

State of the Judiciary
Chief Justice Thomas J. Moyer, Ohio Supreme Court
Message to Ohio Judicial Conference
September 9, 2004

Judge Karner, Director Rohrs, officers of the conference, judges, guests....It is an honor to be with you today, the 17th time that I have appeared before you as Chief Justice.

First, I would like us to pause for those who could not be with us today, as we remember three former justices who passed away this year, Asher Sweeney, Ralph Locher and Robert Holmes. They were our friends, our colleagues, and shared in our love and concern for the judiciary. We cherish their memories.

Ours is a strong and productive relationship; it has produced countless improvements in the fair and efficient administration of justice.

Our collaboration has produced more timely dockets, increased treatment alternatives and improved access to the courts.

Today, I come before you to report that the state of the judiciary is strong and vital...with a proven history of serving our constitutional role in Ohio, and a future filled with the prospect of resolving greater, and even more complicated issues.

Today, for the first time in our history, we have a statistical picture of the need for certified interpreters in Ohio courts. The statistics, which I will talk about in a few minutes, demonstrate that Ohio is a mosaic, not a monolith.

Ohio continues to be a national leader in specialized dockets and alternative dispute resolution. My goal of providing court-sponsored mediation in all 88 counties will be achieved in the coming year.

I am also able to report that all courts in Ohio will soon be computerized. The last counties to depend entirely on the clip-board and filing cabinet will be automated within a few weeks.

Information technology has changed the way you and I work. It has changed the way citizens approach legal matters. But we must be prepared to take the next step of using it to harvest relevant information in a timely manner.

This is a record upon which to build, not to rest.

The flow of challenges to our courts is constant; the development of responses, perpetual.

Much remains if we are to provide equal access to the courts, without barriers for citizens who cannot afford legal advice, or those who cannot speak and understand English.

Much remains if we are to provide safe and thriving homes for children caught in the revolving door of foster care.

We may be guided by precedent, but we must look forward; we must keep our sight on the horizon if we are to safely navigate to our destination.

It is appropriate that we meet under the theme of judicial excellence as the scientific world prepares for the centennial celebration of what might be considered the pinnacle of scientific excellence.

Over the next year, physicists will mark the 100th anniversary of the release of Albert Einstein's defining research, a series of papers that redefined the relationship between light and space, speed and distance. As one writer described it, "The German-born physicist took Newton's billiard table and turned it inside out."

Science would never be the same, and neither would world events, as his influence left its indelible mark on the Cold War, and the arms race.

Even Picasso's disjointed imagery carries the mark of Einstein's breakdown of the mechanical world.

Einstein's brilliance, it was said, came from his ability to simplify the complex, to grasp the relationship between contradictions.

As judges, we will not bend light, or split an atom, but we must be able to echo Einstein's ability to look to the future, while grasping the essence of the events before us.

While Einstein ushered in the 20th Century's Age of Physics, it was 50 years ago that Watson's and Crick's discovery of DNA ushered in the 21st Century's Age of Biology. Their discovery continues to have an impact on court proceedings across the country.

EINSHAC

Many of you recall the program presented last year by the Einstein Institute for Science, Health and the Courts—a primer on the impact of biotechnology issues in the courts. I want to tell you about another project created by, but independent from, EINSHAC that will have a significant impact on judicial excellence in the future. EINSHAC has produced nearly 50 educational institutes for judges in America and on most of the continents.

The logical progression from that successful endeavor is the development of regional education centers to prepare judges with enhanced knowledge and performance backgrounds to adjudicate high profile cases that will come to us from the explosive advances in the life sciences, genetics, biomedicine, biotechnology and the neurosciences.

I will briefly describe the new venture, designated the Advanced Science and Technology Adjudication Resource Project. Retired Judge Jack Milligan will serve with me on the board of

ASTAR. Judge Lee Sinclair will serve on a separate board that will set the standards for certification of judges.

The goal will be to train 700 resource judges in the United States and foreign jurisdictions by the end of this decade.

Three states, Ohio, Maryland and California will form a consortium that will initially prepare 45 jurists with advanced science and technology adjudication skills. Confined not only to the pursuit of juridical excellence, the programs in each of the states will seek to create a court climate that expeditiously resolves novel conflicts and serves the economies of the states.

In Ohio the program will be managed by the Ohio Judicial College, whose leadership has already been engaged in putting into shape the national project. We will recruit premiere science instructors for workshops.

I have been in contact with interested persons at the Ohio State University. The education center in each state will serve as a regional center; Ohio will be responsible for the Midwest and Central Gulf states. The goal is to initially prepare 15 Ohio jurists as resource judges. The entire project will be funded by government grants for which applications soon will be prepared.

This exciting joint venture will place Ohio in the forefront of judicial education with its unique focus on preparation for the future.

Judicial College

Judges and court administrative personnel now have a broad curriculum of course work that provides training in the law, case management and information technology....much of it provided at no cost to the local courts.

Later this month, 35 court personnel from across the state will receive Court Management Certification, the first class to graduate from the program offered by the Ohio Judicial College and the National Center for State Courts.

This program addresses many of the issues that contribute to judicial excellence, including improved skills in case management, budgeting, technology and human resources. In turn, graduates are encouraged to conduct training sessions for staff at their trial and appellate courts, spreading the benefits of this program.

Judges are to be commended for allowing, in fact for encouraging court administrators to be away from the office. The program requires a major time commitment that extends over two and a half years, but it should produce measurable benefits for years to come. A second class will begin work early next year.

The training you are receiving today and tomorrow, is being offered by the Judicial College free of charge. The College will no longer charge for course work during this conference or at biennial meetings of the judicial associations.

While most newly elected and appointed judges attend the intensive two-week new judge orientation, the Supreme Court will soon make the program mandatory. You might say it is our version of “No Judge Left Behind.” The written evaluations tell us that the training in courtroom procedure and administrative management has been invaluable.

Foster Care/Adoption Standards

The Supreme Court and judges across the state are working with child welfare providers to speed the process of providing safe and lasting homes for foster children. Ohio, as all states, failed to meet federal minimum standards for the permanent placement of children in foster care. A response to the federal findings is being developed by a subcommittee of the Supreme Court Committee on Abuse, Neglect and Dependency.

Judges, with their agency director counterparts and other local stakeholders, are developing local plans that take into account that resources and priorities among the counties are not identical. So all 88 plans will be tailored to fit the needs of each community. However the goals will be the same: safe, stable homes within which children can thrive.

The first pilot project will begin next month in northwest Ohio under the leadership of Sandusky County Juvenile Court Judge Brad Culbert.

I commend all the judges who are participating in the strategic planning process related to the Abuse, Neglect and Dependency Committee. Improving the record in Ohio will certainly be one measure of judicial excellence.

Court Interpreters

A new survey that will be released soon will provide a vivid picture of language barriers in the courtroom. Preliminary findings of the survey that was sent to all courts indicate that over the past three years there has been at least a 200 percent increase in the number of cases requiring language or visual interpreters.

The findings demonstrate that Ohio continues to have a linguistically diverse population. For example in a recent 12 month period in Marion Municipal Court, Spanish interpreters were used in 165 cases. About what you might expect. But interpreters were also used in cases involving Laotian, Mandarin, Russian and Serbian speakers.

In Hamilton County Juvenile Court, interpreters were used in Farsi, Mandingo and Vietnamese.

A corresponding survey of court interpreters demonstrated that there is an unmet need for interpreters who are well trained in languages and the judicial system. Courts have often allowed family members or friends to interpret court proceedings with no assurances that the interpreter understands the complexities of the proceedings.

Developing a court interpreter certification process was one of the recommendations of the Racial Fairness Commission and the Implementation Task Force.

The Supreme Court adopted one other recommendation when it joined the State Courts Interpreter Certification Consortium, which is managed by the National Center for State Courts.

Last month, we conducted the first statewide conference for court interpreters and court administrative staff to discuss recent initiatives, including the development of interpreter standards and the certification process. Conference participants identified the need for increased training for interpreters and court personnel.

We will provide the necessary resources for the Interpreter Services Program that will ensure that all citizens have equal access to the courts.

Anti-Racism Legal Education Project

We are moving closer to implementing one other recommendation of the Racial Fairness Implementation Task Force with the development of a Racial Fairness Legal Education Curriculum. The Ohio State Bar Foundation Past Presidents Advisory Council is developing the program as an alternative option for satisfying the legal education requirement for professionalism. This program will be presented to the Supreme Court Commission on Professionalism at its September 17th meeting.

The Bar Foundation has enlisted the assistance of educators and experts in race relations, including the Judicial College, to develop learning methods and objectives. Organizers expect to offer a pilot program early next year that will be evaluated before deciding whether to expand the effort.

Trust Account Overdrafts

The Supreme Court is working with the Ohio Bankers League to develop a simple method for detecting when a lawyer is having financial, if not ethical problems. A legislative proposal is being prepared that would require banks to notify the Disciplinary Counsel or the Clients' Security Fund when a lawyer has overdrawn a trust account, in addition to the notice that the bank currently provides to the attorney.

The overdraft may have been a simple mistake, or it could be a sign that an attorney is using a trust fund for something other than a client's benefit. The notice would allow authorities to intervene before the problem grows.

Model Rules

The Model Rules Task Force chaired by Judge Peggy Bryant is moving forward with its review of the American Bar Association Model Rules of Professional Conduct, and expects to issue a final report to the Supreme Court during the first half of next year.

The Task Force has been publishing for comment, proposed sections as they are completed.

If adopted, Ohio will join virtually all states in using the Model Rules as a basis for the lawyer code of conduct, which will help Ohio stay current with intermittent updates by the ABA . It will also streamline the ethics and professional curriculum for law schools, and make it easier for Ohio attorneys who practice out of state to comply with ethical requirements in those jurisdictions.

I am told that you will be briefed tomorrow morning on the ABA 's process for revising the Code of Judicial Conduct. I would be interested in knowing if the Judicial Conference would recommend a comprehensive review of the Code of Judicial Conduct to bring Ohio into line with the ABA recommendations.

Professionalism

In July, the Supreme Court approved a plan to re-organize the Supreme Court Commission on Professionalism, providing a greater role for local bar associations and law schools. The Supreme Court will continue to have an active role in the commission, but in discussion with bar leaders, it was agreed that the commission could be more effective if more decision making authority was given to those closest to the issues.

The Commission will now consist of six attorneys appointed by the Metropolitan Bar Association Consortium and The Ohio State Bar Association, five judges, two law school representatives and two non-attorneys. The court also agreed to allocate more staff resources.

These changes will allow the commission to move forward with plans for a state-wide mentoring program for new attorneys, proposed by Justice O'Donnell, and enhanced professionalism education in law schools.

Technology

At this conference in 1991 I made the bold pledge that the Supreme Court would assist any court that wished to computerize. At the time, our own technology resources were limited, and challenged by the laborious task of migrating from the old wang system.

The General Assembly was still two years away from authorizing courts to collect filing fees for information technology and case management systems.

From those early beginnings, great things have come. The 2004 Survey of Technology and the Courts demonstrates that 99 percent of the courts of Ohio are automated. And the remaining counties are preparing to boot up.

Computers have been delivered to courts in Meigs and Pike County. Paulding County has developed its specifications, and will accept vendor bids after the first of the year. These systems will be funded in part by a grant from the Office of Criminal Justice Services, and have been facilitated by the Supreme Court Technology Resources Section.

The results of the Technology Survey, which will be emailed to you next month, also indicate that information technology is assuming a more prominent role in the administrative structure. This is underscored by the finding that twice as many courts report having a full-time system administrator as compared to six years ago. And 90 percent of the courts report having access to the Internet, a nine-fold increase from 1998. Both developments bode well for the ability of courts to keep pace with future advancements in technology.

On the Supreme Court Website, Internet users are finding an increasing amount of information that pushes beyond the traditional news release and case summaries.

The red arrow indicates where a Website visitor can view the disciplinary history of any attorney registered in Ohio since 1925. For judges, that means you will be able to find out instantly whether an attorney has been disciplined, and whether they are currently registered in Ohio. You will also be able to determine if the attorney has been sanctioned for failing to satisfy his or her CLE requirements.

Since we announced the program 1 ½ weeks ago, there have been 25,651 searches for attorney information.

Making information available electronically is an effective way to make the judicial system more open and accessible to the public.

Later this year, the Court plans to place its docket online, allowing the public to track cases, monitor when documents have been filed and view upcoming deadlines and other actions.

And next year, attorneys and judges will be able to submit their registration and payment on-line.

The Court plans to move to an electronic filing system that will allow litigants to file briefs and other documents online and for the public to view these items on the Web.

We must ensure that we meet the increasing expectations of the one billion people who will have access to the internet by next year. This level of access will create accountability at all levels of government; placing increasing demands for timely dockets, and relevant information. How we respond to this challenge will speak volumes about our vision of judicial excellence in the 21st century.

My colleagues, we share a common purpose in perilous times. As we struggle to be the cement that holds together our civil society, there are those within and beyond our borders who would destroy our institutions.

Has there been a time in our history when the importance of the principles of American jurisprudence has been so clear and so profound?

Has there been a time when you have preferred another institution of justice to that in which you are engaged?

Our common purpose is to keep alive, indeed, breathe new life into the belief of every American citizen that our institutions of justice were created and are sustained for them.

There can be no higher calling in a democratic society.

Thank you for answering the call.

Thank you for the honor of serving as your Chief Justice.