



1987 - The Year in Perspective

The Supreme Court of Ohio

Annual Report

THE SUPREME COURT OF OHIO
ANNUAL REPORT

"1987 - THE YEAR IN PERSPECTIVE"

Thomas J. Moyer, Chief Justice
Justice William A. Sweeney
Justice Ralph S. Locher
Justice Craig Wright
Justice Robert E. Holmes
Justice Andy Douglas
Justice Herbert R. Brown

Stephan W. Stover, Administrative Director
Keith T. Bartlett, Counsel to the Administrative Director
Robert L. Edington, Assistant Administrative Director
Ruth A. Elmer, Administrative Assistant
Dr. Paul S. Fu, Librarian
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Walter S. Kobalka, Reporter
Marcia J. Mengel, Clerk
Edward J. Nyhan, Computer Services Manager
Mary K. Rinehart, Fiscal Officer

1987 - THE YEAR IN PERSPECTIVE

I. Introduction

The year 1987 was a year of transition, and one of the most productive in the history of the Supreme Court. Many of the changes were visible: (1) the election of two new members and the reelection of one member of the Court; (2) a new working relationship among the members of the Court; (3) major new rules adopted by the Court; (4) significant improvements in the administration of the Court; and (5) the completion of programs initiated during the prior administration. Other changes are less evident, and many will not take effect until 1988 and beyond. This report will attempt to outline the most important programs and changes in 1987.

II. The Supreme Court

A. Membership

Justice Robert E. Holmes began his second full six-year term in 1987; he has served on the Court since 1978.

Two new members of the Supreme Court, Chief Justice Thomas J. Moyer and Justice Herbert R. Brown, began their terms in 1987.

B. New Atmosphere

The new Court began the year with a spirit of collegiality and mutual respect. The Court's focus has been, and continues to be, on filling its constitutional and statutory obligations as the highest court and the court of last resort in Ohio.

C. Statistics

In 1987, 3,044 matters were disposed of by a decision or journal entry, including miscellaneous motions. The total number of cases pending on January 1, 1987, was 1,379; the total as of January 1, 1988, was 916, a 34 per cent reduction. (See: Appendix A, B, and C, attached.)

A total of 2,272 cases were filed in 1987, including 212 original actions, 55 disciplinary cases, and 2,005 appeals, as follows: 1,159 motions to certify the record, 687 motions for leave to appeal, 76 direct appeals, 32 certified conflicts, 25 appeals from the Board of Tax Appeals, 13 appeals from the Public Utilities Commission, and 13 capital cases.

The Court published 307 decisions in 1987, including 225 decisions rendered in 1987, as follows: 187 merit decisions with full opinions, 15 merit decisions with entries only, and 23 miscellaneous matters. The Court also published 82 1986 decisions in 1987, including 59 merit decisions with full opinions and 23 merit decisions with entries only.

D. Rules

1. Disciplinary Rules

The Supreme Court enacted significant changes to the disciplinary rules for lawyers and judges. Rule V of the Supreme Court Rules for the Government of the Bar and Rules I, II, and III of the Supreme Court Rules for the Government of the Judiciary were amended to:

- a. Combine the existing Boards of Commissioners on Grievances and Discipline of the Bar and of the Judiciary into a single, 28-member board consisting of 17 attorneys, 7 active or retired judges, and 4 citizen members.
- b. Require complaints filed against Justices of the Supreme Court to be heard and decided by a panel comprised of the presiding judges of the twelve district courts of appeals, rather than the Justices themselves.
- c. Authorize the Board to issue advisory opinions to judges and attorneys subject to the disciplinary rules.
- d. Require that administrative and fiscal records of the Board of Commissioners on Grievances and Discipline be available for public inspection.
- e. Reaffirm the Court's responsibility for preserving the financial integrity of the Board and the Disciplinary Counsel's office.

- f. Restore the authority of the Ohio State Bar Association to receive and investigate complaints.
- g. Permit the Ohio State Bar Association and local bar associations to process complaints filed against judges as well as attorneys.
- h. Give the Disciplinary Counsel greater independence from the Board of Commissioners, as recommended by the American Bar Association.

2. Rule 65

The Court also enacted a new Rule 65 of the Rules of Superintendence for Courts of Common Pleas to establish a continuing legal education requirement and standards for the appointment of counsel for indigent clients in capital cases. The Rule was drafted by the Ohio State Bar Association at the suggestion of Justice Andy Douglas.

Chief Justice Moyer said "Ohio is the first state in the nation to adopt a mandatory rule establishing standards for the appointment of counsel for indigents in death penalty cases. This demonstrates the Supreme Court's commitment to maintaining and enhancing the skills of lawyers who represent indigent clients in capital cases."

The Rule establishes standards of training and experience for appointed counsel for indigents in capital cases. It provides for the creation of a five member committee to compile lists of attorneys eligible for such appointments, establish criteria and procedures for retention or removal of names from these lists, and develop a mandatory continuing legal education program for attorney eligibility for such appointments. The Committee will hold its first meeting in January, 1988.

3. Child Support Enforcement Guidelines

The Supreme Court adopted statewide Child Support Enforcement Guidelines to establish standards to be used by trial courts in determining child support. The Guidelines, adopted in response to a federal mandate, are the result of two years of work by the 27-member committee chaired by Judge John J. Leskovyansky of the Mahoning County Domestic Relations Court.

4. Attorney Continuing Legal Education

At the end of 1987, the Court took preliminary steps to adopt proposed Rule X of the Rules for the Government of the Bar, which would:

- a. Establish a continuing legal education requirement for all attorneys in Ohio;
- b. Require 24 credit hours of accredited programs and activities of legal education for each 24-month period; and
- c. Create a 15-member Supreme Court Commission on Continuing Legal Education to administer the requirements.

5. Procedures

The Court established a practice of publishing rules in the Ohio Official Reports and the Ohio State Bar Association Report for a 30-day period of public comment. A comprehensive staff review of all rule proposals was instituted to provide added information and support for the Court in its deliberations.

E. Off-Site Court

For the first time in several years, the Court held oral arguments outside of Columbus.

On October 21, 1987, the Court convened in Marietta to hear oral arguments in four cases. More than 400 persons attended, including attorneys, pre-law students from Marietta College, and 200 high school students, who also received classroom instruction on the legal system in Ohio. Following oral arguments, the Court dedicated a new common pleas

courtroom in the Washington County Courthouse and attended a luncheon hosted by the Washington County Bar Association.

On November 19, 1987, the Court held oral arguments in Toledo. More than 750 persons attended, including attorneys, law students, high school students, and the general public. The Toledo Bar Association hosted a luncheon attended by more than 200 people.

Of these visits, Chief Justice Moyer said, "The Supreme Court is conducting an important part of its business in various areas of the state for the purpose of enhancing citizens' understanding of the work of the Court. It is the hope of the Court that these sessions will help all citizens, especially students, to better understand the functions of the Supreme Court and the judicial system."

F. Administrative Changes

The Court instituted many administrative changes this year, including:

1. Votes on motions to certify and on motions for leave to appeal are now made public.
2. The Court reduced the number of copies of the record required in each civil case from 18 to 4, with a 78 per cent cost savings to litigants.
3. The Court permitted two-sided copying of records, with a 45 per cent cost savings to litigants.
4. The Court authorized parallel citations in the Ohio Official Reports, which have also been included in the Ohio State Bar Association Report and the Northeastern Reporter.
5. The Court held conference five times during the summer of 1987. As a result, the Court was able to reduce the backlog of 1,379 cases that existed on January 1, 1987, the equivalent of 65 per cent of the average number of cases filed in a year, to normal levels by the end of the year.

G. Committees Created by the Chief Justice

Chief Justice Moyer determined that several areas needed additional study. To that end, he appointed or requested the appointment of three important committees and charged each committee with a particular responsibility.

1. Visiting Judge Committee

The Visiting Judge Committee, chaired by Judge Richard M. Markus of the Eighth District Court of Appeals in Cleveland, conducted a study of the appointment of visiting judges. The committee report was published in late December for public comment, and the Chief Justice expects to implement the recommendations in January, 1988.

2. Private Judge Committee

Section 2701.10 of the Revised Code, enacted in 1984, provides that a voluntarily retired judge may receive referrals for adjudication of civil actions or proceedings, a form of alternative dispute resolution. Chief Justice Moyer appointed a committee to make recommendations on practices and procedures for implementation of the statute. The committee, chaired by Judge James McMonagle of the Cuyahoga County Common Pleas Court, will hold its first meeting in January, 1988.

Chief Justice Moyer said, "The General Assembly has given us a tool to be used to help relieve crowded court dockets where the parties agree to remove their case from the docket for a decision by a retired judge selected by the parties. Alternative methods of dispute resolution such as this are intended to cut delays, lessen expenses of litigation, increase flexibility, and divert some cases from regular court dockets."

3. Judicial Statistics and Awards Committee

At the request of Chief Justice Moyer, the Ohio Judicial Conference appointed Judge Alice Robie Resnick of the Sixth District Court of Appeals in Toledo to chair a committee to study the statistics reports and the judicial awards program, and to make recommendations

for streamlining and improving this important process. The committee held three meetings in the fall of 1987, and will continue its work in anticipation of a final report in 1988.

H. Other

1. National Bicentennial Writing Commission

From January to July, 1987, the Supreme Court administered the National Bicentennial Writing Competition for Ohio high school students. Ohio had 847 entries, the second largest number of entries in the nation; there were 13,000 participants nationally. In addition, 173 judges and a total of 350 volunteers participated in the project. The three Ohio winners, Liza Johnson, Cheryl Lea Clendenin, and Claudia Moscovici, received awards from the Chief Justice.

Liza Johnson of Portsmouth, the Ohio winner, was the co-winner of the national award, and received official recognition from President Reagan.

2. Youth in Government

The Court participated in the Youth in Government Program, with 70 student participants in the model Supreme Court on April 2-4, 1987.

III. Administrative Matters - Stephan W. Stover,
Administrative Director

A. Personnel

In 1987, the Court undertook a comprehensive reorganization of Court staffing, with emphasis on professionalism, service and responsiveness, effective use of technology, and fiscal responsibility. The staff was reduced 10 per cent, from 103 to 93 employees, with an attendant 10 per cent decrease in budget. The Court also placed great emphasis on a qualified, experienced, professional staff; the current senior staff averages more than 16.5 years of relevant professional experience. There was a reorganization of certain areas of the Court, particularly the Clerk's office and the Master Commissioners. The Court's Administrative Rules

and personnel procedures were updated, and a new table of organization was prepared.

B. Fiscal Responsibility

One of the most important themes of this administration is fiscal responsibility and accountability. In addition to staff reductions, the fiscal year 1988-89 biennial budget was reduced by 3.5 per cent.

The budgets of the agencies supported by attorney registration funds, the Clients' Security Fund, the Board of Commissioners on Grievances and Discipline, and Disciplinary Counsel, were reduced by more than 25 per cent, with no reduction in services.

The cost of administration of the biennial attorney registration requirement was reduced from more than \$200,000 to less than \$65,000, a 67 per cent reduction in cost. The new plan included the use of a bank "lock box," the most cost-effective way to process the applications, and the Court computer was used to prepare the new application form, process the applications, and prepare individualized responses to each attorney. The use of self-contained mailers reduced the cost and expedited the application process and the distribution of identification cards. The new card cost 15 cents, more than a dollar less than the previous card.

C. Auditor's Examination

The State Auditor conducted a general and special examination of the Court, with no findings for recovery and no noncompliance citations. The report included management recommendations which are currently being implemented.

D. Assigned Judges

The Chief Justice made more than 2,400 visiting judge assignments during 1987. Chief Justice Moyer recognized early in the year the need to take a careful look at the process of assigning visiting judges. The Chief Justice sought the cooperation of judges throughout the state to assure that assignments are justified and to use sitting judges where possible to reduce the cost to the state by

more than \$100 per day per visiting judge. The Chief Justice also recognized the participation of retired assigned judges. Further improvements are expected in 1988 as the recommendations of the Visiting Judge Committee are implemented.

E. Affidavits of Disqualification

More than 280 Affidavits of Disqualification were disposed of in 1987; it appears that this is the most ever filed. In addition to eliminating a backlog, the average time for disposition of a case has been reduced to two weeks.

F. Legislation

1. The Court staff monitored nearly 100 bills pending in the 116th General Assembly.

2. House Select Committee on Court Reorganization

In the spring of 1987, House Speaker Vernal G. Riffe appointed a 12-member House Select Committee on Court Reorganization, chaired by Representative Michael Verich of Warren, to study the structure and function of Ohio's courts. Administrative Director Stephan W. Stover worked closely with the Chairman to establish an agenda and calendar for the Committee. The Committee held three hearings in 1987 and plans to hold extensive hearings in 1988.

G. Other

The Chief Justice and the Administrative Director attended virtually every meeting of statewide associations of judges and court staff.

The staff responded to nearly 500 inquiries with individually drafted and researched letters and responded to more than 1,200 telephone inquiries.

IV. Law Library - Paul S. Fu, Librarian

The Ohio Supreme Court Law Library is one of the largest supreme court libraries in the nation and is headed by nationally recognized Law Librarian Paul S. Fu. From January through November, 1987, 12,185 volumes were added to the Supreme Court Law Library collection. A total of 46,286 patrons used the Law Library and made

636,476 photocopies. In September, 1987, a facsimile machine was installed in the library for use by library patrons.

In November, 1987, the Court approved the installation of a totally integrated online library system (NOTIS) for the Supreme Court Law Library. Upon installation, which will begin in 1988, the Supreme Court of Ohio will have the first fully computerized supreme court law library in the country.

V. Clerk's Office

Marcia J. Mengel, Clerk, since June, 1987.
Robert L. Edington, Clerk Pro Tem, January - May, 1987.

Clerk Marcia J. Mengel reorganized the Clerk's office and made significant improvements in the administration of attorney registration. During 1987, the Clerk's office administered more than 2,200 cases, including original actions and appeals. The Clerk's office also established procedures to aid in the prompt disposition of matters pending before the Court, including faster copying of original papers provided to attorneys of record in merit cases, and closer monitoring of filing deadlines and matters to be submitted to the Court.

VI. Bar Admissions - Marcia J. Mengel, Clerk

In 1987, the Admissions Office processed more than 1,200 applications from law students registering as candidates for admission to the bar. In addition, the Admissions Office, through the Board of Bar Examiners, processed bar exam applications of and administered the bar exam to 1,772 applicants. Of these, 1,367 were successful, a 77.1 per cent pass rate. During the July bar examination, the Admissions Office made special accommodations for testing nine handicapped or disabled applicants. In 1988, the Board of Bar Examiners will establish a formal policy for examining handicapped and disabled applicants.

In addition, the Admissions Office established more stringent security procedures for the bar examination. In 1987, photographic identification was required of each person during the examination. In December, the Board of Bar Examiners approved fingerprinting as an additional security measure; this policy will begin with the February, 1988, bar exam. The Board is also revising its policy on the review of examinations by unsuccessful applicants.

Two induction ceremonies were held in 1987. On May 11, 1987, 392 persons were admitted to the Ohio bar in ceremonies at the Ohio Theatre, followed by a reception sponsored by the Ohio State Bar Association in the Galbreath Pavilion for the admittees and 1,200 guests. On November 16, 1987, there were 975 admittees and 2,250 guests. The admission ceremony and reception were followed by an open house at the Supreme Court.

The Board of Commissioners on Character and Fitness held its first meeting and agreed to promulgate standards to be used by local bar associations in reviewing the character and fitness of applicants to the Ohio bar, and to adopt procedural rules for proceedings before the Board.

VII. Attorney Registration

In the summer of 1987, the Attorney Registration office began the administration of the attorney registration requirement for the 1987-89 biennium. By the end of the year, 33,023 forms had been returned and processed; 28,743 attorneys registered as active; 4,081 registered as inactive; and 199 registered as corporate.

The Attorney Registration Office has also established a new policy to make the list of attorneys registered in Ohio available on microfiche for free distribution to county law libraries, law school law libraries, courts, and bar associations in the state.

VIII. Reporter's Office - Walter S. Kobalka, Reporter

The Reporter's Office published 305 Supreme Court opinions, 407 appellate opinions, and 47 miscellaneous opinions in 1987.

Beginning with the first Supreme Court opinion published in Volume 29 of the Ohio Official Reports, opinions published in the advance sheets contain parallel citations and parallel page citations to readily accessible unofficial reports. In addition, the weekly announcement lists, which are published in the advance sheets, now include the votes of the Justices on all motions, including cases which have been accepted for review on the merits.

In 1987, the Court included a syllabus in per curiam opinions for the first time. The Court also approved the creation of a "601 Section" in which miscellaneous orders, dissents, concurrences, attorney resignations,

public reprimands, and other important information can be published for inclusion in the bound volumes of the Ohio Official Reports. Finally, the Anderson Publishing Company, the official publisher of the Court, and the Ohio State Bar Association, through its Ohio Printing Company, Ltd., negotiated a cooperative agreement under which the official pages, notices, and announcements that had been published only in the official advance sheets will now be published in Ohio State Bar Association Report.

IX. Computer - Edward J. Nyhan, Computer Systems Manager

The Chief Justice and the members of the Supreme Court have maintained a substantial interest in keeping the Court at the forefront of technological advances in judicial administration. During 1987, Computer Services Manager Ed Nyhan assessed existing hardware and software capabilities and needs and applied the information to streamline the Court's computer operation to achieve the Court's goals in a cost-effective manner.

The computer staff negotiated an arrangement under which the Court's Wang VS100 will be transferred to another state agency in exchange for credits with the Office of Acquisitions Management of the Division of Computer and Information System Services of the Department of Administrative Services. This transfer will also save the Court more than \$32,500 in annual maintenance fees, and provide an appropriate use for excess computer hardware. In addition, some equipment was moved in an effort to achieve maximum efficiency, and settlements were negotiated with vendors to achieve the most effective use of the computers.

The computer office played an important role in making the computerized Supreme Court docket accessible to all Court employees and in administering attorney registration, and provided technical support on computer issues to Court personnel throughout the state.

X. Fiscal Office - M. K. Rinehart, Fiscal Officer

The Fiscal Office was reorganized and several new programs were implemented, including:

1. Direct connection with the state Central Accounting System, which permits the staff to provide a broader range of services and information;

2. Implementation of personnel procedures;
3. Implementation of formal purchasing procedures, including competitive bidding on all major purchases;
4. Coding of inventory as part of a fixed asset management system;
5. Development of personnel files for judges on the Judiciary payroll; and
6. Establishment of an investment schedule for attorney registration and admission funds.

The office processes six payrolls each month, resulting in the distribution of approximately 15,750 paychecks to 844 judges and staff in 1987.

XI. Public Information Office

The Public Information Office had a significant program of public information and education, including the weekly reports, publication of synopses of Court decisions, and press releases. In addition, the Supreme Court brochure, "Following a Case Through the Supreme Court," was rewritten and published.

XII. Court of Claims - Miles Durfey, Clerk

A. Case Management

The Court of Claims made significant improvements in case management during 1987.

1. Civil, Administrative Cases (\$1,000 or less). The Court disposed of 598 cases in 1987, 21 per cent more than 1986.
2. Civil, Judicial Cases (over \$1,000). The Court disposed of 503 cases in 1987, 93 per cent more than 1986.
3. Victims of Crime. The Court had a record 3,310 filings, and disposed of 79 per cent more cases in 1987 than in 1986.

In 1988, the Court of Claims will continue to improve case management by scheduling status conferences and pretrials, and by requiring strict adherence to discovery deadlines and trial dates.

B. Administrative Matters

1. Personnel

The Court of Claims experienced a 10 per cent increase in staff in 1987, due largely to the increase in case filings. The Court also reorganized its staff and established a new table of organization.

2. Finance

a. The Court voluntarily reduced the budget of the prior administration by \$831,000.

b. Two federal grants totalling \$4.325 million were awarded to the Victims of Crime Compensation Program.

c. Cash and compliance audits were completed.

3. The Court of Claims instituted a new project to develop software for case tracking, docketing, and reporting.

C. Victims of Crime Program

Significant efforts were made to make the public aware of this important program.

The Court hosted two statewide seminars which were attended by 153 victim service providers.

The Court conducted a six-month pilot public awareness campaign in Montgomery County, which included 22 speaking engagements, participation in two television shows, and the distribution of 20,000 promotional items. A survey indicated that the project reached 59 per cent of the population and resulted in a 48 per cent increase in victims contacts and referrals.

The Court of Claims also expanded its public information and education activities as follows:

1. Established a video library which served 1,500 people;

2. Published three issues of "Victims Hotline," which were distributed to 7,200 recipients;

3. Established a speakers' bureau, which resulted in 57 speaking engagements and 24 media appearances; and
4. Operated a booth at the State Fair, reaching 125,000 people with promotional items on crime prevention.

XIII. Court Boards and Commissions

For the first time in 15 years, all Court boards and commissions scheduled meetings during 1987. Procedures were amended to effect significant cost savings. For example, meetings were scheduled at 10:30 a.m. to avoid the cost and inconvenience of overnight lodging, and working lunches served at the Court saved time and improved the efficiency of such meetings. In addition, guidelines were established to facilitate reimbursement of travel expenses to participants.

XIV. 1988 Plans

A. Off-Site Court

The Court will continue to hear arguments in cities throughout the state, including Cincinnati, Lima, Cleveland, Youngstown, and Warren.

B. Library Automation - to be installed in 1988 (See: page 10)

C. Statewide Docket Access

In 1988, the Court plans to make the information on the computerized Court docket available to courts and the public. Access to the information may be secured with a personal computer and a modem. There are also plans to expand the system to include issues tracking.

D. Supreme Court Computer Bulletin Board

During 1988, the Court plans to initiate an electronic Supreme Court bulletin board to make available to all courts in Ohio: the Supreme Court docket and announcement list, the text of recent decisions, drafts of Court rules for public comment, press releases, and other information of interest. Access to the information may be secured with a personal computer and a modem.

E. Courts of Appeals Project

The computer staff is working with the courts of appeals to identify appropriate applications for automation, such as electronic mail, computer-assisted case management, and issues tracking. The Judicial Statistics and Awards Committee is also considering a mechanism to transmit the superintendence statistical reports to the Supreme Court by computer.

F. Court Services

In 1988, the Court will increase and enhance Supreme Court services to trial and appellate courts, beginning with staff visitations in mid 1988. The program will include technical assistance by Supreme Court staff and the National Center for State Courts, and a computer technology clearinghouse.

G. Supreme Court Rules of Practice

The Supreme Court Rules of Practice will be rewritten and published in 1988.

H. The Court plans to implement a microfilming program and a records retention plan in 1988.

CASES FILED IN 1987

REGULAR DOCKET

Jurisdictional Motions	
Motions to Certify	1,159
Motions for Leave	687
Original Actions	212
Direct Appeals	76
Certified Conflicts	32
BTA Appeals	25
PUCO Appeals	13
Capital Cases	13
TOTAL	<u>2,217</u>

DISCIPLINARY DOCKET

DD	36
DS	9
DR	8
DM	1
JD	1
TOTAL	<u>55</u>

MATTERS DECIDED IN 1987

JURISDICTIONAL MOTIONS

Motions to Certify	944
Motions for Leave	657

MERIT DOCKET

Original Actions	248
Direct Appeals	57
Certified Conflicts	13
BTA Appeals	11
PUCO Appeals	7
Capital Cases	9
Merit Cases Pursuant to Allowance	180

ALL ACTIONS

Gross number of matters decided in 1987.. 3,004*

* This number includes any Court action for which an announcement was made (e.g., merit decisions, dismissals, decisions on jurisdictional and miscellaneous motions, etc.).

Appendix "C"

CASES ALLOWED IN DURING 1987

Motions to Certify	171
Motions for Leave	<u>24</u>
TOTAL	<u>195</u>

