### Sentencing Commission

In July, the State Criminal Sentencing Commission concluded a two and one-half year study of felony sentencing in Ohio by issuing a "Plan for Felony Sentencing in Ohio." "The plan fosters public safety and victim's rights, yet eases prison crowding. It guards

judicial discretion, yet provides for greater certainty and less disparity. It strives for fairness and simplicity," said Chief Justice Moyer, who serves as Chair of the Commission. Chief Justice Moyer stressed that the plan was supported by all members of the Commission and there was no minority report.

The key points of the Sentencing Commission report include:

- "Truth in Sentencing"; generally, the sentence imposed by the judge in open court would be the sentence actually served;

- combined with executive branch initiatives in community corrections, the plan would ease prison crowding by reducing prison population ten percent and freeing \$40 million to strengthen local corrections and for other purposes;

- the plan supports judicial discretion in sentencing. The plan has no rigid sentencing guidelines. More nonviolent offenders would be eligible for a broader range of sanctions, including some new options;

- victims would receive notice of every key step in the criminal process, and would receive more protection;

- a limited system of appellate review would be created to assure that sentences fit the crimes and to ease disparity;

- automatic sentence reductions would be eliminated and replaced by a system designed to punish misbehavior in prison;

- to simplify criminal law, twelve tiers of felonies would be reduced to five classes and confusing terms would be eliminated.

#### Ohio-Ukraine Judiciary Program

In June, Chief Justice Moyer led a nine-member delegation to Ukraine to begin the second phase of the Ohio-Ukraine Judiciary Program, to assist Ukraine in establishing a new legal system for the emerging democracy. The reciprocal visit, funded by the Ohio State Bar Foundation, was in response to the Ukrainian delegation visit in August, 1992, and provided an opportunity for the delegation members to meet with representatives of several law institutes and academies during the one-week trip, which included stops in Kiev, Lviv, and Kharkov. The delegation visited the Supreme Rada (Parliament) of Ukraine, Ukraine Supreme Court, Higher Arbitration Court of Ukraine, Institute of State and Law of the Academy of Sciences, Ukrainian Legal Foundation, regional and local courts, and four law schools and academies. The continuing relationship between



Ukraine and Ohio was manifested in protocols signed with Ukraine, Kiev, Kharkov, and Lviv reflecting the desire of both Ohio and Ukraine judiciaries to continue and enhance the relationship.

Ukraine is actively moving toward establishing an independent judiciary. At the end of 1993, the Supreme Court began seeking federal grant funds to move to the third phase of the program, a more comprehensive joint effort of education and training to foster the establishment of institutions in Ukraine that will lead to an independent judiciary. Ohio, with its excellent judicial system, nine law schools, strong Ukrainian community, and legal ties to Ukraine is ideally suited to perform these functions. It is hoped that grant funds will permit the establishment of the Ukraine-Ohio Rule of Law Program to create a Ukraine Judicial College under the auspices of the Academy of Legal Sciences of Ukraine. The purpose of the Ukraine Judicial College will be to provide extensive educational programs and activities for judges; law faculty, including deans and professors; prosecutors; defense bar; and others. The College will work with law schools in Ukraine to train deans and professors to provide education and training for law students, thereby creating a new generation of lawyers trained to understand western jurisprudential systems. Ohio's strong coalition of law schools and excellent system of judicial and lawyer education were cited as important reasons for moving forward with the Ohio program.

#### Shanghai Delegation

In November, the Court welcomed a six-member delegation from the Shanghai court system. The delegation was sponsored by the Capital University Law and Graduate Center's Institute for International Legal Education, the Asian Bar Association of Ohio, and the Supreme Court.

The delegation was sponsored by the Shanghai High People's Court and included Gu Nianzu, former President of the Shanghai High People's Court and Vice-Chair of Shanghai Municipal People's Congress; Hu Ruibang, President of the Shanghai High People's Court; Qiao Xianzhi, President of the Shanghai Intermediate People's Court; Yang Chengtao, Judge of the Shanghai High People's Court; Wang Kangwu, Chief Judge of Economic Division of the Shanghai Intermediate People's Court; and Lu Fang, President of the Shanghai Hongkou District Court.

The trip was initiated by Justice Fu Quiangguo of the Shanghai High People's Court of Shanghai, who recently completed an LL.M. degree in business law and taxation at Capital. The delegates heard arguments before the Supreme Court of Ohio and the Tenth District Court of Appeals. They visited the Franklin County Common Pleas Court and the Franklin County Municipal Court and met with legislative and executive

leaders, including Senate President Stanley J. Aronoff and House Speaker Vernal G. Riffe. The delegation also attended academic programs provided by the Capital University Law and Graduate Center, The Ohio State University College of Law, and the Supreme Court.

#### Commission on Racial Fairness

The Commission on Racial Fairness was established in June 1993 as a cooperative effort of the Supreme Court and the Ohio State Bar Association. The 34-member Commission was created to study the state court system and the legal profession to ascertain the manner in which African-Americans, Asian-Americans, Hispanic-Americans, and Native Americans are perceived and treated, and to make recommendations for any needed reform or remedial programs.

The Commission held four meetings during the year and a two-day retreat in September. Also, subcommittees were organized to examine specific topics and obtain funding, plans were begun to hold public hearings in various cities, and the former director of the New York State Judicial Commission on Minorities made a presentation to the Commission to assist in establishing goals and timetables.

#### Joint Task Force on Gender Fairness

The Joint Task Force on Gender Fairness, a cooperative effort of the Supreme Court of Ohio and the Ohio State Bar Association, completed its work in 1993.

The Final Report of the Task Force will be ready for distribution by mid 1994. The Task Force accomplished many things during the past two years, including the development of various informative handbooks, "Making It Pour," "Legal Rights Handbook with Emphasis on Women's Issues," and the "Court Conduct Guide," published in conjunction with the Ohio State Bar Association.

The Ohio State Bar Association has established the Women in the Profession Section. This Section will complete unfinished work of the Task Force, and will address issues which are of interest to women, the family, and society as a whole.

The concentrated focus on the Task Force on the position and role of women in the profession provided the necessary impetus for the creation of the Ohio Women's Bar Association. Both the Association and the Section are working to assist and improve the status of women in the legal profession.

## Ohio Trial Court Jury Use and Management Standards

In August, the Court adopted the Ohio Trial Court Jury Use and Management Standards to assist courts in implementing the most current methods of jury management to make effective use of citizens' time in performing this important public duty. The Standards are based on the American Bar Association's Standards Relating to Juror Use and Management.

The jury standards recommend that:

- the jury be as inclusive of the adult population in the jurisdiction as possible and that no one be denied the right to serve on a jury because of race, national origin, gender, age, religious beliefs, income, occupation, disability, or any other discriminating factor;

- persons called to perform jury duty be required to be available for the shortest period of time to meet the needs of justice. A term of one day or the length of one trial is recommended, but the Standards allow variation if consistent with the most efficient use of jurors' time;

- all automatic excuses or exemptions from jury service, with the exception of statutory exemptions, be eliminated;

- questioning of jurors prior to service be limited to those matters that would determine the juror's fairness and impartiality and that the privacy of prospective jurors be reasonably protected;

- facilities for jurors, both waiting to serve and in deliberation, be pleasant, secure, and away from the public;

- jurors be promptly paid a "reasonable fee" for their services and expenses, and that employers be prohibited from discharging, laying off, or denying advancement opportunities to employees who miss work because of jury service.

The rules require that trial courts develop and implement a jury management plan by July 1, 1994. The Judicial College offered courses for judges on jury standards at six locations in late 1993.

## Supreme Court Committee to Study the Rules of Superintendence

In November, Chief Justice Moyer appointed a Committee to review the Rules of Superintendence for Courts in Ohio. The Modern Courts Amendment was approved

by voters in 1968. "Now, 25 years later, it is time to determine whether these rules should be updated to meet current needs of the judiciary system. The Rules are the framework on which the orderly administration of the courts of Ohio is structured," Chief Justice Moyer said in appointing the Committee.

Under the Rules of Superintendence, Ohio became the first state to undertake a comprehensive program to manage caseloads and reduce delay. The Rules cover such areas as statistical reporting by courts, court administration, court procedures, alternative dispute resolution, and court facility standards. The Rules also apply to specialty divisions, such as probate, juvenile, and domestic relations, and particular actions such as traffic and small claims cases.

The Committee held its first meeting in December (see p. 20).

#### New Disciplinary Counsel

In May, the Board of Commissioners on Grievances and Discipline appointed Columbus attorney Geoffrey Stern to a four-year term as Ohio's fourth Disciplinary Counsel. The first Disciplinary Counsel was retired Supreme Court Justice Leonard J. Stern, Geoffrey Stern's father.

Stern was a partner in the law firm of Arter & Hadden in Columbus and was Chair of the Ohio State Bar Association Committee on Legal Ethics and Professional Conduct; he was active in the ethics area as a lawyer and frequent lecturer on legal ethics.

Stern took office on September 10, succeeding Judge J. Warren Bettis, who retired after serving as Disciplinary Counsel since 1986.

#### Federal and State Grant Funds

The Supreme Court administered a record total of \$765,925 in state and federal grants in 1993. During the last three years, the Supreme Court has aggressively sought grant funds to maximize the use of state general revenue funds and assist the Court in developing new and innovative programs. Sources of the grants have included the State Justice Institute, the Office of Criminal Justice Services (formerly the Governor's Office of Criminal Justice Services), the Department of Public Safety (formerly Department of Highway Safety), and the Commission on Dispute and Conflict Management.

#### Office of Criminal Justice Services

In 1993, the Supreme Court administered \$488,997 in grants to Court offices from the Office of Criminal Justice Services. Four of the grants totaling \$319,222 were used to

provide direct technical assistance and consulting services in the area of case management and court delay reduction. These efforts included: (1) a pilot program to divert 1,000 nonviolent first-time offenders in Cuyahoga County to a variety of alternative programs, including restitution, community service, and educational, vocational, family, and substance abuse counseling or treatment; and (2) four workshops focusing on integrating local court and agency computer systems to reduce delay and minimize duplication (see pp. 24 and 25).

In 1992, the Judicial College received a \$241,000 grant from the Office of Criminal Justice Services to present a series of 15 two-day seminars on various criminal justice topics. The balance of the original grant, \$123,053, was carried over to 1993 to present six one-day sessions of "Effective Treatment of Drug-Involved Offenders" to 380 judges, referees, and probation officers. In addition, 329 judges, referees, and court administrators participated in one of six one-day sessions of "Court Security" (see p. 18).

The State Sentencing Commission received a \$46,722 grant to study sentencing trends in Ohio (see p. 23).

Trial and appellate courts in Ohio also received more than \$2.2 million in grants from the Office of Criminal Justice Services.

#### State Justice Institute

During 1993, the Supreme Court administered six grants from the State Justice Institute totaling \$212,428. In addition, other Ohio grantees received an additional \$140,000, bringing the two-year total to more than \$430,000 for projects to improve the administration of justice in Ohio. The grants included the following:

A \$82,000 grant to the Supreme Court Judicial College to support a groundbreaking video teleconferencing pilot program under which the College would provide educational programs for referees, judges, and court personnel through the use of video teleconferencing (see pp. 17 and 18).

A \$95,351 grant to the Trumbull County Probate Court to continue a project to design an automatic caseload management system for guardianship and other kinds of probate cases, emphasizing automation techniques and state of the art case management techniques.

A \$78,500 grant to the Supreme Court to support the Ohio Conferences on Substance Abuse and the Courts and the revision of the justice system portion of Ohio's Alcohol and Drug Addiction Services Plan (see pp. 2 and 3).

## Department of Public Safety

The Judicial College received a \$38,000 grant from the Department of Public Safety to conduct a series of 11 course sessions for 531 judges, referees, and clerks on S.B. 275, the new DUI/DUS legislation. The grant also covered the cost of mailing information on S.B. 62, related legislation on Ohio's DUI/DUS law, to each attendee.

## Commission on Dispute Resolution and Conflict Management

In 1993, the Supreme Court received \$45,000 in grants from the Commission on Dispute Resolution and Conflict Management for training and technical assistance in the area of dispute resolution.

## Supreme Court Grants

The Supreme Court also awarded grants to support pilot projects in trial and appellate courts. The Court awarded \$19,000 in the area of dispute resolution (see pp. 19 and 20) and \$18,700 under the Technical Assistance Program (see p. 23).

## SUPREME COURT CASELOAD STATISTICS

A total of 2,638 cases were filed in the Supreme Court in 1993, including 284 original actions, 8 federal court certifications of state law questions, 81 disciplinary matters, 4 admissions matters, 2 miscellaneous practice of law cases, and 2,259 appeals, as follows: 1,294 motions to certify the record, 638 motions for leave to appeal, 154 direct appeals, 38 certified conflicts, 51 appeals from the Board of Tax Appeals, 24 appeals from the Public Utilities Commission, 8 death penalty cases, 51 Murnahan appeals, and 1 appeal of an election contest under Section 3515.15 of the Revised Code.

For additional statistical information, see Appendices A through F.

## RULES AMENDED OR ADOPTED IN 1993

The Supreme Court considered 18 proposals to amend or adopt Court rules and rules of practice and procedure for Ohio courts. The full text of proposed and final rule amendments are published in the Ohio Official Reports Advance Sheets and the Ohio State Bar Association Report; the publication and effective dates are listed in Appendix G.

### Rules of Practice and Procedure

Pursuant to Article IV, Section 5(B) of the Ohio Constitution, the Supreme Court submitted to the General Assembly proposed amendments to the Rules of Evidence and Rules of Civil, Criminal, Appellate, and Civil Procedures. The amendments included provisions addressing: the signing of felony indictments; reopening of an appeal from a judgment of conviction based upon ineffective assistance of appellate counsel; pre-suit discovery to ascertain the identity of potential defendants in civil cases; numerous changes in the issuance, enforcement, and use of subpoenas; and the report-writing requirements of referees.

### Lawyer Advertising

Disciplinary Rule 2-101 of the Code of Professional Responsibility was revised to expressly permit lawyers to purchase display advertising in the classified sections of telephone directories. The rule was amended in response to an advisory opinion issued by the Board of Commissioners on Grievances and Discipline.

### Continuing Judicial Education

The Court approved a series of amendments to Rule X of the Rules for the Government of the Bar and Rules IV and V of the Rules for the Government of the Judiciary to transfer responsibility for administering judicial continuing education requirements to the Commission on Continuing Legal Education. The amendments also increased the number of judicial representatives on the Commission and added a representative of the Ohio Domestic Relations Judges Association to the Board of Trustees of the Ohio Judicial College.

### Ohio Trial Court Jury Use and Managements Standards

The Ohio Trial Court Jury Use and Management Standards are described on page 7.

## SUPREME COURT ACTIVITIES

### Report to the Ohio Judicial Conference

In his seventh annual report to the Ohio Judicial Conference on the State of the Judiciary in September, Chief Justice Moyer announced several important new programs. He will appoint a special committee to conduct a comprehensive review of judicial campaigns and the process for selecting judges in Ohio, including the recommendations to the Board of Commissioners on Grievances and Discipline and the Ohio State Bar Association.

As a result of the 1968 Modern Courts Amendment and the leadership of Chief Justice C. William O'Neill, Ohio was the first state in the nation to undertake a comprehensive program to manage caseloads and reduce delay through the Rules of Superintendence. The Chief Justice stated that after 25 years, it is time to review the Rules to determine if changes are required, and announced the appointment of the Committee to Study the Rules of Superintendence.

The Chief Justice also announced that the national Conference of Chief Justices and Conference of State Court Administrators have accepted his invitation to hold their annual meeting in Ohio in the summer of 1997. The meeting will include the Chief Justices of the fifty states, American Samoa, Puerto Rico, Guam, the Virgin Islands, and the Northern Marianna Islands, as well as the state court administrators from those jurisdictions.

### Off-Site Court

In the last seven years, the Supreme Court has conducted court sessions in 25 counties throughout the state, primarily for the benefit of high school students. Approximately 10,500 high school students as part of a total of 14,800 attended the sessions. In 1993, the Court heard oral arguments in Medina and Miami Counties. The education program includes meetings with editors and reporters from high school newspapers, briefings prior to and following oral arguments, and related coursework.

### Court Education Activities

Students from The Ohio State University College of Law and the Ohio Northern University Pettit College of Law, including exchange students from Iceland, attended sessions of the Supreme Court.

The Supreme Court continued to support the Ohio Center for Law-Related Education, its Mock Trial and Ohio Government in Action programs and other Center activities. The Court provides financial support and is represented on the board of trustees.



The Supreme Court participated in the Youth in Government Model Supreme Court program.

### Ohio Government in Action

On February 9, the Supreme Court hosted a judicial branch day as part of the three-day Ohio Government in Action workshop for middle and high school teachers. The Ohio Government in Action Program, which is sponsored by the Ohio Center for Law-Related Education, gives participating teachers a unique insider's view of state government and assists teachers in learning about governmental relations through on-site and hands-on experiences.

### Supreme Court Extern Program

The Supreme Court continued its law student extern program with the Capital University Law and Graduate Center, The Ohio State University College of Law, University of Toledo College of Law, University of Cincinnati College of Law, Ohio Northern University Pettit College of Law, University of Akron C. Blake McDowell Law Center, Case Western Reserve School of Law, Cleveland Marshall College of Law, and University of Dayton School of Law. A total of 51 students participated during 1993, serving all seven Justices and the offices of the Administrative Director, Counsel to the Court, and Reporter.

### Bench-Bar-Deans Conference

For the seventh 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, the bar, and the judiciary.

### Continuing Legal Education Consortium

The Court continued its participation in the Continuing Legal Education Consortium with the Attorney General, Legislative Service Commission, and other state departments and agencies. The consortium provides a curriculum of continuing legal education courses for government attorneys. In 1993, the consortium presented 11 courses for a total of 32 credit hours.

## SUPREME COURT STANDING COMMITTEES AND OFFICES

### Board of Bar Examiners

Chair: Jay Harris; Secretary: Marcia J. Mengel

The Board continued implementing the changes to bar examination administration and grading that were begun in 1992. The Board administered the test to 485 applicants at the February 1993 bar examination and 1,395 applicants at the July 1993 examination.

### Rules Advisory Committee

Chair: Judge Donald Ford; Secretary: Keith T. Bartlett

The Rules Advisory Committee continued to review proposed new rules and rule amendments submitted by the Court, bar associations, attorney and judge associations, and other interested parties. The Committee's annual recommendations were submitted to the Court, published twice for public comment, and, after revisions, filed with the General Assembly. Subsequently, seven substantive amendments to the Rules of Evidence and Rules of Criminal, Civil, and Appellate Procedure took effect on July 1, 1993 (see p. 11).

The Committee also reviewed additional proposals that were submitted to the Court for initial consideration in September. The proposed amendments approved by the Court for submission to the General Assembly in January 1994 will, unless modified by the Court or disapproved by the General Assembly, take effect on July 1, 1994.

### Board of Commissioners on Grievances and Discipline

Chair: Irene Keyse-Walker; Secretary: Jonathan W. Marshall

The Board of Commissioners on Grievances and Discipline completed a comprehensive review and discussion of the Code of Judicial Conduct based on the 1990 ABA Code. Recommendations for Canons 1, 2, 3, 4, and 7 were forwarded to the Court. The Board completed its search for a new Disciplinary Counsel and named Geoffrey Stern, who was approved by the Court (see p. 8).

The Board also: (1) assisted the Court and the certified grievance committees by providing for partial reimbursement to local committees for ongoing grievance and discipline expenses for a second year; (2) received 68 requests for advisory opinions and issued 11 opinions on ethical questions arising under the Code of Professional Responsibility, Code of Judicial Conduct, Rules for the Government of the Bar, Rules for the Government of the Judiciary, and the Ohio Ethics Law; (3) conducted a fifth statewide training seminar for members of certified grievance committees, interested lawyers, and judges; (4) presented 20 continuing legal education programs for Ohio

judges and lawyers; (5) received 86 new formal complaints in 1993 and certified 64 cases to the Supreme Court; and (6) conducted 56 disciplinary hearings and decided 77 cases.

#### Office of Disciplinary Counsel

Disciplinary Counsel: J. Warren Bettis/Geoffrey Stern

The Office of Disciplinary Counsel is responsible for the investigation and prosecution of matters involving the professional responsibilities of Ohio's 41,000 attorneys and judges. During 1993, the Office received 2,597 complaints, an increase from 2,530 filed in 1992. In addition, the Office reviewed 340 appeals from decisions of certified grievance committees throughout the state, up from 317 during 1992, and investigated 46 complaints and allegations of unauthorized practice of law, up from 40 during 1992, bringing the total number of matters before the Office to 2,983, up from 2,889 in 1992.

After intake or investigation, 2,451 complaints were dismissed. Formal action before the Board of Commissioners on Grievances and Discipline was taken in 41 cases.

J. Warren Bettis, Disciplinary Counsel for nearly seven years, retired from the position and was succeeded in September by Geoffrey Stern of Columbus (see p. 8).

#### Board of Commissioners on Character and Fitness

Chair: Suzanne K. Richards; Secretary: Marcia J. Mengel

Fifteen new character and fitness cases were filed with the Board in 1993; six of these were appeals from admissions committee determinations, and nine were sua sponte investigations. The Board continued its efforts to work more closely with law schools on character and fitness issues by inviting law school deans to meet with Commissioners and by making character and fitness presentations at Ohio law schools. In October, the Board conducted a seminar on character and fitness considerations in the admissions process. Members and staff of 23 local bar association admissions committees attended.

#### Board of Commissioners on the Unauthorized Practice of Law

Chair: John W. Waddy, Jr.; Secretary: Keith T. Bartlett

Five new complaints alleging the unauthorized practice of law were filed with the Board in 1993. Hearings before the Board were conducted in two cases; one case was decided based on stipulations of fact; and one case was decided based on a motion for default judgment. The Board also approved three applications for reimbursement of expenses and attorney fees, and decided three requests for advisory opinions.

Members of the Board presented a seminar at the Ohio State Bar Association annual meeting in Dayton, and a member of the Board addressed the Ohio Association of Probate Court Clerks on issues relative to the unauthorized practice of law.

The Board also considered promulgating guidelines for the conduct of investigations by local bar associations and responded to numerous requests for information on the unauthorized practice of law.

Traffic Rules Review Commission

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

The Commission did not meet in 1993.

Board of Commissioners of the Clients' Security Fund

Chair: Thomas A. Heydinger; Administrator: James E. Green

The Fund began 1993 with 360 docketed claims. During 1993, 103 claims were received and 78 of those claims were docketed. The Board of Commissioners held its regular quarterly meetings and resolved 178 claims. The Board of Commissioners determined 93 claims as eligible for a total of \$450,617.29; ten of the claims were awarded the maximum of \$25,000.

The Board and staff of the Clients' Security Fund continued their outreach efforts through the Fund's public education programs and pursued methods of prevention.

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

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

The Committee continued to monitor the operation and impact of Common Pleas Superintendence Rule 65, and began consideration of proposed amendments to the Rule.

The Committee approved three continuing legal education seminars to fulfill the specialized training requirement of Rule 65, continued to certify new applicants who met the requirement of the rule, decertified attorneys who did not satisfy the two-year continuing education standard, and distributed two updated lists of certified counsel to all common pleas judges. A total of 605 attorneys currently are certified to accept appointment as counsel for indigent defendants in capital cases.

Commission on Continuing Legal Education

Chair: Ann Munroe Kennedy; Secretary: Diane Chesley-Lahm

The Commission began implementation of amendments to Rule X of the Rules for the Government of the Bar that transferred to the Commission the administration and enforcement of continuing education for judges. In addition, the Rule was amended to allow late compliance with the educational requirements contingent upon payment of a late compliance fee.

A total of 15,562 attorneys with last names beginning from M to Z were required to report the completion of at least 24 hours of approved continuing legal education, including two hours of ethics and substance abuse instruction, during the preceding two years. By March 31, 1993, 87 percent were in full compliance with the Rule. For the year, the Commission had an excellent 94.7 percent compliance rate.

The Supreme Court issued 927 sanction orders during 1993 against attorneys with last names beginning from A to L, the group required to report in 1992. In addition, the Commission held hearings on notices of non-compliance; processed 10,300 applications for accreditation of continuing legal education activities from 4,000 sponsors; and considered 26 appeals from the Secretary's denial of accreditation. Interim progress reports and final reporting transcripts were mailed to 18,400 attorneys with last names beginning from A to L who were required to report for the third time by January 31, 1994.

#### Commission on Professionalism

Chair: Richard Ison; Staff Liaison: Richard A. Dove

Formed in 1992, the Commission held its inaugural meeting in May and a second meeting in December. The initial focus of the Commission is on recommendations from the 1990 report of the Committee to Study Creeds of Professionalism and the 1991 Bench-Bar Conference. Four committees were formed to address issues of continuing legal education for lawyers, admission to the bar, creeds of professionalism, and judicial education and the role of the courts.

#### Judicial College Board of Trustees

Chair: Judge Jerry L. Hayes; Executive Director: Laurence B. Stone

The Judicial College presented 77 days of courses to 4,064 attendees. Compared with 1992, 11 additional days of courses were offered in 1993, but there were 103 fewer attendees. The College also presented seven two-hour judicial ethics and substance abuse sessions attended by 295 judges.

Twelve audio teleconference programs were conducted for domestic relations, juvenile, and municipal court referees, with a total of 1,062 attendees.

The College received an \$82,000 grant from the State Justice Institute to present 20 video teleconferences over a 24-month period. The unique aspect of this project is that it is undertaken in collaboration with the Ohio State University Extension, which currently has studio facilities, a satellite up-link unit, and a network of more than 45 down-link facilities throughout the state. The two-year project will begin with eleven sites, but it is hoped that it will expand to permit most referees, judges, and court

personnel in Ohio to attend video teleconferencing educational programs within one hour of their offices. The first video teleconference was offered on December 3, 1993.

Under a grant from the Governor's Office of Criminal Justice Services, the College presented six one-day sessions of a course entitled "Effective Treatment for Drug-Involved Offenders" to 380 attendees and six one-day sessions of "Court Security" to 329 attendees.

Three members of the Judicial College Board of Trustees and two staff members attended a week-long Leadership Institute in Judicial Education under a grant from the State Justice Institute. The College also received a \$6,864 grant from the State Justice Institute to support an Ohio Leadership Institute to train judges in effective teaching strategies.

The College sold more than 100 copies of the videotape of the popular course entitled "The Ohio Court System." The tape was made available to courts for use in training court personnel.

In addition, the College administered the registration of referees pursuant to Rule X, Section (3)(D) of the Rules for the Government of the Bar, and processed enrollments for more than 800 attorneys participating in the Court-sponsored continuing legal education programs.

Rule IV of the Rules for the Government of the Judiciary was amended to authorize the Ohio Association of Domestic Relations Judges to appoint one of its members to the Judicial College Board of Trustees in January 1995.

## **SUPREME COURT SPECIAL COMMITTEES**

### **Bench-Bar Planning Committee**

Co-Chairs: Sandra J. Anderson and Judge John J. Donnelly; Staff Liaison: Richard A. Dove

The joint Court-Ohio State Bar Association Committee planned and hosted the third statewide Bench-Bar Conference on March 18 and 19 at which Ohio judges and attorneys met to discuss the civil legal needs of the poor, funding for indigent defense, and alternative dispute resolution and case management. Virginia Chief Justice Harry L. Carrico gave the keynote address and Ohio Senate President Stanley J. Aronoff served as luncheon speaker.

### Advisory Committee on Court Technology

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

The Committee continued to provide support to the Court and the Office of Court Technology and Services. The role of the Advisory Committee is to identify and research strategic technology issues for the present and future.

During the course of the year, the Committee was involved in detailed review of Project Benchmark (see p. 28) and assisted the Office of Court Technology and Services in addressing issues involved in the selection of a contractor to conduct the first phase of the project. After a rigorous selection process, the Court awarded the contract to the Mitre Corporation, a non-profit systems engineering firm. In phase one of Project Benchmark, Mitre will act as the information technology architect and develop a blueprint for statewide automation of the court system.

### Committee on Dispute Resolution

Chair: David A. Ward/Judge James DeWeese; Staff Liaisons: C. Eileen Pruett and Arthur J. Marziale, Jr.

In 1993, the Committee continued to make significant progress in education about and implementation of dispute resolution mechanisms for the courts of Ohio. The Court's Coordinator of Dispute Resolution Programs worked with courts around the state to provide basic and advanced mediation training for volunteers and staff in common pleas, municipal, juvenile, and appellate courts. Basic trainings were conducted for the Cleveland, Marion, and Tiffin Municipal Courts and for Common Pleas courts in Richland, Hamilton, and Ashland Counties. Funds were also obtained to provide more than 25 hours of juvenile mediation training to court and community programs in ten counties.

In June, the Court sponsored a continuing legal education program for Supreme Court, Attorney General, and administration staff with presentations by nationally recognized dispute resolution leaders Gerry Williams, Craig McEwen, and Frank Sander. The Coordinator was invited to make a number of presentations during the year, including a workshop at the national conference of the Association of Family and Conciliation Courts. The Coordinator also participated with Chief Justice Moyer in a national symposium on research in dispute resolution, sponsored by the National Center for State Courts and the State Justice Institute, and in three research symposia at the Ohio State University College of Law.

The Court also provided the opportunity for coordinators and mediation staff from municipal and appellate mediation programs and large court arbitration programs to meet to exchange concerns and ideas.

Chair David A. Ward resigned in September after four years of service and was succeeded by Judge James DeWeese. The Committee continued to provide technical and advisory assistance in the areas of rules, funding and statutes, education, new pilot projects, replication of existing projects, and evaluation. The Committee's goal for 1993 to generate increased involvement with juvenile and domestic courts was met by the training described above and by implementation of major pilot projects in Lucas County Juvenile Court and funding of a significant evaluation grant for juvenile mediation projects by the Office of Criminal Justice Services.

The Court continued its work with the Ohio Commission on Dispute Resolution and Conflict Management to provide assistance to juvenile court programs, encourage court assistance for and involvement in school mediation programs, and draft guidelines for training.

#### Ad Hoc Committee on Multi-Disciplinary Cooperation

Chair: Chief Justice Moyer; Vice Chair: Judge Robert Pollex; Staff Liaison: Richard A. Dove

The Committee was established in conjunction with The Ohio Association of Juvenile and Family Court Judges and the Department of Human Services to formulate a plan for implementing the judicial intervention recommendations contained in the report of the Governor's Task Force on the Investigation and Prosecution of Child Abuse and Child Sexual Abuse Cases.

The Committee, which included judges, prosecuting and defense attorneys, law enforcement, and state agency representatives, reviewed issues such as family courts, revising the rules of competency applicable to child-victims, using guardian ad litem and court-appointed special advocates, and extending the tolling period for civil cases involving allegations of child sexual abuse.

#### Committee to Study the Rules of Superintendence

Chair: Judge John McCormac; Staff Liaison: Richard A. Dove

In November, Chief Justice Moyer appointed a 18-member committee to conduct a comprehensive review of the rules of superintendence adopted by the Court pursuant to constitutional authority. The Committee, which held its first meeting in December, and will address a variety of issues including common definitions, refinement of statistical reporting requirements, case management issues, and verification of applications for assigned counsel in criminal cases.



### Task Force on the Unauthorized Practice of Law

Chair: 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 1990 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. The Task Force issued its final report in January 1993; proposed rule amendments were published for comment in April and will be given final consideration in 1994.

### Committee to Review the Supreme Court Rules of Practice

Chair: Justice Alice Robie Resnick; Staff Liaison: Marcia J. Mengel

At the recommendation of the Committee to Review the Supreme Court Rules of Practice, the Supreme Court published proposed new Supreme Court Rules of Practice in December 1992. The Court requested public comments regarding the proposed rules and, because of the breadth of the rules, extended the normal one-month public comment period for an additional month.

The Committee met several times in 1993 to review the numerous public comments that were submitted in response to the proposed rules and to draft additional amendments responsive to the comments. The public comments and additional Committee recommendations were submitted to the Court in late 1993, leading to final adoption of Rules of Practice to become effective in mid-1994.

### Indigent Defense Implementation Committee

Chair: H. Ritchey Hollenbaugh; Staff Liaison: Richard A. Dove

The Committee assisted in the preparation of legislation to implement the recommendations contained in the 1992 Report of the Task Force on Court Costs and Indigent Defense. The legislation is designed to improve the delivery of constitutionally mandated representation to indigent criminal defendants, develop alternative funding sources for those services, and contain the costs of indigent defense. The Committee also hosted regional meetings to obtain additional comments on the Task Force Report and proposed legislation.

### Joint Task Force on Gender Fairness

Co-Chairs: Justice Alice Robie Resnick and Carol J. Suter

The activities of the Joint Task Force on Gender Fairness are reported on page 6.

Civil Legal Needs Assessment Implementation Committee  
Chair: Denis J. Murphy; Staff Liaison: Richard A. Dove

The Committee continued its work to implement the recommendations contained in the 1991 Ohio Legal Needs Assessment and increase the availability of legal services to the poor. The Committee proposed an amendment to Gov. Bar R. VI to require attorneys to report the existence of an account established pursuant to the Interest on Lawyers' Trust Accounts (IOLTA) law. This amendment was adopted by the Court and IOLTA information was reported on attorney registration forms filed in September. The reporting requirement has fostered a greater awareness of and compliance with the IOLTA law.

In July, the Committee also was successful in obtaining enactment of statutory amendments that allowed the Ohio Public Defender to establish the Ohio Legal Assistance Foundation. The Foundation would distribute funds earmarked for legal aid to Ohio's eighteen regional legal services offices and assist in implementation of additional proposals to address unmet civil legal needs. The Foundation also would provide an independent, statewide voice for legal aid programs and civil legal needs issues. Initial appointments to the Foundation board of trustees were made near the end of the year and the inaugural board meeting was scheduled for January 1994.

The Committee also coordinated plans for a statewide pro bono conference to be held in conjunction with the Ohio State Bar Association convention in May 1994 and pursued additional statutory amendments designed to increase the yield on IOLTA accounts.

Supreme Court Committee on Court Security

Chairs: Judges Michael J. Voris and Evelyn J. Stratton; Staff Liaison: Ruth Ann Elmer

The activities of the Committee on Court Security are outlined on page 2.

Commission on Racial Fairness

Chair: Judge Ronald Adrine; Staff Liaison: Keith T. Bartlett

The activities of the Commission on Racial Fairness are outlined on page 6.

## **STATUTORY COMMITTEES**

### State Criminal Sentencing Commission

Chair: Chief Justice Thomas J. Moyer

The report of the State Criminal Sentencing Commission is described on page 4. In addition, under a grant from the Office of Criminal Justice Services, the Commission: (1) developed a computer program to predict Ohio prison population trends and to measure the impact of the Sentencing Commission's recommendations and other legislation on prisons; (2) developed comprehensive profiles of felons in 18 targeted counties, including such information as race, gender, age, criminal history, weapon use, education, drug use level of violence, and victimization levels; and (3) assessed the comparative costs of common sanctions, including prison, jail, community-based correctional facilities, halfway houses, electronic monitoring, and intensive supervision.

### Task Force to Study Fine Distribution

Chair: Judge Michael Close; Staff Liaison: Richard A. Dove

The Task Force was formed by the General Assembly to review the current levels of fines and the manner in which those fines are distributed, and make recommendations to the General Assembly to establish a more effective system of assessing and distributing fines. The 19-member Task Force held an organizational meeting in December and established four subcommittees to address fine collection and distribution, criminal justice system costs, mayors' courts, and fine adequacy and proportionality.

## **OFFICE OF THE ADMINISTRATIVE DIRECTOR**

Stephan W. Stover, Administrative Director

### Technical Assistance Program

Since 1988, the Supreme Court, in conjunction with the National Center for State Courts, has operated the Technical Assistance Program to foster innovative programs and stimulate improvements in the administration of Ohio's courts. More than \$212,900 has been awarded in 104 grants to trial and appellate courts in Ohio. In 1993, the Program granted \$18,700 for 19 individual projects.

Technical assistance projects included: (1) translation of a statement of rights and responsibilities into nine languages for non-English speaking defendants; (2) an on-site visit, study, and comparison of rural county juvenile and probate court methods and procedures; and (3) team-building sessions for staff of a newly reorganized administrative department in a metropolitan trial court.

### Legal and Legislative Services

The Court continued its effort to assist the General Assembly and local courts in evaluating requests for new judicial positions. The staff responded to requests from local courts that were considering the addition of judgeships or the reorganization of the local court system and provided analysis and recommendations to the General Assembly as it considered H.B. 21, which would create new common pleas court positions in Delaware, Greene, Medina, Scioto, Fairfield, and Trumbull Counties.

The staff also monitored legislation affecting the Supreme Court, the judiciary, and the legal profession, responded to requests for legislative information from judges and court personnel and served as a contact for legislators and legislative staff on court-related questions.

### Trial Court Performance Standards

Ohio is one of the four states participating in the National Center for State Courts project to evaluate the National Center's Trial Court Performance Standards. The three-year project is funded in part through grants from the State Justice Institute and the Bureau of Justice Assistance. The general division common pleas courts in Meigs, Wayne, and Stark Counties are participating as demonstration sites. The courts are testing 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 a case on the grounds of bias, prejudice, or interest.

A total of 204 affidavits were filed, compared to 192 filed in 1992.

### Case Management Programs

The Court continued its efforts to provide direct technical assistance and consulting services on case management and court delay reduction, supported in part by grants from the Office of Criminal Justice Services (see pp. 8 and 9). Case management technical assistance was provided to over 45 courts by the Coordinator of Case Management Programs in the form of consulting services; educational instruction for judges, court, and clerk's office personnel; and grant funding to establish pilot programs.

Several juvenile courts requested technical assistance in order to reorganize their case processing systems to provide increased services to the public and manage the growing number of delinquency cases filed. In conjunction with the Dispute Resolution Coordinator, a juvenile delinquency mediation training project was created.

A pilot pretrial diversion program for 1,000 first-time, non-violent felony offenders was established at the Cuyahoga County Common Pleas Court; restitution, community service, substance abuse treatment, and educational, vocational, and family counseling were among the variety of alternatives offered.

Nineteen courts participated in four two-day workshops focused on the costs, benefits and mechanics of "integrating" court and agency computer systems to minimize data duplication and reduce court delay. Courts that participated sent a team composed of a judge, court administrator, prosecutor, public defender, data processing specialist, and local law enforcement representatives. The Court also supported a seminar that identified the organizational and financial issues associated with the implementation of a differentiated case management program.

#### Assignment of Judges

The Chief Justice made 2,375 assignments of judges to trial and appellate courts, down slightly from 1992.

#### Court Statistical Reporting Section

The Court Statistical Reporting Section held annual regional training sessions in the Spring. The five sessions were attended by over 200 judges, clerks of court, and other court personnel from nearly 150 trial courts. Twelve courts were visited for further training and consultation, and five formal presentations were made to various groups.

#### Court Personnel Meetings

The Supreme Court staff coordinated and hosted meetings of the administrators of the nine largest common pleas courts, administrators of the eight largest municipal courts, and several technology interest groups.

#### **LAW LIBRARY**

Paul S. Fu, Librarian

With a collection of over 350,000 equivalent volumes, the Supreme Court of Ohio Law Library is the largest state supreme court law library in the nation. The Law Library

has a comprehensive collection of Ohio, federal, and other states' laws. It has a core collection of international and foreign law. The Library's most notable and in-depth collections are its treatises and practice books, legal periodicals, and microforms.

In 1992, the Supreme Court Law Library became the first state supreme court law library in the nation to install a totally integrated online library system - NOTIS. Among other functions, the NOTIS system provides an online public access catalog (SCROLL), which can be accessed by judges, lawyers and citizens from anywhere in Ohio.

In addition to providing library services to Supreme Court justices and staff members, the Law Library also serves the need for legal information and materials of the state legislature, state administrative agencies, attorneys, and general public. In October 1993, the Law Library provided technical assistance to the Van Wert County Law Library. As in every year, the Law Library conducted orientation sessions and tours for law school, university, technical college (paralegal), and high school students, summer interns of Columbus area law firms, as well as new bar inductees and their families and friends. The Law Library publishes a monthly list of acquisitions and completely revised its list of legal periodicals in November, 1993.

A total of 34,726 patrons visited the Law Library, including personnel from more than 60 state agencies. The Library added 7,006 printed volumes, 52,314 pieces of microfiche, and 230 rolls of microfilm to the collection. In addition, the Library staff responded to 21,158 reference questions.

## **CLERK'S OFFICE**

Marcia J. Mengel, Clerk

### Clerk's Office

The Clerk's Office processed 2,638 new cases and scheduled 225 cases for oral argument. The Clerk's Office also processed 1,066 continuing legal education enforcement matters filed with the Court pursuant to Rule X of the Rules for the Government of the Bar.

### Admissions Office

In 1993, the Admissions Office processed nearly 3,800 admission applications, including 1,585 law student registrations; 2,123 bar examination applications; 66 applications for admission without examination; 2 applications for foreign legal consultant certificates; and 7 applications for temporary certification under Rule IX of the Rules for the Government of the Bar. The Admissions Office also issued approximately 2,000 certificates of good standing and nearly 400 legal intern certificates.

The Office administered two bar examinations and two admissions ceremonies in 1993. During the February bar examination, 485 applicants were tested, and in May, the Office conducted an admissions ceremony at the Ohio Theatre for the 359 successful applicants. At the July examination, 1,395 applicants were tested, and a November admissions ceremony was held for the 1,177 of those applicants who were successful.

### Attorney Registration Office

Pursuant to Rule VI of the Rules for the Government of the Bar, attorneys admitted to practice in Ohio are required to register with the Supreme Court on a biennial basis. The 1993-1995 attorney registration biennium began on September 1, 1993.

During the year, nearly 41,000 attorneys registered for the biennium as follows: 33,666 attorneys registered for active status; 5,429 registered as inactive; and 247 attorneys who are admitted to practice in other states registered for corporate status in Ohio. In addition, 1,556 attorneys registered for retired status, a status created for attorneys age 65 and over who no longer practice law.

In July 1993, the Supreme Court amended Rule VI to require that, beginning with the 1993-95 biennial registration, attorneys provide the Court with information regarding interest-bearing trust accounts established pursuant to Section 4705.09 of the Ohio Revised Code. Information was collected and forwarded to the Ohio Public Defender in accordance with the new requirement.

### REPORTER'S OFFICE

Walter S. Kobalka, Reporter

The Reporter's Office published 288 full Supreme Court opinions, 33 abbreviated entries, and 37 miscellaneous orders and orders in chambers, for a total of 358 edited works of the Supreme Court. Also, 964 court of appeals opinions and 30 trial court opinions were published in the Ohio Official Reports. Through the publication of six special Advance Sheets, 348 additional court of appeals opinions and 60 trial court opinions were published, for a total of 1,312 court of appeals opinions and 90 trial court opinions.

In July 1991, West Publishing Company became the official publisher of the Ohio Official Reports. At that time, a backlog of approximately 2,000 courts of appeals opinions had to be published before court of appeals opinions could be published currently in the weekly Advance Sheets. In 1992 and 1993, through the use of nine special Advance Sheets, the case backlog was published. Beginning in 1994, court of appeals opinions will be published on a current basis without the need for special Advance Sheets.

Supreme Court opinions, announcement lists, rules, and notices accounted for 21 percent of the pages available in the weekly Advance Sheets. Court of appeals opinions accounted for 72 percent, and trial court opinions accounted for two percent of the published pages.

The Reporter's Office, in cooperation with the Office of Court Technology and Services, continued electronic transmission to the official publisher of opinions, announcement lists, rules, and notices. Also in cooperation with the Office of Court Technology and Services, the Reporter's Office began a pilot project in May 1992 to transmit electronically the Court's announcements and the full texts of the Court's opinions to OSCAN, Internet, and Cleveland FREENET so that the public can have access to this information electronically. Beginning in 1994, the Court's proposed and final rule amendments will also be transmitted electronically to the electronic bulletin boards.

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

Edward J. Nyhan, Manager

### Project Benchmark

At the recommendation of the Office of Court Technology and Services, the Court approved a contract with the Mitre Corporation to develop a plan for the automation of the Ohio court system consistent with industry standards and the operational needs of local courts and state entities. The Mitre Corporation is a non-profit, systems engineering organization which has assisted federal agencies, including the Department of Justice and the Administrative Office of the United States Courts. Mitre will work with the Office to evaluate the impact of the information technology standards and develop a data model that describes the meaning, use, and interrelationship of court maintained data. Such a model will facilitate the development of systems that can exchange appropriate information between courts and other organizations throughout the state.

### Ohio Appellate Strategic Information System (OASIS)

The Office worked with court of appeals judges, administrators, and staff in an extensive design project to develop a common software package for the twelve district courts of appeals. In 1994, the Office will install the software in the appellate courts and conduct training.



### Personal Computer Case Management Software

As a result of a user group meeting in December 1992, a number of changes were made to the Ohio Supreme Computer-Assisted Recordkeeping system (OSCAR), which is a personal computer software package designed to assist judges and staff with the tracking of case information relative to the preparation of monthly statistical reports. The new version was developed and installed in 30 courts around the state.

### Technical Assistance

As a result of recent legislative changes permitting certain court fees to be used for computer funding, a number of courts have requested and received assistance from the Office in the computer acquisition process, including dealing with vendors, negotiating with funding authorities, developing and releasing requests for proposal, and evaluating proposals and awarding contracts.

### **PUBLIC INFORMATION OFFICE**

Harry Franken, Communications Director

The Public Information Office provided a continuing program of public information and education, including weekly announcements of Court decisions, publication of summaries of 307 opinions and other actions of the Supreme Court; 65 news releases; preparation of six bench-bar memos, and publication of a 29-page "Reporter's Guide To Legal Words & Phrases."

The Public Information Office responded to more than 1,500 requests from the public for assistance or information. The Office continued an education program with The Ohio State University School of Journalism.

### **FISCAL OFFICE**

M. K. Rinehart, Fiscal Officer

The Fiscal Office provided administrative and support services for the Supreme Court and appellate and trial courts. Functions of the Office include preparation and maintenance of payrolls, administration of fringe benefits, and planning and preparation of the biennial budgets for the Judiciary and Supreme Court.

New ledgers were established to keep track of the check request forms from the custodial accounts for the Attorney Registration and Admissions funds. The number of forms received totaled 183 with each one containing three to ten check requests.

The Fiscal Office processes eight payrolls each month. Approximately 19,800 payroll warrants and electronic fund transfer statements were distributed, as well as 6,625 warrants and electronic fund statements for expense reimbursement and payment to vendors and retired assigned judges. The Office also processed payments, and monitored the accounts for 17 grants and submitted financial reports as required.

#### **MASTER COMMISSIONERS**

James R. Jump, Counsel to the Court

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

#### **COURT OF CLAIMS**

Miles Durfey, Clerk

The Court of Claims has statewide, original jurisdiction over all civil actions filed against the State of Ohio. The Court also administers the Ohio Victims of Crime Compensation Program, adjudicating all matters pertaining to an application for an award of reparations filed under the Ohio Victims of Crime Act.

Civil actions in the Court of Claims are determined in one of two ways. Actions against the state of \$2,500 or less are determined administratively by the Clerk or Deputy Clerk. Civil actions in excess of \$2,500 are heard and determined by a single judge.

The Court of Claims may review a civil action determined administratively and enter judgment, and may hear and determine an appeal taken in a victims of crime case from an order of a panel of commissioners. In either event, the Court's judgment can not be the subject of further appeal.

#### **Civil Case Management**

In 1993, 537 cases were decided by the judges of the Court of Claims. The number of pending cases at the end of the year was 412. The number of filings of civil administrative determinations increased from 669 to 1,117. There were 910 dispositions of these cases, up 27 percent over 1992, and by the end of 1993, the number of civil administrative determinations pending was 508.

### Victims of Crime Compensation Case Management

In 1993, 7,763 victims of crime compensation cases were filed, down two percent from 1992. A record 7,883 victims of crime cases were disposed of, up 25 percent over the previous record year of 1992. At the end of 1993, 6,352 cases were pending. In addition, the number of cases pending before the panel commissioners and the Court was 474 and 14, respectively.

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CASES FILED

<u>JURISDICTIONAL MOTIONS</u>	<u>1993</u>
Motions to Certify	1,294
Motions for Leave	638
 <u>MERIT DOCKET</u>	
Original Actions	284
Direct Appeals	154
Certified Conflicts	38
Appeals from Board of Tax Appeals	51
Appeals from Public Utilities Commission	24
Appeals from Power Siting Board	0
Death Penalty Cases	8
Certified Questions of State Law	8
Murnahan Appeals	51
Appeal of Election Contest under R.C. 3515.15	1
 <u>PRACTICE OF LAW CASES</u>	
Disciplinary Cases*	81
Admissions Cases*	4
Other Practice of Law Cases*	<u>2</u>
 <u>TOTAL</u>	 <u>2,638</u>

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\* See Appendix E for a breakdown of cases relating to the practice of law that were filed in 1993.

FINAL DISPOSITIONS\*

JURISDICTIONAL MOTIONS (Denied or Dismissed) 1993

Motions to Certify	1,090
Motions for Leave	<u>610</u>

TOTAL

MERIT DOCKET

Original Actions	272
Direct Appeals	116
Certified Conflicts	22
Appeals from Board of Tax Appeals	27
Appeals from Public Utilities Commission	16
Appeals from Power Siting Board	0
Death Penalty Cases	9
Merit Cases Pursuant to Allowance**	117
Certified Questions of State Law	8
Murnahan Appeals	42
Appeal of Election Contest under R.C. 3515.15	<u>1</u>

TOTAL 630

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\* See Appendix F for final dispositions of cases relating to the practice of law.

\*\* This category includes all discretionary appeals that were instituted as motions to certify the record or motions for leave to appeal, allowed by the Court, and heard and disposed of on the merits.

DISCRETIONARY CASES ALLOWED

	<u>1993</u>
MOTIONS TO CERTIFY	140
MOTIONS FOR LEAVE	<u>23</u>
<u>TOTAL</u>	<u>163</u>

CASES PENDING

<u>CASE TYPE</u>	<u>PENDING AS OF 1/1/94</u>
Motions to Certify & Motions for Leave*	674**
Original Actions	82
Direct Appeals	124
Certified Conflicts	38
Appeals from Board of Tax Appeals	63
Appeals from Public Utilities Commission	16
Death Penalty Cases	12
Certified Questions of State Law	5
Murnahan Appeals	<u>15</u>
<u>TOTAL</u>	<u>1,029</u>

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\* 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 by the Court and were pending on the merits on the first of the year.

\*\* One hundred sixty-nine of these cases had been allowed by the Court and were pending on the merits as of January 1, 1994. The remainder were pending as jurisdictional motions.



CASES RELATING TO THE PRACTICE OF LAW

CASES FILED

<u>DISCIPLINARY CASES</u>	<u>1993</u>
Regular disciplinary cases	55
Automatic suspensions for felony convictions	12*
Resignations	9
Reciprocal discipline cases	2
Disciplinary cases involving judges	1
Miscellaneous disciplinary matters	<u>2**</u>
<u>TOTAL</u>	<u>81</u>
<u>ADMISSIONS CASES</u>	
Character and fitness cases	4
Miscellaneous admissions matters	<u>0</u>
<u>TOTAL</u>	<u>4</u>
<u>OTHER PRACTICE OF LAW CASES ***</u>	
Cases relating to the unauthorized practice of law	1
Other cases relating to the practice of law	<u>1</u>
<u>TOTAL</u>	<u>2</u>

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\* Includes one case filed pursuant to Gov. Bar R. V, Sec. 5 (interim suspension from the practice of law for a felony conviction) where the attorney had been given treatment in lieu of conviction pursuant to Ohio Revised Code 2951.041

\*\* Includes one investigation certified by the Board of Commissioners on Grievances and Discipline pursuant to Gov. Jud. R. III ("Retirement, Removal, or Suspension of Judges").

\*\*\* "Other practice of law cases" includes cases that were filed pursuant to the Supreme Court's exclusive constitutional authority over matters relating to the practice of law and that are not considered either disciplinary cases or admissions cases.

CASES RELATING TO THE PRACTICE OF LAW

FINAL DISPOSITIONS

<u>DISCIPLINARY CASES</u>	<u>1993</u>
Public reprimands	7
Definite suspensions	8
Definite suspensions with probation*	14
Indefinite suspensions	7**
Disbarments	8
Automatic suspensions for felony convictions	13
Automatic suspension cases withdrawn	0
Automatic suspension cases where Court decided to impose no discipline***	1
Resignations	9
Resignations withdrawn before Court action taken	0
Reciprocal discipline imposed	3
Reciprocal discipline cases dismissed	0
Disciplinary cases involving judges	1
Disciplinary cases dismissed involving judges	1
Disciplinary cases dismissed by the Court	2****
Miscellaneous disciplinary matters	<u>1</u>
<u>TOTAL</u>	<u>75</u>
 <u>ADMISSIONS CASES</u>	
Character and fitness cases	3
Miscellaneous admissions matters	<u>2</u>
<u>TOTAL</u>	<u>5</u>
 <u>OTHER PRACTICE OF LAW CASES</u>	
Other cases relating to the practice of law	1

\* Includes cases where respondent was ordered to be monitored and/or placed on probation for all or part of the suspension.

\*\* In 1993, four attorneys who previously had been publicly reprimanded were subsequently suspended by the Court for not complying with the Court's orders of reprimand. These suspensions are not reported in this category. The number reported here relates only to indefinite suspensions imposed on the merits.

\*\*\* The Court declined to impose discipline under Gov. Bar R. V, Sec. 5 (interim suspension from the practice of law for a felony conviction) against one attorney who was given treatment in lieu of conviction pursuant to Ohio Revised Code 2951.041. However, the Court referred the matter to the Disciplinary Counsel of the Supreme Court for further investigation.

\*\*\*\* Two cases were dismissed upon the respondents' resignations from the practice of law in Ohio.

## 1993 RULE AMENDMENTS

Crim. R. 7; Evid. R. 804; App. R. 26; Civ. R. 16, 34, 45, & 53--Rules Advisory Committee Recommendations

Final publication: August 23, 1993

Effective date: July 1, 1993

M.C. Sup. R. 13--Compensation of Assigned Judges

Final publication: May 17, 1993

Effective date: May 17, 1993

Gov. Bar R. VI--IOLTA Reporting

Final publication: May 24, 1993

Effective date: July 1, 1993

Gov. Bar R. X, Section 4 and 6--Continuing Legal Education Teaching Credit

Final publication: January 17, 1994

Effective date: January 1, 1994

C.P. Sup. R. 9 and 99; M.C. Sup. R. 18 and 99--Jury Management Plans

Final publication: January 10, 1994

Effective date: November 17, 1993

DR 2-101--Lawyer Advertising

Final publication: September 13, 1993

Effective date: August 16, 1993

Gov. Bar I, Sections 2 and 8--Foreign Education Evaluation Fee

Final publication: October 18, 1993

Effective date: September 15, 1993

Gov. Bar R. X; Gov. Jud. R. IV and V--Transfer of Judicial CLE Administration; Judicial College Board of Trustees Membership

Final publication: January 17, 1994

Effective date: January 1, 1994; January 1, 1995

Gov. Bar R. XIV--Appointments to Commission on Certification of Attorneys as Specialists

Final publication: January 10, 1994

Effective date: November 17, 1993

SUPREME COURT OF OHIO  
BOARDS, COMMISSIONS, AND COMMITTEES  
1993

AD HOC COMMITTEE ON MULTIDISCIPLINARY COOPERATION

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Judge Robert C. Pollex, Vice-Chair	Senator Karen Gillmor
Judge Charles J. Doneghy	Representative June Lucas
Jann Heffner	Debbie Latter
Marc Baumgarten	John Popio
Terry Etling	Clifford Cloud
Nan Hankle	Al Myers
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