REPORT

OF THE

ILLINOIS JUDICIAL

CONFERENCE

2004

2004 REPORT

2004 REPORT

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ROSTER OF JUDICIAL CONFERENCE OF ILLINOIS

The following are members of the Judicial Conference of Illinois during the 2004 Conference year.

SUPREME COURT

Hon. Mary Ann G. McMorrow
Chief Justice
First Judicial District

Hon. Charles E. Freeman
Supreme Court Justice
First Judicial District

Hon. Thomas R. Fitzgerald
Supreme Court Justice
First Judicial District

Hon. Thomas L. Kilbride
Supreme Court Justice
Third Judicial District

Hon. Robert R. Thomas
Supreme Court Justice
Second Judicial District

Hon. Rita B. Garman
Supreme Court Justice
Fourth Judicial District

Hon. Philip J. Rarick
Supreme Court Justice
Fifth Judicial District

Appellate Court

Hon. Alan J. Greiman
Chairman, Executive Committee
First District Appellate Court

Hon. Jack O'Malley
Presiding Judge
Second District Appellate Court

Hon. William E. Holdridge
Presiding Judge
Third District Appellate Court

Hon. James A. Knecht
Presiding Judge
Fourth District Appellate Court

Hon. Melissa A. Chapman
Presiding Judge
Fifth District Appellate Court

APPOINTEES

Hon. Thomas R. Appleton
Appellate Court Judge
Fourth Appellate Court District

Hon. C. Stanley Austin
Circuit Judge
Eighteenth Judicial Circuit

Hon. Robert P. Bastone
Associate Judge
Circuit Court of Cook County

Hon. Joseph F. Beatty
Circuit Judge
Fourteenth Judicial Circuit

Hon. Amy Bertani-Tomczak
Circuit Judge
Twelfth Judicial Circuit

Hon. Preston Bowie, Jr.
Associate Judge
Circuit Court of Cook County

Hon. Robert E. Byrne
Appellate Court Judge
Second Appellate Court District

Hon. Ann Callis
Circuit Judge
Third Judicial Circuit

Hon. Joseph N. Casciato
Associate Judge
Circuit Court of Cook County

Hon. Melissa A. Chapman
Appellate Court Judge
Fifth Appellate Court District

Hon. John P. Coady
Circuit Judge
Fourth Judicial Circuit

Hon. Mary Ellen Coghlan
Circuit Judge
Circuit Court of Cook County

Hon. Claudia Conlon
Circuit Judge
Circuit Court of Cook County

Hon. Eugene P. Daugherity
Circuit Judge
Thirteenth Judicial Circuit

Hon. James K. Donovan
Appellate Court Judge
Fifth Appellate Court District

Hon. Deborah M. Dooling
Circuit Judge
Circuit Court of Cook County

Hon. Timothy C. Evans
Chief Judge
Circuit Court of Cook County

Hon. Edward C. Ferguson
Chief Judge
Third Judicial Circuit

Hon. Charles H. Frank
Associate Judge
Eleventh Judicial Circuit

Hon. Vincent M. Gaughan
Circuit Judge
Circuit Court of Cook County

Hon. Susan Fox Gillis
Associate Judge
Circuit Court of Cook County

Hon. James R. Glenn
Chief Judge
Fifth Judicial Circuit

Hon. Robert E. Gordon
Circuit Judge
Circuit Court of Cook County

Hon. John K. Greanias
Circuit Judge
Sixth Judicial Circuit

Hon. Alan J. Greiman
Appellate Court Judge
First Appellate Court District

Hon. Daniel P. Guerin
Associate Judge
Eighteenth Judicial Circuit

Hon. William E. Holdridge
Appellate Court Judge
Third Appellate Court District

Hon. Donald C. Hudson
Circuit Judge
Sixteenth Judicial Circuit

Hon. Frederick J. Kapala
Appellate Court Judge
Second Appellate Court District

Hon. Robert K. Kilander
Chief Judge
Eighteenth Judicial Circuit

Hon. Dorothy Kirie Kinnaird
Circuit Judge
Circuit Court of Cook County

Hon. Gerald R. Kinney
Circuit Judge
Twelfth Judicial Circuit

Hon. James A. Knecht
Appellate Court Judge
Fourth Appellate Court District

Hon. John C. Knight
Circuit Judge
Third Judicial Circuit

Hon. Randye A. Kogan
Associate Judge
Circuit Court of Cook County

Hon. Diane M. Lagoski
Associate Judge
Eighth Judicial Circuit

Hon. Lori R. Lefstein
Circuit Judge
Fourteenth Judicial Circuit

Hon. Vincent J. Lopinot
Associate Judge
Twentieth Judicial Circuit

Hon. Tom M. Lytton
Appellate Court Judge
Third Appellate Court District

Hon. William D. Maddux
Circuit Judge
Circuit Court of Cook County

Hon. Patricia Martin Bishop
Circuit Judge
Circuit Court of Cook County

Hon. Mary Anne Mason
Circuit Judge
Circuit Court of Cook County

Hon. John R. McClean, Jr.
Associate Judge
Fourteenth Judicial Circuit

Hon. Ralph J. Mendelsohn
Associate Judge
Third Judicial Circuit

Hon. James J. Mesich
Associate Judge
Fourteenth Judicial Circuit

Hon. Colleen McSweeney Moore
Circuit Judge
Circuit Court of Cook County

Hon. Steven H. Nardulli
Associate Judge
Seventh Judicial Circuit

Hon. Lewis Nixon
Circuit Judge
Circuit Court of Cook County

Hon. Rita M. Novak
Associate Judge
Circuit Court of Cook County

Hon. Stuart A. Nudelman
Circuit Judge
Circuit Court of Cook County

Hon. Jack O'Malley
Appellate Court Judge
Second Appellate Court District

Hon. Stephen R. Pacey
Circuit Judge
Eleventh Judicial Circuit

Hon. Stuart E. Palmer
Circuit Judge
Circuit Court of Cook County

Hon. Stephen H. Peters
Circuit Judge
Sixth Judicial Circuit

Hon. Lance R. Peterson
Associate Judge
Thirteenth Judicial Circuit

Hon. M. Carol Pope
Circuit Judge
Eighth Judicial Circuit

Hon. Dennis J. Porter
Associate Judge
Circuit Court of Cook County

Hon. Ellis E. Reid
Appellate Court Judge
First Appellate Court District

Hon. James L. Rhodes
Circuit Judge
Circuit Court of Cook County

Hon. Teresa K. Righter
Associate Judge
Fifth Judicial Circuit

Hon. Stephen A. Schiller
Circuit Judge
Circuit Court of Cook County

Hon. Mary S. Schostok
Circuit Judge
Nineteenth Judicial Circuit

Hon. David W. Slater
Associate Judge
Fourth Judicial Circuit

Hon. Robert B. Spence
Circuit Judge
Sixteenth Judicial Circuit

Hon. Daniel J. Stack
Circuit Judge
Third Judicial Circuit

Hon. Eddie A. Stephens
Associate Judge
Circuit Court of Cook County

Hon. Jane Louise Stuart
Circuit Judge
Circuit Court of Cook County

Hon. Mary Jane Theis
Appellate Court Justice
First Appellate Court District

Hon. George W. Timberlake
Chief Judge
Second Judicial Circuit

Hon. Michael P. Toomin
Circuit Judge
Circuit Court of Cook County

Hon. Edna Turkington
Circuit Judge
Circuit Court of Cook County

Hon. Hollis L. Webster
Circuit Judge
Eighteenth Judicial Circuit

Hon. Grant S. Wegner
Circuit Judge
Sixteenth Judicial Circuit

Hon. Kendall O. Wenzelman
Chief Judge
Twenty-First Judicial Circuit

Hon. Walter Williams
Associate Judge
Circuit Court of Cook County

MEMBERS OF EXECUTIVE COMMITTEE

Hon. Mary Ann G. McMorrow, Chairman
Chief Justice
First Judicial District

Hon. Robert P. Bastone
Associate Judge
Circuit Court of Cook County

Hon. Joseph F. Beatty
Circuit Judge
Fourteenth Judicial Circuit

Hon. James K. Donovan
Appellate Court Judge
Fifth Appellate Court District

Hon. Timothy C. Evans
Chief Judge
Circuit Court of Cook County

Hon. Robert K. Kilander
Chief Judge
Eighteenth Judicial Circuit

Hon. John Knight
Circuit Judge
Third Judicial Circuit

Hon. Lori R. Lefstein
Circuit Judge
Fourteenth Judicial Circuit

Hon. Rita M. Novak
Associate Judge
Circuit Court of Cook County

Hon. Stuart A. Nudelman
Circuit Judge
Circuit Court of Cook County

Hon. Stephen H. Peters
Circuit Judge
Sixth Judicial Circuit

Hon. M. Carol Pope
Circuit Judge
Eighth Judicial Circuit

Hon. Ellis E. Reid
Appellate Court Judge
First Appellate Court District

Hon. Stephen A. Schiller
Circuit Judge
Circuit Court of Cook County

Hon. Robert B. Spence
Circuit Judge
Sixteenth Judicial Circuit

OVERVIEW OF THE ILLINOIS JUDICIAL CONFERENCE

The Supreme Court of Illinois created the Illinois Judicial Conference in 1953 in the interest of maintaining a well-informed judiciary, active in improving the administration of justice. The Conference has met annually since 1954 and has the primary responsibility for the creation and supervision of the continuing judicial education efforts in Illinois.

The Judicial Conference was incorporated into the 1964 Supreme Court Judicial Article and is now provided for in Article VI, section 17, of the 1970 Constitution. Supreme Court Rule 41 implements section 17 by establishing membership in the Conference, creating an Executive Committee to assist the supreme court in conducting the Conference, and appointing the Administrative Office as secretary of the Conference.

In 1993, the supreme court continued to build upon past improvements in the administration of justice in this state. The Judicial Conference of Illinois was restructured to more fully meet the constitutional mandate that "the supreme court shall provide by rule for an annual Judicial Conference to consider the work of the courts and to suggest improvements in the administration of justice and shall report thereon annually in writing to the General Assembly." The restructuring of the Conference was the culmination of more than two years of study and work. In order to make the Conference more responsive to the mounting needs of the judiciary and the administration of justice (1) the membership of the entire Judicial Conference was totally restructured to better address business of the judiciary; (2) the committee structure of the Judicial Conference was reorganized to expedite and improve the communication of recommendations to the court; and (3) the staffing functions were overhauled and strengthened to assist in the considerable research work of committees and to improve communications among the Conference committees, the courts, the judges and other components of the judiciary.

The Judicial Conference, which formerly included all judges in the State of Illinois, with the exception of associate judges (approximately 500 judges), was downsized to a total Conference membership of 82. The membership of the reconstituted Conference includes:

Supreme Court Justices	7
Presiding judges of downstate appellate districts and chair of First District Executive Committee	5
Judges appointed from Cook County (including the chief judge and 10 associate judges)	30
Ten judges appointed from each downstate district (including one chief judge and 3 associate judges from each district)	40
Total Conference Membership	82

The first meeting of the reconstituted Conference convened December 2, 1993, in Rosemont, Illinois.

A noteworthy change in the Conference is that it now includes associate judges who comprise more than a quarter of the Conference membership. In addition to having all classifications of judges represented, the new structure continues to provide for diverse geographical representation.

Another important aspect of the newly restructured Conference is that the Chief Justice of the Illinois Supreme Court presides over both the Judicial Conference and the Executive Committee of the Conference, thus providing a strong link between the Judicial Conference and the supreme court.

The natural corollary of downsizing the Conference, and refocusing the energies and resources of the Conference on the management aspect of the judiciary, is that judicial education will now take place in a different and more suitable environment, rather than at the annual meeting of the Conference. A comprehensive judicial education plan was instituted in conjunction with the restructuring of the Judicial

Conference. The reconstituted judicial education committee was charged with completing work on the comprehensive education plan, and with presenting the plan for consideration at the first annual meeting of the reconstituted Judicial Conference. By separating the important functions of judicial education from those of the Judicial Conference, more focus has been placed upon the important work of providing the best and most expanded educational opportunities for Illinois judges. These changes have improved immensely the quality of continuing education for Illinois judges.

ANNUAL MEETING OF THE ILLINOIS JUDICIAL CONFERENCE

Holiday Inn Chicago City Centre
300 East Ohio ❧ Chicago, Illinois

AGENDA

WEDNESDAY, OCTOBER 20, 2004

5:00 - 7:00 p.m. **Registration**

THURSDAY, OCTOBER 21, 2004

7:15 a.m. to 9:30 a.m. **Buffet Breakfast & Registration**

9:30 a.m. **Judicial Conference Opening Address**
Honorable Mary Ann G. McMorrow
Chief Justice
Supreme Court of Illinois

10:30 a.m. to 12:00 p.m. **Committee Meetings**
Alternative Dispute Resolution Coordinating Committee
Automation and Technology Committee
Committee on Criminal Law and Probation Administration
Committee on Discovery Procedures
Committee on Education
Study Committee on Complex Litigation
Study Committee on Juvenile Justice

12:00 - 1:30 p.m. **Luncheon**

1:30 - 4:00 p.m. **Plenary Session:**
Call to Order by Honorable Mary Ann G. McMorrow, Chief Justice
Presentation of Consent Calendar
Presentation of Committee Reports (Questions and Comments to Follow Each Report)
Alternative Dispute Resolution Coordinating Committee
Committee on Criminal Law and Probation Administration
Automation and Technology Committee
Study Committee on Juvenile Justice
Break; Committee Reports Resume
Study Committee on Complex Litigation
Committee on Discovery Procedures
Committee on Education
Comments and Recommendations
(Moderators: Hon. Stuart A. Nudelman; Hon. Ellis E. Reid)

4:00 p.m. **Adjourn**

2004 Annual Illinois Judicial Conference
Thursday, October 21, 2004
9:30 a.m.
Holiday Inn Chicago City Centre
Chicago, IL

Ladies and gentlemen good morning. My name is Mary Ann G. McMorrow and it is my great honor and distinct pleasure to welcome all of you to the 2004 Annual Meeting of the Illinois Judicial Conference. I am delighted to be here this morning, and both privileged and humbled as the Chief Justice of the Supreme Court of Illinois to, for the third time, offer the opening remarks for the annual Judicial Conference, the 51st Conference.

It is very gratifying to see among the Conference attendees familiar faces, judges with whom I have been privileged to dialogue about issues important to the judiciary. Welcome to the Annual Meeting. The gratification is mixed with a true sense of excitement as I see the faces of judges who are new to the Conference. I am grateful to you for your work on the Conference this past year and extend to you as well a welcome to the culminating event of Conference Year 2004. The Judicial Conference, with on-going work conducted throughout the year by the dedicated chairpersons and capable and competent committee members, provides the judicial branch with the best of models for planning and action. It captures the wisdom and experience of those more tenured members who serve, while inviting and embracing the creativity and energies of its newest members. Your very attendance here today demonstrates to me, and my colleagues on the Supreme Court, the level of your commitment to improving the administration of justice in Illinois. Thank you all for coming.

I am very proud and pleased to be joined here on the dais by all of the current members of the Supreme Court as well as some of my former colleagues on the court. Let me introduce them to you.

To my far right is Justice Seymour Simon. While I did not have the privilege of serving on the court at the same time as Justice Simon, I have had the honor of knowing him for a great many years. Justice Simon, who has a distinguished career in Illinois public service, has a continued interest in the work of the judiciary. His regular attendance and participation in the Conference is a benefit for all of us. Immediately next to Justice Simon is former Supreme Court Justice John L. Nickels, with whom I did have the privilege to serve – but regrettably, for only 7 short years before his retirement from the bench in 1998. Justice Nickels welcome and thank you for coming. Also seated to my right, next to Justice Nickels, is Justice Rita B. Garman from the Fourth Judicial District and immediately next to Justice Garman is Justice Robert R. Thomas of the Second Judicial District. Welcome to these wonderful, dedicated and skilled colleagues. To my immediate right is the most tenured member of our court and one who served so ably as the court's Chief Justice, the Honorable Charles E. Freeman of the First Judicial District. I am pleased that you are here with us today.

To my far left is the Honorable Benjamin K. Miller. Justice Miller is also a former Chief Justice and while on the court, served with distinction making many extraordinary contributions to the law as well as innovations in the administration of justice in Illinois. Justice Miller has continued his career in the law and has been with the law firm of Jenner and Block , where for over the past

year, he has provided his continued excellence in service as an attorney at law. Next to Justice Miller is Justice Rarick from the Fifth Judicial District. Justice Rarick, who will be retiring from the court later this year, provides all of us with a model of judicial professionalism and competency. Phil thank you for coming and please know that I believe that I can speak for a unanimous Supreme Court of Illinois - thank you for your dedication and we wish you all of the best in your life's next journeys. Also to my left, next to Justice Rarick, is Justice Thomas L. Kilbride from the court's Third Judicial District. The last introduction of those who join me here on the dais is that of my long time friend and colleague – seated immediately to my left – Justice Thomas Fitzgerald of the First District. I am so pleased and proud to be accompanied by all of my colleagues from the court! To all of you welcome and thank you for being here today.

Finally, I would be remiss if in my acknowledgments I failed to recognize the contributions of the Administrative Office of the Illinois Courts and Director Cynthia Cobbs. The Administrative Office facilitates the work of the committees and assists in the coordination of the Conference events. To all of the committee liaisons, Mike Tardy, Lisa Jacobs, Jan Zekich, Karen Reynertson who ably serves as the Conference Coordinator, and all of the members of the Administrative Office staff who participate in the planning of this annual event – thank you.

Those of you who have so ably and professionally served the Judicial Conference in prior years will note that we have modified the schedule for the Annual Meeting of the Judicial Conference. Some of you may attribute the consolidation of the annual meeting into one day as a component of the court's strong fiscal stewardship over our limited judicial branch resources. Others of you may perceive the schedule change as having been necessary to minimize crucial judicial time away from the bench. Your reasoning is, in fact, accurate. However, there is an additional reason for the re-structuring of the annual meeting, one that I assume many of you have noticed as the *"centerpiece*" of change. Researchers and experts in methods of adult learning suggest mornings are the time of day when we tend to be most alert, most open to interactions and learning. This theory, of course, is dependent upon the adequacy of your caffeine intake. In any case as Chief Justice, I now have you as my captive audience at the beginning of the day, rather than during our luncheon. The change in schedule will hopefully offer us no less opportunity to dialogue about the challenges and to explore means to improve the work of the courts and the administration of justice in Illinois. That said, it would seem that we are all challenged to perform our best.

It is important to emphasize that although we have a change in schedule that change does not modify either the importance or the substance of the annual meeting, which will culminate later today with the presentation of reports of the work of each Conference committee. It is, of course, the work of the committees, your work, that is the foundation, the centerpiece, and the core purpose of our meeting. That said, I know that all of us will leave the 2004 Annual Meeting more learned and enriched in our understanding of the challenges and opportunities that we collectively face in improving the work of the courts.

Earlier, I welcomed all of you to this, the 51st Annual Judicial Conference. For some of my more veteran colleagues on the bench I should perhaps clarify with a bit of history about the Conference. The Judicial Conference was first formally provided for in the 1957 adoption of then Supreme Court Rule 56-1, which resulted in the 1958 Illinois Judicial Conference. However, the first Judicial Conference actually occurred some years earlier in 1954. The 1954 meeting simply bore a different name. The Judicial Conference is the formal title given to the successor of annual

judicial meetings that had been initiated by the Supreme Court in 1954. So, while our annual meetings may be in their "early fifties" in terms of a chronological age, as the Illinois Judicial Conference, we are really only in our "late forties." It is true that all things are not as they appear. Contrary to how things may appear, I assure you that neither I, nor any of my colleagues on today's court are quite old enough to have been in attendance at that inaugural Judicial Conference meeting in1958!

The themes of my comments at the previous two Judicial Conferences centered around our nation's challenges and adjustments to building a safer nation in the post September 11, 2001 era and the role of the justice system in that process. Today, I want to reflect upon some of the salient issues that we faced as a society and as a court system in 1958, and offer to you, my colleagues, a view that some of those challenges continue to be with us in today's world and await us in the future. Offered by the1958 junior senator from Massachusetts, who later would become the thirty-fifth president of the United States, John F. Kennedy said "Change is the law of life. And those who only look at the past or present, are certain to miss the future."

While I would not suggest that the past is the singular basis on which to predict the future, I leave that lofty task to the visionaries and the dreamers, I do suggest that lessons learned from the past can assist us in managing the present and in shaping our future. I do know and not through any amazing gift of prescience that the future of Illinois' judicial branch is bright and strong, filled with dedicated, competent, and yes independent jurists. I know because the foundation has been laid and much of the evidence is here before me today.

In 1958, our nation's population was less than 175 million and Republican President Dwight D. Eisenhower occupied the White House. His record of extraordinary military leadership and his position as an honored war hero who guided the allied forces to victory in WWII propelled him into the highest elected office in the nation. Now, in 2004, with our nation's population rapidly approaching 300 million, it appears quite differently from 1958. The military records of the two presidential candidates serve not so much as badges of honor, but rather as points of contention and political disagreement.

In 1958, U.S. Marines were deployed in the middle-east, Lebanon to be exact, to help "support" a friendly regime. Today we have over 120,000 troops deployed in harms way in Iran and Afghanistan to, as a component of national security and foreign policy, build and support nations which we believe someday can share in our values and institutions of democracy. The 2004 presidential election is only a short 12 days away and it will give our nation which serves as a global beacon of hope, opportunity, and justice our 14th presidential administration since 1958. Notwithstanding the change of personalities in the White House, it is constancy in purpose and value-based stewardship of our Constitution that provide the crucial bridge that moves us from the past to the present towards the future.

In 1958, the Judicial Conference focused considerable energy on proposals which in their final state would amend the judicial article of the Illinois Constitution in 1960. While engaged in debate at a high level, and taking pains to note that concerns expressed were not part of a political agenda, the 1958 members of the Illinois Judicial Conference heard the following analysis by Illinois' former Supreme Court Justice Floyd E. Thompson:

> *"Fundamental in the American system of government is the distribution of the natural functions of government among independent departments. Executive departments and legislative departments with recognized functions had existed under different forms of government in many parts of the world when our nation was established, but it remained for our people in this free country to establish by written Constitution an independent judicial department and to vest all judicial powers in our courts. This is probably our greatest single contribution to the science of government. Without it there can be no freedom and with it there can be no dictatorship. We must guard against any invasion of this fundamental principle of government in the laudable effort to improve the administration of justice."*

In 2004, our courts, both Federal and State, continue the struggle of maintaining judicial independence. The struggle is not confined to the great state of Illinois. Just last month in Florida, Chief Justice Barbara Pariente writing for a unanimous Supreme Court on legislation deemed offensive to the doctrine of separation of powers stated that *"[i]f the legislature, with the assent of the Governor, can do what was attempted here, the judicial branch would be subordinated to the final directive of the other branches."* Making such difficult and momentous decisions in our society is the job of the courts.

My esteemed colleague, Justice Philip J. Rarick, in authoring this court's decision in *Jorgensen v. Blagojevich*, wrote:

> *"While the three branches of government enjoy equal status under the Constitution, their ability to withstand incursions from their coordinate branches differs significantly. The judicial branch is the most vulnerable. It has no treasury. It possesses no power to impose or collect taxes. It commands no militia. To sustain itself financially and to implement its decisions, it is dependent on the legislative and executive branches. Retribution against the courts for unpopular decisions is an ongoing threat. What is at stake here is the very independence of the judiciary and the preservation of separation of powers."*

It would seem in looking back to 1958 to the first "official" Annual Meeting of the Illinois Judicial Conference that while some things of course have changed, some things have also remained constant. In order to insure the effective administration of justice just as it did in 1958 it remains today our responsibility and requires today our diligence in the preservation of judicial independence. If we, the members of the Judicial Conference of 2004, view ourselves as part of the leadership of the "third branch", then learning is an indispensable component of that leadership mantle and there is much to be learned from those who preceded us so that we might in turn help direct the path for the future and those who follow.

This year, of course, has not singularly been about the responsibility of maintaining the independence of the judiciary. Neither has it been solely about how to pay for the Court's core operations. This year has been marked by progress and achievements which collectively contribute to improvements in the administration of justice. These accomplishments, and the substantive policy and practice areas that they represent, bring the value of judicial independence to life and build the required foundation for independence in increased public trust.

In addition to the work of the committees of the Conference, reports from which we will hear later today, I want to provide you with a brief overview of some of the projects and accomplishments which have occurred in Illinois as significant to the proper administration of justice:

- As I have stated, continued learning and professional growth is a mantle of leadership, and the judges of Illinois have met this challenge well! As, no doubt, you each will recall, there were two sessions of the 2004 Education Conference, held in Chicago. The Conferences were attended by over 900 judges, including 66 who served as faculty. Conference evaluations indicated high levels of satisfaction from the judges who attended. This event is of course, in addition to the numerous regional training events and seminars sponsored by the Committee on Education.

- The administration of justice in Illinois continues to be improved in its efficiencies and effectiveness through the implementation of specialty courts, whether they be for drug abuse, mental health or the integration of family and child protection procedures. These initiatives hold great promise to demonstrate the justice system's accountable and innovative efforts to assist in managing myriad societal issues that the public rightly expects that the judicial branch will serve as a key problem-solving partner.

- The Supreme Court's administration of the court improvement grant, through the Administrative Office and the Judicial Advisory Committee, resulted in a record expenditure of over $350,000 in federal funds to assist local and state efforts in improving the judicial system's work with a most vulnerable group of our state's citizens, children who are victims of abuse, neglect and/or abandoned by their caretakers as dependent children. The judicial branch continues to be available to the state's child welfare agency to assist in implementing the program improvement plan that is the result of the 2003 federal review of Illinois' system of caring for children removed from their homes because of abuse and neglect.

- Automation and technology continued at the forefront of court priorities and projects. In addition to approving the start-up of an electronic filing pilot program in the 18th Judicial Circuit, several other sites are on the cusp of initiating electronic filing as well. The court approved the expansion of the 20th Circuit's St. Clair County pilot imaging program to assist in expanding technological advances in the trial courts. The St. Clair pilot has recently been expanded by the Supreme Court and will well serve as a model for implementing technological advances that contribute to the improved administration of justice.

- Illinois' probation system, a judicial branch function, has directed its many and valued human resources to implementing the key components of evidence based practices that increase community safety through reduction in offender risk. Illinois' probation system has recently been selected as one of two national sites by the U.S. Department of Justice, National Institute of Corrections, to receive intense national technical assistance to implement these practices. Further, through our Administrative Office, reform efforts are widespread to ensure the appropriate and cost-efficient use of bed space in Illinois' court managed juvenile detention centers. Similar to the probation risk reduction initiative, the juvenile detention alternatives initiative focuses on the integration of best practices with fiscal stewardship of this costly and often overused resource in the juvenile justice arena.

In reflecting on the past work of the Conference I wondered if in 2055, 51 years from now,

what comments will the Chief Justice of the Supreme Court of Illinois make about our work in 2004? My hope about those comments can best be summarized by a quote of comments offered by the late President John F. Kennedy:

> "When at some future date the high court of history sits in judgement on each one of us recording whether in our brief span of service we fulfilled our responsibilities to the state our success or failure, in whatever office we hold, will be measured by the answer to four questions: were we truly people of courage...were we truly people of judgement ... were we truly people of integrity... were we truly people of dedication?"

I am confident that the collective response to each of these inquiries will be a resounding yes!

Thank you for your time this morning. I look forward with you to a fruitful annual meeting.

RESOLUTION

IN MEMORY OF

THE HONORABLE WALTER E. CLARK

The Honorable Walter E. Clark, former magistrate in the Fourteenth Judicial Circuit, passed away January 2, 2004.

Judge Clark was born June 28, 1922, in Coal City, Illinois. He served as a magistrate from 1967 until 1979.

The Illinois Judicial Conference extends to the family of Judge Clark its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE JOHN D. DAILY

The Honorable John D. Daily, former associate judge in the Second Judicial Circuit, passed away May 15, 2004.

Judge Daily was born March 29, 1913, in McLeansboro, Illinois. He received his law degree from the University of Illinois College of Law in 1937, and was admitted to the bar that same year. Judge Daily was a special agent for the F.B.I., city attorney for the city of McLeansboro, and assistant Attorney General for the State of Illinois. He became an associate judge in 1966, and remained in that position until 1978.

The Illinois Judicial Conference extends to the family of Judge Daily its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE CLAUDE J. DAVIS

The Honorable Claude J. Davis, former circuit judge in the Seventh Judicial Circuit, passed away March 24, 2004.

Judge Davis was born January 27, 1922, in St. Augustine, Illinois. He received his law degree from the University of Illinois College of Law in 1948, and was admitted to the bar that same year. Judge Davis was city attorney for the city of Jerseyville and Jersey County State's Attorney. He was appointed a circuit judge in 1984 and remained in that position until 1990.

The Illinois Judicial Conference extends to the family of Judge Davis its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE EDWIN L. DOUGLAS

The Honorable Edwin L. Douglas, former circuit judge in the Eighteenth Judicial Circuit, passed away January 19, 2004.

Judge Douglas was born June 6, 1914, in Chicago, Illinois. He received his law degree from Chicago-Kent College of Law, and was admitted to the bar in 1940. Judge Douglas was a Special Agent with Army Intelligence during World War II. He served as an assistant State's Attorney and the Public Defender in DuPage County from 1955 - 1970. In 1970, he became an associate judge and was elected a circuit judge in 1972. He remained in that position until 1985.

The Illinois Judicial Conference extends to the family of Judge Douglas its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE PATRICK L. DUKE

The Honorable Patrick L. Duke, circuit judge in the Fourth Judicial Circuit, passed away August 10, 2003.

Judge Duke was born March 10, 1951, in Flora, Illinois. He received his law degree from the University of Illinois College of Law in 1975, and was admitted to the bar that same year. Judge Duke was a sole practitioner in Flora, IL before being elected to the bench in 1996. A position he retained until his death.

The Illinois Judicial Conference extends to the family of Judge Duke its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE DANNY A. DUNAGAN

The Honorable Danny A. Dunagan, circuit judge in the Fourteenth Judicial Circuit, passed away December 9, 2003.

Judge Dunagan was born May 20, 1946, in Danville, Illinois. He received his law degree from the University of Illinois College of Law in 1975, and was admitted to the bar that same year. He began his career as an assistant State's Attorney and served as Whiteside County Public Defender from 1977 - 1987. Judge Dunagan served as an associate judge from 1987 - 1990, became a circuit judge in 1990, and remained in that position until his death.

The Illinois Judicial Conference extends to the family of Judge Dunagan its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE E. WENDELL DURR

The Honorable Eldon Wendell Durr, former associate judge for the Third Judicial Circuit, passed away April 23, 2004.

Judge Durr was born October 2, 1937, in Granite City, Illinois. He received his law degree from the University of Illinois College of Law, and was admitted to the bar in 1962. Judge Durr served as city attorney, park district attorney, village attorney and state's attorney, until being elected an associate judge in 1983.

The Illinois Judicial Conference extends to the family of Judge Durr its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE WAYNE P. DYER

The Honorable Wayne P. Dyer, former associate judge in the Twelfth Judicial Circuit, passed away May 5, 2004.

Judge Dyer was born May 14, 1917, in Kankakee, Illinois. He received his law degree from the University of Illinois College of Law in 1948. He became an associate judge in 1968 and remained there until 1993.

The Illinois Judicial Conference extends to the family of Judge Dyer its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE ROBERT J. EGAN

The Honorable Robert J. Egan, former circuit judge for the Circuit Court of Cook County, passed away September 15, 2003.

Judge Egan was born November 11, 1931. He received his law degree from Loyola University School of Law, and was admitted to the bar in 1959. Judge Egan had a long career in politics, beginning with precinct worker to State Senator. He retired from the bench in 1988.

The Illinois Judicial Conference extends to the family of Judge Egan its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE BRUCE R. FAWELL

The Honorable Bruce R. Fawell, former associate judge in the Eighteenth Judicial Circuit, passed away April 21, 2004.

Judge Fawell was born September 24, 1927, in Chicago, Illinois. He received his law degree from Chicago-Kent College of Law in 1952, and was admitted to the bar that same year. Judge Fawell served as J. P. in the Second District from 1961 - 1964, and as magistrate in the Eighteenth Judicial Circuit from 1964 - 1970. He became an associate judge in 1970.

The Illinois Judicial Conference extends to the family of Judge Fawell its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE LEONARD HOFFMAN

The Honorable Leonard Hoffman, former circuit judge in the Thirteenth Judicial Circuit, passed away January 24, 2004.

Judge Hoffman was born April 18, 1918, in Dwight, Illinois. He received his law degree from the University of Chicago Law School in 1940, and was admitted to the bar that same year. Judge Hoffman was city attorney for the city of Morris until 1950. He served as a judge in Grundy County and in the Thirteenth Judicial Circuit from 1950 until 1984.

The Illinois Judicial Conference extends to the family of Judge Hoffman its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE ROBERT E. HUNT

The Honorable Robert E. Hunt, former circuit judge in the Tenth Judicial Circuit, passed away May 1, 2004.

Judge Hunt was born November 22, 1916, in Granville, Illinois. He received his law degree from the University of Wisconsin Law School in 1941, and was admitted to the bar that same year. Judge Hunt was an assistant State's Attorney and Special Master in Chancery for Peoria County from 1952 - 1961. He became an associate judge in 1961, and a circuit judge in 1968. He remained in that position until 1982.

The Illinois Judicial Conference extends to the family of Judge Hunt its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE PEYTON H. KUNCE

The Honorable Peyton H. Kunce, former circuit judge in the First Judicial Circuit, passed away June 8, 2004.

Judge Kunce was born October 1, 1918, in Grand Tower, Illinois. He received his law degree from the University of Illinois College of Law in 1942, and was admitted to the bar that same year. Judge Kunce was a special agent with the F.B.I. from 1942 - 1946. He served as a judge in Jackson County court from 1952 - 1963. He became a circuit judge in the First Judicial Circuit in 1964 and remained there until 1978. He was assigned to the appellate court in 1978 and remained there until his retirement in 1979.

The Illinois Judicial Conference extends to the family of Judge Kunce its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE JOHN J. LYONS

The Honorable John J. Lyons, former appellate justice First Judicial District, passed away February 7, 2004.

Judge Lyons was born May 2, 1905, in Chicago, Illinois. He received his law degree from the University of Notre Dame Law School, and was admitted to the bar in 1930. Judge Lyons worked as a trial lawyer for the United States Mutual Insurance Co. and the Illinois Automobile Club, until being appointed an associate judge for the Circuit Court of Cook County in 1946. He became a circuit judge in 1953, serving there until being appointed to the Appellate Court in 1964. He remained in that position until his term expired in 1972.

The Illinois Judicial Conference extends to the family of Judge Lyons its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE ROBERT G. MACKEY

The Honorable Robert G. Mackey, former associate judge in the Circuit Court of Cook County, passed away May 7, 2004.

Judge Mackey was born October 3, 1920, in Chicago, Illinois. He received his law degree from Loyola University School of Law, and was admitted to the bar in 1949. From 1950 - 1974, Judge Mackey was with the Attorney General's Office for the State of Illinois, the Federal Trade Commission, an assistant State's Attorney for Cook County, and an assistant Corporation Counsel for the City of Chicago. He was appointed an associate judge in 1974 and remained in that position until his retirement in 1990.

The Illinois Judicial Conference extends to the family of Judge Mackey its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE FRANCIS J. MAHON

The Honorable Francis J. Mahon, former circuit judge for the Circuit Court of Cook County, passed away March 18, 2004.

Judge Mahon was born April 26, 1916, in St. Louis, Missouri. He received his law degree from St. Louis University School of Law, and was admitted to the bar in 1946. Judge Mahon became an associate judge in 1974, and a circuit judge in 1976.

The Illinois Judicial Conference extends to the family of Judge Mahon its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE LESTER D. McCURRIE

The Honorable Lester D. McCurrie, former circuit judge for the Circuit Court of Cook County, passed away May 10, 2004.

Judge McCurrie was born May 11, 1930, in Chicago, Illinois. He received his law degree from DePaul University College of Law in 1963, and was admitted to the bar that same year. Judge McCurrie served in the public and private sectors until becoming a circuit judge at large in 1980. He remained in that position until 1991.

The Illinois Judicial Conference extends to the family of Judge McCurrie its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE WILLIAM F. McGLYNN

The Honorable William F. McGlynn, associate judge for the Circuit Court of Cook County, passed away April 10, 2004.

Judge McGlynn was born September 14, 1948, in Chicago, Illinois. He received his law degree from The John Marshall Law School and was admitted to the bar in 1981. Judge McGlynn was a Chicago police officer for more than 10 years before earning his law degree. He spent five years in the Cook County State's Attorney's office before going into private practice. Judge McGlynn became an associate judge in 1999, and remained in that position until his death.

The Illinois Judicial Conference extends to the family of Judge McGlynn its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE REX F. MEILINGER

The Honorable Rex F. Meilinger, former circuit judge in the Sixteenth Judicial Circuit, passed away February 23, 2004.

Judge Meilinger was born April 23, 1921, in Sandwich, Illinois. He received his law degree from Northwestern University School of Law in 1950, and was admitted to the bar that same year. Judge Meilinger served in the private sector until becoming a circuit judge in 1971. He retired from the bench in 1990.

The Illinois Judicial Conference extends to the family of Judge Meilinger its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE ANTHONY SCARIANO

The Honorable Anthony Scariano, former Appellate Court Justice in the First Judicial District, passed away in April 2004.

Judge Scariano was born January 12, 1918, in Chicago, Illinois. He received his law degree from Georgetown University Law School. Judge Scariano served as an assistant State's Attorney in Chicago from 1949 to 1954. He was appointed to the state appellate court in 1985, and was elected to a 10 year term in 1986. He retired from the bench in 1996.

The Illinois Judicial Conference extends to the family of Judge Scariano its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE THOMAS R. SMOKER

The Honorable Thomas R. Smoker, associate judge in the Nineteenth Judicial Circuit, passed away May 10, 2004.

Judge Smoker was born September 28, 1949, in Indianapolis, Indiana. He received his law degree from The John Marshall Law School in 1974, and was admitted to the bar that same year. Judge Smoker was an assistant Public Defender in Lake County and a prosecutor for the City of Waukegan. Immediately prior to becoming a judge he was in private practice. He was appointed an associate judge in 1997, and retained that position until his death.

The Illinois Judicial Conference extends to the family of Judge Smoker its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE WILLIAM SOUTH

The Honorable William South, former circuit judge in the First Judicial Circuit, passed away March 29, 2004.

Judge South was born July 23, 1922. He was elected a circuit judge in 1980 and retained that position until his retirement in 1987.

The Illinois Judicial Conference extends to the family of Judge South its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE C. GLENN STEVENS

The Honorable C. Glenn Stevens, former associate judge in the Twentieth Judicial Circuit, passed away May 18, 2004.

Judge Stevens was born October 29, 1941, in Rockford, Illinois. He received his law degree from St. Louis University School of Law in 1966, and was admitted to the bar that same year. Judge Stevens served in the public and private sectors until becoming a judge in 1977.

The Illinois Judicial Conference extends to the family of Judge Stevens its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE ARTHUR R. STRONG

The Honorable Arthur R. Strong, former associate judge for the Eighth Judicial Circuit, passed away January 17, 2004.

Judge Strong was born September 22, 1943, in Niagara Falls, New York. He received his law degree from the University of Illinois College of Law in 1968, and was admitted to the bar that same year. Judge Strong was in private practice, an assistant State's Attorney in Sangamon and Cass counties, Schuyler County State's Attorney and Rushville city attorney. He became an associate judge in 1983, and remained in the position until his retirement in 1999.

The Illinois Judicial Conference extends to the family of Judge Strong its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE JAMES TRAINA

The Honorable James Traina, former circuit judge in the Circuit Court of Cook County, passed away April 21, 2004.

Judge Traina was born April 2, 1925, in Chicago, Illinois. He received his law degree from DePaul University College of Law, and was admitted to the bar in 1955. Judge Traina served as assistant Corporation Counsel for the City of Chicago from 1955 - 1976. He became a circuit judge in 1976 and remained in that position until 1987.

The Illinois Judicial Conference extends to the family of Judge Traina its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE EUGENE R. WARD

The Honorable Eugene R. Ward, former associate judge for the Circuit Court of Cook County, passed away September 18, 2003.

Judge Ward was born February 21, 1916, in Chicago, Illinois. He received his law degree from Chicago-Kent College of Law in 1940, and was admitted to the bar that same year. Judge Ward served mostly in the public sector before becoming an associate judge in 1976. He remained in that position until his retirement in 1986.

The Illinois Judicial Conference extends to the family of Judge Ward its sincere expression of sympathy.

RESOLUTION

IN MEMORY OF

THE HONORABLE WILLIAM S. WHITE

The Honorable William S. White, former appellate justice for the First Judicial District, passed away February 16, 2004.

Judge White was born July 27, 1914, in Chicago, Illinois. He received his law degree from the University of Chicago Law School in 1937, and was admitted to the bar that same year. Between the years of 1955 and 1964, Judge White served as an assistant State's Attorney for Cook County, Deputy Commissioner of Chicago's Department of Investigation and Director of the Illinois Department of Registration and Education. He was elected a circuit judge in 1964 and served there until becoming an Appellate Court Justice in 1980. Judge White retired from the bench in 1991.

The Illinois Judicial Conference extends to the family of Judge White its sincere expression of sympathy.

RECOGNITION OF RETIRED JUDGES

BAKER, Thomas F. was born March 18, 1942, in Chicago, Illinois. He received his law degree from Loyola University School of Law in 1967, and was admitted to the bar that same year. Judge Baker served as McHenry County State's Attorney from 1986 - 1992. He was appointed an associate judge in 1996 for the Nineteenth Judicial Circuit, and remained there until his retirement April 30, 2004.

BRINN, Michael P. was born May 20, 1948, in Rock Island, Illinois. He received his law degree from the University of Illinois College of Law, and was admitted to the bar in 1976. Prior to becoming a judge he was engaged in private practice. Judge Brinn joined the Fourteenth Judicial Circuit as an associate judge in 1981, and remained there until his retirement July 1, 2004.

CARMODY, Thomas P. was born June 21, 1932, in Chicago, Illinois. He received his law degree from the University of Notre Dame Law School in 1957, and was admitted to the bar that same year. Judge Carmody served mainly in the private sector, except from 1964 - 1972, when he was State's Attorney for Macoupin County. He was elected to the Seventh Judicial Circuit Court in 1990, and was serving as the Chief Judge of the Seventh Circuit upon his retirement July 7, 2004.

CASHMAN, Dennis K. was born May 19, 1945, in Quincy, Illinois. He received his law degree from Chicago-Kent College of Law, and was admitted to the bar in 1970. Judge Cashman was an assistant state's attorney from 1970 - 1971 in McDonough County, and was in private practice until becoming an associate judge in 1979. He became a circuit judge in the Eighth Judicial Circuit in 1982, and remained in that position until his retirement July 2, 2004.

DeCARDY, William D. was born May 27, 1942, in Chicago, Illinois. He received his law degree from the University of Illinois College of Law in 1966, and was admitted to the bar that same year. Judge DeCardy served in the private sector until being appointed an associate judge in the Eleventh Judicial Circuit in 1973. He retained that position until his retirement December 31, 2003.

DOUGLAS, Loretta C. was born February 5, 1943, in Chicago Illinois. She received her law degree from Loyola University School of Law in 1968, and was admitted to the bar that same year. Judge Douglas served in both the public and private sectors, along with the U. S. Department of Interior in Washington D.C. In 1984, she was appointed an associate judge for the Circuit Court of Cook County. Judge Douglas became a circuit judge in 1990, and remained in that position until her retirement December 1, 2003.

EINHORN, Ann A., was born October 25, 1938, in New York, New York. She received her law degree from the University of Illinois College of Law in 1979, and was admitted to the bar that same year. Judge Einhorn served in the public sector until 1991, when she joined the bench as an associate judge in the Sixth Judicial Circuit. She remained in that position until her retirement November 2, 2003.

FLEMING, **Susan G.** was born October 2, 1947, in Chicago, Illinois. She received her law degree from The John Marshall Law School in 1979, and was admitted to the bar that same year. Judge Fleming served in the public sector until 1992, when she was elected to the Circuit Court of Cook County. A position she retained until her retirement August 31, 2003.

GILBERT, J. Phil. was born March 11, 1949, in Carbondale, Illinois. He received his law degree from Loyola University School of Law in 1974, and was admitted to the bar that same year. Judge Gilbert served in both the public and private sectors until 1988, when he became a circuit judge in the First Judicial Circuit. In 1992, he was nominated by President Bush to serve on the U. S. District Court for the Southern District of Illinois. He remained in that position until his retirement March 11, 2004.

HILLEBRAND, Robert J. was born November 1, 1940, in Rockford, Illinois. He received his law degree from the University of Illinois College of Law, and was admitted to the bar in 1965. Judge Hillebrand has served in the private sector, Assistant Public Defender in St. Clair County and as assistant corporation counsel for the City of East St. Louis. In 1989, he joined the Twentieth Judicial Circuit as an associate judge and became a circuit judge in 2002. He remained in that position until his retirement October 31, 2003.

LAURIE, John G. was born August 1, 1945, in Oak Park, Illinois. He received his law degree from DePaul University College of Law in 1970, and was admitted to the bar that same year. Judge Laurie served mainly in the private sector until being appointed an associate judge for the Circuit Court of Cook County in 1981. He remained in that position until his retirement September 30, 2003.

MACELLAIO, Joseph M. was born September 2, 1942. He received his law degree from Chicago-Kent College of Law, and was admitted to the bar in 1974. Judge Macellaio became an associate judge in in 1983, and remained there until his retirement August 4, 2003.

MADDEN, John K. was born January 27, 1943, in Chicago, Illinois. He received his law degree from Marquette University Law School in 1968, and was admitted to the bar that same year. Judge Madden worked mainly outside of Illinois, until 1970 when he served as an assistant Public Defender for the Circuit Court of Cook County. He was appointed an associate judge in 1984, and elected a circuit judge in 1992. He retained that position until his retirement July 11, 2004.

MAGDICH, Tomas M. was born July 2, 1939, in Gary, Indiana. He received his law degree from Northwestern University School of Law in 1964, and was admitted to the bar that same year. Judge Magdich served solely in the private sector until being appointed a circuit judge for the Fifteenth Judicial Circuit in 1985. He remained in that position until his retirement December 29, 2003.

MURPHY, Paul S. was born January 15, 1947, in Hartford, Connecticut. He received his law degree from Boston College Law School, and was admitted to the Illinois bar in 1976.

Judge Murphy served in both the public and private sectors until being appointed a circuit judge in the First Judicial Circuit in 1989. He retained that position until his retirement July 31, 2004.

PORCELLINO, Charles E. was born March 16, 1941, in Oak Park, Illinois. He received his law degree from DePaul University College of Law in 1972, and was admitted to the bar that same year. Judge Porcellino served mainly in the private sector until being appointed an associate judge for the Circuit Court of Cook County in 1985. He remained in that position until his retirement September 4, 2003.

SALYERS, Nancy was born February 12, 1949, in Hammond, Indiana. She received her law degree from DePaul University College of Law in 1978, and was admitted to the bar that same year. Judge Salyers worked in the Cook County State's Attorney's office from 1977 - 1992. In 1992, she was elected circuit judge for the Circuit Court of Cook County. She remained in that position until September 30, 2003.

TOWNSEND, John G. was born April 1, 1948, in Charleston, West Virginia. He received his law degree from the University of Illinois College of Law, and was admitted to the bar in 1975. Judge Townsend served solely in the private sector until joining the Sixth Judicial Circuit as an associate judge in 1979. In 1990, he became a circuit judge, and retained that position until his retirement January 29, 2004.

WALLER, Ashton C., Jr. was born October 12, 1941, in Atlanta, Georgia. He received his law degree from Northwestern University School of Law, and was admitted to the bar in 1970. Judge Waller served primarily in the private sector until joining the Fifth Judicial Circuit as an associate judge in 1983. In 1989, he became a circuit judge, and retained that position until retiring September 30, 2003.

WATT, David W., Jr. was born April 19, 1943, in Springfield, Illinois. He received his law degree from the University of Illinois College of Law in 1968, and was admitted to the bar that same year. Judge Watt was with the Jackson County State's Attorney's office from 1970 - 1980, and in private practice before being appointed an associate judge in the First Judicial Circuit in 1982. In 1988, he was elected a circuit judge, and retained that position until his retirement November 30, 2003.

NEW JUDGES

David B. Atkins — Circuit Judge, Circuit Court of Cook County
William P. Brady — Associate Judge, 16th Judicial Circuit
Alan Buck — Circuit Judge, 4th Judicial Circuit
Edward A. Burmila, J. — Associate Judge, 12th Judicial Circuit
Rebecca Simmons Foley — Associate Judge, 11th Judicial Circuit
Andrew J. Gleeson — Associate Judge, 20th Judicial Circuit
Charles McRae Leonhard — Associate Judge, 6th Judicial Circuit
Mary K. O'Brien — Appellate Judge, 3rd Judicial District
Carolyn G. Quinn — Circuit Judge, Circuit Court of Cook County
Ronald D. Sutter — Associate Judge, 18th Judicial Circuit

2004 REPORT

ANNUAL REPORT
OF THE
ALTERNATIVE DISPUTE RESOLUTION COORDINATING COMMITTEE
TO THE ILLINOIS JUDICIAL CONFERENCE

Hon. Lance R. Peterson, Chair

Hon. Harris H. Agnew, Ret.
Hon. John P. Coady
Hon. Claudia Conlon
Hon. Donald J. Fabian
Hon. Robert E. Gordon
Hon. Randye A. Kogan
Hon. John G. Laurie, Ret.
Kent Lawrence, Esq.
Hon. William D. Maddux
Hon. Stephen R. Pacey
John T. Phipps, Esq.
Hon. Anton J. Valukas, Ret.

October 2004

I. STATEMENT OF COMMITTEE CONTINUATION

Since the 2003 Annual Meeting of the Illinois Judicial Conference, the Alternative Dispute Resolution Coordinating Committee ("Committee") has found that the climate for alternative dispute resolution ("ADR") continues to be favorable and the legal community has become increasingly receptive to ADR programs. This Conference year, the Committee was busy with many activities which are enumerated below. These programs have become an essential part of the court system in the circuits where adopted.

Early in the year, the Committee finalized and sent for consideration an amendment proposal to the Supreme Court Rules Committee concerning Supreme Court Rule 90(c). The Rules Committee forwarded the amended rule to the Court for consideration. Upon the Court's review, the amended rule was approved. Supreme Court Rule 90(c) requires bills to be specified as paid or unpaid so the arbitration panel can have that information available during the decision making process so that there is a closer correlation between awards and verdicts. The Committee also considered several other proposed Rule amendments.

The Committee met with arbitration administrators and supervising judges to discuss topics related to arbitration practice. Prior to this meeting, the Committee arranged for arbitration administrators to meet with the Committee liaison to assist in the development of an agenda comprised of arbitration issues to be discussed with the Committee.

As part of the Committee's charge, court-annexed mandatory arbitration programs operating in fifteen counties continued to be monitored throughout the Conference year.

In the area of mediation, the Committee continued to oversee the court-sponsored major civil case mediation programs operating in ten circuits. During State Fiscal Year 2004, 576 court-ordered mediation cases were referred to mediation programs statewide.

During the 2005 Conference year, the Committee will continue to monitor court-annexed mandatory arbitration programs, oversee and facilitate the improvement and expansion of major civil case mediation programs, consider proposed amendments to Supreme Court Rules for mandatory arbitration and continue to study and evaluate other alternative dispute resolution options. Specifically, the Committee plans to explore the feasibility of implementing the dispute resolution practice of summary jury trials.

Because the Committee continues to provide service to arbitration practitioners, recommendations on mediation and arbitration program improvements, information to Illinois judges and lawyers and promote the expansion of court-annexed alternative dispute resolution programs in the State of Illinois, the Committee respectfully requests that it be continued.

II. SUMMARY OF COMMITTEE ACTIVITIES

A. Court-Annexed Mandatory Arbitration

As part of its charge, the Committee surveys and compiles information on existing court-

supported dispute resolution programs. Court-annexed mandatory arbitration has been operating in Illinois for a little more than seventeen years. Since its inception in Winnebago County in 1987, under Judge Harris Agnew's leadership, the program has steadily and successfully grown to meet the needs of fifteen counties. Most importantly, court-annexed mandatory arbitration has become an effective case management tool to reduce the number of cases tried and the length of time cases spend in the court system. Court-annexed mandatory arbitration has become widely accepted in the legal culture.

In January of each year, an annual report on the court-annexed mandatory arbitration program is provided to the legislature. A copy of the Fiscal Year 2004 Annual Report which will be provided to the legislature is attached hereto as Appendix 1.[1] A complete statistical analysis for each circuit is contained in the Fiscal Year 2004 Report. The Committee emphasizes that it is best to judge the success of a program by the percentage of cases resolved before trial through the arbitration process, rather than focusing on the rejection rate of arbitration awards.

The following is a statement of Committee activities since the 2003 Annual Meeting of the Illinois Judicial Conference concerning court-annexed mandatory arbitration.

1. Consideration of Proposed Amendments to Supreme Court Rules

a. The Committee considered a proposal to amend Supreme Court Rule 94. The amended language would establish check boxes on the Award of Arbitrators form which would identify if litigants in the arbitration process participated in good faith. This proposal addresses a letter submitted to the Committee by former Chief Justice Harrison which he received from a local arbitration program practitioner. The letter cited concerns about certain litigants rejecting awards as a matter of course and not participating throughout the arbitration process in good faith.

The amended Award of Arbitrators form was sent to the Supreme Court Rules Committee and, thereafter, was approved by the Supreme Court.

b. The Committee drafted a proposed amendment to Supreme Court Rule 90 by adding a new subsection that would eliminate discussion by arbitrators after an arbitration hearing, and throughout the entire process. Specifically, the amended language would provide that an arbitrator may not be contacted, nor may an arbitrator publicly comment, nor respond to questions regarding a particular arbitration case heard by that arbitrator during the pendency of the case and until a final order is entered and the time for appeal has expired notwithstanding discussion or comments between an arbitrator and judge regarding an infraction or impropriety during the arbitration process.

The Committee believes that litigants using feedback from arbitrators to make decisions

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[1] The AOIC's Court-Annexed Mandatory Arbitration Fiscal Year 2004 Annual Report can be found on the AOIC portion of the Supreme Court website (www.state.il.us/court) and on the website of the Center for Analysis of Alternative Dispute Resolution Systems (www.caadrs.org).

whether to reject or accept an award poses a practical problem. The Committee drafted language to amend Supreme Court Rule 90 with comments and submitted the proposal to the Supreme Court Rules Committee for consideration.

c. The Committee considered a proposal to amend Supreme Court Rule 91(a) by adding language that would require parties in subrogation cases to be present in person at the arbitration hearing. The additional language would substantially be the following: "for purposes of arbitration hearings in causes of action concerning subrogation, the insured and/or the driver of the vehicle shall be considered parties under Supreme Court Rule 90(g) even when this cause of action is filed in the name of the insurance company." Also, this proposed amendment would simultaneously remove the existing language allowing parties to be present at an arbitration hearing "either in person or by counsel" and add language requiring parties to be present unless waived by leave of court.

The Committee finalized a proposal to amend Supreme Court Rule 91(a) and, pending drafting of Committee comments, plans to submit the proposal to the Supreme Court -Rules Committee for consideration.

d. The Committee drafted language to amend Supreme Court Rule 222 to defer discovery time lines to local rule. In accordance with Supreme Court Rule 89, many circuits that have mandatory arbitration programs have adopted local rules shortening the time for compliance with Supreme Court Rule 222. According to program participants and the observations of program administrators and supervising judges, attorneys are confused as to whether the benchmark of 120 days for discovery applies or if local rule preempts with a shortened time frame.

Supreme Court Rule 89 provides that "discovery may be conducted in accordance with established rules and shall be completed prior to the arbitration hearing. However, such discovery shall be conducted in accordance with Rule 222, except that the time lines may be shortened by local rule."

The proposal would strike the existing language regarding 120 days and defer to local rule. It is hoped that this proposal will eliminate confusion among counsel as to whether the benchmark of 120 days still applies thereby requiring counsel to understand dictates of local rules and eliminate the ability of non-complying counsel to state that they agreed to extend the time for disclosure without court approval.

The Committee finalized the proposal to amend Supreme Court Rule 222 with comments and sent it to the Supreme Court Rules Committee for consideration.

2. Meeting with Supervising Judges and Arbitration Administrators

Stemming from a meeting with mandatory arbitration supervising judges and arbitration administrators in June 1998, a request was made for the Committee to schedule future meetings with arbitration administrators and the A.O.I.C.'s Committee liaison to discuss program activities

and prepare an agenda for an annual meeting with the Committee each year. The Committee thereby arranged for such a meeting to take place in Kane County for that year and each subsequent year.

In preparation for this year's meeting with the Committee, the arbitration administrators and A.O.I.C. liaison met at the Kane County Courthouse in April 2004. At that meeting, the arbitration administrators identified and discussed areas concerning the operation of arbitration centers, including computer equipment and software needs to assist in the preparation of arbitration statistics, the possibility of a supplemental retraining for arbitrators, the removal of inadequate arbitrators from the circuit's list of arbitrators, compensation of arbitrators for matters in excess of allotted hearing times and proposed amendments to Supreme Court Rules. The arbitration administrators assisted in the development of an agenda for the June 2004 annual meeting with the Committee.

On June 4, 2004, Committee members met with supervising judges and arbitration administrators at a meeting held in Chicago to discuss issues concerning the arbitration program and proposed rule amendments. A major topic of discussion was whether to permit a discretionary increase in arbitrator compensation for hearings exceeding the allotted two hour limit. Said compensation would not exceed the amount permitted for two hearings or the sum of $150.00. The program practitioners also made several suggestions regarding amendments to Supreme Court Rules, provided specific feedback particular to Committee inquiries and provided valuable statistical information used in measuring the efficacy of the program. The Committee plans to follow through on several issues and meet periodically with the users of the program throughout the next Conference year.

3. Summary Jury Trials

The concept of summary jury trials was introduced to the Committee in Conference Year 2003. Summary jury trials are a specialized process designed to address cases in which significant damages are sought and/or are more complex and will consume disproportionate amounts of court time and resources.

The Committee plans to continue to explore options in attempting to develop and implement this type of alternative dispute resolution practice. Considerations will include possible Supreme Court Rule proposals, drafting of enabling legislation and implementation. The Committee will continue to identify and examine other jurisdictions that successfully utilize the summary jury trial process and determine which practices might best accommodate a program in the State of Illinois.

B. Mediation

Presently, court-sponsored mediation programs operate in the First, Eleventh, Twelfth, Fourteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth and Twentieth Circuits, as well as the

Circuit of Cook County. Supreme Court Rule 99 governs the manner in which mediation programs are conducted. Actions eligible for mediation are prescribed by local circuit rule in accordance with Supreme Court Rule 99. During Conference Year 2004, the First, Twentieth and the Circuit Court of Cook County requested, and were approved, to operate mediation programs.

During State Fiscal Year 2004, 576 cases were referred to mediation in the ten programs from July 1, 2003 through June 30, 2004. These programs are designed to provide quicker and less expensive resolution of major civil cases.

A total of 405 cases were mediated during Fiscal Year 2004. Of these cases, 231 resulted in a full settlement of the matter; 22 reached a partial settlement of the issues; and 152 of the cases that progressed through the mediation process did not reach an agreement at mediation. (See Appendix 2 for statistics on these programs.)

Court-sponsored mediation programs have been successful and well received, and have resulted in quicker resolution of many cases. It is important to recognize that the benefits of major civil case mediation cannot be calculated solely by the number of cases settled. Because these cases are major civil cases by definition, early settlement of a single case represents a significant savings of court time for motions and status hearings as well as trial time. Additionally, in many of these cases, resolving the complaint takes care of potential counterclaims, third-party complaints and, of course, eliminates the possibility of an appeal. Finally, court-sponsored mediation programs are considered by many parties as a necessary and integral part of the court system. They are responsive to a demonstrated need to provide alternatives to trial and have been well received by the participants.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2005 Conference Year, the Committee will continue to monitor and assess court-annexed mandatory arbitration programs, suggest broad-based policy recommendations, explore and examine innovative dispute resolution techniques and continue studying the impact of rule amendments. In addition, the Committee will continue to study, draft and propose rule amendments in light of suggestions and information received from program participants, supervising judges and arbitration administrators.

The Committee plans to oversee and facilitate the improvement and expansion of the major civil case mediation programs. The Committee also plans to actively study and evaluate other alternative dispute resolution options, specifically summary jury trials.

IV. RECOMMENDATIONS

The Committee is making no recommendations to the Conference at this time.

APPENDIX 1

FISCAL YEAR 2004 ANNUAL REPORT TO THE ILLINOIS GENERAL ASSEMBLY ON COURT-ANNEXED MANDATORY ARBITRATION

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INTRODUCTION

The Fiscal Year 2004 Annual Report of the court-annexed mandatory arbitration program is presented to satisfy the requirements of Section 1008A of the Mandatory Arbitration Act, 735 ILCS 5/2-1001A *et seq.*

The Supreme Court of Illinois and the Illinois General Assembly created court-annexed mandatory arbitration to reduce the backlog of civil cases and to provide litigants with a system in which their complaints could be more quickly resolved by an impartial fact finder.

Arbitration was instituted after deliberate planning. Efforts by the Supreme Court to devise a high quality arbitration system spanned nearly a decade. When developing the Illinois program, the Supreme Court and its committees secured the input of public officials representing all branches of Illinois government, as well as the general public. As a result, the system now in place is truly an amalgamation of the best dispute resolution concepts.

Beginning in September of 1982, Chief Justice Howard C. Ryan urged the judiciary to explore suitable court-sponsored alternative dispute resolution techniques. In September 1985, the Illinois General Assembly passed and the Governor signed House Bill 1265[1], authorizing the Supreme Court to institute a system of mandatory arbitration. Before the end of May 1987, the Supreme Court adopted arbitration-specific rules recommended by a committee of prominent judges and attorneys. Later that year, Winnebago County began operating a pilot court-annexed mandatory arbitration program.

Expanding on the success of the Winnebago County program, the Supreme Court authorized the following counties to implement court-annexed mandatory arbitration programs in the following order:

- Cook, DuPage and Lake Counties in December 1988
- McHenry County in November 1990
- St. Clair County in May 1993
- Boone and Kane Counties in November 1994
- Will County in March 1995
- Ford and McLean Counties in March 1996
- Henry, Mercer, Rock Island and Whiteside Counties in October 2000

Future expansion of court-annexed mandatory arbitration programs may occur if sufficient public funding is made available and with approval by the Supreme Court.

This Fiscal Year 2004 Annual Report summarizes the accomplishments of the arbitration program from July 1, 2003 through June 30, 2004. The report begins with a general description

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[1]H.B. 1265, 83rd Gen. Assem., Reg. Sess., P.A. 84-844, (Il. 1985)

of the court-annexed mandatory arbitration program in Illinois and provides information on recent changes made to the program. The second section of the report explains the statistics maintained by arbitration administrators. Statewide statistics are provided as an aggregate or average of the statistics furnished by the fifteen court-annexed mandatory arbitration programs operating around the state. Jurisdictions may have significantly different statistics. Therefore, when appropriate, individual program statistics are provided. The final section of the report provides information on the day-to-day operations of the court-annexed mandatory arbitration programs.

OVERVIEW OF COURT-ANNEXED MANDATORY ARBITRATION

In Illinois, court-annexed mandatory arbitration is a mandatory, non-binding form of alternative dispute resolution. In those jurisdictions approved by the Supreme Court to operate a court-annexed mandatory arbitration program, all civil cases filed seeking money damages within the program's jurisdiction are subject to the arbitration process. These modest sized claims are directed into the arbitration program because they are amenable to closer management and faster resolution using a less formal, alternative process.

Program Jurisdiction

Cases enter the arbitration program in one of two ways. In all counties operating a court-annexed mandatory arbitration program, except Cook County, litigants may file their case with the office of the clerk of the court as an arbitration case. The clerk records the case using an AR designation. These AR designated cases are placed directly on the calendar of the supervising judge for arbitration. Summons are returnable before the supervising judge for arbitration and all pre-hearing matters are argued before them. [2]

In the Circuit Court of Cook County, however, cases seeking between $5,000 and $50,000 in money damages are filed in the Municipal Department and are given an "M" designation by the clerk. Cases within this category which are arbitration-eligible (cases seeking up to $30,000 in money damages) are subsequently transferred to arbitration. After hearing all preliminary matters, the case is transferred to arbitration.

In all jurisdictions operating a court-annexed mandatory arbitration program, a case may also be transferred to the arbitration calendar from another calendar if it appears to the court that no claim in the action has a value in excess of the monetary limit authorized by the Supreme Court for that county's arbitration program. For example, if the court finds that an action originally filed as a Law case (actions seeking over $50,000) has a potential for damages under the jurisdiction for arbitration, the court may transfer the Law case to the arbitration calendar.

During Fiscal Year 1997, the Supreme Court amended a number of rules which affect arbitration. In November 1996, the Supreme Court increased the jurisdictional limit for small claims actions from cases seeking up to $2,500 in damages to cases seeking up to $5,000 in damages, effective January 1, 1997. Concerns about enlarging the small claims calendar have led a number of counties operating arbitration programs to transfer cases seeking over $2,500 in money damages into arbitration.

Also in November 1996, the Supreme Court acted on the request of the Eighteenth Judicial Circuit to increase the jurisdiction of arbitration-eligible cases from cases seeking up to $30,000 in money damages to cases seeking up to $50,000 in money damages. The Supreme Court authorized the Eighteenth Judicial Circuit to increase the jurisdictional limit for arbitration-eligible cases as a pilot project.[3] During Fiscal Year 2002, the Supreme Court removed the pilot designation from Du Page County and the program now operates permanently at the $50,000

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[2] *See* Illinois Supreme Court Rule 86(d). The monetary limit for arbitration cases filed in Cook and Will Counties is $30,000. The monetary limit for arbitration cases filed in Boone, Du Page, Ford, Henry, Kane, Lake, Mc Henry, McLean, Mercer, Rock Island, St. Clair, Whiteside and Winnebago Counties is $50,000.

[3] At the same time the Supreme Court amended Illinois Supreme Court Rule 93 to provide that parties wishing to reject an award of over $30,000 must pay a $500 rejection fee.

jurisdictional limit.

Pre-Hearing Matters

The pre-hearing stage for cases subject to arbitration is similar to the pretrial stage for cases not subject to arbitration. Summons are issued, motions are made and argued, and discovery moves forward. However, discovery is limited for cases subject to arbitration pursuant to Illinois Supreme Court Rules 222 and 89.

One of the most important features of the arbitration program is the court's control of the time elapsed from the date of filing of the arbitration case, the transfer of the case to arbitration and the arbitration hearing. Illinois Supreme Court Rule 88 provides that all arbitration cases must go to hearing within one year of the date of filing or transfer to arbitration. As a result, quicker dispositions are possible in the arbitration system.

Arbitration Hearing

The arbitration hearing resembles a traditional trial conducted by a judge, but the hearing is conducted by a panel of three trained attorney-arbitrators. Each party to the dispute makes a concise presentation of his/her case to the attorney-arbitrators. The Illinois Code of Civil Procedure and the rules of evidence apply in arbitration hearings; however, Illinois Supreme Court Rule 90(c) makes certain documents presumptively admissible. These documents include bills, records, and reports of hospitals, doctors, dentists, repair persons and employers as well as written statements of opinion witnesses. By taking advantage of this streamlined evidence mechanism, lawyers can present the case quickly and hearings are completed in approximately two hours.

Immediately after the hearing, the three arbitrators deliberate privately and decide the issues presented by the parties. Awards are filed on the same day as the hearing. To find in favor of one party, the concurrence of at least two arbitrators must be present.

Following the arbitration hearing, the clerk of the court records the arbitration award and forwards notice of the award to the parties. As a courtesy to the litigants, many of the arbitration centers post the arbitration award immediately following submission by the arbitrators thereby notifying the parties of the outcome on the same day as the hearing.

Rejecting an Arbitration Award

Illinois Supreme Court Rule 93 allows any party to reject the arbitration award. However, a party must meet four conditions when seeking to reject an award. First, the party who wants to reject the award must have been present, personally or via counsel, at the arbitration hearing or that party's right to reject the award will be deemed waived.[4] Second, that same party must have participated in the arbitration process in good faith and in a meaningful manner.[5] Third, the party wanting to reject the award must file a rejection notice within thirty days of the date the award was filed. Finally, except for indigent parties, the party who initiates the rejection must pay a rejection fee of $200 to the clerk of the court for awards of $30,000 or less or $500 for awards greater than

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[4] *See* Illinois Supreme Court Rule 91(a).

[5] *See* Illinois Supreme Court Rule 91(b).

$30,000.[6] The rejection fee is intended to discourage frivolous rejections. If these four conditions are not met, the party may be barred from rejecting the award and any other party to the action may petition the court to enter a judgment on the arbitration award.

After a party successfully rejects an arbitration award, the supervising judge for arbitration places the case on the trial call.

Appointment, Qualification and Compensation of Arbitrators

The Supreme Court provides the rules that govern the mandatory arbitration program. The requirements of arbitrators and court-supported arbitration jurisdiction can be located in Supreme Court Rule 86 *et seq.*

Alternative Dispute Resolution Coordinating Committee of the Illinois Judicial Conference Activities

The Alternative Dispute Resolution Coordinating Committee is a Committee of the Illinois Judicial Conference which was created by the Supreme Court.

The charge of the Committee is to monitor and assess the court-annexed mandatory arbitration programs. The Committee also surveys and compiles information on existing court-supported dispute resolution programs, suggests broad-based policy recommendations, explores and examines innovative dispute resolution processing techniques and studies the impact of proposed rule amendments. In addition, the Committee works on drafting rule amendments in light of suggestions and information received from program participants, supervising judges and arbitration administrators.

The Committee continues to monitor the effects of Supreme Court Rules on arbitration practice and will continue to provide direction for the successful implementation of the program.

FISCAL YEAR 2004 STATISTICS

Court-annexed mandatory arbitration has now been operating in Illinois for a little more than seventeen years. The statistics discussed below provide a detailed depiction of the continued success of the program.

Introduction

Statistics are maintained by each of the fifteen arbitration programs to ensure that the program is meeting its goals of reducing case backlog and providing faster dispositions to litigants. The arbitration calendar is divided into three stages for the collection of arbitration statistics. The stages are pre-hearing, post-hearing and post-rejection. Close monitoring and supervision of events at each of these stages helps to determine the efficacy of the arbitration process. Each

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[6] *See* Illinois Supreme Court Rule 93(a).

arbitration stage has its own inventory of cases pending at the beginning of each reporting period, its own statistical count of cases added and removed during each reporting period and its own inventory of cases pending at the end of each reporting period.

Pre-Hearing Calendar

Cases at the first stage of the arbitration process, the pre-hearing stage, are cases that are pending an arbitration hearing. There are three sources from which cases are added to the pre-hearing calendar: new filings, reinstatements and transfers from other calendars.

Cases may be removed from the pre-hearing arbitration calendar in either a dispositive or non-dispositive manner. A dispositive removal from the pre-hearing arbitration calendar is one which terminates the case prior to commencement of the arbitration hearing. There are generally three types of pre-hearing dispositive removals: the entry of judgment, some form of dismissal or the entry of a settlement order by the court.

A non-dispositive removal of a case from the pre-hearing arbitration calendar may either remove the case from the arbitration calendar altogether or simply move it along to the next stage of the arbitration process. An example of a non-dispositive removal, which removes the arbitration case from the arbitration calendar altogether, is when a case is placed on a special calendar. A case assigned to a special calendar is removed from the arbitration calendar, but not terminated. For example, a case transferred to a bankruptcy calendar generally stays all arbitration-related activity.

Another type of non-dispositive removal from the pre-hearing calendar is a transfer out of arbitration. Occasionally, a judge may decide that a case is not suited for arbitration. The judge may then transfer the case to a more appropriate calendar. Finally, an arbitration hearing is also a non-dispositive removal from the pre-hearing calendar.

Pre-Hearing Statistics

To reduce backlog and to provide litigants with the quickest disposition for their cases, Illinois' arbitration system encourages attorneys and litigants to focus their early attention on arbitration-eligible cases. Therefore, the practice is to set a firm and prompt date for the arbitration hearing so that disputing parties, anxious to avoid the time and cost of an arbitration hearing, have a powerful incentive to negotiate prior to the hearing. In instances where a default judgment can be taken, parties are also encouraged to seek that disposition at the earliest possible time.

Therefore, as cases move through the steps in the arbitration process, a sizeable portion of each court's total caseload should terminate voluntarily or by court order in advance of the arbitration hearing if the process is operating well. Fiscal Year 2004 statistics demonstrate that parties are carefully managing their cases, working to settle their disputes without significant court intervention and settling their differences prior to the arbitration hearing.

During Fiscal Year 2004, 20,680 cases on the pre-hearing arbitration calendar were disposed through default judgment, dismissal or some other form of pre-hearing termination.[7] Therefore, a statewide average of 65% of the cases referred to arbitration were disposed prior to the arbitration hearing.[8] While it is true that a large number of these cases may have terminated without the need for a trial, arbitration tends to induce disposition sooner in the life of most cases because firm arbitration hearing dates are set within one year of the case's entrance into the arbitration process.

Additionally, these terminations via court-ordered dismissals, voluntary dismissals, settlement orders and default judgments typically require very little court time to process. To the extent that arbitration encourages these dispositions, the system helps save the court and the litigants the expense of costlier, more time consuming proceedings that might have been necessary without arbitration programs.

This high rate of pre-hearing terminations also allows each court to remain current with its hearing calendar and may allow the court to reduce a backlog. It is this combination of pre-hearing terminations and arbitration hearing capacity that enables the system to absorb and process a greater number of cases in less time. In some instances, individual county numbers are even more impressive.

Boone County

Boone County reported that 110 cases were referred to arbitration during Fiscal Year 2004. At the end of Fiscal Year 2003, 20 cases were pending on the pre-hearing arbitration calendar. In Fiscal Year 2004, prior to the arbitration hearing, 80 cases were disposed. Therefore, as of June 30, 2004, 62% of the cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

Boone County held 11 arbitration hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 8% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Cook County

The Cook County statistics differ significantly. During Fiscal Year 2004, 14,896 cases were transferred into the Cook County arbitration program. At the end of Fiscal Year 2003, 1,228 cases were pending on the pre-hearing arbitration calendar. As of June 30, 2004, 3,633 cases were

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[7]Cases disposed during Fiscal Year 2004 will include those cases pending at the end of Fiscal Year 2003. Additionally, not all cases referred to arbitration during Fiscal Year 2004 will have disposition information available. Some cases are still pending. Therefore, the statistics provided in this report give the reader a snapshot of the progress of arbitration cases through June 30, 2004.

[8]This number is derived by dividing the number of cases disposed via some form of prehearing termination during Fiscal Year 2004, (20,680) by the inventory of arbitration cases at the prehearing stage during Fiscal Year 2004. The inventory of cases at the prehearing stage is the sum of the number of arbitration cases pending statewide at the end of Fiscal Year 2003, (5,473) and the number of cases transferred or filed in arbitration during Fiscal Year 2004 (33,398). However, DuPage County had incomplete data for cases pending from Fiscal Year 2003. Therefore, the statewide percentage of cases disposed prior to hearing was calculated by averaging individual county statistics.

disposed prior to the arbitration hearing. Therefore, as of June 30, 2004, 23% of the cases in the arbitration program in Cook County were disposed prior to the arbitration hearing.

The Cook County program conducted 9,151 hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, 57% of the cases on the pre-hearing arbitration calendar progressed to hearing.

This is a much different picture than the one reported by other counties and can be explained by examining the Cook County arbitration program. As noted above, in Cook County, cases seeking between $5,000 and $50,000 in money damages are filed as Municipal Department cases. Cases within this category that are arbitration-eligible (cases seeking up to $30,000 in money damages) are transferred to arbitration only after all pre-hearing matters have been heard and decided. Statistics are not available on the number of cases that may have been arbitration-eligible but were disposed prior to their transfer to arbitration.

Instead, statistics are available only on those cases which were transferred to arbitration and then were disposed prior to the hearing. This window of time is much shorter than the window of time for which statistics are provided by other counties. Additionally, a number of cases have already been disposed of, meaning the cases transferred have already gone through a substantial review process prior to being transferred to the arbitration program. Therefore, although it appears that fewer cases are disposed prior to an arbitration hearing in the arbitration process in the Cook County system, we cannot be sure that this is true because in Cook County cases are counted substantially later in the process and for a substantially shorter time frame.

In the Circuit Court of Cook County, after preliminary hearing matters are decided and the case has been transferred to arbitration, the clerk of the court will set a date for the arbitration hearing. The clerk of the court waits until 30 days prior to the closure date for discovery before setting the arbitration hearing date to ensure that discovery is closed prior to the arbitration hearing.

DuPage County

DuPage County reported that 3,817 cases were filed in or transferred to the arbitration calendar during Fiscal Year 2004. During Fiscal Year 2004, 4,029 cases were disposed prior to their progression to an arbitration hearing. The percentage of cases disposed prior to hearing on the pre-hearing arbitration calendar were unable to be determined due to incomplete data.

DuPage County reported conducting 552 hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 14% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Ford County

In Fiscal Year 2004, Ford County reported 38 cases were filed or transferred into arbitration. At the end of Fiscal Year 2003, 10 cases were pending on the pre-hearing arbitration calendar. Ford County reported that 32 cases were disposed pre-hearing. Therefore, 67% of the cases in the arbitration program were disposed prior to hearing.

Ford County reported that it conducted 6 arbitration hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 13% of the arbitration-eligible cases progressed to hearing in Ford County.

Henry County

In Fiscal Year 2004, Henry County reported 113 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 49 cases were pending on the pre-hearing calendar. Henry County reported that 129 cases were disposed pre-hearing. Therefore, 80% of the cases filed or transferred into arbitration were disposed pre-hearing.

Henry County reported that it held 8 arbitration hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 5% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Kane County

Kane County reported that 2,142 cases were referred to arbitration during Fiscal Year 2004. At the end of Fiscal Year 2003, 246 cases were pending on the pre-hearing arbitration calendar. During Fiscal Year 2004, 1,656 cases were disposed prior to the arbitration hearing. Therefore, as of June 30, 2004, 69% of the cases on the pre-hearing arbitration calendar were disposed prior to an arbitration hearing.

During Fiscal Year 2004, Kane County conducted 167 arbitration hearings. Therefore, as of June 30, 2004, only 7% of the cases on the pre-hearing arbitration calendar progressed to an arbitration hearing.

Lake County

Lake County reported that 3,249 cases were filed in, or transferred to, the arbitration calendar during Fiscal Year 2004. There were 974 cases pending on the pre-hearing calendar at the end of Fiscal Year 2003. During Fiscal Year 2004, 2,725 cases were disposed prior to their progression to an arbitration hearing. Therefore, as of June 30, 2004, 65% of the cases on the pre-hearing arbitration calendar were disposed prior to the hearing.

Lake County reported conducting 461 hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 11% of the cases on the pre-hearing arbitration calendar progressed to hearing.

McHenry County

McHenry County reported that 1,308 cases were transferred or filed as arbitration-eligible during Fiscal Year 2004. At the end of Fiscal Year 2003, 426 cases were pending on the pre-hearing arbitration calendar. During Fiscal Year 2004, 1,172 cases were disposed in some way prior to the arbitration hearing. Therefore, 68% of the cases on the pre-hearing arbitration calendar were disposed prior to the hearing.

During Fiscal Year 2004, McHenry County held 124 arbitration hearings. Therefore, as of June 30, 2004, only 7% of the cases on the pre-hearing arbitration calendar progressed to hearing.

McLean County

McLean County reported that in Fiscal Year 2004, 823 cases were filed or transferred into arbitration. At the end of Fiscal Year 2003, 696 cases were pending on the pre-hearing arbitration calendar. McLean County reported that 776 cases were disposed pre-hearing. Therefore, 51% of the cases filed or transferred into arbitration were disposed pre-hearing.

McLean County reported that it held 96 hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 6% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Mercer County

In Fiscal Year 2004, Mercer County reported 25 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 21 cases were pending on the pre-hearing calendar. Mercer County reported that 30 cases were disposed pre-hearing. Therefore, 65% of the cases filed or transferred into arbitration were disposed pre-hearing.

Mercer County reported that it held 1 arbitration hearing during Fiscal Year 2004. Therefore, as of June 30, 2004, only 2% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Rock Island County

In Fiscal Year 2004, Rock Island County reported 741 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 310 cases were pending on the pre-hearing calendar. Rock Island County reported that 636 cases were disposed pre-hearing. Therefore, 61% of the cases filed or transferred into arbitration were disposed pre-hearing.

Rock Island County reported that it held 89 arbitration hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 8% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

St. Clair County

St. Clair County reported that 2,328 cases were referred to court-annexed mandatory arbitration during Fiscal Year 2004 and 355 cases were pending on the pre-hearing arbitration calendar at the end of Fiscal Year 2003. During Fiscal Year 2004, 2,410 cases were disposed prior to the arbitration hearing. Therefore, as of June 30, 2004, 90% of the cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

During Fiscal Year 2004, 132 arbitration hearings were held in St. Clair County. Therefore, as of June 30, 2004, 5% of the cases on the arbitration pre-hearing calendar progressed to the arbitration hearing.

Whiteside County

In Fiscal Year 2004, Whiteside County reported 253 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 110 cases were pending on the pre-hearing calendar.

Whiteside County reported that 234 cases were disposed pre-hearing. Therefore, 64% of the cases filed or transferred into arbitration were disposed pre-hearing.

Whiteside County reported that it held 9 arbitration hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 2% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Will County

In Fiscal Year 2004, Will County reported that 2,077 cases were filed or transferred to arbitration. At the end of Fiscal Year 2003, 833 cases were pending on the pre-hearing calendar. During Fiscal Year 2004, 1,830 pre-hearing dispositions were reported. Therefore, as of June 30, 2004, 63% of all cases filed or transferred into arbitration were disposed prior to the arbitration hearing.

Will County reported that it held 201 hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 7% of the cases on the pre-hearing arbitration calendar progressed to an arbitration hearing.

Winnebago County

During Fiscal Year 2004, Winnebago County reported that 1,478 cases were funneled into the arbitration program. At the end of Fiscal Year 2003, 195 cases were pending on the pre-hearing arbitration calendar.

Prior to the arbitration hearing, 1,308 cases were terminated. Therefore, as of June 30, 2004, 78% of cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

During Fiscal Year 2004, Winnebago County reported that 124 cases progressed to hearing. Therefore, as of June 30, 2004, only 7% of the cases on the pre-hearing arbitration calendar went to hearing.

In summary, the statistics provided by all programs on cases at the arbitration pre-hearing stage demonstrate that the parties are working to settle their differences without significant court intervention, prior to the arbitration hearing. The arbitration hearings induce these early settlements by forcing the parties to carefully manage the case prior to the arbitration hearing. Because arbitration hearings are held within one year of the filing of the arbitration case or the transfer of the case to the arbitration program, in most counties the circuit court can dispose of approximately 65-75% of the arbitration caseload within one year of the filing of the case. This case management tool provides swifter dispositions for litigants.

Post-Hearing Calendar

The post-hearing arbitration calendar consists of cases which have been heard by an arbitration panel and are waiting further action. Upon conclusion of an arbitration hearing, a case is removed from the pre-hearing arbitration calendar and added to the post-hearing calendar. Although the arbitration hearing is the primary source of cases added to the post-hearing calendar, cases previously terminated following a hearing may subsequently be reinstated (added) at this stage. However, this is a rare occurrence even in the larger courts.

The arbitration administrators report three types of post-hearing removals from the arbitration calendar: entry of judgment on the arbitration award, some other post-hearing termination of the case including dismissal or settlement by order of the court or rejection of the arbitration award. While any of these actions will remove a case from the post-hearing calendar, only judgment on the award, dismissal and settlement result in termination of the case, which are dispositive removals. Post-hearing terminations, or dispositive removals, are typically the most common means by which cases are removed from the post-hearing arbitration calendar.

A rejection of an arbitration award is a non-dispositive removal of a case from the post-hearing arbitration calendar. A rejection removes the case from the post-hearing arbitration calendar and places it on the post-rejection arbitration calendar.

Post-Hearing Statistics

A commonly cited measure of performance for court-annexed arbitration programs is the extent to which awards are accepted by the litigants as the final resolution of the case. However, parties have many resolution options after the arbitration hearing is concluded. Therefore, tracking the various options by which post-hearing cases are removed from the arbitration inventory gives a more accurate picture of the movement of cases rather than looking only at the number of arbitration awards rejected.

When a party is satisfied with the arbitration award, they may move the court to enter judgment on the award. If no party rejects the arbitration award, the court may enter judgment on the award.

Additionally, figures reported show that approximately another 40% of the cases which progress to a hearing were disposed after the arbitration hearing on terms other than those stated in the award. These cases are disposed either through settlement reached by the parties or by dismissals.

These statistics demonstrate that in a significant number of cases which progress to hearing, although the parties may agree with the arbitrator's assessment of the worth of the case, they may not want a judgment entered against them so they work to settle the conflict prior to the deadline for rejecting the arbitration award.

The post-hearing statistics for counties with arbitration programs consisting of judgments entered on the arbitration award[9], settlements reached after the arbitration award and prior to the expiration for the filing of a rejection, are detailed herein.

- ***Boone County*** reported the entry of 6 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Boone County, 5% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. Two cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Boone County, 7% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

[9]Judgment on the award statistics are generated by dividing the number of judgments on an arbitration award into the total number of cases on the post-hearing calendar. The total number of cases on the post-hearing calendar is generated by adding the number of cases added during FY2004 to the number of cases pending on the post-hearing calendar as of 07/01/03.

- ***Cook County*** reported the entry of 2,395 judgments on arbitration awards during Fiscal Year 2004. An additional 3,966 cases were either settled or dismissed prior to the expiration for the filing of a rejection. The statistics for cases pending on the post-hearing calendar as of July 1, 2003, were not available at the time this report was compiled. Therefore, no percentages are available.

- ***DuPage County*** reported the entry of 112 judgments on arbitration awards during Fiscal Year 2004. An additional 222 cases were either settled or dismissed prior to the expiration for the filing of a rejection. The statistics for cases pending on the post-hearing calendar as of July 1, 2003, were not available at the time this report was compiled. Therefore, no percentages are available.

- ***Ford County*** reported that 2 cases were added to the post-hearing calendar and all of them received a judgment on the arbitration award entered during Fiscal Year 2004. Therefore, in Ford County, 3% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. Two cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Ford County, during Fiscal Year 2004, 6% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Henry County*** reported the entry of 3 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Henry County, 3% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 3 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Henry County, 7% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Kane County*** reported the entry of 37 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Kane County, 17% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 35 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Kane County, 33% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Lake County*** reported the entry of 114 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Lake County, 22% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 114 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Lake County, 43% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***McHenry County*** reported the entry of 42 judgments on arbitration awards during Fiscal Year 2004. Therefore, in McHenry County, 30% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 28 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in McHenry County, 50% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***McLean County*** reported the entry of 31 judgments on arbitration awards during Fiscal Year 2004. Therefore, in McLean County, 16% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 11 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in McLean County, 22% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Mercer County*** reported no judgments on an arbitration award during Fiscal Year 2004. Therefore, in Mercer County, none of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. No cases were either settled or dismissed prior to the expiration for the filing of a rejection.

- ***Rock Island County*** reported the entry of 28 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Rock Island County, 30% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 34 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Rock Island County, 65% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***St. Clair County*** reported the entry of 67 judgments on arbitration awards during Fiscal Year 2004. Therefore, in St. Clair County, 46% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 27 cases were settled prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in St. Clair County, 64% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Whiteside County*** reported the entry of 2 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Whiteside County, 2% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 4 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Whiteside County, 6% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Will County*** reported the entry of 70 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Will County 30% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 52 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Will County, 51% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Winnebago County*** reported the entry of 33 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Winnebago County, 25% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 36 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Winnebago County, 52% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

As indicated earlier, parties may also reject the arbitration award and proceed to trial. Parties may file a notice of rejection of the arbitration award for the same variety of tactical reasons that they file notices of appeal from trial court judgments. It's the opinion of the Alternative Dispute Resolution Coordinating Committee of the Illinois Judicial Conference that the rejection rate, when studied alone and out of context, may be a misleading indicator of the actual success of the arbitration programs.

Rejection rates for arbitration awards varied from county to county. The overall statewide average for the rejection rate was 46% in Fiscal Year 2004.

During Fiscal Year 2004, the mandatory arbitration programs reported the following rejection rates: Boone County, 9%; Cook County, 47%; Du Page County, 55%; Ford County, 0%; Henry County, 25%; Kane County, 57%; Lake County, 51%; McHenry County, 48%; McLean County, 26%; Mercer County, 100%; Rock Island County, 22%; St. Clair County, 28%; Whiteside County, 44%; Will County, 41%; Winnebago County, 40%.

Post-Rejection Calendar

The post-rejection calendar consists of arbitration cases in which one of the parties rejects the award of the arbitrators and seeks a trial before a judge or jury. In addition, cases which are occasionally reinstated at this stage of the arbitration process may be added to the inventory of cases pending post-rejection action. Removals from the post-rejection arbitration calendar are generally dispositive. When a case is removed by way of judgment before or after trial, dismissal or settlement, it is removed from the court's inventory of pending civil cases.

Post-Rejection Statistics

Although rejection rates are an important indicator of the success of an arbitration program, parties have many resolution options still available after rejecting the arbitration award. As noted above, parties file a notice of rejection of the arbitration award for the same variety of tactical reasons that they file notices of appeal from trial court judgments. Therefore, a more important number than the rejection rate may be the frequency with which arbitration cases are settled subsequent to the rejection but prior to trial in the circuit court.

Arbitration statistics demonstrate that few arbitration cases proceed to trial even after the arbitration award is rejected.

- In ***Boone County*** (Fiscal Year 2004), 1 case was placed on the post-rejection calendar, no cases were disposed of via trial and 2 cases were either settled or dismissed and removed from the post-rejection calendar. This means less than 1% of the cases funneled into the arbitration program in Boone County during Fiscal Year 2004 resulted in trial.

- In ***Cook County*** (Fiscal Year 2004), 4,256 cases were placed on the post-rejection calendar, 401 cases were disposed via trial and 2,018 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 2% of the total cases funneled into the arbitration program in Cook County during Fiscal Year 2004 resulted in trial.

- In ***DuPage County*** (Fiscal Year 2004), 552 cases were placed on the post-rejection calendar, 83 cases were disposed via trial and 282 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 2% of the total

cases funneled into the arbitration program in DuPage County during Fiscal Year 2004 resulted in trial.

- In ***Ford County*** (Fiscal Year 2004), no cases were placed on the post-rejection calendar, settled, dismissed or otherwise disposed and removed from the post-rejection calendar. Therefore, none of the cases funneled into the arbitration program in Ford County during Fiscal Year 2004 resulted in trial.

- In ***Henry County*** (Fiscal Year 2004), 2 cases were placed on the post-rejection calendar, no cases were disposed of via trial and 3 cases were either settled or dismissed and removed from the post-rejection calendar. This means less than 1% of the cases funneled into the arbitration program in Henry County during Fiscal Year 2004 resulted in trial.

- In ***Kane County*** (Fiscal Year 2004), 95 cases were placed on the post-rejection calendar, 37 cases were disposed via trial and 69 were settled or otherwise disposed and removed from the post-rejection calendar. This means only 2% of the total cases funneled into the arbitration program in Kane County during Fiscal Year 2004 resulted in trial.

- In ***Lake County*** (Fiscal Year 2004), 241 cases were placed on the post-rejection calendar, 60 cases were disposed via trial and 196 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means only 1% of the total cases funneled into the arbitration program in Lake County during Fiscal Year 2004 resulted in trial.

- In ***McHenry County*** (Fiscal Year 2004), 63 cases were placed on the post-rejection calendar, 24 cases were disposed via trial and 53 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means only 1% of the total cases funneled into the arbitration program in McHenry County during Fiscal Year 2004 resulted in trial.

- In ***McLean County*** (Fiscal Year 2004), 26 cases were placed on the post-rejection calendar, 7 cases were disposed via trial and 23 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means less than 1% of the total cases funneled into the arbitration program in McLean County during Fiscal Year 2004 resulted in trial.

- In ***Mercer County*** (Fiscal Year 2004), there was no activity on the post-rejection calendar.

- In ***Rock Island County*** (Fiscal Year 2004), 20 cases were placed on the post-rejection calendar, 8 cases were disposed of via trial and 26 cases were either settled or dismissed and removed from the post-rejection calendar. This means that 1% of the cases funneled into the arbitration program in Rock Island County during Fiscal Year 2004 resulted in trial.

- In ***St. Clair County*** (Fiscal Year 2004), 37 cases were placed on the post-rejection calendar, 8 cases were disposed via trial and 38 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means less than 1% of the total cases funneled into the arbitration program in St. Clair County during Fiscal Year 2004 resulted in trial.

- In ***Whiteside County*** (Fiscal Year 2004), 5 cases were placed on the post-rejection calendar, 1 case was disposed of via trial and 7 cases were either settled or dismissed and removed from the post-rejection calendar. This means less than 1% of the cases funneled into the arbitration program in Whiteside County during Fiscal Year 2004 resulted in trial.

- In ***Will County*** (Fiscal Year 2004), 84 cases were placed on the post-rejection calendar, 17 cases were disposed of via trial and 49 cases were settled, dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 1% of the total cases funneled into the arbitration program in Will County during Fiscal Year 2004 resulted in trial.

- In ***Winnebago County*** (Fiscal Year 2004), 49 cases were placed on the post-rejection calendar, 11 cases were disposed via trial and 48 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 1% of the total cases funneled into the arbitration program in Winnebago County during Fiscal Year 2004 resulted in trial.

These percentages were generated with figures submitted through June 30, 2004. Some cases in which an arbitration award was rejected and the case was transferred to the post-rejection calendar remain pending.

CONCLUSION

Taken together, these figures are convincing evidence that the arbitration system is operating consistent with policy makers' initial expectations for the program.

Statewide figures show that only a small number of the cases filed or transferred into arbitration proceed to an arbitration hearing. Arbitration-eligible cases are resolved and disposed prior to hearing in ways that do not use a significant amount of court time. Court-ordered dismissals, voluntary dismissals, settlement orders and default judgments typically require very little court time to process. Arbitration encourages dispositions earlier in the life of cases, helps the court operate more efficiently, saves the court the expense of costlier proceedings that might have been necessary later and saves time, energy and money of the individuals using the court system to resolve their disputes.

Statewide statistics also show that a large number of cases that do proceed to the arbitration hearing are terminated in a post-hearing proceeding when the parties either petition the court to enter judgment on the arbitration award or remove the case from the arbitration calendar via another form of post-hearing termination, including settlement.

Finally, the overall success of the program can be quantified in the fact that a statewide average of less than 2% of the cases processed through an arbitration program proceeded to trial in Fiscal Year 2004.

CIRCUIT PROFILES

Eleventh Judicial Circuit

The Supreme Court of Illinois entered an order in March, 1996, allowing both McLean and Ford Counties to begin arbitration programs. Therefore, two counties within the five-county circuit currently use court-annexed mandatory arbitration as a case management tool. The Eleventh Judicial Circuit arbitration program is housed near the McLean County Law and Justice Center in Bloomington, Illinois.

The supervising judge for arbitration in McLean County is Judge Robert L. Freitag. The

supervising judge for arbitration in Ford County is Judge Stephen R. Pacey. The supervising judges are assisted by an administrative assistant for arbitration for both the McLean and Ford County programs.

Twelfth Judicial Circuit

The Twelfth Judicial Circuit is one of only three single-county circuits in Illinois. The Will County Arbitration Center is housed near the courthouse in Joliet, Illinois. According to the 2000 federal census, the county is home to 502,266 residents. Straddling the line between a growing urban area and a farm community, Will County is working to keep current with its increasing caseload.

After the Supreme Court approved its request, Will County began hearing arbitration cases in December of 1995. Judge Richard J. Siegel is the supervising judge for arbitration in the Twelfth Judicial Circuit. He is assisted by a trial court administrator and an administrative assistant.

Fourteenth Judicial Circuit

The Fourteenth Judicial Circuit is comprised of Henry, Mercer, Rock Island and Whiteside Counties. This circuit is the most recent to receive Supreme Court approval to begin operating an arbitration program. In November of 1999, the Supreme Court authorized the inception of the program and arbitration hearings began in October 2000. Hearings are conducted in the arbitration center located in downtown Rock Island.

The Fourteenth Circuit is the first program to receive permanent authorization to hear cases with damage claims between $30,000 and $50,000. The supervising judge for arbitration is Judge Mark A. VandeWiele.

Sixteenth Judicial Circuit

The Sixteenth Judicial Circuit consists of DeKalb, Kane and Kendall Counties. During Fiscal Year 1994, the Supreme Court approved the request of Kane County to begin operating a court-annexed mandatory arbitration program. Initial arbitration hearings were held in June 1995.

Judge Judith M. Brawka is the supervising judge for arbitration in Kane County. She is assisted by an administrative assistant for arbitration.

Seventeenth Judicial Circuit

The Seventeenth Judicial Circuit is located in the northern part of Illinois consisting of Winnebago and Boone Counties. The arbitration center is located near the courthouse in Rockford, Illinois. In the fall of 1987, court-annexed mandatory arbitration was instituted as a pilot program in Winnebago County, making it the oldest court-annexed arbitration system in the state.

Since its inception, the arbitration program in Winnebago County has consistently processed nearly (1,000) civil cases every year. Judge Timothy R. Gill is the supervising judge for Winnebago County. The Boone County program, which began hearings in February 1995, is supervised by Judge Gerald F. Grubb. The supervising judges are assisted by an arbitration administrator and an assistant administrator for arbitration.

Eighteenth Judicial Circuit

The Eighteenth Judicial Circuit is a suburban jurisdiction serving the residents of DuPage County. Located west of Chicago, DuPage is one of the fastest growing counties in the state and the third most populous judicial circuit in Illinois. The continuing increase in population creates demands on the public services in the county. The circuit court has strived to keep pace with those demands in order to provide services of the highest quality. Court-annexed arbitration has become an important resource for assisting the judicial system in delivering those services.

The Supreme Court approved an arbitration program for the circuit in December, 1988. On January 1, 1997, a pilot program was instituted for cases with money damages seeking up to $50,000. During Fiscal Year 2002, the Supreme Court authorized DuPage County to permanently operate at the $50,000 jurisdictional limit. Judge Kenneth A. Abraham is the supervising judge for arbitration. He is assisted by an arbitration administrator and administrative assistant, who help ensure the smooth operation of the program.

Nineteenth Judicial Circuit

Lake and McHenry Counties combine to form the Nineteenth Judicial Circuit. This jurisdiction ranks as the second most populous judicial circuit in Illinois, serving 904,433 citizens. Lake County sought Supreme Court approval to implement an arbitration program and that approval was granted in December 1988.

As in the other circuits, the arbitration caseloads are assigned to a supervising judge. During Fiscal Year 2004, Judge Emilio B. Santi served as the supervising judge for arbitration in Lake County. He is assisted by an arbitration administrator and an administrative assistant. Arbitration hearings are conducted in a facility across the street from the Lake County Courthouse in downtown Waukegan.

Late in 1990, the Supreme Court was asked to consider the Nineteenth Judicial Circuit's request to expand the arbitration program into McHenry County. That request was approved. The Nineteenth Judicial Circuit was the first multi-county circuit-wide arbitration program in Illinois. Although centrally administered, the arbitration programs in Lake and McHenry Counties use their own county-specific group of arbitrators to hear cases.

Judge Maureen P. McIntyre serves as the supervising judge in McHenry County. Arbitration hearings are conducted in the McHenry County Courthouse in Woodstock. The arbitration administrator and administrative assistant in Lake County administer the program in McHenry County as well.

Twentieth Judicial Circuit

The Twentieth Judicial Circuit is comprised of five counties: St. Clair, Perry, Monroe, Randolph and Washington. This circuit is located in downstate Illinois and is considered a part of the St. Louis metropolitan area. Circuit population is 355,836 according to the 2000 federal census.

The Supreme Court approved the request of St. Clair County to begin an arbitration program on May 11, 1993. The first hearings were held in February 1994. This circuit is the first and only circuit in the downstate area to have an arbitration program.

The arbitration center is located across the street from the St. Clair County Courthouse. Judge Annette A. Eckert is the supervising judge. She is assisted by an arbitration administrator and an administrative assistant, who oversee the program's operations.

Circuit Court of Cook County

As a general jurisdiction trial court, the Circuit Court of Cook County is the largest unified court in the nation. Serving a population of more than 5.3 million people, this court operates through an elaborate system of administratively created divisions and geographical departments.

The Supreme Court granted approval to implement an arbitration program in Cook County in January 1990, after the Illinois General Assembly and the Governor authorized a supplemental appropriation measure for the start-up costs. Cases pending in the circuit's Law Division were initially targeted for referral to arbitration and hearings for those cases commenced in April 1990. Today, the majority of the cases transferred to arbitration are Municipal Department cases.

The Cook County program is supervised by Judge E. Kenneth Wright, Jr. and day-to-day operations are managed by an arbitration administrator and deputy administrator.

Administrative Office of the Illinois Courts

The Administrative Office of the Illinois Courts (AOIC) works with the circuit courts to coordinate the operations of the arbitration programs throughout the state. Administrative staff assists in establishing new arbitration programs that have been approved by the Supreme Court. Staff also provide other support services such as drafting local rules, recruiting personnel, acquiring facilities, training new arbitrators, purchasing equipment and developing judicial calendaring systems.

The AOIC also assists existing programs by preparing budgets, processing vouchers, addressing personnel issues, compiling statistical data, negotiating contracts and leases and coordinating the collection of arbitration filing fees. The office also monitors the performance of each program. In addition, AOIC staff act as liaisons to Illinois Judicial Conference committees, bar associations and the public.

FISCAL YEAR 2004
PRE-HEARING CALENDAR

ARBITRATION PROGRAM	CASES PENDING HEARING 07/01/03 AS REPORTED	CASES REFERRED TO ARBITRATION	TOTAL CASES ON CALENDAR	PRE-HEARING DISPOSITIONS	PERCENT OF CASES ON PRE-HEARING CALENDAR DISPOSED PRIOR TO ARBITRATION HEARING	ARBITRATION HEARING	PERCENTAGE REFERRED TO HEARING	CASES PENDING HEARING 06/30/04
Boone	20	110	130	80	62%	11	8%	39
Cook	1,228	14,896	16,124	3,633	23%	9,151	57%	3,340
DuPage	1,764	4,146	5,910	4,029	68%	552	9%	N/A
Ford	10	38	48	32	67%	6	13%	10
Henry	49	113	162	129	80%	8	5%	25
Kane	246	2,142	2,388	1,656	69%	167	7%	565
Lake	974	3,249	4,223	2,725	65%	461	11%	1,037
McHenry	426	1,308	1,734	1,172	68%	124	7%	438
McLean	696	823	1,519	776	51%	96	6%	647
Mercer	21	25	46	30	65%	1	2%	15
Rock Island	310	741	1,051	636	61%	89	8%	326
St. Clair	355	2,328	2,683	2,410	90%	132	5%	141
Whiteside	110	253	363	234	64%	9	2%	120
Will	833	2,077	2,910	1,830	63%	201	7%	879
Winnebago	195	1,478	1,673	1,308	78%	124	7%	241

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook and Will Counties is $30,000.
The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Ford, Henry, Kane, Lake, McHenry, McLean, Mercer, Rock Island, St. Clair, Whiteside, and Winnebago Counties is $50,000.

FISCAL YEAR 2004

POST-HEARING CALENDAR

ARBITRATION PROGRAM	CASES PENDING ON POST-HEARING CALENDAR 07/01/03 AS REPORTED	CASES ADDED	JUDGMENT ON AWARD	POST-HEARING PRE-REJECTION DISPOSITION DISMISSED	AWARDS REJECTED	AWARDS REJECTED AS A PERCENTAGE OF HEARINGS	TOTAL CASES IN SYSTEM AS A PERCENTAGE OF ALL WHICH WERE REJECTED AS OF JUNE 30, 2004	CASES PENDING 06/30/04
Boone	1	11	6	2	1	9%	1%	3
Cook	N/A	9,151	2,395	3,966	4,256	47%	26%	N/A
DuPage	N/A	552	112	222	304	55%	5%	N/A
Ford	1	6	2	2	0	0%	0%	3
Henry	1	8	3	3	2	25%	1%	1
Kane	52	167	37	35	95	57%	4%	52
Lake	57	472	114	114	240	51%	6%	61
McHenry	14	127	42	28	61	48%	4%	10
McLean	91	99	31	11	26	26%	2%	122
Mercer	0	1	0	0	1	100%	2%	0
Rock Island	7	89	28	34	20	22%	2%	14
St. Clair	15	132	67	27	37	28%	1%	16
Whiteside	1	9	2	4	4	44%	1%	0
Will	33	204	70	52	83	41%	3%	32
Winnebago	9	124	33	36	49	40%	3%	15

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook and Will Counties is $30,000.
The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Ford, Henry, Kane, Lake, McHenry, McLean, Mercer, Rock Island, St. Clair, Whiteside, and Winnebago Counties is $50,000.

FISCAL YEAR 2004

POST-REJECTION CALENDAR

ARBITRATION PROGRAM	CASES PENDING ON POST-REJECTION CALENDAR 07/01/03 AS REPORTED	CASES ADDED	PRE-TRIAL POST-REJECTION DISPOSITIONS DISMISSALS	TRIALS	PERCENT OF TOTAL CASES ON PRE-HEARING CALENDAR PROGRESSING TO TRIAL THROUGH 06/30/04	CASES PENDING 06/30/04
Boone	2	1	2	0	0%	1
Cook	N/A	4,256	2018	401	2%	1837
DuPage	N/A	552	282	83	1%	N/A
Ford	0	0	0	0	0%	0
Henry	2	2	3	0	0%	1
Kane	157	95	69	37	2%	146
Lake	111	241	196	60	1%	96
McHenry	41	63	53	24	1%	27
McLean	25	26	23	7	0%	21
Mercer	0	1	0	0	0%	1
Rock Island	25	20	26	8	1%	11
St. Clair	37	37	38	8	0%	28
Whiteside	6	5	7	1	0%	3
Will	36	84	49	17	1%	54
Winnebago	30	49	48	11	1%	20

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook and Will Counties is $30,000.
The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Ford, Henry, Kane, Lake, McHenry, McLean, Mercer, Rock Island, St. Clair, Whiteside, and Winnebago Counties is $50,000.

2004 REPORT

APPENDIX 2

APPENDIX 2

Court-Sponsored Major Civil Case Mediation Statistics

Fiscal Year 2004

Judicial Circuit	Full Agreement		Partial Agreement		No Agreement		Total Cases Mediated
	#	%	#	%	#	%	
First[1]	11	65%	2	12%	4	23%	17
Eleventh[2]	4	50%	0	0%	4	50%	8
Twelfth[3]	0	0%	0	0%	0	0%	0
Fourteenth[4]	19	83%	1	4%	3	13%	23
Sixteenth	72	48%	11	8%	66	44%	149
Seventeenth	48	51%	2	1%	45	48%	95
Eighteenth[5]	6	75%	1	12.5%	1	12.5%	8
Nineteenth[6]	60	68%	3	1%	26	31%	89
Twentieth[7]	0	0%	0	0%	0	0%	0
Circuit Court of Cook County[8]	11	69%	2	12%	3	19%	16
Total/Overall %	231	57%	22	5%	152	38%	405

[1] The First Judicial Circuit was approved by the Supreme Court to begin a mediation program in November 2003 and began conducting mediations in April 2004.

[2] A total of (18) cases were referred to mediation. In addition to the statistics above: (8) cases are pending mediation and (2) were sent to mandatory arbitration.

[3] No civil case mediations were reported in Fiscal Year 2004.

[4] A total of (25) cases were referred to mediation. In addition to the statistics above, (2) cases settled prior to mediation.

[5] The statistics provided only reflect the number of cases referred by court order and may not reflect the total number of cases mediated in the Eighteenth Judicial Circuit.

[6] A total of (134) cases were referred to mediation. In addition to the statistics above: (37) cases are pending mediation, (1) case was removed from mediation and (7) cases were dismissed pre-mediation.

[7] The Twentieth Judicial Circuit was approved to begin conducting mediations in June 2004. A training for mediators will take place in October 2004 and mediations will begin shortly thereafter. Statistics will be available in State Fiscal Year 2005.

[8] Cook County started referring cases to civil mediation in April 2004 resulting in a total of (130) cases referred in State Fiscal Year 2004. In addition to the statistics above, (114) cases are currently pending mediation.

ANNUAL REPORT
OF THE
COMMITTEE ON CRIMINAL LAW AND PROBATION ADMINISTRATION
TO THE ILLINOIS JUDICIAL CONFERENCE

Honorable Michael P. Toomin, Chair

Hon. Thomas R. Appleton
Hon. Amy M. Bertani-Tomczak
Hon. Ann Callis
Hon. Vincent M. Gaughan
Hon. Daniel P. Guerin
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Hon. James L. Rhodes
Hon. Teresa K. Righter
Hon. Mary S. Schostok
Hon. Eddie A. Stephens
Hon. Walter Williams

October 2004

I. STATEMENT ON COMMITTEE CONTINUATION

The Committee on Criminal Law and Probation Administration ("Committee") is charged with providing recommendations regarding the administration of criminal justice and the probation system. The Committee believes the Judicial Conference should maintain a committee to study these issues during the coming Conference year.

The Committee is working on a number of significant issues of a continuing nature, including:

- a comprehensive review of probation programs and practices
- examination of new issues affecting criminal law and procedure
- review of proposals to amend Supreme Court Rules governing criminal cases

Given the importance of these tasks, the Committee requests that it be continued in the coming conference year.

II. SUMMARY OF COMMITTEE ACTIVITIES

A. Probation Programs. In accordance with its charge, the Committee continued to review matters affecting probation programs during the current Conference year. In recent years, the Committee has reviewed broad issues, such as the Broken Windows approach to probation (see 2003 report), while also focusing on specialized probation programs that attempt to address problems unique to specific types of offenders. For the current Conference year, the Committee is providing updates on several probation issues.

1. Mental Health. The Committee's study of probation programs for persons with mental health problems continued during the current Conference year. The Committee found that judges could benefit from training on the complex mental health issues that are often entwined with a criminal case. The Committee is recommending the addition of a two-day seminar on mental health issues to the program of continuing education for judges. Further discussion of this issue is included in the report of the Mental Health Subcommittee (Attachment 1).

2. Sex Offender Programs. In the last Conference year, the Committee reviewed significant new legislation affecting the evaluation and treatment of sex offenders, including sex offenders placed on probation. P.A. 93-616 required evaluation and treatment of felony sex offenders and juvenile sex offenders sentenced to probation or discharged from prison and placed on mandatory supervised release.

The Committee's 2003 annual report included a Subcommittee report that made several recommendations, including extension of the sex offender evaluation requirement to all sex offenses, use of a uniform sex offender probation order, and consideration of longer probation terms for sex offenders.

During the current Conference year, the sex offender management landscape changed once again with the passage of House Bill 7057 and a major redraft of Sex Offender Management Board rules.

House Bill 7057 makes a number of changes to the sex offender sentencing scheme established by P.A. 93-616. For example, House Bill 7057 provides that an order of probation for a sex offender may be conditioned upon successful completion of treatment, refraining from contact with persons specified by the court, and being available for evaluations and treatment programs.

House Bill 7057 also provides that a presentence investigation (PSI), including an approved sex offender evaluation, is not mandatory for a felony sex offender unless probation is being considered. P.A. 93-616 had required a PSI and sex offender evaluation in every felony sex offense case, even when the defendant was to be imprisoned in the Department of Corrections. In addition, the bill provides that the PSI for a sex offender must be completed within 60 days (was 30 days) of a verdict or finding of guilty, and that sentencing on the offense must be done within 65 days (was 45 days).

House Bill 7057 eliminates the $10 increase in probation fees that was intended to fund sex offender evaluation and treatment. However, House Bill 7057 adds a provision allowing the court or probation department to assess fees on certain sex offenders to pay for all of the costs of the offender's treatment, assessment, evaluation for risk and treatment, and monitoring, based on the offender's ability to pay. The bill also provides that payment of these sex offender fees may be required as costs are incurred or under a payment plan.

With respect to sexually violent persons, House Bill 7057 deletes a provision that limited respondents to use of evaluations conducted by an evaluator approved by the Sex Offender Management Board and in conformance with standards developed under the Sex Offender Management Board Act.

In 2003, the Sex Offender Management Board adopted a comprehensive set of rules to govern evaluation and treatment of sex offenders. On May 27, 2004, the Sex Offender Management Board repealed those rules and adopted a new set of interim rules. The Sex Offender Management Board has proposed adoption of final rules identical to the interim rules.

Given the significant changes in the law regarding sex offenders during the current Conference year, the Committee is making no recommendations at the present time, but will continue to study the issue.

3. Domestic Violence. During the Conference year the Committee continued to review probation programs for domestic violence cases. In the previous Conference year, the Subcommittee assigned to study the issue determined that cognitive and behavioral training may be effective with domestic violence offenders, but found that the training is not always available to probationers because of the cost of private programs and the lack of in-house training resources in most counties. During the current Conference year, members of the Subcommittee have

contacted the Illinois Family Violence Coordinating Council to discuss the creation of a circuit-wide specialized domestic violence probation program. Those discussions are ongoing.

B. Youthful Offender Programs. The Committee is recommending the creation of a youthful offender program that will address crime by youthful offenders in ways that will protect the public and rehabilitate the offender. The Committee believes that it is particularly important to provide youthful offenders with the opportunity to avoid the stigma of a criminal conviction. Non-violent youthful offenders who demonstrate the ability to comply with the requirements of the court and to become productive, law-abiding citizens will have a much better chance of long-term success without the burden of a record of conviction. The Juvenile Court Act of 1987 provides such an opportunity for minors, and adults who commit misdemeanors and lesser offenses may be dismissed without conviction or permanent record through the use of court supervision.

The Committee is submitting a model youthful offender statute (Attachment 2), which would authorize a sentence of "youthful offender supervision" for young offenders who have committed non-violent, probationable felony offenses. The model statute provides that conditions of youthful offender supervision may include any standard term of probation, conditional discharge or traditional court supervision, other than a condition that would involve imprisonment in the Department of Corrections (DOC). The restriction on imprisonment is intended to limit contact between persons in the youthful offender program and older and more dangerous inmates.

Upon successful completion of a sentence of youthful offender supervision, the court would have the discretion to discharge the offender and order the charges dismissed. Upon discharge and dismissal, the offender's records would be sealed. The court would also have the option of entering a judgment, with the youthful offender supervision to stand as the (completed) sentence. Entry of judgment and sentence would constitute a conviction. No youthful offender sentence would be terminated without a specific determination by the trial court.

The Committee will continue to study youthful offender sentencing in the coming Conference year, and will work to refine and improve the model youthful offender statute that is included with this report.

The Committee finds that a youthful offender program would provide the trial courts with a useful alternative to traditional sentencing. The Committee urges the adoption of such a program as a means of punishing and preventing crime that has the potential to provide a good outcome for the offender and the community.

C. Proposed Supreme Court Rule 604 - Interlocutory Appeals by Municipal Prosecutor. During the 2002 Conference Year, the Committee considered a proposal to amend Supreme Court Rule 604 to permit municipal prosecutors to appeal certain adverse rulings (Attachment 3). The Committee recommended approval of the proposal.

In reviewing the proposed amendment to Rule 604, the Committee examined several broader questions relating to municipal prosecutions. The Committee has serious concerns

regarding the expansion of municipal prosecutions. One concern addressed by the Committee is that on occasion municipalities will prosecute offenses that are jailable, when they do not have the ability to ensure execution of a sentence of incarceration upon conviction. With respect to offenses subject to mandatory jail sentences, the Committee believes municipal prosecution without facilities for incarceration is improper.

The Committee is also concerned that, in some areas, municipal prosecutions are crossing the line between quasi-criminal ordinance prosecutions and administrative enforcement of the laws. The Committee notes that the concept of using administrative courts or other lesser tribunals conflicts with Constitutional provisions establishing a unified court system in Illinois.

Finally, the Committee recognizes that the impetus behind the expansion of municipal prosecutions and attempts to create quasi-courts is the fundamental problem of financing courts and law enforcement through fees and fines. Local government revenues from fines are often reduced when additional statutory fees are imposed on an offender. The Committee believes questions regarding add-on fees and penalties, as well as the broader issue of state versus local and fee-based funding of the courts, deserve further study.

D. Criminal Law Revisions. The Committee continues to support revision of Illinois criminal law statutes to simplify and clarify existing law, to provide trial courts with a range of effective sentencing options, and to provide trial judges with the discretion essential to a fair and effective system of criminal justice. The process by which necessary changes to the Criminal Code may be made is unclear, in part because of the amount of work that would be necessary. The Committee will continue to study this issue in the coming Conference year.

E. Global Positioning Systems. As part of its activities during the current Conference year, the Subcommittee on probation programs for gang offenders examined the use of global positioning technology as a way of improving electronic monitoring of probationers. A report on the use of global positioning technology to monitor probationers is appended hereto as Attachment 4.

F. Confrontation Clause Issues. The recent U.S. Supreme Court ruling in the case of *Crawford v. Washington* significantly changed the way courts will review Confrontation Clause issues. A Subcommittee has been appointed to review the impact of the decision, and will report on the matter in the coming Conference year.

G. IPI Instructions. During the Conference year, the Committee reconsidered its proposal to add a cautionary jury instruction on informants. The proposal would amend the existing cautionary instruction on accomplices (IPI Criminal No. 3.17) to provide that the testimony of a witness, other than an expert witness or law enforcement officer, who provides evidence against a defendant for pay, leniency, immunity from punishment, vindication or any other personal

advantage is subject to suspicion and should be considered with caution. The Committee agreed to resubmit the proposal in light of statutory changes concerning informants in capital cases and continuing interest in problems associated with the use of informant testimony. The proposal was not approved by the IPI Criminal Committee.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the next Conference year, the Committee intends to continue its review of probation programs and practices. The Committee will also study ways to simplify and clarify criminal law statutes. The Committee will also continue to review the existing Supreme Court Rules on criminal cases, and consider new and pending proposals to amend the Rules.

IV. RECOMMENDATIONS

The Committee is making no recommendations to the Conference at this time.

ATTACHMENT 1

ILLINOIS SUPREME COURT
CRIMINAL LAW AND PROBATION COMMITTEE
Report of the Mental Health Subcommittee
for the
2004 ILLINOIS JUDICIAL CONFERENCE

Increasing numbers of persons with mental illness are being processed through the criminal justice system. The primary factors leading to the increase in criminal defendants with mental health issues are the decline in availability of mental health treatment facilities as well as changes in procedures for involuntary commitment. Seventy percent of the defendants with mental illness often have a dual diagnosis of drug or alcohol abuse. Consequently, the criminal justice system is viewed as a potential source of treatment for the mentally ill. With the influx of increasing numbers of these defendants, judges will need to be better educated on identifying and fashioning treatment plans for these offenders which may also require additional resources for imposition of appropriate sentencing conditions.

The Honorable Timothy C. Evans, Chief Judge of the Circuit Court of Cook County, in conjunction with the Presiding Judge of the Criminal Division, Honorable Paul P. Biebel, Jr., have established a pilot mental health court in Cook County. The program will identify offenders who may need mental health services early in the course of the proceedings. Offenders will be screened at the jail prior to preliminary hearing. This mental health program is intended to link providers for the defendants and foster a team-approach to their treatment.

The Cook County Mental Health Court will admit non-violent, probationable felony offenders. Nationally, mental health courts have focused on defendants charged with misdemeanors. Historically these programs focused on diversion of defendants from the courts based on the belief that a mentally ill defendant's conduct should not be criminalized.

In the felony Mental Health Court pilot program, defendants will be offered the option to plead guilty and receive a sentence of probation. The terms of their sentence will include mandatory mental health services provided through the Illinois Office of Mental Health (OMH), as well as frequent status hearings before the Mental Health Court judge. The defendants will be linked to social service agencies for assistance with housing and employment. The goal of the pilot project is to eventually open the court to all eligible offenders including those on-bond who will not be screened under the initial protocol.

DuPage County is also in the process of starting a mental health court. Despite the fact that these resources are currently available in only these counties, certainly the issues and concerns of treating defendants with mental illness impact judges statewide.

Judges throughout the state would be receptive to training relating to the issues affecting mentally ill defendants including psychological, medical and scientific aspects of diagnosis and treatment as well as a refresher on the law regarding fitness, involuntary commitment, discharge hearings, insanity, etc. There is a need for exchange of information between the Department of Human Services and the courts regarding problems encountered with committed offenders. Common problems judges encounter with mental health defendants include lack of an adequate treatment plan, offenders who

are not getting needed services and failure to take medication. Judges also raised concerns about availability of mental health services within the Illinois Department of Corrections.

The Committee respectfully recommends that a two-day judicial seminar be presented on mental health issues.

Respectfully submitted by Honorable Colleen McSweeney Moore and Honorable Walter Williams

ATTACHMENT 2

YOUTHFUL OFFENDER SENTENCING

Sec. 1. Purpose. The purpose of this article is to create a sentencing program that holds youthful offenders accountable for their actions in a manner consistent with the long-term goal of rehabilitating individual offenders and helping them develop into productive members of society. Many youthful offenders respond positively to existing sentencing options, including restorative elements such as restitution and community service, and rehabilitative components such as treatment, training and education. Coupled with appropriate sanctions and supervision, sentencing that incorporates restorative and rehabilitative goals has a particularly good chance of success when applied in cases involving young offenders. The youthful offender program created by this article incorporates existing sentencing options and authorizes extended supervision to encourage long-term adjustment and reintegration into society. This article also offers an eligible youthful offender who has committed a probationable, non-violent felony the chance to avoid a formal conviction, because experience shows that the rehabilitative effects of existing sentencing options are often undermined by the impact of a record of conviction. The youthful offender sentencing program is intended to help young offenders who are willing to earn the opportunity of a fresh start by complying with the terms of their youthful offender sentences.

Sec. 2. Youthful Offender - Eligibility Criteria. (a) No person may be sentenced as a youthful offender under this article, unless:

(1) the offender was under the age of 25 at the time of commission of the offense;

(2) the offender is an adult or is a juvenile who is subject to trial in the criminal courts;

(3) the offender is not charged with a forcible felony as defined by section 2-8 of the Criminal Code of 1961;

(4) the offender is not charged with any offense that would subject the offender to registration under the Sex Offender Registration Act, and is not required to be registered under the Sex Offender Registration Act as the result of any prior conviction for an offense or prior adjudication of delinquency;

(5) the offender is not charged with any offense for which a sentence of probation is not authorized under section 5-5-3(c) of this Code;

(6) the offender has no prior conviction for a forcible felony in Illinois or for an offense in any other state or jurisdiction that has the elements of an offense classified in Illinois as a forcible felony; and

(7) the offender has no prior adjudication of delinquency for a forcible felony under the laws of this state or any other state;

(b) An otherwise eligible offender charged with a forcible felony or previously convicted or adjudicated delinquent with respect to a forcible felony may be sentenced as a youthful offender, if the offender's culpability for the offense leading to the prior conviction or adjudication of delinquency or the offense currently alleged is based on accountability and the court finds the offender's participation in the offense was

limited and that sentencing the offender under the youthful offender program is consistent with protection of the public and the interests of justice.

(c) An offender who has multiple charges pending may be sentenced for all the offenses under this article, provided that none of the pending charges involves an offense that would disqualify the offender from the program.

Sec. 3. Youthful Offender - Eligibility for Adult. (a) Adult defendants. At the sentencing hearing for an adult under section 5-4-1 of this Code, the court may consider evidence and argument regarding the defendant's eligibility for sentencing as a youthful offender under this article. If the court determines that the defendant meets the youthful offender eligibility criteria of section 2 of this article, and that a youthful offender sentence would be consistent with the public interest, the court shall find the defendant eligible for youthful offender sentencing.

(b) Youthful Offender - Eligibility Hearing for Minor. (1) Excluded Jurisdiction and Transfer of Jurisdiction Cases. When a minor is to be sentenced at a hearing under section 5-4-1 of this Code in a case that was excluded from juvenile court jurisdiction under section 5-130 of the Juvenile Court Act of 1987 or was transferred to the criminal courts under section 5-805 of that Act, the court may consider evidence and argument regarding the minor's eligibility for sentencing as a youthful offender under this article. If the court determines that the minor meets the youthful offender eligibility criteria of section 2 of this article, and that a youthful offender sentence would be consistent with the public interest, the court shall find the defendant eligible for youthful offender sentencing. In a case where the court has the discretion to return a previously transferred minor to juvenile court for sentencing or when the State has filed a motion to sentence a minor under Chapter V of this Code after conviction on a non-excluded jurisdiction offense the court may, in addition to any other relevant factors, consider the availability and appropriateness of youthful offender sentencing in determining whether the minor should be returned to the jurisdiction of the juvenile court.

(2) Extended Jurisdiction Cases. When a minor who meets the youthful offender eligibility criteria of section 2 of this article has violated the conditions of an extended jurisdiction sentence entered under section 5-810 of the Juvenile Court Act of 1987, and the court determines that a continued or modified juvenile sentence is not authorized or is not appropriate under the circumstances, the court may impose a youthful offender sentence in lieu of the adult criminal sentence previously imposed.

(c) Public Interest - Factors. In determining whether it is in the public interest to sentence a person as a youthful offender under this article, the court may consider:

(1) the seriousness and circumstances of the offense;

(2) the offender's history of delinquency, if any;

(3) the offender's criminal history, if any;

(4) the nature of the offender's culpability for the offense;

(5) whether the offense was premeditated;

(6) whether the offender's character and history indicate that specific services are necessary for the offender's rehabilitation, and that the offender is willing and capable of successfully participating in the services;

(7) whether services that would be helpful in the rehabilitation of the offender are available;

(8) whether the offender is likely to commit further crimes;

(9) whether the offender and the public would be best served if the defendant were not to receive a criminal record;

(10) any other factor that is relevant to the determination of whether youthful offender sentencing is appropriate for the offender and will adequately protect the public.

(d) Presentence Investigation. The court may direct that the presentence investigation include any information necessary to determine the defendant's eligibility for youthful offender sentencing, the potential effectiveness of youthful offender sentencing in light of the circumstances of the case and the defendant's background, and any necessary special conditions of youthful offender supervision.

Sec. 4. Youthful Offender Supervision. (a) Order. Upon a plea of guilty, a stipulation of facts by the defendant supporting the charge or a finding of guilt, and upon determining that youthful offender sentencing is authorized and in the public interest, the court shall defer further proceedings and the imposition of a sentence, and enter an order of youthful offender supervision. The order shall specify the period of supervision and state the conditions of the supervision.

(b) Conditions of Youthful Offender Supervision. (1) Period of supervision. The period of supervision shall be reasonable under all of the circumstances of the case, but may not be less than 2 years, nor longer than 6 years, unless the defendant has failed to pay the assessment required by Section 10.3 of the Cannabis Control Act or Section 411.2 of the Illinois Controlled Substances Act, or an order of restitution under section 5-5-6 of this Code, in which case the court may extend youthful offender supervision beyond 6 years.

(2) Specific Conditions. An order of youthful offender supervision may include any term or condition authorized for a sentence of probation, conditional discharge or court supervision, and any other condition or punishment authorized under Chapter V of this Code for the class of offense committed by the offender, except that youthful offender supervision may not include any condition that would include incarceration of the offender in any correctional facility of the Department. The offender shall be subject to any fees, additional monetary penalties, and costs that would have been imposed had the offender been sentenced to probation.

(3) Intermediate Sanctions. A youthful offender shall be subject to intermediate sanctions for minor violations of any condition of his or her youthful offender supervision in the same manner as a person violating a sentence of probation, conditional discharge or court supervision. However, nothing in this article prohibits the Chief Judge of the circuit from adopting a special program of intermediate sanctions for youthful

offenders, and nothing herein shall prohibit or limit the use of sanctions in connection with county impact incarceration or other programs in which the youthful offender may be required to participate.

(c) Termination - Hearing. (1) Violations. In the event an offender violates any term or condition of his or her youthful offender supervision, that supervision may be continued, modified or revoked in accordance with the procedures for modification or revocation of probation, conditional discharge or supervision, as provided in section 5-6-4 of this Code. Upon revocation of youthful offender supervision, the offender may be resentenced under Chapter V of this Code. Time served on youthful offender supervision shall not be credited by the court against a sentence of imprisonment or periodic imprisonment unless the court orders otherwise.

(2) Completion of Youthful Offender Supervision - Hearing. Youthful offender supervision is not terminated except as provided above in the case of a violation, or as provided in this section. At the conclusion of the period of youthful offender supervision or as soon thereafter as possible, or prior to the conclusion of the period of youthful offender supervision on motion of the offender or on the court's own motion, the court shall conduct a hearing to determine whether the offender has successfully complied with all of the conditions of supervision. If the court determines that the offender has successfully complied with all of the conditions of youthful offender supervision and the court is convinced that the offender and the public would be best served if the offender were not to receive a criminal record, the court may terminate the youthful offender supervision, discharge the offender and enter a judgment dismissing the charges. In making the determination to discharge the offender and dismiss the charges, the court may consider all the circumstances of the offender's participation in the youthful offender program, including conduct constituting violation of the terms or conditions of the youthful offender supervision that did not result in termination of the supervision. A petition to revoke or modify may be considered at a hearing to determine whether the offender has successfully completed youthful offender supervision. Discharge of the offender and dismissal of charges is within the sound discretion of the court, notwithstanding the fact that there may have been no conduct by the offender that would have warranted termination of the youthful offender supervision for a specific violation. If the court determines that discharge and dismissal of the offender are not appropriate, that the youthful offender supervision is not to be continued or extended, and that there is no violation which would warrant resentencing, the court shall enter judgement and the youthful offender supervision shall stand as the sentence for the offender. Termination of youthful offender supervision without dismissal of the charges and by entry of judgment and sentence shall constitute a conviction of the offender.

(d) Sealing of Records. Discharge and dismissal upon successful completion of youthful offender supervision shall be deemed without adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime. When a youthful offender is discharged and the charges are dismissed, the court shall order the official records of the arresting agency, the Department and the circuit court sealed. Sealed records of a youthful offender shall

only be subject to inspection and use by the court for the purposes of subsequent sentencing for misdemeanor or felony violations and inspection and use by law enforcement agencies and State's Attorneys or other prosecutors in carrying out the duties of their offices. The order shall also provide that the name of the offender shall be obliterated from the official index required to be kept by the circuit court clerk under section 16 of the Clerks of Courts Act, or the official index shall otherwise be modified so that the offender's name is not available to the public, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. The order of sealing may not extend to any misdemeanor, petty offense or ordinance violation for which court supervision is not authorized or any record of a misdemeanor, petty offense or ordinance violation that may not be expunged or sealed under section 5 of the Criminal Identification Act.

ATTACHMENT 3

ARTICLE VI. APPEALS IN CRIMINAL CASES, POST-CONVICTION CASES, AND JUVENILE COURT PROCEEDINGS

Rule 604. Appeals from Certain Judgments and Orders

(a) Appeals by the State and its Political Subdivisions.

(1) *When State and its Political Subdivisions May Appeal.* In criminal cases the State and its Political Subdivisions may appeal only from an order or judgment the substantive effect of which results in dismissing a charge for any of the grounds enumerated in section 114--1 of the Code of Criminal Procedure of 1963; arresting judgment because of a defective indictment, information or complaint; quashing an arrest or search warrant; or suppressing evidence.

(2) *Leave to Appeal by State and its Political Subdivisions.* The State and its Political Subdivisions may petition for leave to appeal under Rule 315(a).

(3) *Release of Defendant Pending Appeal.* A defendant shall not be held in jail or to bail during the pendency of an appeal by the State and its Political Subdivisions, or of a petition or appeal by the State and its Political Subdivisions under Rule 315(a), unless there are compelling reasons for his continued detention or being held to bail.

(4) *Time Appeal Pending Not Counted.* The time during which an appeal by the State and its Political Subdivision is pending is not counted for the purpose of determining whether an accused is entitled to discharge under section 103–5 of the Code of Criminal Procedure of 1963.

(b) Appeals When Defendant Placed Under Supervision or Sentenced to Probation, Conditional Discharge or Periodic Imprisonment. A defendant who has been placed under supervision or found-guilty and sentenced to probation or conditional discharge (see Ill. Rev. Stat. 1981, ch. 38, pars. 1005–6–1 through 1005–6–4), or to periodic imprisonment (see Ill. Rev. Stat. 1981, ch. 38, pars. 1005–7–1 through 1005–7–8), may appeal from the judgment and

may seek review of the conditions of supervision, or of the finding of guilt or the conditions of the sentence, or both. He may also appeal from an order modifying the conditions of or revoking such an order or sentence.

(c) Appeals From Bail Orders by Defendant Before Conviction.

(1) *Appealability of Order With Respect to Bail.* Before conviction a defendant may appeal to the Appellate Court from an order setting, modifying, revoking, denying, or refusing to modify bail or the conditions thereof. As a prerequisite to appeal the defendant shall first present to the trial court a written motion for the relief to be sought on appeal. The motion shall be verified by the defendant and shall state the following:

(i) the defendant's financial condition;

(ii) his residence addresses and employment history for the past 10 years;

(iii) his occupation and the name and address of his employer, if he is employed, or his school, if he is in school;

(iv) his family situation; and

(v) any prior criminal record and any other relevant facts.

If the order is entered upon motion of the prosecution, the defendant's verified answer to the motion shall contain the foregoing information.

(2) *Procedure.* The appeal may be taken at any time before conviction by filing a verified motion for review in the Appellate Court. The motion for review shall be accompanied by a verified copy of the motion or answer filed in the trial court and shall state the following:

(i) the court that entered the order;

(ii) the date of the order;

(iii) the crime or crimes charged;

(iv) the amount and condition of bail;

(v) the arguments supporting the motion; and

(vi) the relief sought.

No brief shall be filed. A copy of the motion shall be served upon the opposing party. The State <u>and its Political Subdivision</u> may promptly file an answer.

(3) *Disposition.* Upon receipt of the motion, the clerk shall

immediately notify the opposing party by telephone of the filing of the motion, entering the date and time of the notification on the docket, and promptly thereafter present the motion to the court.

(4) *Report of Proceedings.* The court, on its own motion or on the motion of any party, may order the court reporter to file in the Appellate Court a report of all proceedings had in the trial court on the question of bail.

(5) *No Oral Argument.* No oral argument shall be permitted except when ordered on the court's own motion.

(d) Appeal by Defendant From a Judgment Entered Upon a Plea of Guilty. No appeal from a judgment entered upon a plea of guilty shall be taken unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to reconsider the sentence, if only the sentence is being challenged, or, if the plea is being challenged, a motion to withdraw the plea of guilty and vacate the judgment. No appeal shall be taken upon a negotiated plea of guilty challenging the sentence as excessive unless the defendant, within 30 days of the imposition of sentence, files a motion to withdraw the plea of guilty and vacate the judgment. For purposes of this rule, a negotiated plea of guilty is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending. The motion shall be in writing and shall state the grounds therefor. When the motion is based on facts that do not appear of record it shall be supported by affidavit. The motion shall be presented promptly to the trial judge by whom the defendant was sentenced, and if that judge is then not sitting in the court in which the judgment was entered, then to the chief judge of the circuit, or to such other judge as the chief judge shall designate. The trial court shall then determine whether the defendant is represented by counsel, and if the defendant is indigent and desires counsel, the trial court shall appoint counsel. If the defendant is indigent, the trial court shall order a copy of the transcript as provided in Rule 402(e) be furnished the defendant without cost. The

defendant's attorney shall file with the trial court a certificate stating that the attorney has consulted with the defendant either by mail or in person to ascertain defendant's contentions of error in the sentence or the entry of the plea of guilty, has examined the trial court file and report of proceedings of the plea of guilty, and has made any amendments to the motion necessary for adequate presentation of any defects in those proceedings. The motion shall be heard promptly, and if allowed, the trial court shall modify the sentence or vacate the judgment and permit the defendant to withdraw the plea of guilty and plead anew. If the motion is denied, a notice of appeal from the judgment and sentence shall be filed within the time allowed in Rule 606, measured from the date of entry of the order denying the motion. Upon appeal any issue not raised by the defendant in the motion to reconsider the sentence or withdraw the plea of guilty and vacate the judgment shall be deemed waived.

(e) Appeal From an Order Finding Defendant Unfit to Stand Trial or Be Sentenced. The defendant ~~or~~ the State or its Political Subdivisions may appeal to the Appellate Court from an order holding the defendant unfit to stand trial or be sentenced.

(f) Appeal by Defendant on Grounds of Former Jeopardy. The defendant may appeal to the Appellate Court the denial of a motion to dismiss a criminal proceeding on grounds of former jeopardy.

Amended effective July 1, 1969; amended October 21, 1969, effective January 1, 1970; amended effective October 1, 1970, July 1, 1971, November 30, 1972, September 1, 1974, and July 1, 1975; amended February 19, 1982, effective April 1, 1982; amended June 15, 1982, effective July 1, 1982; amended August 9, 1983, effective October 1, 1983; amended April 1, 1992, effective August 1, 1992; amended October 5, 2000, effective November 1, 2000.

Committee Comments
(Revised July 1, 1975)

Rule 604 was amended in September 1969 to add paragraph (b), dealing with appeals when probation has been granted. The 1969 amendment made what was formerly the entirety of Rule 604 into paragraph (a) and

2004 REPORT

ATTACHMENT 4

Report on Global Positioning Technology and its Application to The Criminal Justice System

Submitted to:

Illinois Judicial Conference

Committee on Criminal Law and Probation Administration

Submitted by:

Honorable Donald C. Hudson

Honorable James L. Rhodes

Honorable Mary S. Schostok

July 2004

INTRODUCTION

Many jurisdictions have provided for programs to monitor probationers and other offenders within the Criminal Justice System. With developments in technology over the last decade, advanced remote monitoring has become a widely accepted and relied upon means of offender monitoring. To date, the use of technology for monitoring has been limited in scope to electronic monitoring; the use of ankle bracelets to form an invisible "tether" between an individual and a base station connected to their telephone.[1] If this line of communication is ever broken, the system alerts the authorities that the offender has left the premises. The use of global positioning systems (GPS) is the one of the most recent uses of technology to monitor offenders. Courts are beginning to include GPS monitoring as a condition of probation for sex offenders and domestic violence offenders. The use of GPS technology may also be expanded to monitor gang members on probation, whose activities must be strictly scrutinized.

NEED FOR GANG MEMBER MONITORING

Many programs have proven ineffective when dealing with gang violence, as shown by high recidivism rates. Gang members are three times more likely to get arrested while on probation than non-gang members.[2] Additionally, only one-third of gang members satisfactorily complete all of the terms of their probation.[3]

Not only is the recidivism rate higher among individuals with gang affiliations, but the types of offenses that gang members are on probation for are generally more serious than the types of offenses that non-gang members are on probation for.

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[1] *Keeping Track of Electronic Monitoring*, National Law Enforcement and Corrections Technology Center Bulletin, October 1999.
[2] Adams, Sharyn et. al., *An analysis of gang member and non-gang members discharged from probation*, Illinois Criminal Justice Authority newsletter, Vol. 6, No. 2, September 2002.
[3] *Id.* at page 3

According to data collected in 2000, nearly 80 percent of gang members on probation were on probation for felony level offenses, while only 45 percent of non-gang members were serving felony sentences[4]. Clearly, there exists a need to closely monitor gang offenders on probation.

TECHNOLOGY OVERVIEW

Global positioning systems (GPS) work with orbiting satellites.[5] Akin to triangulation in orienteering, these satellites can determine the location of a GPS receiver by comparing distances from multiple reference points. A receiver may be in contact with three or more satellites at one time, and by comparing the time delay of messages sent at the speed of light from the multiple satellite references, the distance from each satellite can be calculated and thus, the exact position of the receiver can be ascertained.[6]

A GPS monitoring system consists of a GPS receiver unit, an ankle bracelet and a communication unit to transmit the position information to a supervising authority.[7] The GPS receiver communicates with satellites to determine the location of the user.[8] The ankle bracelet, similar to that used in electronic monitoring, also communicates with the GPS receiver, verifying that the user is wearing the unit.[9] If at any time the user enters a restricted zone, or too great a distance separates the GPS receiver and the ankle bracelet, the communioation unit logs this information for transmission.[10]

Two forms of GPS monitoring are currently implemented by law enforcement, active GPS and passive GPS. Active GPS describes a unit that informs the supervising

[4] *Id.* at page 2
[5] Crowe, Ann H. , et al., Offender Supervision with Electronic Monitoring 65 (American Probation and Parole Association 2002) (2002).
[6] *Id.*
[7] *Id.* at 66.
[8] *Id.* at 66.
[9] *Id.* at 66.
[10] *Id.* at 66.

authority of the offenders' location in real time. The communication units on these systems use built in cellular telephone technology to transmit the location information to a supervising authority continuously.[11] These transmissions can occur anywhere from many updates per minute to many updates per day, depending on the specific unit being used. The subject's location and physical movements can be monitored and tracked on a 24-hour basis.

Passive GPS monitors do not use cellular telephone technology to transmit location information, but rather, the subject places the communications unit into a docking station and a wired telephone connection is used to transmit the information. All of the places that the subject has been since the last update are transmitted when the user places the communications unit on the docking station. Depending on the jurisdiction and local rules, these transmissions may be required once a day or even less frequently.

USES OF GLOBAL POSITIONING TECHNOLOGY

Currently, many jurisdictions use global positioning systems (GPS) to monitor numerous types of offenders. For instance, Kane County has used passive GPS to monitor sex offenders and Kendall County uses the active GPS technology to monitor domestic violence offenders and many more. According to Mary Hyatt, Deputy Director of Kane County Court Services, the system is very effective, with few instances of noncompliance and lowered recidivism rates.

GLOBAL POSITIONING TO MONITOR GANG OFFENDERS

Monitoring gang offenders requires varying degrees of scrutiny based on the specific offender involved. Many contemporary monitoring techniques for gang offenders are either too relaxed or overly strict. Currently, to monitor gang offenders,

[11] *Id.* at 67.

probation officers and supervisory personnel place telephone calls to offenders' homes, make home and work visits, and use electronic monitoring to watch offenders. The electronic monitoring, as commonly implemented, uses the aforementioned ankle bracelets, which constantly communicate wirelessly with a base unit that is connected to the users' telephone.[12] If the subject wanders too far from the base unit and this wireless connection is interrupted, the unit alerts supervisory personnel that the subject has left their home.[13] Electronic monitoring does not inform the authorities where the offender has gone ~~though~~, however.

GPS monitoring resolves many of the shortcomings of current gang offender monitoring programs. Under GPS monitoring, probation officers and support personnel can specifically identify where an offender is, and has been, in addition to determining that an offender has left their home or entered a protected area. Additionally, the intrusion into an offender's everyday life is less noticeable with GPS monitoring than other monitoring programs. GPS monitoring allows probation officers and supervisory personnel to know the location of a subject without calling the subject or conducting home or work visits.

Active GPS can be used for more serious gang offenders or dangerous individuals because it acts as a prophylactic measure. By monitoring the movements of offenders 24 hours a day, 7 days a week, supervisory staff can prevent, or act immediately on, cases where an offender violates the conditions of their probation. Active GPS comes with a higher price tag, however. The cellular telephone calls that are made as often as twice a minute cost a great deal, not to mention the salary of full time staff to monitor the system

[12] *Keeping Track of Electronic Monitoring*, *supra* note 1, at 2.
[13] *Id.*

at all times and hardware costs. To monitor offenders on a 24-hour basis, Mary Hyatt expects that it would require four or five full time officers, paid approximately $32,000.00 per year each. Mere use of the system itself can cost anywhere from $10.50 to $12.00 per day for each user.[14]

On the other hand, passive GPS units may be preferred due to their lower cost, $6.00 - $7.50 per day for each user.[15] Because information is only reviewed once a day current staff often can be used to monitor offenders. In addition to the lower call volume, as compared to active GPS, telephone calls to transmit information on wired telephone lines are cheaper than those over cellular telephones. However, passive GPS systems can only be used to show if a violation has occurred, not as a preventative measure like active GPS.

Either GPS system could be used to monitor gang offenders, depending on the requirements in each case. If an offender is more likely to violate the conditions of their release, active GPS may prove a wiser choice. Some jurisdictions may alternatively apply active GPS at the outset of any monitoring effort of gang members, only to migrate the offender to a passive system upon a showing of compliance with the court ordered conditions. If cost is the most critical factor, passive GPS systems can still be a significant improvement on current monitoring programs. The use of electronic monitoring and passive GPS in conjunction with one another may provide a cost effective and comprehensive monitoring solution.

[14] Mary Hyatt, Deputy Director of Kane County Court Services, provided this information.
[15] *Id.*

DEFICIENCES WITH GLOBAL POSITIONING MONITORING

Two major problems are encountered in practice when using global positioning system (GPS) monitoring. False alarms can occur due to the inherent inaccuracies of GPS technology; most commercial units are only accurate within 20 feet.[16] If an offender uses a road to get to work that is adjacent to a restricted zone, the system could read this acceptable action as a violation. This problem is remedied by allowing the supervisor to view the actions, in real time or in review, somewhat subjectively, allowing for possible extenuating circumstances.

Areas where cellular telephone service is not available, so called "dead zones", present the second major problem with GPS monitoring in practice. If an offender enters a "dead zone" while being monitored with active GPS, supervisors will cease to know the location of the offender, or if an alarm is triggered, until the offender exits that area. This drawback will most likely cease to exist as cellular telephone service becomes more widespread.

COST-BENEFIT ANALYSIS

There are many factors to consider when implementing a global positioning system (GPS) to monitor offenders. The financial cost to the state or county is the most obvious of these factors. As mentioned, these costs include staff to monitor offenders and use of the technology itself. Requiring the offenders to pay for some, or all, of the service, can offset this cost. Additionally, there is some degree of intrusion into the privacy of offenders involved with a system like GPS monitoring. This is usually addressed by requiring that offenders sign a consent form or agreement.

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[16] *Id.*

These costs must be weighed against the benefit to society as GPS allows the court system to track and monitor the physical movements of a probationer or gang member whose activities must be strictly scrutinized, on a continuing ongoing basis. Additionally, the subject of the GPS system may also work as a condition of probation, or release from custody, which allows the subject to contribute to the cost of the monitoring system. The benefit to society of having certain offenders maintain gainful employment is obvious.

CONCLUSION

Global positioning systems (GPS) will most likely be the next step in monitoring offenders by the Court system. Given the expansion of this technology, it is only logical that gang offenders could be monitored with GPS units. The advantages of GPS monitoring are numerous enough to replace the current techniques while the disadvantages can often be managed. GPS allows for a clearer distinction on permissible locations for an offender, thus making it easier to prevent an offender from approaching rival gang territory or other restricted zones. Finally, unlike the electronic monitoring system, GPS provides a solution that seems inherently suited to the demands of monitoring gang offenders, or other probationers, whose specific location and activities need to be strictly scrutinized.

The committee would like to acknowledge the research contributions of Michael Karson, Law Clerk for the 16th Judicial Circuit, Kane County, Illinois.

2004 REPORT

ANNUAL REPORT OF THE COMMITTEE ON DISCOVERY PROCEDURES TO THE ILLINOIS JUDICIAL CONFERENCE

Honorable Frederick J. Kapala, Chairperson (7-19-04 to 12-31-04)
Honorable Joseph N. Casciato, Chairperson (1-1-04 to 7-16-04)

Hon. Melissa A. Chapman
Hon. Deborah Mary Dooling
Hon. James R. Glenn
Hon. Tom M. Lytton
Hon. Mary Anne Mason
Hon. James J. Mesich
David B. Mueller
Donald J. Parker
Eugene I. Pavalon
Paul E. Root

October 2004

I. STATEMENT ON COMMITTEE CONTINUATION

The goals of the Committee on Discovery Procedures ("Committee") include streamlining discovery procedures, increasing compliance with existing rules, and eliminating loopholes and potential delay tactics. To accomplish these goals, the Committee continues to research significant discovery issues and respond to discovery-related inquiries. Because the Committee continues to provide valuable expertise in the area of civil discovery, the Committee respectfully requests that it be continued.

II. SUMMARY OF COMMITTEE ACTIVITIES

During the Conference year, the Committee considered proposed amendments to Supreme Court Rules 204, 206, 222 and 237. The Committee also considered the creation of a uniform court order for disclosing medical records under "HIPAA." As a final matter, the Committee addressed whether to eliminate the distinction between discovery and evidence depositions.

A. Supreme Court Rules Committee's Proposal to Amend Supreme Court Rule 204(d)

This proposal would amend Rule 204 by creating a paragraph to address deposition fees for an independent expert witness. The Supreme Court Rules Committee forwarded this proposal to the Committee for its review and recommendation. The Committee raised questions about the definition of fee and independent expert and the rationale behind the proposed change. The Committee expressed concern about increasing the cost of litigation by encouraging charging a fee for testimony as opposed to appearing via subpoena. The Committee conveyed its questions/concerns to the Supreme Court Rules Committee. After considering the questions/concerns raised by the Committee, the Supreme Court Rules Committee decided to discontinue further discussion of the proposed amendment.

B. Committee's Proposal to Amend Supreme Court Rule 206(c)

This proposal would amend Rule 206(c), which concerns the method of taking depositions on oral examination, by eliminating objections, except as to privilege, in discovery depositions, and by requiring that objections in evidence depositions be concise and state the exact legal basis for the objection. The Committee again reconsidered this proposal because some members noted the increased occurrence of attorneys attempting to testify for a witness as opposed to raising legitimate objections. Other members of the Committee expressed concern over eliminating objections, which are a means of protecting a witness from abusive conduct by the deposing attorney. The argument was presented that, if an attorney is precluded from objecting, there would be no means of preventing admissions from being read into evidence. The Committee again decided to table this proposed amendment for future discussion given that the mechanism is in place to terminate a deposition and go to court.

C. Alternative Dispute Resolution Coordinating Committee's Proposal to Amend Supreme Court Rule 222(c)

The proposed amendment requires practitioners to follow the dictates of timeliness set by local rule in making initial disclosures under Rule 222. The Alternative Dispute Resolution Coordinating Committee forwarded this proposal to the Committee for its review and recommendation. The Committee agreed with the logic of the proposed amendment. The Committee therefore recommended adoption of the proposed amendment and forwarded its recommendation to the Supreme Court Rules Committee.

D. Supreme Court Rules Committee's Proposal to Amend Supreme Court Rule 237(c)

This proposal would amend Rule 237 by adding a paragraph requiring the appearance of certain individuals and the production of certain documents at expedited hearings. The Supreme Court Rules Committee forwarded this proposal to the Committee for its review and recommendation. The Committee expressed concern about compelling an officer, director or employee of a party to appear for an expedited hearing with very little notice. The Committee also expressed concern about allowing expedited hearings beyond the context of domestic relations cases. The Committee forwarded its concerns to the Rules Committee, which agreed with the Committee's limitation of the amendment to domestic relations cases and to the elimination of the phrase "or a person who at the time of the hearing is an officer, director, or employee of a party." The Committee therefore recommended adoption of the modified proposal to amend Rule 237 and so informed the Rules Committee.

E. Disclosure of Medical Records under "HIPAA" - Creation of Uniform Court Order

The Committee discussed creating a uniform court order for purposes of disclosing medical records under "HIPAA," the Health Insurance Portability and Accountability Act. Some members of the Committee indicated that they had not witnessed contested motions regarding the current use of various HIPAA orders. Moreover, some members questioned whether the Committee could recommend a uniform order or rule given that HIPAA involves federal legislation. The Committee therefore tabled its discussion on creating a uniform order in this context until it is informed of a problem with the current orders being used.

F. Discovery and Evidence Depositions

The Committee discussed the ISBA article entitled "Its Time to Move Beyond Separate Discovery and Evidence Depositions in Illinois." Some members indicated their preference for the current distinction between such depositions. It was pointed out that discovery depositions are a useful tool for obtaining information and in expediting the process. The Committee concluded that, until it is asked to address this matter, further discussion will be tabled.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2005 Conference Year, the Committee will review any proposals submitted by the Supreme Court Rules Committee.

IV. RECOMMENDATIONS

The Committee is making no recommendations to the Conference at this time.

ANNUAL REPORT
OF THE
STUDY COMMITTEE ON JUVENILE JUSTICE
TO THE ILLINOIS JUDICIAL CONFERENCE

Hon. Patricia Martin Bishop

Hon. C. Stanley Austin
Hon. Susan Fox Gillis
Professor Suzanne S. Greene
Hon. Diane M. Lagoski
Hon. John R. McClean, Jr.
Hon. David W. Slater
Hon. Daniel J. Stack
Hon. George W. Timberlake
Hon. Edna Turkington
Hon. Kendall O. Wenzelman

October 2004

I. STATEMENT ON COMMITTEE CONTINUATION

The charge of the Study Committee on Juvenile Justice "Committee" is to study and make recommendations on aspects of the juvenile justice system, propose education and training programs for judges and prepare and update the juvenile law benchbook. The major work of the Committee has been the completion of the two-volume set of the *Illinois Juvenile Law Benchbook*.

Annual updates of both volumes of the benchbook are necessary due to the rapid and continuing changes in juvenile law. In light of the continued legislation and changes in case law in this area, the Committee believes that continued instruction of judges concerning all aspects of juvenile law is necessary. Further, the Committee believes that it would be useful to collect and disseminate information regarding statewide juvenile justice initiatives, balanced and restorative justice proposals, and offender reentry programs. Therefore, the Committee requests that it be permitted to continue implementing its assigned charge.

II. SUMMARY OF COMMITTEE ACTIVITIES

A. Juvenile Law Benchbook

During this Conference year, the Committee continued updating Volume I of the *Juvenile Law Benchbook*. Approximately 400 judges have received copies of the two-volume set. Volume I, published in 2000, covers juvenile court proceedings involving allegations of delinquency, minors requiring authoritative intervention (MRAI) and addicted minors. The Committee anticipates an update for Volume I will be available in 2005.

Because of significant expansion of statutory and case law governing Illinois juvenile court proceedings in recent years, the benchbook was divided into two volumes. The two-volume set is designed to provide judges with a practical and convenient guide to procedural, evidentiary, and substantive issues arising in Juvenile Court proceedings. The books suggest to trial judges relevant statutory provisions, identify areas and issues that present challenges unique to these proceedings and, where possible, suggest the controlling case law. Volume II addresses exclusively proceedings brought in the juvenile court which involve allegations of abuse, neglect and dependency. The Committee hopes these volumes will serve two functions. First, the books will afford judges, particularly judges who are new to the Juvenile Court, an idea of the issues and problems that should be anticipated in presiding in Juvenile Court proceedings. Second, the books will provide all judges quick access to controlling statutory and case law needed on the bench, and during the hearing, when time, circumstances and case loads do not afford the opportunity for a recess and research.

The discussion in each book is organized transactionally, i.e., issues are identified and discussed in the order in which they arise during the course of a case. In general, the discussions begin with an examination of how a case arrives in Juvenile Court and end with post-dispositional

matters such as termination of parental rights proceedings, termination of wardship, and appeal. The Appendix in each book contains procedural checklists and sample forms that can be used or adapted to meet the needs of each judge and the requirements of the county and circuit in which he or she sits. Additionally, uniform court orders for abuse, neglect and dependency cases and their accompanying instructions can be found in the Appendix of Volume II. The Committee anticipates updating each volume annually.

B. Uniform Juvenile Court Orders

During the Conference year, the Committee monitored the use of uniform juvenile court orders it designed. The orders are designed for use by judges involved in abuse, neglect or dependency proceedings in the Juvenile Court. The Committee designed the uniform orders to fulfill a number of critical functions. First, the orders incorporate the findings required by federal law (45 C.F.R. § 1356.21 (2000)) when a child is removed from the custody of a biological parent or parents. Second, the proposed orders incorporate the findings required by the Illinois Juvenile Court Act. Third, the orders are designed to provide a clear judicial statement to the parties which identifies the parental problems which the court will require be addressed before custody will be returned to the parent or parents. Fourth, the orders provide a convenient summary of the previous findings made and steps taken by the court which hopefully will ease any change in caseworkers, attorneys or judges.

Supreme Court Order M.R. 17494 was considered in drafting the uniform orders. The Supreme Court Order was issued in response to newly promulgated regulations by the U.S. Department of Health and Human Services (HHS). Among other things enacted, those regulations changed HHS' requirements for judicial determinations that a court must make when removing or authorizing removal of a child from his/her parents. Each uniform order, including the temporary custody order, contains each of those judicial determinations. The uniform orders and instructions are included in the Appendix section of Volume II of the *Illinois Juvenile Law Benchbook*.

C. Juvenile Court Federal Review

In 2003, the Illinois Child Welfare System underwent a Federal Children and Family Services Review. The purpose of the review was to evaluate the strengths and weaknesses of the Illinois Child Welfare System and the State's conformance to federally mandated performance indicators. The review focused on all components of the Illinois Child Welfare System, including the State's juvenile courts. The Federal Government determined that Illinois was not in substantial conformity with federal standards. Accordingly, Illinois must now successfully implement a program improvement plan (PIP) to avoid the loss of federal funds. The PIP, which in part relates to court processes, is currently under negotiation.

The Committee continued to discuss at great length the review process. Although individual

members of the committee are involved with the review process, the Committee had hoped that it would be allowed some official role and that the Illinois Department of Children and Family Services would consult with the Committee in developing and implementing the PIP. In light of the role that the Administrative Office of the Illinois Courts has undertaken as the representative of the Illinois judiciary in the PIP, the Committee has ceased any efforts to involve itself in the review process.

D. State-wide Juvenile Justice Initiatives

The Committee has begun to identify the various statewide juvenile justice initiatives in Illinois. Once the Committee has compiled a description of these initiatives, the Committee will evaluate whether the compilations should be included in the *Juvenile Law Benchbook* or disseminated as part of the Committee's education activities.

E. Balanced and Restorative Justice

The Illinois Juvenile Court Act codifies principles of balanced and restorative justice. Balanced and restorative justice focuses on the victim, the juvenile offender, and the community. It has as its goals accountability, competency development, and community safety. To achieve these goals various programs have been instituted in Illinois. Examples of balanced and restorative justice programs include victim-offender conferences, victim impact panels, teen courts, peer juries, community service, restitution to victims, and community education forums. The Committee has begun to identify and compile information on promising balanced and restorative justice programs in Illinois. Like the Committee's efforts with statewide juvenile justice initiatives and reentry programs, the Committee will evaluate whether the compilation should be included in the *Juvenile Law Benchbook* or disseminated as part of the Committee's education activities.

F. Reentry Programs

The reentry into the community of juvenile offenders released from secure facilities has received increased attention among juvenile justice experts. The Committee has thus begun to identify and compile information on promising programs that exist in different parts of Illinois. Like the Committee's efforts with statewide juvenile justice initiatives and balanced and restorative justice, the Committee will evaluate whether the compilation should be included in the *Juvenile Law Benchbook* or disseminated as part of the Committee's education activities.

G. Juvenile Drug Courts

The concept of juvenile drug courts was introduced to the Committee as a topic of discussion to study throughout the Conference year. Juvenile drug courts are specialized courts that focus either on substance-abusing juveniles in juvenile justice cases or substance abusing

family members in child protection cases. The goals of juvenile drug courts are to provide (1) immediate intervention in the lives of children using drugs or exposed to substance abuse addiction through family members and (2) structure for the juveniles through the ongoing, active oversight and involvement of the drug court judge. The Committee obtained information from the National Council of Juvenile and Family Court Judges to become familiar with this form of court and plans to continue to explore the development of this non-traditional juvenile court process.

H. Education

The Committee continued its commitment to educating Illinois judges on juvenile law issues during the 2004 Conference Year. Various Committee members assisted in the presentation of programs on juvenile law, introducing judges to the issues and problems they might experience presiding in juvenile court. The Committee will continue to offer recommendations for judicial education programs in this rapidly changing area of the law.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

.During the 2005 Conference Year, the Committee will draft updates for Volume I and Volume II of the *Illinois Juvenile Law Benchbook.* The Committee also intends to recommend and participate in the presentation of juvenile law education programs. The Committee will continue to monitor other proposed and enacted legislation, executive initiatives and developing common law that may affect the juvenile justice system.

IV. RECOMMENDATIONS

The Committee is making no recommendations to the Conference at this time.

2004 REPORT

ANNUAL REPORT
OF THE
STUDY COMMITTEE ON COMPLEX LITIGATION
TO THE ILLINOIS JUDICIAL CONFERENCE

Hon. Stephen A. Schiller, Chair

Hon. Mary Ellen Coghlan
Hon. Eugene P. Daugherity
Hon. Herman S. Haase
Hon. Dorothy Kirie Kinnaird
Hon. Gerald R. Kinney
Hon. Robert P. LeChien

Hon. Stuart A. Nudelman
Hon. Dennis J. Porter
Hon. Ellis E. Reid
Mr. William R. Quinlan, Sr. Advisor
Mr. Mark C. Weber, Professor-Reporter

October 2004

I. STATEMENT ON COMMITTEE CONTINUATION

The purpose of the Study Committee on Complex Litigation is to study, make recommendations on, and disseminate information regarding successful practices for managing complex litigation in the Illinois courts. So far, the Committee has concentrated its attention on completing the *Illinois Manual for Complex Civil Litigation* and the *Illinois Manual for Complex Criminal Litigation* and producing annual updates and supplements for the manuals. It has also considered changes in court rules and practices that could improve the administration of justice in complex cases.

The rapidly changing nature of the law and practice regarding complex litigation requires continual updating of the manuals. The supplements help fill out the manuals with current information on the many subjects that judges confront in complex cases. The supplements to the civil manual include the topics of civil conspiracy; complex insurance coverage litigation; environmental cases; complex employment, consumer, and antitrust litigation; joint and several liability and contribution; damages and attorneys' fees; discovery; joint and several liability; and class actions. The criminal manual has been supplemented with a new chapter on complex post-conviction review proceedings and another on sentencing. It also contains a supplemental note covering issues under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), jury selection and *voir dire*, additional sentencing issues, double jeopardy, prosecutorial conduct, and inconsistent verdicts.

The manuals are not the only work of the Committee. The Committee is also in a unique position to make recommendations for changes in rules and practices that affect complex civil and criminal cases. The Committee brings together judges from all over the state who have significant experience with trial and appeal of complex litigation. They can bring that experience to bear in considering proposals for facilitating the handling of those cases in our courts.

The members of the Committee believe that the ongoing work of updating and supplementing the manuals contributes to the mission of the Conference. They further believe that the Committee serves a valuable function in developing proposals for the conduct of complex cases. Therefore, the Committee requests that it be continued as a full standing committee of the Illinois Judicial Conference.

II. SUMMARY OF COMMITTEE ACTIVITIES

1. Civil Manual. During the past Conference year, the Committee updated the *Illinois Manual for Complex Civil Litigation* with a sixteen-page cumulative list of manual pages affected by recent developments.

The civil manual first appeared in 1991; the Committee produced comprehensively revised editions in 1994 and 1997. Over 200 judges have received copies of the manual, and it

has been used as the basic text for a judicial seminar on complex litigation. The book covers many issues that can arise in a complicated civil case, from initial case management through discovery, settlement, trial, and appeal. Chapters address special and recurring problems of complex cases, including class action proceedings, parallel actions in federal court and the courts of other states, and mass tort litigation. The manual seeks to provide practical advice for handling cases that risk becoming protracted and consuming disproportionate amounts of judicial resources.

The 2004 cumulative update discusses such important cases as the Supreme Court's decisions in ***Weiss v. Waterhouse Securities, Inc.***, 208 Ill. 2d 439, 804 N.E.2d 536 (2004), regarding pleading and class certification decisions in class actions; ***Dawdy v. Union Pac. R.R. Co.***, 207 Ill. 2d 167, 797 N.E.2d 687 (2003), on forum non conveniens; ***Fritz v. Johnston***, 209 Ill. 2d 302, 807 N.E.2d 461 (2004), on civil conspiracy; ***Bajwa v. Metropolitan Life Insurance Co.***, 208 Ill. 2d 414, 804 N.E.2d 519 (2004), on negligent issuance of a life insurance policy; ***Van Meter v. Darien Park Dist.***, 207 Ill. 2d 359, 799 N.E.2d 273 (2003), on discretionary-act municipal immunity; ***Shannon v. Boise Cascade Corp.***, 208 Ill. 2d 517, 805 N.E.2d 213 (2004), on proximate causation in consumer fraud; ***Borowiec v. Gateway 2000, Inc.***, 209 Ill. 2d 376, 808 N.E.2d 957 (2004), on the Magnuson-Moss Act and compelled arbitration of consumer fraud claims; and ***Board of Trustees v. Coopers & Lybrand***, 208 Ill. 2d 259, 803 N.E.2d 460 (2003), on the audit-interference doctrine and setoffs for settlements.

2. Criminal Manual. This year, the Committee updated the *Illinois Manual for Complex Criminal Litigation* with a twenty-page cumulative list of manual pages affected by recent developments. The first edition of the criminal manual appeared in 1997. Its thirteen original chapters cover topics such as identifying complex criminal litigation, handling complex grand jury proceedings, and managing the pretrial, trial, and sentencing phases of complex criminal cases.

The 2004 update to the manual discusses, among other developments, the Supreme Court's decisions ***People v. Morales***, 209 Ill. 2d 340, 808 N.E.2d 510 (2004), and ***People v. Ortega***, 209 Ill. 2d 354, 808 N.E.2d 496 (2004), regarding attorney conflicts of interest; ***People v. Stroud***, 208 Ill. 2d 398, 804 N.E.2d 510 (2004), concerning guilty pleas; ***People v. Flowers***, 208 Ill. 2d 291, 802 N.E.2d 1174 (2004), on timely withdrawal of guilty pleas; ***People v. Kaczmarek***, **207** Ill. 2d 288, 798 N.E.2d 713 (2003), on speedy trial; ***People v. Phelps***, 211 Ill. 2d 1, 809 N.E.2d 1214 (2004), and ***People v. Moss***, 206 Ill. 2d 503, 795 N.E.2d 208 (2003), on sentencing; ***People v. Blue***, 207 Ill. 2d 542, 802 N.E.2d 208 (2003), on double jeopardy; ***People v. Jones***, 207 Ill. 2d 122, 797 N.E.2d 640 (2003), and ***People v. McCoy***, 207 Ill. 2d 352, 799 N.E.2d 269 (2003), on inconsistent verdicts; ***People v. Johnson***, 208 Ill. 2d 53, 803

N.E.2d 405 (2004), on prosecutorial conduct; and ***People v. Jones***, 211 Ill. 2d 140, 809 N.E.2d 1233 (2004), ***People v. Thompson***, 209 Ill. 2d 19, 805 N.E.2d 1200 (2004), ***People v. Pinkonsly***, 207 Ill. 2d 555, 802 N.E.2d 236 (2003), ***People v. Shum***, 207 Ill. 2d 47, 797 N.E.2d 609 (2003), ***People v. Williams***, 209 Ill. 2d 227, 807 N.E.2d 448 (2004), and ***People v. Rissley***, 206 N.E.2d 403, 795 N.E.2d 174 (2003), on post-conviction review.

The revision to the manual features extensive treatment of *Apprendi* issues, discussing the Illinois Supreme Court's decisions in ***People v. Kaczmarek***, 207 Ill. 2d 288, 798 N.E.2d 713 (2003); ***People v. Thurow***, 203 Ill. 2d 352, 786 N.E.2d 1019 (2003), and ***People v. Townsell***, 209 Ill. 2d 543, 809 N.E.2d 103 (2004), and the United States Supreme Court's decisions in ***Blakely v. Washington***, 124 S. Ct. 2531 (2004), and ***Schriro v. Summerlin***, 124 S. Ct. 2519 (2004). The criminal manual also takes up the United States Supreme Court's decision ***Illinois v. Fisher***, 124 S. Ct. 1200 (2004), regarding the consequences of destruction of evidence.

3. Other Activities.

a) Identification Of Potentially Overlapping Complex Civil Cases

This Conference year, the Committee continued its work of last year concerning problems of overlapping complex civil cases, particularly class actions, in which closely related cases are filed in different forums in the state but are never consolidated or otherwise handled in an economical manner because of lack of information about the overlap. After considerable discussion, the Committee drafted and voted to forward to the Supreme Court's Rules Committee a proposed rule which would supplement S.C.R. 384 and increase the efficiency in the management of these cases by requiring litigants to disclose closely related litigation of which they are aware.

b) Assessment Of The Utility Of The Complex Litigation Manuals.

The present editions of both the Civil and Criminal Complex Litigations Manuals were published in 1997. They have been updated through the distribution of supplements on an annual basis. To some extent materials have been added, especially in the criminal manual which, although likely to be useful to trial judges, may not be specifically germane to complex cases. The Committee engaged in extensive discussions regarding the organization of the manuals, as well as their content. To assist its efforts, the Committee conducted a survey of the entire state judiciary (907 in number), in order to assess awareness of the manuals as well as views regarding their usefulness. Responses were received from 215 judges. The results indicated that 35% of the respondents were unaware of the civil manual and 58% were unaware of the criminal manual.

Desired results of the survey were requests for 136 copies of one or both of the manuals and requests for the CD versions from 91 judges. Responses to questions testing the frequency of use and views regarding utility all fell within the mid-range of values. This would seem to suggest a generally neutral view of the materials and their utility. This information should be useful to the Committee in future years in considering both the form and content of the manuals.

Hon. Stephen A. Schiller served as chair of the Committee since this year.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the next Conference year, the Committee plans to monitor and evaluate caselaw, rule changes, and legislation, and to draft updates and supplements to keep the *Illinois Manual for Complex Civil Litigation* and the *Illinois Manual for Complex Criminal Litigation* current. The Committee further expects that it will be continuing its work on recommended treatment of overlapping complex civil cases. Finally, the Committee hopes to continue exploring how the manuals can best be revised and disseminated to best serve Illinois judges.

IV. RECOMMENDATIONS

The Committee is making no recommendations to the Conference at this time.

2004 REPORT

ANNUAL REPORT
OF THE
AUTOMATION AND TECHNOLOGY COMMITTEE
TO THE ILLINOIS JUDICIAL CONFERENCE

Hon. Robert E. Byrne, Chairperson

Hon. James K. Donovan
Hon. Charles H. Frank
Hon. John K. Greanias
Hon. R. Peter Grometer
Hon. William E. Holdridge
Hon. Thomas H. Sutton
Hon. Edna Turkington
Hon. Grant S. Wegner
Hon. David A. Youck

October 2004

I. STATEMENT ON COMMITTEE CONTINUATION

The Automation and Technology Committee ("Committee") of the Illinois Judicial Conference is charged with evaluating, monitoring, coordinating and making recommendations concerning automated systems for the Illinois judiciary. This is a formidable undertaking, given the variety of technological applications available to the courts. Technology affects, or has the potential to affect, nearly every operational and administrative judicial function. New and improved applications and devices are introduced regularly, each promising to bestow greater efficiency upon the judicial system and lower operating costs. Technology choices, moreover, must be made carefully and guided by thorough evaluation before resources are committed. The Committee occupies a unique position in this regard.

Since its inception, the Committee has reviewed automation-related work being done by other judicial branch committees and criminal justice agencies; surveyed Illinois judges' use of computers and other automated systems; evaluated a number of software applications; assisted in the development of a computer education program for judges; developed a web page concept for the Illinois judiciary, which was approved by the Judicial Conference and Supreme Court for implementation; distributed a computer security brief at the Education Conference 2002; made a recommendation during 2003 to amend Supreme Court Rule 63A(7) regarding technology issues; and pursued a variety of other activities in fulfillment of its charge. Much remains to be accomplished. Accordingly, the Committee respectfully requests that it be continued.

II. SUMMARY OF COMMITTEE ACTIVITIES

Amendment to Supreme Court Rule 63A(7)

At the conclusion of the Committee's work during the 2003 Conference Year, it submitted a recommendation to amend Supreme Court Rule 63A(7) by including new technology devices in the definitions of broadcasting and televising. The Committee is pleased to report that its recommendation was approved by the Court and became effective December 5, 2003.

Computer Security

During the 2004 Conference Year, the Committee continued to pursue security and technology issues on behalf of the judiciary. Specifically, the Committee addressed the issues of Spyware (Ad-Ware) and computer viruses and worms that may affect the judiciary. Spyware is a fairly new problem, different from a virus, that needs to be considered. It is a small computer program that is copied to a person's computer, usually in the form of a Cookie. A Cookie is a data file written to your hard drive by a Web site when you view it in your browser. It tracks keystrokes and reports to the Spyware provider where a person may have been on the Internet. It is interactive with the Internet and very hard to prevent. In some cases, an Internet site may require

the person to install Spyware before he or she is allowed to use the site, such as a site to download music. These programs run in the computer's background so a person would not normally be aware of their activities. However, the programs make periodic reports to the program provider of Internet sites visited along with other activities performed by the person that could include the capture of passwords. It is possible for a person to have hundreds or even thousands of these small programs operating on his or her system. While most of these programs are not harmful and individually each program may not require a large amount of computer processing time to report its information, the aggregate of having a hundred or more operating at once may cause computer slowdowns and divulge confidential information about the computer user.

Viruses and worms continue to present problems for computers. Most recently, one particular worm, W32.Sasser.B.Worm, presented numerous complications for computer systems around the world. The judiciary was no exception. One of the newest threats presented by viruses and worms is that they can infect a system by merely clicking on an email that has it attached. Previously, the user had to open the file containing the virus before it could install itself.

Mr. Robertson provided the Committee with the directions on how to repair a computer that had been infected by the Sasser worm. The directions were four or five pages in length, complex, and fairly technical. He suggested to the Committee that judges should be informed to keep their virus protection software current, thereby preventing an infection and eliminating the time and effort spent to repair the damage caused.

In an effort to alert judges to these various security issues and resolutions, the Committee plans to prepare a short four or five page information sheet on the topic. Providing continued updates as new information becomes available needs to be considered, also. One possible option discussed for this purpose was using the Supreme Court's Website. In the meantime, Microsoft's website, www.microsoft.com, is a good place to obtain information. Providing notice to the Conference of Chief Circuit Judges was another option discussed by the Committee.

Illinois Judiciary Survey on Technology Usage

With the continued changes in technology, the Committee attempts to keep abreast of how the judiciary is positioned with technology, how the technology is used by the courts, and where judges would like to see the growth in technology use. To assist the Committee in this effort, it performs a periodic survey of the judges to gather information. To date, the Committee has performed three such surveys. The first survey was conducted in 1994, which was the second year of the new Judicial Conference format. Automation was still fairly new to the court systems. The survey was designed to be very comprehensive and serve as a starting point.

The second survey was conducted in the year 2000. It had been revised to gather a more limited amount of information. Generally, the survey was conducted to collect information on

whether judges used a computer in the performance of their judicial duties, if so, how would they use one more extensively if it were made available on the bench or in their chambers, and would they take advantage of computer education, if provided.

During the 2003 Conference Year, the Committee indicated that it would conduct another survey, again, looking at technology usage. The Committee distributed the survey at the two sessions of the 2004 Education Conference. In total, eight hundred and twenty-one surveys were distributed during the conferences. Of those, three hundred and fifty-three surveys were returned giving you a response rate of roughly 43 percent. Twenty-two (6.2%) of the responding judges indicated that they did not currently use a computer and six (1.7%) responded that they were not interested in using the computer. Judges responding to either of these two questions were not required to complete the balance of the survey. However, if additional questions were answered, their responses were included in the survey results.

The balance of the survey consisted of nine questions. A complete copy of the survey results has been attached to this report (See Appendix 1). Of the three hundred and fifty-three judges responding, three hundred and nine judges (87.5%) responded that they use a computer in the performance of their judicial duties; two hundred thirty-five used them to prepare orders, opinions, and decisions; two hundred and eighty-three (80.2%) use them to perform legal research; two hundred and fifty-three (71.7%) use them to accept or send electronic mail or otherwise communicate; while others use them to make record sheet entries, take notes, and for other purposes, such as PowerPoint presentations, accessing court records, schedules, custody statuses, etc.

Three hundred and ten judges (87.8%) responded that they had access to the Internet at the office. Of those judges, two hundred and two had high speed cable or DSL service connections. Only fifty-three responded that they were using a dial-up service, which is considerably slower and thirty-one were not sure. However, at home the service was more evenly divided: one hundred and forty-eight (41.9%) responded that they had dial-up service, while one hundred and thirty-six (38.5%) responded they had the faster (and more expensive) high speed access. Only six judges (1.7%) responded that they did not have any Internet access.

If judges responded that they had Internet access, they were also asked if they used the Supreme Court's Web Site (www.state.il.us/court), the Illinois Judges' Association Web Site (www.ija.org), or the Illinois State Bar Associations Web Site (www.isba.org) and, if so, how often. In all cases, more than two hundred judges indicated they accessed each of these web sites on an average frequency. The frequency of access was collected as a number between one and five, with one being infrequent and five being frequent. The average frequencies ranged from 2.3 to 2.8.

Judges were asked if they used any of the following three legal research softwares: Westlaw, Premise, and Lexis. If they did, they were asked to respond to what degree of frequency.

Again, frequency was captured as one being infrequent and five being frequent. Most judges responded they preferred Westlaw and Lexis; one hundred and sixty-four (46.5%) preferred Westlaw one hundred and ninety-three (54.5%) preferred Lexis. Each also showed an average frequency of about three out of five. Premise was the least used software receiving only twenty-four responses and averaged a frequency of 2.5.

Considering that email has grown considerably as a method to communicate, the Committee wanted to learn if the same trend had been established in the judiciary. More than three hundred judges (86.1%) responded that they used email, twenty-six (7.4%) responded they did not, and twenty-two (6.2%) did not provide a response. Of those responding, most indicated that they had home accounts (66.6%). Many had county accounts (47.3%) while 5.9% indicated they had a state account. Additionally, the judges were asked if their use of email had increased. The overwhelming response was that it had. Two hundred and thirteen judges (60.3%) responded that their use of email to communicate had increased, while only 19.3% indicated that it had not.

Judges also indicated that they would use a computer more extensively, if one was provided to them in their chambers or on the bench. One hundred and eighty-four judges (52.1%) responded that a computer would be more extensively used under those conditions. Considering that more than eighty-seven percent used a computer in the performance of their judicial duties, many of those computers appeared to be in other locations.

A question that has been asked in each of the surveys conducted by the Committee is whether or not judges would take advantage of computer skills training, if it were made available. As always, the responses were overwhelmingly, yes. Two hundred and eighty-four judges (84.4%) responded that they would take advantage of such training if it were made available. About 7 percent responded that they would not, while about 8 percent did not respond. In both of the 1994 and 2000 surveys the responses were similar with 74 percent in 1994 and 87.1 percent in 2000.

In conclusion, the survey asked the judges to rate their computer knowledge, provide other comments, and identify his/her judge type, i.e., Associate, Circuit, or Appellate, and the number of years having served on the bench. Each judge was asked to rate his or her computer knowledge on a scale of one to five. The average response was 2.6 with three hundred and thirty-three responding. As expected the responding judges were mostly from the trial courts with one hundred and forty-three (40.5%) being Associate judges, one hundred and seventy-five (49.6%) being Circuit judges. Eighteen (5.1%) were Appellate judges. The number of years on the bench was ascending from Associate to Appellate with Associate judges averaging eight years on the bench, Circuit averaging 10.2 years, and Appellate averaging 14.8 years on the bench. Combining all types of judges, the average was nine years of service on the bench as a judge.

Based upon the continuing high responses provided in the 2004 survey, the Committee inquired about reestablishing this concept in a letter to Cynthia Cobbs, the Administrative Director. The Director responded she would be happy to give future consideration to computer training and

how the same might be accomplished.

The Committee has previously drafted and implemented a computer education model which was presented as part of its report during the 1996 Judicial Conference. Some funding had been made available through the Judicial Education Division of the Administrative Office to carry out computer skills training for a short time, thereafter. The Committee will work toward a similar solution during the next Conference year.

In addition to suggesting computer skills training, the Committee considered the possibility of providing faster and more efficient access to the educational materials which are available to judges through seminars provided by the Education Committee each year. The Committee contemplated that if the materials that were provided by those speakers could be made available on a CD-Rom with appropriate indexing or a web site, judges could consult them quickly and as needed. Some of the Committee members who have been or continue to be speakers for seminars indicated that they currently, as well as in the past, provide their presentations and other materials to the Judicial Education Division in an electronic format. Therefore, the Committee thought that these documents and presentations might be available to be compiled and indexed on a CD and provided to judges for quick retrieval of topics of interest or need. Additionally, once collected in an electronic format and indexed, they could also be made available on a web site for downloading.

The Committee asked Judge Byrne to make a request to the Administrative Director to see if these materials might be made available on-line. The Administrative Director was unable to approve the request due to the consideration that the education materials prepared and developed by the Education Committee are for the exclusive use of Illinois judges. Therefore, making them available over the Internet, which might make them available to nonmembers of the judiciary, would not be appropriate.

Electronic Filing and Optical Imagery Projects

Each year the Committee includes in its report a brief update on any technology projects that are underway in the Illinois Judiciary or on which the Committee may have worked during the many years of its existence. One such project is the electronic filing pilot(s). The Supreme Court established its *Policy for Implementation of an Electronic Filing Pilot Project in Illinois' Courts* on January 1, 2003. The policy provides that the electronic filing of documents may begin in a pilot county or counties, as designated by the Court and on the recommendation of the Administrative Director. As of the date of this report, DuPage County had been approved by the Court to be a pilot county. The staff of the Administrative Office has informed the Committee that the design of the project is still being determined.

Additionally, the Committee was informed that other counties had submitted applications, questions had been received, and responses provided. Further, the Committee was informed that

there is no specific time limit before which a county is required to make application. An initial time limit was mentioned when the policy was first established, but only for the purpose to assure a review by the Administrative Office and Court, prior to that summer.

The Committee also inquired about the other applicants to see if any small counties had made applications. Mr. Robertson replied that other applications had been received. He identified Macon and Rock Island Counties had submitted applications.

The Committee asked if there had been any standards established for file formats. Mr. Robertson indicated that both PDF and some form of XML were being considered, but evaluating standards was a goal of the pilots.

Another project for which the Committee has provided input is optical imagery. Some years ago, the Committee had made recommendations for this project. Since that time the Supreme Court has assigned the project to the Administrative Office. Again, Mr. Robertson provided the Committee with a brief update. As of this report, the project is proceeding in St. Clair County. The project had been slightly delayed due to a request by St. Clair to expand the case types considered for the project. Upon receiving the Supreme Court's permission to expand the case types, the project has continued to progress.

Electronic Guilty Pleas

During the 2003 Conference, the Committee was asked by the Honorable John P. Shonkwiler if it had given any consideration to the filing of electronic guilty pleas. This request was generated due to a public act passed by the General Assembly that suggested the possibility. At that time, Chairman Byrne indicated that the Committee had not considered the concept, but would do so during the 2004 Judicial Conference Year.

On December 5, 2003, the Supreme Court amended Rule 529 which provides for pleas of guilty in minor traffic cases without a court appearance. Specifically, the Court provided in its amendment to the rule that electronic guilty pleas could not be accepted unless authorized by the Court. The amendment to the Rule became effective on January 1, 2004.

Judge Wegner was asked to collect information regarding this topic. He drafted a brief request for information and sent that to clerks of the court and trial court administrators, mainly in the Second Judicial Circuit. The responses were compiled and presented to the Committee for its review. The Trial Court Administrator in the Nineteenth Judicial Circuit provided numerous judicial Internet sites where similar programs were in operation. A list of web sites was compiled from his submission and provided to the members of the Committee reviewing the concept.

After some consideration during the conference year and at the request of the Administrative Office, the Committee deferred any further action on this concept as it would be encompassed by the electronic filing pilot projects. However, the Administrative Office will continue to collect information on this issue and provide updates to the Committee.

Secure Discussion "Chat" Rooms for Judges

Also, during the 2003 Conference, Chairman Byrne received a request from the Honorable Stuart A. Nudelman to consider the concept of secure discussion areas for judges. The chairman accepted that assignment on behalf of the Committee and said the Committee would review the concept during the 2004 Conference. The Committee discussed the issue and, specifically, the issues of security surrounding the concept along with several options to discussion areas, such as secure email. Security would be a major consideration for this type of communication exchange.

Discussion areas, "chat rooms," would require each judge to be available at the same time to discuss an issue. Judge Youck suggested that the use of secure email might be a better option. Through the use of secure email, a judge could submit an issue to a specific judge or, generally, to a private discussion board available to judges, only. A responding judge(s) could respond at his (their) convenience. One consideration the Committee discussed was time. Would a judge have the time to formulate a question in writing that contained enough detail to obtain an appropriate response?

Email exchanged through the open Internet would not be confidential. Using computer digital certificates is an option if the open Internet is considered. A digital certificate is a computer-based file or structure used to convey information about a user for identification purposes. The AOIC is currently using this method for confidential data exchanged over the Internet.

The Committee discussed the difference between both methods of exchange for some time weighing the positives and negatives of each. It was decided that there could be benefits to both depending on the situation. The Committee thought promotion of both methods would be best, along with providing the advantages and disadvantages of each method.

Judge Byrne asked Judge Youck to prepare a brief report for the Committee on the topic. A copy of his report was provided to the Committee. The committee is reviewing his report and will continue to work on this issue during the next Conference year.

Analysis of Case Management Systems and Funding

While Illinois was the first state to implement a unified court system, the case management systems responsible for maintaining the records of the court are not unified. Each county creates or selects its own case management system and determines how to fund that system. Considering the tight budgets of today, the need to integrate government, and numerous automation projects, such as electronic filing, public access, and optical imagery, the challenge presented to chief and presiding judges to maintain and fund these systems and achieve those goals was becoming considerable.

The Committee believed that it would be helpful to collect and disseminate information to the chief and presiding judges about the systems currently used in Illinois, along with some information about how those systems have been funded. Once collected and analyzed, the

information could then be made available to the chief and presiding judges to assist them in their responsibilities to manage their judicial circuits. Further, the Committee learned that the Administrative Office was considering a related project which would include additional information about these systems.

Since the Administrative Office was considering such a project, it will take the lead role in the collection of this information. However, the AOIC would welcome input from the Committee regarding the survey and include any informational items the Committee believed to be important to the study. Additionally, the Committee will be provided with information received from responses and any compilations conducted by the AOIC.

Retirements

The Honorable Charles "Chad" H. Frank has announced his retirement from the bench effective January 4, 2005. He has been a member of the Illinois Judicial Conference since 1997 and a member of the Automation and Technology Committee since his appointment. He has brought a welcomed position to the Committee as a "non-techy" which on many occasions gave the Committee valuable insight and balance. His participation on the Committee will be greatly missed. The Committee wishes him well in his retirement.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2005 Conference Year, the Committee, with the approval of the Conference and Court, will continue its efforts to review the results of the survey of computer usage by judges, continue to evaluate existing and emerging technology issues, security issues which have been presented by Spyware, viruses and worms, continue to review the findings associated with the electronic filing and imaging pilots in Illinois, and analyze information about trial court information systems and funding.

The members of the Committee look forward to the coming Conference year and appreciate the opportunity to be of service to the Supreme Court and the judicial branch.

IV. RECOMMENDATIONS

The Committee is making no recommendations to the Conference at this time.

2004 REPORT

APPENDIX 1

Survey Summary

Illinois Judiciary Survey on Technology Usage

Data is based on results of 353 survey responses. A total of about 821 surveys were distributed giving a response rate of roughly 43.0% of those distributed and 38.2% of all judges.

I DO NOT NOW USE OR I HAVE NO INTEREST IN USING OR LEARNING TO USE A COMPUTER. (Check below):

( ) DO NOT USE NOW
N = 22/6.2%

( ) NO INTEREST
6/1.7%

Survey Summary

1. Do you personally use a computer in your judicial duties?

N = 309/87.5% ***Yes*** ***N = 27/7.6%*** ***No*** ***N = 16/4.5%*** ***No Response***

2. What is the nature of your use of a computer? (Check all that apply)

N = 235/66.6% Prepare orders, opinions, decisions using word processing software. [Brand of software?_____]

N = 71/20.1% Record sheet/minute entries are made by the judge or clerk that are available to the court on the bench or in chambers.

N = 89/25.2% Note taking, benchbook forms and admonitions available on a computer at the bench or in chambers.

N = 283/80.2% Use computer for research/legal education?

N = 253/71.7% Use electronic mail for judicial/administrative communications.

N = 59/16.7% Other uses.

3. Do you have Internet access? (Check all that apply)

N = 310/87.8% At the office
Dialup ***N = 53/15.0%*** Cable/DSL ***N = 202/57.2%*** Don't Know ***N = 31/8.8%***

N = 306/86.7% At home
Dialup ***N = 148/41.9%*** Cable/DSL ***N = 136/38.5%*** Don't Know ***N = 4/1.1%***

N = 6/1.7% Do not have Internet access

Survey Summary

If a. or b. is checked, please identify if you access any of the following web sites and the frequency.

		Average Frequency
N = 269/76.2%	1. Supreme Court Web Site (www.state.il.us/court)	***N = 2.4***
N = 280/79.3%	2. Illinois Judges Association Web Site (www.ija.org)	***N = 2.8***
N = 241/68.3%	3. Illinois State Bar Association Web Site (www.isba.org)	***N = 2.3***

4. Please identify any of the following computer research tools to which you have access and frequency of use.

		Average Frequency
N = 164/46.5%	Westlaw	***N = 3.2***
N = 24/6.8%	Premise	***N = 2.5***
N = 193/54.7%	Lexis	***N = 3.3***

5. Do you use email?

N = 304/86.1% Yes ***N = 26/7.4%*** No ***N = 22/6.2%*** No Response

If yes, (Check all that apply)

N = 21/5.9%	State Account
N = 167/47.3%	County Account
N = 235/66.6%	Private Account

Has your usage increased?

N = 213/60.3% Yes ***N = 68/19.3%*** No ***N = 71/20.1%*** No Response

6. I would make more extensive use of a computer if one was available in chambers or on the bench?

N = 184/52.1% Yes ***N = 35/9.9%*** No ***N = 134/38.0%*** No Response

Survey Summary

7. I would take advantage of additional computer skills training, if it were made available.

N = 298/84.4% Yes ***N = 26/7.4%*** No ***N = 29/8.2%*** No Response

If yes, identify the type of training you are interested in

N = 239/67.7%	Legal research on the Internet
N = 107/30.3%	Legal Research on CD-ROM
N = 152/43.1%	Wordprocessing
N = 107/30.3%	Basic Computer Use
N = 44/12.5%	Other

8. Please rate your computer knowledge.

N = 333/2.6 Average Experience

9. Other Comments:

Responding Judges by Type		Average Years on Bench	
Associate Judges	***N = 143/40.5%***	***8.0***	Years
Circuit Judges	***N = 175/49.6%***	***10.2***	Years
Appellate Judges	***N = 18/5.1%***	***14.8***	Years

Average Years on the Bench (All Judges) ***9.0*** Years

2004 REPORT

ANNUAL REPORT
OF THE
COMMITTEE ON EDUCATION
TO THE ILLINOIS JUDICIAL CONFERENCE

Hon. Mary Jane Theis, Chair

Hon. James K. Borbely
Hon. Preston L. Bowie, Jr.
Hon. Dale A. Cini
Hon. David R. Donnersberger
Hon. James K. Donovan
Hon. Lynn M. Egan
Hon. James R. Epstein
Hon. Edward C. Ferguson
Hon. John K. Greanias
Hon. Alan J. Greiman
Hon. James A. Knecht
Hon. Lori R. Lefstein
Hon. Jerelyn D. Maher
Hon. Stuart E. Palmer
Hon. M. Carol Pope
Hon. Jane L. Stuart
Hon. Hollis L. Webster

October 2004

I. STATEMENT ON COMMITTEE CONTINUATION

The members of the Committee on Education ("Committee") believe that providing ongoing judicial education is an absolutely essential element of our judicial system. The importance of judicial education is recognized in the Court's Comprehensive Judicial Education Plan for Illinois Judges, which states:

> "It is an obligation of office that each judge in Illinois work to attain, maintain and advance judicial competency. Canon 3 of the Code of Judicial Conduct (Illinois Supreme Court Rule 63) states that a judge should 'be faithful to the law and maintain professional competence in it' and 'maintain professional competence in judicial administration.' Judicial education is a primary means of advancing judicial competency." *(Comprehensive Judicial Education Plan for Illinois Judges*, Section I, page 1.)

Given the rapid developments in substantive and procedural law, as well as the obligation to properly train new judges, the need for an effective and efficient approach to judicial education cannot be overstated. Therefore, the Committee recommends that its work to support ongoing judicial education resources for Illinois judges be continued.

II. SUMMARY OF ACTIVITIES

Education Conference 2004

Under the auspices of the Court, the Committee on Education and the Administrative Office presented Education Conference 2004, held February 4-6, 2004 and March 31 - April 2, 2004.

- **Attendance**: More than 900 judges, including the 66 judges who served as faculty, attended the February and March conferences.
- **Overall Ratings:** The February and March conferences garnered an overall rating of 4.5 on a scale of 1 to 5, which indicates that the Education Conference continues to be well-received and well-evaluated by judicial attendees.
- **Judicial Conduct Sessions:** As required by the Court's Comprehensive Education Plan for Illinois Judges, all attendees participated in the opening plenary session, which featured Judge William Sessions (ret.) in February and Judge Abner Mikva (ret.) in March. All judges also attended one of the two concurrent sessions on judicial conduct, entitled "When is 'Doing the Right Thing' Going Too Far?" and "Real World Ethics: Life Outside the Courtroom."
- **Topic Tracks:** The substantive law topic tracks featured 15 different presentations on family law, civil law, criminal law, evidentiary issues, domestic violence, juvenile law and eminent domain. Each topic track was very well-rated, with scores ranging from 4.1 to 4.6.
- **Half-Day Topics:** The half-day sessions on "Children in the Courtroom" and "How the Brain Remembers, Misremembers and Forgets: the Impact on Witness Testimony" received the

highest ratings for the conference, earning overall ratings of 4.9 and 4.7, respectively. The half-day session on "Handling Civil and Criminal Juries" received an excellent overall rating of 4.6.

- **Early Bird Session:** Nearly 300 judges attended the optional morning session entitled "The Philosophy, the Process and the Pitfalls of Retirement," which received an overall rating of 4.4.

Through their numerical ratings and evaluation comments, participants overwhelmingly indicated that the conference provided useful information, updates and resources which will be of use to them in adjudicating and managing cases.

In addition, many judges stated that they particularly welcome the opportunity to meet and exchange ideas with judges from all parts of the state. The Committee on Education is very appreciative of the significant investment of time and energy by the judges serving as faculty, whose commitment and expertise made this third presentation of Education Conference a success. Upon approval of the Court, the Committee will begin planning for the next Education Conference, to be held in Spring 2006. Listed below are overall evaluation ratings for each conference topic. Topics were rated on a scale of one ("poor") to five ("excellent").

Session	Overall Rating - Out of 5.0
Overall Conference Evaluation	***4.5***
Challenges to the 21st Century Judiciary	***3.3***
When is "Doing the Right Thing" Going Too Far?	***4.1***
Real World Ethics: Life Outside the Courtroom	***4.0***
Ready, Set, Retire: "The Philosophy, Process, & Pitfalls of Retirement"	***4.4***
Children in the Courtroom	***4.9***
Handling Civil and Criminal Juries	***4.6***
Hearsay & Impeachment	***4.5***
Avoiding Error Under the Deadman's Act	***4.2***
Frye Issues	***4.5***
Criminal Updates & Hot Topics	***4.6***
Sexually Dangerous / Violent Person Proceedings	***4.1***
Constitutional Issues in Criminal Law	***4.5***
Handling Pretrial Motions	***4.6***
Civil Updates & Hot Topics	***4.6***
The Judges' Role in Settling Cases	***4.4***
Financial Issues in Domestic Relations Cases	***4.4***
Termination of Parental Rights	***4.4***
Family Updates & Hot Topics	***4.3***
Juveniles & the Court: A Judge's Exercise of Discretion	***4.4***
Current Issues in Domestic Violence Cases	***4.5***
Eminent Domain	***4.6***
How the Brain Remembers... The Impact on Witness Testimony	***4.7***

Please refer to Appendix A for the complete conference program, including faculty.

Seminar Series

In addition to the Education Conference, the Committee conducted a full schedule of seminars during the 2003-2004 Judicial Conference Year, presented a New Judge Seminar and conducted a Faculty Development Workshop for judges serving as faculty for Judicial Conference programs. The seminar series included five regional (2 day) seminars and three mini (1 day) seminars. Faculty for all programs were assisted by staff of the Administrative Office of the Illinois Courts. Following are the topics, dates, locations, number of attendees and overall evaluation ratings for the seminars conducted in the 2003-2004 seminar series.

TOPIC:	DATE:	LOCATION:	# OF PARTICIPANTS (Excluding Faculty)	RATING (Out of 5.0)
New Judge Seminar	December 8-12, 2003	Chicago	**37**	**4.6**
Education Conference	February 4-6, 2004	Chicago	**412**	**4.6**
	March 31-April 2, 2004	Chicago	**432**	**4.4**
REGIONAL SEMINARS				
Civil Pretrial Motion Practice	September 11-12, 2003	Springfield	**33**	**4.6**
Issues in Handling Narcotics Cases	September 25-26, 2003	Chicago	**38**	**4.6**
Experts	October 9-10, 2003	Lisle	**67**	**4.7**
Managing ... Offenders in DUI Cases	April 15-16, 2004	Bloomington	**13**	**4.7**
Child Abuse Cases	June 3-4, 2004	Bloomington	**29**	**4.4**
MINI SEMINARS				
Sentencing	November 20, 2003	Chicago	**44**	**4.6**
Appellate Issues for Trial Judges	May 6, 2004	Naperville	**51**	**4.6**
Injunctions From Start to Finish	May 27, 2004	Springfield	**25**	**4.4**

A listing of topics and faculty for all programs conducted by the Committee during the 2003-2004 seminar year, exclusive of the New Judge Seminar, is included as Appendix B to this report.

2005 Advanced Judicial Academy

In early 2004 the Supreme Court approved the Committee's recommendation to conduct a third

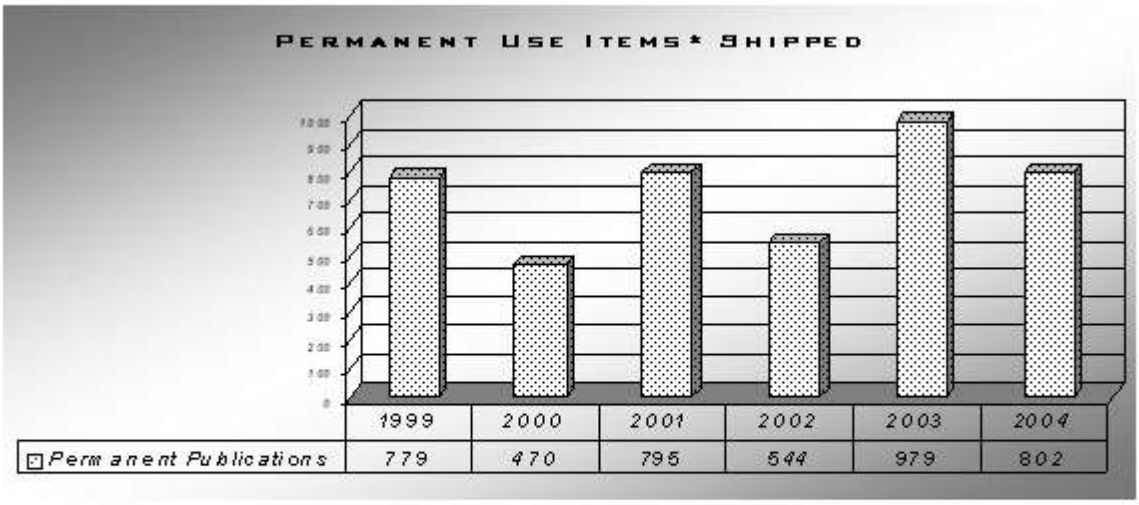
Advanced Judicial Academy. It will again be a one-week program, held June 6-10, 2005 at the University of Illinois College of Law, Champaign, with enrollment limited to 75 judges. The Academy Planning Committee, convened by the Committee on Education, has begun developing the Academy theme, topics and faculty. Preliminary discussions suggest the program will examine the issues of judicial independence and the evolving role of the courts as the third co-equal branch of government. In doing so, the Academy will discuss the historical, societal and political contexts for judicial independence, as well as the historical and modern factors that may threaten that independence. The Committee will continue development of the proposed agenda and curriculum, for consideration by the Court.

Resource Lending Library

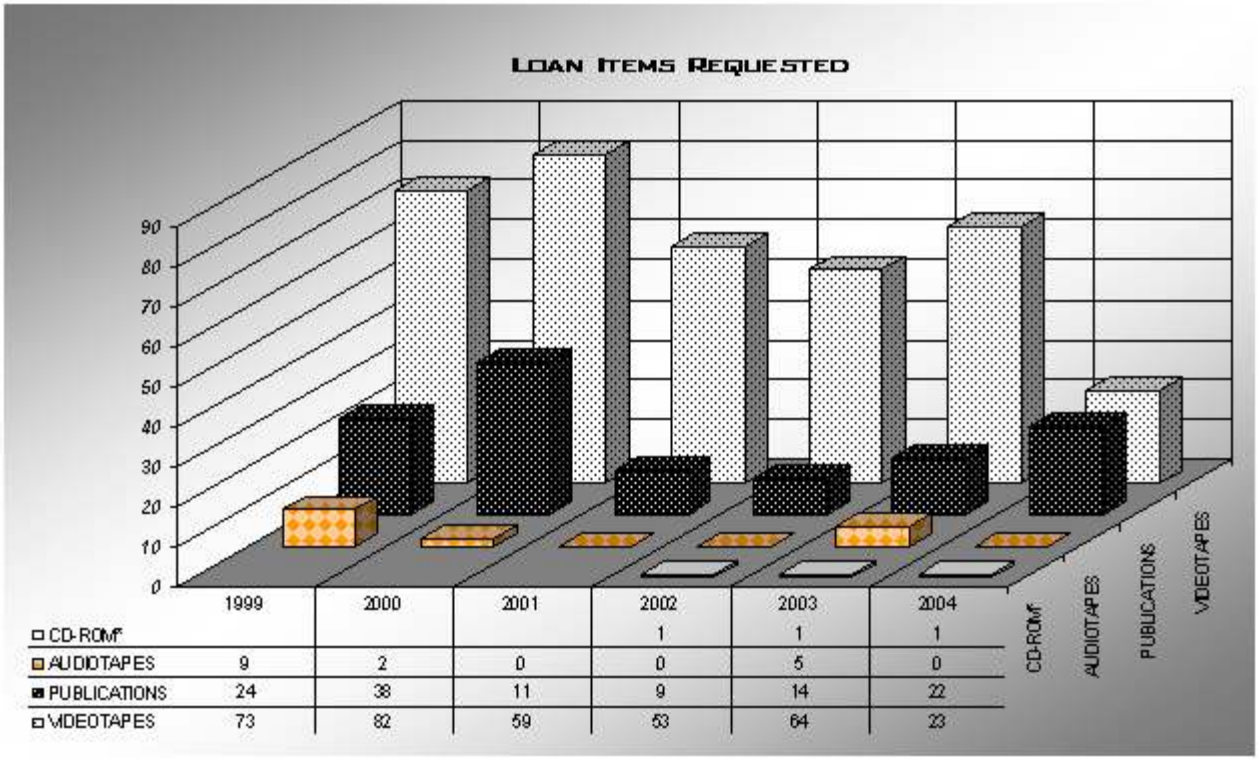
The Resource Lending Library sponsored by the Committee and operated by the Administrative Office continues to serve as a valued judicial education resource. Loan material available through the library includes videotapes, audiotapes and publications. Permanent use items include seminar reading materials, bench books, manuals, and other materials. The total number of loan and permanent use items distributed to judges in Fiscal Year 2004 was 848.

Patrons : During Fiscal Year 2004, 346 judges requested one or more items from the library. Of this number, 48% (165) were from Cook County and 52% (181) were from downstate. Trial court judges comprised 97% of patrons while appellate and supreme court justices comprised 3% of all patrons.

Items : The total number of loan and permanent use items distributed to judges in Fiscal Year 2003 was 848. 46 items were loaned to 28 judges, including videotapes, audiotapes, publications and CD-ROMs. First-time patrons requesting loan items comprised 54% (15) of the total judges with requests. In addition, 802 permanent use items were shipped to 318 judges. This category consists primarily of seminar reading materials but also includes benchbooks, manuals and other materials.



*primarily seminar reading materials



* CD-ROMS WERE NOT AVAILABLE UNTIL 2002.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

The programs listed below have been planned by the Committee and approved by the Supreme Court for the 2004-2005 seminar series. The schedule includes regional seminars, mini seminars, a Faculty Development Workshop, a New Judge Seminar, and the 2005 Advanced Judicial Academy.

Topic	Date	Location
Selected Issues in Sentencing	October 28-29, 2004 April 28-29, 2005	Lisle Springfield
Pretrial Issues in Civil Law	November 17-19, 2004 March 31- April 1, 2005	Chicago Springfield
Post Conviction Proceedings	December 3, 2004	Naperville
New Judge Seminar	January 24-28, 2005	Chicago
Opinion & Order Writing	February 17, 2005	Springfield
Jury Management	February 24, 2005 May 5, 2005	Springfield Chicago
Juvenile Law (Delinquency)	March 3-4, 2005	Chicago
Handling Indigent Litigants	March 10, 2005	Lisle

Ruling on Objections & Admissibility	April 7-8, 2005	Oak Brook
Practical Approaches to Substance Abuse: DUI Offenders in the Courts	May 19-20, 2005	Chicago
Domestic Violence	May 25-26, 2005	Springfield
Advanced Judicial Academy	June 6-10, 2005	Champaign

In addition to conducting the 2004-2005 programs, the Committee will, with Court approval, plan a full schedule of seminars for the 2005-2006 seminar year, apply to the Illinois Department of Transportation for funding to conduct the annual seminar on issues related to driving under the influence, and issue an updated Resource Lending Library Catalog.

IV RECOMMENDATION

The Committee is making no recommendations to the Conference at this time.

2004 REPORT

APPENDIX A

Education Conference 2004

Judicial Ethics & Conduct

The conference opens with a plenary session for all conference participants. Following the plenary session, judges can choose between two concurrent sessions.

Challenges to the 21st Century Judiciary

PLENARY SESSION
Wednesday Afternoon
1:45 - 2:45

The American Bar Association's Commission on the 21st Century Judiciary found that "the judicial systems of the United States at the beginning of the 21st Century remain unparalleled in their capacity to deliver fair and impartial justice, but these systems are in great jeopardy. Our state courts play a critical role in preserving American freedom and democracy.... Increased political involvement in the judiciary, diminished public trust and confidence in the justice system, and uncertain resources supporting the courts place burdens on the judiciary's capacity to provide fair and impartial justice... Changes in society at large and the courts themselves, have served to create an environment that places our system of justice, administered by independent and impartial judges, at risk." Hon. William Sessions (ret.), who served as honorary co-chair of the Commission with Hon. Abner Mikva (ret.), will examine the issues which will challenge and shape America's justice system in the 21st Century.

Faculty: Hon. William Sessions (Ret.) - Feb. Only
Hon. Abner Mikva (Ret.) - Mar. Only

When is "Doing the Right Thing" Going Too Far?

CONCURRENT SESSION
Wednesday Afternoon
3:00 - 5:00

Independence, impartiality and precedent must guide the decision-making process of a judge. But have you ever been in a position where you struggled with a conflict between doing justice and applying the law? What questions did you consider before reaching your decision? This session will help you to identify the red-flags and, as a result, develop the questions you will need to deal with difficult ethical issues to arrive at your decisions.

Faculty: Hon. M. Carol Pope
Hon. Mark A. Schuering
Hon. Karen G. Shields
Hon. Richard A. Siebel

CONCURRENT SESSION
Wednesday Afternoon
3:00 - 5:00

Real World Ethics: Life Outside the Courtroom

Judges are expected to follow a code of conduct unlike any other citizen in our society: you must strike a balance between participating in the life of your community yet remain independent from outside influences. As a result of attending this session, you will be able to:

- Differentiate between the public's right to be informed and the importance of an independent judiciary.
- Recognize potentially troublesome activities, such as campaigning, expressing opinions, and holding memberships in organizations, both civic and bar.
- Identify the red-flags that impact on a judge's decision to participate in public "off the bench" activities

Faculty: Hon. Barbara Gilleran Johnson
Hon. John K. Greanias
Hon. Patrick E. McGann
Hon. Jane Louise Stuart

Half-Day Topics

Children in the Courtroom

Thursday Morning
9:00 - 12:00

A child psychologist and attorney, Dr. Dana Royce Baerger will discuss child development principles and explore their application to abuse, neglect, custody, visitation, criminal, delinquency and domestic violence proceedings. While providing judges a solid foundation on the developmental stages and their characteristics, this session will also enable judges to apply child development theory to the issues which arise when children are involved in court proceedings, such as the following:

- Children's capacity to provide credible, coherent testimony
- Suggestibility in children and youth
- Assessing the risks of severing or limiting access to parents and siblings
- Crafting developmentally appropriate custody and visitation orders
- When judges should - and should not - allow children to participate in court proceedings

The session will also include a judges' panel to examine judicial perspectives on these complicated issues.

Faculty: *Hon. Michael Brown*
Hon. Ellen A. Dauber
Hon. Candace Jean Fabri
Hon. M. Carol Pope

Guest Speaker
Dana Royce Baerger, Ph.D., J.D.

Handling Civil and Criminal Juries

Thursday Afternoon 1:30 - 4:30

The power of a jury to decide a case is a cornerstone of our justice system. Whether hearing civil or criminal cases, it is the judge who is solely responsible for the oversight of jury issues from selection to verdict. This seminar will help you to anticipate and manage many important jury issues such as:

- Voir dire; challenges for cause and affirmative defenses
- Jury instructions
- Note taking
- Juror questions and concerns
- Sequestering jurors
- Jurors who make an investigation of a crime scene
- Juror privacy

Faculty: Hon. George J. Bakalis
Hon. Michael P. Kiley
Hon. Daniel M. Locallo
Hon. Mary A. Mulhern
Hon. Ronald D. Spears

How the Brain Remembers, Misremembers and Forgets: The Impact on Witness Testimony

Friday Morning 9:00 - 12:00

Does experiencing a traumatic event really "imprint" information in our minds? Is human memory like a video camera, accurately and completely recording sensory information for effortless recall? How can several people witness the same event but remember and describe it differently? In this session, Dr. Neil Cohen of the Beckman Institute at the University of Illinois will expand on his presentation to the Advanced Judicial Academy to explain how the brain receives, stores and retrieves information, and the impact of the processes and characteristics of human memory on witness' testimony and, thus, on the justice system itself.

Guest Speaker: Dr. Neil Cohen

Topic Tracks

Five topic tracks, with three topics per track, will run concurrently. Each one hour and fifteen minute topical presentation will be presented twice. The tracks are:

- Evidence
- Criminal Law/Procedure
- Civil Law/Procedure
- Family Law
- General Interest

Evidence:
Hearsay & Impeachment

Thursday Morning 9:00 - 10:15 and **Thursday Afternoon 3:00 - 4:15**

This session will cover an overview of the application of the rules of evidence and a review of current case law on hearsay and impeachment.

Faculty: Hon. Terence M. Sheen
Hon. Peter Flynn

Evidence:
Avoiding Error Under the Deadman's Act

Thursday Morning 10:30 - 11:45 and **Friday Morning 9:00 - 10:15**

This Act does not come up often but when it does, are you prepared to handle it? Faculty will clarify how the Act should be applied by identifying the major problem areas to provide guidance and directions for handling a variety of factual situations.

Faculty: Hon. Michael J. Gallagher
Hon. James A. Lanuti

Evidence:
Frye Issues

Thursday Afternoon 1:30 - 2:45 and **Friday Morning 10:30-11:45**

This session will provide trial judges with information they need to know about *Frye* hearings in Illinois. Topics will cover:

-What is a *Frye* hearing?
-When must a *Frye* hearing be conducted?
-Can the admissibility of expert testimony be challenged on grounds that are not *Frye*-based?

Faculty: Hon. Robert J. Steigmann
Hon. Susan F. Zwick

Criminal Law:
Updates and Hot Topics

Thursday Morning 9:00 - 10:15 and **Thursday Afternoon 3:00 - 4:15**

Faculty will highlight emerging issues and identify the most significant developments in case law and statutory law during the past two years, including post-conviction DNA testing, general post-conviction issues, plea admonishments, chain of custody issues and the status of *Apprendi*.

Faculty: Hon. Patrick J. Quinn
Hon. Scott A. Shore

Criminal Law:
Sexually Dangerous/Violent Person Proceedings

Thursday Morning 10:30 - 11:45 and **Friday Morning 9:00 - 10:15**

This session will provide an overview of the procedural and substantive elements of proceedings to commit individuals under the sexually dangerous and sexually violent persons statutes.

Faculty: Hon. Mary W. McDade
Hon. Christopher C. Starck (Feb. Only)
Hon. John T. Phillips (Mar. Only)

Criminal Law:
Constitutional Issues in Criminal Law

Thursday Afternoon 1:30 - 2:45 and **Friday Morning 10:30-11:45**

Faculty will review new and evolving law on search and seizure, suppression of statements and evidence, and other Constitutional issues arising in criminal cases.

Faculty: Hon. Bertina E. Lampkin
Hon. Scott H. Walden

Civil Law:
Handling Pretrial Motions

Thursday Morning 9:00 - 10:15 and **Thursday Afternoon 3:00 - 4:15**

Rulings on pretrial motions are a significant aspect of nearly every civil case. This session will focus on the fundamentals of, as well as new case law relating to, Motions for Summary Judgment, Motions for Involuntary Dismissal (pursuant to sections 2-615 and 2-619), Motions to Dismiss for Lack of Jurisdiction or Lack of Due Diligence, Motions to Transfer for Improper Venue or Forum Non Conveniens, and more.

Faculty: Hon. Patrick J. Leston
Hon. Barbara A. McDonald

Civil Law:
Updates & Hot Topics

Thursday Morning 10:30 - 11:45 and **Friday Morning 9:00 - 10:15**

The most significant developments in civil cases and statutes will be presented through scenarios, case summaries and citations.

Faculty: Hon. Patrick J. Hitpas
Hon. Patrick F. Lustig
Hon. James Michael Varga

Civil Law:
The Judge's Role in Settling Cases

Thursday Afternoon 1:30 - 2:45 and **Friday Morning 10:30-11:45**

This session will explore techniques for handling successful settlement conferences and using case management orders to encourage settlement. Faculty will also discuss the disposition of attorney liens, medical liens and workers compensation liens.

Faculty: Hon. Edward R. Duncan, Jr.
Hon. Bill Taylor

Family Law:
Financial Issues in Domestic Relations Cases

Thursday Morning 9:00 - 10:15 and **Thursday Afternoon 3:00 - 4:15**

This session will focus on a wide range of financial issues often encountered in domestic relations cases including the valuation of businesses, determining personal income, and setting child support and maintenance. A survey of maintenance cases in the Appellate Court will chart trends.

Faculty: Hon. James K. Borbely
Hon. Veronica B. Mathein
Hon. Daniel A. Riley

Family Law:
Termination of Parental Rights

Thursday Morning 10:30 - 11:45 and **Friday Morning 9:00 - 10:15**

Faculty will address fundamental issues in termination of parental rights cases with emphasis on procedure, evidence, the "popular" grounds of unfitness and best interest, and post-termination.

Faculty: Hon. Fe Fernandez
Hon. Jerelyn D. Maher
Hon. Lawrence E. Flood

Family Law:
Updates & Hot Topics

Thursday Afternoon 1:30 - 2:45 and **Friday Morning 10:30-11:45**

If you handle family law cases, you will want to attend this session which will examine significant statutes, case law, and the latest developments in family law.

Faculty: Hon. Brigid Mary McGrath
Hon. Chet W. Vahle

General Interest:
Juveniles and the Court: A Judge's Exercise of Discretion

Thursday Morning 9:00 - 10:15 and **Thursday Afternoon 3:00 - 4:15**

The structure, services and function of Illinois' juvenile courts are based on the premise that youthful offenders are more likely to be rehabilitated than their adult counterparts. How can judges use the options and discretion created under Illinois statute and case law to effectuate this premise? What factors should judges consider in ordering detention for juveniles? Incarceration? This session will examine the judge's exercise of discretion when juveniles are before the court. Faculty will utilize scenarios and an interactive format to explore the challenges in crafting effective and appropriate dispositions and in utilizing the range of options available to the court. Topics to be discussed include detention decisions, sentencing issues and a discussion of the factors and process for the transfer and reverse transfer of juveniles to and from criminal court.

Faculty: Hon. C. Stanley Austin
Hon. Andrew Berman
Hon. Sharon M. Sullivan
Hon. John R. McClean, Jr. (Mar.)

General Interest:
Eminent Domain

Thursday Morning 10:30 - 11:45 and **Friday Morning 9:00 - 10:15**

Should the government take private property for the purpose of building expensive homes and more profitable private businesses in the name of economic development? This seminar will provide judges with the basic tools needed to rule on traditional eminent domain cases as well as this cutting edge issue. Topics include:

- The procedural aspect of quick take
- Damage issues
- Managing jurors and site visit issues
- Experts on damages

Faculty: Hon. Thomas R. Appleton
Hon. Alexander P. White

General Interest:
Current Issues in Domestic Violence Cases

Thursday Afternoon 1:30 - 2:45 and **Friday Morning 10:30-11:45**

This session will examine common challenges judges face in both civil and criminal domestic violence proceedings, as well as examine emerging issues such as full faith and credit, federal immigration and gun legislation, and the new domestic violence processes and form orders in Illinois.

Faculty: Hon. J. Peter Ault
Hon. Gloria G. Coco

Early Bird Session

The "Early Bird" session is an optional presentation that gives early risers an opportunity to have breakfast together and discuss a topic of common interest around the state.

Ready, Set, Retire: "The Philosophy, the Process, and the Pitfalls of Retirement"

Thursday Morning 7:30 - 8:45

Join faculty for an informal roundtable breakfast discussion featuring a panel of retired judges and a member of the Judicial Retirement System who will answer questions and share their experiences about retirement, the process of retiring, and life after retirement.

Faculty: Hon. Tobias Barry
Hon. Brian Crowe (Ret.)
Hon. Jack Rapp (Ret.)

Guest Speaker
Mr. Rudy Kink, Judge's Retirement System

2004 REPORT

APPENDIX B

TOPIC, LOCATION AND CHARGE	FACULTY	ATTENDANCE

2003-2004

REGIONAL SEMINARS

CIVIL PRETRIAL MOTION PRACTICE Sept. 11-12, 2003 -Sec. 2-615 , 2-619, 2-1005, 103(b), 2-1009, jurisdiction, venue, forum non conveniens.	Ronald D. Spears, Chair Joseph N. Casciato Peter A. Flynn Diane J. Larsen Katherine M. McCarthy Stephen E. Walter	*33*
EXPERTS October 9-10, 2003 -Who is an expert, Supreme Court Rule213, Frye hearings, use in summary judgment motions	Hollis L. Webster, Chair John A. Barra Lynn M. Egan John K. Greanias Stuart A. Nudelman Karen G. Shields	*67*
ISSUES IN CHILD ABUSE CASES June 3-4, 2004 -Physical and sexual abuse in family, juvenile and criminal cases.	Candace J. Fabri, Chair Judith M. Brawka Dennis J. Burke Ellen A. Dauber Craig H. DeArmond Patricia Brown Holmes Rita M. Novak	*29*
ISSUES IN HANDLING NARCOTICS CASES Sept 25-26, 2003 -Trial and disposition issues, including search and seizure.	Lawrence P. Fox, Chair Dale A. Cini Michael P. Kiley Brockton D. Lockwood Dennis J. Porter Kenneth J. Wadas Scott H. Walden	38
MANAGING YOUTHFUL AND HIGH-RISK OFFENDERS IN DUI CASES April 15-16, 2004 -This annual seminar is funded by a grant from the Illinois Department of Transportation.		13

TOPIC, LOCATION AND CHARGE	FACULTY	*ATTENDANCE*
MINI SEMINARS		
APPELLATE ISSUES FOR TRIAL JUDGES May 6, 2004 -Making a record, interlocutory appeals (Rules 304 and 308), standard of review for administrative review cases.	Mary Jane Theis, Chair Nancy J. Arnold Robert W. Cook Bonnie M. Wheaton	*51*
INJUNCTIONS FROM START TO FINISH May 27, 2004	Patrick E. McGann, Chair Sue E. Myerscough Richard A. Siebel Kent F. Slater	*25*
SENTENCING November 20, 2003 -Hot topics in sentencing	Mark A. Schuering, Chair Ann B. Jorgensen Colleen McSweeney Moore Stuart E. Palmer	*42*
FACULTY DEVELOPMENT Faculty Development Workshop July 17-18, 2003	Louis Phillips, Ed. D.	*25*
EDUCATION CONFERENCE 2004		
February 4-6, 2004		*412*
March 30 - April 1, 2004		*432*

2004 REPORT

Judicial Conference Committee Charges and Rosters

ALTERNATIVE DISPUTE RESOLUTION COORDINATING COMMITTEE

The Committee shall:

Survey and compile detailed information about all existing court-supported dispute resolution programs and methods currently in use in the circuit courts of Illinois.

Examine the range of civil and criminal dispute resolution processes utilized in other jurisdictions and make recommendations regarding programs and techniques suitable for adoption in Illinois.

Explore experimental and innovative dispute processing techniques which may offer particular promise for improving resolution options for specialized case types.

Develop and recommend Supreme Court standards for the adoption of various types of dispute resolution programs by the circuit courts, including methods for ongoing evaluation.

Study options for funding court-annexed dispute resolution programs, including appropriate methods for seeking, soliciting, and applying for grants from public or private sources.

Monitor and assess on a continuous basis the performance of circuit court dispute resolution programs approved by the Supreme Court and make regular periodic reports to the Conference regarding their operations.

Suggest broad-based policy recommendations by which circuit courts can be encouraged to integrate alternative dispute resolution programs as part of a more comprehensive and coordinated approach to caseflow management.

COMMITTEE ROSTER
Conference Members

Hon. John P. Coady
Hon. Claudia Conlon
Hon. Robert E. Gordon
Hon. Randye A. Kogan
Hon. William D. Maddux
Hon. Stephen R. Pacey

Hon. Lance R. Peterson

Associate Member

Hon. Donald J. Fabian

Advisors

Hon. Harris H. Agnew, Ret.
Kent Lawrence
Hon. John G. Laurie, Ret.
John T. Phipps

Hon. Anton J. Valukas, Ret.

COMMITTEE STAFF LIAISON: Anthony Trapani

COMMITTEE ON CRIMINAL LAW AND PROBATION ADMINISTRATION

The Committee shall:

Monitor and provide recommendations (including standards) on issues affecting the probation system.

Review procedures relating to the annual plan required by Section 204-7 of the Probation and Court Services Act.

Monitor statistical projections of workload. Review the work measurement formula for probation and pretrial services offices and make recommendations on such formula.

Review and comment to the Conference on matters affecting the administration of criminal justice.

COMMITTEE ROSTER

Conference Members

Hon. Thomas R. Appleton
Hon. Amy M. Bertani-Tomczak
Hon. Ann Callis
Hon. Vincent M. Gaughan
Hon. Daniel P. Guerin
Hon. Donald C. Hudson
Hon. John Knight
Hon. Vincent J. Lopinot
Hon. Colleen McSweeney Moore
Hon. Ralph J. Mendelsohn
Hon. Steven H. Nardulli
Hon. Lewis Nixon
Hon. Jack O'Malley
Hon. James L. Rhodes
Hon. Teresa K. Righter
Hon. Mary S. Schostok
Hon. Eddie A. Stephens
Hon. Michael P. Toomin
Hon. Walter Williams

Associate Members

None

Advisors

None

COMMITTEE STAFF LIAISON: Norman Werth

COMMITTEE ON DISCOVERY PROCEDURES

The Committee shall:

Review and make recommendations on discovery matters.

Monitor and evaluate the discovery devices used in Illinois including, but not limited to, depositions, interrogatories, requests for production of documents or tangible things or inspection of real property, disclosures of expert witnesses, and requests for admission.

Investigate and make recommendations on innovative means of expediting pretrial discovery and ending any abuses of the discovery process.

COMMITTEE ROSTER

Conference Members

Hon. Joseph N. Casciato
Hon. Melissa A. Chapman
Hon. Deborah M. Dooling
Hon. James R. Glenn
Hon. Frederick J. Kapala
Hon. Tom M. Lytton
Hon. Mary Anne Mason
Hon. James J. Mesich

Associate Members

None

Advisors

David B. Mueller
Donald J. Parker
Eugene I. Pavalon
Paul E. Root

COMMITTEE STAFF LIAISON: Janeve Botica Zekich

STUDY COMMITTEE ON JUVENILE JUSTICE

The Committee shall:

Study and make recommendations on detention of juveniles and the screening process used to determine the detention of juveniles by court services personnel.

Study and make recommendations on such other aspects of the juvenile justice system as may be necessary.

Make suggestions on necessary training for judges and court support personnel.

Monitor the implementation of those recommendations of the Study Committee on Juvenile Justice which are approved by the Supreme Court, for the purpose of refining and reinforcing the study committee's recommendations.

Prepare supplemental updates to the juvenile law benchbook for submission to the Executive Committee of the Conference for approval for appropriate distribution.

COMMITTEE ROSTER

Conference Members

Hon. C. Stanley Austin
Hon. Patricia Martin Bishop
Hon. Susan Fox Gillis
Hon. Diane M. Lagoski
Hon. John R. McClean, Jr.
Hon. David W. Slater
Hon. Daniel J. Stack
Hon. George W. Timberlake
Hon. Edna Turkington
Hon. Kendall O. Wenzelman

Associate Members

None

Advisor

Professor Suzanne S. Greene

COMMITTEE STAFF LIAISON: Elizabeth Paton

STUDY COMMITTEE ON COMPLEX LITIGATION

The Committee shall:

Study and make recommendations for procedures to reduce the cost and delay attendant to lengthy civil and criminal trials.

Make recommendations concerning problems typically associated with protracted litigation.

Study and disseminate information about practices and procedures that Illinois judges have found successful in bringing complex cases to fair and prompt disposition.

Prepare revisions or updates as necessary for the *Manual for Complex Litigation* which shall be submitted to the Executive Committee for approval for appropriate distribution to Illinois judges.

COMMITTEE ROSTER

Conference Members

Hon. Mary Ellen Coghlan
Hon. Eugene P. Daugherity
Hon. Dorothy Kirie Kinnaird
Hon. Gerald R. Kinney
Hon. Stuart A. Nudelman
Hon. Dennis J. Porter
Hon. Ellis E. Reid
Hon. Stephen A. Schiller

Associate Members

Hon. Herman S. Haase
Hon. Robert P. LeChien

Advisors

William R. Quinlan
Professor Mark C. Weber

COMMITTEE STAFF LIAISON: Marcia M. Meis

COMMITTEE ON AUTOMATION AND TECHNOLOGY

The Committee shall:

Evaluate, monitor, coordinate and make recommendations on automation systems of the judiciary.

Develop broad automation goals, objectives and priorities.

Develop policies which will promote the effective and efficient use and expansion of automation in the courts which may include, if feasible, the development of formats for the automated reporting of statistical data for annual reports.

Coordinate the development of a long range plan for automation in the judiciary, including planning for automation expansion and the incorporation of new technologies into the courts.

Make policy recommendations on issues such as public access to information contained in the judiciary's automated systems.

Assess the adequacy of resources to support the automation program.

Evaluate all aspects of computer-assisted legal research and make recommendations as necessary.

Prepare estimated costs of all recommendations and an analysis of cost effectiveness of each recommendation.

COMMITTEE ROSTER

Conference Members

Hon. Robert E. Byrne
Hon. James K. Donovan
Hon. Charles H. Frank
Hon. John K. Greanias
Hon. William E. Holdridge
Hon. Edna Turkington

Hon. Grant S. Wegner

Associate Members

Hon. R. Peter Grometer
Hon. Thomas H. Sutton
Hon. David A. Youck

Advisors

None

COMMITTEE STAFF LIAISONS: Daniel R. Mueller & Skip Robertson

COMMITTEE ON EDUCATION

The Committee shall:

Develop a long-term plan for state-wide judicial education and short-term plans for judicial education. In formulating these plans the Committee shall include, as part of its considerations, emerging sociological, cultural, medical, and technical issues that impact upon the process of judicial decision making and administration.

Be responsible for identifying the training needs of the judiciary; make budget projections and recommendations for continuing judicial education throughout the state on an annual basis; recommend educational topics, faculty and program formats; and perform an analysis of the cost effectiveness of judicial education programs.

Develop a procedure and criteria for approving programs that are offered by organizations or individuals other than those planned by the Committee on Education.

Develop and recommend for the Supreme Court standards for continuing judicial education and a method of recording the attendance of judicial officers at judicial education programs.

COMMITTEE ROSTER

Conference Members

Hon. Preston L. Bowie, Jr.
Hon. James K. Donovan
Hon. Edward C. Ferguson
Hon. Alan J. Greiman
Hon. James A. Knecht
Hon. Lori R. Lefstein
Hon. Stuart E. Palmer
Hon. M. Carol Pope
Hon. Jane Louise Stuart
Hon. Mary Jane Theis

Hon. Hollis L. Webster

Associate Members

Hon. James K. Borbely
Hon. Dale A. Cini
Hon. David R. Donnersberger
Hon. Lynn M. Egan
Hon. James R. Epstein
Hon. John K. Greanias

Hon. Jerelyn D. Maher

Advisors

None

COMMITTEE STAFF LIAISON: Lisa Jacobs

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