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Now it's Justice Butler

When newly appointed Wisconsin Supreme Court Justice Louis B. Butler moves into the Capitol, he will bring with him several cherished possessions that speak volumes about where he comes from, and where he's going.

"I'll bring my portrait of Justice [Thurgood] Marshall that hangs in my courtroom [in the Milwaukee County Courthouse]," he said, "and my portrait of Dr. Martin Luther King Jr. that hangs in my chambers, and a painting of a company of black soldiers from the Civil War. Oh, and my James Brown doll that dances and sings. I'm bringing him, too."

It's a safe bet that Butler will be the only justice with a 19-inch bobblehead Godfather of Soul in his chambers. The doll is a small emblem of the diversity that Butler believes is needed on the state's highest court. The different perspective he will bring, he said, goes well beyond race.

"I bring a diversity of background to the Court, and that's more than just ethnicity [Butler is the Court's first African-American justice]," he said. "I don't know that there's anyone there who grew up in a gang-infested neighborhood [he was raised on Chicago's South Side] where they're selling drugs on the street corners. I understand the problems we see in court. I know where people are coming from."

Butler won election to the circuit court in 2002 when he defeated incumbent Judge Robert Crawford. He came to the circuit court from the Milwaukee Municipal Court, where he served for 10 years. Prior to that, he was an assistant state public defender, a job that gave him an opportunity to argue at least 20 cases before the Wisconsin Supreme Court. He said he remains the only public defender in Wisconsin history to argue a case before the United States Supreme Court.

Butler ran for this Supreme Court seat in 2000, but lost to

the incumbent, Justice Diane S. Sykes, who had been appointed the previous year by Gov. Tommy Thompson. Sykes served for five years before seeking a seat on the U.S. Court of Appeals for the Seventh Circuit. After winning the presidential appointment and Senate confirmation, she was sworn in on July 4. Butler will be sworn in as justice in a small ceremony on August 25 at the Capitol. A large, public investiture will be planned for fall.

The eldest of five children, Butler grew up with two brothers and two sisters. His father was a loan officer and his

mother was a home-maker. He said he and his friends in a one-block area "agreed, no matter what, that we would not join a gang" and, with a couple of exceptions, they honored that pact. Butler stayed busy delivering newspapers (he lied about his age to get the route when he was just 8) and working hard in school. He enrolled in



Chief Justice Shirley S. Abrahamson welcomes newly appointed Justice Louis B. Butler to the Supreme Court during a press conference. Butler and his wife, Irene, are to the left of the Chief; Gov. Jim Doyle and Butler's mother and daughter are to the right.

Lawrence University and discovered that Appleton, Wisconsin, was a long way from home.

"I got involved with the African-American student organization," he recalled, "and I met a lot of people. We shot a lot of pool and I worked all the time because I was poor – I painted houses, ran the linen service on campus, sold sporting goods at Gimbel's-Fox Cities. I haven't been without a job since I was 8."

Butler graduated from Lawrence in 1973 and earned his law degree from the UW Law School in 1977. Watching speeches by President John F. Kennedy and Robert Kennedy inspired him to pursue the law. "I heard what they were saying, and I really bought into it," he said.

His role models are U.S. Supreme Court Justices Thurgood Marshall – "because of his passion for justice" – and William J. Brennan Jr. – "for his ability to build consensus

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Statement of Chief Justice Shirley S. Abrahamson

I have known Judge Butler for 25 years, first as a state public defender who practiced in front of this court, then as a Milwaukee Municipal Court judge, and most recently as a Milwaukee County Circuit Court judge.

The governor has made an excellent choice from a group of excellent candidates.

Judge Butler's lengthy and distinguished career in the law will serve the people of Wisconsin exceptionally well.

On behalf of the entire Supreme Court, I welcome Judge Butler as a member of the Supreme Court, and I extend thanks and congratulations to Governor Doyle for his timely – and history making – appointment.

Well, Judge Butler, that's your welcome. Huge piles of briefs and other documents are awaiting you. The Court's first oral arguments are September 9. So, welcome and let's get to work! ■



Director's column: Preparing for a successful season

It is that time again in Madison. Cooler weather is getting closer. Trepidation is building. Anticipation of the coming months makes both participants and observers anxious about the potential outcome of the season. Opinions on how to

approach the season are plentiful. And finally, everyone is focused on the traditional sea of red that will return. No, I am not talking about the beginning of the Badger football season. I am talking about the beginning of the biennial budget season, which will be awash in red ink.

While arguably not as entertaining to watch as the Badgers, the upcoming budget season will be similar in these respects: it will be challenging, unpredictable, and filled with highs and lows. After enduring years of budget cutbacks, it is critical we have a successful season.

While the start of the 2005-07 biennium on July 1, 2005 seems a long way off, my office has been working since May on developing the courts' 2005-07 biennial budget requests to be submitted to the governor and Legislature on October 1. I am continuing the practice of having an open budget preparation process and have encouraged input from judges and court staff. The Supreme Court's Planning and Policy Advisory Committee (PPAC) and the PPAC Planning Subcommittee will review the proposed requests at a meeting later this month to ensure that budget priorities are in line with long-range goals. Following PPAC's review, the Supreme Court will make the final decision on the budget submission.

Budget development began with a survey asking judges, justices, court staff, and clerks of circuit court to share their thoughts on potential budget initiatives, effects of cutbacks, proposed statutory changes that would help reduce the workload of the courts, and other issues affecting the court system. Even as budget requests were solicited, I warned that once again GPR funding would be severely limited in the upcoming biennium, with a plethora of needs competing for scarce resources.

In the responses, some common concerns emerged:

PPAC focuses on courtroom technology and overcrowded prisons

by Dan Wassink, senior policy analyst

There are at least eight drug courts currently operating in Wisconsin counties, and 33 teen/youth courts at the county and municipal level (with five more in the planning stages). Waukesha County is investigating the possibility of opening an alcohol abuse treatment court in response to the increasing number of repeat drunk drivers.

Regardless of the type, most specialty courts have a common goal: to expedite the legal process to get offenders into treatment programs more quickly in exchange for reduced time in jail or prison. The ultimate goals of this process are to increase the chances of rehabilitation, reduce recidivism, and ease the growing problem of prison and jail overcrowding.

The Planning and Policy Advisory Committee (PPAC) has responded to the trend toward problem-solving courts by forming a new Alternatives to Incarceration Subcommittee. The results of PPAC's 2003 issue identification survey also played a role in the decision, as attorneys in the survey

public defender indigency standards, criminalization of first-offense operating after revocation, Truth-in-Sentencing, the challenges that *pro se* litigants present and the resources that they require, and a variety of adverse effects of budget cutbacks and increased court fees. I'd like to thank everyone who took the time to respond.

The governor has now issued his 2005-07 budget priorities. They are: reducing the tax burden, investing in education, caring for kids, "grow" Wisconsin, supporting local government, reforming health care, protecting Wisconsin's citizens, enhancing the state's natural resources, securing a fair share of federal dollars, and streamlining state government. In spite of this incredibly ambitious agenda, the governor's budget target is zero growth, with certain exceptions such as school aids, operation of institutions, and entitlement programs. Further, the governor has directed executive branch agencies to prepare plans to absorb a 10-percent permanent base cut and warned of a potential 10-percent reduction in authorized positions. The 2005-07 budget will start with a deficit of about \$750 million.

But if that's not enough, recent calls for a constitutional amendment called the Taxpayers Bill of Rights (TABOR) could affect budget deliberations even though the earliest a TABOR constitutional amendment could be placed on a statewide referendum is April 2007 (to take effect in the 2007-09 biennium).

As you can see, we are entering a budget season that will be uncertain, challenging, and littered with potentially hazardous consequences for the court system. My job is to make sure – to follow the sports metaphor – that we have a "game plan" that gives us the best chance to be successful both in the short and long term. We will submit a budget request that, while fiscally prudent, supports those elements crucial to fulfilling the constitutional responsibilities of the judiciary. From there we will have to work together to make sure that the other two branches of government understand and support the needs of the third branch. Strap on your helmet and let's go. ■

ranked "overcrowded prisons/alternatives to incarceration" as their number-one issue. Besides examining the effectiveness of problem-solving courts, the new subcommittee will consider creative sentencing alternatives, as well as other court-related programs and policies designed to reduce incarceration levels while ensuring public safety.

PPAC also has decided to reactivate its Videoconferencing Subcommittee. That group was responsible for the highly regarded "*Bridging the Distance*" publication in 1999, which is still used today in planning for videoconferencing technology in the courtroom. However, some of the technical standards contained in "*Bridging the Distance*" are outdated, so subcommittee members will review and update them as needed.

The subcommittee also plans to examine the need for rules, procedures and protocols to encourage greater use of



A. John Voelker

Legislative committees take on issues affecting courts

by Nancy M. Rottier, legislative liaison

In late July, the Joint Legislative Council announced the formation of 12 study committees, four of which are likely to have a direct impact on the courts. The committees are expected to hold their initial meetings, at which they are likely to discuss the scope of each study committee, in August.

The membership of each of those four committees includes a sitting circuit court judge, as follows:

- ❑ **Adoption and Termination of Parental Rights** – Judge Christopher R. Foley, Milwaukee County Children’s Court presiding judge; first meeting Tuesday, August 24, Capitol
- ❑ **Child Guardianship and Custody** – Judge Thomas P. Donegan, Milwaukee County Children’s Court
- ❑ **Recodification of Chapter 938, the Juvenile Justice Code** – Judge David L. Borowski, Milwaukee County

Children’s Court; first meeting Thursday, September 23, 10 a.m., Legislative Council Conference Room, One East Main St., Suite 401

- ❑ **Sexually Violent Person Commitments** – Judge Richard J. Sankovitz, Milwaukee County Civil Division

The Council is comprised of 22 legislators including all leadership of both parties as well as citizen members with expertise and interest in the subject. The Council directs special studies of major issues and problems in even-numbered years while the Legislature is not in session, choosing topics from among a list suggested by legislators.

The Legislative Council has asked the Director’s Office to work with these committees; I will serve as a liaison from the court system, and Michelle Goodwin Jensen of the Office of Court Operations will act as a liaison to the committee on Adoption and Termination of Parental Rights. ■

The mission and membership of the committees

Adoption and Termination of Parental Rights

This special committee is directed to study current law relating to adoption and termination of parental rights (TPR) to determine whether modifications could be made to encourage adoptions in Wisconsin and to make the process more efficient and cost-effective. The committee will consider creating a state tax credit for adoption expenses. It also will study TPR and adoption in the context of the child welfare system to ensure compliance with federal law and that permanency is achieved for children as quickly as possible.

The members are: Rep. Suzanne Jeskewitz, chair, (R-Menomonee Falls); Rep. Steve Kestell (R- Elkhart Lake); Sen. Jeffrey T. Plale (D-South Milwaukee); Rep. Christine Sinicki (D- Milwaukee); Susan Dreyfus, Alliance for Children and Families, Milwaukee; Atty. Joseph Ehmann, first assistant state public defender, Madison; Judge Christopher R. Foley, presiding judge, Milwaukee County Children’s Court; Stephen W. Hayes, The Schroeder Group, Waukesha; Assistant District Atty. Patrick J. Kenney, Milwaukee County District Attorney’s Office; Mary Jane Proft, Germantown; and James Sampson, Children’s Service Society of Wisconsin, Wauwatosa.

Child Guardianship and Custody

This special committee will examine current state laws regarding guardianship of minors and the rights and responsibilities of guardians, and develop proposed legislation to clarify and improve those laws.

The committee also will review the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act, which has been proposed by the National Conference of Commissioners on Uniform State Laws, and determine whether Wisconsin should adopt it in place of the 1968 Uniform Child Custody Jurisdiction Act.

The members are: Sen. Alan J. Lasee, chair, (R-De Pere); Rep. Sheryl Albers (R-Reedsburg); Rep. Stephen L. Nass (R-Palmyra); Rep. Ann M. Nischke (R-Waukesha); Sen. Judith Robson (D-Beloit); Rep. Jeffrey Wood (R-Chippewa Falls); Rosemary Albrecht, Oak Creek; Judge Thomas P. Donegan, Milwaukee County Children’s Court; Atty. Sandra Cardo Gorsuch, Cardo Gorsuch Legal

Services, Reedsburg; Atty. Mary Kasparek, Dane County corporation counsel; Betty Klug, Lake Mills; and Patti Seger, Wisconsin Coalition Against Domestic Violence, Madison.

Recodification of Ch. 938, Juvenile Justice Code

This special committee will conduct a study of the re-codification of Chapter 938 of the statutes. This will include examining a possible reorganization of certain parts of the chapter to make them fit in a logical manner with the rest of the chapter; re-numbering and re-titling certain sections and subsections; consolidating related provisions; modernizing language; resolving ambiguities in language; codifying court decisions; and making minor substantive changes.

The members are: Rep. Scott Suder, chair, (R-Abbotsford); Rep. Garey D. Bies (R-Sister Bay); Sen. Robert Jauch (D-Poplar); Rep. Samantha Kerkman (R- Burlington); Rep. Carol Owens (R- Oshkosh); Rep. Marlin D. Schneider (R-Wisconsin Rapids); Sen. David A. Zien (R-Eau Claire); Judge David L. Borowski, Milwaukee County Children’s Court; Dennis Dornfeld, Waupaca County Department of Health and Human Services, Waupaca; Atty. Don Garber, Association of State Prosecutors, Madison; and Atty. Gina Pruski, State Public Defender’s Office, Madison.

Sexually Violent Person Commitments

This special committee will study current law relating to the commitment, periodic reexamination, supervised release, and discharge of sexually violent persons.

The members are: Sen. Alberta Darling, chair, (R-River Hills); Rep. Mark Gundrum (R-New Berlin); Sen. Julie M. Lassa (D-Stevens Point); Sen. Mary Lazich (R-New Berlin); Rep. Tony Staskunas (D- West Allis); Rep. Jeff A. Stone (R-Greendale); Assistant District Atty. Rebecca F. Dallet, Milwaukee County District Attorney’s Office; Michael Nofzinger, Appleton; Judge Richard J. Sankovitz, Milwaukee County Circuit Court; and Sally Tess, Wisconsin Department of Corrections. ■

Swap gives judges a new perspective

Burnett County, where they're still bragging about the 170-pound sturgeon caught at Yellow Lake in 1979, and where the tourism bureau hands out advice on skinning bullheads, is about 340 miles from Milwaukee. But the real distance between the quiet woods of northwest Wisconsin and the hustle of the state's largest city is, as two Wisconsin judges recently discovered, not so easily measured.

In July, Judge Charles F. Kahn Jr. traded his high-volume Misdemeanor Division calendar in Milwaukee County Circuit Court for Judge Michael J. Gableman's do-it-all calendar in Burnett County. The trade took about five months of planning.

"The planning was the key," Kahn said. "We contacted every party and gave advance notification to deal with any substitution requests and we brought the staff in on everything. They were very enthusiastic."

The idea took root at last year's Judicial College, where Gableman and Kahn sat next to one another. Gableman, who had heard about the Judicial Exchange Program initiated by Chief Justice Shirley S. Abrahamson several years ago, asked Kahn if they could switch sometime.

"It gives us a chance to see each other's worlds for a week, and I think there's value in that," Gableman told his local newspaper. "There's value in a metropolitan judge like Judge Kahn seeing how things are done in Burnett County, and there's value in a rural judge like me being exposed to Milwaukee's system."

For Kahn, who handled bail hearings, preliminary hearings, small claims, and criminal matters during his week in Siren, courthouse security was the most visible difference. In Milwaukee County, only one inmate is permitted in the courtroom at any time, and he or she must be shackled to the chair and guarded by two bailiffs.



Judge
Michael J. Gableman



Judge Charles F. Kahn Jr.

Things looked a little different up north. "The sheriff was quite vigilant," Kahn said, "but no one was in shackles, no one was chained to the chair. It was a very sensible approach."

Part of the reason for the different approach to security in a small, rural courthouse is that the sheriff knows the local troublemakers. In fact, Kahn found, pretty much

everybody knows everybody. One morning, he said, a defendant failed to appear for his scheduled hearing. "And another citizen in the courtroom on an unrelated matter piped up and told me, '[the defendant] works down the block. I'll tell him you're looking for him.'"

Kahn also found that the easy working relationship among the court, the District Attorney's Office,

and the Office of Clerk of Circuit Court Trudy Schmidt made for smooth proceedings. "There's a real sense of teamwork," he said. "Everyone pitches in and does what it takes." He noted that Judicial Assistant Mary Hinrichs has a scheduling system in place "that pretty much eliminated both downtime and overlap."

While Kahn was handling everything that came his way in Burnett County, Gableman was experiencing life in misdemeanor court – where 40 guilty pleas and sentencings are handled on a typical morning.

What both judges noted was the prevalence of drugs and alcohol. "There's just as much addiction there as there is here," Kahn said.

Kahn and Gableman praised Director of State Courts A. John Voelker, Chief Judges Edward R. Brunner and Michael P. Sullivan, and District Court Administrators Gregg Moore and Bruce Harvey for working out the logistics. The judges received their usual pay for the week and covered expenses on their own. ■

New Small Claims Assistance Program debuts in Dane County

Continuing with its mission to provide services to self-represented litigants, the Dane County Legal Resource Center opened a Small Claims Assistance Program on June 22.

Volunteer attorneys from the Dane County Bar Association assist small claims court litigants with questions, forms, and procedures every Tuesday from 9 to 11 a.m. on the third floor in the Dane County Courthouse. This service is co-sponsored by the Dane County Bar Association's Delivery of Legal Services Committee.

The Dane County Legal Resource Center is a public law library operated through a contractual arrangement between the Dane County Clerk of Courts and the Wisconsin State Law Library. ■

For more information, contact the Dane County Legal Resource Center at (608) 266-6316 or dclrc.ref@wicourts.gov.

LEADERSHIP

Judge champions 'JusticeWorks'

When Judge Frederic W. Fleishauer stopped at a grocery store in Stevens Point one day last winter, he hardly expected his activities there would be reported in the local newspaper. But that is what happens when you recruit community volunteers in the produce section.

Fleishauer ran into a longtime acquaintance who mentioned that he recently had retired. "I asked him what he was doing and if he needed something else to do," Fleishauer said. "I got him. He's been very involved in our project ever since."

That project, a non-profit corporation called JusticeWorks, Ltd., is an ambitious effort to design a network of restorative justice programs to complement the work of the traditional justice system. Restorative justice is an umbrella term for programs that focus on healing the victim, the community, and the offender. It has taken off in Wisconsin and elsewhere in the past five years, driven in part by concerns about ever-increasing jail populations.

When the *Stevens Point Journal* described the grocery-store encounter in a larger story about the effort, the newspaper gave away one of Fleishauer's favorite recruitment spots. "I always hope to run into people at the grocery store.

There are a few people I've been after for months."

Fleishauer's technique has paid off. More than 200 people are now members of JusticeWorks and the group has received start-up grants from the State Bar of Wisconsin, the Stevens Point Community Foundation, the American Legion, and a local Catholic organization. It currently is vying for federal money and pursuing other foundation grants.

A first meeting was held in May and members elected a board of directors, which met three times over the summer. Portage County Justice Programs Coordinator Kathy



Judge Frederic W. Fleishauer

King, who has worked in several counties to develop restorative justice programs and will be central to building this one, said the kick-off meeting – at which Justice Ann Walsh Bradley gave a well-received keynote address – demonstrated the community's enthusiasm for this program.

Fleishauer, who, like many of his colleagues across the state, has been working for years to find ways to keep people from re-offending, sees the program as a way to explore options and to expand ideas that have proven effective. He said he often, for example, orders defendants to exercise regularly as a condition of probation, and one of the JusticeWorks projects he hopes to start will offer jail inmates regular, supervised exercise sessions through the local YMCA.

But exercise alone does not turn criminals into productive members of society: Fleishauer knew he and his colleagues needed an array of tools to do that job.

"I never dreamed I would be working on this type of project," he said, "but I can tell you it has renewed my vigor and it has renewed my commitment to what I am doing." ■

Tackling the task

As a first step, JusticeWorks has split into five task forces, each exploring a different problem and possible solutions. The task forces are:

Alternatives to Sentencing

Judge Frederic W. Fleishauer chairs this group, which is exploring alternative sentencing, and said his group is taking a very preliminary look at 'circle sentencing', a process in which a group of people who are somehow affected by a crime sentence the offender. At the outset, the judge, attorneys, victim, and defendant must agree to proceed in this fashion and abide by the result.

Housing This group will explore alternatives to incarceration and finding housing for offenders who are returning to the community. The co-chairs of this group are Dave Medin, a Portage County Board supervisor, and Don Geiger, a retired probation and parole officer.

Mediation This group will study victim-offender conferencing, which brings victims and offenders together for a mediated discussion. The group also will look at how to improve the justice system for children and families. The co-chairs are Carrie Davies, the victim/witness coordinator in the Portage County District Attorney's Office, and Liz Fulton, principal of a local alternative high school.

Mentoring This group will explore ways to improve inmates' chances of successful reintegration into the community. The co-chairs are Atty. Donna Ginzl, an assistant state public defender, and Dan Barth, a social worker whom Portage County has hired to work in the jail.

Access to Justice This group will explore building a self-help center for pro se litigants. Retired University of Wisconsin - Stevens Point Prof. John Morser is chairing this group.

Revisiting the proper and sound exercise of discretion

On March 3, 2000, a Milwaukee steel worker named Curtis Gallion ended his shift at the factory, had a few drinks, and drove home. He was traveling approximately 50 miles per hour when he ran a red light at Locust and 35th streets and killed Vanessa Brown, a passenger in a car that he hit. Gallion, a mildly mentally retarded man who court records indicate began dealing drugs at age 14, pleaded guilty to homicide by intoxicated use of a motor vehicle. In exchange for his plea, Gallion received a promise from the prosecutor not to push for any particular length of incarceration.

After a lengthy sentencing hearing, Judge John J. DiMotto, a highly respected veteran Milwaukee County Circuit Court judge, sentenced Gallion under Truth-in-



Judge John J. DiMotto

Sentencing to 21 years in prison followed by nine years of extended supervision. This was about half the maximum sentence authorized by the Legislature.

Gallion appealed, arguing that DiMotto had failed to adequately explain the specific reasons for this sentence and had abused his discretion. He also

contended that the judge improperly considered the victim's good character; Gallion argued that a person who kills someone by drunk driving should not deserve more or less time in prison because of the victim's character. The Court of Appeals affirmed the sentence and the Supreme Court, in a unanimous opinion issued in April (2004 WI 42), affirmed the Court of Appeals.

The Supreme Court opinion, authored by Justice Ann Walsh Bradley with a concurrence from Justice Jon P. Wilcox, gives trial judges guidance for setting out their reasoning on the record. The opinion is the centerpiece of a new continuing education course for judges, which DiMotto himself is teaching. Following are the key points from Gallion that DiMotto emphasizes.

Discretion contemplates a process of reasoning

The process of reasoning depends on facts that are of record or that are reasonably derived by inference from the record and a conclusion based on a logical rationale founded upon proper legal standards.

Sentencing requires the court to state the reasons for its sentencing decision in open court and on the record. If the court determines that it is not in the interest of the defendant for the court to state the reasons for its sentencing decision in the defendant's presence, the court shall state the reasons for its sentencing decision in writing and include the written statement in the record.

The court should reference all materials that were

presented to the court and that influenced the sentence. These include:

- District attorney recommendation
- Defense attorney recommendation
- Victim(s) statement
- Defendant statement
- Letters
- Defense witness statements
- Pre-sentence investigation
- Defense sentencing memorandum
- Sentencing guidelines

The court's reasoning must be articulated

The court should set forth a number of items, beginning with the general sentencing objectives that affect the sentence. These include:

- Protection of the community
- Punishment of the defendant
- Rehabilitation of the defendant
- Deterrence of others
- Restorative justice
- Victim restitution

Identify and prioritize the general objectives of greatest importance in the case.

Describe the facts in the case relevant to each general objective.

Explain, in light of the facts of the case, why the particular component parts of the sentence imposed advance the specified general objectives.

Identify the factors that were considered in arriving at the sentence and indicate how those factors fit the general objectives and influence the decision. These include:

- Criminal record
- History of undesirable behavior
- Personality, character, social traits
- Result of the pre-sentence investigation
- Vicious or aggravated nature of the crime
- Degree of culpability
- Demeanor at trial
- Age, educational background, employment record
- Remorse, repentance and cooperativeness
- Need for rehabilitative control
- Rights of the public
- Length of pretrial detention
- 973.017(3) aggravating factors
- Mitigating factors

Impose a sentence for the minimum amount of custody or confinement consistent with the primary sentencing factors:

State, tribal courts work to build cooperation

by Judge David Raasch, president
Wisconsin Tribal Judges' Association

In Vilas County recently, a Wisconsin state trooper stopped a man on a state highway that runs through the Lac du Flambeau reservation and cited him for first-offense Operating While Intoxicated (OWI). While the man was a member of an Indian tribe, he was not a member of the Lac du Flambeau, which has been exercising jurisdiction in traffic matters (including first-offense OWI) involving tribal members for a number of years. The citation was returnable to Vilas County Circuit Court.

The defendant challenged the jurisdiction of the circuit court to hear the case, and a U.S. Supreme Court decision (U.S. v. Lara, 124 S. Ct. 1628) issued in April 2004 supported his argument that tribal courts may exercise jurisdiction over non-member Indians. The tribal prosecutor agreed to prosecute, and tribal Judge Alice Soulier advised circuit court Judge Neal A. Nielsen that she saw no limitations on her court's authority to exercise jurisdiction over the defendant. The case seemed headed for the tribal court, except for one problem: the State opposed a dismissal or transfer.

"The facts may be pretty simple," Nielsen said, "but there are enough issues involved to make a good law school exam question."

While controlling law in this case might have appeared to commit the matter to the tribal court, there was less than solid agreement among the parties. In many other instances, the jurisdiction question is even murkier. Working these issues out quickly and cleanly avoids confusion and results in more efficient use of the courts – which saves everyone time and money.

To lay the groundwork for improving how these jurisdictional disputes are handled, Wisconsin's state, federal, and tribal courts met in March 1999 for a program called On Common Ground. That conference identified the need for joint seminars on a number of topics. In October 2003, a joint training session was offered on Public Law 83-280, a law enacted in 1953 by the federal government, which hoped to reduce its own role in Indian affairs by giving states criminal and civil jurisdiction in matters involving Indians on reservation land. Prior to the enactment of Public Law 83-280, these matters were dealt with in either tribal or federal court.

Building upon the 1999 and 2003 sessions, the Wisconsin Tribal Judges Association (WTJA) has been presenting seminars in different parts of the state to encourage broad participation. The first was held in January at the Ho-Chunk Tribal Court in Black River Falls; the second was offered in April with the Stockbridge-Munsee Band of Mohicans Tribal Court hosting the event; and the third was offered in July, hosted by the Lac Du Flambeau Tribal Court. Together, the three seminars drew well over 100 attendees, including state judges, tribal judges, court commissioners, prosecutors, defense attorneys, court clerks, district court administrators, guardians *ad litem*, tribal government officials, and other interested parties.



State court and tribal court judges listen to a discussion of the 'Teague Protocol' for determining when full faith and credit will be granted to a tribal court decision.

The topic that generated the most interest and discussion revolved around the "Teague Protocol". Presenters included individuals who were involved in drafting the protocol, as well as people knowledgeable about the case itself. These discussions identified the needs for open communications between state and tribal courts. Communication was the greatest benefit of these sessions.

The WTJA considers these sessions a big success, and hopes to make this training project part of the permanent legal training landscape in Wisconsin. ■

A word of thanks from Judge Raasch

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Training session set for Kenosha

Judges, attorneys, social workers, and others interested in Indian child welfare are invited to attend a free, one-day seminar set for Friday, October 15 at the University of Wisconsin – Parkside in Kenosha.

On the agenda are a discussion of the history of the Indian Child Welfare Act (ICWA), caselaw, nuts and bolts for judges handling ICWA cases, and much more. Lunch will be provided.

For registration materials, contact Judge David Raasch at (920) 432-8355 or 1498 Grignon St., Green Bay, WI 54301, or e-mail chief.david2@juno.com.

Registration deadline is October 1.

RETIREMENTS

Bayorgeon presided in many notorious cases

Twenty-one years ago, when Judge James T. Bayorgeon became a judge, there wasn't a lot of crime in Outagamie County. Bayorgeon handled a great variety of cases, including many civil matters. Today, civil trials are uncommon and, while Appleton is no Sin City, the criminal caseload has grown exponentially.

"It's a substantial majority of what I do," Bayorgeon said. "And I find it demoralizing."

Bayorgeon, who will retire in mid-October, was appointed in 1983 by Gov. Tony Earl. During his judicial career, he has handled a couple of the highest-profile criminal cases in Wisconsin history. One involved serial killer David Spanbauer, whose crime spree spanned four decades. Many of

Spanbauer's crimes were committed while he was on parole, and his case helped pave the way for "two-strikes" laws and, later, Truth in Sentencing.

The other notorious case was the so called 'paper vat' murder, in which a group of six paper-mill workers were jointly tried and convicted of first-degree intentional homicide for tying a 50-pound weight around Thomas Monfils' neck and throwing him to his death in a vat of paper pulp. Monfils had tipped police off about some thefts and had emphasized the need to protect his identity. His murderers, however, were able to obtain from police a copy of the tape that contained his telephone tip and they killed him shortly after playing it. One of the six convictions eventually was overturned in the federal district court for lack of sufficient evidence; the U.S. Court of Appeals affirmed this ruling.

Bayorgeon said he "never had a problem" managing these cases, perhaps because no attorney would dare step out of line in his court. Bayorgeon's patience was, however, tested when a local newspaper ran a large picture of the jury during the Monfils case.

Patience, Bayorgeon said, is a vital commodity for every judge and he recommended that the governor choose a successor who has "an adequate store."

"I used to have a lot of patience," he said, "but I think I used it all up two or three years ago."

He becomes especially impatient with defendants who blame their crimes on falling in with the wrong crowd. "In all my years on the bench, I've never yet met a member of the wrong crowd," he said. "I've only met people who fell in with them."

One of the most rewarding parts of his job, Bayorgeon said, has been working on administrative matters. He is a longtime member of the Supreme Court's Planning and Policy Advisory Committee and said he finds "the interchange of ideas and the different perspectives" to be very interesting and helpful to the courts on a variety of key issues.

In retirement, Bayorgeon and his wife, Jeanne, who conducts home studies for international adoptions, plan to

travel and to spend more time with their two grandsons, ages 5 and 9, who live in Mondovi with Bayorgeon's daughter, Julia, a speech therapist and organic farmer. He and his wife also have a son, Stephen, who lives in Chicago and does commercial voice-over work.

Gov. Jim Doyle will appoint a replacement for Bayorgeon.

Milwaukee HR manager brought calm to difficult job

Before Jean Gmeindl became human resources manager for the Milwaukee County courts, she spent 20 years working in the county's Mental Health Complex. It was perfect training for her role with the courts.

Gmeindl, who retired in July, also served a stint in the County Executive's Office as office manager for Dave Schulz, a colorful one-term executive.

Former Milwaukee County Clerk of Circuit Court Gary

Barczak hired Gmeindl away from the County Executive's Office 13 years ago. Barczak's successor, John Barrett, has found Gmeindl's problem-solving skills to be invaluable.

Gmeindl said she enjoys the challenge of breaking down a seemingly insurmountable dilemma into smaller, more workable, parts. "Problems aren't always as big as they first seem," she said, adding that her own life experiences have helped her to work well with people. She turned down a scholarship to Lawrence University to take a job as a clerk/stenographer with the county nearly 40 years ago and then realized the value of a college education and earned a bachelor's degree from Alverno College.

In retirement, Gmeindl plans to work in the garden at her Franklin home and spend more time reading and walking. She and her husband have two daughters, who live in Madison and Milwaukee, and one son in Green Bay.

Waukesha clerk pioneered in-court processing

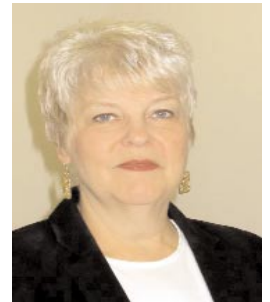
Linda Martinez was never one to let her years on the job interfere with her ability to bring a fresh perspective to a problem. That may be why, after 25 years of service in the Clerk of Circuit Courts Office in Waukesha County and 34 years of overall county service, Martinez still was working with Clerk of Court Carolyn Evenson on innovative solutions to everyday problems. Martinez, who retired in late spring, was especially proud of her successful effort to generate court orders in the courtroom and hand them to the parties before they left. "We were the very first juvenile court in the state to do this," she said.

Over the years, she worked on many key projects and

see **Retirements** on page 9



Judge
James T. Bayorgeon



Jean Gmeindl

RETIREMENTS *continued from page 8*

served on the county's Security and Facilities Committee and on the Juvenile Justice Collaborative Council.

Martinez became clerk of juvenile court in 1987, after having served as deputy juvenile clerk for eight years. She began her career in 1967 as a legal secretary at a law firm in New York.

Kelly Haag, who worked in the juvenile court for a time before taking a position with the Consolidated Court Automation Programs, was appointed in July to replace Martinez.

Nichol ends 16-year judicial career

Judge Gerald C. Nichol

In his 16 years on the bench, Judge Gerald C. Nichol has dedicated himself to two areas that many judges would just as soon avoid: juvenile court and mediation.

Not coincidentally, both of these areas emphasize problem solving, giving the judge an opportunity to step outside the traditional adversarial process.

Some are uncomfortable in that place, but it's where Nichol finds the greatest satisfaction.

"You don't see your successes," he said, referring to juvenile court. "But you do make a difference. And you're privileged to work with dedicated people – social workers, foster care parents – who never give up on a kid."

On the advice of his doctor, Nichol will retire effective October 31, a year and a half before his current term expires. He has battled heart disease for 17 years and underwent angioplasty last summer. The entire bench, and especially Nichol's Dane County colleagues, will miss the judge's commitment to helping troubled children.

Juvenile court, Nichol said, presents judges with one of the toughest calls in the courthouse: whether to take a child away from his parents. "And the second toughest is whether to put the kid back in the home," he said.

Nichol praised the Court-Appointed Special Advocate (CASA) Program as an invaluable resource for helping to monitor compliance with court orders and sounding the alarm right away when problems develop in a child's home. CASA provides trained volunteers to serve as the eyes and ears of the court, enhancing what the overburdened social services system is able to accomplish.

Nichol currently is serving in criminal court, where some of the defendants are people he first met in juvenile court. He calls them "the deep-enders"; they are those who "either couldn't read the play book, or they trashed it or sold it."

Nichol's approach, whether he is dealing with a hardened criminal or a scared kid or a couple of finger-pointing business partners, is to listen patiently and move things along. "You need to make a decision," he said. "People can live with decisions. Don't keep them waiting; the waiting is much worse than a decision they don't like."

His commitment to timely decisions was fostered, in part, by an experience on the bench in the Court of Appeals, where he participated in six cases through the Judicial Exchange Program that allows trial and appellate court judges to swap roles. That experience also led him to apply for gubernatorial appointment to an open seat on the Wisconsin Supreme Court in 1998. Nichol was a finalist, but then-Gov. Tommy Thompson picked David Prosser Jr. for the spot.

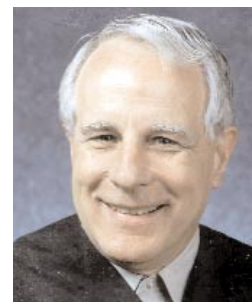
The large group of supporters who encouraged Nichol to apply for the Supreme Court opening and who championed his candidacy made the endeavor worthwhile, he said. "It was very affirming. I have no regrets about it."

In retirement, Nichol will concentrate on mediation and continue his volunteer work with the Luke House (a Madison soup kitchen), and Rubin for Kids, a mentoring program that provides positive reinforcement to troubled kids and gives scholarships to high school graduates pursuing a technical college degree. He plans to split his time between a downtown Madison condominium and a home in Florida that he shares with his wife, a retired pediatrician who serves on the board of directors of the American Academy of Pediatrics. The couple recently welcomed their first grandchild, Alissandro, who lives in Philadelphia with one of the Nichols' two sons, who is completing a fellowship in pediatric surgery. Their other son coaches a hockey team in Chicago and their daughter is a soccer coach in Colorado.

Gov. Jim Doyle will appoint a replacement for Nichol.

Nolan has seen many changes

Judge J. Michael Nolan spent the last week of his final judicial term exactly as he has spent most of the rest of his roughly 1,240 weeks on the bench: hearing cases in Lincoln County and helping out in neighboring counties. "I did ask that I not be scheduled on Friday (the last day of his term) and that will give me enough time to sign orders and clean up my papers," he said.



Judge J. Michael Nolan

Nolan's 24 years on the bench were full of hard work. Elected in April 1979 to replace the retiring Judge Donald Schnabel, Nolan took office in January 1980 (he was one of the last judges with a term that tracked the calendar year) and spent the next 18 years trying to keep up as the only judge in a county with an ever-increasing caseload.

"I felt that I was able to keep the court system rolling, and that I did a decent job of keeping the calendar going and keeping everyone somewhat satisfied," he said. "But for a long time, we had a very high need for a second judgeship." In 1998, after a second branch was added, Nolan was joined

see Nolan on page 10

Nolan *continued from page 9*

by Judge Glenn Hartley.

During Nolan's years on the bench, he observed many changes. He spotted an improvement in courtroom civility after some rather lean years, and he saw many changes to the law that made the job of the decision-maker more complex than ever. The state's juvenile code was overhauled, a constitutional amendment and subsequent enabling legislation gave crime victims new rights, and the criminal code was rewritten. The criminal law changes, which came as a result of Truth in Sentencing, have been, he said, "a difficult thing to continue to get your arms around."

Nolan has enjoyed the challenges that civil cases can offer when they present new and novel questions of law. "Where there is nothing firm to guide you to the answer, where there can be no 'cookie-cutter' result, that's what I find most satisfying."

Asked about his least-favorite task, he echoes the fellow who sat next to him in law school, Judge Gerald C. Nichol. "Child-placement decisions, absolutely," Nolan said. "Those have become more and more difficult for me, as a grandfather, and I've come to feel I have just so many of those decisions in me and I've about cashed out."

In retirement, Nolan looks forward to "being unscheduled for a while" and to traveling a bit in the U.S. and Canada. He also hopes to reacquaint himself with trout fishing, and to pursue simple pleasures. "I like to be in the woods," he said, "and I like to read. Judges often don't read much for pleasure because we read constantly for work."

He hopes to serve occasionally as a reserve judge, and to spend more time with his wife, Barbara, their grandchildren, and their four daughters: a lawyer in Wisconsin Rapids, a physician in Stoughton, and two school counselors – one in Wausau and one in St. Paul.

The new judge, Jay R. Tlusty who was elected last April, took office August 2. ■

Six clerks of circuit court step down

by Tina Nodolf, Supreme Court marshal

The state of Wisconsin will lose more than 100 years of collective experience in courthouses across the state this winter when six clerks of circuit court step down. The clerks are: Joe Bauknecht, Manitowoc County; Virginia Giacomino, Iron County; Ruth Janssen, Outagamie County; Louise Lindsay, Price County; Melvin Madsen, Polk County; and Donna Seidel, Marathon County. Voters will fill the vacancies on November 2; the primary election is slated for September 14.

**Joe Bauknecht
Manitowoc County**

After serving 21 years in the U.S. Army, Clerk of Circuit Court Joe Bauknecht, Manitowoc County, was able to accomplish his goal of running for public office. But as much as he has enjoyed his eight years as clerk, Bauknecht intends to end his political career when he retires on Jan. 3, 2005.

Looking back, Bauknecht feels his biggest accomplishment was "convincing the county board to create a director of business operations position in the Clerk's Office, which was actually my predecessor's idea." He explained that this position helps free the clerk to focus on other duties by assisting with supervisory and financial matters. Bauknecht said he's lucky because "the current director has a financial background making him instrumental in budgeting and financials." Bauknecht said he would miss working with many of the people in his office and the other clerks throughout the state, but that he would not miss "the government part of the job; decisions seem to take forever." On the up side, working in county government did teach him patience, Bauknecht said, and his advice to the new clerk is "resist pressures to make changes quickly without first looking at the big picture."

Retirement will give Bauknecht fuller control of his time, but he does not intend to stop working. He owns a corporation that controls various properties including three local movie theaters, at which he personally guarantees that the popcorn is popped fresh each day. Displaying his marketing acumen, he also makes sure that the aroma of the popping corn is blown into the lobby to entice patrons as they enter each theater.

Bauknecht said he is looking forward to spending more time with daughter, Gretchen, who is general manager of the family corporation. And he hopes to visit Madison frequently to spend time with son, Jason, who works in the office of Sen. Robert Welch (R-Redgranite).

Vying to replace Bauknecht are seven people, including, from the courthouse: his director of business operations, a legal secretary, and a child support agency worker.

**Virginia Giacomino
Iron County**

When Virginia Giacomino, who is retiring in early January, ran for the Iron County clerk of circuit court post 16 years ago, she thought it would be an interesting job. Giacomino also believed – correctly – that her knowledge of bookkeeping and computers, and her experience as a town clerk, would be an asset in the job.

When Giacomino started, she was surprised to discover that cases were docketed by hand in ledger books. Giacomino said financial reports would take several days to prepare; now, they can be done in an hour, she noted.

Computers have made the work faster and easier, but the quality of the information still depends on human beings. Giacomino said one of the challenging parts of her job is ensuring that all information entered in each case is accurate. There is simply no room for error, she said, when the smallest mistake can affect people's lives. Also challenging is staying on top of constantly changing laws.

Giacomino is proud of her staff's customer service skills, and said she will miss each person in her office. "The courthouse is full of great people," she said. "No one ever says, 'that's not my job.' Everyone pitches in and helps when needed. We all support each other personally and professionally."

Giacomino plans to sit back and enjoy retirement for a while, and will be on the lookout for new adventures.

RETIREMENTS *continued from page 10***Ruth Janssen
Outagamie County**

As reported in the spring 2004 edition of *The Third Branch*, Clerk of Circuit Court Ruth Janssen will step down from the post she has held since 1975 in Outagamie County.

Janssen began as a deputy clerk in 1968 and became chief deputy in 1973 before winning her first election. When she retires on December 31, she will leave behind an office that has grown from 10 to 27 employees and a caseload that has increased by more than 50 percent.

**Melvin Madsen
Polk County**

When asked how long he's been in office, retiring Polk County Clerk of Circuit Court Mel Madsen likes to answer, "I was elected with Jimmy Carter in '76."

Madsen was introduced to politics by his parents, but his interest was really sparked when he worked on a campaign for Gaylord Nelson. He admitted it didn't take much convincing for him to leave a job as purchaser for a manufacturer of single-engine airplanes to run for the clerk's post.

Madsen said he has seen many changes during his 28 years in office, but the biggest were the development of the Consolidated Court Automation Programs (CCAP) and court reorganization that created the single-level trial court. One thing that did not change over the years, however, was "the challenge of educating the county board to secure funding for the court system."

Budget skirmishes are about the only part of the job Madsen won't miss. He has enjoyed working with staff, lawyers, judges, and the public, and counts the people-contact as the best part of his job. He said he even would miss "the judge who was holding a bond hearing on bad check charges; the defendant said he had no cash, so the judge asked if the defendant could write the clerk a check."

Madsen's advice to the incoming clerk (Chief Deputy Clerk Lois Hoff and Deputy Clerk Diane Taxdahl are running for the office) would be "not to forget to smell the roses and talk to the trees. And you should enjoy talking with and being around people."

Madsen plans to spend his retirement working at the campground he and a partner purchased and began refurbishing about three years ago. Located on the Apple River, the "Do Nothing Campground" [(715) 268-8980] has sites for recreational-vehicle and tent camping.

**Louise Lindsay
Price County**

In 1981, Judge David Clapp appointed his judicial assistant, Louise Lindsay, as the Price County clerk of circuit court. Lindsay said her experience as a court reporter, legal secretary, and occasional fill-in for the clerk helped her to develop many of the necessary skills.

But some of the most important skills – people skills – she developed on her own with inspiration from Chief Justice Shirley S. Abrahamson. Lindsay heard Abrahamson give a talk at which she recounted some of her unofficial

visits to courthouses in Wisconsin. "She said she was not always dressed in a business suit or wasn't recognized and was often not treated well. But she was always treated well if people recognized her," Lindsay said. "That story always stuck in the back of my mind, and helped me to always treat each person well no matter who they were."

While the best part about the clerk's job for Lindsay has been the opportunity to contribute to the court system, she said the opportunity to work with a "dedicated and knowledgeable staff" runs a close second. Lindsay said she has been very lucky to have a staff that shares her attitude about customer service. She also noted that she would have had to increase her staff significantly without CCAP. The development of CCAP, she said, has been the biggest and best change she has experienced in her 23 years on the job. Not surprisingly, Lindsay's advice to her successor is, "always be fair and treat every person equally and with respect whether he or she is a judge, lawyer, staff, or member of the public."

Vying to replace Lindsay are a legal secretary, a saleswoman, and a local business owner.

In retirement, Lindsay looks forward to discovering "what it feels like to not have to be any place at any given time." She also plans to visit grandchildren in Colorado and other family in Louisiana. But mostly, Lindsay is looking forward to the day her husband of nine years retires. He owns a tree-trimming business in Madison.

**Donna Seidel
Marathon County**

Marathon County Clerk of Circuit Court Donna Seidel is stepping down at the end of this term to pursue a new challenge: she is running for a seat in the state Legislature. Seidel hopes to replace former Rep. Gregory Huber, who is now a Marathon County Circuit Court judge.

Seidel, who has been clerk for 16 years, cites automation as the biggest change she has seen. She recalled her excitement when Marathon County was chosen to be a pilot county for CCAP. "We were eager to be on the ground floor of CCAP's development," she said.

Seidel said she feels honored to have been a part of the county's "highly regarded progressive court operations system" and proud of her staff's dedication to customer service. Seidel believes that type of commitment and perseverance are essential to meet the challenge of working with growing numbers of *pro se* litigants and an increased focus on collections.

Seidel's high regard for her staff shows in the advice she would give her successor: "Learn from the people around you," she said. "You will be surrounded by very skilled employees. Don't be afraid to ask them questions or say 'I don't know.'"

Seeking election to the office are an administrative supervisor in the Sheriff's Department, a Marathon County Board supervisor, an accountant who currently works in the office, and a woman who is self-employed. ■



Donna Seidel

Waupaca County's 35-year employees honored

When Peg Morey and Nancy Thoe started working at the Waupaca County Courthouse in 1969, they knew they were there to stay. This summer, the women marked 35 years with the courts and Clerk of Circuit Court Terrie Tews organized a party to celebrate their dedication to the courts.

Peg Morey's career with the courts was launched when



Peg Morey (left) and Nancy Thoe celebrate 35 years in the Waupaca County Clerk of Circuit Courts Office. Clerk Terrie Tews and staff organized a party to honor the employees' lengthy service.

she stopped at the courthouse to apply for a marriage license in 1969 and learned of a new job opening. She applied and became the first deputy clerk for the newly created Branch II, where she worked with Judge Nathan Wiese until his retirement in 1985.

As Morey watched the office staff grow from three to 12 over the years, she realized that the volume of work was increasing even faster. When computerization came in 1992, everything changed. Gone were the days of manually typing everything on a clunky typewriter – she

even used to type the child support checks. "Luckily, there weren't many back then," she said.

She is now in Branch I working with Judge Philip M. Kirk. She is always satisfied that she's put in a good day's work, she said. Over 35 years, she has developed one particular skill that she uses every day: the ability deal with all types of personalities.

While retirement is not on her mind immediately, it is nearing as her husband comes closer to retiring.

Nancy Thoe began her court career as a clerk/typist working with Judge Nathan Wiese and Morey. After nine months, she was promoted to deputy clerk. Today she is a lead worker as a deputy clerk III in the criminal and traffic court with Judge John P. Hoffmann.

While she acknowledges that moving over to CCAP (Consolidated Court Automation Programs) has been her biggest challenge so far, she sees it is valuable to have the information online. "I certainly don't miss looking information up manually," she said.

Thoe has no plans to retire in the near future. She thoroughly enjoys her work as deputy clerk and the variety she sees day to day. "I also love the people I work with and would miss them too much if I retired," she said. "Besides, I have one more son to get through college."

Thoe enjoys spending time with her two sons (and helping one out with one son's hobby farm) and five-year-old grandchild. ■

TIS *continued from page 6*

- Protection of the public
- Gravity of the offense(s)
- Rehabilitation of the defendant

Consider probation as the first alternative. Probation should be the disposition unless the court finds:

- Confinement is needed to protect the public
- Defendant needs treatment that can most effectively be provided if the defendant is confined
- Probation would unduly depreciate the seriousness of the offense(s)

If the court imposes probation, it shall explain why the conditions of probation should be expected to advance the general objectives that the court has specified. If the court imposes jail or prison, the court shall explain why the duration of the incarceration should be expected to advance the general objectives the court specified.

The court should set forth an explanation for the general range of the sentence imposed.

The court should set forth an explanation regarding why

this range is more appropriate than a greater or lesser range.

If the court imposes a bifurcated sentence, the court shall also explain why its duration and terms of extended supervision should be expected to advance the general objectives the court specified.

Post-sentencing admonitions must be given

- Firearm prohibition
- Voting prohibition
- Costs, surcharges, assessments
- Truth-in-Sentencing written explanation of determinate sentence
- Child sex offender restrictions – when applicable
- Body armor prohibition – when applicable
- Sex offender reporting and registration warning – when applicable
- DNA analysis requirement – when applicable
- Challenge Incarceration Program eligibility
- Earned Release Program eligibility
- Appellate rights ■

Judicial Assistance Program in the works

by Judge Stuart A. Schwartz
Dane County Circuit Court

On October 14, 2003, 20 judges from all areas of the state met in Wisconsin Dells to discuss the formation of an official Judicial Assistance Program. Joining the judges were an alcohol treatment specialist, Director of State Courts A. John Voelker, Executive Director James C. Alexander of the Judicial Commission, and various judges and lawyers whose lives have been negatively influenced by alcohol.

The committee concluded that alcohol was not the only issue to be addressed. Other areas of concern included mental health, drug abuse (both legal and illegal) and judicial burnout. At the conclusion of the meeting, a committee was formed to create a program for assisting judges who are feeling the effects of stress.

Since that time, those who participated in the meeting have continued to meet and have talked with Director of Judicial Education David Hass, Personnel Officer Margaret Brady, the Committee of Chief Judges, and the State Bar of Wisconsin Lawyers' Assistance Program. Each of these meetings has furthered the goal of developing a positive, unified, comprehensive approach designed to address judicial wellness concerns.

The following information is intended to acquaint each of you with the scope of our program and to provide you with information that you may find useful in your daily judicial and personal endeavors.

The need

The Wisconsin court system has no formal judicial assistance program to help with early identification and resolution of the behavioral, mental, medical, and productivity issues that may contribute to judges having problems on the job.

Stress is the normal accompaniment of a judicial career. Judges suffer from burnout, pressure from litigants, poor working conditions, and depression. These stressors may result in ailments. How each of us responds to these influences causes strain and can ultimately have an impact on our personal lives and professional capabilities.

The focus

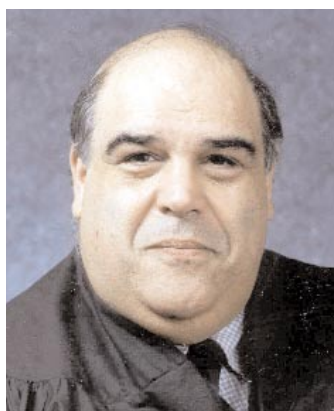
The focus of the program will be aiding judges in addressing issues related to alcohol, drug, and mental health. Although we will assist reserve judges, court commissioners are not covered by this program. All calls are confidential within the scope of appropriate laws and guidelines. Calls will be handled on a case-by-case basis with the goal of providing the judge with resources to address the unique circumstances surrounding his/her professional and/or

personal concerns. Assistance from reserve judges will be available to support any judge who is engaged in treatment. If you are calling on behalf of a colleague, we shall contact that judge and discuss the issues that have been raised. We shall assist by sharing your concerns and by providing resource information as requested. Again, your referral is confidential.

Because this is a program designed by judges and staffed by judicial personnel, we bring a unique knowledge and perspective to the program. We understand the daily courtroom stressors, the realities of the work, the constant

pressure and exposure day after day. Each of us is acquainted with conflicts and disputes, crime and violence, family neglect and tragedies, abuse, alcohol and mental health problems, and the very process of decision-making, including the anxiety that each of us feels when passing judgment on others while simultaneously balancing the competing rights and interests involved.

We are aware of the strain associated with productivity during times of fiscal restraint. We comprehend the difficulties that each of us encounters in trying to be efficient and effective.



Judge Stuart A. Schwartz

The services

Our program will not provide direct intervention or health advice. We shall assist a professional intervener if such services are required and only if we are asked to participate. Our initial goal is to be a friend, a colleague with whom a judge who is feeling stress may freely and privately discuss issues. We shall provide you with information regarding professional assistance within your area of the state if you request that information. Information is not limited to just judges. If you have a family member that may need treatment, we can assist you in obtaining treatment information.

Questions about the Judicial Assistance Program may be directed to Personnel Officer Margaret Brady at (608) 267-1940, or margaret.brady@wicourts.gov. Those interested in the program's services may call any one of the members directly at any time. They are: Judges Stuart A. Schwartz, Dane County (chair), (608) 267-2517; Michael O. Bohren, Waukesha County, (262) 548-7482; Gary L. Carlson, Taylor County, (262) 748-1435; Jeffrey A. Conen, Milwaukee County, (414) 278-4470; Timothy G. Dugan, Milwaukee County, (414) 278-4496; Lisa K. Stark, Eau Claire County, (715) 839-4809; Allan "Pat" Torhorst, Racine County, (262) 636-3304; and Reserve Judges Robert A. Haase, Oshkosh, and Patrick L. Snyder, Waukesha. ■

WISCONSIN CONNECTS

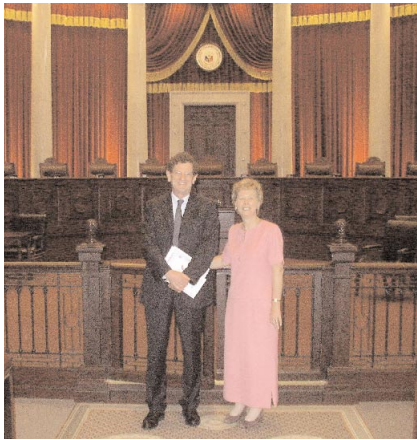
Chief justice travels to Mongolia, Shanghai

Chief Justice Shirley S. Abrahamson lectured on decision-making and writing opinions this summer for judges in Mongolia. The trip was sponsored by the National Center for State Courts.

Abrahamson also taught in Shanghai at the Willamette (Oregon) University Law School program for law students. She ran sessions on comparative law relating to judicial administration, decision-making, rule of law, and judicial independence using American, Chinese, Australian, Dutch, and Ecuadorian students to participate in a discussion.

Bradley teaches in Philippines

When Justice Ann Walsh Bradley walked into the Clerk of Courts Office in the Philippine capital of Manila in July



Justice Ann Walsh Bradley joins Judge Robert French of the Federal Court of Australia in the hearing room of the Supreme Court of the Philippines in Manila. Bradley and French were selected to teach at a conference for trial-court judges in Manila this summer.

and saw the staff pounding away on Underwood manual typewriters, she realized the immensity of the challenges facing that country's court system.

The office equipment (there was not a computer in sight) was one of the more visible symbols of a justice system in distress. Under the surface, Bradley found less obvious but much more serious problems: a backlog of cases that could be cleaned up in 15-20 years if no new cases came into the system; a caseload of 4,000 active files for many trial judges; a judicial

vacancy rate of 30 percent because of low pay and immense workloads; and severe jail overcrowding.

"I asked the clerk of court if they were experiencing overcrowding in the jails or prisons," Bradley recalled. "She responded, 'it is not just over-crowded, it is hell.' Prisoners languish in jail for years awaiting the conclusion of their trials, and the court system is plagued by continuances."

Although the Philippines has based many of its laws and procedures on U.S. models, Bradley noted that the implementation of these models has been fraught with difficulties. One of the biggest differences that she observed was that the Philippines does not provide jury trials.

Bradley traveled to the Philippines under the auspices of the American Bar Association's Asia Law Initiative (ABA-Asia), which selected her and a justice from Australia to teach a two-day program, "The Role of Trial Court Judges in Pre-Trial Management and Courtroom Control: A Comparative Perspective", for Filipino judges. The Supreme Court of the Philippines invited ABA-Asia to present the program, and the nation's chief justice held a dinner in honor of the faculty during their visit.

When she was not teaching, Bradley met with U.S. Ambassador Francis Ricciardone, and visited courts to speak with judges and court staff. She also observed the first part of a trial in a Manila drug court, one of just two operational drug courts in the country (the other five are inactive because of vacancies), and noted that the case was

already more than a year old and was scheduled for 10 hearings over the next 18 months.

She found that the shortages of supplies and equipment that she had observed in the Clerk's Office were every bit as apparent in the courts themselves.

"I spoke with one judge who bought the paint for her courtroom," Bradley said. "I also learned that judges often purchase their own supplies and that the blank, reverse sides of pleadings serve as the chambers' paper supply."

In spite of the courts' difficulties, Bradley was upbeat about the future. "The people I met were incredibly hardworking and committed," she said. "It was an immense honor to share ideas with them, and I found that I learned a great deal."

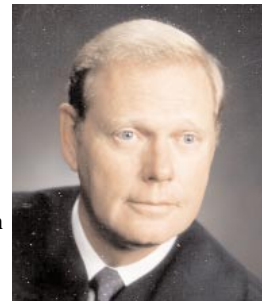
Cane participates in SMU program

Court of Appeals Chief Judge Thomas Cane was invited to participate on a panel of chief judges discussing the jury system in the spring.

The panel spoke to law students at the Dedman Law School at Southern Methodist University in Dallas. Cane joined chief judges from Louisiana, North Carolina, Pennsylvania, and Virginia, who comprise the Judicial Education committee for the Chief Judges Council.

The professor who organized the program, which was entitled "Challenges to the Jury System," presented a thesis that summary judgment is a threat to the jury system.

"Some of us agreed and some did not," Cane said, "but it was interesting as the students were very well prepared and asked each of us a number of questions about summary judgments and other 'threats' to the civil jury system."



Chief Judge Thomas Cane

Flanagan invited to speak in Washington

Judge Mel Flanagan, Milwaukee County Circuit Court, has been invited by the Department of Justice Office of Violence Against Women to speak at a symposium commemorating the tenth anniversary of the Violence Against Women Act (VAWA) in Washington, DC in September.

The symposium will bring together people from around the country to demonstrate the gains and successes of the VAWA funded projects. Flanagan will represent an urban judge's perspective on domestic violence and sexual assault cases in the justice system.

Wisconsin will send team to Atlanta training program

Wisconsin has been invited to send a team to a multi-state training program in Atlanta in November. The National Judicial Education Program (NJEP), which develops and

PPAC *continued from page 2*

videoconferencing in Wisconsin courts while protecting the rights of litigants. Videoconferencing is currently used, to varying degrees, in many courtrooms around the state for certain hearings and other legal proceedings. It saves time and money by allowing inmates, witnesses, and others to appear in court without traveling to the courthouse.

A recent report by the Wisconsin Office of Justice Assistance (which has awarded grants to counties to offset the cost of implementing videoconferencing) showed that a \$1.5 million investment to install videoconferencing equipment in every county would result in a \$2.3 million savings in the first year. In developing that cost-benefit analysis, the report only considered two types of legal proceedings. It may be appropriate to give judges clearer and more direct authority to use videoconferencing in a wider variety of proceedings than currently specified in state law, while making sure litigants' constitutional rights are protected. ■

The committees**Alternatives to Incarceration Subcommittee**

Judge Carl Ashley*, Milwaukee County Circuit Court
Court Commissioner Lindsey Draper,

Milwaukee County Circuit Court

Atty. Hannah Dugan*, Legal Aid Society of Milwaukee

Judge Steven D. Ebert, Dane County Circuit Court

Clerk of Circuit Court Carolyn Evenson,

Waukesha County

District Court Administrator Scott K. Johnson*,

District Nine, Wausau

Peter Kinziger, International Community Corrections
Association, Eau Claire

Richard Manke, Waukesha County Board supervisor

Mort McBain, Marathon County

Justice Advisory Committee

County Executive William McReynolds, Racine County

Anthony Streveler, Department of Corrections

Steven Swigart, Wisconsin Community Services, Milwaukee

Atty. Michael Tobin*, State Public Defender's Office

District Atty. John Zakowski*, Brown County



Lindsey Draper



William
McReynolds

Videoconferencing Subcommittee

Atty. Samuel W. Benedict, State Public Defender's Office, Waukesha

Mary Burzynski, Wisconsin Court Reporters Association

Judge Gary L. Carlson, Taylor County Circuit Court

Sheriff Ron D. Cramer, Eau Claire County, Wisconsin Counties



Sheriff
Terry Dryden

Association

Sheriff Terry Dryden, Washburn County, Badger State

Sheriff's Association

Clerk of Circuit Court Bernadette Flatoff*,

Portage County

District Atty. Scott Horne, La Crosse County, Wisconsin

District Attorneys Association

Judge Edward E. Leineweber*, Richland County

Circuit Court

Judge W.M. McMonigal*, Green Lake County Circuit Court

Shelley Monroe, Winnebago Mental Health Institute, Wisconsin

Department of Health and Family Services

District Court Administrator Michael Neimon, District Three, Waukesha

Marty Ordinans, Wisconsin Department of Corrections ■

*Denotes PPAC member

Connects

continued from page 14

presents judicial education that promotes equality for women and men in the courts, is training educators on its sexual violence curriculum.

Attending from Wisconsin will be Judges Karen E. Christenson, Milwaukee County; Dale T. Pasell, La Crosse County; Atty. Eva Shiffrin, Wisconsin Coalition Against Sexual Assault; and Judicial Education Director David Hass.

Milwaukee County Circuit Court Judge Mel Flanagan, who is on the faculty for this program, said the goal is to return to Wisconsin with an educational plan that can be used for judges as well as other professional groups. Flanagan also taught teams from Mississippi, Ohio, North Carolina, and Oregon in August.

White speaks on education

Judge Maxine A. White, Milwaukee County Circuit Court, participated in a panel discussion during a one-day, national education conference sponsored by the Milwaukee Urban League and the Congressional Black Caucus Foundation, Inc., in June.

The conference focused on what has been accomplished in the 50 years since the U.S. Supreme Court's Brown v. Board of Education decision, exploring the state of K-12 education, second-generation civil rights issues, and more.

White's panel discussed "Separate and Unequal: Urban Education in 21st Century America." The moderator was Joan Prince, Ph.D., vice chancellor of the University of Wisconsin – Milwaukee, and panelists, besides White, included William Andrekopoulos, superintendent of Milwaukee Public Schools; Festus Obiakor Ph.D., a professor at the University of Wisconsin – Milwaukee; and Atty. William H. Lynch.

The numerous national speakers appearing at the conference included Congressman Elijah Cummings, D-Maryland; and Jocelyn Elders, M.D., former U.S. surgeon general. ■



Judge Maxine A. White

APPOINTMENTS

Abrahamson leads nation's chief justices

Chief Justice Shirley S. Abrahamson, who has served on the Wisconsin Supreme Court since 1976 and has been chief justice since 1996, assumed the presidency of the national Conference of Chief Justices (CCJ) effective August 1. The term is one year. She is only the second chief justice from Wisconsin to lead CCJ; the first was Chief Justice John E. Martin, a Green Bay native who served on the Court from 1948-62 and was president of CCJ in 1960-61.

Abrahamson's election will raise the profile of some of Wisconsin's successful programs, including its initiatives to train and certify courtroom interpreters, improve access to court for people without attorneys, and enhance court-related education in high schools.

"I am delighted that my fellow chief justices selected me to serve as their leader," Abrahamson said. "The Wisconsin court system is, in many ways, a model for the nation and this honor recognizes the commitment of all the judges and court staff around the state who work on innovative solutions to the challenges that we face in providing justice for all people."

CCJ is a national organization that represents the top judicial officers of the 50 states and U.S. territories. As part of her role as CCJ president, Abrahamson also will chair the National Center for State Courts.



Justice
Ann Walsh Bradley

Bradley is Doyle's pick for state commission

Gov. Jim Doyle has appointed Justice Ann Walsh Bradley to a three-year term on the nine-member Commission on Uniform State Laws. Bradley replaces former Justice William G. Callow.

The Commission works with like bodies in all 50 states, which form the National Conference of Commissioners on Uniform State Laws, to examine subjects where interstate uniformity is desirable – such as child-support enforcement – and determine how to draft a uniform law that would be enactable in most states.

Other members are: Atty. Lawrence Bugge, Foley & Lardner, Madison; Rep. David A. Cullen, D-Milwaukee; Atty. Peter J. Dykman, Legislative Reference Bureau; Rep. Mark Gundrum, R-New Berlin; retired Sen. Joanne B. Huelsman; Atty. Bruce Munson, Revisor of Statutes Bureau; and Orlan L. Prestegard, Oregon.



Judge
Gregory A. Peterson

Peterson will serve on Judicial Commission

The Supreme Court has appointed Judge Gregory A. Peterson, Court of Appeals District III, to serve on the Wisconsin Judicial Commission. Peterson's term runs through July 2007. He replaces Judge Charles P. Dykman, who has served the maximum six years.



Justice David Prosser Jr.

Prosser will serve on Judicial Council

Justice David Prosser Jr. has been reappointed to the Judicial Council. The 21-member body has statutory

responsibility to study and make recommendations to the Legislature regarding court pleading, practice, and procedure as well as court organization, jurisdiction, and operation. His term runs through June 2006.

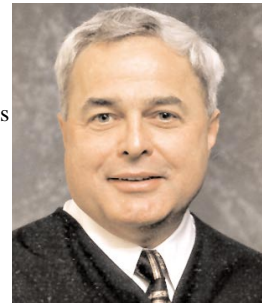
Brunner is 'chief of chiefs'

Wisconsin's Committee of Chief Judges elected Chief Judge Edward R. Brunner, Barron County Circuit Court, as 'chief of the chiefs' at its August meeting. In this capacity, Brunner will serve as chair of the group.

Brunner is chief judge of the Tenth Judicial Administrative District, which encompasses 13 northwestern Wisconsin counties.

He replaces Chief Judge James Evenson, who served a one-year term as the group's leader and who remains chief judge of the Sixth Judicial Administrative District.

Chief judges manage the flow of cases, supervise personnel, develop budgets, and meet monthly as a committee to work on issues of statewide importance. With the exception of Milwaukee, where the chief judge is a full-time administrator, chief judges and their deputies maintain court calendars in addition to handling administrative matters.



Chief Judge
Edward R. Brunner

Moore elected to Eau Claire County Board

District 10 Court Administrator Gregg Moore was elected to the Eau Claire County Board of Supervisors in April. Moore, who has served as court administrator for 20 years in the district that encompasses 13 northwest Wisconsin counties, unseated an incumbent to win the two-year board term. He originally had sought appointment to the seat when a midterm vacancy occurred in 2002.

"I thought if I wanted it enough to seek the appointment, I should go ahead and run," he said.

The seat is the first elective position Moore has held, and he won it the old fashioned way, knocking on about 650 doors and distributing literature to every home in the district. He has been appointed to serve on the Human Services Board, where he works on issues ranging from delivery of mental health services to refugee resettlement, and to the Committee on Administration, where he focuses on information technology and the operation of various county offices.

The Wisconsin court system permits its administrative and clerical employees to hold non-partisan elective office while complying with certain conditions. ■



Gregg Moore

VOLUNTEERS IN THE COURTS

Mediation can pull the community together

Is it a good idea for victims to meet offenders face-to-face in a conference? Milwaukee County Assistant District Atty. David M. Lerman believes so. As the office's restorative justice coordinator, Lerman has seen what mediation can do for a victim, an offender, and the community. And as a prosecutor, Lerman is encouraged by mediation's effect on recidivism. According to a January 2003 study by the Milwaukee County district attorney's office, of 101 offenders going through the program between May 2000 and July 2002, 10.9 percent re-offended compared to 23.6 percent for those that did not participate.

Since the Milwaukee County Community Conferencing Program (CCP) began accepting cases in May 2000, it has held nearly 160 conferences. With more than 40 volunteers, the program enables offenders, victims, and community members to meet in a safe environment with a volunteer facilitator to discuss the crime and its impact on both the victim and the community.

Judges, prosecutors, defense attorneys, law enforcement, probation officers, and victims can refer a case to the CCP. Several factors are considered before the case is accepted: the offender must be non-violent, must accept responsibility for the crime and express remorse, and must have an appropriate general attitude toward the victim.

If the offender is a candidate for the program and agrees to participate, a volunteer facilitator holds a pre-conference where the facts of the case are discussed from the victim's and offender's points of view. In cases where the victim chooses not to participate, members of the community may read a statement from the victim or simply share their own thoughts about the crime. The discussion ends with an agreement on how the offender will make amends for his/her crime. All parties must agree. In one case, for example, a grocery store clerk who was caught stealing was to return to the store for a specified amount of time to talk with new employees about the consequences of stealing.

Erin Katzfey, CCP program manager, monitors compliance reports that go back to defense counsel. Generally, the news is good. As one offender said, "I am so much more aware of their [the victim's] point of view and how much it hurt them." Through these encounters, sincere apologies and even forgiveness result. One victim who went through the program had this to say: "It was the perfect answer – I wanted to have the young (offender) meet me – see that I was real and how this (crime) impacted my life."

Volunteers are key to the success of the CCP. The volunteer facilitators attend two days of mediation training after which they must participate as a co-facilitator at least

twice before becoming a lead facilitator. Training sessions are held two to three times per year and include interactive exercises, demonstrations, role-playing, and lectures.

Volunteers go the extra mile

When Phil Clark retired after 14 years as chief of police for the University of Wisconsin-Milwaukee last year, he wanted to do something to give back to his community. Then he heard about the CCP and he was hooked. "I see perpetrators more as individuals now than I did when I was in law enforcement," he said.

Since January 2004, Clark has volunteered as a facilitator and joined in conferences as a community member. He views the conferences as beneficial to all involved.

As a law enforcement officer since 1962, Clark believes that "if you do the crime, you do the time." However, he sees as a "healing process" for both the victim and the defendant.

"There are almost always tears when everyone leaves [a conference], because now they can relate to each other," he said. "And they've been able to open up and start healing." He recalls a recent case of a service station owner meeting with a college student who had robbed one of the owner's employees. In the end they wanted to help each other and weren't suspicious of one another anymore.

"[The facilitation] creates more of a community by understanding each other and each other's cultures," said Clark. "Victims don't have to be afraid anymore." One victim even wants to help ensure a defendant finishes school and is successful in life after their conferences together.

Clark indicated that it isn't uncommon for victims to want to stay involved with the CCP by volunteering as facilitators once their own cases are wrapped up.

The program is funded in part by the federal and state government as well as a grant from the Bureau of Justice Assistance. With the success of lower recidivism, the program is currently looking into expanding into children's court in the next year.

At least 14 other counties in Wisconsin have victim-offender mediation programs. They are: Dane, Eau Claire, Fond du Lac, Jackson, Jefferson, Kenosha, La Crosse, Manitowoc, Racine, St. Croix, Trempealeau, Washington, Waukesha, and Winnebago. ■

To find out more about the CCP or to volunteer, contact Lerman at (414) 278-4655 or lerman.david@mail.da.state.wi.us and Katzfey, at (414) 278-4632 or katzfey.erin@mail.da.state.wi.us.



Atty. David M. Lerman



Erin Katzfey

VOLUNTEERS IN THE COURTS

Summer interns gain valuable perspective

Annamarie Edelen is a second-year law student at Marquette Law School who feels "lucky to have this opportunity" to intern in the Dane County Circuit Court. The court has been equally fortunate, for Edelen has brought not only enthusiasm and an interest in the law, but also a richly diverse background as a former U.S. Army intelligence employee whose expertise in Arabic languages led to four years of work in Egypt and Saudi Arabia. Prior to enrolling in law school, she earned a Ph.D in Middle Eastern studies.

Edelen is one of 27 summer interns in 16

counties working beside judges to learn firsthand how the courts work through the Volunteer Summer Law Student Internship Program. Chief Justice Shirley S. Abrahamson launched the program in 1997 by writing personal letters to universities inviting their students to apply. To date, nearly 300 law students have volunteered their time during summer break, boosting their skills while providing valuable services to the courts.

Edelen, a Minneapolis native, has worked with Judge C. William Foust on civil and criminal cases, and has had the chance to observe other judges in various courts. Not having had any previous court experience, she was not sure how much she would understand, but said the judge and staff have been a tremendous help. She receives valuable feedback from Foust while researching civil cases.

After her overseas work for the Army, Edelen and her husband moved to Madison for graduate school, where she received her Ph.D. She decided to pursue a career in law after her exposure to clients through work with Dane County Human Services.

Edelen highly recommends the summer intern program as a priceless experience. Working for the neutral arbiter rather than for an advocate has given her an opportunity to hone her ability to see all sides of any case. The program is coordinated through the Office of Court Operations. ■

For more information on the program, contact Melissa Lamb, Office of Court Operations, at (608) 266-3121.



Annamarie Edelen and Judge C. William Foust

2004 summer interns

Dane County:

Judge John C. Albert – Keith Madriago, UW Law School
 Judge Patrick J. Fiedler – Julia Erin Gonzalez Stuber, UW Law School
 Judge C. William Foust – Annamarie Edelen, Marquette Law School
 Judge Diane M. Nicks – Jacob Bishop, UW Law School
 Judge Sarah B. O'Brien – Linnea Irving, Oklahoma City University School of Law

Door County*:

Judges Peter C. Diltz/D. Todd Ehlers – Michael Van Lente, Case Western Reserve University Law School

Kenosha County:

Judge Wilbur W. Warren III – Mark Milos, John Marshall Law School

Jefferson County:

Judge William F. Hue – Erick Fabyan, UW Law School

Kewaunee County*:

Judge Dennis J. Mleziva – Michael Van Lente, Case Western Reserve University Law School

Marathon County:

Judge Dorothy L. Bain – Craig Miller, Suffolk University Law School

Marinette County:

Judge Tim A. Duket – Shane Sanderson, University of Oregon School of Law

Milwaukee County:

Judge David L. Borowski – Barbara Schifalacqua, Chicago-Kent College of Law
 Judge Jean W. DiMotto – Carrie Budzien, Loyola University School of Law
 Judge Clare L. Fiorenza – Jenni Spies, Marquette Law School
 Judge Daniel L. Konkol – Catherine Terry, Ohio Northern University School of Law
 Judge Marshall B. Murray – Stephanie Erickson, Southern New England School of Law; Joel Urmanski, Marquette Law School
 Judge John Siefert – Angie Aliota, Thomas Jefferson School of Law

Outagamie County:

Judge John A. Des Jardins – Jeff Billings, University of Michigan Law School

Racine County:

Judges Charles H. Constantine/Faye M. Flancher – Monica Hammer, Washington University School of Law

St. Croix County:

Judge Scott R. Needham – Toni Wehman, University of Colorado School of Law
 Judge Edward F. Vlack III – Leslie Parker, Marquette Law School

Vernon County:

Judge Michael J. Rosborough – Jeremy Thompson, St. Louis University School of Law

Walworth County:

Judge James L. Carlson – Sandeep Basran, Creighton University School of Law

Washington County:

Judge Annette K. Ziegler – Scott Grosz, UW Law School

Waukesha County:

Chief Judge Kathryn W. Foster – Ann Hellwig, UW Law School

Winnebago County:

Judge Thomas J. Gritton – Michelle & Brandt Swardenski, University of Colorado School of Law

* shared between Door and Kewaunee Counties

A word of thanks from Judge Raasch

The state court/tribal court project that was described on page 7 is the result of the cooperative efforts of the Wisconsin Supreme Court and the Wisconsin Tribal Judges' Association to improve the judicial services provided to their constituents.

These seminars could not have been provided without the cooperation and support of the Wisconsin Supreme Court, the Director of State Courts Office, the Office of Judicial Education, the members of the WTJA, and the State Bar of Wisconsin. Their cooperation and support made this project possible.

This idea would never have come to fruition without the expert coordination provided by James Botsford, director of the Indian Law Office of Wisconsin Judicare. Professor Carol Tebben from UW-Parkside worked with others to design and submit the curriculum continuing education credit for judges and attorneys.

The expertise of judges and attorneys right here in Wisconsin, and their willingness to volunteer their time to develop and present very informative materials made it possible for the WTJA to provide this program at no cost to the attendees. These experts are named below.

A popular addition to the binders is the accompanying CD. Judge David Raasch took all of the presenters' materials, designed a cover and burned them onto CDs. Lengthy court cases that were only outlined in the binders were made available in their entirety on the CD.

The WTJA thanks all of the people who attended these sessions and looks forward to future seminars. A special thanks is extended to: Atty. James Botsford, Chief Judge Edward R. Brunner, Judge Robert E. Eaton, Reserve Judge James B. Mohr, Atty. Michael P. Murphy, Atty. Kevin Osterbauer, Atty. Andrew J. Pyatskowitz, Judge Ernest St. Germaine, Atty. Paul W. Stenzel, Prof. Carol Tebben, Judge Kimberly Vele, and Atty. James E. Zorn.

Another word of thanks to the tribal courts and their staff who so graciously and generously provided the facilities and the lunches. The WTJA is committed to building positive and respectful working relationships with state courts, as well as continuing to learn how to better provide judicial services to the people of Wisconsin. We endeavor to keep the lines of communications open. ■

For a copy of the materials on CD, or to share thoughts and ideas, contact Judge David Raasch at (920) 432-8355 or chief.david2@juno.com.

OBITUARIES

Clerk of Circuit Court Alfred Lewandowski Portage County

Alfred Lewandowski, who served as clerk of circuit court in Portage County for 30 years, from 1957-87, died June 21 at St. Michael's Hospital in Stevens Point. He was 83.

He was first appointed by Judge Herbert A. Bunde and subsequently worked with Judges James H. Levi, Robert C. Jenkins, and Frederick Fleishauer. In addition to his service as clerk, Lewandowski was a member of the Stevens Point City Council and the Portage County Board.

During World War II, Lewandowski was a flight crewman with the U.S. Air Force 393rd Bombing Squadron's top secret Manhattan Project that ultimately dropped an atomic bomb on Hiroshima on Aug. 6, 1945, five days before the Japanese surrender.

After his Army service, Lewandowski worked for Hardware Mutual Insurance (Sentry Insurance) and Central Wisconsin Transport.

Lewandowski enjoyed fishing, hunting, camping, berry picking, and long Sunday drives. Survivors include his wife, Rita; three sons; five daughters; and 16 grandchildren.



Alfred Lewandowski

Clerk of Circuit Court Evelyn Maldonado Trempealeau County

Evelyn Maldonado, who served as clerk of circuit court in Trempealeau County from 1972-88, died June 28 at home. She was 80.

Prior to her election as clerk, Maldonado served for eight years – from 1964-72 – as deputy clerk. After she retired from the office in 1988, she was able to devote more time to her favorite activity, community service in the Whitehall area. She played piano at the nursing home, volunteered at the hospital and at the local cable access television station, worked with the Wisconsin/Nicaragua Partnership, and spent a great deal of time on church activities.

Maldonado's husband, Joseph, died in August 1989. Surviving her are a brother; three daughters; three sons; 14 grandchildren; and eight great-grandchildren.



Evelyn Maldonado

Court Reporter Duane A. Peterson Waushara County

Duane A. Peterson, who retired in the summer of 1999 after 37 years as the court reporter in Waushara County, died June 10 at home. He was two weeks shy of 70.

Peterson, a native of North Dakota, began his career as a court reporter in Waushara County when John F. Kennedy was in the White House. During his tenure there, he worked for Judges Boyd Clark, James Poole, Jon P. Wilcox (now a justice on the Wisconsin Supreme Court), and Lewis R. Murach.

Peterson loved spending time with his wife, Mary; his son and daughter, David and Lisa; his five young grandchildren; and the numerous nieces and nephews who knew him as Uncle Duke.

When he retired, he looked forward to reconnecting with a childhood hobby, building model airplanes and trains. "The difference," he noted at the time, "is now I can afford to put motors in them." ■



Duane Peterson

PEOPLE

“Criminal committee never used,” a story in the August 2 edition of the *Milwaukee Journal Sentinel*, picked up on a story by Legislative Liaison **Nancy M. Rottier** in the spring edition of *The Third Branch*. Reporter **David Doege** noted the inactivity of a committee that the Legislature created to study and report on the effects of proposed bills creating new crimes. Reserve Judges **Thomas H. Barland** and



Nancy M. Rottier

Robert R. Pekowsky both were quoted in the story. They expressed that the committee could be doing important work, providing the Legislature with advice on whether new laws would save or cost money, whether they would be consistent with other laws, and whether they would prohibit conduct that already is illegal. Spokesmen for legislative leaders expressed that the committee duplicates services already available to the Legislature, but Pekowsky, one of the Supreme Court’s appointees to the committee along with Reserve Judge **Dennis D.**

Conway, said the committee would provide something different – a variety of perspectives from prosecutors, the defense bar, the general public, corrections, and the judiciary.

Outagamie County Court Commissioner **Brian Figy** invited a reporter from *The Post-Crescent* (Appleton) to observe juvenile intake and to report – without names and with everyone’s permission – what he saw there. The result, a large Sunday story headlined, “Justice serves youths,” described offenders as young as 8 and highlighted their struggling families, and the court officials and teachers and shelter workers who are committed to brightening the futures of these kids.

The Wisconsin court system found itself in the national spotlight in July when Court TV came to Milwaukee to cover the trial of a minister who was charged with murder after allegedly trying to perform an exorcism on a little boy.

The network’s legal commentators, who are often strongly critical of the courts and of judges in particular, bubbled with praise for Judge **Jean W. DiMotto**. They called her thoughtful, compassionate, impartial, and strong, and marveled at her ability to command respect and keep control of the courtroom.

Justice **Patience Drake Roggensack** was selected to judge the national finals of the Learning for Life high school mock trial tournament on July 31 in Milwaukee. Each year, a different state sponsors the finals; this year was Wisconsin’s turn. Roggensack reported that the participants on both teams – from Coldwater, Mich., and Fishers, Ind. – were

outstanding but that the Indiana team edged the competition and took first place.

After La Crosse County contracted with a Peoria, Ill., company to provide health services to jail inmates, many of the inmates stopped receiving their medications, the *La Crosse Tribune* reported. Attorneys and inmates told the newspaper that **Brian Bowman**, M.D., the group’s medical director, was withholding medications that were prescribed

by other doctors. Bowman said he would not allow any inmate to have a drug that could be bartered or sold. One inmate, who was prescribed four medications by a psychiatrist from the La Crosse County Human Services Department only to have them withheld by jail medical staff, went to court. At the hearing, Judge **John J. Perlich** expressed his frustration and concern. “I’m faced with a choice of releasing someone who is facing his fourth OWI offense so that he can get the medication that one branch of the county says he needs, or keeping him in jail, where another branch of the county says he can’t have the medication that he needs,” Perlich said, ultimately ordering the jail to take the inmate to the county’s mental health clinic each day so he could receive his medication.

The newspaper was present for another hearing at which Bowman was supposed to appear at 10:15 a.m. and showed up at 10:29. Perlich, who had a lengthy sentencing hearing due to start at 10:30, ordered the jail doctor subpoenaed to appear at a later date. “Doctor,” Perlich was quoted as saying, “If you do not appear on the date of that subpoena and at the correct time of that subpoena, you’re going to get a whole different perspective on the La Crosse County Jail.”

On June 3, the Dane County Jury Implementation Committee had a “very successful unveiling” of its PowerPoint presentation to inform and encourage all citizens, but especially members of minority groups, to serve as jurors, according to Dane County Circuit Court Judge **Moria Krueger**, who chairs the committee. Krueger has worked closely with Clerk of Circuit Court **Judy Coleman** and District Court Administrator **Gail Richardson** on this project, and said the presentation would be edited in response to suggestions made at the showing. The piece was developed in cooperation with a class at Edgewood College and will be made available to anyone who is interested in making use of it.

Winnebago County Circuit Court Judge **Scott C. Woldt**, appointed in 2004 to replace the retiring Judge **Robert A. Haase**, was the subject of a June feature in *The Oshkosh Northwestern*.

Woldt, who has earned a reputation as friendly and approachable, told the newspaper he feels the weight of the “awesome responsibility” of judging every time he takes the bench.

“Crowded jail prompts shorter sentences,” a story in the July 25 edition of *The Journal Times* (Racine) discussed Judge **Stephen A. Simanek**’s reaction to the e-mail he receives each morning



Judge Moria Krueger



Judge Scott C. Woldt

PEOPLE *continued from page 20*

from the Racine County Sheriff's Department. The e-mail, which goes to all judges, gives the current jail population and the number of inmates sleeping on the floor due to



Judge
Stephen A. Simanek

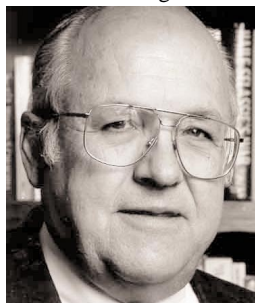
overcrowding. Simanek, who is assigned to traffic court, was quoted as saying that the information affects how he sentences for offenses such as driving after revocation. He emphasized that he only reduces sentences for very minor crimes. "I want to get people off the floor because I think that's a problem, with hundreds of operating with revocation cases

every month," he said. "I want to get people off the floor because I think that's a problem waiting to blow up."

Justice **Ann Walsh Bradley** traveled to Washington, D.C., in July to swear in the elected officers from the Girls Nation at the invitation of the American Legion Auxiliary. After speaking to the group – two girls from each of the 50 states – about judicial independence and the decision-making process, she swore them all in as judges and presented a case for their deliberation.

Six-year-old **Simon Essig Aberg** is in first grade and already has had an article published in the *Wisconsin State Journal*. He interviewed Justice **Ann Walsh Bradley** in February and wrote a paper on the interview. His school, Falk Elementary in Madison, printed a newspaper that became an insert in the newspaper called "The Falk Kids Press." The article discusses why Bradley chose to become a justice, her family, travels, and favorite books.

Reserve Judge **Frederick P. Kessler**, who served as a Milwaukee County judge for 11 years in the 1970s and 80s and helped to create the Court of Appeals as a member of the state Assembly in the 1960s and early 70s, is running for an open seat in the Legislature. Fresh off working on a successful campaign to elect his wife, **Joan Kessler**, to the Court of Appeals, Fred Kessler is seeking to replace Rep. **Shirley Krug** in



Reserve Judge
Frederick P. Kessler

a Democratic district on Milwaukee's northwest side. Krug stepped down to run for Congress.

The Fond du Lac and Dodge County courts are exploring ways to make it easier for children ages 16 and younger to testify. These counties and others across the state have been videotaping child testimony for about 10 years, and hope to make better and more frequent use of videotape testimony. *The Reporter* (Fond du Lac) recently highlighted this effort following a high-profile child-abuse trial involving live courtroom testimony by four children, ages 5, 6, 9, and 13. "If a child can't verbalize what happened in a room with a social worker, it's even harder in front of a jury," Doge

County District Attorney **Steven Bauer** told the newspaper.

Clerk of Circuit Court **Angeline Sylla**, Trempealeau County, has been making appearances on a local cable TV show called Coffee Chat to discuss jury service, passports, small claims mediation, and how various assessments increase fines for different violations. Sylla, who has been clerk since 1989, also invites school groups to the courthouse regularly and assists with a role-play exercise in Judge **John A. Damon's** court.

Judge **Andrew P. Bissonnette**, Dodge County Circuit Court, was invited by Gov. **Jim Doyle** to attend the Governor's Summit to Prevent Child Abuse and Neglect. He – and about 150 other state officials – attended the meeting in Madison to learn of programs to help prevent child abuse and neglect. "I think everyone in the community knows that there is child neglect and abuse happening in our community, but until I took the bench and presided in juvenile court, I had no idea of the full extent of the problem," Bissonnette said.

Bissonnette also traveled to Hayward to attend a two-day Wisconsin Juvenile Justice Commission meeting. He told *The Reporter* that violent crimes committed by juveniles were down about 9 percent last year, while property crimes were down 7.9 percent. The commission works to prevent juvenile delinquency and oversees distribution of federal funds to assist in developing effective juvenile policy and legislation.

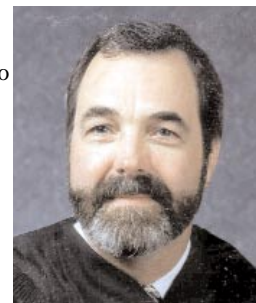
Racine County Circuit Court judges recently approved the use of ankle bracelets that will monitor the blood-alcohol level of those arrested for operating under the influence, reported the *Milwaukee Journal Sentinel*. The bracelets are another alternative to Breathalyzer tests. Racine County is the first in Wisconsin to use the new system called the Secure Continuous Remote Alcohol Monitor.

Judge **Mel Flanagan**, Milwaukee County Circuit Court, has been named to the advisory board of the National Judicial Education Program (NJEP), which develops and presents judicial education that promotes equality for women and men in the courts. Flanagan has been an NJEP faculty member in the past, teaching the group's Understanding Sexual Violence curriculum and serving as an advisor to an effort to develop a similar curriculum for prosecutors.

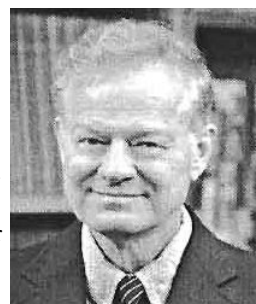
An Intoxicated Driver Intervention Program (IDIP) is now a sentencing option in Jackson County for second, third, or fourth time offenders. *The Banner Journal* (Black River Falls) reported that Judge **Gerald W. Laabs** initiated the program. Offenders who participate pay the costs, receive a referral to alcohol or substance abuse services, are required to take random Breathalyzer and urine tests, and must complete a community service program. Successful completion means a reduction in fines and jail time, and a shorter revocation period.

Federal Appeals Court Judge **John Coffey**, who took

see **People** on page 22



Judge
Andrew P. Bissonnette



Judge Gerald W. Laabs

NEW FACES

Legal Action lawyer is new Milwaukee judge

Gov. Jim Doyle appointed Atty. Mary E. Triggiano as Milwaukee County's new Branch 13 judge. She was sworn in on August 2 and will serve in Children's Court. Triggiano replaces Judge Victor Manian, who retired mid-term after serving more than 30 years on the bench.

A graduate of the UW Law School, Triggiano was most recently managing attorney in the Milwaukee office of Legal Action of Wisconsin, a position she held for eight years. In addition to managing a staff of attorneys and paralegals, she administered grants and organized continuing education programs. She also designed seminars for legal services, public defenders, and district attorneys on expert witness testimony in domestic violence cases.

In addition to her "day job", Triggiano spent the last 10 years as director of the Volunteer Lawyers Project. In that capacity, she coordinated more than 1,500 lawyers and non-lawyer professionals in 11 counties and developed numerous special projects ranging from efforts targeting pro bono court reporters, certified public accountants, and vocational experts, to projects on consumer advocacy and bankruptcy assistance.

She described herself as a good listener who likes to problem-solve. She called judging "a noble profession" that will allow her to continue a lifetime of community service.

"My life has been dedicated to my community," she said. "I see this as a way to continue that. There are many judges whom I admire greatly and I look forward to rolling up my sleeves and working with them."

When she is not working, Triggiano enjoys spending time with her three-year-old daughter, Natalie, and riding her Harley-Davidson motorcycle.

Courts welcome new payroll manager

After 24 years as the Wisconsin court system's chief payroll and benefits manager, Donna Windschiel has

chosen to reduce her hours to part time. While she still will work on payroll and benefits, the person in charge of the office will be Gary Hartog, who comes to the courts from the state Department of Health and Family Services.

Hartog, who started in late June, has worked in state and municipal government for 18 years. Most recently, he served for more than 10 years in the payroll department of Health and Family Services and the Department of Regulation and Licensing.

A graduate of the University of Wisconsin – La Crosse, Hartog is a sports fan and has been a high school athletic official for 26 years. He currently is an official for soccer, football, basketball and softball. He also enjoys reading. Hartog lives in Mount Horeb with his wife, Eileen, a family day care provider.

Working with Hartog and Windschiel in the payroll office are Barbara Argue, Mary Hendrickson, and Andrea Beckes.

Former assistant AG is deputy clerk

Supreme Court and Court of Appeals Clerk Cornelia Clark hired Atty. Chris Paulsen as her chief deputy in July.

Paulsen, a 1997 graduate of the University of Akron School of Law, began his law career as an assistant prosecutor in the Summit County (Ohio) Prosecutor's Office. He returned to Wisconsin in 1999 and worked as a staff attorney for the state Department of Transportation and then as an assistant attorney general. In 2001, he was appointed as staff attorney to the Jefferson County Child Support Enforcement Agency.

Paulsen and his wife, Marci – an assistant city attorney – live on Madison's far West Side with their two sons, ages 3 and 2, and two dogs. He enjoys reading, writing, and biking. ■



Judge
Mary E. Triggiano



Atty. Chris Paulsen

PEOPLE *continued from page 21*

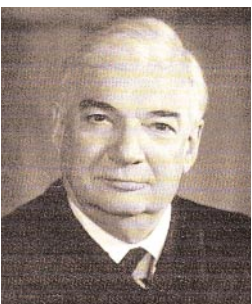
"senior" status, cutting his caseload in half, when Judge

Diane S. Sykes was confirmed to replace him this summer, was featured in the *Milwaukee Journal Sentinel* in June. Reporter **Derrick Nunnally** interviewed Coffey in his Milwaukee office (Coffey refused to move to Chicago, where the Seventh Circuit is based), and found that the **Ronald Reagan** appointee is still living up to his reputation, as noted in a 1974 *Milwaukee Journal* profile, for inspiring "denunciations, criticisms, bitterness and fear".

Coffey, according to the Nunnally story, denounced his peers on the Ninth Circuit, based in California, as

issuing decisions that have no basis in law. "I have never once used a Ninth Circuit decision as a reference," he said. "They like to make the law as they think it should be."

Coffey earned a reputation as forceful during his 16 years on the bench in Milwaukee County Circuit Court (he left the circuit court when he won election to the state Supreme Court in 1977). The newspaper quoted veteran defense Atty. **James Shellow** on Coffey's approach: "Judge Coffey is more concerned about affirming the convictions of those who are apparently guilty," he was quoted as saying, "while I am more concerned with the validity and constitutionality of the process." ■



Judge John Coffey

Butler *continued from page 1*

sus and for his opinions that truly gave guidance to litigants and lawyers.”

In his spare time, Butler plays league softball, is an avid golfer, and enjoys card games and bowling. He enjoys reading (his favorite book is a science fiction thriller, “Ender’s Game”, by Orson Scott Card), movies (his favorite is “West Side Story”), and spending time with his wife, Irene, who is a homemaker. The couple’s two grown daughters, and baby granddaughter, live at home. He also has a grown stepson.

The other finalists for appointment were Judges Angela B. Bartell, Dane County; and Maxine A. White, Milwaukee

County. They were culled from a group of nine semi-finalists by the Advisory Council on Judicial Selection.

The nine semi-finalists included, besides Bartell, Butler, and White: Court of Appeals Judge Richard S. Brown, District II (headquartered in Waukesha); Judge Jean W. DiMotto, Milwaukee County Circuit Court; Atty. Linda Clifford, La Follette Godfrey & Kahn (Madison); Prof. Edward Fallone, Marquette Law School; Atty. Ness Flores (a former Waukesha County Circuit Court judge), Flores & Reyes, Waukesha; and Atty. Walter Kelly, a Milwaukee-area private practitioner who ran against Justice Jon P. Wilcox in 1997. ■

The decision-makers

Since 1983, when then-Gov. Tony Earl established the first Governor’s Advisory Council on Judicial Selection, Wisconsin governors have depended upon this small and powerful group of advisors to evaluate applicants for judgeships and narrow the list to between three and five finalists.

The Council consists of eight permanent members. The governor adds up to two temporary members for some appointments; for circuit court and Court of Appeals’ appointments, the temporary members are chosen from the area where the opening has occurred. For this Supreme Court appointment, Doyle did not add any temporary members to the panel.

The Council met with all nine semi-finalists in back-to-back 30-minute interviews at the state Capitol on July 27.



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Wisconsin hires first Stenomask reporter

The Wisconsin court system hired its first Stenomask reporter in June, following a recommendation from a chief judges' subcommittee that the courts give consideration to certified Stenomask reporters because of a looming shortage of court reporters.

The Stenomask is a device that the reporter holds over his or her face. The reporter repeats into the mask everything that is said in court and the mask records his/her voice and instantly displays the text on a screen.

Court Reporter Mark Garvin, a certified verbatim reporter, was hired in Wausau after completing a two-week audition during which attorneys and judges evaluated his record-taking compared with stenographic court reporters. On the final day of the audition, Garvin reported a hearing alongside a stenographic reporter and a digital recording device. After a review of the transcripts showed that his work was accurate and complete, he was offered the job.

Garvin, who received his original training



Court Reporter Mark Garvin tests his Stenomask in the Marathon County courtroom of Chief Judge Dorothy L. Bain.

with the U.S. Marines after being drafted in 1969, told the *Wausau Daily Herald* that jurors in the North Carolina courts where he worked for 24 years wondered what was going on when he held the mask to his face. "[They] would often come up to me and say 'I thought you were taking oxygen over there.' Some people think it looks like I have asthmatic problems." ■

New jury video set for production

A new jury orientation video that will replace the one produced 10 years ago is scheduled for shooting in late August in the Milwaukee County Courthouse. The finished video will be available in January 2005.

After scouting a number of locations, the crew chose Judge Daniel A. Noonan's wood-paneled courtroom. While the courthouse is full of striking historic courtrooms, many of them have portraits behind the bench that depict items such as bloody swords. Identifying a courtroom with less provocative artwork was important to the video producers.

Deputy Chief Judge Kitty K. Brennan will take the role of the judge and several other Milwaukee County judges, including Deputy Chief Judge David A. Hansher, Chief Judge Michael P. Sullivan, and Judge Carl Ashley, will explain various parts of the court process. Citizens who have been called for jury duty will be given an opportunity to volunteer for parts.

Chief Justice Shirley S. Abrahamson will discuss her own service on a jury in the opening of the video, and Chief Judge Michael J. Rosborough, chair of a chief judges' subcommittee that is examining how to improve the jury system, also will take a role.

The video is funded with a \$13,000 grant from the Wisconsin Law Foundation. ■



Milwaukee County Courthouse