

State of the Judiciary  
Chief Justice Maureen O'Connor, Ohio Supreme Court  
Message to Ohio Judicial Conference  
September 3, 2015

Good morning. Thank you Judge Durkin for that introduction and for the invitation to speak at the Ohio Judicial Conference's annual meeting.

To Ohio's judges, thank you for your service in the fair and efficient administration of justice.

The people of Ohio expect their judges to display three characteristics more than any others:

- to be legally competent.
- to be totally professional.
- and to be service focused.

That includes doing your sworn duty even when it's a personal challenge.

I appreciate your commitment in these areas. I also appreciate those of you who volunteer to serve in leadership/officer positions in professional associations.

Clearly, you take on more work in these roles, but the insights you provide are invaluable to the work these associations perform. Please consider serving if you haven't already.

To my colleagues on the Supreme Court bench, thank you for your continued support as we work together to solve difficult issues facing the judicial branch.

This morning, I will discuss some of the more important developments affecting the State of the Judiciary that have occurred since last year's annual meeting.

I want to start with one topic that clearly deserves top billing.

I bet you can guess which one.

After the longest dry spell ever for judges to NOT receive a pay raise, we all will realize the first of four 5 percent increases later this month.

To refresh your memory, the last market increase for judges was approved in 2000. Incremental annual cost-of-living adjustments occurred over the course of that legislation. The judicial compensation schedule has not been adjusted in Ohio since Jan. 1, 2008.

In addition to the increase later this month, three more 5 percent market adjustments will occur on New Year's Day in 2017, 2018, and 2019. Happy New Year indeed.

To say the work to convince the Legislature that Ohio judges deserved a raise was easy and

without hiccups would be inaccurate. A lot of work occurred behind the scenes so this opportunity wouldn't be lost.

First and foremost you should all know that during the lame-duck session in '14, I had a meeting with Gov. Kasich.

At that meeting, knowing that a pay increase was out of the question in lame duck, I told the governor that I was going to put the market adjustment in my budget.

He promised me to back it and include it in his budget. The governor never wavered in his support. Frequently during the first 6 months of this year he would call me to reassure me that he was with us. For that we should all be grateful because it made all of the difference.

The House removed the market adjustments in its version of the budget.

The Senate restored funding for the market adjustments in its version of the budget bill. Senator Faber's leadership at this juncture was critical.

The market adjustments survived the conference committee, and the budget bill was signed by the Governor on June 30.

As I said, Governor Kasich endorsed these adjustments. He recognized the importance of retaining outstanding judicial talent for the state of Ohio.

Throughout the process, we drew wide-ranging bipartisan support in both the Senate and House.

The question was never whether this issue must be addressed, but rather how to address it.

A host of entities – who know how important attracting and retaining the best and brightest judges are to the people and state of Ohio – also supported the market adjustments.

They included the Ohio State Bar Association, the Chamber, the Farm Bureau, the National Federation of Independent Businesses, the Retail Merchants, the Ohio Manufacturer's Association, the AFL-CIO, and the plaintiff's bar.

Please take time to thank your legislators and the Senate and House leadership for helping pass this important piece of legislation, and, of course, thank the Governor for his unwavering support.

In my comments to the press, I emphasized that the market adjustment brings Ohio's judges into greater parity with the courts' workloads and counterparts around the nation.

I noted that the increase was vitally needed to both retain and attract outstanding people to the bench.

I also pointed to the fact that Ohio's general jurisdiction trial judges rank 45th in the nation in compensation even though Ohio is the fifth busiest court system in the United States.

I also gave credit where credit is due in recognizing the many people who contributed to the success of the market adjustment for Ohio's judges.

Publicly, I said I was grateful to Governor Kasich, Senate President Faber, and Speaker Rosenberger for working together to adjust judicial salaries to reflect the important work that we do. There were many others in the General Assembly who worked with us along the way, indeed too many to name.

But there are several internal folks at the Supreme Court that helped make this happen.

Administrative Director Mike Buenger, Chief Legal Counsel Craig Mayton, Judicial & Legislative Affairs Counsel Mike Farley, and Staff Attorney Jess Mosser all spent countless hours on the phone and in meetings to ensure this issue stayed in the forefront of legislators' minds. I often referred to it as shuttle diplomacy.

They tracked the bill as it bobbed and weaved through the process. They were in early and stayed late. They deserve your recognition.

This market adjustment and the budget process consumed our waking hours from January through June and even reared itself in a troubled dream or two.

I also want to recognize Mark Schweikert and the conference for their efforts in this area. Mark worked with us as meetings were convened and strategy devised. Please recognize Mark's efforts as well.

Here is an important fact that I ask all of you to be aware of as we move forward. While we secured in statutory language four 5 percent increases, only the first two years of this is actually funded.

I will be requesting appropriations for the second installment of funding in my 2017 budget request to ensure that we have the money to complete the market adjustments.

Therefore, none of us should assume that everything will just operate on automatic pilot going forward. Please be mindful that we still have to secure funding for the last two years.

As the budget was considered by the Conference Committee in the closing hours, we learned of plans affecting the Judicial Conference.

The budget bill signed into law calls for a 25 percent reduction in the conference's operating budget. No one was more shocked than me when this proposal surfaced.

More concerning, however, is the fact that the conference is scheduled to sunset on Dec. 31, 2016.

In other words, the conference is on a list to be eliminated, unless a specific bill is introduced and

passed to reverse the budget language.

While this development is unexpected and concerning because the Conference has provided valuable services, we may all have to adjust to a new normal. I want to assure you that I am absolutely committed to ensuring that the essential services of the Conference are maintained regardless of what happens.

I hope we can move past this hurdle. However, please know that I will not sanction any workaround that jeopardizes in any way the final two years of the pay raise.

Beyond these two issues is the meaningful work occurring in courts in every corner of the state led by Ohio's judges. That work can be measured in numbers, that's true. But the daily administration of justice in the state goes far beyond numbers.

On average, over 45 appeals are filed every business day in this state. While that number may not strike some as anything earth-shattering, many of these appeals involve some of the most difficult legal and constitutional issues in Ohio and, therefore, can be highly complex, challenging, and time consuming.

The people of Ohio rely on Ohio's judicial system on average some 13,000 times a day to resolve their disputes, enforce the laws of this state, and give guidance on legal issues.

This is a good thing because it tells us that people have confidence in our legal system, notwithstanding claims to the contrary.

It tells us that, rather than existing at the periphery of our society, courts sit at its center, they are the hub in the wheel, managing a wide array of services and controlling access to our corrections systems, our mental health systems, and many other services that people rely upon every day.

It tells us that families, crime victims, businesses, and many others rely upon the judicial system each and every day to bring certainty to their legal affairs and, therefore, to their lives. And it tells us that Ohio courts make a difference every day – directly and indirectly – to millions of people in our state.

Every individual, business, and organization, even those without a pending case, benefits from having a strong, innovative, and effective judiciary.

But there is another context behind these raw numbers and that is the degree to which the entire nature of the judicial process has changed in light of the challenges we face as a state and as a nation.

What often goes unnoticed is this simple fact: Ohio's judges and Ohio's courts are the solution to the problem, the point of last resort or the point of first relief, in addressing seemingly intractable problems ranging from drug abuse, to crime, to family disintegration, to juvenile justice, to complex business disputes.

Just two weeks ago, we hosted a forum that brought together judges, public health specialists, and addiction specialists to discuss how we could better respond to our state's opiate abuse problems.

Twenty-five years ago we could boil dockets down to essentially four areas: domestic relations, juvenile, civil and criminal.

Today's dockets are very different. Today we speak of specialized dockets such as drug courts, veterans courts, mental health courts and the like.

We talk of problem-solving courts and therapeutic courts.

Specialized dockets represent silo-breaking within the justice system at its best and have found success because of the willingness of judges to accept new roles and new responsibilities in our communities.

For instance, veterans' courts have adjusted their approach to adjudication by recognizing that veterans, particularly those with combat experience, can often present a different series of challenges that must be addressed if an "outcome" is to be transformative and sustainable.

That approach is working, according to an Ohio Department of Mental Health and Addiction Services study of veterans participating in the programs run by Judges Jerry Ault and Frank Ardis in Mansfield Municipal Court, Judge Melissa Powers in Hamilton County Municipal Court, and Judge Ethna Cooper in Hamilton County Common Pleas Court.

The study followed about 90 veterans to see if the specialized docket improved recidivism, depression, quality of life, and recovery for the veterans.

The participants, who ranged in age from 21 to 73, were interviewed at the beginning of treatment and then again at six months and 12 months into the program.

Results show that of the 86 veterans, only nine were rearrested during the 12-month study and four were arrested after the program. Those are impressive statistics indeed. Another scourge in our society concerns the trade of humans for sex, an unfathomable thought in the 21st Century, but a reality we must confront.

When humans are sold as a commodity in these transactions, we are no different, and no better, than the underdeveloped nations better known for promoting this practice.

A few human trafficking courts are now in operation around Ohio as a way to hold johns accountable, recognize that sex workers are often victims, and provide assistance, education and support for a way out.

Judge Paul Herbert's Franklin County Municipal Court CATCH Court is nationally known and Ohio's longest-running example.

Researchers from the Ohio Consortium of Crime Science studied CATCH Court and found a

reduction in arrests for prostitution from 1,745 in 2009 to 1,192 in 2013.

More significantly, there were no new criminal charges for 77 percent of CATCH Court participants.

Additionally, two subcommittees of the Supreme Court's Advisory Committee on Children & Families have formed a human trafficking workgroup to investigate ways to prevent vulnerable groups — runaways, foster youth, and delinquent youth — from becoming ensnared in the human trafficking trap.

Thanks to Lucas County Juvenile Court Judge Denise Cubbon for agreeing to serve as chair of the workgroup and lending her expertise based on the outcomes of the human trafficking docket in her court.

The original specialized docket — Drug Courts — continue to be crucial to the state's efforts to combat opiate addiction.

Perhaps the most significant involvement for Ohio's judicial branch in this area is the medication assisted treatment pilot program that began in January 2014, and was recently extended for another two years with a total investment of \$16 million.

The intended outcome is critical: connecting high-need, high-risk defendants in the criminal justice system with the treatment they need for opiate and alcohol addictions and reintegrating them back in the community as productive citizens.

Drug courts in 15 designated counties administer the treatment programs.

Supreme Court staff work with these counties to ensure their drug courts meet all the requirements to be officially certified and operate within minimum standards as mandated by the Supreme Court.

We continue to support these courts throughout the project.

The judges in these courts order assessments to determine which addicted individuals in the criminal justice system meet the legal and clinical criteria to participate in the docket and seek treatment through the program.

Case Western Reserve has studied the original MAT pilot courts that are providing medication assisted treatment to opiate and heroin addicted drug court participants in six Ohio counties.

Preliminary results indicate that medication assisted treatment is associated with decreased substance use, increased employment, and increased voluntary participation in self help groups like Alcoholics Anonymous and Narcotics Anonymous.

These studies prove the effectiveness of utilizing specialized dockets. It's no wonder that the Supreme Court has a total of 189 specialized dockets in the certification process.

While there is a cost-savings aspect to this approach to justice administration – we cannot afford to incarcerate or institutionalize our way out of some problems – it is most importantly an approach that focuses on helping people succeed and become productive members of society.

Innovative approaches to judging, however, will not be successful without better training of judges to insure higher skill sets to solve these complex problems.

The Judicial College serves an ever-broadening audience with ever-expanding coursework.

In fact, the Judicial College will have offered more than 250 course days by the end of this year. If you have a need to learn, the Judicial College has a course to address that need.

Mandatory training rules for adult guardians that took effect June 1 has impacted Ohio's probate judges and courts. Over the past three months, probate courts have been communicating the new guidelines to the approximately 39,000 guardians across the state.

Probate courts are providing their own education or partnering with the Judicial College to deliver the training.

One standout is Butler County Probate Court Judge Randy Rogers, who directed his staff to meet with every one of the county's 1,100 guardians and their wards. The goal is to ensure that no ward is simply reduced to a case number.

It's heartening to know that in courtrooms across the state judges realize their vocation is about helping people.

The myriad problems Ohioans face also cannot be addressed if courthouses aren't accessible to those that need it the most.

During last year's remarks, I previewed the work of the Task Force on Access to Justice. Here's what it accomplished:

The task force reviewed how other states addressed access issues and heard from Ohio access organizations about what barriers to the civil legal system exist in our state.

In all, the task force issued 11 recommendations to address or resolve gaps in or obstacles to accessing the civil justice system in Ohio. A few of those recommendations include:

Recommending that the Ohio General Assembly provide funding for indigent civil litigants to offset the precipitous decline in civil legal aid funding since 2007.

Increasing the annual fees charged to out-of-state attorneys who handle cases in Ohio on a pro hac vice basis and allocating a portion of those funds to civil legal aid organizations.

Creating an Access to Justice position at the Supreme Court to coordinate access to justice

programs and to consider policy and rule changes.

My colleagues and I on the court have been considering the task force recommendations and which ones to endorse and pursue. Part of that important work concerns giving each recommendation due consideration and all the consequences.

Along with the ever-evolving, silo-busting criminal justice system in which we operate are comings and goings for the members of the judiciary on courts at every level of the judiciary.

The courts' new programs provide change and reform to our criminal and civil justice systems. However, there is another kind of change we all face.

Father time creeps up on all of us and because of our discriminatory constitutional provision, judges are forced to leave the bench, often in their prime.

Turnover will impact the Supreme Court after 2016 when we will replace 2 out of 7 members.

Two years after that, we will do it all over again and replace 2 out of the 7 members on our court.

Stay tuned as to what the makeup of our court will look like after those two election cycles. In the next six years, 108 judges will be barred from seeking new terms due to their age ... that's 15 percent of our judiciary.

It matters who replaces those men and women which brings me to my last point.

I have what I think is a fresh approach to an old problem. Educating voters about the judiciary and candidates for the judiciary.

Two days ago, the first statewide judicial voter education website launched.

For those municipal court judges in the audience this affects you this year, please take note.

JudicialVotesCount.Org is the first ever statewide voter education initiative to give Ohioans information on all candidates for judge in all Ohio counties. All you need to do is submit your information. I hope you have already done so. If not, please do so ASAP. Voters in your judicial jurisdiction will be looking for it.

The Bliss Institute of Applied Politics at the University of Akron houses the website. I have partnered with Bliss and the Ohio State Bar Association, the League of Women Voters of Ohio, the Ohio Newspaper Association, and the Ohio Association of Broadcasters on this initiative.

Through this effort, it is envisioned that the website will better educate voters about what judges do and why it is important to all citizens. The website provides a centralized repository so voters can gain easy access to more information about judges and judicial candidates.

The ultimate goal is to elevate meaningful voter participation levels in judicial elections.

For those of you running next year, expect to be contacted. Please consider participating by



submitting your candidate information and joining in this education effort.

Please check it out at [JudicialVotesCount.Org](http://JudicialVotesCount.Org) and share it on every social media platform you maintain.

Thank you for allowing me the time to speak with you today. And thank you for all you do each day to further the cause of justice in the state. God bless.