

State of the Judiciary
Chief Justice Sharon L. Kennedy, Ohio Supreme Court
Message to the Ohio Judicial Conference
September 19, 2024

Dynamic Innovation in the Administration of Justice

Perpetual Change Requires Continuous Quality Improvement

Good morning.

Thank you Judge Giulitto [Ja-Let-To] for that kind introduction.

I also extend my deepest gratitude to retired Justice Paul Pfeifer, Executive Director of the Ohio Judicial Conference who has been a mentor, colleague, and friend for many years. Your sage advice is much appreciated, and your leadership has contributed greatly to the success of the Conference.

Paul's leadership, together with the contributions of the members of the board, and the diligent work of his team – ensure that the voice of Ohio's judges is heard.

I also commend the Director of the Judicial College, Christy Tull, the members of the Board and the staff: Laura, Chris, Dean, Kristopher, and Terri for working with the Conference to present educational opportunities that are both timely and informative.

Before I go further, I would like to welcome and introduce my colleagues: Justices Pat Fischer, Mike Donnelly, and Joe Deters. Thank you for being here today.

And best wishes to all of you from Justices Pat DeWine, Melody Stewart and Justice Brunner who could not be with us today.

Introduction

As a colleague, I am grateful and proud to be counted among you – a member of Ohio's judiciary.

Alexander Hamilton noted in Federalist Paper No. 78, the judiciary's strength lies not in force or monetary power, but in its judicious adherence to the law—a power derived from public confidence.

Public confidence is impressionable, and it shifts in response to the manner in which we conduct ourselves.

It can be harmed by careless words or deeds but can also be advanced through measures of dynamic innovation that drive the efficient and effective administration of justice.

Together we stand at pivotal crossroads in a rapidly evolving world.

The question is not whether change will happen. The real question is what will you do – when it does.

Perpetual change requires a commitment to continuous quality improvement – especially when serving the needs of those who seek legal redress.

There is a fine point to be made about dynamic innovation – it is not solely creativity.

Creativity is ideas without implementation an action that has no practical effect.

Dynamic innovation means to effectively **do** new things. The only limitation to your dynamic innovation is your will.

Looking back over the past two years you should take great pride in the dynamic innovation you have executed in the face of rapid changes.

Innovation necessitated by changes in the law, in the human condition, and as the primary movers of the improved administration of justice –for all.

The People – The Law

The law represents the will of our constituents. Whether emerging directly from the people through ballot initiatives or indirectly through their representative voice - when the people have spoken – we innovate.

In recent times three laws have called for dynamic innovation and will require continued innovation – Marsy’s Law, BCI reporting requirements, and e-filing.

Marsy’s Law

In November 2017, eighty-two percent of voters said yes, to State Issue 1, giving voice to victim’s rights in Ohio.

Article I, Section 10a, of the Ohio Constitution secures “for victims justice and due process throughout the criminal and juvenile justice systems.” Rights that Ohioans demand be protected “in a manner no less vigorous than the rights afforded to the accused.”

In response the General Assembly enacted H.B. 343. Effective, April 2023 the law required the court to create the “Victim Rights Request Form” and the “Crime Victim Restitution Amount Form.”

While the court was tasked to produce the forms, it was the innovation of the Advisory Committee on Domestic Violence who timely delivered the publications to the court.

Thanks to a grant from the Office of Criminal Justice Services the restitution form has now been translated into 6 languages: Arabic, Mandarin, Somali, Russian, Spanish, and Nepali.

We encourage you to link these forms to your website to ensure broad access.

And the new “Victim Rights Request Form” effective July 2023 was produced by Attorney General Dave Yost, pursuant to S.B. 16 it can be found at ohioattorneygeneral.gov.

My colleagues and I would like to thank the Advisory Committee to the Rules of Practice and Procedure and the Supreme Court Practice Rules Committee for their work that will give effect to Marsy’s Law throughout Ohio courts.

Thank you for giving of your time and talent.

Equally important to the safety and security of Ohioans – and required by law – is a comprehensive and complete background check system.

BCI Reporting

It was 1963, Am.H.B. 263 and Am.S.B. 160 required clerks of courts of record to submit weekly disposition information to the Bureau of Criminal Investigation (BCI).

By 1970, every court of record was mandated to submit weekly reports to BCI summarizing “every case involving a felony or any crime constituting a misdemeanor on the first offense and a felony on the subsequent offense” pursuant to Am.Sub.H.B. 959.

Since then, the statute (R.C. 109.57) has been amended more than 50 times and technology has vastly changed.

The innovation of the Ohio Courts Network in 2016 first allowed courts to electronically send disposition information to the court who would then send it to BCI. (Sup.R. 34). Despite the innovation, there were reporting gaps.

These gaps were highlighted in October 2019 by the Auditor of the State of Ohio, Keith Faber.

The audit findings concluded that “Ohio’s current system for inputting information into the National Instant Criminal Background Check System(NCIS) was broken.”

The Auditor noted that clerks of court were either not reporting, reporting monthly, or had no documentation to demonstrate that the clerk was following the law. The same was true of trial courts.

In 2000, S.B. 179 required juvenile courts to submit “weekly” reports to BCI summarizing the “disposition” of any juvenile adjudication of an act, that would be a felony or offense of violence if committed by an adult.

According to BCI in the first two quarters of 2023 - 442,922 records were attempted to be submitted to BCI through the Ohio Courts Network.

Only 33% of those records were successfully added, 30% were rejected due to incomplete information and 21% were missing necessary matching information, an Incident Tracking Number or fingerprint card.

In April, with the help from judges around the state, Court Services produced a publication, “Understanding BCI Reporting” and corresponding bench card.

In conjunction with the release of those publications the court hosted a webinar, “BCI Reporting – Pathways to Public Safety.” It is now available online along with a related course “Reporting Requirements for Firearm Prohibitions 2024.”

Furthering this effort the court announced that Attorney General Dave Yost had \$1.2 million grant funding available for LiveScan fingerprinting devices and \$500,000 for disposition recovery efforts.

For juvenile courts submitting paper records to BCI, an additional \$750,000 was made available to help transition to electronic reporting.

In the coming weeks, juvenile courts will receive a letter about the more than \$300,000 of grant monies still available. If you have the will to innovate, we have an innovative team to help you achieve a pathway to success.

I acknowledge that disposition recovery is no small task. But we are working on an innovative solution to close the gap of missing disposition entries by pursuing a pilot project using externs to assist in disposition recovery.

Every one of us bears a responsibility to ensure comprehensive and accurate reporting to BCI for the safety of Ohioans and recent developments – underscore that duty.

In July, the State of Ohio entered into a settlement agreement with the cities of Dayton and Columbus regarding a complaint about the failure of mandatory reporters to submit timely, complete, and accurate records.

As part of the settlement, a self-service portal through the Ohio Law Enforcement Gateway (OHLEG) is being developed.

It will provide a “publicly accessible dashboard showing the rates of compliance by reporting agencies.”

The agreement also outlines the necessity for statewide legislation to enforce mandatory reporting requirements and regular auditing of mandatory reporters.

Ensuring good data in BCI's system is foundational to our shared mission of fostering public safety.

We remain focused on protecting Ohioans – and in December the Judicial College will offer a course titled “BCI Reporting: Common Court Error Messages and Corrections.”

If you are the administrative judge or are soon to be the administrative judge of your court now is the time to bring together a collaborative team to breakdown the who, what, where, when and how of BCI reporting in your court.

Understanding your reporting process, while working with Court Services and BCI you will learn if you have gaps in your disposition reporting process.

This knowledge will afford you a vantage point to ensure that your reporting system is providing complete and accurate information to BCI with auditable metrics that show compliance with the law.

My colleagues and I want to thank the judges who participated in the production of the publications. Thank you also to the judges and court staff who are embracing technology to keep vulnerable Ohioans safe and firearms out of the hands of those lawfully disqualified from obtaining them.

Technological advancements transform our court systems in ways that not only enhance public safety, but overall efficiency – which brings us to e-filing.

E-Filing

Whether you love it or hate it – e-filing is here to stay.

H.B. 567 enacted in 2022, required the general division to make the docket available online. It also made provisions for the filing of pleadings and documents and required the clerk of courts to maintain records in accordance with the Rules of Superintendence.

In June, S.B. 94 expanded e-filing to all municipal courts and county courts. Compliance with the new law is required by July 1, 2025.

While you may feel alone in this, you are not. Other judges who have gone before you – are willing to help and so are we.

In August the Judicial College hosted a webinar “Developing an Effective E-filing System in Your Court: Easier Than You Think.” Judges from rural counties to urban counties and every size county in between shared their experience. It is available to you as an online course. I want to thank the judges who shared their experience in developing an e-filing system.

In Fiscal Year 2024 the court awarded more than \$2.8 million in technology grants some of which helped courts implement e-filing systems.

But innovation is not limited to technology – it is anything done to effectively improve something – including – the human condition.

Human Condition

You have just boarded a plane, settled into your seat, and fastened the seat belt and hear these familiar words “In the event of an emergency, put your oxygen mask on first.” It is not much different when you become a judge.

You ascend to the bench, don the robe, and take your seat at the bench. The next thing you should hear is “In the event of becoming a judge, put your health and safety first.”

Health and Safety

For decades, judicial well-being was largely overlooked.

In 2019, the American Bar Association conducted the first National Judicial Stress and Resiliency Survey. Surveying judges across all levels of courts it revealed that over half of them experienced significant stress due to long hours and inadequate support, leading to fatigue, sleep disturbances, anxiety, and depression.

I encourage you to attend the Conference session titled “Cracking the Code of Judicial Wellness: Being Well and Doing Better” by Professor Maroney.

Moreover, remember that free confidential services are available through the Ohio Lawyer Assistance Program – Judicial Advisory Group. That program offers peer-based support for judges struggling with mental, emotional, and professional issues. For assistance contact OLAP.

Judicial wellbeing includes – personal safety.

In 2021, the United States Marshals Service reported a rise in threats toward state court judges.

Currently, Congress is considering federal legislation that would create a State Judicial Threat and Intelligence Resource Center.

It would provide technical assistance to judges and court personnel; provide physical security assessments; and coordinate research and collect data. In June, the bill passed unanimously in the Senate and is pending in the House.

The Office of Court Security also provides court security assessments. If you have a security concern please contact the Director, Ryan Fahle at courtsecurity@sc.ohio.gov.

Lastly, I hope that you will join me on October 4 for the webinar “Navigating Ohio Security Threats: What Courts Need to Know.”

Beyond our own health and wellbeing is the wellbeing of the people standing before the bench and needing access to justice.

Specialized Dockets

Today, there are 254 specialized dockets across Ohio treating substance use, mental health disorders, dual diagnosis disorders, domestic violence, family dependency, and human trafficking.

There are also twenty-eight veterans' treatment dockets offering help to our military veterans.

While every specialized docket is important, I would like to highlight two innovative 3-year pilot projects established to prevent sex trafficking of children.

Through funding from the Office of Criminal Justice Services juvenile courts in Delaware and Hamilton Counties have created Safe Harbor Coordinators.

The goal is to identify trafficked youth and at-risk youth to stop the sex trafficking of Ohio's children. If successful, these dockets may become a model for the nation.

Equally important is reducing language barriers to ensure that every litigant has access to justice and court proceedings are not "lost in translation."

Access to Justice – Language Services

Across Ohio there is a decline in certified language interpreters. Seeing the decline – does not mean we give up – it means we innovate.

In July, the court voted to release for public comment proposed amendments to the governance rules of the bar. (Gov. Bar R. VI, Sec. 4(C)). Those amendments will permit the court to ask attorneys on the biennium registration form if they have dual language skills.

This information may provide an untapped resource for certified language interpreters. Soon the court will review the public comments.

For those needing interpreter services, visit the court's website and search for "language services."

There you will find a host of tools: the video "How to Find an Interpreter," the list of the 18 languages we certify, a list of registered interpreters, a brochure on how to become a certified court interpreter, and access to LanguageLine.

Additionally, Sup. R. 88 provides the hierarchy of permissible language services.

Beyond the law and the human condition, there is only one other primary mover in procedural innovation to advance the administration of justice – you.

Leading the way to close the door of incivility, advancing the timely resolution of cases, and educating the public and future generations of legal professionals.

Procedural Innovation

Civility

Civility is not just about decorum – it serves as the North Star for optimizing court operations, bolstering public trust by ensuring justice is administered impartially, fairly, and timely.

As Socrates aptly said, "Four things belong to a judge: to listen courteously, answer wisely, consider soberly, and decide impartially."

You and your staff set the foundational stage from which public perception is formed. Effective court management is the cornerstone of a fair and just legal system, shaping public trust and ensuring that justice is delivered efficiently and with transparency.

Retired Judge the Honorable William Dressel of Colorado once said, "The rule of law cannot effectively exist without civility."

While the courthouse is as familiar to us as a well-worn jacket – for many it is a daunting place and experience.

Parties, jurors, witnesses, often enter with anxiety and uncertainty.

Marla N. Greenstein wrote, (Judges' Journal, Spring 2023,) "[I]ncivility is often the result of a dynamic of interactions where people feel a lack of respect and understanding."

As judges we have the power to set the tone.

According to a symposium report from the National Judicial College there are four basic principles to foster civility and set the standard for the proper administration of justice:

prioritize civility by being consistent, keeping calm, being engaged, and by practicing good listening skills;

be timely by setting a reasonable schedule so hearings begin and end on time;

preserve and improve the law by "ensuring that all persons receive fair, timely and equal treatment under the law"; and

communicate simply, concisely and informatively.

In response to a request from Ohio law school deans, the court is planning a statewide bench and bar symposium on civility in the first quarter of 2025.

If you have suggestions or would like to participate, please contact my office or Brad Martinez, Deputy Director of Attorney Services. We look forward to hearing from you.

As we prepare for the symposium, we will continue to focus on enhancing case management.

Case Management and Innovative Solutions

Timely case resolution is an essential component of a well-functioning court.

Delay is costly, not just financially, but in terms of public trust and confidence.

I want to commend all of you for the emphasis that you have placed on streamlining processes and eliminating unnecessary delays. Because of your efforts since 2022, we have achieved

- a 31% reduction in the number of over-age criminal cases
- a 32% reduction in the number of over-age family law cases; and
- a 46% reduction in the number of backlogged civil cases.

These statistics reflect the “real” impact of your work on the lives of the people you serve.

For judges that hear civil cases, stay alert for information from Case Management about an educational course which will be available later this year. In that course, you will hear from your colleagues who are employing successful strategies to efficiently move civil cases, including ways to better use technology, how to effectively use scheduling orders, and control continuances.

I want to thank the innovators in Court Services for: providing technical assistance to more than 34 courts since 2023, developing courses on case-flow management, and teaching others how to leverage technology.

Some of the 2024 technology grants also went to empower courts to update case management systems and use other technologies to improve case processing times.

Today courts of common pleas in Lawrence and Summit counties have pilot projects that convert digital audio recordings to baseline trial transcripts.

It shows great promise in significantly reducing the time of court reporters and expediting the completion of certified official transcripts.

And while we innovate on the bench, there is much we can do beyond the bench to raise public trust and confidence in our judiciary and appeal to young people to see the practice of law as a future career.

Civic Education

We face two critical challenges: improving public trust and confidence and growing the bar. The solution to both concerns – civic education.

Civic education demystifies the justice system. It allows civic leaders and students to understand the role of a judge and the limitations of judicial authority.

That knowledge and understanding goes a long way in improving public trust and confidence.

And like many states around the country, we have many legal deserts. In fact, 82 of Ohio's 88 counties have a shortage of lawyers.

While the court and the Ohio State Bar Association are focusing on how to inspire young people to see a career in the law as a place of service for them, there is always room for more voices.

Please consider talking to young people where you live and serve about the value that you have brought to your community through your many years of service.

Before closing, just three more thoughts.

First, I want to thank the administrative staff of the court for their willingness to continuously ask “why” and “how can we improve” – continuous quality improvement. Thank you.

Thank you to Administrative Director, Bob Horner, Deputy Administrative Director of Operations, Jim Cappelli, Deputy Administrative Director of Legal Services, Gina Palmer, Chief Financial Officer, Ronda Carver, Chief Legal Counsel, John VanNorman, and Director of Public Information Office, Andy Ellinger.

Second, I want to thank Stephanie Nelson, Director of Court Services – I am sure she cringes every time I call – and her dedicated team for all they do to help courts innovate and the court to meet its mission, here today are Sam, Kayana, Chris, and Bruno.

Lastly, I want to thank the dedicated team that revolutionized the Assignment of Judges Program beyond all expectations.

Robert Stuart, Director of IT and the entire IT team Kristina, J., Heather, Josh, Jason, Alan, and Igor that launched the 2.0 version of the Interactive Generator of Online Requests known as IGOR after the man who developed it.

And many thanks to Dahria, Judicial Assignment Analyst, and Heather, Administrative Coordinator for their efforts to timely fulfill requests for the assignment of a judge. As of today, on average requests are being completed in less than one day.

If you have not read the first Annual Report for the Assignment of Judges Program, go to the court's website and search for assignment of judges. Between the pages of the report you will find the number of yearly requests, requests by court, and the cost to the taxpayers.

Please remember our second annual Judicial Assignment Program webinar is scheduled for February 13, at noon. We look forward to you and your staff joining us.

CLOSING

In closing, with crowded dockets, limited time, and a life beyond the bench, I know some of you think I ask too much of you.

But as Benjamin N. Cardozo said to the 74th graduating class of Albany Law School, in 1925,

“You think I ask too much of you. I ask of you nothing that you are not competent to give. More than that, I ask of you nothing that will not mean success and honor if only you have the will and the strength to give it.”

Go forth and be the dynamic innovator that lies within.

Become the beacon of continuous quality improvement in your court and community. Your only limitation – is you.

Thank you.

May God bless all of you.