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Governor appoints two new judges; five sitting judges face challenges

Gov. Jim Doyle has appointed new judges to fill seats in Milwaukee and Waukesha counties, and primary elections held Feb. 17 determined which judicial candidates' names will appear on the spring ballot.

In all, the April 7 election will feature 16 contested circuit court races and the statewide race for the Wisconsin Supreme Court between Chief Justice Shirley S. Abrahamson and Judge Randy R. Koschnick, Jefferson County Circuit Court.

In **Waukesha County**, Doyle appointed Richard A. Congdon to fill the vacancy of Judge Mark S. Gempeler, who retired in December (*see The Third Branch, fall 2008*). Congdon, who received his bachelor's degree from UW-Madison and his law degree from Marquette Law School, has

been a senior partner at Congdon, Walden, Schuster & Vaklyes since 1981. Congdon and his wife, Linda, live in Waukesha with their four children. His term, which will end July 31, 2010, began on Feb. 9.

In **Milwaukee County**, Doyle appointed Stephanie G. Rothstein to fill the vacancy created by Judge John Franke's resignation (*see The Third Branch, fall 2008*). Rothstein has served as an assistant district attorney in Milwaukee County for 25 years. She received her bachelor's degree from Lawrence University and her law degree from Marquette Law School. Rothstein, her husband, Gregory, and their three children live in Whitefish Bay. Her term will begin in March

see Primary on page 23

Members of two legislative committees met with members of the Supreme Court at the Capitol on Feb. 10 to discuss issues related to the courts and justice system. From left to right (facing camera): Rep. Chuck Benedict (D-Beloit); Justice Annette Kingsland Ziegler; Sen. Jim Sullivan, (D-Wauwatosa); Rep. Joe Parisi, (D-Madison); and Chief Justice Shirley S. Abrahamson. *See story, page 3.*



Wisconsin courts examine models for veterans

By Amanda Todd, Court Information Officer

In his 17 years as a state public defender, Elliott M. Levine – now a La Crosse County Circuit Court judge – developed a knack for spotting cases that were going to take unusual time and effort.

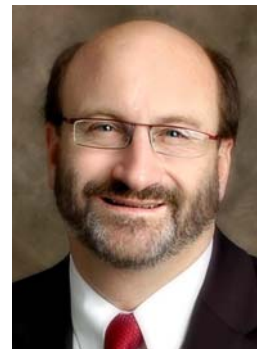
“Anything involving a veteran, you just knew it was going to take months and months to sort out the benefits issues,” Levine said.

As military missions overseas continue, Levine is among Wisconsin judges and court staff preparing for a possible influx of veterans who may become involved in the court system. Cases involving veterans can be complicated by a number of issues often unique to veterans, said Levine and other court officials.

The *Wisconsin Law Journal* reported earlier this month that approximately 15,000 Wisconsin veterans of Operations Enduring Freedom and Iraqi Freedom have been discharged

from October 2001 through November 2008.

Too many of those veterans are ending up in the criminal justice system, according to Krista L. Ginger, executive assistant and legislative liaison for the State Public Defender's Office (SPD), who was quoted in the article. The SPD is planning a comprehensive training program this spring to help attorneys, judges and law enforcement and corrections officials respond to veterans' needs.



Judge Elliott M. Levine

see Veterans on page 17



Director's column: Inter-branch Justice Reinvestment project underway

During the Judicial Conference in Madison, Chief Justice Shirley S. Abrahamson announced that the Council of State Governments' Justice Center had selected Wisconsin to participate in its Justice Reinvestment Initiative.



A. John Voelker

Now that the project is just underway, I wanted to give you an update on the initiative and to outline some of the steps involved in this inter-branch effort to assess and analyze the effectiveness of the corrections and criminal justice systems in Wisconsin.

According to the Justice Center, "Justice Reinvestment" is a data-driven strategy for policy makers to reduce spending on corrections, increase public safety, and

improve conditions in the neighborhoods to which most people released from prison return. Eight other states have participated in the Justice Reinvestment Initiative, including Arizona, Kansas, Michigan, Nevada, Pennsylvania, Rhode Island, Texas and Vermont.

Representatives from the Justice Center met last month with members of the Wisconsin Legislative Council's Special Committee on Justice Reinvestment Initiative Oversight, headed by Sen. Lena Taylor, D-Milwaukee. The special committee is receiving Justice Center reports, which analyze key drivers of the prison population and rising correctional costs.

According to a Department of Corrections study released last month, the state will need to spend an estimated \$1.2 billion on construction during the next 10 years to accommodate a growing state prison population. The Justice Center has reviewed the Department of Corrections' study and will now do an independent analysis to develop its own growth projection of the state's prison population.

The center has identified the following next steps:

Analyze why violent crime might be rising and arrests are declining.

Review the probation and extended supervision system to determine why revocations to prison without a new sentence have increased 40 percent since 2000.

Bring in experts in substance abuse and mental health to review the capacity and quality of programs for people on supervision.

Review the capacity and quality of current reentry and employment strategies for people on supervision.

By the end of the project, the Justice Center is expected to: (1) map specific neighborhoods where large numbers of offenders are released from prison to identify how to improve coordination of services, correctional supervision, and law enforcement; (2) analyze the prison population to determine what is driving its growth and to identify which categories of offenders are at high risk of re-offending; (3) develop policy options, based upon the data collected, to increase public safety and decrease corrections spending; and (4) project the fiscal impact of any policy options identified.

The Center also is taking into consideration the state's difficult budget situation as part of its study. No doubt solutions won't be easy to find, especially in the current economic situation.

One part of the project's strategy is to identify savings within the system that can be "reinvested" into more effective approaches.

Spending on corrections has risen faster over 20 years than spending on nearly any other state budget item – increasing from \$10 billion to \$45 billion a year in states nationwide, according to the Center.

Unless policymakers act, state spending on corrections will grow by at least \$20 billion over the next five years, the center estimates.

As a member of the committee, I have an opportunity to provide policy input and to communicate how court initiatives can be part of the overall strategy.

The committee is meeting monthly through April with the objective of having some ideas that can be incorporated into the upcoming budget. I will keep you posted on both this initial activity and continual project activity. ■

Governor introduces budget proposal

By A. John Voelker, Director of State Courts

On Feb. 17, Gov. Jim Doyle introduced his 2009-11 state-budget proposal, including a number of items expected to affect the state court system.

As my staff and I sort out some of the details, I wanted to give you a quick rundown on the proposal and how some of our requests were handled.

Of course, this is just the beginning of the state-budget process, so many things could change in the coming weeks and months. We will plan to keep you posted with bulletins as necessary.

Overall, the governor proposed an across-the-board, one-percent cut to state agencies, including the state court system. This also affects the appropriations that provide payment to the counties in the areas of interpreter fees, the circuit court support program and guardian ad litem costs.

He also noted in his budget address that state employees can expect to contribute more toward their health insurance premiums.

The governor included several of our requests and denied a few others.

He included in his proposal our request for additional funding for the current state program that reimburses counties for interpreter services. The increase is needed due to increased demand and higher reimbursement rates for certified interpreters. The governor also included our request for a court interpreter pilot program in western Wisconsin's Seventh Judicial Administrative District. Under the program, district administrative staff would schedule and pay court

Supreme Court greets new legislators, meets with committee members

By Nancy Rottier, Legislative Liaison

As the 2009-11 legislative session gets underway, members of the Wisconsin Supreme Court are taking advantage of the opportunity to meet personally with new legislators and legislators who serve on committees that handle issues related to the courts.

On Jan. 5, several of the justices attended swearing-in ceremonies of new members in the Assembly and Senate. Chief Justice Shirley S. Abrahamson administered the oath of office to members of the Assembly.



Supreme Court Chief Justice Shirley S. Abrahamson discusses the state court system with new legislators gathered in the Supreme Court hearing room. Also pictured, standing, are Director of State Courts A. John Voelker and Legislative Liaison Nancy Rottier.

On Jan. 13, Abrahamson outlined the role of the court system during the Wisconsin Legislative Council's three-day orientation program for new legislators.

During the session, legislators toured the Supreme Court Hearing Room and had an opportunity to meet with justices in the conference room. It was a great opportunity for informal discussions and personal greetings.

On Feb. 10, the Court met with legislative committee members to discuss issues facing the court system and the Legislature. In the past, these meetings have generated productive discussions about topics of interest to both branches and have helped lay the groundwork for joint educational programs. A similar meeting was held on Feb. 25.

Most legislation that impacts the court system will be referred in the Senate to the Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform and Housing, chaired again this session by Sen. Lena Taylor (D-Milwaukee). Returning to the committee are Sen. Jim Sullivan, (D-Wauwatosa), vice-chair; and Sen. Glenn Grothman (R-West Bend). New members this session are Sen. Jon Erpenbach (D-Middleton) and Sen. Randy Hopper (R-Fond du Lac).

In the Assembly, there are several committees with jurisdiction over court-related issues. The Committee on Judiciary

and Ethics is chaired by Rep. Gary Hebl (D-Sun Prairie), and also includes Rep. Pedro Colón (D-Milwaukee), Rep. Fred Kessler (D-Milwaukee), Rep. David Cullen (D-Milwaukee), Rep. Jon Richards (D-Milwaukee), and Rep. Robert Turner (D-Racine). The Republican members are Rep. Mark Gundrum (R-New Berlin), Rep. Samantha Kerkman (R-Genoa City), Rep. Bill Kramer (R-Waukesha), and Rep. Rich Zipperer (R-Pewaukee).

The Committee on Corrections and the Courts is chaired by Rep. Joe Parisi (D-Madison). The other Democrats include Rep. Chuck Benedict (D-Beloit), Rep. Donna Seidel (D-Wausau), Kessler, Rep. Sondy Pope-Roberts (D-Middleton), and Rep. Ted Zigmunt (D-Francis Creek). They are joined by Republicans Karl Van Roy, (R-Green Bay), Gundrum, Steve Kestell (R-Elkhart Lake), Dan LeMahieu (R-Cascade), and Ed Brooks (R-Reedsburg).

Legislation affecting criminal law will be referred to the Committee on Criminal Justice, chaired by Turner. Other Democrat members include Kessler, Tony Staskunas (D-West Allis), Ann Hraychuck (D-Balsam Lake), Jim Soletski (D-Green Bay), and Sandy Pasch

(D-Whitefish Bay). Republican members include Rep. Joel Kleefisch (R-Oconomowoc), Rep. Don Friske (R-Merrill), Kramer, Brooks, and Keith Ripp (R-Lodi).

In addition to these three committees, the Assembly also has a Committee on Children and Families, chaired by Rep. Tamara Grigsby (D-Milwaukee), which is likely to oversee

see **Legislators** on page 18



Rep. Keith Ripp, (R-Lodi), left visits with Sen. Randy Hopper, (R-Fond du Lac). Also pictured are justices Annette Kingsland Ziegler and Michael J. Gableman, exchanging greetings with Rep. Ted Zigmunt, (D-Francis Creek) and Rep. Kelda Helen Roys, (D-Madison) in the Supreme Court Conference Room.

AWARDS

DiMotto honored as a mentor

On Oct. 17, 2008, Milwaukee County Circuit Court Judge John J. DiMotto became the first recipient of the Mentorship Award of the Wisconsin African American Women Center (WAAWC). WAAWC provides an opportunity for women to become more self-sufficient through computer literacy, foreign language and small business development training. DiMotto was chosen to receive the award because of his commitment to justice, as well as to the community. The annual luncheon, at which the award was presented, was attended by Supreme Court Justice Annette K. Ziegler, U.S. Rep. Gwen Moore, a representative from Gov. Jim Doyle's office, several Milwaukee County Circuit Court judges, Court of Appeals judges from the First and Second Districts, and local attorneys.



Judge John J. Dimotto

Perrigo wins USPS award

Beth Bishop Perrigo, deputy district court administrator for the First Judicial District, has been selected as the 2009 recipient of the United States Postal Service's 'Women



Beth Bishop Perrigo

Putting Their Stamp on Metro Milwaukee' Award in the category of Government Service/Law. The USPS Lakeland District presents these awards to "honor women who contribute to the greater good of our communities." A luncheon and awards program honoring Perrigo and award recipients in other categories, and in commemoration of Women's History Month, will be held on March 20 at 11:30 a.m. at the Italian Conference Center in Milwaukee. Former justice Janine P. Geske, who is now a distinguished professor of law at Marquette Law School, is the keynote speaker. Tickets are \$35 each and registrations are accepted through March 13. For additional information contact Karen Engelking at (414) 287-1828 or karen.j.engelking@usps.gov

Stamper, White honored with 'Bridge of Hope' Award

On Dec. 9, 2008, Reserve Judge Russell W. Stamper Jr. and Deputy Chief Judge Maxine Aldridge White received the 'Bridge of Hope' Award from the Social Development Commission (SDC) in Milwaukee. The Bridge of Hope is a collaboration of groups formed in 2007 by the SDC and includes businesses and individuals who have been working to do something about



Judge Russell W. Stamper

the poverty faced by one quarter of the residents of the city of Milwaukee. The awards were given to Stamper and White for their work against poverty in the Milwaukee community. Among their many volunteer activities, Stamper is chair of the Community Brainstorming Conference, a monthly forum which brings together community leaders and citizens for the purpose of

"brainstorming about an array of problems, issues, and concerns" regarding the interest and needs of the community. White is the president of the advisory board for the House of Peace, a ministry "which serves the community by assisting families and individuals in meeting their spiritual, material, and emotional needs, thereby helping families remain together and promoting self-sufficiency."



Judge Maxine A. White

Gage honored in Outagamie County

Outagamie County Circuit Court Judge Michael W. Gage received an award on Nov. 23, 2008 from Empowerment, Solidarity, Truth, Hope, Equality and Reform (ESTHER). Gage received the award on behalf of the Outagamie County



Judge Michael W. Gage

Coordinated Council Committee, which is comprised of county board members, law enforcement officials, judges and victim advocates who are working to initiate a treatment court in the county. ESTHER is a Fox Valley based interfaith organization that promotes justice for all members of the community. The Outagamie County treatment court is scheduled to start on Feb. 26.

see Awards on page 18

Voelker appointed to COSCA board

Director of State Courts A. John Voelker has been selected to serve on the board of directors of the Conference of State Court Administrators (COSCA). The mission of COSCA is to provide a national forum to assist state court administrators in the development of a more just, effective and efficient system of justice. Voelker serves as vice chair of the organization's security and emergency preparedness committee, co-vice chair of the government affairs committee and is a member of the policy and liaison committee. His term began in August 2008 and runs to August 2011. Voelker has served as director of state courts since June 2003. He joined the state court system in 1992, serving previously as a policy analyst and as executive assistant to Wisconsin Supreme Court Chief Justice Shirley S. Abrahamson.

Ramirez family featured on 'NBC Nightly News'

Waukesha County Circuit Court Judge Ralph Ramirez and his family were featured on a national broadcast of "NBC Nightly News" March 2.

The Ramirez family was featured during the first in a five-part series entitled "We the People," which featured stories about Latinos in the United States.

The Ramirez family shows "some of the faces" behind the growing U.S. Hispanic population in communities such as Waukesha and Charleston, SC, said Maria Alcon, a producer for NBC News.

The series looked at everything from the fact that Latinos are the ones driving population growth, to treating diabetes in the Latino Community," Alcon wrote in an e-mail to *The Third Branch* before the series aired.

Correspondent Lee Cowan interviewed Ramirez at home in Waukesha on Feb. 1. The

interview included questions about barriers and opportunities for Hispanic people in general, and the Ramirez family, in particular. ■



Judge Ralph Ramirez, right, was interviewed by NBC News correspondent Lee Cowan

Judicial assistant will test her trivia knowledge

By Ingrid Nelson, Judicial Assistant to Chief Justice Shirley S. Abrahamson

I was watching the game show "Jeopardy" one evening in January 2008 and saw an announcement that there would be an online qualifying test given in about a week. I'd always thought it would be fun to try to get on the show and put all the random facts in my head to good use, so I took the online test. It was really hard, so I didn't hold out much hope for getting invited to an in-person audition, which was the next step.



Jeopardy contestant and judicial assistant Ingrid Nelson

A couple of months later, I got an e-mail inviting me to Chicago in early June for an audition, which involved another written test, a practice game against two other people, and a personality interview. At the end of the day, we were informed that we wouldn't be told who had made it into the contestant pool and who hadn't; the only way I'd know I'd made it would be if I got an invitation to the show within the next 18 months.

On Thursday, Feb. 12, my husband David and I were just getting home from work when the phone rang. The caller ID said "Sony Pictures," so I figured it was just some kind of marketing thing and wasn't even going to answer it. But

David picked it up, heard who it was, and frantically shoved the phone at me, whispering, "It's Jeopardy!" I was invited to come to Los Angeles for the taping on March 17-18, 2009. They tape five shows a day, and if I'm the returning champion at the end of the day on March 18th, they'll fly me back to Los Angeles the following Tuesday to tape more shows. The show(s) that I'm scheduled to be on are set to air starting the week of June 15-19.



I'm trying to do some preparation, but it's more along the lines of brushing up on things than trying to learn lots of new information. I've decided there's no point in trying to cram a bunch of information into my head for fear I won't be able to recall it quickly during the game.

I've also gone online to read about other peoples' experiences on the show so I have a better idea of what to expect. I love playing trivia games, so I think it's going to be a great time no matter how well I do. ■

Nelson, an attorney, has been judicial assistant to Chief Justice Abrahamson since September 2002. She previously worked as a legal editor at the State Bar of Wisconsin and in private practice in Jefferson.

OBITUARIES

Judge Robert C. Jenkins Portage County and Circuit Court



Judge Robert C. Jenkins

Judge Robert C. Jenkins, who served on the Portage County and Portage County Circuit Court, passed away on Jan. 9 at the age of 85.

Former Gov. Warren P. Knowles appointed Jenkins to the county bench in 1969, and he served until his retirement in 1988. He then served as a reserve judge until 2000. He had previously served as chair of the Portage County Republican Party, president of the Portage County Bar Association, and as Portage County district attorney.

Jenkins attended UW-Madison. Prior to receiving his bachelor's degree in accounting, he left school to serve in the U.S. Army during World War II as an aviation photographer in Germany. In 1948, he received his law degree from UW Law School.

According to an obituary in *The Portage County Gazette*, Jenkins was an active member of his community, and was a member of the Kiwanis Club, Izaak Walton League, Portage County Taxpayers Association, Jaycees and Serra Club, as well as a Boy Scout leader. He has been honored for his dedication to the community in 1959 as a Jaycee's Distinguished Citizen, and in 1992 by the Annual Lectures on Poland Heritage Club.

Jenkins is survived by his wife, Betty; two daughters; two sons; and two grandchildren.

Judge Steven Luse Abbott Monroe County Circuit Court

Former Monroe County Circuit Court Judge Steven Luse Abbott passed away at his home on Jan. 17. He was 69.

Abbott was elected to the bench in 1995 and reelected in 2001. He retired in 2007 due to health issues, but continued to serve as a reserve judge.



Judge Steven Luse Abbott

Prior to his election, Abbott worked in private practice, as a Monroe County court commissioner, as city attorney for Sparta, and as a village attorney for the Village of Cashton. In 1961, he completed his undergraduate degree at UW-Madison, where he was a member of the marching band. He received his law degree from Hastings College of Law, University of California in San Francisco, in 1964. He served in both the Queens Royal Hussars of the U.S.

Army Reserves and in the Wisconsin National Guard.

Abbott was known for his sense of humor in the courtroom. He found humor on both sides of the bench. According to an obituary in the *La Crosse Tribune*, "Steven tenaciously fought political correctness and its oppression of freedom of speech and thought. Not surprised by his demise, he realized that life is a blessing, but we all have to go sometime."

Abbott is survived by his wife, Jean; his son, Barry; his grandson, Steven; his half-brother, Theodore; and his sister, Barbara. ■

Brown County to launch drug court

Brown County has received \$175,000 in county funds to implement a county drug court. Planning began after the October 2007 Judicial Conference in Green Bay, which featured several speakers on specialty courts.



Judge Donald R. Zuidmulder

Brown County Executive Tom Hinz listened in on several of these discussions, and then met with Brown County Circuit Court Judge Donald R. Zuidmulder to discuss the idea of starting a drug court in Brown County. Zuidmulder said he had wanted to start a drug court in the county for several years. The two met with Winnebago County Circuit Court Judge Scott C. Woldt, who works with the Winnebago County Safe Streets Drug Court program. They also met with Justice Organization Sharing Hope and United for Action (JOSHUA), an interfaith organization located in Green Bay that has been involved in alternatives to incarceration programs.

Community forums were held, and Hinz and Zuidmulder met with various community organizations to gain support for their idea. The Brown County Board supported the idea,

and funds were made available.

Zuidmulder and Brown County Circuit Court Judge Marc A. Hammer will dedicate time to the drug court. Volunteers have been selected from various departments, including the district attorney's and public defender's offices, and law enforcement. A full-time drug court coordinator will be hired. Zuidmulder said they are hoping the drug court will open by late spring or early summer.

Brown County will join a growing number of jurisdictions with specialty courts that focus on addressing recidivism by providing intensive treatment to selected non-violent drug offenders. At the 2008 Judicial Conference, Chief Justice Shirley S. Abrahamson explained the value of this approach: "These court problem-solving programs offer intensive supervision to enable chronic offenders to kick their drug and alcohol habits and become contributing members of society" Abrahamson said.

There are at least 21 drug court programs in counties across the state. As of the October 2008, there were 1,001 graduates from these programs. This past October, the Supreme Court justices participated in a drug court graduation in Winnebago County while visiting the county as part of the Justice on Wheels program. ■

Kenosha County Mediation Program celebrates first full year of operation

In August 2007, the Kenosha County judges handling small claims cases believed that mediation could resolve many of the cases and keep them off judges' trial calendars. The judges also believed that mediation would help resolve cases much faster than the usual 60- to 90-day time frame for a trial. In addition, they thought mediation would relieve the problem of the cases getting bumped from trial calendars because of ongoing civil and criminal trials, which take precedence.

While not the only program of its kind in Wisconsin, the idea for a solution in Kenosha County came from Judge Barbara A. Kluka, Kenosha County Circuit Court, and Eva Soeka, an associate professor at Marquette Law School who runs the Marquette University Center for Dispute Resolution Education.

Kluka and Soeka had known each other for years and were able to build off that relationship in establishing the Small-Claims Mediation Program, which concluded its first full year of operations during 2008.

"There are some students an 'old' teacher never forgets. Eva Soeka is one of those people from my high school teaching career," said Kluka. "By the time I started law school at Marquette, Eva was a senior law student. We traded roles and she became my mentor that first year."

In late August 2007, a meeting was held in Kenosha to discuss the development of the mediation program. Attendees included Kluka, along with Chief Judge Mary K. Wagner, Judges David M. Bastianelli and Bruce E. Schroeder, Court Commissioner John Plous and Atty. Christine Harris Taylor, an adjunct professor at Marquette who teaches mediation.

As a result of that initial meeting, Plous began scheduling cases for mediation. Initially, only *pro se* cases involving disputed claims for rent and damages after eviction would be mediated. Taylor agreed to lead the mediation process and brought her students to do the mediation.

The project began in earnest in 2008 with a total of 170 cases being mediated that year. Between January and June 48 cases were mediated and in the second half of the year the number increased to 122. One-hundred-five of the cases set for mediation were settled. Twenty-three of the cases defaulted because the defendant failed to appear for the mediation. Only 42 cases had to be set for trial.

The end result? Seventy-five percent of the cases set for mediation are resolved in some manner and never reach the trial judge's calendar. In addition to successful mediations, case volume is reduced as some defendants are not serious

about their dispute and therefore do not appear for their court dates. The cases are typically set for mediation within one to three weeks of the initial small claims return date. On some return dates, it has been possible to schedule the mediation the same day. Positive response from litigants has been received. They appear to be very pleased that cases can be resolved in one to three weeks instead of waiting 60 to 90 days for a trial before a judge.

In May of 2008, as the volume of cases continued to increase, Taylor suggested she train volunteer mediators from the roster of Kenosha County attorneys. Plous reached out to local attorneys, soliciting responses from those who would be interested in participating in the project. Ultimately, Taylor trained eight volunteer mediators in a one-day training session. Taylor is also in contact with other trained mediators in the Kenosha/Milwaukee area who mediate on a volunteer basis.

By the summer of 2008, with the success of the

project, those involved decided to expand to other areas of dispute besides damage claims. Plous determines which cases are appropriate for mediation. Cases requiring sworn testimony on disputed issues of fact and cases with questions of law must be decided by a judge, and are not appropriate for mediation.

The entire project has been executed without incurring any cost to Kenosha County. This has been possible because of the contributions of Marquette University and the volunteer mediators. Kenosha County has only needed to find space for the mediations to take place.

At the end of the year, Plous felt it would be appropriate to thank the mediators with a celebratory luncheon at the Court House; however, there was no money available in any department budget to pay for the lunch. Kenosha's judges were so appreciative of those who helped make the project a success that they personally contributed the money necessary to hold the luncheon.

With a successful year and a half accomplished, all those involved in the mediation project look forward to continuing to expand the program in 2009. Another training session is planned for the spring to bring in more volunteer mediators to help meet the increasing demand. ■

People interested in becoming volunteer mediators can call Plous at (262) 653-2404 for information on the program and the next training session.



Kenosha County Circuit Court Commissioner John Plous, left, greets Marquette University graduate student Marcia Lee in this photo, which was published in the Kenosha News last month. Lee is a volunteer with Marquette's small claims mediation program.

LEADERSHIP

Rules were made to be broken: Lessons from a local rule overhaul

By Judge Richard J. Sankovitz, Milwaukee County Circuit Court

The proverb “rules were made to be broken” is not just about outlaws and iconoclasts. The proverb also holds true for rule-makers, who sometimes have to break down rules in order to rebuild and improve them.

In counties across the state, courts have adopted local rules that govern everything from motion practice to courtroom decorum. Most counties have only a few rules, and some (six) have none at all. Our experience in Milwaukee – three years and running – offers some possible lessons to others whose rules have been on the books for a while.

In 2006, Chief Judge Kitty K. Brennan commissioned a review of the Milwaukee County Circuit Court’s local rules with just such an overhaul in mind. The first fruits of that overhaul were harvested on March 1, 2009 when a substantial portion of the new rules took effect. Civil and Criminal Division rules take effect first. Rules for the Family Division and the Children’s Division are still in the works.

The overhaul is the work of dozens of judges, court commissioners, court clerks and administrators. The rule proposals were shared with several bar association committees and were posted on the Internet along with a request for comments and suggestions. Many practical suggestions were incorporated into the final draft of the rules. Hundreds of hours have been invested in the project.

A more detailed look at the new rules can be had at the chief judge’s page on the Milwaukee County web site, www.county.milwaukee.gov/ChiefJudgeCircuitCou10519.htm.

Six lessons learned

Looked at your rules lately? It’s a chore to keep rules up

to date, to make sure that they accurately portray the actual practices the court follows. In Milwaukee, before then-Chief Judge Brennan undertook this project, the local rules had not received a major overhaul in more than a decade. It showed. The rules still referred to “blue backers.” They purported to provide the chief judge with a deputy sheriff assigned to her personally. The rules made us look oblivious to the existence of the Internet.

Lesson One: Live large

We started from scratch with every rule. We didn’t begin the project with that ambition, but we found the rules so interconnected that tinkering with some necessitated tinkering with many others. To avoid what was beginning to look like a patchwork job, we opted for an overhaul.

Lesson Two:

Be prepared for case management revolution

Once we disassembled the rules and started to put them back together, we discovered procedures that weren’t followed, some that weren’t necessary and some that were counterproductive. Many of the procedures we dispensed with were slowing down the process of resolving disputes.

In the Family Division, the rules revision process caused us to fundamentally rethink how cases are managed. Currently all divorce litigants are given about four months to work things out. If they can’t, they are instructed that they must be ready to try their cases. But in too many cases

see **Leadership** on page 20

Applicants seeks federal judgeship

A former Wisconsin Supreme Court justice, a Court of Appeals’ judge and two circuit court judges are among applicants for the federal judgeship vacancy being created by the retirement of U. S. District Judge John Shabaz in the Western District of Wisconsin.

The Federal Nominating Commission of the State Bar of Wisconsin announced March 3 that 13 people have applied for Shabaz’s seat. In addition, the Commission announced that 10 people, including one circuit court judge, applied for the U.S. attorney vacancy in the Eastern District of Wisconsin.

The 11-member commission, which has been making recommendations since 1979, will screen applicants and interview potential candidates before submitting its final recommendations to the state’s two U.S. senators, Herb Kohl and Russ Feingold.

Applicants for the Western District judgeship include former Wisconsin Supreme Court Justice Louis B. Butler Jr., District IV Court of Appeals’ Judge Paul B. Higginbotham, and circuit court Judges Ramona A. Gonzalez, La Crosse County and Lisa K. Stark, Eau Claire County.

see **Vacancy** on page 18

'Peacemaking' to strengthen tribal justice

By James Botsford, Director, Indian Law Office Wisconsin Judicare, Inc.

On Oct. 22-23, 2008, the 2nd annual gathering of peacemakers was held at the Oneida Radisson Hotel near Green Bay. This gathering was dedicated to the demonstration of peacemaking strategies that will strengthen tribal justice. It was an information-sharing forum for Peacemakers, those who are interested in learning about peacemaking, and those who want to be Peacemakers. The gathering was held in conjunction with the 39th annual national meeting and judicial conference of the National American Indian Court Judges Association (NAICJA).

Wisconsin Supreme Court Justice N. Patrick Crooks addressed the NAICJA conference and Forest County Potawatomi Chief Judge Eugene White-Fish, president of NAICJA, welcomed the Peacemakers. The two conferences were dovetailed to allow more tribal court judges to learn about the growing trend of Peacemaking in Indian Country. The Peacemaking gathering boasted 235 registrants, including 50 tribal court judges who stayed on following the NAICJA conference.

The gathering was organized by the Tribal Judicial Institute at the University of North Dakota School of Law, with assistance from Fox Valley Technical College's Criminal Justice Center for Innovation. It was supported by



Photo credit: Jane Ribadeneyra/NLADA

James Botsford, director, Indian Law Office Wisconsin Judicare, spoke about "peacemaking" as a traditional way to resolve conflicts during a conference held Oct. 22-23 in Green Bay.

a grant from the Bureau of Justice Assistance, Office of Justice Programs of the U.S. Department of Justice. The Oneida Nation hosted the event.

What is tribal peacemaking?

Peacemaking comes in many forms and it goes by many names. According to some tribal justice experts it is not so much "alternative dispute resolution" as it is "traditional dispute resolution." "Peacemaking" describes the ways used by indigenous people throughout history to resolve conflicts. It focuses on healing, on making things whole, on restoring balance.

In the western way of justice, the adversarial way, the system works with laws, with legal doctrines and theories to determine an outcome that only one side will feel is *just*. This system emphasizes winning. Winning creates a loser and de-emphasizes harmony, creating more distance between good and healthy relationships. Punishment, penalty, and judgments force us to miss opportunities to educate, grow, learn and heal.

Peacemaking may not replace the adversarial justice systems of the modern world, but there is a growing trend in

see **Peacemaking** on page 20

RETIREMENTS

Eau Claire County court reporter retires

Jan Betthausen, circuit court reporter for Eau Claire County, Branch 2, has retired after 22 years with the court. Betthausen began working as a floating court reporter in 1987. She worked with Chief Judge William D. O'Brien, Judge Eric J. Wahl and Judge Michael A. Schumacher.

Betthausen said, despite all of the cases she has heard, including two murder trials, it has been her years working with the judges that will be most memorable part of her career. She has a special fondness for her time working with Wahl, who passed away in April 2007. She said it was a pleasure to come to work every day while working with Wahl.

When most people hear that she is a court reporter, they comment on how interesting a job it must be, Betthausen said. But after 22 years, she said she has seen it all, and what she will miss most are the people she has had the opportunity to work with.

Betthausen has not made any specific plans for her retirement. She said she will work on catching up on things around the house while she awaits her husband's retirement.

Jefferson County judge to retire in August

After 18 years on the bench, Judge John M. Ullsvik has announced he will not run for reelection in the spring. Ullsvik, who was first elected to the bench in 1991, will

have served three full terms when he retires.

Ullsvik received his law degree from Drake University after serving two years in the U.S. Army during the Vietnam War. Prior to his election to the bench, he worked as an attorney in private practice, and served as district attorney for Jefferson County.

"It's been a very interesting job; I've enjoyed serving the law and the public, as well as the dealing with lawyers and juries," Ullsvik told the *Daily Jefferson County Union*. He told the paper that his most memorable case was the trial of Diane Borhardt, a teacher who was convicted of hiring students to murder her husband in 1994.

Ullsvik said he takes pride in the fulfillment of his duties as a circuit court judge. He said he tried to follow the law without fear or favor. "It has been a privilege and I've enjoyed the work immensely," Ullsvik said.

While he has no definite plans for his retirement, he said he does have chores around the house that have been waiting. He and his wife, a retired nurse, also plan to travel.



Judge John M. Ullsvik

see **Retirements** on page 22

Efforts to advance the Indian Child Welfare Act

By Bridget Bauman, Children's Court Improvement Program

The Indian Child Welfare Act (ICWA) was passed by Congress more than 30 years ago to address the "wholesale separation of Indian children from their families." However, implementation of ICWA on a statewide level continues to be a challenge.

Findings from the Children's Court Initiative (CCI) reviews conducted in 42 counties from 2005 to 2008 indicate that there are significant issues regarding compliance with ICWA in circuit court cases.

Among the issues: identifying and documenting Indian children; providing the tribe and parents with required notice; following specified placement preferences; making the active efforts and serious emotional or physical damage findings; and having qualified expert witness testimony.

The Director of State Courts Office, Children's Court Improvement Program has provided training and created circuit court forms to advance compliance with ICWA.

First, ICWA training for judges and circuit court commissioners was conducted for all ten judicial districts in 2008. Additional presentations on ICWA were given at the *Through the Eyes of the Child* guardian ad litem conference and *Wisconsin Summit on Children and Families*.

Second, 14 ICWA circuit court forms were created for child in need of protection or services (CHIPS), juvenile in need of protection or services (JIPS), termination of parental rights (TPR), guardianship, and adoption cases when the child is subject to ICWA. Other circuit court

forms were modified to include applicable ICWA requirements. Future activities include adding ICWA procedures to the *Model Record Keeping Procedures Manual* to assist juvenile clerks and producing an ICWA benchguide for judges and court commissioners.

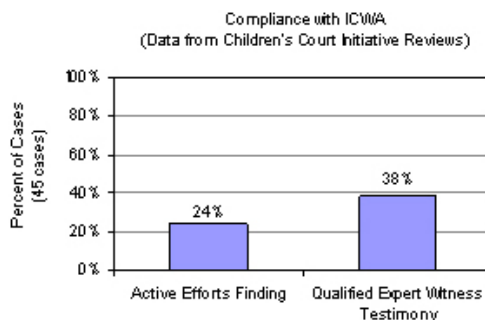
The mission of CCI is to assist the court system and those

providing services to it in achieving safety, permanency, due process, and timeliness outcomes for children and families in child welfare proceedings. Each on-site review lasts approximately a week, and includes review of CHIPS and TPR court files, observing court hearings, and conducting several focus groups.

The 11 federally recognized Indian tribes in Wisconsin and the Department of Children and

Families are working to codify the provisions of the federal Indian Child Welfare Act into Wisconsin statutes. Senate Bill 572 was introduced late in the 2007-2008 Legislative Session by Senator Robert Jauch (D-Poplar), but no vote was taken before the session concluded. The Senate Committee on Children and Families and Workforce Development held a hearing on Nov. 13, 2008, to receive testimony and comments from stakeholders. It is anticipated that the bill will be reintroduced with modifications this legislative session. ■

Questions and requests for additional information may be directed to Bridget Bauman at (608) 267-1958 or bridget.bauman@wicourts.gov.



Judges trade roles in Exchange Program

Two Court of Appeals judges and three circuit court judges temporarily traded places in recent months as part of the Wisconsin court system's Judicial Exchange Program.

Established by Wisconsin Supreme Court Chief Justice Shirley S. Abrahamson in 1996, the program offers judges the opportunity to better understand each others' roles. Court of Appeals judges learn more about the practices, procedures and problems of the trial courts, and trial judges learn more about creating a record that will pass appellate review.

Court of Appeals judges participating included Charles P. Dykman and Paul B. Higginbotham, both from District IV in Madison. Dykman took the bench in Grant and Dodge counties during October and November respectively; Higginbotham traveled to Rock County in December. Circuit court judges participating included George S. Curry, Grant County; Shelley Gaylord, Dane County; and John R. Storck, Dodge County.

During visits to Madison in October and November, Curry first observed the Court of Appeals process, then discussed and helped decide cases with other members of a three-judge panel. Court of Appeals work is intense, and much

different from what is experienced by trial-court judges, Curry said.

Trial court judges are nearly always involved in fact-finding work, and often must rule quickly from the bench.

see *Exchange* on page 22



Dodge County Circuit Court Judge John R. Storck, right, discusses appellate court procedure with District IV Court of Appeals Judges Margaret J. Vergeront and Paul Lundsten. Storck, chief judge of the Sixth Judicial Administrative District, temporarily sat on the District IV bench as part of the Judicial Exchange Program.

CCAP implementing security improvements

By Ken McKelvey, CCAP Deputy Chief Information Officer

Scenario 1: It seems like a routine Monday morning. A clerk of circuit court comes to work and sits down at her desk. She logs in to her computer and starts up the Consolidated Court Automation Programs (CCAP) applications - just like she has for the past 15 years. Only this time, when she searches for a set of cases, she receives the following message "no cases found." "Hmmm...", she says. "I wonder what's up?" After doing further searches, she finds that no cases can be found anywhere on her CCAP system.

After calling CCAP, it is determined that someone had gained unauthorized access to their network and erased all of their historical case data. She is exasperated... "How could CCAP have let this happen?"

Scenario 2: It's a cold Sunday morning, and a circuit court judge is sitting down to enjoy his hot coffee and read the Sunday paper. At the top of the local section, he reads the headline in large, bold print: "Confidential Circuit



CCAP SAG Members (from left to right) Mary Feldman, Jeff Standiford, John Hutchins, Ken McKelvey, Kevin Baeten, Kevin Grittner, Pete Klukowski, and Bill Severson. Not shown: Peter Brant.

Court Records Exposed on the Internet." He later discovers a disgruntled ex-employee had made an electronic copy of these records and placed them on a public Web site. He is dumbfounded... "How could CCAP have let this happen?"

Fortunately, nothing like the above has happened in the Wisconsin court system. CCAP security policies, desktop

see **Security** on page 13

CCAP offers judges electronic file presentation

The latest Consolidated Court Automation Programs (CCAP) software includes a new case file presentation designed to help judges and court commissioners to find, read and sign documents electronically.

"Because of scanning and e-filing, there are now many more documents available in the case management system than even a year ago," said Jean Bousquet, CCAP chief information officer. "We want to offer judicial officers a way to look at the electronic file that is designed for their specific needs rather than the needs of the clerk's office."

The "Doc" tab in case management now has a new look. It opens with a list of all documents on the left and a view of the highlighted PDF document on the right, allowing the documents to be read on the computer.

"The case file presentation is customizable, and as judicial officers start to use it we will add more features for them," said Bousquet. "Judges who have used the new presentation say that it is intuitive and easy to use."

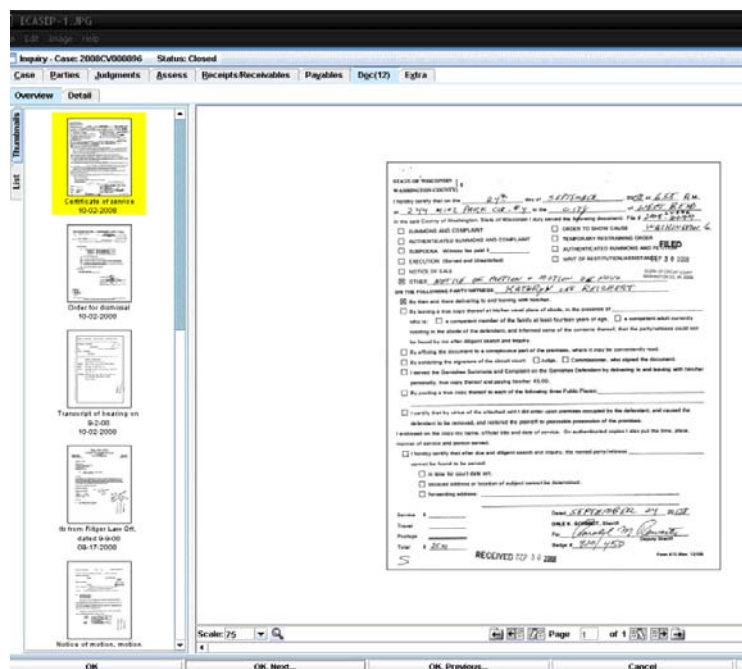
Electronic signatures also available

The new case file presentation also makes it easier for judicial officers to electronically sign orders and other court forms generated by clerks and judicial assistants. Documents can be set up in a queue for review and signed individually or in batches. After review, the judicial officer types a password and PIN to electronically sign the document, causing each document to read "electronically signed by Judge X."

Documents currently available for electronic signature include small claims judgments, orders appointing counsel and GAL, arrest and bench warrants, writs of execution and eviction, and notices of entry of judgment.

"For the types of documents that are signed in large numbers, this feature can save time," said Bousquet. To get started, judicial officers should talk to the clerk or call their CCAP county contact. ■

To read more about electronic filing and electronic signatures, see courtnet.wicourts.gov/bulletins/docs/ab0811.pdf.



Wisconsin court system responds to mortgage foreclosure increase

Reflecting a national trend, the number of mortgage foreclosure filings in Wisconsin jumped 21 percent from 2007 to 2008, figures compiled by the Director of State Courts Office show.

Foreclosure filings statewide, excluding Portage County, increased from 21,051 in 2007 to 25,474 in 2008 – the second consecutive year during which foreclosure filings increased more than 20 percent, said Director of State Courts A. John Voelker.

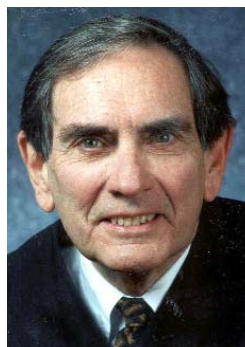
In an effort to prepare for the influx of cases and to protect the rights of both creditors and borrowers, court administrators began tracking the number of foreclosures many months ago, said Supreme Court Chief Justice Shirley S. Abrahamson.

The court system has provided educational programs on mortgage laws and regulations for judges and court staff, and some judges have developed procedures to help ensure litigants are communicating in an effort to settle their disputes.

Also, Abrahamson and Voelker said the court system is communicating with court systems across the country to examine which programs may best help the parties resolve the difficult issues fairly and facilitate settlement, if possible.

One program – an alternative dispute resolution program started in other states – is being piloted in Wisconsin by Chief Judge William D. Dyke, Iowa County Circuit Court. Dyke promulgated a local rule that requires lenders who file a foreclosure action as of Jan. 1, 2009 to notify defendants that foreclosure mediation is an option under the state's alternative dispute resolution statute. Foreclosure filings in Iowa County jumped from 58 in 2006 to 92 in 2007 to 105 in 2008.

“We’re fostering a discussion between the parties, and that



Judge William D. Dyke

discussion can take into consideration the loss of a job, for example,” Dyke said.

The mortgage crisis is affecting the system, but it doesn’t have to be devastating to the courts or the parties involved, he added.

Judges, clerks of court and district court administrators report that in many foreclosure actions, the borrower is not represented in court. The increase in filings also will increase demand on the court system’s resources for self-represented litigants.

The foreclosure crisis is just one of several issues courts are coping with nationwide as economic struggles continue.

In a Dec. 8, 2008 article, *The National Law Journal* asked: “Is the Legal System Ready?” The article, written by Bernice Leber, notes home foreclosures and unemployment are near all-time highs. Financial hard times are trickling from Wall Street to Main Street, and the courts will play a significant role as reverberations from the financial crisis sweep across the nation, Leber wrote. Nationally, the number of homes lost in foreclosure was up 51 percent from 2006 to 2007, and that rate was expected to be even greater in 2008.

In Wisconsin, the largest percentage increase was in Adams County, where filings increased 80 percent, from 123 to 222, followed by Vernon County, where filings increased 67 percent, from 45 to 75. The largest numeric increase occurred in Milwaukee County, where foreclosure filings increased 14 percent, from 5,683 to 6,468. The next largest increase was in Dane County, where filings increased 46 percent, from 897 to 1,312, followed by Racine County, where filings increased by 295, from 806 to 1,101, or by 37 percent. ■

State Bar offers judicial assistance, seeks volunteers

The Judicial Assistance Committee, previously established by the Director of State Courts Office, has been incorporated into the Wisconsin Lawyers’ Assistance Program (WisLAP) as a separate program and seeks volunteer judges. Volunteers will be trained in the areas of mental health, addictions, and protocols for providing assistance to judges and their families. The program strives to offer judges and their families a confidential source of assistance for a variety of troubles that may have an impact on their personal or professional lives.

Volunteer judges also can help develop programming to help prevent judicial impairment, educate the judiciary statewide regarding available services, recruit and train judge volunteers, and provide assistance to judges based upon a ‘judges helping judges’ model.

Sixteen judges already have accepted the invitation to volunteer, and on Jan. 9, nine judges attended the first training session. The next all-day training session will be held on June 19 at the State Bar in Madison.

If you need help, or know of someone who needs help – a lawyer, a judge, a law student, or a member of their family – call the 24-hour confidential helpline at (800) 543-2625; or contact State Bar WisLAP coordinator Linda Albert at lalbert@wisbar.org or (800) 944-9404, ext. 6172. Albert is a licensed clinical social worker and a certified substance abuse clinician, and is also the person to call for more information on volunteering. ■

Feeling like
there is
no way out?

You're never alone.
1-800-543-2625

WISCONSIN LAWYERS'
ASSISTANCE PROGRAM

Budget *continued from page 2*

interpreters in Buffalo, Crawford, Grant, Iowa, Jackson, La Crosse, Monroe, Pierce, Pepin, Trempealeau, Richland and Vernon Counties. The program is proposed to begin Sept. 1, 2009. Currently, this process is handled at the local level.

The governor also included in his proposal our request to convert a project assistant litigator position to a permanent position in the Office of Lawyer Regulation. The change will help the office keep up with an increasing workload.

The governor also included our request to extend by two years a project auditor position in the Office of Management Services. The position helps ensure uniform reporting of circuit court costs related to court services.

The governor did not include in his proposal our request for a new financial assistance program for counties. The

program would provide additional state support at a time when counties are struggling to keep under levy limits and to hold down property taxes. Under the proposal, which also was in our 2007-09 budget request, the current circuit court support and guardian ad litem payment programs would be eliminated and replaced. The new system would replace those funds with a larger percentage of court support service surcharges, which now are deposited into the general fund.

The governor also declined to include in his proposal requests by the State Law Library to increase funding to address cost increases for books and online services and a proposal to purchase West's National Reporter System in digital format. ■

Security *from page 11*

standards, and network controls have so far been sufficient to protect against malevolent and/or unauthorized access to critical court system data. But, as mutual fund managers are fond of saying, "past performance does not guarantee future results."

The fact is, absent a dedicated attempt, we can never be sure we are doing enough. The best CCAP can do is to make sure we don't lose sight of our very important responsibility to protect the integrity of the court system networks and data.

To that end, CCAP created an internal working group called the Security Advisory Group (SAG). The CCAP SAG consisted of experts from a cross-section of internal CCAP disciplines. The group objective was to "*identify potential internal and external security exposures to court system data, and make recommendations that will reduce or eliminate these exposures.*"

The group met weekly during summer 2008, and ultimately came up with a list of 55 recommendations. These prioritized recommendations were forwarded to CCAP Chief Information Officer Jean Bousquet, who approved the majority of them, clearing the way for implementation over the next several months.

Work has already begun on the "top 20" recommendations. The majority of these recommendations will have an impact only on CCAP staff, but some will be noticeable to CCAP users. They include the following:

Improving transaction tracking

Some CCAP computers are placed in common areas, such as a window or counter workstation, where multiple people use the computer throughout the day. The computers are set up so that multiple people can quickly perform transactions without having to log in with their specific user account. As a result, some transactions completed on these computers cannot be traced back to a specific user. CCAP will make modifications to the applications to ensure all transactions can be traced back to a specific user.

Authenticating new users

Currently, CCAP cannot be 100 percent positive that the person calling the CCAP Call Center is actually who they say they are. In most cases, it doesn't matter. However, when calls are received requesting that CCAP set up a new user

account, a more robust verification procedure is warranted. CCAP will define and implement a procedure that provides this additional verification for these types of calls.

Implementing OS patches

In order to protect against computer viruses and close potential OS-level security holes, it is very important to keep up-to-date on Windows OS patch levels. CCAP will implement procedures that ensure Windows patches are applied at frequent intervals. This may impact users by requiring them to reboot their computers after patches are applied.

Implement hard drive encryption

Documents and other data stored on laptops represent an unsecured source of potentially sensitive or confidential court information. Encrypting the hard drives on laptops will render them useless to anyone but the authorized user.

Securing router connections

Many CCAP networks are connected to the local county network so clerks of circuit court, registers in probate and other county employees can access applications hosted by the county. CCAP has no control over these county networks, and therefore these connections represent a potential risk to the CCAP network. CCAP will configure and install firewalls that provide protection to the court system network. Applications that currently pass through these connections may have to be reconfigured to work correctly with these newly configured firewalls.

We can't think that by implementing these recommendations, we are 100 percent protected. But we do believe they represent a significant step in our ongoing, proactive efforts to secure our networks *before* a dedicated attempt to gain access occurs. If you are affected by these changes as a CCAP user, we ask your patience and understanding. We hope you take comfort in knowing CCAP takes its network security responsibilities seriously. It is our goal to never have to answer the question... "*How did CCAP let this happen?*" ■

Conference, software improve AIM project

By Danielle LeMieux, Court Operations

With help from Justice, Equality, Human Dignity and Tolerance (JEHT) Foundation, the Wisconsin court system has developed a Web-based application to electronically collect information for the Assess, Inform and Measure (AIM) pilot project.

The application allows AIM pilot counties to enter referral and assessment information into this Web application. This information is then supplemented with public court records contained on Wisconsin Circuit Court Access (WCCA). This information will be used to generate the AIM judicial report, which provides the judge with more information on the defendant. This Web application is also able to provide aggregate administrative reports to be used for outcome analysis at both the local and state level.

During the last two months, AIM coordinator Danielle LeMieux has begun training and implementation for the AIM Web-based software. Three counties have already been trained in the software and have begun entering data: Eau Claire, La Crosse and Marathon. The remaining counties will be scheduled for training on an ongoing basis as their case workflow and county process development is finalized. Training for the AIM Web-based software lasts approximately a day, but will vary by county based on the number of individuals who need training. All software training is conducted onsite in the county by LeMieux and Trevor Kravick, business process analyst for Consolidated Court Automation Programs (CCAP).

AIM overview

The AIM process uses valid risk, needs and community intervention assessments to provide the court with information on defendants that is valid, reliable and meaningful to case disposition. The process includes the

development of a two-stage “feedback loop.” The first component, the process feedback loop, assesses the value of information being provided to the court. The next component, the outcome feedback loop, provides aggregate data back to the court and local criminal justice system about case outcomes, such as success/failure rates (recidivism) of the offenders targeted for this process and validation of the screening and assessment process.

Each of the six pilot counties has developed its own AIM process within the established base principles. The counties have identified their target populations, selected validated assessment tools, established information sharing protocols and have begun providing the courts with AIM reports. Representatives from AIM pilot counties have been in contact with the Office of Court Operations and LeMieux to provide feedback on development and implementation. All information will be kept on file to assist future counties in the development of the AIM process.

Recently, Dane and Bayfield counties have joined the AIM pilot project. These counties are working to adapt the statewide principles and are selecting county-specific target populations to assess. Interested and new pilot counties work directly with LeMieux to develop a process that is feasible and concise, and to address areas of concern with the AIM principles and process.

AIM Site Visit Conference

On Nov. 20, 2008, the Director of State Courts Office hosted the AIM Site Visit Conference, which provided AIM representatives from around the state with an opportunity to learn of similar initiatives across the country. Representatives from Missouri, Oregon and Virginia

see AIM on page 21

Investment scandal puts Effective Justice Strategies project on hold

Last fall, the Wisconsin courts were poised to embark upon an ambitious program to document and assess myriad projects underway across the state to enhance public safety and improve effectiveness of the courts.

“Our hope was to conduct research that would identify court centered evidence-based strategies and develop a statewide strategy and plan of action. Research and recommendations were to include what is currently being done in Wisconsin courts as well as what works and how do we measure it,” said Policy Analyst Michelle Cyrulik.

“We had a great organizational meeting, had signed the contract with the National Center for State Courts, and had everything mapped out. We were really ready to move forward to answer some key questions.”

Then the bottom fell out. The Justice, Equality, Human Dignity, and Tolerance (JEHT) Foundation, which had promised a \$600,000 grant for projects related to the Wisconsin Effective Justice Strategies program, announced that it was broke. Its funds had been invested with Bernard Madoff, who is now under federal indictment on charges that he ran a \$50 billion Ponzi scheme with investors’ money.

The good news for the courts: JEHT had given Wisconsin just under half the grant money before it went broke, so some initiatives will continue.

Specifically, the Assess, Inform and Measure (AIM) program, which focuses on giving judges the tools they need to make the best possible decisions about sentencing, will move ahead in the pilot counties (Eau Claire, Iowa, La Crosse, Marathon, Milwaukee and Portage). Also, a data collection system that will enable the courts to track progress in these counties and assess the program as it is expanded across the state will continue.



Michelle Cyrulik

For now, however, the major statewide research project to explore best practices is on hold. “We’re not giving up on it,” Cyrulik said. “We are continuing to look for other sources of funding and are well positioned to move forward when the time is right.” ■

National Criminal Justice / Mental Health Initiative holds policy forum

In September 2008, the Council of State Governments (CSG) announced that Wisconsin was among four states selected to participate in the Chief Justices' Criminal Justice Mental Health Leadership Initiative. The initiative is a national project designed to assist state supreme court chief justices and state leaders in developing strategic plans to improve responses to people with mental illness involved in the criminal justice system.

In early January, representatives from Delaware, New Hampshire, Idaho, and Wisconsin attended a policy forum in Philadelphia. The CSG Justice Center convened the policy forum to provide a venue to discuss best practices, learn about effective initiatives, and develop a strategic plan. Dr. Henry Steadman, Director of the National GAINS Center, and Dr. Fred Osher, Director of Health Systems and Services Policy of the Council of State Governments' Justice Center, presented sessions on "Creating Appropriate Responses for Justice-Involved Persons with Mental Illness" and "Interface with the Behavioral Health System," respectively.

Justices from several states that participated in the forum last year shared their accomplishments and lessons learned and offered guidance in developing a statewide strategic plan and leading a task force. They also provided strategic plans issued by their task forces and samples of documents, including memoranda of understanding.

The forum offered a range of resources. Staff from the Bureau of Justice Assistance, United States Department of Veteran Affairs, and Substance Abuse and Mental Health Services Administration (SAMHSA) highlighted upcoming grant opportunities and new programs. As part of the policy forum, the Council of State Governments Justice Center released a new resource entitled *Mental Health Courts: A Primer for Policymakers and Practitioners*. The publication provides a comprehensive introduction to this specialty court model, describes mental health courts' goals and processes, explains how a mental health court differs from a drug court, and provides resources for jurisdictions interested in initiating a program. A copy of the publication is available on the Consensus Project Web site www.consensusproject.org/mhcp/info/mhresources/pubs/.

Each task force will receive technical assistance, access to leading national experts, and funding from the CSG Justice Center and National GAINS Center, two nonprofit organizations coordinating the initiative. The Council of State Governments has informed the four courts selected to participate in this project in 2009 that the council and the GAINS Center will be able to provide direct funding of \$5,000 to support each task force.

During this year-long initiative the task force will research and evaluate evidence-based intervention processes that can be implemented early in an effort to divert appropriate individuals with serious mental illness away from the sometimes ineffective criminal justice system and into the

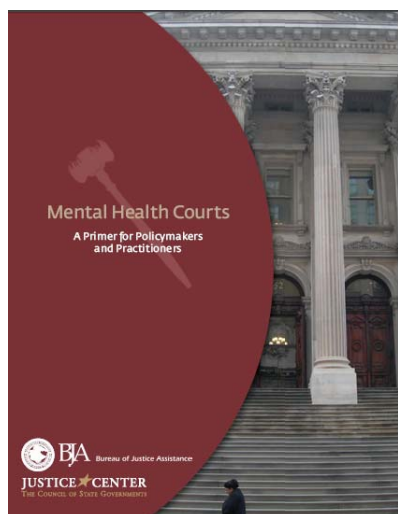
treatment system. The task force will also identify methods to compile and evaluate data to measure the impact and effect of programs to be implemented. Two work sessions during the forum provided an opportunity for the participants from the four states to apply the guidance provided and develop strategic plans. Members of the steering group that attended the forum included Judge Richard G. Niess, Dane County Circuit Court; Anthony Streveler, executive policy initiatives advisor, Wisconsin Department of Corrections; Jennifer Lowenberg, advocacy and training specialist, NAMI-Wisconsin; and Theresa Owens, executive assistant to the Chief Justice.

Representatives from the four states focused on identifying and developing specific areas and issues on which the task force could focus during the next year. The steering group will recommend that the task force consider focusing on diversion and information sharing between the courts and state, county, and local treatment providers. The steering group discussed developing a mental health court model that may assist circuit courts with the implementation process. The steering group also examined the feasibility of rolling out a Crisis Intervention Team (CIT) program on a broader scale throughout the state. The CIT approach is a community effort joining both law enforcement and the community

together for common goals of safety, understanding and service to the persons with mental illness and their families. Finally, the steering group considered collaboration with the Justice Reinvestment Initiative (JRI). JRI is a project of the CSG Justice Center in which JRI staff work closely with state policymakers to advance fiscally-sound, data driven criminal justice policies to address recidivism, reduce costs, and enhance public safety. CSG recently selected Wisconsin to participate in this project. Specifically, the steering group discussed working with JRI on addressing the significant percentage of persons who are returning to prison on a probation revocation. Persons with mental illness constitute approximately ten percent of this population.

The steering group will submit its report about the policy forum to Chief Justice Shirley S. Abrahamson, and she will begin the process to convene a statewide task force. The creation of a statewide task force will provide an opportunity to bring judges, government officials, legislators, law enforcement, advocates, and consumers together to assess the criminal justice and mental health systems' responses to persons with mental illness who are involved in the criminal justice system. ■

Contributing authors include Judge Richard G. Niess, Dane County Circuit Court; Theresa Owens, executive assistant to the Chief Justice; Anthony Streveler, executive policy initiatives advisor, Wisconsin Department of Corrections; and Jennifer Lowenberg, advocacy and training specialist, NAMI-Wisconsin.



PEOPLE

The *Milwaukee Journal Sentinel* reported that Justice **Patience Drake Roggensack** was in the Milwaukee County



Justice Patience Drake Roggensack

Family Court on Dec. 10, 2008 to observe proceedings in Judge **Mary M. Kuhnmuensch's** courtroom. While in Milwaukee, Roggensack met with Chief Judge **Jeffrey A. Kremers** and Judges **Bonnie L. Gordon, Jeffrey A. Conen, and Jeffrey A. Wagner**. She also observed proceedings in Conen and Wagner's courtrooms. Kuhnmuensch arranged a luncheon for the justice and the Milwaukee judges, where they discussed

such issues as self represented litigants and courthouse building conditions.

Kremers told the paper that this visit was important since none of the justices on the Supreme Court comes from Milwaukee. He also thought the visit would be beneficial to the high court. "You can lose the perspective that these are real people with real life stories," Kremers told the *Journal Sentinel*.

The State Bar of Wisconsin has announced the two nominees for the 2009 State Bar president-elect. The State Bar Nominating Committee has selected Attys. **James C. Boll Jr.** and **James R. Troupis** to run for the position. Boll serves as legal counsel for Madison Gas & Electric Co. Troupis is a partner with Michael Best & Friedrich. The winner will become the president of the State Bar after serving a one-year term as president-elect.

Attys. **Margaret Wrenn Hickey** and **Kevin J. Lyons** have been nominated for a two-year term as treasurer. The nominees for a three-year term on the Judicial Council are attorneys **Mary E. Burke** and **Tom Bertz**.

The elections will take place in April, and those elected will begin their terms on July 1, 2009.

According to *The Oshkosh Northwestern*, Winnebago County Board supervisors will have to find a new place to store their things during their meetings. *The Northwestern* reports that the board will be locked out of the drawers they used to store office items like pens, pencils and scissors, due to safety concerns. The room the board uses for meetings is also Winnebago County Circuit Court Judge **Scott C. Woldt's** courtroom. For five years, Woldt has asked that the board members keep the drawers locked, after the judge had observed defendants rifling through them during court proceedings. Woldt has found items like scissors and letter openers that could be used as weapons in the courtroom.



Judge Scott C. Woldt



Judge William W. Brash

County Board Chair **David Albrecht** announced that all the drawers would remain locked because Woldt continued to find unlocked drawers. "It was not a popular decision with the board, but you can't take the security of a courtroom lightly," Albrecht told *The Northwestern*.

Nine news organizations will receive 2008 Golden Gavel Awards and Certificates of Commendation from the State Bar for their journalistic efforts to promoting the public's understanding of the justice system. Staff from *The Journal Times* (Racine), *Isthmus*, *Green Bay Press-Gazette*, *La Crosse Tribune*, WLUK-TV (Green Bay), *WisconsinEye*, WISC-TV (Madison), *Associated Press*, and *The Reporter* (Fond du Lac) were honored on Jan. 28 in Madison and Jan. 30 in Green Bay. The winning entries can be found at:

www.wisbar.org/gavel.

The *Wisconsin Law Journal* has released a report on circuit court judges' reversal and affirmations on appeal for 2008. Three Milwaukee judges had a 100 percent affirmation rate. Judges **William W. Brash** and **Daniel L. Konkol** each had 16 of their decision reviewed, without a single reversal. Timothy M. Witkowiak had 11 decisions reviewed without a reversal. The *Law Journal* reports that Witkowiak has never had any of his decisions reversed since he took the bench in 2002. Milwaukee County Circuit Court Judge **Jeffrey A. Wagner** has had the most decisions reviewed by the appellate courts since the *Law Journal* began tracking this information in 2000. Of his 149 decisions reviewed, 136 were affirmed and 13 were reversed. ■



Judge Daniel L. Konkol



Judge Timothy M. Witkowiak



Judge Jeffrey A. Wagner

Milwaukee hosts Korean judges and clerks

By Beth Bishop Perrigo, District Court Administrator, District I

On Jan. 5 and 6, 2009, the First Judicial District hosted five Korean judges, four clerks and their interpreter through an exchange program requested by the National Center for State Courts (NCSC).

According to the NCSC, the Supreme Court of the Republic of Korea has been conducting vigorous judicial reforms to promote greater use of oral arguments and proceedings during trials. It is the Court's opinion that such oral arguments provide a more accurate portrayal of the truth, with lively discussions more apt to protect the parties' rights and liberties.

Additionally, Korea has recently adopted a jury system. Members of the judiciary must become accustomed to oral arguments and proceedings; as of now, trial procedures rely heavily on written affidavits. In the Court's view, the best way to understand the nature and limits of oral arguments is to observe such practices in action. Because the United States has been a model for trial procedures and jurisprudence, the Court decided that through a visit of this nature the delegation would gain valuable experience and knowledge.

The delegation, led by Presiding Judge Kim Heung-Joon, Seoul Central District Court, first heard a welcome and overview by Chief Judge Jeffrey A. Kremers and District Court Administrator Bruce Harvey.

The group then listened to the jury orientation process and sat with potential jurors while Kremers explained the system with help from Clerk of Court John Barrett and Jury Manager Lori Watson Shuman. The group also viewed a jury video produced by the Director of State Courts Office in cooperation with the Chief Judge Subcommittee on Jury Selection and Treatment in Wisconsin.

Over the next day and one half, Harvey and District Court Administrator Beth Bishop Perrigo introduced the visitors to judges, court commissioners and clerk of court staff. Members of the delegation viewed *voir dire* in a felony case,



Judges, clerks and interpreters from Korea visited the First Judicial District in Milwaukee to learn about the U.S. court system.

watched courtroom proceedings and spent time talking with Milwaukee judges and court commissioners about their calendars and duties. The clerks also visited the criminal court file room, evidence room, civil file room and the *pro se* center.

"It was a valuable experience for all of us," Kremers said. "We appreciate the opportunity to introduce our Korean colleagues to the Milwaukee County Courts and the American system of justice. They had a lot of excellent questions and insights."

The judges and clerks had various levels of experience and represented both the three-judge panel division and the sole-judge division.

Over the past few years, NCSC has assisted the Supreme Court of the Republic of Korea to organize visits to courts in the United States. ■

Veterans *continued from front page*

Rock County Circuit Court Judge James P. Daley is a retired Army brigadier general who served in Vietnam as a Marine and has two daughters who have served in Afghanistan and Iraq. He said he is just beginning to sort out the best way to help veterans who appear before him, and that the best solution may be a separate court session for veterans.

"The issues are complex," he said. "We are seeing a group of men and women returning from Iraq and Afghanistan who have suffered concussive head injuries from IEDs [improvised explosive devices], and these may be people who have never been in trouble before, and now they're having problems. We are just beginning to understand the long-term impact of those injuries."

Across the state in the Tenth Judicial District, judges are also coming to the conclusion that cases involving veterans may be best handled through a specialized program. On April 14, Chief Judge Benjamin Proctor, Eau Claire County Circuit Court, will join with First Assistant Public Defender Dana Smetana and Veterans Service Officer Cliff Sorenson to hold an organizational meeting on developing a regional treatment court for veterans. State Public Defender

Nicholas Chiarkas and Trial Division Director Michael Tobin have been invited to speak.

The court would be dedicated to solving alcohol, drug and mental health issues associated with criminal behavior within the military veteran population. The region associated with this court would be Chippewa, Dunn and Eau Claire counties.

In an effort to underscore the importance of identifying veterans in court and understanding the unique services that are available to them, Chief Justice Shirley S. Abrahamson suggested that the Supreme Court Planning and Policy Advisory Committee distribute information on how to connect with county veterans services officers in Wisconsin (*see sidebar*). Each county has an office that can provide veterans with information and assistance about



Judge James P. Daley

see **Veterans** on page 19

Legislators *continued from page 3*

Justice Ann Walsh Bradley, right, visits with Legislative Council Staff Atty. Jessica Karls and Senior Staff Atty. Russ Whitesel.

family law legislation.

At the beginning of February, the Assembly Speaker named a new committee, the Committee on Public Safety, to be chaired by Staskunas. The committee will focus on all legislation relating to operating while intoxicated (OWI).

Numerous proposals to change the OWI laws are being discussed and drafted at this time. The Legislative Committee has already spent time at several meetings discussing the proposals and this is likely to continue throughout the winter and spring. In the next issue of *The*

Third Branch, I will give a progress report on what issues are under serious consideration.

The Legislature has 16 new members who were welcomed by their returning colleagues on Jan. 5, 2009, as the new legislative session got underway. Wisconsin's weakened economy and the state's budget deficit are the issues certain to dominate the first portion of the biennial session.

The biggest legislative changes this session are in the Assembly, which for the first time since 1995 is controlled by Democrats 52-46 with one independent. There are 14 new members in the Assembly, ten Democrats and four Republicans.

Assembly leaders include Speaker Mike Sheridan (D-Janesville), Majority Leader Tom Nelson (D-Kaukauna), Assistant Majority Leader Seidel, Minority Leader Jeff Fitzgerald (R-Horicon), and Assistant Minority Leader Mark Gottlieb.

Democrats retained control of the Senate 18-15, including one new member from each party.

Most of last session's Senate leadership will return for this session, including: Majority Leader Russ Decker (D-Schofield), Assistant Majority Leader Dave Hansen (D-Green Bay), President Fred Risser (D-Madison), Minority Leader Scott Fitzgerald (R-Juneau), and Assistant Minority Leader Grothman. ■

Questions about court-related issues before the Legislature, may be directed to Nancy Rottier at (608) 267-9733 or nancy.rottier@wicourts.gov.

AWARDS *continued from page 4***Carlson is 'Changemaker'**

Reserve Judge Gary L. Carlson was honored as a 'Changemaker' by the Wisconsin Coalition against Domestic Violence (WCADV). Carlson was presented with the award at WCADV's 30th anniversary *Reinvent the Revolution* conference in Madison on Nov. 13, 2008. Carlson, a retired Taylor County Circuit Court judge, was selected for his contributions toward ending domestic violence. Other recipients of this award include Gov. Jim Doyle, Deputy Chief Pete Helein of the Appleton Police Department, and Carmen Pitre from the Milwaukee Task Force on Family Violence. ■



Retired Taylor County Circuit Court Judge Gary L. Carlson accepts the Wisconsin Coalition against Domestic Violence Changemaker Award in November.

Vacancy *continued from page 8*

Other applicants for the Western District judgeship include: Eric G. Barber, James R. Cole, William M. Conley, Stephen L. Crocker, Kendall W. Harrison, Paul B. Higginbotham, Stephen J. Meyer, James D. Peterson, John N. Schweitzer, and Stephen P. Sinnott.

Milwaukee County Circuit Court Judge Maxine A. White is among applicants for the U.S. attorney vacancy in the Eastern District of Wisconsin. Other applicants include Attys: David A. Feiss, Alex Flynn, Richard G. Frohling, Robert J. Jambois, Mel S. Johnson, William J. Lipscomb,

James L. Santelle, Karine Moreno Taxman, and Daniel J. Vaccaro.

Members of the nominating commission include Attys. Michelle Behnke, Christine Bremer, Muggli, Charles Curtis, Nathan Fishbach, Stephen M. Glynn, Susan Hansen, Kenneth Calewatts, Peggy Lautenschlager, Thomas S. Sleik and Harvey Temkin, except for the chairs; Marquette Law School Professor Michael O'Hear chairs the Eastern District panel while University of Wisconsin Law School Dean Kenneth B. Davis chairs the Western District panel. ■

Veterans *continued from page 17*

benefits, programs, and services available to veterans in the judicial system.

The need to communicate the availability of services for veterans became apparent to Abrahamson during her ongoing 72-county tour.

“As I have traveled the state, I have spoken with judges, law enforcement officers, prosecutors and defense attorneys about how the courts might respond to the needs of veterans, and all agree that improving our understanding of, and communication of, available services will make a difference,” Abrahamson said.



Judge John P. Roemer

Policy Analyst Michelle Cyrulik, who researched and distributed information on veterans services to the judges, said she has learned that identifying people who have served in the military is made more difficult by use of the word “veteran.”

“We learned that servicemen and women in their 20s and 30s do not describe themselves as veterans,” she said. “They may think of their grandparents as veterans, so we need to ask

questions about military service in a different way.”

To learn more about ways to provide assistance to veterans in the court system, a group comprised of judges, a district attorney, a public defender, and veterans’ services providers attended a meeting on veterans courts sponsored by the State Public Defender’s Office. Following that, Wisconsin sent a team of judges to Buffalo, N.Y., to observe a veterans court that has been started there. While the Wisconsin court system does not anticipate organizing specialty courts for veterans on the same scale as the Buffalo effort (the Buffalo court is in a courthouse devoted to specialty courts and home to 27 service agencies) – some circuit courts here hope to establish procedures that will facilitate veterans’ access to services.

“What we saw in Buffalo was the court team had a direct line to the VA, to full medical records, and to the veterans’ benefits information,” Levine said, “so right there in the courtroom they could accomplish what otherwise might take months, and get that individual in a position to receive counseling and whatever else might be appropriate.”

Daley said opening lines of communication with the VA and veterans benefits agencies will be key to improving the court process for veterans. He plans to request that the VA send a team into his court with equipment to access the appropriate electronic files so that benefits can be assessed right in the courtroom. He also plans to develop a mentoring program that will provide veterans in the court system with mentors who are also veterans. The mentoring component is an important part of the Buffalo program.

“We talk a lot about the importance of identifying treatment modalities to which the individual will respond,” Levine said. “It appears in cases involving veterans, the mentorship element is very effective.”

Joining Levine and Daley in Buffalo were Judge John P. Roemer, Juneau County Circuit Court; Michael Tobin, Director of the Trial Division of the State Public Defender’s

Office; Milwaukee County District Attorney John Chisholm; a psychiatrist with the VA Hospital; and a coordinator of benefits for homeless veterans.

Connecting with veterans services offices

The links below will connect to a directory of county veteran service officers (CVSO). Judges and court staff are encouraged to become familiar with local CSVOs and to use this resource when addressing issues related to veterans in court. This information is also available on the courts Web site through the PPAC Effective Justice Strategies page at <http://wicourts.gov/about/organization/programs/altmore.htm>. Link to county veteran service officers:

dva.state.wi.us/CVSO.asp

Link to tribal veteran service officers:

dva.state.wi.us/cvso_tvso.asp

Link to County Veteran Service Officers Association of Wisconsin: www.wicvso.org

The national picture

While Wisconsin is exploring ways to accommodate the special needs of veterans in court, a handful of jurisdictions that are home to large populations of servicemen and women have opted to establish specialized courts for veterans.

There are an estimated five specialty veterans courts in the country, located in Orange County, Calif.; Madison County, Ill.; Buffalo, N.Y. and Rochester, N.Y.; and Tulsa, Okla.

The Buffalo court was the first in the nation. It began operating in January 2008, and Tulsa followed suit in November 2008. The veterans courts in Madison County, Ill., and Rochester, N.Y., began hearing cases in January 2009. An effort to open a veterans court in Allegheny County, Penn., has drawn criticism in the local media, where editorial writers questioned the need to spend tax dollars on another specialty court.

The Buffalo court, which has operated for one year, was the brainchild of Judge Robert Russell. Russell and his staff noticed that criminal cases involving returning veterans were beginning to populate the docket.

Hank Pirowski, who works with Russell, told National Public Radio that the local court staff began tracking the number of criminal cases involving returning veterans in 2008, and counted 300. “The reality is, we knew we had to do something now,” he said, “because soon we’re going to have 400,000 coming home.”

In November 2008, inspired by the Buffalo model, officials in Tulsa, Okla., opened a new specialty court for veterans. Marine Corps Gunnery Sergeant John Bennett, who works for the Sheriff’s Department, began the effort in fall 2008 after he noticed an increasing number of drug cases involved servicemen and women. He contacted Marine Cpl. Matt Stiner, the mayor’s liaison to veterans, and the two brought together a planning team that included the district attorney, a drug court judge, officials from the county jail, and treatment specialists from the VA.

In January 2009, the state of Illinois followed suit, establishing a veterans court in Madison County, located in the southwest corner of the state. Judge Charles Romani Jr., an Army sergeant who served in Vietnam, presides over the court. ■

Peacemaking *continued from page 9*

both Indian communities and the larger society to use the age-old process of peacemaking in civil and juvenile and even criminal cases.

It may be called mediation, talking circles, peacemaking, restorative justice, alternative dispute resolution (ADR), or other names such as wellness courts or drug courts. But the idea is the same: rather than focusing on punishment, rather than making a winner and a loser, there is more focus on relationships and what caused the problem. The emphasis is on providing a process for the parties, themselves, to fashion the solution to the conflict and to make things right in a way that is fair and respectful to everyone.

Here in Wisconsin, the Wisconsin Tribal Judges Association (WTJA) has been working with the Indian Law Office (ILO) of Wisconsin Judicare the past few years to

enhance the re-emergence of peacemaking in the tribal courts and tribal communities in Wisconsin. Forty tribal people from eight of Wisconsin's 11 tribes have gone through a week-long certification course in mediation and taken supplemental training on Indian-specific cultural components in peacemaking.

Several tribal courts here have begun using peacemaking/mediation as a way for parties to resolve their conflicts without litigation. It works somewhat differently in each tribe, and is designed to respect the values and beliefs of the parties involved. WTJA, the ILO and the tribal peacemakers in Wisconsin are looking to expand the peacemaking options in Indian Country in Wisconsin, and are participating in the development and re-emergence of indigenous justice throughout Indian country nationally. ■

LEADERSHIP *continued from page 8*

it turns out that the first four months pass without anything of substance getting accomplished. They come to the pretrial conference as if their case was just getting started. They seem to be waiting for us to make the kind of case management decisions that should be made early in a case – about discovery, witness disclosures, etc. So the Family Division is now considering whether it is possible to identify divorce cases that need intervention at the beginning of the case and bring the parties in for a scheduling conference.

Lesson Three: Less is more

Once we undertook the process, it became clear that lawyers and even court staff were unfamiliar with the local rules. Our assessment was that the rules were so detailed and wordy that the people didn't even crack the book. It was too difficult to find what was needed.

As a result, the new rules approved so far contain about 40 percent fewer words than the old ones. Here are a few ways to make rules more concise:

Organize a section applicable to all divisions, and work hard to create procedures in different divisions that are as uniform as possible.

Trim out rules that merely repeat state law, unless the law is routinely overlooked by litigants.

Don't reinvent the wheel. For example, we used to have an elaborate set of "Business Court" rules for expediting and streamlining business cases. We repealed them wholesale. State statutes governing scheduling conferences already authorize a judge to impose the same special procedures.

We tried to focus only on rules that were needed. Our old rules included provisions that were merely informative, or were included only as a formality. Out they went. Procedures that were intended merely to guide clerks and judges, that were followed entirely in-house and that did not require any involvement by the litigants or the public were transferred from the local rules to an in-house procedural manual.

Lesson Four: Design the rules around forms

Some procedures require particular information from the litigants. For example, a motion for default judgment often comes down to whether the plaintiff was reasonably diligent in serving the defendant, and reasonable diligence turns on a few specific factors. Getting the correct information quickly is a prime objective, particularly in this day and age when

we receive upwards of 1,000 default judgment motions every month in large claims civil cases. Rather than spelling out the required factors in a rule, we specified a form that forces the parties to address them up-front. (We even specified the color paper the litigants use when submitting the form, so we can easily find it in a thick file, and so we can tell instantly whether the affidavit claims service (green), substitute service (blue) or service by publication (yellow).)

We were mindful, of course, that certain litigants have developed their own forms (and have even gone to considerable lengths to automate their practices around their own forms) so the new rules permit parties to use "substantial equivalents" of the forms we prescribe.

Lesson Five: Make the rules work for self-represented litigants

We worked especially hard to make sure that our rules were written and organized so that they can be read, understood and followed by self-represented litigants. Many of our rules are written as checklists that litigants can follow to make sure that they have submitted all the necessary paperwork.

Lesson Six: Publish the rules on the Internet

One impediment to keeping rules up-to-date is the expense of reissuing rules that have just been printed. Hard copy rules cannot even be tweaked without major expense. We decided to produce only a small number of the rules in hard copy, but also make them available on the county Web site and the State Bar Web site. We recognize that it won't be long before they will need to be changed again, but when the time comes all we will need to do is go to the Web site to make our changes. ■

Editor's note: While no other Wisconsin county has recently undertaken a rules revision of this magnitude, a few have adopted substantial changes. These counties include Iron and Taylor counties, and the Tenth Judicial District – encompassing 13 northwest Wisconsin counties – developed a standard format for organizing rules. All local rules, organized by county, are available on the State Bar Web site at www.wisbar.org/AM/Template.cfm?Section=Circuit_court_rules2.

WISCONSIN CONNECTS

Wisconsin to help shape national program on risk-assessment tools

Wisconsin is among a handful of states selected to participate in a national working group that will identify and address key issues associated with the use of risk and needs assessment information at sentencing.

“The National Center for State Courts brought us to the table because of the AIM project,” said Policy Analyst Michelle Cyrulik, who represented the state at the meeting in Montgomery, Ala. in February.

Assess, Inform and Measure (AIM) focuses on giving judges the tools they need to make the best possible decisions about sentencing. The project is underway in a group of Wisconsin counties including Eau Claire, Iowa, La Crosse, Marathon, Milwaukee and Portage.

Cyrulik’s travel was paid through the NCSC Public Safety Performance Project, which is supported by the Pew Charitable Trusts’ Center on the States and the State Justice Institute.

Todd travels to Algeria to offer media training for court officials

Court Information Officer Amanda K. Todd traveled to the African nation of Algeria in February to run media training workshops for judges and prosecutors. Todd will also lead a strategic planning session designed to improve the court system’s public outreach program. The American Bar Association invited Todd to design and lead the workshops. She has done similar work for the ABA in Eastern Europe and the Middle East. ■



Amanda K. Todd



Waukesha County Circuit Court Judge Ralph M. Ramirez presented Reserve Judge Gary L. Carlson with an apple pie during the Judicial Conference in Madison. The pie was intended to recognize Carlson's receipt of the Equal Footing Award for Advancement in Language Access to the Courts. Carlson, a former chief judge from Taylor County, has helped promote the idea of using certified interpreters, and testified about the interpreter program before a legislative committee last year.

AIM *continued from page 14*

participated in the conference and spoke of their efforts to incorporate risk assessment and/or evidence-based practices into sentencing.

The three jurisdictions provided thought-provoking information on the history, process development and outcomes for their unique endeavors. Representatives from the state of Virginia provided a look at how sentencing guidelines were incorporated into a risk-assessment process and the changes the criminal justice system has seen since the inception of the process. Multnomah County, Oregon, representatives presented detailed information on data collection and potential agency involvement in process implementation. Finally, an informative discussion of agency cooperation and process development resulted from the state of Missouri’s presentation.

AIM representatives will be able to discuss the various benefits and challenges the AIM process may encounter. One of the benefits will be access to data from AIM’s Web-based software, which will be helpful in assessing and

building support for the program.

Challenges the AIM process faces are initial buy-in and lack of substantial or appropriate program alternatives within individual pilot counties.

We are pleased by the progress and developments of this project to date and are greatly appreciative of the hard work devoted by the pilot counties at this time. In the future, AIM updates can be found on the court’s “Effective Justice Strategies” Web site located at:

www.wicourts.gov/about/organization/programs/alternatives.htm

Click on the “AIM Project” tab for specific information about AIM. ■

Contact Danielle LeMieux, AIM Project coordinator, at danielle.lemieux@wicourts.gov or (608) 261-0680 with questions or to inquire about pursuing AIM in your county.

RETIREMENTS *continued from page 9**Judge Norman L. Yackel***Yackel to retire at end of term**

Sawyer County Circuit Court Judge Norman L. Yackel will be retiring at the end of his term this summer. Yackel has served on the Sawyer County bench since he was first appointed in 1991. He was then elected in 1991, 1997, and 2003.

Yackel presided over one of Wisconsin's highest profile cases in 2004-05. The trial of Chai Vang, who was convicted of first degree murder after killing six hunters in the Northern Wisconsin woods, received national media attention. Yackel said this trial was one of the highlights of his career.

Prior to his appointment to the bench, Yackel served as Sawyer County district attorney and worked in private practice. He received his bachelor's degree and law degree from the University of Minnesota.

Yackel said he has not made plans for his retirement yet. He said his wife has a "to do list" waiting for him, and they do plan on spending some of the colder winter months down south.

Ebert to leave Dane County bench

Judge Steven D. Ebert, Dane County Circuit Court, will be retiring this summer after 12 years on the bench. His last day will be July 16.

Ebert was appointed in 1997 by then-Gov. Tommy Thompson. He won elections in 1998 and 2004. He has served ten years in the criminal division and two year in the juvenile division.

Ebert attended UW-Madison and Drake Law School. Prior to serving on the bench, he had served as assistant attorney general, municipal judge for the city of Stoughton, supervising attorney for legal assistance to institutionalized persons through UW Law School, and as assistant district attorney for Rock County.

"I am going to see what else there is to challenge me," Ebert told the *Wisconsin State Journal*. "I expect I will continue to work in some capacity." In his letter to Gov. Jim Doyle, Ebert said he would like to continue to work in public service after his retirement. ■

*Judge Steven D. Ebert***Exchange** *continued from page 10*

Court of Appeals work, on the other hand, involves extensive review of briefs and the standards by which a trial court decision is to be judged, Curry said.

Gaylord said she found observing the Court of Appeals and screening cases both informative and enjoyable. "It's a good example of the value that comes from discussing a case to share fresh insights and perspectives," Gaylord said.

District IV, with five appellate judges, handles appeals from courts in the following counties: Adams, Clark, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jackson, Jefferson, Juneau, La Crosse, Lafayette, Marquette, Monroe, Portage, Richland, Rock, Sauk, Vernon, Waupaca, Waushara, and Wood.

Like the Supreme Court, the Court of Appeals takes no testimony. Cases are decided based on the trial court record and written briefs and, in a limited number of cases, oral

argument. Any person may appeal a final order or judgment of a circuit court to the Court of Appeals.

"The Judicial Exchange Program benefits not only the judges who participate, but the entire court system and the people of Wisconsin. The program receives high marks from the judges," Abrahamson said.

Wisconsin's Judicial Exchange Program was modeled after a similar program that has operated for years in the federal court system. Federal judges have found their program to be rewarding, but humbling. When the now-deceased U.S. Supreme Court Chief Justice William H. Rehnquist presided over a civil right trial in Richmond, Va. – marking the first time this century that a U.S. Supreme Court justice had presided over a trial – he was reversed on appeal. ■

Wisconsin Supreme Court Chief Justice Shirley S. Abrahamson administered the oath of office and was the featured speaker during a Dec. 11 ceremony marking the graduation of 19 cadets from the State Patrol Academy.



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Primary *continued from front page*

and end in July 2010. Chief Judge Jeffrey A. Kremers, Milwaukee County Circuit Court, assigned Rothstein to serve in Children's Court, the *Milwaukee Journal Sentinel* reported Feb. 16. Rothstein is expected to take the bench in mid-March.

Primaries

Primaries narrowed down the fields of candidates in nine Wisconsin counties.

In **Chippewa County**, the *Chippewa Valley Newspapers* reported Attys. James M. Isaacson and Steve Gibbs won spots on the April ballot, after defeating Robert A. Ferg. Both Isaacson and Gibbs work in private practice. The Branch 2 seat is vacant due to the retirement of Judge Thomas J. Sazama (*see The Third Branch, fall 2008*).

In **Dane County**, Atty. Julie Genovese and Assistant U.S. Attorney Stephen Ehlke advanced to the spring ballot by out-polling Sun Prairie lawyer Charlie Schutze. The winner on April 7 will fill the seat being vacated by the retirement of Judge Michael N. Nowakowski at the end of July (*see The Third Branch, fall 2008*).

In **Green County**, Attys. Dan D. Gartzke and Thomas J. Vale defeated Timothy J. Burns, according to *The Monroe Times*. Gartzke and Vale are running for Green County Circuit Court's newly created Branch 2 seat.

In **Jefferson County**, Steven J. Luchsinger and Jennifer L. Weston will advance to the April election after both defeated Jennifer L. Weber, the *Daily Jefferson County Union* reported. Luchsinger works in private practice. Weston has served as court commissioner for Jefferson County and as a Fort Atkinson Municipal Court judge. The two are seeking to fill the Branch 1 seat of Judge John M. Ullsvik, who is retiring (*see Retirement on page 9*).

In **Kenosha County**, Fred Zievers and Chad Kerkman will face each other for the newly created Branch 8 in Kenosha County Circuit Court. Zievers and Kerkman defeated David Wilk and Gregg Guttormsen, the *Kenosha News* reported.

In **Marathon County**, voters narrowed down a field of five candidates to two in the quest to fill the seat vacated by Judge Dorothy L. Bain. District Atty. Jill Falstad and Atty. Peter Rotter defeated court commissioners Douglas Bauman and Sandy Marcus and Atty. Alan Grischke for the right to appear on the April 7 ballot.

In **Milwaukee County**, Daniel Gabler and J.D. Watts will face off in the spring election for Branch 15 after they defeated Ronald Dague in the primary. Both Gabler and Watts have worked as Milwaukee County assistant district attorneys.

Gabler continues to serve as assistant district attorney. Watts now works in private practice.

In **Ozaukee County**, Sandy Williams and Darcy McManus defeated Steven Glamm to advance to the spring ballot. Williams is a district attorney for Ozaukee County. McManus serves as Ozaukee County Family Court commissioner.

In **Wood County**, the *Marshfield News Herald* reported that Atty. John A. Kruse and Wood County District Atty. Todd P. Wolf defeated Richard D. Weymouth and John P. Henkleman for the Branch 3 position.

Contested Races

Seven other counties also will have contested races in April, including four counties where incumbents are being challenged.

In **Douglas County**, District Atty. Daniel W. Blank will face Assistant District Atty. Kelly J. Thimm.

In **Milwaukee County**, Attys. Ellen R. Brostrom and Christopher R. Lipscomb will compete for the Branch 6 seat made vacant by Judge Kitty K. Brennan's appointment to the Court of Appeals.

In **Sawyer County**, Thomas J. Duffy, who works in private practice, and Gerald L. Wright, who works in the State Public Defender's Office, are both running for the seat made vacant by Judge Norman L. Yackel's retirement (*see Retirements on page 9*).

In **Bayfield County**, Judge John P. Anderson is being challenged by Atty. Gene D. Linehan.

In **Burnett County**, Douglas County Court Commissioner Paul Wesley Baxter is challenging Judge Kenneth L. Kutz.

In **Grant County**, Atty. Craig R. Day will challenge Judge George S. Curry.

In **Taylor County**, Judge Ann N. Knox-Bauer will be challenged by Atty. William A. Grunewald.

In other election-related news, two candidates withdrew from the **Winnebago County** Circuit Court race, the *Wisconsin Law Journal* reported. After Judge Bruce K. Schmidt had announced in August that he would not be seeking reelection, Winnebago County Court Commissioner Daniel J. Bissett and Winnebago County Assistant District Atty. John A. Jorgensen both announced their candidacy for the position. Schmidt reconsidered after his wife passed away, and decided the time was not right for his retirement. Both Bissett and Jorgensen chose to withdraw from the race rather than face Schmidt, who has 18 years of experience on the bench, according to the law journal. ■