
WEST VIRGINIA COURT SYSTEM

2010 ANNUAL REPORT

Honorable Robin Jean Davis
Chief Justice

Honorable Brent D. Benjamin
Honorable Margaret L. Workman
Honorable Menis E. Ketchum
Honorable Thomas E. McHugh
Justices

Rory L. Perry II
Clerk of Court

Steven D. Canterbury
Administrative Director



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Photo details of county courthouses on pages 109-164 by Michael Switzer

*Information about the history of county courthouses from
West Virginia Courthouses, A Pictorial History, by Mary Thrash*

*Published by the Administrative Office of the Supreme Court of Appeals of West Virginia
1900 Kanawha Blvd., E. • State Capitol
Building One, Room E-100 • Charleston, WV 25305
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Photo by Michael Switzer

2010 was a year of progress

by Chief Justice Robin Jean Davis

The year 2010 marked my fifth time to serve as Chief Justice, and I am proud to say it was a remarkable year of progress for the West Virginia court system. The Supreme Court established Revised Rules of Appellate Procedure that fundamentally change the appeal process to provide an appeal of right instead of an appeal by permission. The revised rules provide a full review and a decision on the merits in all properly prepared and filed appeals. The Court also approved the first Juvenile Rules of Procedure, continued to expand adult and juvenile drug courts throughout the state, and our Court Improvement Program Board worked on several important projects. I also directed the Administrative Office staff to focus on improvements in Elder Law.

I was pleased to announce that in 2014 West Virginia will host the prestigious joint meeting of the Conference of Chief Justices and Conference of State Court Administrators. This meeting is sure to bring our state immeasurable good reviews and be a boost to the economy of Greenbrier County, where it will be held.

The Court historically has rarely taken on a task as monumentally important to our system of justice as the Revised Rules of Appellate Procedure. There will be less delay for litigants, more accountability, and more decisions; and we can do all that with no vast increase in government. West Virginia citizens demand a small government that works intelligently and efficiently, and that is what we are giving them.

I would like to thank my colleagues, Justice Brent D. Benjamin, Justice Margaret L. Workman, Justice Menis E. Ketchum, and Justice Thomas E. McHugh for their thoughtful, insightful work on this important task. I also would like to thank Clerk Rory Perry II for the countless hours he spent on the project.

While hearing appellate cases and writing opinions comprise the bulk of the work of individual Supreme Court Justices, it is only a part of the work of the Court, which oversees the entire Judicial Branch of state government. As you read this annual report, you will see the myriad ways the Supreme Court and the court system serves West Virginians.

On July 1, West Virginia's first Rules of Juvenile Procedure went into effect. The new rules are the culmination of several years' work by the Court and the West Virginia Court Improvement Program Board, particularly a committee led by legendary Williamson attorney Jane Moran. The Rules of Juvenile Procedure are part of the Supreme Court's continuing efforts to improve the way the West Virginia court system handles cases involving our youngest citizens.

For example, for more than a decade, the Court Improvement Program Board has initiated projects that are aimed at ensuring the safety and well-being of children and families in our courts. The Board has provided annual training for all those involved in the child abuse and neglect process. In 2010 the Board also initiated a special class for law students at West Virginia University on "Child Protection and the Law" and released *The Time Is Now*, a video for parents in child abuse and neglect cases that explains the procedure.

On a personal note, in 2010 I also published on the Supreme Court website a research article on punitive damages that I wrote with my Senior Law Clerk, Louis Palmer. The paper outlines punitive damages law in West Virginia and examines punitive damages principles of law established by the United States Supreme Court and discusses the impact of those principles in West Virginia. I presented the paper at the fall 2009 Judicial Conference, along with Nineteenth Judicial Circuit Judge Alan D. Moats and First Judicial Circuit Judge James P. Mazzone.

Each year the Chief Justice chooses a theme for the Court's focus. During my previous years as Chief, I focused on ways to improve the lives of children through our Court's rules and administrative activities. The Court's role in making sure that families are whole, that their members are healthy and safe – both in West Virginia and throughout the nation – has dramatically increased due to legislation during the last two decades.

In 2010, my focus remained family-oriented, but I changed my attention to the oldest members of families. I asked the Administrative Office to explore issues related to West Virginia's aging population. We met and collaborated with service providers and stakeholders to determine how West Virginia law and court processes could meet senior citizens' needs better.

Elder Law generally is grouped into three areas: income and asset protection, autonomy, and health care, which includes safety. We worked with the legislative and executive branches to make strides in all these areas.

The most insidious issue facing West Virginia's elders has to be threats to their safety. In June, I participated in West Virginia's observance of World Elder Abuse Awareness Day, an event that supported a United Nations International Plan of Action recognizing elder abuse as a public health and human rights issue.

When investigating elder abuse, it is important to keep the focus on victim safety. It is important for courts, the Legislature, law enforcement, and service providers to work together. Such joint work helped lead to new legislation in 2009 that overhauled West Virginia Code Chapter 44A, the Guardianship and Conservatorship Act. Whenever there is such a legislative change, it is the Supreme Court that must administer it throughout the court system in West Virginia. The Court is committed to carrying out the new administrative procedures outlined in the Act in a way that protects and preserves senior citizens' rights and autonomy.

The changes in Chapter 44A were endorsed by several multi-branch working groups, including the Comprehensive Behavioral Health Care Commission. A mental hygiene commissioner and a local practitioner helped draft the bill.

These are only a few of the many innovative ways our court system is serving West Virginia. There are many others. We take seriously our responsibility to use tax dollars carefully. The Supreme Court is constantly striving to find better ways to carry out our duties and protect those in our care.



Photos by Michael Switzer

Justices of the Supreme Court of Appeals of West Virginia

Chief Justice Robin Jean Davis



Chief Justice Robin Jean Davis was born in Boone County, West Virginia, on April 6, 1956. She is married to Scott Segal, and they have one son, Oliver. She received her bachelor's degree from West Virginia Wesleyan College in 1978, and her master's degree and law degree from West Virginia University in 1982. She was engaged in the private practice of law from 1982 until 1996 at the six-person law firm of Segal and Davis, L.C. She concentrated in the field of employee benefits and domestic relations. In 1993, she became the first lawyer in West Virginia to be inducted into the American Academy of Matrimonial Lawyers. In 1991, the Supreme Court of Appeals appointed her to the seven-person West Virginia Board of Law Examiners, on which she served until her election to the Supreme Court in 1996. She initially was elected to an unexpired term, and was re-elected in November 2000 to a full twelve-year term. Justice Davis served as Chief Justice in 1998, 2002, 2006, 2007, and 2010. Under her leadership as Chief Justice in 2010, the Court approved Revised Rules of Appellate Procedure, which modernized and comprehensively changed the appellate process in West Virginia to provide a decision on the merits in every case. The Court in 2010 also approved new Rules of Juvenile Procedure. In her previous terms as Chief Justice, she initiated a number of programs which have proven to be essential to the Court's continuing work with children and families and that have allowed the Judicial Branch to remain current with the constant changes in technology. These initiatives include the Workers' Compensation Mediation Program; the expansion of parent education programs; Rules on Mass Litigation; the expansion of courtroom technology, including the video initial appearance pilot project; the creation of the West Virginia Trial Court Rules; the establishment of an online Child Abuse and Neglect Database; and additions to legal rules governing child abuse and neglect proceedings. In 2007 she led the West Virginia delegation to the National Judicial Leadership Summit in New York City, and she was responsible for the Court using a competitive federal grant to initiate the West Virginia Domestic Violence Registry. Under her guidance, the Supreme Court Administrative Office also received other major grants which have been used to improve the way the court system handles abuse and neglect cases. She expanded the Supreme Court's outreach efforts by taking the Court for the first time in recent years to Wheeling and Charles Town, the beginning of what are now regular out-of-Charleston argument dockets. She established the LAWS program for high school students and the Robes to Schools program for all West Virginia school students. In 2000, Justice Davis received the Distinguished West Virginian Award from then-Governor Cecil H. Underwood. In 2008 she received the Graduate of Distinction Award from the West Virginia Education Alliance. Justice Davis is the author of several *West Virginia Law Review* articles, including "A Tribute to Franklin D. Cleckley: A Compendium of Essential Legal Principles from his Opinions as a Justice on the West Virginia Supreme Court of Appeals;" "A Tribute to Thomas E. McHugh: An Encyclopedia of Legal Principles from his Opinions as a Justice on the West Virginia Supreme Court of Appeals;" and "An Analysis of the Development of Admitting Expert Testimony in Federal Courts and the Impact of that Development on West Virginia Jurisprudence". She is the co-author with Louis J. Palmer, Jr., of "Punitive Damages Law in West Virginia" and "Workers' Compensation Litigation in West Virginia: Assessing the Impact of the Rule of Liberality and the Need for Fiscal Reform." She is the co-author with former Justice Cleckley and Mr. Palmer of the *Litigation Handbook on West Virginia Rules of Civil Procedure*. She has given numerous presentations at West Virginia Judicial Association conferences and community forums. Justice Davis is the most senior member of the Supreme Court of Appeals.

Justice Brent D. Benjamin

Justice Brent D. Benjamin was elected to a twelve-year term on the Supreme Court of Appeals in November 2004. He is a native of Marietta, Ohio. Justice Benjamin is a graduate of The Ohio State University, from which he holds both a bachelor's degree and a law degree. After graduation from law school in 1984, he settled in Charleston, West Virginia. Since his election, Justice Benjamin has been a regular presenter and instructor on a variety of legal issues in various forums, including the National Press Club, in Washington, D.C. As part of Constitution Day activities in 2009, he moderated a symposium on "Blogging and the First Amendment" at Marshall University. Justice Benjamin served as Chief Justice in 2009, during which the Court accomplished several initiatives, including establishing an Access to Justice Commission, an acclaimed statewide Domestic Violence Registry, a statewide Mental Hygiene Registry, and a Northern Panhandle Re-Entry Court. In 2009, the Court also expanded pre-incarceration treatment courts, including drug courts, from a handful of counties to coverage of over half the state's population. As Chief Justice, Justice Benjamin was active not only in Bar-related matters, but also on children's issues and drug abuse issues. He led West Virginia's delegations to the 2009 Children's Summit and to the 2009 Drug Court Professionals Summit. He spoke at regional meetings of the West Virginia State Bar; he participated in regional Judicial Roundtables on Child Abuse and Neglect and in regional Summits on Domestic Violence and Firearms; and he worked to enhance and expand court outreach, judge-media relations, and public education about the role of the judicial branch. During his time as Chief Justice, the Court issued an educational DVD, *The Foundation of Justice: The Supreme Court of Appeals of West Virginia*. Before his election, Justice Benjamin was a principal attorney with Robinson and McElwee, PLLC, in Charleston. His twenty-year practice at that firm involved general civil litigation in state and federal courts, including toxic torts and complex litigation. His civil rights practice focused on protecting children from physical and sexual abuse. He has practiced in the United States Court of Appeals for the Fourth Circuit, the United States District Court for the Southern District of West Virginia, the Supreme Court of Appeals of West Virginia, and before various courts in the Commonwealth of Kentucky. Justice Benjamin is a 1999 graduate of Leadership West Virginia. Away from his judicial duties, Justice Benjamin is also a current member of the Hocking College Archaeological Mission and the Amenmesse Project, and he has participated in archaeological excavations in the United States and Egypt, including the recent re-excavation of Tomb TT-320 (the "Royal Cache Tomb") and, currently, KV10 and KV63 (the first intact tomb to be discovered in the Valley of the Kings since the discovery of the tomb of Pharaoh Tutankhamun). Justice Benjamin attends Christ Church United Methodist, in Charleston. He is married to the former Janice Taylor. They have five children: Paul, Mary, Laura, Amanda, and Evan.





Justice Margaret L. Workman

Justice Margaret L. Workman was elected to the Supreme Court of Appeals in November 2008. She previously was elected to the Court in November 1988, when she became the first woman elected to the Court and the first woman elected to statewide office in West Virginia. Justice Workman was born in Charleston, the daughter of Mary Emma Thomas Workman and Frank Eugene Workman, a coal miner whose ancestors were among the first settlers of Boone County. Justice Workman attended Kanawha County public schools and was the first in her family to go to college. She attended West Virginia University and the West Virginia University College of Law. After she received her law degree in 1974, she served as assistant counsel to the majority of the U.S. Senate Public Works Committee, chaired by Senator Jennings Randolph. She returned to West Virginia to work as a law clerk to the Thirteenth Judicial Circuit. In 1976, she served as an advance person in the Carter Presidential Campaign, and she later worked on the campaign staff of U.S. Senator Jay Rockefeller. She then opened her own law office in Charleston. In 1981, Justice Workman became the youngest circuit court judge in the state when then-Governor Jay Rockefeller appointed her to the Kanawha County Circuit Court. She ran for the unexpired term in 1982 and the full term in 1984. As a circuit judge, Justice Workman inherited West Virginia's largest backlog of cases and during her tenure on the court reduced it to the lowest level in the judicial circuit. She held more jury trials than any other circuit judge in the state during the same period. She also visited every prison and secure juvenile correctional facility in West Virginia. After her election to the Supreme Court in 1988, Justice Workman served as Chief Justice in 1993 and 1997. In her capacity as Chief Justice, Margaret Workman fostered a close working relationship between the court system and domestic violence programs, and she visited many shelters to learn how the court system could be more effective in addressing domestic violence. Justice Workman created the Task Force on Gender Fairness in the Courts and the Task Force on the Future of the Judiciary. She formed the Broadwater Committee, which made reforms in the court system's response to children's issues and spearheaded the development of rules governing child abuse and neglect cases. Justice Workman has been active in church and community activities, and she is the mother of Lindsay, Chris, and Ted Gardner.

Justice Menis E. Ketchum

Justice Menis E. Ketchum was elected to a full twelve-year term of the Supreme Court of Appeals on November 4, 2008. Justice Ketchum was born in 1943 in Huntington, West Virginia, and was raised in Wayne County. He was educated in Wayne County public schools before attending Ohio University in Athens, Ohio, where he played varsity baseball and was a member of the 1964 Mid-American Conference Championship Baseball Team. Justice Ketchum returned to West Virginia to attend West Virginia University College of Law. While in law school, he was a contributing writer and associate editor of the *West Virginia Law Review*. He received his law degree in 1967 and returned to Huntington to join his father, Chad W. Ketchum (1911-1998) in the practice of law with the firm of Greene, Ketchum & Baker. He practiced at that firm and its successors, eventually becoming the senior partner, until his election to the Court. Justice Ketchum's law practice included insurance defense, personal injury, and criminal defense. He was recognized continuously from 1989 to 2008 in *The Best Lawyers in America* and was a member of the Leading Honoraries, the American College of Trial Lawyers, and the American Board of Trial Advocates. Throughout his legal career he published legal articles and presented numerous continuing legal education seminars. Justice Ketchum also served as a member of the Board of Governors of Marshall University from 2002 until his campaign for the Court, and served as Chairman or Vice-Chairman of the Board from 2003 until 2008. At the time of his election to the Court, he served on the Boards of the Public Defender Corporations for the Sixth and Twenty-Fourth Judicial Circuits. He previously served on the Huntington Urban Renewal Authority, participated in the statewide Vision Shared Health Care Team, and the Governor's Mine Safety Task Force. Justice Ketchum has been married to the former Judy Varnum since 1966. They have three children – Kelli Morgan, Bert Ketchum, and Chad Ketchum – and six grandchildren.





Justice Thomas E. McHugh

Justice Thomas E. McHugh was elected to the Supreme Court in 2010 to a two-year term. He began sitting by Designation as Senior Status Justice on the Supreme Court on September 1, 2008, when the Chief Justice appointed him to serve during the illness of Justice Joseph Albright, and he was reappointed on January 1, 2009, for the same purpose. After the death of Justice Albright on March 20, 2009, then-Chief Justice Brent Benjamin appointed him to serve in Justice Albright's position until the Governor named a replacement. On April 8, 2009, then-Governor Joe Manchin III appointed Justice McHugh to the Supreme Court to serve until the 2010 general election. At that time he was elected to complete Justice Albright's twelve-year term, which ends in 2012.

Justice McHugh previously was elected to the Court in 1980 and was re-elected to a second twelve-year term in 1992. He served as Chief Justice in 1984, 1988, 1992, 1995 and 1996. He retired on December 31, 1997. After his retirement, he practiced law in the Charleston law firm of Allen Guthrie McHugh and Thomas, where he was of counsel.

Justice McHugh was born in Charleston on March 26, 1936, and is a 1958 graduate of West Virginia University and a Distinguished Military Graduate, and he is a 1964 graduate of West Virginia University College of Law. In law school he was a member of the Order of Coif, a legal honorary, and was associate editor of the *West Virginia Law Review*.

He served as a First Lieutenant in the United States Army from 1958 to 1961.

He was a law clerk to West Virginia Supreme Court Justice Harlan Calhoun from 1966 to 1968. He was elected Judge in the Circuit Court of Kanawha County in 1974, re-elected in 1976, and served as chief circuit judge from 1974 to 1980.

Justice McHugh was President of the West Virginia Judicial Association in 1981-1982. He is a former member of the Judicial Review Board of West Virginia and was a member of the Visiting Committee of the West Virginia University College of Law from 1991 to 1995, serving as Chairman of that Committee from 1994 to 1995. He was a member of the Dean Search Committee of the West Virginia University College of Law from 1991 to 1992 and from 1997 to 1998.

He is a member of the Mountain Honorary, and is a recipient of the Distinguished West Virginian Award, the 1996 Special Award of Achievement in the Administration of Justice from The West Virginia State Bar, the 1996 Public Service Award from the Mountain State Bar Association, a 1998 Certification of Completion of Mediation Training from Duke University Private Adjudication Center, the 1998 Outstanding Achievement Award from the Kanawha County Bar Association, and the 1998 *Justicia Officium* Award from the West Virginia University College of Law. Justice McHugh is a West Virginia Bar Foundation Fellow and Emeritus Member, Judge John A. Field, Jr., American Inns of Court. He is Director Emeritus of the Children's Home Society of West Virginia. He is Chairman of the Board of Trustees of Thomas Memorial Hospital and a member of the West Virginia Center for Civic Life Board of Directors. He is a member of the Fourth Circuit Judicial Conference.

He and his wife, Judy, have four children – Karen, Cindy, James, and John – seven grandchildren, and two great-grandchildren.



Chief Justice Robin Jean Davis swears in Justice Thomas E. McHugh during a ceremony at the Supreme Court of West Virginia on December 16. *Photo by Michael Switzer*

Justice Thomas McHugh begins third term

Justice Thomas E. McHugh was sworn in to his third term on the Supreme Court of Appeals of West Virginia on December 16, a day so cold and snowy that unfortunately many of his invited guests could not attend.

Justice McHugh was elected on November 2 to fill the unexpired term of the late Justice Joseph Albright, which ends in 2012.

Those who braved the icy roads heard one of Justice McHugh's twin sons, Jackson County Prosecutor James McHugh, list his father's accomplishments and talk about the example he set for his four children.

"I remember you bringing us down here on Saturdays. Yes, he worked Saturdays then. He works Saturdays now," James McHugh said.

The prosecutor said he remembers the peacefulness and imposing décor of the Supreme Court and the chaos of the Kanawha County Courthouse, where his father was a circuit judge from 1974 to 1980 before being elected to the Supreme Court in 1980. Justice McHugh was re-elected in 1992 and served as Chief Justice in 1984, 1988, 1992, 1995 and 1996 before retiring on December 31, 1997.

James McHugh remembers piles of papers in his father's office at the Supreme Court and piles of papers he brought home to read. "I just couldn't believe anyone could read so much," he said.

Justice McHugh inspired both of his sons to pursue careers as lawyers. He instilled in all of his children the importance of fairness and integrity, James McHugh said.

"He has never been motivated by money. He has been motivated by service to our state and service to our country. You were a great example for us kids, your grandchildren, and those who have come in contact with you," James McHugh said. "We're very proud of you, dad."

Chief Justice Robin Jean Davis said Justice McHugh is "a pillar of the West Virginia legal community and this Court, and he has been a personal mentor to me for many years."

Justice Margaret Workman said Justice McHugh is "one of the finest individuals I have ever known." They worked together when he was a circuit judge in Kanawha County and she was a law clerk to the other circuit judges, and then again when they both were Supreme Court Justices during previous terms.

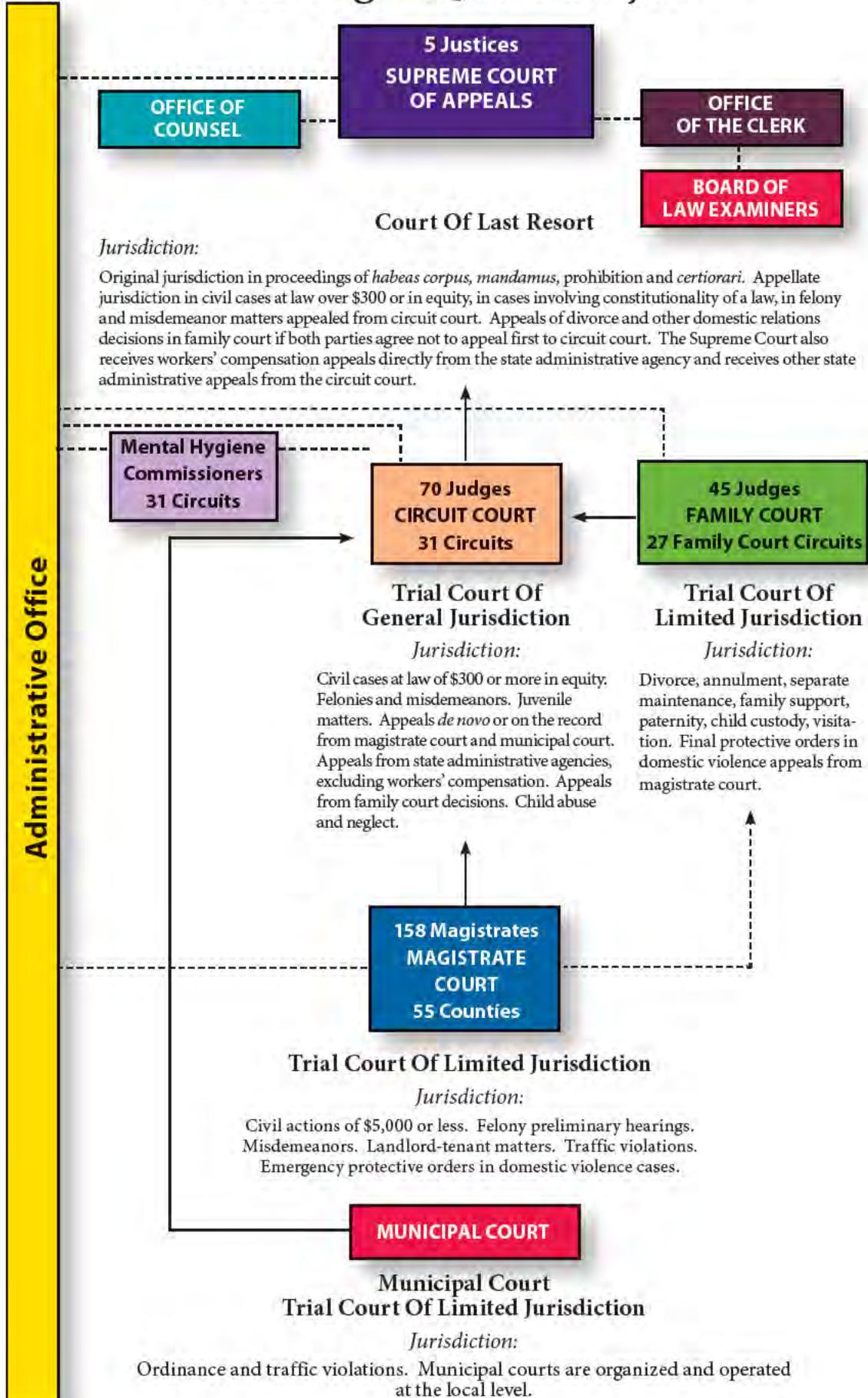
"Not only does he have a brilliant legal mind, but he is funny," Justice Workman said. "He makes all of us better judges."

Justice McHugh said he never could have imagined rejoining the Court when he retired in 1997. After his retirement, he practiced law in the Charleston law firm of Allen Guthrie McHugh and Thomas, where he was of counsel.

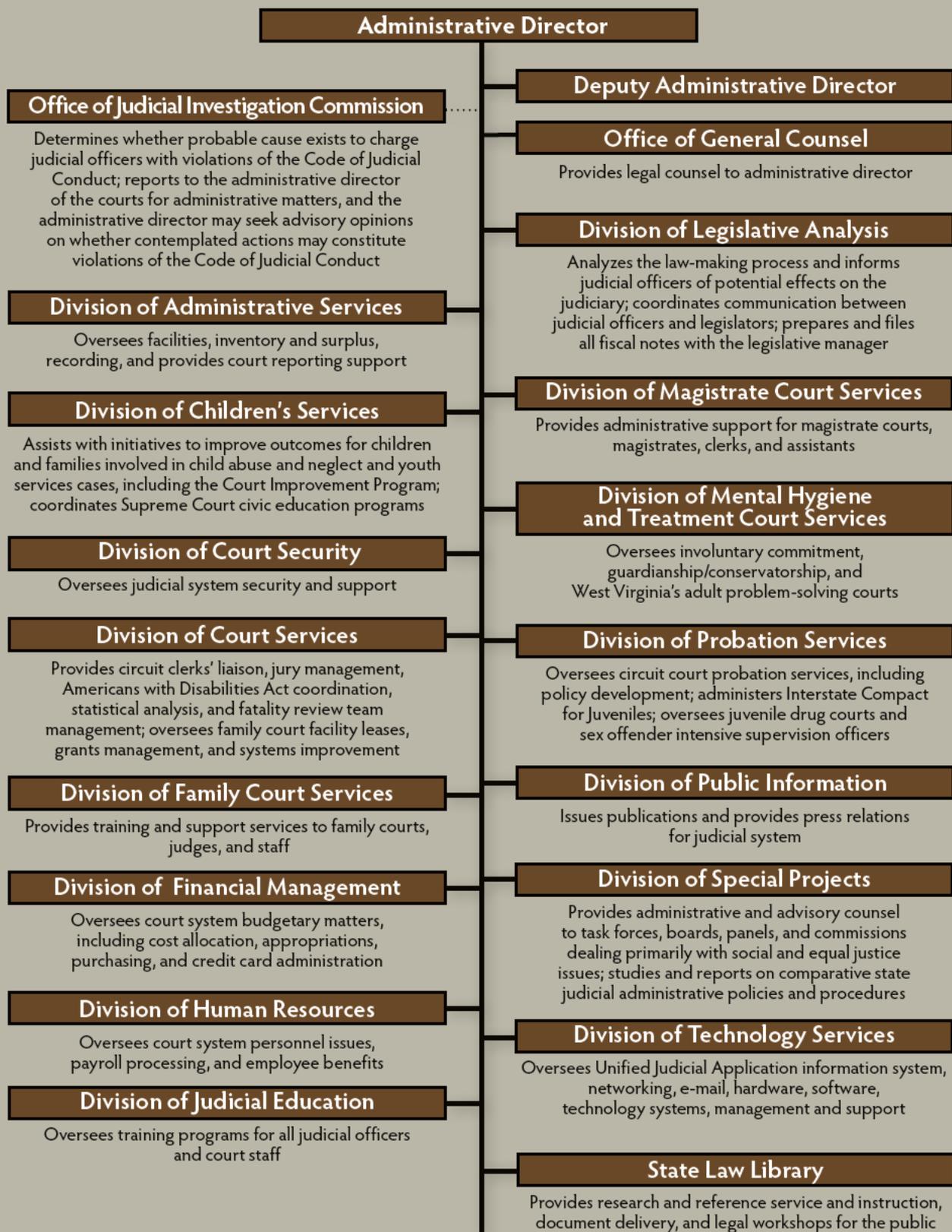
He said he was both honored and pleased when then-Chief Justice Elliott Maynard asked him on September 1, 2008, to sit by Designation as a Senior Status Justice during Justice Albright's illness, and then again in 2009 when then-Chief Justice Brent Benjamin asked him to continue that service. Then-Governor Joe Manchin III appointed him to the seat on April 20, 2009, after Justice Albright died.

Supreme Court Administrative Director Steve Canterbury served as master of ceremonies for the robing event.

West Virginia Judicial System



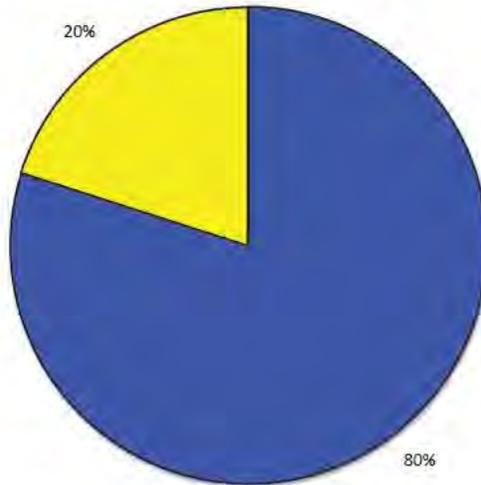
The Administrative Office of the Courts provides support to the Supreme Court of Appeals and the entire state court system. The administrative director, a Constitutional Officer, is appointed by the Supreme Court and oversees the Administrative Office of the Courts.



Court System Budget

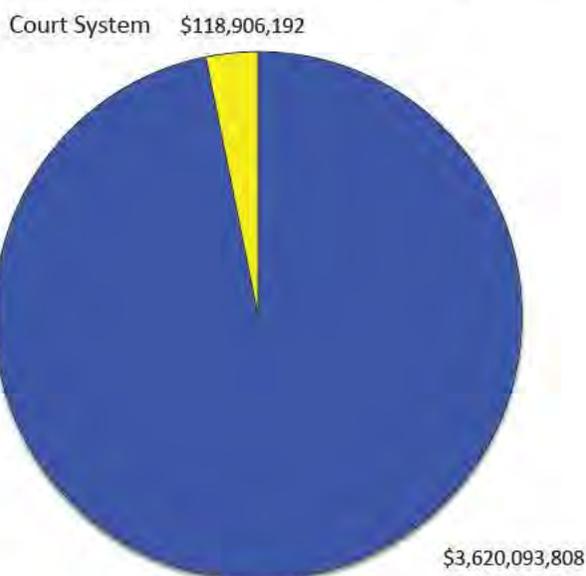
Fiscal Year 2011

July 1, 2010 — June 30, 2011



■ Personal Services & Employee Benefits	■ Operating Expenses
Personal Services & Employee Benefits	\$95,064,689
Operating Expenses	\$23,841,503
	\$118,906,192

State of West Virginia Fiscal Year 2011 Budget



The budget of the Court System — an entire branch of state government — comprised 3% of West Virginia's General Revenue Budget of \$3,739,000,000.

Court Expenditures by County in 2010

County	Circuit Court	Magistrate	Family Court	County Total
Barbour	\$ 24,850	\$ 366,387	\$ 274,688	\$ 665,925
Berkeley	2,868,065	1,212,924	313,478	4,394,467
Boone	979,993	478,952	265,748	1,724,693
Braxton	920,202	451,450	289,761	1,661,414
Brooke	1,424,450	434,871	15,822	1,875,143
Cabell	3,590,292	1,495,519	640,138	5,725,948
Calhoun	119,888	364,202	19,224	503,314
Clay	181,029	366,129	10,959	558,116
Doddridge	420,583	388,087	6,868	815,538
Fayette	1,754,361	874,244	322,206	2,950,812
Gilmer	43,486	335,634	2,921	382,041
Grant	416,002	365,771	9,919	791,692
Greenbrier	1,790,531	762,751	264,668	2,817,950
Hampshire	819,361	448,083	127,964	1,395,407
Hancock	788,952	679,051	23,884	1,491,888
Hardy	608,667	361,745	267,934	1,238,346
Harrison	2,596,975	1,079,816	612,009	4,288,800
Jackson	792,304	501,735	346,613	1,640,652
Jefferson	1,144,701	726,043	499,307	2,370,052
Kanawha	7,581,080	2,309,774	1,603,513	11,494,367
Lewis	384,165	467,457	31,400	883,021
Lincoln	1,121,539	416,578	392,907	1,931,024
Logan	1,956,563	809,992	523,598	3,290,153
Marion	1,695,318	874,517	272,134	2,841,969
Marshall	1,742,529	731,553	81,039	2,555,121
Mason	848,670	466,871	260,148	1,575,689
McDowell	1,312,586	617,288	61,540	1,991,414
Mercer	3,011,491	1,151,974	918,572	5,082,037
Mineral	975,100	400,593	1,026	1,376,719
Mingo	859,003	696,053	258,965	1,814,021
Monongalia	2,487,958	962,461	726,160	4,176,580
Monroe	523,951	352,086	23,635	899,671
Morgan	630,836	521,392	74,182	1,226,410
Nicholas	980,730	670,012	275,131	1,925,873
Ohio	1,634,239	950,095	602,776	3,187,110
Pendleton	321,173	383,243	1,632	706,048
Pleasants	290,197	368,582	339	659,118
Pocahontas	31,909	384,764	22,990	439,662
Preston	985,437	641,062	21,431	1,647,930
Putnam	1,587,654	728,633	262,827	2,579,114
Raleigh	2,679,569	1,199,780	841,798	4,721,147
Randolph	962,840	654,916	302,030	1,919,786
Ritchie	221,348	391,009	1,638	613,995
Roane	247,789	441,144	254,166	943,099
Summers	276,011	344,161	20,852	641,024
Taylor	811,794	356,844	8,660	1,177,298
Tucker	326,548	351,701	4,265	682,514
Tyler	41,009	380,226	1,142	422,377
Upshur	831,776	498,242	16,957	1,346,975
Wayne	1,712,822	650,900	271,629	2,635,351
Webster	692,663	344,333	250,625	1,287,621
Wetzel	318,939	398,914	198,167	916,020
Wirt	18,999	362,329	12,392	393,720
Wood	3,364,008	1,051,887	581,874	4,997,769
Wyoming	888,253	671,097	33,069	1,592,419
Total	\$65,641,189	\$34,695,859	\$13,529,321	\$113,866,369

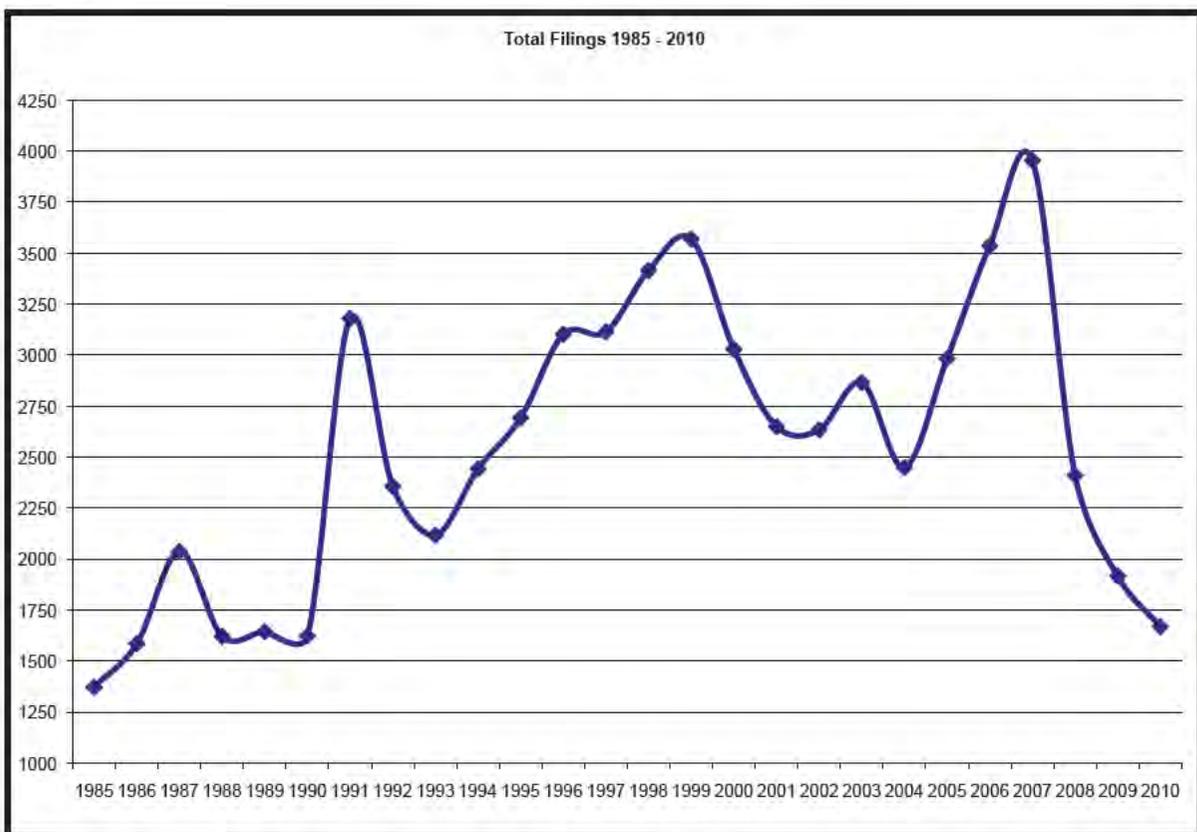


Supreme Court of Appeals of West Virginia 2010 Statistical Report

Case Filings Continue Significant Declining Trend

The 1,668 new cases filed in 2010 continue a significant declining trend over the past three years. New filings in 2010 were down thirteen percent from the 1,917 new cases filed in 2009 and represent a fifty-eight percent decrease from the record-high number of filings in 2007. From all indications, the filing levels of 2007 were an anomaly and should not be used as a basis for forming any long-term conclusions about the workload of the Court. As illustrated in Figure 1, the number of petitions filed in 2010 is a return to filing levels that have not been seen since the 1980s.

Figure 1



The decrease in the number of new petitions filed in 2010 is attributable in large part to a continuing drop in the number of workers' compensation petitions filed. The all-time high of 2,894 filed in 2007 decreased by half in 2008, to 1,447. The reduction continued in 2009, with 967 compensation appeals filed. In 2010, only 610 compensation appeals were filed. In part, the reduction in compensation appeals is a signal of stability in the decision-making body at the agency level following a period of transition as the Office of Judges and the Board of Review became part of the Office of the Insurance Commissioner.

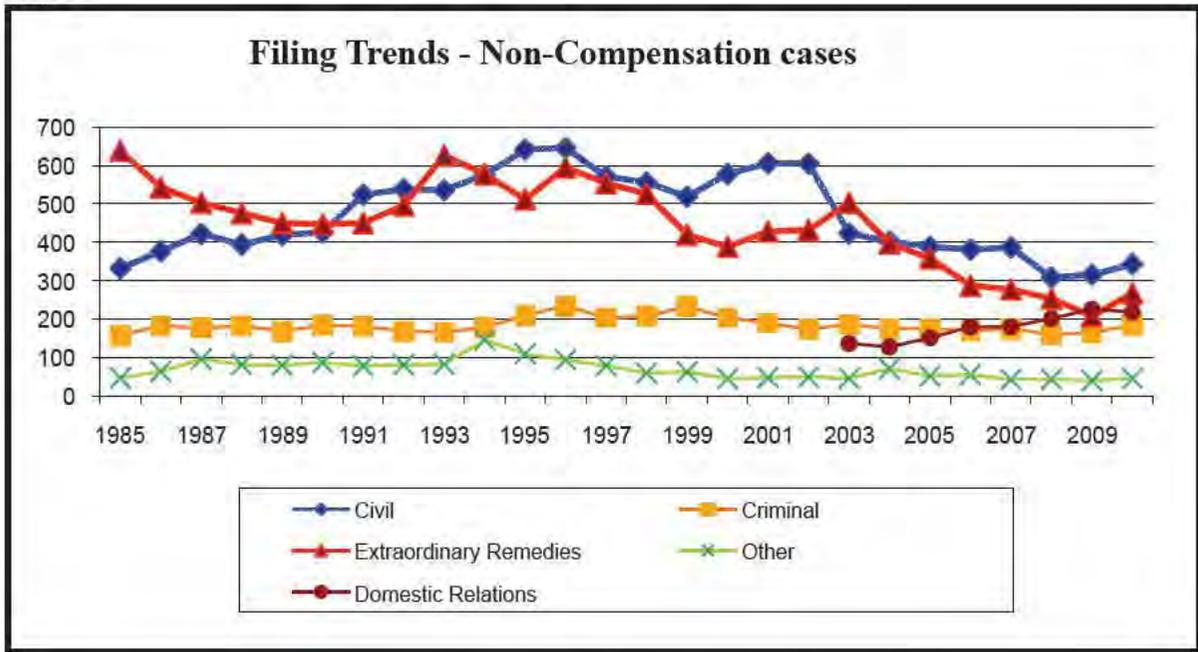
	Certified	Certiorari	Civil	Criminal	Domestic	Ethics	Habeas	Mandamus	Pet. Bail	Prohibition	Workers' Comp.	TOTAL
1983	18	9	293	180	—	0	321	132	10	80	116	1159
1984	20	27	306	183	—	1	317	166	20	80	162	1282
1985	12	10	332	157	—	10	367	181	24	81	198	1372
1986	17	6	376	182	—	16	240	196	30	101	421	1585
1987	23	4	422	176	—	20	200	214	52	85	841	2037
1988	21	2	394	182	—	13	195	183	47	96	488	1621
1989	28	7	419	168	—	12	186	141	39	116	528	1644
1990	29	5	426	183	—	17	171	149	40	122	481	1623
1991	35	4	524	181	—	23	149	179	20	118	1947	3180
1992	43	2	538	168	—	25	192	184	12	118	1075	2357
1993	34	2	536	165	—	27	319	187	21	118	708	2117
1994	46	7	575	178	—	69	239	173	30	159	966	2442
1995	27	8	642	209	—	43	218	172	39	114	1220	2692
1996	30	4	646	234	—	33	265	180	30	146	1534	3102
1997	27	5	571	203	—	27	253	164	24	132	1708	3114
1998	15	3	556	207	—	24	230	162	20	131	2067	3415
1999	19	5	519	232	—	27	118	177	16	120	2306	3539
2000	7	3	578	203	—	18	100	199	19	86	1816	3029
2001	15	3	606	189	—	19	96	245	13	84	1380	2650
2002	14	2	605	173	—	17	102	210	18	118	1394	2653
2003	17	3	423	186	136	16	170	236	12	94	1572	2865
2004	30	4	402	174	127	24	108	202	16	83	1279	2449
2005	19	0	388	175	151	21	82	190	11	86	1860	2983
2006	18	0	381	169	179	24	78	104	13	105	2473	3544
2007	8	0	386	175	180	26	74	105	8	98	2894	3954
2008	9	0	308	159	201	28	53	99	6	101	1447	2411
2009	18	0	315	164	225	18	60	84	3	63	967	1917
2010	12	2	343	185	218	26	71	114	7	80	610	1668

Table 1

Despite the overall drop in filings, non-compensation filings in 2010 actually showed increases across the civil, criminal, and original jurisdiction categories, with a slight decline in domestic relations cases. (See Table 1.)

In 2003, appeals from family court orders and appeals in abuse and neglect cases began to be counted as part of the domestic case type. These cases previously were counted as part of the general civil case type, thus explaining the apparent dip in civil filings in 2003. After taking this adjustment into account, general civil appeals have shown an overall decline in the past eight years, dropping nineteen percent since 2003.

Figure 2



The number of extraordinary remedy petitions filed in 2010 increased in all categories. The number of certified questions declined.

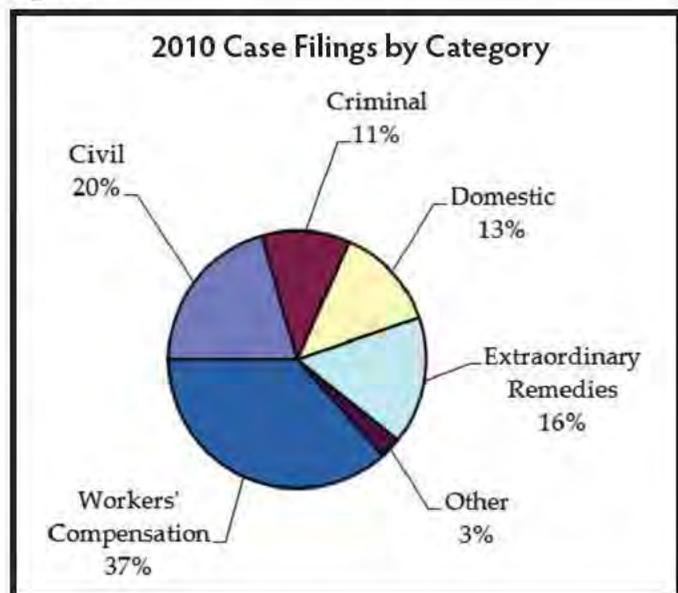
In non-compensation cases, filing trends have been steady in certain areas, while fluctuating in other areas, as seen in Figure 2. Criminal filings have remained largely steady since 1985, while requests for extraordinary remedies and civil appeals have declined in recent years. The overall trend in domestic cases has been on the rise since 2003. The category “Other” includes ethics cases, certified questions, and petitions for bail. This category has been largely steady since 1985, apart from a spike in ethics filings in 1994 and a spike in certified questions in 2004.

The overall composition of cases filed in 2010, as shown in Figure 3, continues to reflect the breadth and scope of the Court’s workload. Although in 2007 workers’ compensation cases made up nearly three-quarters of all new filings, in 2010, that figure fell to just thirty-seven percent.

Case Disposition

The Court can dispose of cases by a variety of methods, resulting in opinions and orders. Prior to December 1, 2010, the Court’s review of all appeals and original jurisdiction matters was discretionary.¹ Therefore, some cases were disposed by entry of a refusal order, which did not constitute a decision on the merits. Other cases were granted and set for argument but later withdrawn, dismissed, or otherwise disposed by order. After being granted, most non-compensation cases were disposed by written opinion. Most compensation appeals that were granted were ultimately disposed by memorandum order.

Figure 3



¹The Revised Rules of Appellate Procedure became effective on December 1, 2010, and require a decision on the merits in every properly prepared appeal. The practice of issuing refusal orders that contain no explanation for the Court’s action in appeals ended on December 1, 2010. The Court retains the discretion to refuse petitions for extraordinary relief (i.e. *Mandamus*, *Prohibition*, *Habeas Corpus*, and *Certiorari*) as well as the discretion to refuse certified questions.

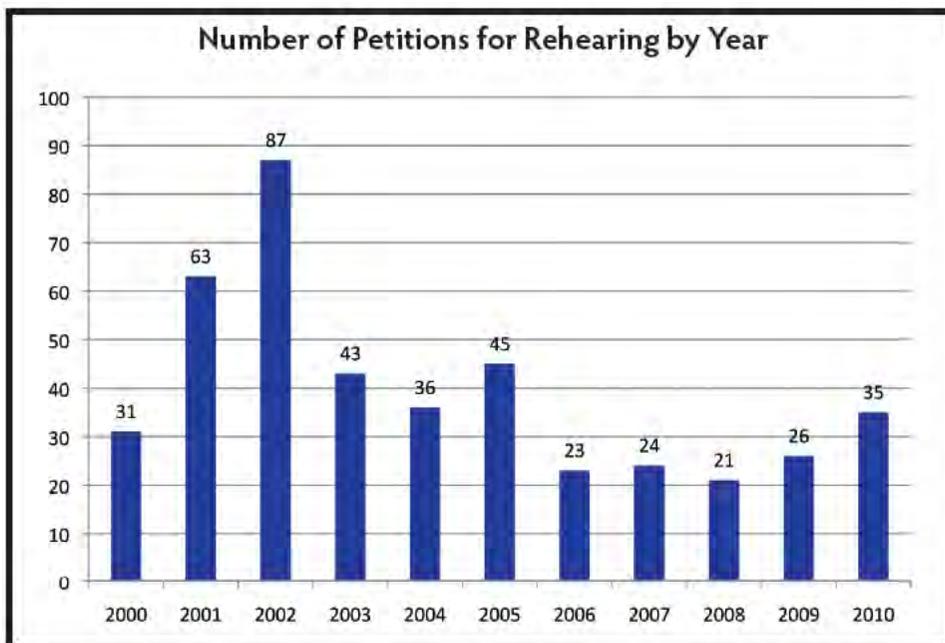
The case clearance percentage is a practical measure of the Court's workload and its ability to keep pace with recent filing levels. Because of the extraordinary workers' compensation filings in recent years, combined with delays associated with new statutory changes, the case clearance percentage fell to below one hundred percent in some prior years.² In 2009, however, the Court disposed of 3,589 cases, for a clearance rate of 187 percent. The clearance percentage remained very high in 2010, with an overall clearance rate of 166 percent. The overall breakdown of the number of cases by disposition method is shown in Table 2.³

Other components of the Court's workload are not reflected in Table 2. In addition to disposing of cases filed, the Court considered eighty-nine pre-petition matters in 2010, which is up from last year's total of eighty-three. Pre-petition matters often involve emergent questions for litigants, such as whether a stay should be granted pending appeal.

Table 2

Disposition Method	Number of Cases Disposed in 2010
Opinion & Mandate	162
Petition Refused	1,917
Memorandum Order & Mandate	542
Dismissed	58
Withdrawn	42
Moot	3
Disposed by Order	58
TOTAL DISPOSITIONS	2,782

The number of petitions for rehearing increased slightly in 2010. In 2000, thirty-one petitions for rehearing were filed. In 2001, that number more than doubled, to sixty-three. In 2002, that number increased again, to eighty-seven, nearly three times the number filed in 2000. In 2003, forty-three petitions for rehearing were filed. In 2004, that number fell again, to thirty-six petitions for rehearing filed. In 2005 the number rose slightly to forty-five. In 2006, the number fell by almost half, to twenty-three. That figure held steady in 2007, with twenty-four petitions for rehearing filed, and fell only slightly in 2008, with twenty-one filed. In 2009, twenty-six petitions for rehearing were filed. The number rose slightly in 2010 with thirty-five petitions for rehearing filed.



² Two main factors combined to cause the clearance rate to fall below typical levels. First, dispositions in workers' compensation cases were held in abeyance for about a year beginning in late October 2003 while the Court considered cases involving the impact of the adoption of Senate Bill 2003 and to what extent the statutory changes could constitutionally be applied retroactively to cases filed before July 1, 2003. See *Wampler Foods, Inc., v. Workers' Compensation Div.*, 216 W.Va. 129, 602 S.E.2d 805 (July 1, 2004). The clearance rate was only seventy-eight percent in 2003. In 2004, as the Court began to clear pending cases after the Wampler decision was issued, the clearance rate rose to ninety-five percent. The second factor occurred over the next three years, when the extraordinary increase in workers' compensation petitions made it increasingly difficult to keep pace with new filings. Despite the fact that the Court in 2007 reviewed more than double the number of compensation petitions than it reviewed as recently as 2005, the overall clearance rate fell to sixty-four percent in 2007.

³ Cases in which opinions and memorandum orders are written are not disposed until the mandate issues, which is at least thirty days after the opinion or memorandum order is released. Table 2 counts the date of the mandate as the disposition date.

Discretionary Petition Disposition

By narrowing the focus to the disposition of discretionary petitions, rather than the broader area of case disposition, it is possible to determine the percentage of petitions for appeal in several categories that were granted by the Court in the first eleven months of 2010.⁴ The petition grant rate is based upon the total number of petitions of a given type actually considered by the Court in a given year (which will differ from the number of petitions filed in a given year). Table 3 sets forth the total number of discretionary petitions considered over the past twelve years in each category, along with the percentage of the petitions that were granted for full briefing and argument.

Table 3

	Certified Questions		Certiorari		Civil		Abuse & Neglect		Criminal		Domestic		Habeas Corpus		Mandamus		Petition for Bail		Prohibition		Workers' Comp.		Totals	
	Reviewed	Granted %	Reviewed	Granted %	Reviewed	Granted %	Reviewed	Granted %	Reviewed	Granted %	Reviewed	Granted %	Reviewed	Granted %	Reviewed	Granted %	Reviewed	Granted %	Reviewed	Granted %	Reviewed	Granted %	Reviewed	Granted %
1999	17	35%	6	67%	456	30%	96	11%	234	18%	x	x	108	>1%	132	30%	16	0	113	27%	1874	51%	3052	41%
2000	10	60%	4	50%	431	29%	120	>1%	194	21%	x	x	91	>1%	142	39%	17	6%	85	26%	2298	65%	3392	52%
2001	16	68%	0	0	378	39%	135	4%	187	18%	x	x	62	3%	165	15%	14	0	69	26%	2211	51%	3237	42%
2002	14	43%	2	50%	370	35%	118	11%	144	22%	x	x	102	10%	131	21%	16	0	109	28%	1162	42%	2168	34%
2003	14	86%	2	50%	479	32%	84	8%	195	17%	37	27%	132	7%	146	27%	13	0	83	37%	1011	34%	2196	29%
2004	26	68%	5	40%	405	30%	113	5%	182	10%	34	35%	126	6%	109	20%	14	7%	79	20%	1496	40%	2589	32%
2005	20	80%	1	100%	393	30%	90	1%	167	14%	51	22%	82	9%	107	23%	9	22%	77	32%	844	27%	1841	24%
2006	19	42%	0	0	384	21%	130	5%	190	14%	50	14%	87	9%	240	14%	12	0	110	15%	1367	8%	2589	11%
2007	8	38%	0	0	319	27%	136	3%	147	17%	41	37%	69	1%	92	27%	10	0	84	18%	1751	17%	2657	17%
2008	8	75%	0	0	390	32%	150	3%	171	12%	43	21%	48	4%	89	21%	5	0	101	15%	2706	23%	3711	22%
2009	10	100	0	0	282	23%	154	6%	161	22%	37	27%	48	6%	91	15%	4	0	63	24%	2654	22%	3504	21%
2010	18	1	1	100	326	28%	203	5%	170	19%	42	31%	67	10%	105	28%	7	0	71	28%	1248	10%	2258	15%

In 2010 the Court continued to review a high number of workers' compensation petitions — more than double the number of new petitions filed. The number of civil appeals granted increased by five percent. Across all categories, about one in seven petitions reviewed in 2010 were granted. (For a graphical representation of these data, see Table 5 on page twenty: "Percentage of Discretionary Petitions Granted - Major Case Types - 2000-2010.") As recognized by the National Center for State Courts, "most discretionary petitions filed in both intermediate appellate courts and courts of last resort are denied."⁵

⁴ As of December 1, 2010, petitions for appeal are no longer "granted" or "refused." See Note 1. Accordingly, the information in Table 3 and Table 5 related to appeal categories (Civil, Abuse & Neglect, Criminal, Domestic and Compensation) does not include action by the Court in cases of those kind filed after December 1, 2010. In next year's report, these tables will contain only the categories of cases where the Court retains discretion to refuse the petition (i.e., Mandamus, Prohibition, Habeas Corpus, Certiorari, Bail and Certified Questions).

⁵ R. LaFountain, R. Schauffler, S. Strickland, W. Raftery, & C. Bromage, *Examining the Work of State Courts, 2006: A National Perspective from the Court Statistics Project* at 74 (National Center for State Courts 2007). Among twenty state courts of last resort, West Virginia had the fifth-highest percentage of petitions granted in 2005. This ranking would be higher if the National Center's percentage was calculated based upon the cases actually considered, versus the number filed in a given year. The website of the Court Statistics Project, a joint effort by the Conference of State Court Administrators, the Bureau of Justice Statistics, and the National Center for State Courts, contains a wealth of resources and publications related to court statistics. www.ncsconline.org/d_research/csp/CSP_Main_Page.html.

Caseload Comparison with Comparable Courts

The historic increase of filings in West Virginia is consistent with the increase of filings nationally since 1950. In response to the steady increase in filings, the number of states with intermediate appellate courts (IACs) tripled in the same time period; thirteen states had IACs in 1950, compared with thirty-nine states in 2001. In the past twenty years, Mississippi, Nebraska, and Utah have created IACs. More recently, growth in IACs has slowed, with voters disapproving a ballot measure in Nevada in 2010.

The most recent (2008) data from the National Center for State Courts⁶ indicate that case filings in West Virginia exceed those of other jurisdictions without an intermediate appellate court. However, filings in Nevada and the District of Columbia are quite close. If 2010 filing figures were used for West Virginia (1,668), and assuming that all other states would remain stable, West Virginia would have the third-highest filings.

Table 4 illustrates the comparable caseload figures for 2008 across jurisdictions without a permanent intermediate appellate court.⁷ As noted earlier, 2008 is the most recent year for which national comprehensive statistics are available.

Table 4

Jurisdictions Without Intermediate Appellate Courts 2008	Total Filings	Population Rank
Delaware	670	46
District of Columbia	1,757	51
Maine	755	41
Montana	699	45
Nevada	2,248	36
New Hampshire	964	42
North Dakota	342	49
Rhode Island	323	44
South Dakota	361	47
Vermont	503	50
West Virginia	2,411	38
Wyoming	284	52



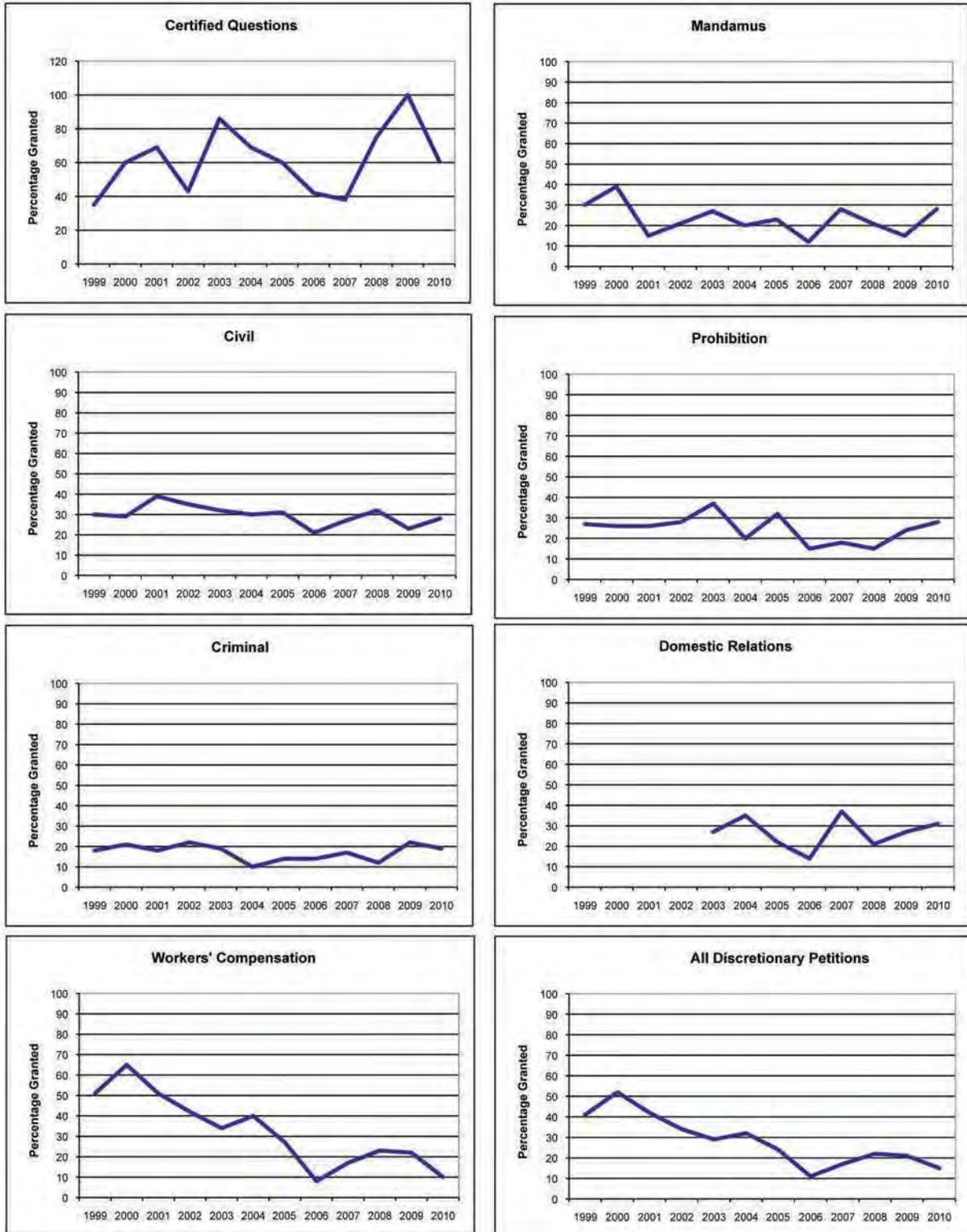
Alex Ferguson of the Charleston law firm Carey, Scott, Douglas, and Kessler, PLLC, gives documents to Assistant Clerk Claudia Townsend in the Supreme Court Clerk's Office. Photo by Michael Switzer

⁶ R. LaFountain, R. Schaffler, S. Strickland, C. Bromage, S. Gibson & A. Mason, *Examining the Work of State Courts: An Analysis of 2008 State Court Caseloads* at 2 (National Center for State Courts 2010).

⁷ North Dakota has a temporary intermediate appellate court that can be called up from time to time by the North Dakota Supreme Court to handle overload matters. Because its IAC is temporary and not usually activated, North Dakota is counted as a jurisdiction without an intermediate appellate court. See *Examining the Work of State Courts*, 2006, Id. at 68.

Percentage of discretionary petitions granted Major case types: 2000-2010

Table 5



2010 Visiting Judges

When a Supreme Court Justice is unable to serve in a case due to reasons such as illness or disqualification, Article VIII Section 2 of the West Virginia Constitution allows the Chief Justice to assign a circuit court judge to serve. The visiting judge then participates in all private conferences and hearings, and votes on that case. The following is a list of judges who were so assigned in 2010 and the cases in which they participated.

Judge Omar J. Aboulhosn, Ninth Judicial Circuit (Mercer County)

March 10 Motion Docket (No. 091273) and September 15 Argument Docket (No. 35500): *SER Darrell V. McGraw, Attorney General v. Johnson & Johnson and Janssen Pharmaceutica Products, L.P.*

June 1 Argument Docket: *Shirley White, Cathy Dennison, and Jenny Tyler v. Wyeth, et al.* (No. 35296)



Judge Thomas C. Evans, III, Fifth Judicial Circuit (Calhoun, Jackson, Mason, and Roane Counties)

May 14 Requests for Oral Presentation and Petitions for Appeal: *Dianna Mae Savilla, administratrix, v. Speedway SuperAmerica, LLC, et al.* (No. 100159)



Judge Jack Alsop, Fourteenth Judicial Circuit (Braxton, Clay, Gilmer, and Webster Counties)

March 11 Requests for Oral Presentation and Petitions for Appeal: *Gandee v. Advance* (No. 100060)

March 30 Requests for Oral Presentation and Petitions for Appeal: *State v. White* (No. 100103)

May 14 Requests for Oral Presentation and Petitions for Appeal: *Dianna Mae Savilla, administratrix, v. Speedway SuperAmerica, LLC, et al.* (No. 100159)



Judge Fred L. Fox, II, Sixteenth Judicial Circuit (Marion County)

May 4 Argument Docket: *SER Maple Creative, LLC, v. David Tincher, Director of Purchasing Division* (No. 35504)

June 1 Argument Docket: *Shirley White, Cathy Dennison and Jenny Tyler v. Wyeth, et al.* (No. 35296)



Judge J. D. Beane, Fourth Judicial Circuit (Wirt and Wood Counties)

September 9 Rehearing Conference: *Mylan v. American Motorists* (No. 34402)



Judge Phillip D. Gaujot, Seventeenth Judicial Circuit (Monongalia County)

April 14 Requests for Oral Presentation and Petitions for Appeal: *Jeffrey Taylor, personal representative of the estate of Leo Taylor v. MHCC, Inc., et al.* (No. 100167)

April 14 Requests for Oral Presentation and Petitions for Appeal and September 8 Motion Docket: *Jason Layne and Gina Layne v. Meridian Communications and Construction, Inc., et al.* (No. 100177)



Senior Status Judge

Herman G. Canady, Jr., Thirteenth Judicial Circuit (Kanawha County)

March 2 Argument Docket and September 9 Rehearing Conference: *Doris Michael and Todd Battle v. Appalachian Heating, LLC, and State Auto Insurance* (No. 35127)



Judge Gina M. Groh, Twenty-Third Judicial Circuit (Berkeley, Jefferson, and Morgan Counties)

April 14 Requests for Oral Presentation and Petitions for Appeal: *William B. Hamm v. Dr. Steven L. Paine, Superintendent of Schools, West Virginia Department of Education* (No. 100215)



Senior Status Judge

Robert G. Chafin, Twenty-Fourth Judicial Circuit (Wayne County)

May 5 Requests for Oral Presentation and Petitions for Appeal and September 8 Motion Docket: *Tyrone Keith Persinger v. Kanawha County Board of Education* (No. 100281)



Judge John W. Hatcher, Jr., Twelfth Judicial Circuit (Fayette County)

March 4 Requests for Oral Presentation and Petitions for Appeal: *Cassius H. Toon v. Public Service Commission of West Virginia, a statutory agency of the State of West Virginia* (No. 091912)



Judge F. Jane Husted, Sixth Judicial Circuit (Cabell County)

March 4 Requests for Oral Presentation and Petitions for Appeal (No. 091916) and September 8 Argument Docket (No. 35495): *Edith Nezan, in her capacity as personal representative of the estate of Margaret O'Brien, v. Aries Technologies, Inc., and Shashi Sanwalka, in his capacity as legal representative of the estate of Aditya Roy Sanwalka*



Judge H. L. Kirkpatrick III, Tenth Judicial Circuit (Raleigh County)

May 5 Requests for Oral Presentation and Petitions for Appeal: *State ex rel. Mark Best, II, v. Thomas McBride, Warden* (No. 100317)



Judge Gary L. Johnson, Twenty-Eighth Judicial Circuit (Nicholas County)

May 14 Requests for Oral Presentation and Petitions for Appeal: *Dianna Mae Savilla, administratrix, v. Speedway SuperAmerica, LLC, et al.* (No. 100159)



Judge J. Lewis Marks, Jr., Fifteenth Judicial Circuit (Harrison County)

February 11 Requests for Oral Presentation and Petitions for Appeal: *Cecilia Scarberry v. Marshall University* (No. 091767)



Senior Status Judge Frank E. Jolliffe, Eleventh Judicial Circuit (Greenbrier and Pocahontas Counties)

September 15 Argument Docket: *Lawyer Disciplinary Board v. Douglas A. Smoot* (No. 34724)



February 11 Requests for Oral Presentation and Petitions for Appeal and May 4 Motion Docket: *Jimmy Cozart v. Board of Education of Raleigh County* (No. 091764)

February 11 Requests for Oral Presentation and Petitions for Appeal and May 4 Motion Docket: *Ricky Scarbro v. Board of Education of Raleigh County* (No. 091790)

February 11 Requests for Oral Presentation and Petitions for Appeal and May 4 Motion Docket: *Richard Rice v. Board of Education of Raleigh County* (No. 091789)

Judge Thomas H. Keadle, Twenty-Sixth Judicial Circuit (Lewis and Upshur Counties)

February 11 Requests for Oral Presentation and Petitions for Appeal: *Cecilia Scarberry v. Marshall University* (No. 091767)



June 22 Miscellaneous Motions Conference: *SER Consolidated Personal Injury Plaintiffs v. Arthur M. Recht* (No. 100719)

September 9 Requests for Oral Presentation and Petitions for Appeal: *West Virginia Board of Medicine v. Katherine Anne Hoover, M.D.* (No. 100622)

September 9 Requests for Oral Presentation and Petitions for Appeal: *Lloyd Boothe v. The Board of Education of the County of Jackson and Janine Sayre* (No. 100700)

September 9 Requests for Oral Presentation and Petitions for Appeal (No. 100730) and November 17 Miscellaneous Motions Conference (No. 101317): *State of West Virginia v. Tracy L. Haid*

September 9 Requests for Oral Presentation and Petitions for Appeal: *State of West Virginia v. Robert Silva* (No. 100637)

September 21 Argument Docket: *Nancy Jamison v. The Board of Education of the County of Monongalia*, (No. 35498)

Judge James A. Matish, Fifteenth Judicial Circuit (Harrison County)

June 2 Requests for Oral Presentation and Petitions for Appeal: *In re: the Marriage/Child(ren) of Charles A. Carpenter, Jr., and Barbara Ann Carpenter* (No. 100386)



June 2 Requests for Oral Presentation and Petitions for Appeal: *C&O Motors, Inc., v. West Virginia Paving, Inc.* (No. 100395)

June 2 Requests for Oral Presentation and Petitions for Appeal and September 21 Motion Docket: *Charles Posey v. Board of Education of Lewis County* (No. 100428)

June 2 Requests for Oral Presentation and Petitions for Appeal and October 12 Motion Docket: *Alex Energy, Inc., v. Antrim Laura Caskey, et al.* (No. 100426)

Judge David W. Nibert, Fifth Judicial Circuit (Calhoun, Jackson, Mason, and Roane Counties)

June 1 Motion Docket: *Stevenson v. Independence Coal* (No. 100366)



Judge Darrell Pratt, Twenty-Fourth Judicial Circuit (Wayne County)

May 5 Requests for Oral Presentation and Petitions for Appeal and September 8 Motion Docket: *Tyrone Keith Persinger v. Kanawha County Board of Education* (No. 100281)



Judge Susan B. Tucker, Seventeenth Judicial Circuit (Monongalia County)

January 26 Motion Docket (No. 091291) and September 15 Argument Docket (No. 35463): *State of West Virginia v. Stephen L. Mahood*



Judge Arthur M. Recht, First Judicial Circuit (Brooke, Hancock, and Ohio Counties)

May 14 Requests for Oral Presentation and Petitions for Appeal: *Dianna Mae Savilla, administratrix, v. Speedway SuperAmerica, LLC, et al.* (No. 100159)



Judge Ronald E. Wilson, First Judicial Circuit (Brooke, Hancock, and Ohio Counties)

March 2 Argument Docket and September 9 Rehearing Conference: *Doris Michael and Todd Battle v. Appalachian Heating, LLC, and State Auto Insurance* (No. 35127)



Judge O. C. Spaulding, Twenty-Ninth Judicial Circuit (Putnam County)

September 7 Argument Docket: *Mary J. Wells v. Key Communications, LLC, et al.* (No. 35447)



March 2 Argument Docket: *In Re: John T., Michael T., Natalie T., and Clare T.*

April 14 Writ Conference: *James D. MacDonald v. City Hospital, Inc., and Sayeed Ahmed, M.D.* (No. 091909)

Senior Status Judge Robert B. Stone, Seventeenth Judicial Circuit (Monongalia County)

May 14 Requests for Oral Presentation and Petitions for Appeal: *Dianna Mae Savilla, administratrix, v. Speedway SuperAmerica, LLC, et al.* (No. 100159)



Judge James A. Young, Jr., Twenty-Fourth Judicial Circuit (Wayne County)

March 10 Argument Docket: *SER Lincoln Stuart Taylor v. Honorable David R. Janes* (No. 35287)



West Virginia to host CCJ/COSCA conference

Chief Justice Robin Jean Davis announced on December 15 that the Conference of Chief Justices and Conference of State Court Administrators will hold its annual joint meeting in West Virginia in July 2014.

About 150 Chief Justices and top court administrators along with their family members, judicial educators, media personalities, and others are expected to attend the event at The Greenbrier in White Sulphur Springs.

"It is rare that the West Virginia Supreme Court is in the position to help the state's economy, but by bringing this highly sought-after conference here, we can do so," Chief Justice Davis said. "This is a big catch for West Virginia and The Greenbrier. It's similar, for example, to having a National Governors Association meeting here."

Greenbrier owner Jim Justice said, "We are absolutely honored to host these distinguished individuals on behalf of West Virginia. This is a tremendous opportunity for all of us to showcase the very best our state has to offer, from the breathtaking mountain views to our friendly, welcoming people. The Greenbrier, the valley around us, and our entire state have a special kind of magic that cannot be made or manufactured, and we look forward to sharing that magic in 2014."

Chief Justice Davis said the Court hopes that everyone who attends will return home and talk about how beautiful, hospitable, and unique West Virginia is. Supreme Court Administrative Director Steve Canterbury added, "This is the first time West Virginia has ever been selected to host this important annual meeting. We plan to make it the best one ever."



Supreme Court Clerk Rory Perry, with Chief Justice Robin Jean Davis, responds to questions during a press conference announcing the Revised Rules of Appellate Procedure. *Photo by Michael Switzer*

Supreme Court issues Revised Rules of Appellate Procedure

The Supreme Court in 2010 promulgated Revised Rules of Appellate Procedure. The first major changes to appellate rules since the Judicial Reorganization Amendment of 1974 provide a complete, expeditious, and effective method of providing a full review and decision on the merits in all properly prepared appeals.

Citizens appealing a circuit court decision will have an appeal of right instead of an appeal by permission under the revised rules, which went into effect on December 1, 2010. Every circuit court appeal will be fully briefed by both sides before the Court considers the case, a change that will reduce delay and court costs for both sides.

“Without question, the revisions to the appellate process are comprehensive and unprecedented in scope,” Chief Justice Robin Jean Davis said at an October 19 press conference announcing the final rules.

The Court issued the proposed rules on May 17. During a sixty-day public comment period, Supreme Court Clerk Rory Perry held ten, free, ninety-minute continuing legal education and public education seminars on the rules throughout the state. More than six hundred attorneys, court officials, and members of the public attended those seminars, and the Court received forty-two written sets of comments on the rules.

“The final version of the rules incorporates many changes suggested by attorneys and citizens who submitted thoughtful and substantive comments,” Chief Justice Davis said. “The Court wishes to thank the hundreds of citizens who attended the informational seminars and those who read the proposed rules online and then took the time to tell us what they thought.”

Under the revised rules, decisions will be issued in the form of a full opinion or memorandum decision. They will be posted on the Court’s website and, therefore, will be available for review and to provide guidance to other courts on West Virginia law. Where practicable, in cases in which a circuit court decision is affirmed by a memorandum decision, that circuit court decision also will be posted on the website, if the Court so directs.

The Court no longer will issue no-reason refusal orders. The Court will more than triple the number of decisions it issues. This is manageable because the Court has always thoroughly reviewed cases; it simply was done internally. The revised rules make that process more transparent.

“Can we do it? Absolutely we can do it because we have five members of the Court who all work hard,” Chief Justice Davis said. “There is not a member of this Court who is not willing to put in the hours.”

Chief Justice Davis added, "All of this is being accomplished without a vast increase in personnel, without any new judges, and without a new layer of government that would delay justice. The Supreme Court will maintain a small, efficient judicial branch to work harder and ever smarter for the citizens of West Virginia."

The revised rules posted on the Supreme Court website contain detailed "Clerk's Comments" written by Clerk Perry. Those comments explain each rule, how it differs from existing appellate process, and how it differs from proposed rules the Court released for public comment.

Under the revised rules the Court will have two separate argument dockets – a Rule 19 Docket and a Rule 20 Docket. One of the main goals of the revised rules is to provide greater transparency in the appellate process; therefore, the Court has established in its appellate rules – for the first time – written criteria for deciding whether a case should be argued on the Rule 19 Docket or the Rule 20 Docket.

The revised rules adapt criteria for Rule 20 arguments from the Final Report of the Independent Commission on Judicial Reform. The rules spell out that the Court will put a case on the Rule 20 Docket if it involves an issue of first impression; it involves an issue of fundamental public importance; it involves a constitutional question regarding the validity of a statute, municipal ordinance, or court ruling; or if it involves inconsistencies or conflicts among the decisions of lower tribunals.

Cases can be put on the Rule 19 Docket if the assignments of error involve the application of settled law; the case claims an unsustainable exercise of discretion where the law governing that discretion is settled; the case claims insufficient evidence or a result against the weight of the evidence; the case involves a narrow issue of law; or if a hearing is required by law, as in a case involving an appeal from a Public Service Commission decision.

Consistent with the practices of other appellate courts in the nation, oral argument is not always necessary to decide an appeal. The Court may issue memorandum decisions affirming the decision of a lower court in cases in which no substantial question of law is presented and the Court does not disagree with the decision of the lower tribunal; if upon consideration of the applicable standard of review and the record presented, the Court finds no prejudicial error; or if other just cause exists for the Court to affirm or reverse the case summarily.

"No court of last resort in the country allows full oral argument in every case that is appealed, and no court of last resort issues a full opinion in every appeal. The revised rules are consistent with this general national practice," Chief Justice Davis said.

"The promulgation of these rules is the result of a multi-year effort by Clerk Perry and all the members of the current Court. I would like to thank them all for their countless hours of effort," Chief Justice Davis said.

Top to bottom:
Chief Justice Robin Jean Davis at a press conference announcing the Revised Rules of Appellate Procedure

Supreme Court Clerk Rory Perry conducted seminars in ten locations throughout West Virginia. Pictured here, he and Justice Thomas E. McHugh speak to women who attended the seminar in Logan.

Justice Thomas E. McHugh attended several seminars around the state to explain the revised rules to the public.

Clerk Perry holds a copy of an appellate appendix as they were prepared several decades ago.

Photos by Michael Switzer



Supreme Court approves first Rules of Juvenile Procedure

The Supreme Court approved West Virginia's first Rules of Juvenile Procedure in an order entered April 20, 2010. The rules were effective July 1 and are posted on the Court's website.

"The rules are a synthesis of the state's juvenile statutes and case law, including recognized constitutional principles. With added, necessary, procedural steps, they are a comprehensive roadmap," said Chief Justice Robin Jean Davis.

The Court Improvement Program Oversight Board's Youth Services Committee, led by Williamson attorney Jane Moran, spent five years researching, drafting, and revising rules before sending them to the Board for its approval. The Board, after a series of thoroughly detailed discussions, then forwarded them to the Supreme Court. The Court on June 4, 2009, approved a three-month public comment period, which it extended by two months to November 9, 2009. The committee then considered all comments and made modifications. It presented the final version of the rules to the Board, which approved the revised rules on January 22, 2010, and sent them back to the Court.

The rules are intended to provide uniform court procedures to govern juvenile delinquency and status offense cases, said Twenty-Eighth Judicial Circuit Judge Gary Johnson, who is chairman of the Board. "The rules are designed to protect the statutory and constitutional rights of juveniles, promote access to rehabilitative opportunities, and preserve public safety," he said.

"We have never previously had rules to follow," said Ms. Moran. "The procedure was pieced together from the directives in the juvenile statutes.

"The Committee did not believe that the constitutional protections afforded adults in the criminal courts were being consistently and conscientiously provided in the juvenile venues, whereas juveniles are assured, in some incidences, more constitutional protections than adults charged with crimes," Ms. Moran said.

"We didn't feel there were enough protections for children who were charged with delinquency, in terms of setting up some structure for their future so they didn't go through a revolving door here. We are trying to expand the rules into something for their future, to help them stay out of trouble, more than the rules have done at this point," Ms. Moran said.

Morgantown attorney John Hedges, a member of Ms. Moran's committee, said, "Status offenders 'age out' of the system when they turn eighteen. Juvenile delinquent offenders can remain under court jurisdiction until they are twenty-one, in some circumstances. The kids that have been in placement for extended periods typically have very little in terms of supportive family relationships.

"Congress has now recognized that more attention is needed on preparing these juveniles for adulthood while they're still in the state's care," Mr. Hedges said. "These issues and other measures designed to help these older youths are covered in the new West Virginia Juvenile Rules and should also benefit the state by opening new avenues for additional Title IV-E federal funding."

Those funds can be used to pay for certain out-of-home placements, if federal procedural requirements are followed. Those requirements were incorporated into the West Virginia Juvenile Rules.

The other members of Ms. Moran's Committee were Judge Donald H. Cookman, Twenty-Second Judicial Circuit (Hampshire, Hardy, and Pendleton Counties); Denny Dodson, Deputy Director, West Virginia Division of Juvenile Services; Sue Hage, Program Manager for Regulatory Management, Department of Health and Human Resources Bureau for Children and Families; Will Jones, Assistant Attorney General for the Department of Health and Human Resources Bureau for Children and Families; Mike Lacy, Director of Probation Services, Supreme Court of Appeals of West Virginia; Robert Noone, Robert Noone Legal Services, Logan; Sandra Prather, Youth Services Policy Specialist, Department of Health and Human Resources Bureau for Children and Families; Jack Rogers, Executive Director, West Virginia Public Defender Services; Angela Saunders, Director of Court Services, Supreme Court of Appeals of West Virginia; Mary Ann Scali, Deputy Director, National Juvenile Defender Center; Robin Walker Sterling, special counsel, National Juvenile Defender Center; John Sullivan, Defense Attorney, Thirteenth Judicial Circuit (Kanawha County) Public Defender's Office; Tom Truman, Chief Deputy Prosecutor, Raleigh County; and Robert Wilkinson, Chief Defense Attorney, Sixth Judicial Circuit (Cabell County) Public Defender's Office.

Supreme Court Compliance Committee on prisons and jails issues interim report

The Supreme Court of Appeals of West Virginia's Compliance Committee on *Sams v. Kirby* issued an interim report on January 12. The interim report was very specific and was the Committee's response to the June 30, 2009, report by the Governor's Commission on Prison Overcrowding.

The Compliance Committee's report responded to each of that panel's fourteen recommendations, agreeing in principle with twelve recommendations and disagreeing with two. The panel disagreed that there is a need to add three hundred beds to the St. Marys Correctional Complex and that there is a need to build a new, twelve hundred-bed, medium-security prison. The panel's interim report indicated that the other twelve initiatives, if fully enacted, could eliminate the need for these expensive new cells and the accompanying \$200 million in construction costs.

"We cannot build ourselves out of this problem," said Fourteenth Judicial Circuit Judge Jack Alsop, Chairman of the Compliance Committee. "The Committee encourages the other branches of government to look at other alternatives the Governor's Commission and our Committee have recommended."

The Committee agreed with recommendations to conduct a risk and needs assessment of every individual convicted of a felony prior to sentencing; expand probation, parole, community corrections, and work release programs; increase substance abuse and mental health treatment programs; build transitional housing for parolees; make changes in parole to allow early release in certain circumstances; comprehensively revise the state criminal code; uniformly collect criminal justice data; conduct outcome evaluations of community corrections programs; educate the public about rehabilitation programs; jointly oversee rehabilitation programs; and open special treatment centers for elderly, mentally ill, and substance abusing inmates.

"Comparing West Virginia's use of alternative sanctions to the national averages shows a remarkably expensive disparity," said Supreme Court Administrative Director Steve Canterbury, who previously served as Executive Director of the Regional Jail and Correctional Facility Authority for eight years under three governors. "Currently, only 1,500 offenders are in community corrections programs. That saves our state \$30 million annually, compared to what it would cost to lock them up."

The *Sams v. Kirby* case was filed in 1999 by Daniel L. Sams and other inmates who sought a writ of *mandamus* to compel their transfer from a regional jail to facilities operated by the Division of Corrections. The Supreme Court initially granted a moulded writ and appointed a special master to oversee the preparation of a long-range plan for the transfer of state inmates lodged in jails to prisons. The plan was submitted to the Court on September 20, 2002.

The 2005 Supreme Court *Sams v. Kirby* opinion concluded by saying, "It is far preferable for this Court to extend to the executive and legislative branches clear and definitive opportunities to formulate policies without premature judicial involvement. We commend to our sister branches the Long-Term Plan developed by the executive offices having direct responsibility for these policies. We call upon the leadership of the executive and legislative branches not to allow these problems to go unaddressed and not to allow those directly responsible for the implementation of such policies to avoid the resolution of the problems identified herein solely by reason of inertia."

The Court at that time declined to issue a writ of *mandamus*. "We do, however, urge the executive and legislative branches to undertake serious review of their respective roles and responsibilities for contributing to the current housing situation and to act with alacrity, to avoid the day when we or the federal courts are forced to intervene," the opinion concluded.

2010 Court board and committee members

West Virginia Board of Law Examiners

Members evaluate educational background, credentials, character and fitness, and competence of each applicant for admission to the practice of law in West Virginia under the Supreme Court Rules for Admission.

Rule 1.0, Rules for Admission to the Practice of Law

Sue A. Howard, President (Wheeling)
Ward D. Stone, Jr., Vice President (Morgantown)
Roslyn Payne Artis, Esquire (Beckley)
Janice Lee Murray Hall, Esquire (Huntington)
Bradley J. Pyles, Esquire (Logan)
Ancil G. Ramey, Esquire (Charleston)
Lawrence M. Schultz, Esquire (Martinsburg)

Judicial Hearing Board

Members have the authority to conduct hearings on formal complaints filed by the Judicial Investigation Commission and to make recommendations to the Supreme Court of Appeals regarding disposition of those complaints.

Rule 3.6, Rules of Judicial Disciplinary Procedure

Circuit Judge Rudolph J. Murenky, II, Chairman,
Eighth Judicial Circuit (McDowell County)
Senior Status Judge Robert G. Chafin, Vice-Chairman,
(Wayne County)
Circuit Judge Gina M. Groh, Twenty-Third Judicial Circuit
(Berkeley, Jefferson, and Morgan Counties)
Circuit Judge Lawrence S. Miller, Jr., Eighteenth Judicial
Circuit (Preston County)
Family Court Judge Beth Longo, Twenty-First Family
Court Circuit (Barbour and Taylor Counties)
Magistrate Tina M. Mouser (Barbour County)
Michael D. Lorensen, Esquire (Martinsburg)
Jacqueline Farrell (Huntington)
George Poole (Williamson)
Staff: Danny C. Staggers, Esquire

Judicial Investigation Commission

Members determine whether probable cause exists to charge a judicial officer with a violation of the Code of Judicial Conduct promulgated by the Supreme Court of Appeals to govern the ethical conduct of judges or that a judge, because of physical or mental incapacity, should not continue to serve.

Rule 1, Rules of Judicial Disciplinary Procedure

Circuit Judge Ronald E. Wilson, Chairman, First Judicial
Circuit (Brooke, Hancock, and Ohio Counties)
Circuit Judge J. D. Beane, Fourth Judicial Circuit
(Wood and Wirt Counties)
Circuit Judge H. L. Kirkpatrick III, Tenth Judicial Circuit
(Raleigh County)
Family Court Judge Cynthia J. Jarrell, Tenth Family
Court Circuit (Boone and Lincoln Counties)
Magistrate Gail C. Boober (Jefferson County)
Senior Status Circuit Judge Andrew N. Frye, Jr. (Grant County)
Thomas F. Burgoyne (Wheeling)
Daniel Crockett, Esquire (Dunbar)
Alice A. Chakmakian, Esquire (Charles Town)
Staff: Charles R. Garten, Esquire
Staff: Nancy Black

Mass Litigation Panel

The panel develops and implements case management and trial methodologies to resolve mass litigation referred to it by the Chief Justice. The panel also develops and implements plans for central organization for managing mass litigation.

Rule 26.01, West Virginia Trial Court Rules

Circuit Judge Alan D. Moats, Chairman, Nineteenth
Judicial Circuit (Barbour and Taylor Counties)
Circuit Judge Thomas C. Evans, III, Fifth Judicial Circuit
(Calhoun, Jackson, Mason, and Roane Counties)
Circuit Judge John A. Hutchison, Tenth Judicial Circuit
(Raleigh County)
Circuit Judge Jay M. Hoke, Twenty-Fifth Judicial Circuit
(Boone and Lincoln Counties)
Circuit Judge James P. Mazzone, First Judicial Circuit
(Brooke, Hancock, and Ohio Counties)
Circuit Judge Booker T. Stephens, Eighth Judicial Circuit
(McDowell County)
Circuit Judge Derek C. Swope, Ninth Judicial Circuit
(Mercer County)

West Virginia Court Security Board

Board members make decisions on how money in the Court Security Fund is spent to enhance the security of courts.

W.Va. Code § 51-3-15

Chairman, Steve Canterbury, Supreme Court
Administrative Director
Circuit Judge Jack Alsop, Fourteenth Judicial Circuit
(Braxton, Clay, Gilmer, and Webster Counties)
Family Court Judge William Sinclair, First Family Court
Circuit (Brooke, Hancock, and Ohio Counties)
Magistrate Stephen D. Massie (Raleigh County)
Circuit Clerk Betsy Castle (Preston County)
Sheriff Bryan Backus (Ritchie County)
Lieutenant Colonel B.A. Sloan, Deputy Superintendent,
West Virginia State Police
Patrick S. Casey, Esquire (Ohio County)
Staff: Angela Saunders, Director of Court Services,
Supreme Court Administrative Office
Staff: Arthur Angus, Director of Court Security, Supreme
Court Administrative Office
Staff: Leslie Boggess, Associate Deputy Director,
Division of Justice and Community Services

West Virginia Wiretapping and Electronic Surveillance Act

The Act requires the Chief Justice to designate five active circuit court judges who individually hear and rule upon applications for orders authorizing the interception of wire, oral, or electronic communications.

W.V. Code § 62-1D-7

Circuit Judge Thomas H. Keadle, Twenty-Sixth Judicial
Circuit (Lewis and Upshur Counties)
Circuit Judge James P. Mazzone, First Judicial Circuit
(Brooke, Hancock, and Ohio Counties)
Circuit Judge Dan P. O'Hanlon, Sixth Judicial Circuit
(Cabell County)
Circuit Judge O.C. Spaulding, Twenty-Ninth Judicial
Circuit (Putnam County)
Circuit Judge Christopher C. Wilkes, Twenty-Third
Judicial Circuit (Berkeley, Jefferson, and Morgan Counties)



Judge Ben F. Tennille, Chief Special Superior Judge for Complex Business Cases in North Carolina, speaks at a public forum in the West Virginia House of Delegates Chamber on November 12, 2010. *Photo by Michael Switzer*

Supreme Court establishes Business Court Committee

The Supreme Court of Appeals of West Virginia established a Business Court Committee in its June Administrative Conference in response to House Bill 4352, which the Legislature passed in March. The legislation encouraged the Supreme Court to designate a business court division within certain circuit court jurisdictions.

The Committee is to explore the feasibility of establishing a specialized court that would be devoted exclusively to the resolution of commercial disputes, as well as its advantages, disadvantages, and parameters.

The Court named Judge Darrell Pratt of the Twenty-Fourth Judicial Circuit (Wayne County) to lead the committee. Other members are Judge Donald Cookman of the Twenty-Second Judicial Circuit (Hampshire, Hardy, and Pendleton Counties); Judge Rudolph J. Murensky, II, of the Eighth Judicial Circuit (McDowell County); Judge James J. Rowe of the Eleventh Judicial Circuit (Greenbrier and Pocahontas Counties); Judge Susan B. Tucker of the Seventeenth Judicial Circuit (Monongalia County); and Judge Christopher C. Wilkes of the Twenty-Third Judicial Circuit (Berkeley, Jefferson, and Morgan Counties).

The Business Court Committee invited a North Carolina judge who is a national expert in business courts to speak at a public forum in the House of Delegates Chamber on November 12. Judge Ben F. Tennille, Chief Special Superior Court Judge for Complex Business Cases in North Carolina, created one of the nation's first modern, statewide business courts after he took his position in January 1996. He helped found the American College of Business Court Judges and has been instrumental in helping other states develop business courts.

Judge Tennille recommended that if West Virginia does establish such a court, the panel should be transparent, inclusive, and help small businesses.

"I spend the vast majority of my time with small business," Judge Tennille said. "They create jobs and our economy relies on small businesses. These are the people who need our services more than anybody else. That's the highest service the business court in North Carolina has provided, to give the small business a place for its case to be heard quickly and get the case resolved."

Business courts are necessary because businesses and attorneys are becoming more specialized, access to electronic discovery information has expanded, and that has created a demand for judicial expertise, Judge Tennille said. Providing that expertise and a faster litigation process makes it more cost-effective for a company to do business.



From left to right: Mass Litigation Panel Judges Jay M. Hoke, Derek C. Swope, Alan D. Moats, James P. Mazzone, and John A. Hutchison presided in a Status and Scheduling Conference in the Mingo County Coal Slurry Litigation on August 20 in the Ohio County City/County Building in Wheeling. Photo by Fred Connors, The [Wheeling] Intelligencer

Mass Litigation Panel

The Chairman of the Mass Litigation Panel is Judge Alan D. Moats of the Nineteenth Judicial Circuit (Barbour and Taylor Counties). Members of the panel are Judge John A. Hutchison of the Tenth Judicial Circuit (Raleigh County); Judge Booker T. Stephens of the Eighth Judicial Circuit (McDowell County); Judge Jay M. Hoke of the Twenty-Fifth Judicial Circuit (Boone and Lincoln Counties); Judge Derek C. Swope of the Ninth Judicial Circuit (Mercer County); Judge James P. Mazzone of the First Judicial Circuit (Brooke, Hancock, and Ohio Counties); and Judge Thomas C. Evans, III, of the Fifth Judicial Circuit (Jackson and Mason Counties).

The following is a list of mass litigation referred to the panel, the county in which the litigation is pending, and the judge or judges assigned to preside in the litigation:

Asbestos Personal Injury Litigation

Kanawha County

Ronald C. Wilson, Presiding Judge
James P. Mazzone, Assisting Judge
Mark A. Karl, Assisting Judge

Asbestos FELA Litigation

Kanawha County

Arthur M. Recht, Presiding Judge
Jay M. Hoke, Assisting Judge

Digitek® Litigation

Kanawha County

Alan D. Moats, Lead Judge
Booker T. Stephens, Presiding Judge
Derek C. Swope, Presiding Judge

Float-Sink Litigation

Raleigh County

John A. Hutchison, Lead Judge
Derek C. Swope, Presiding Judge
Thomas C. Evans, III, Presiding Judge
Jay M. Hoke, Lead Resolution Judge
Booker T. Stephens, Resolution Judge
James P. Mazzone, Resolution Judge

Flood Damage Litigation

Raleigh County

John A. Hutchison, Lead Judge
Derek C. Swope, Presiding Judge
Thomas C. Evans, III, Presiding Judge
Jay M. Hoke, Lead Resolution Judge
Booker T. Stephens, Resolution Judge
James P. Mazzone, Resolution Judge

Mingo County Coal Slurry Litigation

Ohio County

James P. Mazzone, Lead Judge
John A. Hutchison, Presiding Judge
Jay M. Hoke, Presiding Judge
Derek C. Swope, Lead Resolution Judge
Alan D. Moats, Resolution Judge

Overweight Trucks Litigation

Lincoln County

Jay M. Hoke, Presiding Judge

Tobacco Litigation

Ohio County

Arthur M. Recht, Presiding Judge

Digitek® Litigation

Throughout the West Virginia Digitek® Litigation, the Mass Litigation Panel has actively cooperated with the Digitek® Federal Multi-District Litigation pending in the United States District Court for the Southern District of West Virginia, and other state courts handling Digitek® Litigation. At the end of 2010, all but a few of the West Virginia Digitek® cases have been dismissed or plaintiffs have agreed to participate in the settlement program established by defendants and the Plaintiffs' Steering Committee in the Digitek® Federal Multi-District Litigation.

Float-Sink Litigation

The Float-Sink Litigation was referred to the panel by Administrative Order entered by Chief Justice Robin Jean Davis on November 23, 2010. The Supreme Court of Appeals of West Virginia authorized the panel to transfer and join with the existing mass litigation any similar or related actions subsequently filed in any circuit court, as provided in West Virginia Trial Court Rule 26.09.

This litigation consists of 129 cases¹ filed in seventeen different circuit courts in West Virginia. Plaintiffs allege they used or were otherwise exposed to various toxic chemicals, predominantly perchloroethylene ("PCE" or "Perc") in the course of their work in float-sink labs in West Virginia. Plaintiffs assert "deliberate intent" claims against employer defendants pursuant to West Virginia Code § 23-4-2(d)(2)(ii) and causes of action for strict products liability, negligence for failure to warn, and medical monitoring against manufacturer and distributor defendants.

Flood Litigation

Subrogation issues between certain plaintiffs and the Federal Emergency Management Agency have been resolved in the flood litigation. Proposed orders approving settlement and dismissing those cases are forthcoming. A dispute regarding certain express indemnity claims has also been resolved, and a dismissal order has been submitted to the Supreme Court. The panel will conclude this litigation with an accounting of any unclaimed settlement checks.

Mingo County Coal Slurry Litigation

The Mingo County Coal Slurry Litigation was referred to the Mass Litigation Panel by Administrative Order entered by Chief Justice Davis on March 31 and amended by Administrative Order entered on April 28. The Mass Litigation consists of 369 cases² originally filed in the Circuit Court of Mingo County. More than seven hundred plaintiffs allege their well water was contaminated when defendants Rawl Sales & Processing Company and Massey Energy Company stored coal slurry in underground mine workings and an above-ground impoundment. Plaintiffs seek damages for personal injury and property damage, injunctive relief in the form of medical monitoring, and environmental remediation for public and private nuisance, compensatory damages for annoyance and inconvenience, punitive damages, statutory attorneys' fees, expert witness fees, other litigation expenses, costs and interest. Defendants deny liability to plaintiffs and assert their storage of coal slurry was consistent with good mining practices. A third-party insurance coverage action was also filed by defendants against numerous primary and excess insurance carriers.



Lead Resolution Judge Derek C. Swope (right) and Resolution Judge Alan D. Moats (center) conducted mediation in the Mingo County Coal Slurry Litigation at the Charleston Civic Center on November 15 and 16. They were assisted by Mass Litigation Manager Kim Fields (left). The judges began the day by explaining the mediation process to plaintiffs, counsel, and corporate representatives of defendants. *Photo by Jennifer Bundy*

¹This number includes the master case file in which orders and other documents generally applicable to the litigation are filed.

²This number includes the master case file in which orders and other documents generally applicable to the litigation are filed, and the third-party insurance coverage action.



Mass Litigation Manager Kim Fields (left) selected Debra K. Brogan as Administrative Assistant to the panel. *Photo by Michael Switzer*

With the advice and consent of the panel, Chairman Moats on May 27 assigned Judge Mazzone as Lead Presiding Judge, with Judge Hutchison and Judge Hoke assisting him with the trial aspects of the litigation. Judge Swope was assigned as Lead Resolution Judge, with Judge Moats assisting him with the mediation and settlement aspects of the litigation. The litigation became subject to electronic filing and service beginning June 28. Judge Mazzone convened a Status and Scheduling Conference on August 20 to discuss the status of pending motions and a proposed schedule of hearings on such motions; the status of pretrial discovery, including a proposed schedule of hearings on pending discovery disputes; a proposed trial schedule; and prior mediation and settlement efforts.

Judge Swope and Judge Moats conducted mediation of these cases on November 15 and 16 at the Charleston Civic Center. Hundreds of plaintiffs were required to register and be present for an initial meeting on the first day of mediation in which Judge Swope, Judge Moats, and Chief Justice Davis spoke to plaintiffs, all counsel, and corporate representatives of defendants regarding the mediation process and the work of the Mass Litigation Panel.³ The Resolution Judges conducted extensive mediation sessions with counsel and corporate representatives over the next one and a half days. Although the mediation was ultimately unsuccessful, the Resolution Judges felt significant progress was made, and mediation should be reconvened in early 2011. A case management order governing the third-party insurance coverage action was entered on November 24, 2010, scheduling trial on January 23, 2012, or as soon thereafter as the court deems appropriate.

Overweight Trucks Litigation

Dismissals are pending as the result of settlement in some of these cases. Presiding Judge Jay M. Hoke is prepared to move forward with trial of the remaining cases.

³The Panel extends its thanks to Steve Canterbury, Kim Fields, Debra Brogan, Allison Chambers, Vickie Miller, and the many volunteers from the Administrative Office for their assistance with the registration process at the Charleston Civic Center. A little over one hour after their arrival, more than six hundred plaintiffs were registered and seated in the Civic Center Little Theater for the initial meeting with the Resolution Judges.

Amendments to Rules Governing Mass Litigation

On March 11, the Supreme Court provisionally approved amendment of Rule 26.08 of the West Virginia Trial Court Rules, adding subsection (e), which gives the Presiding Judge sole authority to supervise the jury selection process, to disqualify a prospective juror from jury service, and to excuse jurors from jury service in Mass Litigation to which the Presiding Judge has been assigned. The period of public comment regarding the amendment concluded on April 12 and the amendment was approved on April 15.

Hiring of Administrative Assistant to the Mass Litigation Panel

After conducting an extensive search and numerous interviews, Mass Litigation Manager Kim Fields hired Debra K. Brogan as Administrative Assistant to the panel and to Ms. Fields, effective October 18. The Administrative Assistant travels with the assigned judge(s) for proceedings and trials in mass litigation cases; acts as a courtroom clerk in mass litigation cases, including, but not limited to administration of oaths to witnesses, jury selection and the identification and admission of evidence; coordinates services as required for courtroom preparedness; provides general administrative support to the panel chairman, judges and the Mass Litigation Manager; and provides support, as needed, to circuit clerks' offices where electronic filing and service have been implemented in mass litigation cases.

Electronic Filing and Service in Mass Litigation

From January 2010 through December 2010 in mass litigation cases subject to electronic filing and service, 52,264 documents were e-filed and 1,765,674 documents were e-served using LexisNexis File & Serve®. According to LexisNexis, these statistics represent total volume of all the Asbestos Personal Injury, Digitek®, Flood, Mingo County Coal Slurry, and Tobacco Personal Injury Litigation cases. It includes items rejected in the clerk review process in order to capture all work performed in the various circuit court clerks' offices in these litigations, as well as orders, which do not go through the clerk review process.

From January 2010 through December 2010, a total of 10,077 orders were entered in mass litigation cases subject to electronic filing and service. That includes bench orders entered by the judge but filed by a circuit clerk or attorney and orders denying motions as moot or withdrawn.

The chart to the right is a breakdown of orders by each mass litigation subject to electronic filing and service.

	Jan-Dec 2010
Tobacco.....	18
Coal Slurry.....	18
Flood.....	12
Digitek.....	9
Asbestos.....	10,020
TOTAL	10,077



Hundreds of plaintiffs in the Mingo County Coal Slurry Litigation attended a mediation session November 15 and 16 at the Charleston Civic Center. They were required to register and be present for an initial meeting on the first day of mediation. *Photo by Kenny Kemp, The Charleston Gazette*



State Law Librarian Kaye Maerz (right) assists St. Albans resident Ruth Boggs (left) with tax forms during the library's free income tax preparation program. The library has offered the program for two years. *Photo by Michael Switzer*

State Law Library

The State Law Library's primary mission is to assist the Supreme Court of Appeals of West Virginia, the statewide unified court system, and judicial staff in carrying out the administration of justice. The State Law Library accomplishes this through the acquisition of print and electronic resources, creation of policies and rules for the use of these resources, and the periodic review of library programs and services. The library provides access to law-related information to the judiciary, governmental agencies, the legal community, state correctional institution inmates, and the public. Special programs focus on assisting self-represented litigants with access to justice and navigating the judicial system.

Under the direction of Kaye L. Maerz, State Law Librarian, the library is open to the public six days a week to support the research and legal information needs of judges, court personnel, attorneys, and the public. The library collection is comprised of 150,000 volumes or volume equivalents, including print, microfiche, CD-ROM, and electronic resources. The library has an assortment of federal and state materials, case reporters, statutes, regulations, legislative materials, periodicals, and government documents. A staff of three professional librarians and four paraprofessionals provide research and reference assistance, interlibrary loans for court personnel, and a fee-based document delivery service to the general public. Patrons may request legal information by phone, fax, and e-mail.

The West Virginia judicial library system also consists of thirty-one judicial circuits and six regional law libraries in Clarksburg, Parkersburg, Martinsburg, Beckley, Wheeling, and Huntington.

The State Law Library's website has links to court-related resources such as West Virginia Supreme Court of Appeals' slip opinions, oral argument calendars, jury instructions, and general court system information. The website also has links to West Virginia legal resources including the West Virginia Code and Code of State Rules as well as other state, federal, and international legal resources. The library's catalog is available online and is searchable by subject, author, title, keyword or phrase, either in-person onsite or remotely via the Internet.

The library offers wireless Internet access service (WiFi) free of charge, available throughout the library to anyone with a laptop computer, netbook or handheld device. In addition, Levels B and C of the State Law Library at the Capitol are fully set up for computer use for those who need a "wired" connection. Access to hookups is available above the tables and carrels around the perimeter of all three floors of the library.

In 2010 the State Law Library began offering Shepard's® Citation Service online with access to West Virginia primary law such as the West Virginia Code and Court Rules, state administrative materials, the West Virginia Law

Review, Martindale-Hubbell law directory, West Virginia Mealey's Litigation NewsBriefs, and state newspapers including *The Charleston Daily Mail*, *The Charleston Gazette*, and *The State Journal*.

The State Law Library also offers free informational workshops to the public on a monthly basis. Working in cooperation with other state agencies, these sessions cover a variety of law-related topics aimed at self-represented litigants and the general public.

In 2010 the library held workshops on Advanced Medical Directives and Cardiopulmonary Resuscitation (CPR) and Good Samaritan Laws. In September, in honor of Grandparent's Day, a session on grandparents' rights focused on the laws governing a grandparent's legal right to visitation. In November, the library hosted a meeting of the Kanawha Valley Relatives as Parents (KVRAP). The group's mission is to share experiences and raise awareness of the dynamics of raising children of relatives, including financial, educational, and emotional issues involved. Laura Lou Harbert, family liaison from Mission West Virginia, was present to explain the Relatives as Parents Assistance Program. Resources available include financial assistance granted through the Temporary Assistance for Needy Families (TANF) program that provides cash assistance to qualifying families, including relative caregivers, for costs incurred in raising children of relatives.

Law Day was observed on Monday, May 3, 2010. Established in 1958 by President Dwight D. Eisenhower, Law Day is dedicated to the principle of government under law, highlighting the role of the nation's courts in our constitutional democracy and fostering public understanding about the function of the judiciary. The State Law Library celebrated West Virginia Day on June 22, 2010, with featured guest George Daugherty, the "Earl of Elkview," singing and telling stories at the center fountain courtyard at the West Virginia State Capitol Complex. Participants were offered a tour of the Capitol Building, including the chambers of the Senate and House of Delegates and the Governor's reception room. Refreshments were served in the library following the events.

Other special events held at the State Law Library in 2010 included observances of National Library Week, which celebrates the contributions of our nation's libraries and librarians and promotes library use, and Banned Books Week, an annual awareness campaign that celebrates the freedom to read, draws attention to banned and challenged books, and highlights the freedom to express one's opinion even if it is not popular or politically correct. Library staff also participated in Library Day at the Legislature in the Capitol rotunda, celebrating libraries from across the state with informational displays highlighting library services, events, and programs.

For the second year, the State Law Library participated in the Central West Virginia Earned Income Tax Credit (EITC) Coalition's free income tax preparation program. As part of its commitment to public service, the library offered assistance with basic income tax preparation for low- to middle-income taxpayers earning less than \$42,000 per year. The EITC is a special federal tax credit that is a huge benefit to working families and their communities. Unfortunately, many taxpayers are unaware of the credit and, therefore, do not claim it on their returns. The IRS estimates that approximately twenty percent of eligible individuals and families do not know they qualify for the EITC. IRS-certified library staff members are trained to educate taxpayers to ensure that they take full advantage of all tax credits to which they are entitled.

From February 15 through April 15, 2010, library staff prepared 119 returns, an increase of more than fifty percent from the library's first year of participation in the EITC program in 2009. The program expanded into the Eastern Panhandle in 2010, where law librarian Heather McClung assisted more than thirty taxpayers at the Berkeley County Law Library in Martinsburg. This successful community outreach project will be repeated in 2011 at both the Charleston and Martinsburg locations.

The State Law Library is open to the public and all workshops and events are free. The library is located in Room E-404 in the East Wing of the Capitol. For information about future workshops, call the State Law Library at (304) 558-2607 or visit the Supreme Court website.



Child Abuse and Neglect Database Project

West Virginia's Child Abuse and Neglect Database was created to collect detailed records of active child abuse and neglect cases in West Virginia. At the direction of West Virginia's Court Improvement Program Board, the database was transferred to an online reporting system in 2006. The database is managed by the Court Services Division of the Supreme Court Administrative Office. The project is supported with funds provided by the U.S. Department of Health and Human Services, Administration for Children and Families, with additional funding provided by the Court.

Database enhancement

Improvements continue to be made to the Child Abuse and Neglect Reporting System. In 2010, enhancements included the addition of data collection fields to collect case details like emergency custody and amended petitions. While the database has always captured the date of an amended petition, more details in each petition are now being collected. In addition to the date of filing, data is collected on the reason for the amended petition, such as new allegations, or the addition or substitution of a respondent. With the addition of new respondents, the timeliness of hearings can be measured from the amended petition date, thus increasing the number of records available for performance measurement. The respondent-based measures for cases with amended petitions previously were excluded due to the likelihood of erroneous results.

Other database revisions this year focused on improving data consistency by reorganizing data entry forms and clarifying data labels.

The database project will continue to evolve as analysis continues to identify shortcomings in both data collection and procedure. As database limitations and training issues become apparent, the Court Improvement Program Board will develop process improvements. A key development in this review process was the Benchview Reporting Site released in 2010.

Reporting site progress

The Benchview Reporting Site was released to circuit judges during the spring 2010 judicial conference. Follow-up training was provided at the fall 2010 judicial conference and subsequent circuit court staff training sessions. This system provides judges with performance measure reporting and case tracking using data provided by the Child Abuse and Neglect Database. The site allows judges to view from their personal computers how well they are meeting state and federal time standards for their child abuse and neglect caseloads. The Web-based reporting system includes summary statistics, compliance calculations, listings of open cases approaching compliance deadlines, and error reports highlighting data in need of review.

Twenty-five performance measures are calculated by the site based on data provided by judicial staff. Performance measures are broken down into judicial and permanency-based measures. Judicial measures include timelines of the judicial process. These measures determine how quickly respondents reach benchmarks towards disposition. Permanency measures are designed to track milestones to permanency for a child from the date a petition is filed through permanent placement. A key national measure is to reach "legal" permanent placement – whether by reunification, adoption, or guardianship – within eighteen months, unless there is reasonable justification for the delay. Safety of a child after placement is also measured by Department of Health and Human Resources for up to twelve months following final disposition.

Statistical reports are also available for judges to view on the Benchview Reporting Site for Juvenile Administrative Order data provided within the Child Abuse and Neglect database. In such cases, a family court judge will issue a referral to a circuit judge if he or she has observed anything during a case in family court which leads that judge to believe abuse or neglect is occurring in the home. The circuit judge will, in turn, issue a Juvenile Administrative Order requesting that Child Protective Services investigate the family. From this investigation, Child Protective Services will determine whether there is enough evidence to file a petition in circuit court. In the event that the order is substantiated, a case number will be assigned and a preliminary hearing will be set. Reports provided on the Benchview Reporting Site show judges how many administrative orders led to filings of child abuse and neglect cases. Alternative outcomes of the investigation provided by Child Protective Services are also reported. Such outcomes include initiation of a safety plan or other services provided by the Department of Health and Human Resources.

<i>Types of Petitions Filed:</i>	2010	2009
Juvenile Administrative Order (JAA)	459	525
Juvenile Administrative Order where Mandamus was issued (JAM)	3	1
Family Infant Guardianship (FIG)	1,059	896
Circuit Court Infant Guardianship (CIG)	349	375
Circuit Court Infant Guardianship Removed (CIGR)	100	68

Division of Children's Services

The Supreme Court of Appeals of West Virginia created a Division of Children's Services within its Administrative Office in 2008, at the suggestion of Administrative Director Steve Canterbury. The Division provides support for the Court Improvement Program and administers the Court's children's programs, including LAWS (Legal Advancement for West Virginia Students); West Virginia Law Adventure (see story page 40); Robes to Schools (see story page 42); *Justice Case Files* (graphic novels developed by the National Center for State Courts for high school students); iCivics, and Adoption Month in November.

Director Nikki Tennis and Public Education Coordinator Kandi Greter collaborate with numerous private non-profit groups and state agencies.

Court Improvement Program

The Supreme Court established the West Virginia Court Improvement Program Oversight Board in 1995 to improve outcomes for children and families in child abuse and neglect cases. The board took over the work of the Broadwater Committee, which the Court had established in the mid-1990s during Justice Margaret Workman's previous tenure on the Supreme Court and which took its name from its chairman, former Circuit Judge Craig Broadwater.



Attorney Catherine Munster talks about the West Virginia Court Improvement Program at the 2010 Child Abuse and Neglect Cross-Training Conference in Martinsburg on June 24. Ms. Munster is a member of the CIP Board. *Photo courtesy of The [Martinsburg] Journal*

The board was created as a result of the federal Omnibus Budget Reconciliation Act of 1993. That act designated grants to state court systems so they could assess their foster care laws and judicial processes, and develop and implement improvement plans. The Board is the advisory group and task force to carry out the program in West Virginia, and it continues to obtain federal grants every year from the federal Administration for Children and Families which are matched with state funds. Projects funded with grant money are aimed at ensuring the safety and well-being of children and families in child abuse and neglect cases while the court system finds permanent homes for the children.

Among the projects funded in 2010 were

- West Virginia's first Juvenile Rules of Procedure, which the Supreme Court approved in 2010 after a period of public comment. The rules are a synthesis of the state's juvenile statutes and case law, including recognized constitutional principles. See story page 26.
- A Child Protection and Law class at the West Virginia University College of Law: initially offered in the spring 2010 semester, the class will be offered once a year. It is taught by adjunct professor Catherine Munster, a long-time member of the Court Improvement Program Board. The course is designed to prepare young attorneys who may be appointed to represent parents or children in child abuse and neglect cases or who may represent them as public defenders. Students in the first class gave Ms. Munster and the course glowing evaluations.
- *The Time is Now*, a video for parents in West Virginia child abuse and neglect proceedings: the eighteen-minute video takes parents through the process under Chapter 49 of the W.Va. Code and explains how the court system and professionals involved make reasonable efforts to work with parents and reunite families. See story page 39.
- Adoption Month in November, with which the release of *The Time is Now* video was timed to coincide: of the 4,285 children in foster care in West Virginia, about a fourth are waiting for adoption. Children "waiting for adoption" are age seventeen or younger whose parents' rights have been terminated and/or who have adoption as their permanency plan. National Adoption Month celebrates adoptions of children from foster care and raises awareness of the children who are waiting for permanent homes in West Virginia and the approximately 115,000 children who are waiting nationally.

- Annual training for judges, prosecutors, child and parent attorneys, foster parents, DHHR caseworkers, social workers, counselors, psychologists, Court Appointed Special Advocate volunteers, law enforcement officers, and others involved in the child abuse and neglect process: the goal of the two-day cross-training sessions, offered annually for more than a decade, is to improve how these important cases are handled. The seminars also are sponsored by the Supreme Court and the West Virginia Coalition Against Domestic Violence. The 2010 conferences were held June 21 to 22 in Canaan Valley, June 24 to 25 in Martinsburg, and July 12 to 13 in Huntington.

- A regional judicial leadership roundtable focusing on child abuse and neglect and youth services March 25 to 26 in Charleston: the event was for any judge who was not able to attend one of five regional roundtables held the previous year in March and April 2009. The meetings give circuit judges an opportunity to discuss among their peers best practices for achieving permanency, safety, and well-being for children involved in child abuse and neglect and youth services cases. A retired judge associated with the National Child Welfare Resource Center on Legal and Judicial Issues helped conduct the training at each location.

- “Relatives as Parents” workshops March 27 in Charleston and May 22 in Clarksburg: the workshops were for grandparents, foster parents, attorneys, social workers, and all interested people. Eleventh Family Court Circuit Judge Mike Kelly talked about West Virginia grandparent visitation and minor guardianship law. Joanne M. Brown, a former juvenile and family law judge in Oakland, California, discussed the Fostering Connections to Success and Increasing Adoptions Act of 2008. Other sponsors of the workshops included Frameworks of Mission West Virginia, the West Virginia Department of Health and Human Resources, Legal Aid of West Virginia, the American Bar Association, West Virginia University Extension Services, and the West Virginia Bureau of Senior Services.

Civic Education Programs

LAWS

The LAWS (Legal Advancement for West Virginia Children) program in 2010 was cancelled because of the high number of school days missed due to snow in the Northern Panhandle. It had been scheduled for March 30 in Moundsville, and the Supreme Court promised it would hold the program there in 2011.

LAWS is a partnership between the court system, schools, the Bar, and the community. It teaches students about the Judicial Branch of government. Chief Justice Robin Jean Davis began the program when she was previously Chief Justice in 1999. Since then, more than 4,200 high school and college students in twenty-two counties have participated.

Teachers attend a training session with Supreme Court personnel and local circuit judges. Later, volunteer attorneys from the area meet with students to discuss the court system and the real cases the classes will hear. On the day of LAWS, students hear cases on a Supreme Court Argument Docket and then meet with attorneys who argued the cases in a “debriefing” session. The attorneys and students also have an informal lunch with the Justices.

The Supreme Court held the first LAWS program in Beckley in 1999. Other LAWS programs have been held in Clarksburg, Huntington, Wheeling, Summersville, Martinsburg, Parkersburg, Charleston, Romney, Princeton, and Lewisburg.

Graphic novels

The National Center for State Courts has created a series of graphic novels on various legal situations that may be relevant to young adults. A new issue of the series, called *Justice Case Files*, is published about once a year. The Division of Children’s Services personalizes and distributes the novels to high school seniors each year.

iCivics

iCivics is a Web-based education project designed to teach students about civics, especially the judicial system, and inspire them to be active participants in democracy. iCivics was envisioned by former U.S. Supreme Court Justice Sandra Day O’Connor. For more information, see www.icivics.org.

The Time is Now

The child abuse and neglect court process can be confusing and frightening for families. To help alleviate some of that stress, the Court Improvement Program in 2010 released an eighteen-minute video called *The Time is Now*.

If parents understand the process, the Supreme Court hopes “they embrace the court system and know we are trying to reunify families. It motivates everybody in the family to work together to solve their problems,” Chief Justice Robin Jean Davis said at a press conference on November 18 in the Supreme Court Chamber held to announce the release of the video.

The film explains in non-legal language the child abuse and neglect process under Chapter 49 of the West Virginia Code. It also introduces the type of professionals who work in the court system and their roles. The video emphasizes that time is of the essence, and parents’ rights may be terminated if a court finds that would be in their children’s best interests.

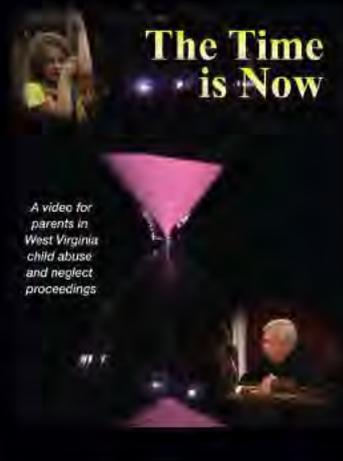
“Keeping families together is the primary goal. Most children want to be with their parents. But that is not always possible,” said Judge Gary Johnson of the Twenty-Eighth Judicial Circuit (Nicholas County). Judge Johnson is chairman of the West Virginia Court Improvement Program Board. The board creates, identifies, and promotes initiatives that make the court system more responsible and efficient in achieving timely, safe, permanent placements for children that ensure their well-being and preserve due process for families.

Chief Justice Davis noted the timing of the press conference, held during Adoption Month and in the week before Thanksgiving. “While we count our blessings, we cannot forget children who are not so fortunate. These foster children are so often out there twisting in the wind. We want to make a concerted effort to get them to a stable, safe environment,” Chief Justice Davis said.

The Time is Now was paid for by a CIP grant from the federal Administration for Children and Families and matching funds from the Supreme Court of Appeals of West Virginia.

The Time is Now may be viewed on the Court Improvement Program website, www.wvcip.com, or the website of the Supreme Court of Appeals, www.state.wv.us/wvsca/kidspage/Time-is-Now.htm.

Anyone who would like a copy of the video may contact the Division of Children’s Services of the Supreme Court at 304-558-0145.



Top to bottom:

Zoe Dorst, daughter of Public Information Officer Jennifer Bundy, played a role in *The Time is Now* video. Photo courtesy of MotionMasters

Judge Gary L. Johnson speaks at the Adoption Month news conference Photo by Michael Switzer

Ninth Judicial Circuit Judge Derek C. Swope appears in the video. Photo by Jennifer Bundy

The cover of the video has an hourglass to represent that time is of the essence in cases involving children. Photo courtesy of Motion Masters



Students from Keyser Primary Middle School perform their mock trial in the Supreme Court Chamber on April 29 in front of Justice Margaret L. Workman. *Photo by Michael Switzer*

West Virginia Law Adventure becomes statewide program

After a two-year pilot project, the Supreme Court invited students from across West Virginia to participate in its mock trial program, West Virginia Law Adventure, during the 2009-2010 school year.

Students from Bluefield Middle School in Mercer County and Keyser Primary Middle School in Mineral County won the opportunity to perform their scripts in front of Supreme Court Justices at the Capitol on April 29. Justice Thomas E. McHugh sat as the presiding judge in the Bluefield case while Justice Margaret L. Workman sat as the presiding judge in the Keyser case.

Unlike other mock trial programs in which students use scripts prepared by adults, West Virginia Law Adventure requires each participating group to write its own script based on one of three criminal case scenarios.

Supreme Court Chief Justice Robin Jean Davis said, "I enjoyed listening to a Kanawha County class act out its script last year. The Court has designed this program in a way that we hope gives students a unique insight into the Court system and makes them think about the law and courts in a positive way.

"The real court system is not like it is often portrayed on television. West Virginia judges are not like Judge Judy, and real cases are not as black and white as they are on 'Law and Order.' My fellow justices and I hope that by making students think through the arguments of the prosecution and defense in one mock case they will come away with a genuine understanding and appreciation of the American justice system and our Constitutional protections," Chief Justice Davis said.

The West Virginia State Bar Young Lawyers Section helped write the rules for the program. The West Virginia Bar Foundation granted funds for travel costs associated with West Virginia Law Adventure.

Keyser Primary Middle School won in the eighth-grade category and Bluefield Middle School won in the mixed-age category. Other schools that participated in 2010 were Belington Middle School, Barbour County, eighth grade category; Nuttall Middle School, Fayette County, eighth grade category; Western Greenbrier Middle School, Greenbrier County, two eighth-grade classes; Moorefield Middle School, Hardy County, mixed age category; Horace Mann Middle School, Kanawha County, mixed age category; Stonewall Jackson Middle School, Kanawha County, eighth grade category; Princeton Middle School, Mercer County, mixed age category; and Ritchie County Middle School, eighth grade category.

West Virginia Law Adventure is adapted with permission from the New Jersey State Bar Foundation's original, award-winning Law Adventure Competition and Programs for grades seven and eight. For more information about the New Jersey State Bar Foundation, visit www.njsbf.org.



Supreme Court Security Director Arthur Angus pretends to take into custody a Bluefield Middle School student who was found guilty at the end of a mock trial performed in front of Justice Thomas E. McHugh in the Supreme Court Chamber on April 29. *Photo by Michael Switzer*



MIDDLE LEFT: Barbour County Magistrate Kathi S. McBee presides in a mock trial performed by Belington Middle School students on January 19 at the Barbour County Courthouse in Philippi. *Photo by Kandi Greter*

MIDDLE RIGHT: Ninth Judicial Circuit Judge Omar J. Aboulhosn presides in a mock trial performed by Princeton Middle School students on January 27 in his courtroom at the Mercer County Courthouse. *Photo courtesy of Judge Aboulhosn*

BOTTOM LEFT: Keyser Middle School students perform a mock trial in the Mineral County Courthouse courtroom of Circuit Judge Philip B. Jordan on January 14. The judge looked on from the jury box. *Photo by Kandi Greter*

BOTTOM RIGHT: Thirteenth Judicial Circuit Judge Louis H. "Duke" Bloom participates in a mock trial performed by Stonewall Jackson Middle School students on January 10 in his courtroom at the Kanawha County Judicial Annex. *Photo by Michael Switzer*



Justice Thomas E. McHugh (left) and Chief Justice Robin Jean Davis (right) meet with 20-year-old Ms. Huma Manati, an Afghan exchange student who was attending Sweet Briar College in Sweet Briar, Virginia. *Photo by April Harless*

Judicial officers enjoy Robes to Schools

Chief Justice Robin Jean Davis founded the Robes to Schools program in 2007 to encourage justices, judges, and magistrates to interact more with West Virginia students. Robes to Schools supports the goal of the state Department of Education's Partnership for Twenty-First Century Skills to improve civic literacy, and it has been endorsed by the West Virginia Board of Education. The program also supports the Supreme Court's goal of improving the lives of all West Virginia children, not just those who come in direct contact with the court system through legal cases.

In 2010 judicial officers throughout the state continued to embrace Robes to Schools enthusiastically by reading to students, visiting classrooms to talk about the Constitution and due process, and hosting student tours of West Virginia courthouses. Those events included the following:

- Chief Justice Robin Jean Davis and Justice Thomas E. McHugh spent time with Afghan student Hume Manati during the first week in January to discuss the American judicial system. Ms. Manati visited the Supreme Court as part of a weeklong visit in West Virginia. She is a student in The Initiative to Educate Afghan Women program, which allows Afghan women to earn degrees in higher education. The 20-year-old from Kabul is a junior at Sweet Briar College in Sweet Briar, Virginia. She is pursuing her bachelor's degree in interdisciplinary education with a focus on law and ultimately plans to attend law school in the United States. Supreme Court Administrative Director Steve Canterbury and Supreme Court Clerk Rory Perry also met with Ms. Manati.
- Justice McHugh spoke to students from across West Virginia who gathered at the Capitol on February 8 for "Know Your State Government Day." Senate President Earl Ray Tomblin, House Speaker Richard Thompson, and a representative of the governor also spoke at the event at the Culture Center.
- One Kanawha County judge and two magistrates participated in Read Across America Day by administering the "Reader's Oath" to students at three Kanawha County elementary schools. Magistrate Kim Aaron delivered the oath on March 1 to students at Montrose Elementary School and on March 2 to students at Andrew Heights Elementary. Magistrate Julie Yeager also delivered the oath at Andrew Heights Elementary on March 2. Thirteenth Judicial Circuit Judge Carrie Webster delivered the oath on March 2 to students at Chesapeake Elementary. Read Across America Day is an annual event held on March 2, the birthday of the late Theodor Seuss Geisel, better known as Dr. Seuss.
- The kindergarten class from George Ward Elementary in Mill Creek visited Judge Jaymie Godwin Wilfong of the Twentieth Judicial Circuit (Randolph County). They toured the Randolph County Courthouse and sang her Easter songs. Judge Wilfong has an ongoing relationship with kindergarten students at the school each year. She visits at least once a year, they visit her, and she attends their graduation ceremony.

- Justice McHugh was the main speaker at the celebration of Law Day at the McDowell County Courthouse in Welch on April 30. The event included a presentation of prizes to school children who participated in poster and essay contests. Eighth Judicial Circuit (McDowell County) Judges Booker T. Stephens and Rudolph J. Murensky, II, were the hosts.
- Ohio County Magistrate Joe Roxby spends every Labor Day weekend making history come alive as a participant in Wheeling's Fort Henry Days. Magistrate Roxby is a past president of Fort Henry Living History, the group that organizes the annual re-enactment and September 11, 1782, siege of Fort Henry. He co-wrote the book "The Heroic Age, Tales of Wheeling's Frontier Era" and a video entitled *Fort Henry Days: Defend or Perish*. The 135-page book was published about eleven years ago, and it and the video, created by Shooters Productions in Bridgeport, Ohio, are available in the Wheeling area. Fort Henry was located where the 1000 block of Main Street Wheeling is today. The wooden fort was used from 1774 to 1782. It withstood a British and Indian siege on Sept. 1, 1777, and in 1782. During the second siege, sixteen-year-old Betty Zane made a successful sixty-yard dash for gunpowder, bringing it to the fort from an outbuilding in her apron. "When these re-enactors come here, they really step into their roles. You have Indian re-enactors who will act like Indians for the entire weekend. You have French traders who take on that persona for the entire weekend. They sleep under the stars or in a small lean-to," Magistrate Roxby says in the video. "I don't know whether you call it all-immersion or role immersion, but it works."
- Justice McHugh accompanied Nineteenth Judicial Circuit (Taylor and Barbour Counties) Judge Alan D. Moats to Grafton High School and Philip Barbour High School on September 14, where they showed *The Foundation of Justice* video about the Supreme Court and talked about the importance of education. Judge Moats is one of several circuit judges who are working with others in their communities to reduce truancy and the school dropout rate. "It affects the whole community," Judge Moats said. "The court system is going to be dealing with them. Maybe we can keep them out of adult court, maybe even deal with prison overcrowding." Twenty-Eighth Judicial Circuit (Nicholas County) Judge Gary Johnson said, "We had so many kids drop out at age sixteen, we spent our time with them anyway."
- Justice Brent D. Benjamin talked to a constitutional law class at West Virginia University Institute of Technology in Montgomery on September 17 in honor of Constitution Day and attended a reception that evening at Marshall University in Huntington to announce the winner of the Dan O'Hanlon Constitution Week and John Marshall Celebration Essay Contest.
- Judge Omar Aboulhosn of the Ninth Judicial Circuit (Mercer County) talked to students at Montcalm Elementary School on September 16 in recognition of Constitution Day. He talked to two sixth-grade classes about the right to a jury trial, the right to remain silent, the right to counsel, the right to due process, and the separation of powers between the three branches of government. In October, Judge Aboulhosn began mentoring the Montcalm sixth-graders, something he has done at the school for thirteen years. He read to the students weekly and has been involved in various class activities throughout the school year.



Ohio County Magistrate Joe Roxby is shown in a clip from *Fort Henry Days: Defend or Perish*. Magistrate Roxby is shown standing at the sight of downtown Wheeling where Fort Henry once stood. Every Labor Day weekend Magistrate Roxby participates in Wheeling's Fort Henry Days. *Photo taken from the video*

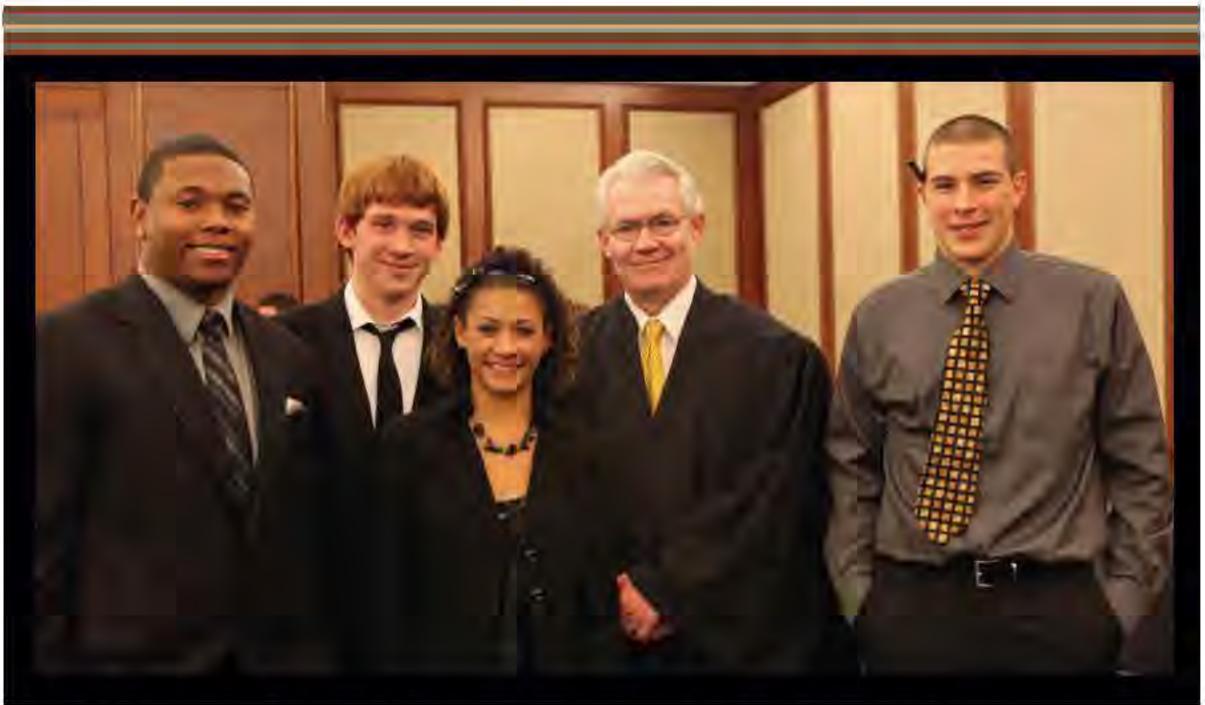


Kanawha County Magistrate Julie Yeager visited Montrose Elementary School on October 1 to speak to two fifth-grade classes about the federal and state Constitutions and the duties of a magistrate. *Photo courtesy of Magistrate Yeager*

- Kanawha County Magistrate Julie Yeager visited Montrose Elementary School on October 1 to speak to two fifth-grade classes about the federal and state constitutions and the duties of a magistrate.
- Judicial officers from Putnam and Kanawha Counties were guest lecturers at paralegal studies classes at Kanawha Valley Community and Technical College in Institute. Twenty-Sixth Family Court Circuit (Putnam County) Judge William M. Watkins, III, spoke to the Introduction to Law class on October 6 about West Virginia’s family court system and common family law issues. Magistrate Yeager talked to the Introduction to Litigation class on October 12 about the types of cases over which magistrates preside. Twenty-Ninth Judicial Circuit (Putnam County) Judge Phillip M. Stowers talked to the litigation class on November 2 about the West Virginia civil litigation process and the structure and operation of the court system.
- Judge Aboulhosn led about fifty students from Montcalm Elementary School on a tour of the new Federal Correctional Institution in McDowell County on October 14. The first minimum-security inmates arrived in mid-September. The facility eventually will house 1,152 medium-security inmates and 128 minimum-security inmates. Judge Aboulhosn regularly leads students on tours of the Mercer County Courthouse and once a year takes Montcalm Elementary sixth-grade students to the Southern Regional Jail in Raleigh County.
- Judge Aboulhosn participated in Concord University’s second annual career symposium on October 15. The judge took part in a panel on “Making the Graduate School Process Successful,” a panel on “Law School and Law Careers,” and a panel discussion on “Maximizing Your Undergraduate Years to Prepare for Your Future.” Judge Aboulhosn graduated from Concord in 1989 with a major in political science and a minor in speech communications.



Ninth Judicial Circuit Judge Omar J. Aboulhosn gives students a tour of his courtroom. *Photo courtesy of Judge Aboulhosn*



Eleventh Family Court Circuit Judge Mike Kelly poses with South Charleston High School students after they performed mock trials written by Judge Kelly. *Photo by Michael Switzer*

- Judges from the Eleventh Family Court Circuit (Kanawha County) presided over mock trials presented by high school students from around Kanawha County on November 10 at the Robert C. Byrd United States Courthouse in Charleston. It was the sixth year that Family Court Judge Mike J. Kelly wrote a mock trial scenario for county high school students that involves domestic violence, a topic Family Court Judges often handle and that affects the lives of many students. The 2010 scenario involved a woman accused of killing her husband, whom she alleges had previously abused her. Each year, students at one high school take the side of the defense while students at another take the side of the prosecution. Each school can create three exhibits. Students play the parts of attorneys, witnesses and jurors. Although Judge Kelly writes witness statements, all the students are free to write their own scripts and act out their parts as they wish. "Some of the students are as good as young lawyers," he said. "It gets very competitive. The feedback I get from the teachers is that the kids love it." A volunteer attorney works with each school to help students prepare. The attorneys are assigned by the Eleventh Family Court Circuit Bench-Bar Committee and each can meet with students up to five times. Judge Kelly said he had to put a limit on the meetings because "some of the super-competitive attorneys were spending an entire week out there." Family Court Judges Ken D. Ballard, Robert M. Montgomery, and Sharon M. Mullens also participated.
- Tenth Judicial Circuit (Raleigh County) Chief Judge John A. Hutchison spoke to a sociology class at Concord University's Beckley Campus on December 7. Instructor Lori Pace has invited the judge to speak to her fall criminology class for the last several years, and he in turn has invited her and her students to visit his courtroom and sit in on sentencing hearings. "He always allows time for the students to ask questions and better understand what they have seen and heard. My goal as the instructor is to connect the students to people in the criminal justice system and help them get away from the media influence and have a more realistic idea of the courts and judicial system," she said. "Judge Hutchison has been great and always engages the students."



Chief Justice Robin Jean Davis meets with a group in Fayette County during Black History Month. From left to right: Colonel Kenneth L. Eskew, Fayette County Commission President; The Rev. Sam Calloway, Oak Hill minister; Daniel L. Wright, Fayette County Circuit Clerk; Steve Pilato, field representative for then-Governor Joe Manchin III; Belinda Morton, Fayette County lawyer; Barbara Harmon-Schamberger, Clay County lawyer; Chief Justice Robin Jean Davis; Twelfth Judicial Circuit Judge John W. Hatcher, Jr.; and Carl L. Harris, Fayette County Prosecuting Attorney. Photo by Steve Keenan, The Fayette Tribune

Supreme Court outreach

The Supreme Court of Appeals is committed to improving access to the courts and knowledge about the court system. The Chief Justice writes a column in the State Bar's *West Virginia Lawyer* magazine, and the Court makes its rules, opinions, and other documents available on its continually expanding website.

The Court in 2010 held one Argument Docket outside of Charleston. On March 9 it heard oral arguments in five cases at West Virginia University's College of Law in Morgantown and judged the law school's annual Baker Cup Moot Court appellate advocacy competition.

Justices attended events around West Virginia in 2010

- Justice Thomas E. McHugh spoke to students from across West Virginia who gathered at the Capitol on February 8 for "Know Your State Government Day." Senate President Earl Ray Tomblin, House Speaker Richard Thompson, and a representative of the governor also spoke at the event at the Culture Center.
- Chief Justice Robin Jean Davis gave a presentation on pioneering black attorneys in West Virginia in honor of Black History Month on February 25 at the Fayette County Courthouse in Fayetteville.
- Chief Justice Davis co-wrote a research article entitled "Punitive Damages Law in West Virginia" with her Senior Law Clerk, Louis Palmer, Jr. The article was posted on the Supreme Court website in March. Chief Justice Davis, along with Nineteenth Judicial Circuit Judge Alan D. Moats and First Judicial Circuit Judge James P. Mazzone, had presented the paper at the fall conference of the West Virginia Judicial Association in October 2009 at Glade Springs Resort.
- Justice McHugh gave a speech to the Fraternal Order of Police Lodge 81 in Beckley on April 23 entitled, "The Importance of Protecting and Serving."
- Justice Brent D. Benjamin hosted a Regional Judges and Journalists Conference on April 30 at the Berkeley County Judicial Center in Martinsburg. About two dozen print and broadcast reporters, photographers, editors, and judicial officers from the Eastern Panhandle attended. The purpose of the half-day meeting was to encourage better communication between the judiciary and the media.
- Justice McHugh was the keynote speaker at the Brooke Veteran's Memorial Banquet on April 24 in Wellsburg. Justice McHugh was a First Lieutenant in the Army from 1958 to 1961. His twin sons are officers in the West Virginia Army National Guard.
- Justice McHugh was the main speaker at the celebration of Law Day at the McDowell County Courthouse in Welch on April 30. The event included a presentation of prizes to school children who participated in poster and essay contests. Eighth Judicial Circuit Judges Booker T. Stephens and Rudolph J. Murensky, II, were the hosts.
- Justice Benjamin participated in a panel discussion on Access to Justice in West Virginia at the 2010 West Virginia State Bar's Annual Meeting on May 8 at The Greenbrier Resort in White Sulphur Springs.
- Justice Margaret L. Workman was the commencement speaker at Shepherd University on May 15 and was awarded an honorary doctorate. Her advice to the graduates was to find work they love; have the courage to take risks; seek a balance between work and family; and cherish silence, introspection, and nature.

- Chief Justice Davis was the featured speaker at the Elevations Professional Women's Network meeting on June 10 at the University of Charleston. The meeting is part of the Charleston Area Alliance Professional Women's Council.

- Justices Benjamin and McHugh spoke at several events in honor of Constitution Day, which is September 17. Justice McHugh spoke to the Daughters of the American Revolution on September 11 at the Charleston Marriott Town Center. Justice McHugh accompanied Nineteenth Judicial Circuit Judge Alan D. Moats to Grafton High School and Philip Barbour High School on September 14. Justice McHugh also spoke at a West Virginia Civics Literacy Council event on September 17 in the Ceremonial Courtroom in the Robert C. Byrd United States Courthouse in Charleston. Justice Benjamin talked to a constitutional law class at West Virginia University Institute of Technology in Montgomery on September 17 and attended a reception that evening at Marshall University in Huntington to announce the winner of the Dan O'Hanlon Constitution Week and John Marshall Celebration Essay Contest.

- The Supreme Court, its employees, and friends donated toys to the Toys for Tots program on November 23 as part of the Court's *sine die* ceremony, which marks the end of the term of Court. The toys were picked up by Marines in uniform. The donation marks the fifth consecutive year the Supreme Court and its employees participated in the program which is spearheaded by Deputy Clerk of the Court Eydie Gaiser.

- Probation officers from around West Virginia donated about \$3,000 in toys to Mountain Mission on October 21 during the officers' annual awards luncheon at the Charleston Marriott Town Center. The training session typically is in a different location each year, but at each annual meeting the officers give toys to a local charity. Justice McHugh and Justice Menis E. Ketchum also attended the luncheon.



From top to bottom:

Justices Menis E. Ketchum, Robin Jean Davis, Thomas E. McHugh, and Brent D. Benjamin talk during the fall Circuit Judges' Education Conference *Photo by Ron Agnir, The [Martinsburg] Journal*

Justice Margaret L. Workman accepts an honorary degree at Shepherd University, where she was the commencement speaker on May 15. *Photo courtesy of Shepherd University*

Sgt. Juan Ovalle, 25, of New York City (left); Deputy Supreme Court Clerk Eydie Gaiser (center); and Staff Sgt. Don Snyder, 27, of Los Angeles (right), pose in front of toys collected by Supreme Court employees. *Photo by Michael Switzer*

Justice McHugh (right) and Nineteenth Judicial Circuit Judge Alan D. Moats (left) speak to Philip Barbour High School students during Constitution Week. *Photo by Jennifer Bundy*



Six new sex offender intensive supervision officers were sworn in on November 9 in the Supreme Court Chamber. From left: Terry Layfield, Michael Rose, Robert "Brent" Hurley, Sherri Krampe, Deputy Director of Probation Services Karen Bills, Charles Rose, John Barker, and Director of Probation Services Mike Lacy. *Photo by Michael Switzer*

Division of Probation Services

Probation officers provide many services to circuit courts, such as conducting investigations and drug screenings, preparing pre-sentence reports, recommending sentences for criminal offenders, and monitoring offenders sentenced to probation or supervised release. Officers also work closely with community agencies such as day report centers, schools, substance abuse facilities, local community health centers, community service work providers, the Department of Health and Human Resources, and other state agencies in order to link services for persons under probation officers' supervision.

At the end of 2010, the West Virginia court system had 58 adult, 104 adult-juvenile, and 55 juvenile probation officers. Those officers together supervised more than fourteen thousand adult and juvenile offenders during the year, with an average caseload of eighty-two per officer and an annual cost of \$1,246.63 per offender.

The Division of Probation Services is responsible for the development and oversight of juvenile drug courts in West Virginia. The West Virginia Juvenile Drug Court Program is a cooperative effort of the juvenile justice, social service, law enforcement, and education systems in the state. This program seeks to divert non-violent juvenile offenders exhibiting alcohol or substance abuse behavior from the traditional juvenile court process to an intensive, individualized treatment process. The goal of the program is to reduce future court involvement for the teens. On any given day in West Virginia, approximately 6,500 youths are under some form of court-ordered diversion program or supervision by a probation officer. Annual West Virginia juvenile probation reports demonstrate that controlled-substance violations are the third-largest category of offenses charged.

As of July 1, 2010, there were four juvenile drug courts located in Cabell, Wayne, Logan, and Mercer Counties. Six new programs were implemented in the fall of 2010 in Boone/Lincoln, Brooke/Hancock, Monongalia, Putnam, Randolph, and Wood Counties.

The Office of the West Virginia Interstate Compact for Juveniles also resides within the Division of Probation Services. The Compact regulates the movement and supervision between states of juveniles under community supervision. It is designed to ensure public safety and create an effective and efficient means of transferring, tracking, and supervising juveniles between states. Juvenile probation officers provide supervision of juveniles transferred to West Virginia through the Interstate Compact. The Probation Division's Compact Office manages more than one hundred active cases each year as well as handling the return of juvenile runaways, absconders, and escapees. Randall Wagner serves as the Administrative Coordinator of Probation Services and the Interstate Compact.

Division of Probation Services Director Mike Lacy is the state's designated Commissioner to the national Juvenile Interstate Commission as well as serving as the state Administrator of the Juvenile Compact. Director Lacy also serves as Chairman of the Governor-appointed West Virginia Partnership for Community Well-Being, which is West Virginia's designated substance abuse prevention and intervention planning body.

The Division of Probation services also is responsible for implementing and overseeing six Sex Offender Intensive Supervision (SOISO) regions. The specialized, multi-circuit, intensive supervision officers work closely with treatment providers and polygraph operators to enhance public safety. The officers have received special training in supervision of sex offenders. Caren Bills, former Chief Probation Officer of the Twenty-Ninth Circuit (Putnam County), has overseen this program as Deputy Director of the Division of Probation Services since September 1, 2008.

The SOISO program was developed under the leadership of Chief Justice Robin Jean Davis when she was previously Chief Justice in 2006 and 2007. Her support was crucial in refining the vision of the supervision protocol. Her work was a continuation of her interest in protecting children in our communities during her "Year of the Child" in 2006 and "Year of the Child, Too," in 2007.

In November 2010, Chief Justice Davis conducted a swearing-in ceremony for six new SOISO officers to work in Region Three, which consists of Brooke, Ohio, Hancock, Marshall, Wetzel, Tyler, Pleasants, Ritchie, Doddridge, Wirt, and Wood Counties. Their hiring brought to twenty-one the number of SOISO officers, who serve a total of thirty-five counties. Officers are expected to be hired in the last two regions in 2011, for a total of thirty officers to serve fifty-five counties.



Lora Maynard

New Deputy Director for Juvenile Drug Courts

Lora Maynard was hired as the Deputy Director for Juvenile Drug Courts for the Division of Probation Services on June 1, 2010. She is responsible for the planning, implementation, and oversight of the growing number of juvenile drug courts.

She previously worked for the Division of Criminal Justice Services for more than twelve years and served as the Lead Program Specialist for the West Virginia Community Corrections Program and as the direct supervisor of the Juvenile Justice Program Unit with the Division. She also served as the lead staff for both the Community Corrections Subcommittee and the Juvenile Justice Subcommittee of the Governor's Committee on Crime, Delinquency, and Corrections.

Ms. Maynard also served six years on the West Virginia Family Protection Services Board and worked nearly a decade administering the Victims of Crime Act Assistance Program and the STOP Violence Against Women Act Program for the state.

She has a bachelor's degree from Marshall University and a master's degree from Marshall University Graduate College.

Probation Officer is also Mrs. West Virginia

Hardy County Probation Officer Manda Teter wears many hats – and one crown. Mrs. Teter is the 2010 Mrs. West Virginia.

She was the first runner-up in the February 2010 competition. That summer, someone called to tell her that the winner was stepping down and she would represent West Virginia in the 2010 Mrs. America Pageant in September.

When Mrs. Teter got the call, she said she had to sit down. "I was so shocked."

As a child, Mrs. Teter says she was more a sports player than a beauty queen. She went to college on a volleyball scholarship. She attended Potomac State College for two years and then transferred to Glenville State College. She also threw shot and discus at track meets. Before the Mrs. West Virginia pageant, she had been in only one other beauty pageant, and that was in high school.

As Mrs. West Virginia, Mrs. Teter visits schools to promote music education. She also is working to fight childhood obesity and to find homes for homeless pets.

"We try to help the community. The biggest thing I have done is emceed several pageants. We just try to help our communities."

Mrs. Teter has been a probation officer since January 2000. She worked in Pendleton County before Hardy County. She is a lifelong resident of Franklin and is, of course, married. She has one five-year-old son.

Her work and pageant worlds collided only once, when a juvenile she had monitored on probation was in a pageant she emceed.

"It was neat to see the girl in the pageant. She looked so beautiful. It shows you anybody can be a queen."



Manda Teter



Director of Probation Services Mike Lacy (second from left) presents Roger Beverage (left) with the 2010 Probation Officer of the Year Award. Also pictured are Danica Barrett, Vice President of the Probation Officers Association, and Association President Kevin Runyon. *Photo by Jennifer Bundy*

Probation officers receive awards for service

Roger Beverage, Chief Probation Officer of the Twenty-Eighth Judicial Circuit (Nicholas County), received the 2010 Probation Officer of the Year award during the annual West Virginia Association of Probation Officers awards luncheon at the Charleston Marriott Town Center on October 21.

Mr. Beverage has been a probation officer since December 19, 1977, when he began as a juvenile probation officer under the Department of Welfare in Nicholas County. On January 7, 1985, he was appointed adult probation officer through the Supreme Court in Nicholas County.

He previously had been an income maintenance worker with the Department of Welfare in Webster County, and he held various positions such as foster care worker and child protective service worker in both Webster and Nicholas Counties.

Mr. Beverage has been instrumental in developing and receiving funding for many programs within Nicholas County such as the DARE Program, the Community Service Program, the local Court Improvement Program, the Day Report Center, the Home Confinement Program, and the Nicholas County Litter Control Program. He is the executive director of the Nicholas County Day Report Center and the community services supervisor for the Twenty-Eighth Judicial Circuit.

Mr. Beverage is a 1966 graduate of Richwood High School and a 1970 graduate of the West Virginia Institute of Technology. While employed by the Supreme Court, he received a Master of Arts Degree in Correctional Counseling through the University of West Virginia College of Graduate Studies in 1991 and a Master of Arts Degree in Leadership Studies through Marshall University in 1997.

He enlisted in the West Virginia Army National Guard in 1970 and retired with the rank of State Command Sergeant Major for the state of West Virginia, the highest rank that can be obtained by an enlisted soldier within the National Guard. Between December 2003 and February 2005 he was deployed to Iraq where he oversaw convoy security.

Mr. Beverage and his wife Ramona have two adult children — Crystal Hall and Michelle Black — and four grandchildren.

Also receiving awards at the same luncheon were

- Debra Fogle and James Lee for thirty-five years of service,
- Phyllis Stewart for thirty years of service,
- Diana Castle, Mark Hofe, and Fred Taylor for twenty-five years of service,
- Jane Barnes, Nona Black, Jerry Swanson, and Deborah Wiles for twenty years of service,
- Charlotte Crowe and Charles McCann for fifteen years of service,
- Danica Barrett, Jawanda Gravely, Scott Mealy, Kevin Runyon, Robert Taylor, Manda Teter, and Franklin Wolfe for ten years of service, and
- Retirees Judson Childs and Susan Christian.



Judge William Thompson (left) is shown with Drug Court graduate Shawn Stowers, Stowers' mother, Sabrina Hodge, and program therapist Mary Alred-Crouch. Photo by Sean O'Donoghue, The Lincoln Journal

West Virginia Problem-Solving Courts

The West Virginia court system in 2010 continued to expand problem-solving courts into more counties in the state and celebrate the graduates who completed such specialty court programs.

The goal of problem-solving courts is to help participants overcome addictions and mental illnesses that may have led them to commit crimes, thus improving the quality of life for them and their families. Turning people who might have become repeat offenders into productive citizens also improves public safety and can be more productive, cost-effective, and humane than incarceration for those who have committed non-violent crimes and are a low to moderate risk to be released into the community.

People who are registered as sex offenders or who have a prior conviction for a felony crime of violence are not eligible for treatment court programs. Prosecutors and judges choose which offenders may participate.

There are several types of problem-solving courts in West Virginia. There are ten adult drug courts, ten juvenile drug courts, one adult reentry court, and one adult mental health court. The Supreme Court Administrative Office continues to try to obtain funds to expand across West Virginia.

Within the Administrative Office, Linda Richmond Artinez, Director of Mental Hygiene and Treatment Court Services, oversees adult drug courts and the mental health court. Division of Probation Services Director Mike Lacy and Deputy Director Lora Maynard oversee juvenile drug courts. Special Projects Director Jennifer Singletary works with the reentry court.

Adult drug courts are specially designed court programs, and rigorous evaluation and research has proven they work. West Virginia adult drug courts may be pre-adjudication or post-adjudication programs. All involve ongoing and intense judicially supervised treatment, mandatory periodic drug testing, community supervision, use of appropriate sanctions and incentives, and other rehabilitation services. If needed, participants may also undergo treatment for mental illness.

Every multi-disciplinary drug court team is led by a drug court judge, meets weekly, and reviews cases to discuss a coordinated response to each drug court offender's behavior. West Virginia has judges and magistrates who volunteer as drug court judges. Drug court magistrates handle drug offenders with only underlying misdemeanor offenses.

Adult drug courts in West Virginia may serve offenders who have been charged with, pled guilty to, or been found guilty of misdemeanors or felony drug-related offenses or offenses in which substance abuse was determined to have been a factor in the commission in the crime. People who violate their probation, parolees, or defendants who have been released from a correctional facility may also participate in an adult drug court if the underlying offense was drug-related or if substance abuse was a factor in the commission of the offense.

Adult offenders who volunteer for drug court may receive a reduction in their sentences, or they may avoid jail time and prison sentences if they perform satisfactorily in drug court and complete a minimum one-year program. Successful completion of the program may also result in withholding criminal charges, probation, deferred sentencing, or other incentives, depending upon the agreement reached when entering drug court.

Participation in drug court must be pursuant to a written agreement which outlines how a case will be disposed of if the drug offender is – or is not – successful. Incentives also are used by drug courts to reward participants if they do not engage in criminal conduct or violate the requirements of drug court while they are in the program.

A drug court judge also may impose reasonable sanctions on an offender, including incarceration or expulsion from the program, if the offender does not comply with the terms and conditions of drug court and perform those terms satisfactorily. Participants can be forced to repeat phases of the program.

Juvenile drug courts are a cooperative effort of the juvenile justice, social service, law enforcement, and education systems. They divert non-violent juvenile offenders exhibiting alcohol or substance abuse behavior from the traditional juvenile court process to an intensive, individualized treatment process, the goal of which is to reduce future court involvement for the youth.

One of the motivating reasons behind the development of juvenile drug courts in West Virginia is the fact that on any given day, approximately sixty-five hundred youths are under some form of court-ordered diversion program or supervision by a probation officer. Annual West Virginia juvenile probation reports demonstrate that controlled-substance violations are the third-largest category of offenses charged. (The first- and second-highest categories are property offenses and assault/battery.) Each county selected for a juvenile drug court has demonstrated support from county officials, including a circuit judge. These counties also have sufficient juvenile case loads and substance abuse indicator data to support the programs.

Juvenile drug courts are designed and operated consistent with the developmental and rehabilitative needs of juveniles. The process includes intensive out-patient drug and alcohol treatment, intensive probation case management, compliance monitoring and required family involvement. The objectives of juvenile drug courts are to improve an individual's general functioning by reducing internal and external problems and to increase a family's self-sufficiency and ability to cope with life's difficulties.

A West Virginia juvenile drug court may either be pre- or post-adjudicatory. Entry levels into a juvenile drug court program include pre-petition diversion; signed, but non-filed petition diversion; filed petition pre-adjudication diversion or post-adjudication diversion; and post-disposition intervention.

The programs are structured in four phases with the last phase being graduation. The minimum program length is six months but varies according to an individual youth's treatment needs. The average length is about eight months.

Mental health courts are another type of specially designed court programs that divert non-violent criminal offenders from the criminal justice system into treatment. Those in a mental health court have been diagnosed with an Axis I mental illness. Offenders undergo a professional mental health evaluation by a licensed psychologist before acceptance into the program.

The program includes a three-step, progressively narrowing protocol involving non-clinical referral and screening; clinical diagnostic assessment and screening; and completion of a treatment plan. To be accepted into mental health court, offenders must, at a minimum,

- Be charged with misdemeanor and/or non violent felonies that do not involve crimes against children or sex crimes;
- Have a serious mental illness with or without other co-occurring disorders;
- Be stable enough to understand and comply with the program requirements;
- Pose no unacceptable risk to either the program staff or the community;
- Be amenable to treatment;
- Have appropriate care available.

If accepted, participants must attend assigned mental health, and other treatment, and abstain from criminal behavior.

Offenders are closely supervised in the community by a multi-disciplinary treatment team dedicated to improving clients' social functioning and decreasing their contact with the criminal justice system. Supervision may include random drug testing if an offender has a co-occurring substance abuse issue.

The length of court supervision and regular periodic review continues up to the maximum allowable sentence or probation for the charged offense, or until completion of the prescribed treatment plan by the offender, if sooner. The typical participation time in a mental health court is approximately one year.

Successful completion of the treatment plan results in dismissal or reduction of charges and reduced or deferred sentencing. Upon graduation, participants are encouraged to continue treatment and services in the community voluntarily, and case management is transferred to the applicable regional mental health facility for continuity of care.

The missions and goals of mental health courts are to

- Prevent criminalization of mental illness;
- Develop and maintain partnerships between criminal justice, mental health, and social service systems to offer qualified offenders a court-monitored treatment alternative to prosecution and incarceration consistent with public safety; and
- Decrease mentally ill offenders' frequency of contact with the criminal justice system by improving their social functioning and providing mental health treatment, stable employment, housing, and social support services.

A reentry court serves people who have already served time in prison and are re-entering society. The goal is to reduce West Virginia's prison population by providing an intensive supervision, treatment, and rehabilitation program for eligible candidates, addressing their drug and mental health issues in the hope of breaking the cycle of recidivism.

The only operating reentry program in West Virginia is in the First Judicial Circuit (Brooke, Hancock, and Ohio Counties). Prisoners with addiction or mental health issues are monitored and enrolled in out-patient treatment, overseen by parole officers. The program demonstrates extensive cooperation between the judicial and executive branches of government.



Deputy Director for Juvenile Drug Courts Lora Maynard speaks during a meeting of the Juvenile Drug Courts Policy/Protocol Committee on August 27, 2010. *Photo by Tammy Collins*

West Virginia Problem-Solving Courts in 2010

Programs for adults

Northern Panhandle Mental Health Court

- Established in 2003
- Serves Brooke, Hancock, Marshall, Ohio, Tyler, and Wetzel Counties
- First Circuit Judge Martin J. Gaughan; Second Circuit Judge David W. Hummel, Jr.; Brooke County Magistrate Robin Snyder; Marshall County Magistrate David Buzzard; Ohio County Magistrate Charles Murphy; and Hancock County Magistrate William Hicks presiding
- Diverts non-violent criminal offenders, who have been diagnosed with an AXIS I mental illness, away from the criminal justice system and into treatment
- Only mental health court in West Virginia

Northern Panhandle First Circuit Adult Drug Court

- Established in 2005
- Serves Brooke, Hancock, and Ohio Counties
- First Circuit Judge Martin J. Gaughan, Brooke County Magistrate Robin Snyder, Hancock County Magistrate William S. Hicks, and Ohio County Magistrate Patricia Murphy, presiding
- A hybrid DUI/drug court taking pre-plea, post-plea, probation violation, reentry and DUI cases
- The National Criminal Justice Association recognized the Northern Panhandle Treatment Courts by awarding them the national “Outstanding Criminal Justice Program Award” in August 2010.

Northern Panhandle First Circuit Reentry Court

- Established in 2009
- First Circuit Judge Martin J. Gaughan, presiding
- Serves Brooke, Hancock, and Ohio Counties
- Prisoners with addiction or mental health issues are monitored and enrolled in out-patient treatment, overseen by parole officers.
- Only operating reentry program in West Virginia

Northern Panhandle Second Circuit Adult Drug Court

- Established in 2005, split from First Judicial Circuit on September 1, 2009
- Second Circuit Judge David W. Hummel, Jr., and Marshall County Magistrate David Buzzard, presiding
- Serves Marshall, Tyler, and Wetzel Counties
- Hybrid DUI/drug court taking pre-plea, post-plea, probation violation, reentry, and DUI cases

Southern Regional Adult Drug Court

- Established in 2006
- Ninth Circuit Judges Omar Aboulhosn, William J. Sadler, and Derek C. Swope, presiding
- Serves McDowell, Mercer, Monroe, Summers and Wyoming Counties
- Takes pre-plea, post-plea, and probation violation cases

West Central Regional Drug Court

- Established in 2007
- Fourth Circuit Judge Jeffrey B. Reed, presiding
- Serves Doddridge, Pleasants, Ritchie, Wirt, and Wood Counties
- Hybrid DUI/drug court taking post-plea, probation violation, and DUI cases

Southwestern Regional Drug Court

- Established in 2008
- Twenty-Fifth Circuit Judge William S. Thompson and Seventh Circuit Judges Eric H. O’Briant and Roger L. Perry, presiding
- Serving Boone and Logan Counties
- Hybrid DUI/drug court taking pre-plea, post-plea, probation violation, and DUI cases

Southeastern Regional Drug Court

- Established 2009
- Eleventh Circuit Judges Joseph C. Pomponio, Jr., and James J. Rowe, presiding
- Serving Greenbrier and Pocahontas Counties
- Hybrid DUI/drug court taking pre-plea, post-plea, probation violation, and DUI cases

Cabell County Adult Drug Court

- Established in 2009
- Sixth Circuit Judge Alfred Ferguson and Cabell Family Court Judge Patricia Keller, presiding
- Handles post-plea and probation violation cases

Kanawha County Adult Drug Court

- Established 2009
- Thirteenth Circuit Judge Jennifer Bailey, presiding
- Hybrid DUI/drug court taking pre-adjudication, post-conviction, probation violation, and DUI cases

Monongalia County Adult Drug Court

- Established in 2009
- Seventeenth Circuit Judge Russell Clawges, Jr., presiding
- Handles post-plea and probation violation cases

Preston County Adult Drug Court

- Established in 2009
- Eighteenth Circuit Judge Lawrance S. Miller, Jr., presiding
- Handles post-plea and probation violation cases

Programs for juveniles

Cabell County Juvenile Drug Court

- Established 1999, ran for four years, re-established 2007
- Cabell Family Court Judge Patricia A. Keller, presiding
- Post-adjudication diversion, post-disposition intervention

Wayne County Juvenile Drug Court

- Established in 2007
- Twenty-Fourth Circuit Judge James H. Young, Jr., presiding
- Pre-petition diversion; signed, but non-filed petition diversion; filed petition diversion; post-disposition diversion

Logan County Juvenile Drug Court

- Established 2009
- Seventh Circuit Judge Eric H. O'Briant, presiding
- Pre-petition diversion; signed, but non-filed petition diversion; filed petition pre-adjudication diversion and post-adjudication diversion; post-disposition intervention

Mercer County Juvenile Drug Court

- Established 2009
- Mercer Family Court Judge Mary E. Griffith, presiding
- Post-adjudication diversion

Boone/Lincoln Juvenile Drug Court

- Established in 2010
- Twenty-Fifth Circuit Judge William S. Thompson and Boone/Lincoln Family Court Judge Scott E. Elswick, presiding
- Pre-petition diversion; signed, but non-filed petition diversion; filed petition pre-adjudication diversion and post-adjudication diversion; post-disposition intervention

Brooke/Hancock Juvenile Drug Court

- Established in 2010
- First Circuit Judge Martin J. Gaughan, presiding
- Pre-petition diversion; signed, but non-filed petition diversion; filed petition pre-adjudication diversion and post-adjudication diversion; post-disposition intervention

Monongalia County Juvenile Drug Court

- Established in 2010
- Seventeenth Circuit Judge Phillip D. Gaujot, presiding
- Pre-petition diversion; signed, but non-filed petition diversion; filed petition pre-adjudication diversion and post-adjudication diversion; post-disposition intervention

Putnam County Juvenile Drug Court

- Established in 2010
- Twenty-Ninth Circuit Judge Phillip M. Stowers, presiding
- Pre-petition diversion; signed, but non-filed petition diversion; filed petition pre-adjudication diversion and post-adjudication diversion; post-disposition intervention

Randolph County Juvenile Drug Court

- Established in 2010
- Twentieth Circuit Judge Jaymie Godwin Wilfong, presiding
- Pre-petition diversion; signed, but non-filed petition diversion; filed petition pre-adjudication diversion and post-adjudication diversion; post-disposition diversion

Wood County Juvenile Drug Court

- Established in 2010
- Wood Family Court Judge C. Darren Tallman, presiding
- Post-adjudication diversion; post-disposition intervention



Access to Justice Commissioners Kevin Robinson (left) and Robert Bastress (center) and Commission Chairman Robert Baker at a meeting in Morgantown. *Photo by April Harless*

Special Judicial Programs

The Special Projects Division of the Supreme Court Administrative Office provides advisory counsel to the Court, primarily on social justice issues. The division's director serves as designee for the Court and its Administrative Office on task forces, boards, and commissions examining justice issues in West Virginia; prepares policy studies and reports on comparative judicial administrative procedures; and drafts appropriate court forms for statewide use. The division also manages several court programs.

Language Access in the Courts

A major focus of the division in 2010 was language access in the courts. The federal Department of Justice has heightened its enforcement of Title VI of the Civil Rights Act of 1964, which prohibits discrimination due to national origin. The act governs all state court systems that receive federal funding.

West Virginia's Limited English Proficient population is low compared to many other states. From the most recent data collected on foreign language interpreter services (FY2009), West Virginia Courts provided on average ten interpreters per month throughout the state, a number which included all requested languages provided in both civil and criminal cases.

The language access mission statement in West Virginia calls for the court system to provide foreign language interpreters and interpretation/translation services to all persons of Limited or No English Proficiency (LEP), including parents of non-LEP minors, in criminal and civil settings, both in preparation for and during all hearings, trials, and motions, and in important interactions with court personnel.

West Virginia currently is meeting its Spanish language access needs with in-state resources. In 2010, the court began contracting with Fluent Language Solutions to handle all other foreign language requests, and as often as possible makes use of Polycom video units in appropriate situations where no one's rights are at stake.

Access to Justice

In 2010, the division continued to work with the Access to Justice Commission to develop ways to help middle- to low-income individuals and families in West Virginia have better access to the court system. In October, the Access to Justice Foundation, Inc., was formed. The 501(c) 3 foundation will find ways to fund some of the projects taken on by the Access to Justice Commission.

Also in 2010, the Commission interacted with the State Bar's Office of Disciplinary Counsel regarding a legal ethics opinion the office released defining parameters on disclosure of a lawyer's identity when producing writings on another's behalf.

A subcommittee of the Access to Justice Commission focuses on minorities, and the Supreme Court's Disproportionate Minority Contact (DMC) Coordinator is part of the subcommittee. The DMC position was created and funded in response to a recommendation by the Task Force to Study Perceived Racial Disparity in the Juvenile Justice System.

The division presented a three-year plan for 2009 through 2011 to West Virginia's Division of Criminal Justice Services for its presentation to the federal Office of Juvenile Justice and Delinquency Prevention. The plan details strategies to improve racial data collection and to conduct a statewide assessment of DMC. The study began in 2010. The division also presented court trainings on DMC and special topics such as implicit bias and contemporary theory of culture.

Other special projects

Special Projects Director Jennifer Singletary in 2010 provided statewide and regional court training sessions on services to *pro se* litigants and on giving legal information while avoiding the unauthorized provision of legal advice.

In 2010, Ms. Singletary became involved in Elder Law issues. She is federally certified by the U.S. Department of Homeland Security to train law enforcement officers, court officials and staff, and the public on the topic of elder abuse. Elder abuse is a problem in West Virginia because of West Virginia's aging population, coupled in part with the economic recession. Financial exploitation of West Virginia's seniors is a current focus of both federal and state legislation, and Ms. Singletary serves on a special Financial Exploitation Task Force dealing with these issues. The Supreme Court is also instrumental in administering the statewide commemoration of Elder Abuse Awareness Day in June.

The division is in charge of two community corrections pilot programs, the Pretrial Program and the Reentry Program.

Four counties currently are participating in the Pretrial Program, which seeks to minimize unnecessary jail time for nonviolent misdemeanants while maintaining public safety. Brooke, Cabell, Greenbrier, and Mercer County each administer such a program. In its first year, the Cabell County program saved that county commission so much on its monthly jail bills, the commission voted to give raises to all the courthouse civilian employees.

The Reentry Program's goal is to reduce West Virginia's prison population by providing an intensive supervision, treatment, and rehabilitation program for eligible candidates, addressing their drug and mental health issues in the hope of breaking the cycle of recidivism. The only operating reentry program in West Virginia is in the First Judicial Circuit (Brooke, Hancock, and Ohio Counties). Prisoners with addiction or mental health issues are monitored and enrolled in out-patient treatment, overseen by parole officers. The program demonstrates extensive cooperation between the judicial and executive branches of government.

New Bar Admissions Administrator



Madeleine H. Johnson

The Supreme Court in May 2010 hired a Charleston attorney to be the new Bar Admissions Administrator, the first time a lawyer has filled that position.

Madeleine H. Johnson formerly served as a law clerk for Senior U.S. District Judge David A. Faber and as an Assistant Kanawha County Prosecuting Attorney.

She is a 2004 graduate of the West Virginia University College of Law, where she was manuscript editor of the *West Virginia Law Review*. She received a bachelor's degree in German from West Virginia University in 2000.

"The job of Bar Admissions Administrator is an important one not only to the Court but to the entire state, and the other Justices and I felt it was time for a lawyer to fill the role," said Chief Justice Robin Jean Davis.

The Bar Admissions Administrator works with the West Virginia Board of Law Examiners to accept applications from people who want to take the West Virginia bar examination, administers the bar examination, and processes applications from attorneys in other states who want to be admitted to the practice of law in West Virginia by reciprocity.

The Board of Law Examiners consists of seven members of the West Virginia State Bar who are appointed by the Supreme Court of Appeals.

Court Security

Every time a defendant pays court costs on criminal violations in West Virginia, a portion goes to a Court Security Fund, managed by the Supreme Court of Appeals of West Virginia and the West Virginia Division of Criminal Justice Services through the Court Security Board. The Board, by statute, is chaired by the Supreme Court’s Administrative Director. For violations in magistrate court, the amount of court costs dedicated to the fund is five dollars. A substantial amount of money is thereby created which pays for crucial security needs in county after county.

In 2010, \$970,000 in grants was given to twenty-six county commissions for the purpose of enhancing the security of county court facilities and to the Supreme Court for training court bailiffs. Grant funds vary each year.

The following awards were made in 2010:

Barbour County Commission	\$ 36,869
Braxton County Commission.....	20,000
Cabell County Commission.....	40,000
Calhoun County Commission	4,400
Doddridge County Commission.....	38,000
Gilmer County Commission.....	25,000
Greenbrier County Commission	98,131
Hampshire County Commission	1,764
Hardy County Commission.....	11,160
Harrison County Commission	52,000
Jackson County Commission.....	14,458
Kanawha County Commission.....	26,946
Lewis County Commission	24,756
Lincoln County Commission.....	71,782
Logan County Commission.....	95,477
Marion County Commission	26,559
Mercer County Commission	71,800
Mingo County Commission	15,220
Preston County Commission	51,185
Putnam County Commission.....	10,000
Roane County Commission	10,300
Taylor County Commission.....	2,500
Tucker County Commission	12,689
Webster County Commission	40,568
Wirt County Commission	24,850
Wyoming County Commission	22,500
Supreme Court of Appeals	121,086
Total	\$ 970,000

Court Technology

New Technology Division Director

In 2010, Scott Harvey became director of the Division of Technology in the Supreme Court Administrative Office. Mr. Harvey had worked for the Court since 2005 as a database administrator, specifically the lead developer of the Unified Judicial Application (UJA) computer system.

Supreme Court Administrative Director Steve Canterbury said, "Indeed, building the UJA while maintaining all of the current informational technologies is a great deal like constructing a supersonic jet out of an old prop plane in mid-flight. Scott's just the pilot to get us there."

Before joining the Court, he was a database administrator at the Regional Jail and Correctional Facility Authority for more than ten years. Mr. Harvey was responsible for building the authority's system that allows the public to see detailed information on inmates being held in West Virginia's regional jails.

"Computers have always been in my life," said Mr. Harvey, whose first computer was a Commodore with a keyboard that plugged into a television set. "Even before that, I was always building radios or small engines from kits with my dad."

Mr. Harvey learned about databases and building detailed computer systems in the military. He served six years in the Army and was an Army Crew Chief on a Blackhawk helicopter in the 101st Airborne Division in Desert Shield/Desert Storm. He has been a disabled veteran since 1992, was born and raised in Lincoln County, and is married with two teenage children.

"Scott's an extraordinary person, brilliant without flashiness, with an encyclopedic mind regarding all things technological," said Mr. Canterbury. "The Court is lucky to have his service, in this, one of the most difficult jobs in the entire court system."



Scott Harvey

Unified Judicial Application

In 2010 the Division of Technology introduced a more user-friendly version of the UJA computer system to the nine-member steering committee for testing and approval. The Division of Technology, with the help of five developers, took over the design process from the original contracted company, ACS. The new version of the UJA was developed by creating process-driven actions based upon user input.

The Court is committed to improving system accountability. The UJA will provide more accurate crime statistics to the public, Legislature, and other government agencies. This will provide better information upon which to base public policy decisions. The UJA also will provide privacy-secured electronic information to public agencies, including the Division of Motor Vehicles, the West Virginia State Police, the Regional Jail and Correctional Facility Authority, the Department of Health and Human Services, and the Division of Corrections.

Using the UJA, all counties will be linked to a single computer system, allowing an individual's activities with the court system to be quickly and easily available at each court location. The UJA also will allow more efficient record-keeping of costs and fees assessed and collected, and more effective auditing to ensure collections are distributed to the appropriate funds. Funding through court collections is an important budget backbone for regional jails, community corrections, and the state Crime Victims Compensation Fund, among others.

The UJA also will reduce redundant data entry and improve efficiency by streamlining processing and eliminating many manual tasks. The UJA will encompass docketing, scheduling, calendar management, sentencing, event management, integrated accounting, forms generation, management reporting, evidence tracking, file tracking, on-line documents, and public Web access. The UJA will be integrated with existing state information systems, if possible. A comprehensive security system will be an integral part of the UJA.

Greenbrier County continues to be the primary beta test site for the UJA. The new version was deployed to Greenbrier County Magistrate Court with few defects, and it continues to be refined based on user feedback. The UJA is in full use as the active case management system, with the previous (legacy) system acting as a read-only supplement for research and inquiry. Greenbrier County also has a terminal that allows the general public to search UJA cases that are open to the public. The terminal is Web-based and has been well-received.



Network Infrastructure

The Court continues to improve the judicial system network by leveraging cost-saving plans and deploying new technology in key areas. In late 2010, there began to be an increasing need for wireless access in service locations. The division developed a wireless plan with a thirteen-month deployment. When complete, the access points will allow Court-provided and approved wireless-ready devices to have network access from most areas served by the Division of Technology, including routing services to all county courthouses and other court locations.

Intranet and Microsoft Office 2010

In the fall of 2010, the Division of Technology created an Intranet site to replace an outdated site used by court employees. The Intranet pulls all tools for court employees into one area, including forms, directories, schedules, and conference planning materials. At the end of 2010, the site was being rolled out to employees in groups at training sessions.

The Technology Division also began the process of switching all court employees statewide to the same Microsoft operating system, Microsoft Office 2010.

Jury Management System

An ongoing project into 2011 will be a new jury database. Negotiations have started to create a jury management system, due for release in late 2011. The management system will be a centralized database maintained by the Administrative Office and will track how juries are selected and paid throughout the state.

Mental Hygiene and Treatment Court Databases

In January 2010, the first records of persons involuntarily committed in West Virginia for treatment of a mental illness were sent to the federal National Instant Criminal Background Check System (NICS) database. The records began being captured in June 2009 by the state's Central State Mental Health Registry, which a state law requires to be maintained by the Administrator of the West Virginia Supreme Court of Appeals.

The safety of West Virginians and all U.S. citizens is enhanced by these databases, which list names of those prohibited by law from possessing, buying, or receiving firearms, because they are used for background checks during firearm purchases. The Central State Mental Health Registry may also be used for purposes of background checks for eligibility for a state license or permit to carry a concealed firearm. Upon background check at a seller location, persons listed on the Central State Mental Health Registry or NICS are denied the right to purchase firearms.

Reporting of persons involuntarily committed for treatment of a mental illness to the Central State Mental Health Registry and NICS is the first step in a unique, cutting-edge electronic reporting system developed by the Court's Division of Technology Services and Division of Mental Hygiene and Treatment Court Services, in consultation with a multidisciplinary committee.

In 2010, reporting of persons determined by courts in adult guardianship and conservatorship cases to be unable to handle their own affairs due to mental illness was also captured for the first time. The system was next modified for use in West Virginia Magistrate Courts and is scheduled for release there and in Circuit Courts in 2011. Still to come is development and creation of reporting for persons found to be incompetent to stand trial due to mental illness or insanity and those found not guilty in a criminal proceeding by reason of mental illness or insanity.

Also in 2010, a Drug Court Database was partially implemented in all adult drug, mental health, and re-entry courts, with continued implementation expected into 2011. The database tracks individuals assigned to these problem-solving courts and captures aspects of drug, mental health, and re-entry court requirements. The database was developed by the Court's Division of Technology Services and Division of Mental Hygiene and Treatment Court Services, with the assistance of drug court staff in the field.

Mental Hygiene System

Mental hygiene commissioners are lawyers who are appointed to preside over hearings on involuntary hospitalization, guardianship, and conservatorship. The number of mental hygiene commissioners varies per county depending upon need, but there is at least one in each of West Virginia's thirty-one circuits.

In 2010, 7,913 mental hygiene petitions were filed in West Virginia's circuit courts and magistrate courts. That compares to 8,164 in 2009; 8,109 in 2008; 6,549 in 2007; 8,877 in 2006; 7,773 in 2005; 7,878 in 2004; 7,950 in 2003; 7,026 in 2002; 6,141 in 2001; and 5,553 in 2000.

Mental hygiene commissioners are appointed by circuit judges and each has the full faith and support of his or her individual appointing judicial officer. In several West Virginia counties, magistrates assist with portions of mental hygiene work. Special training is available when they do that job.

All mental hygiene commissioners meet annually at an education conference sponsored by the Supreme Court of Appeals of West Virginia. There they learn the latest changes in state and federal laws, procedures, and protocols.

The Supreme Court Administrative Office met the December 31, 2009, federal deadline in the National Instant Criminal Background Check System Improvement Act, by making a good faith effort to have a West Virginia Mental Health Registry capable of reporting to NICS, a branch of the FBI's National Crime Information Computer. The federal act requires each state to provide the Bureau of Justice Statistics with information on the number of records they may hold that might disqualify an individual from obtaining or possessing firearms, including records on mental health disqualifiers.

The West Virginia Supreme Court Administrative Office began developing a computerized system to automate reporting of individuals prohibited by state and federal laws from purchasing or possessing firearms shortly after the federal act was passed in 2007. The federal law and West Virginia's Central Mental Health Registry law went into effect in 2008. The Court's Division of Technology Services, with the help of a multi-disciplinary team led by Linda Artimez, Director of the Court's Division of Mental Hygiene and Treatment Court Services, created an automated electronic reporting system.

Mental hygiene commissioners fill out registry forms as they adjudicate those who come before them in hearings. The state mental health registry requires the person's name, date of birth, date of commitment, and address at the time of commitment. The NICS Index also requires the person's gender. West Virginia, in addition, provides natural eye color, race, place of birth, and height to assist in FBI identification. Such information is uploaded every seventy-two business hours by the mental hygiene commissioner.

Mental hygiene commissioners began reporting appropriate involuntary commitment cases in June 2009 and began reporting adult guardian and conservator cases in 2010. Designated magistrates are to begin reporting involuntary commitment cases under their jurisdiction in 2011. A designated magistrate is a magistrate whom a chief circuit judge has "designated" to handle all or part of probable cause involuntary hospitalization cases.

The West Virginia reporting system is still under development to include persons found incompetent to stand trial by reason of mental illness and those found not guilty in a criminal proceeding by reason of mental illness. Ongoing work will next address those areas.

The West Virginia court system's work on the project was funded by two grants from the National Criminal History Improvement Program.

The multi-disciplinary team members who worked on the development of the West Virginia Mental Health registry included several Mental Hygiene Commissioners, including Gary Sacco, Shawn Bayliss, Christopher Dean, and the late Lloyd W. Spring III; Deanna Elder of the U.S. Department of Justice; Sherre Baker and William Finch of the FBI; Raleigh County Magistrate Mary Jennings; Elliott Birkhead, Director of the Division of Adult Mental Health for the West Virginia Office of Behavioral Health Services; Terry Small and Charles Dunn, retired, of the West Virginia Department of Health and Human Resources; Capt. Michael Corsaro, Sgt. Jeff E. Skidmore, Debbie Beckner, James Cochran, Sherry Lawson, Shirley Schneider, and Sgt. Jeff E. Skidmore of the West Virginia State Police; Rudi Raynes of the West Virginia Sheriff's Association; Chief Deputy Mike Rutherford of the Kanawha County Sheriff's Department; Richard Kiley, Executive Director of the Appalachian Community Health Center; and Associate Deputy Director Leslie Boggess, Bonnie Beavers and Jason Metzger of the West Virginia Division of Justice and Community Services. Beginning in 2011 a representative from the prosecuting attorney's association will also be joining the team.

Many people in the Supreme Court Administrative Office also worked on the committee. Those included Ms. Artimez; Family Court Division Director Lisa Tackett; Magistrate Court Division Director Janie Moore; Court Services Division Director Angie Saunders; Scott Harvey and Pat Tillery, Director and Deputy Director of the Division of Technical Services; and Caroline Stoker, Monongalia County Magistrate Court Clerk and Supreme Court Computer Field Coordinator.

In Memoriam



Circuit Judge Robert L. Holland, Jr., dies

Third Judicial Circuit Judge Robert L. Holland, Jr., died September 20, 2010, after having a heart attack at his home in Greenwood, Doddridge County. The judge had been taken by helicopter from United Hospital Center in Clarksburg to UPMC Presbyterian Hospital in Pittsburgh, where he died. He was 57.

He was the only judge in the circuit that includes Doddridge, Pleasants, and Ritchie Counties. He was appointed in 1997 by then-Governor Cecil Underwood and successfully ran for election in 1998. He was re-elected in 2000 and 2008.

He was a 1981 graduate of West Virginia University College of Law. Before his appointment to the bench, he had a solo law practice in West Union. He served as city attorney for West Union from 1982 to 1992, fiduciary commissioner, master commissioner, and was a mental hygiene commissioner.

Judge Holland was a lifelong resident of Doddridge County. He was active in his community and had served on the West Union Volunteer Fire Department, was a member of the Doddridge County Lions Club, and coached youth baseball and soccer. He founded the Doddridge County Youth Soccer League.

“Judge Holland was a fine judge and his loss will be greatly felt. We went to law school together and I have known him for almost thirty years. I consider it a personal loss,” said Chief Justice Robin Jean Davis. “He was well thought of in the judicial community and in the communities he served.”

Twelfth Judicial Circuit Judge John W. Hatcher, Jr., said, “He was a dear friend and one of the most honest, ethical men I’ve ever known. He was a great family man, devoted to his family, and has a great reputation among all of his judicial colleagues. It is absolutely so, so sad.”

Supreme Court Administrative Director Steve Canterbury said Judge Holland was “refreshingly blunt, vitally interested in the life of his community. It’s impossible to replace a judge like Judge Holland.”

He is survived by his wife, Kim; son Robert III; daughter Hunter; and two sisters.



Retired Judge William L. Fury dies

Retired Circuit Judge William L. “Les” Fury of Weston died November 24, 2010, at the United Hospital Center in Bridgeport. He was 93.

Judge Fury was a 1935 graduate of Weston High School, a 1938 graduate of Potomac State College in Keyser, a 1941 graduate of Wesleyan College in Buckhannon, and a 1948 graduate of Washington and Lee University School of Law.

After serving with the rank of captain in the European Theater in World War II, he returned to practice law in Weston in October 1948. He also served as a major in the U.S. Army Organized Reserve.

In 1968 he was elected to the circuit bench in the Twenty-Sixth Judicial Circuit (Lewis and Upshur Counties). He was re-elected until he retired in 1985. He previously had served four successive four-year terms as prosecuting attorney for Lewis County.

He was an active member of St. Paul’s Episcopal Church. He was a member of Weston Lodge No. 10, A.F. & A.M.; past president of Weston Rotary Club; past president of the Lewis County Chamber of Commerce; past president of Deerfield Country Club; and chairman of Stonewall Jackson State Park Advisory Committee. He was a member of the American Legion, Veterans of Foreign Wars, Central West Virginia Shrine Club, A.A.O.N.M. Shrine Nemesis Temple, Reserves Officers Association of the United States, American Bar Association, West Virginia Bar Association, West Virginia State Bar, West Virginia Judicial Association, American Judicature Society, and the National Association of Juvenile Court Judges.

He held membership in several civic clubs, including Lions, Moose, and Weston Jaycees Little League. He was a lifelong Democrat.

On November 7, 1942, he married the late Elizabeth Aspinall. They were devoted West Virginia University sports fans.

He is survived by two brothers, Verland “Bud” Fury of Pittsburgh, Pennsylvania, and Donald “Blaze” Fury of Fort Thomas, Kentucky; a sister-in-law, and several nieces and nephews.

Transitions

New judge in 22nd Judicial Circuit

Family Court Judge Charles E. Parsons defeated Circuit Judge Jerry D. Moore in the November 2, 2010, general election for the circuit judge position in the Twenty-Second Judicial Circuit (Hardy, Hampshire, and Pendleton Counties).

Former Governor Joe Manchin III had appointed Judge Moore on December 19, 2008, to a new seat created by Senate Bill 291, which passed during the 2008 legislative session. He had to run in the next general election to retain the seat. Judge Moore previously was the Pendleton County prosecutor and a former mental hygiene commissioner.

Judge Parsons replaced Judge Moore on December 15, 2010, after the election results were certified.

Judge Parsons, a 1976 graduate of West Virginia University College of Law, had been a family court judge since the position was created in 2000. He previously had been a family law master since 1986.

He is a 1969 *magna cum laude* graduate of West Virginia University. After graduating, he was placed on active duty with the United States Army, where he was selected as honor graduate of leadership school as well as the outstanding soldier of his unit.

Judge Parsons is married to Elizabeth “Beth” Parsons, a retired teacher, and they have three children and two grandchildren.



Judge Charles E. Parsons



Senate President Earl Ray Tomblin, acting as governor, delivers the oath of office to Tim Sweeney, the new Judge in the Third Judicial Circuit, as his wife, Charlene looks on. Photo courtesy of the St. Marys Oracle

Pleasants County prosecutor becomes judge in Third Judicial Circuit

Pleasants County Prosecutor Tim Sweeney was sworn in on December 30, 2010, as judge in the Third Judicial Circuit (Doddridge, Pleasants, and Ritchie Counties). He was appointed by Senate President Earl Ray Tomblin, acting governor, to fill the vacancy left by the death of Judge Robert Holland, Jr., in September.

Acting Governor Tomblin delivered the oath of office to Judge Sweeney in the courtroom at the Pleasants County Courthouse in St. Marys.

“As a judge, it’s my responsibility to make good rulings in a timely fashion,” Judge Sweeney told the audience. “And that’s something I pledge to do. With your help, and God helping me, we can accomplish the task.”

Judge Sweeney had served as Pleasants County prosecutor since 1985. He has been an attorney for nearly thirty years, including several years in private practice with law firms that include White & Sweeney, Sweeney & Ballard, the Sweeney Law Firm, and nine years serving as the general counsel of Pleasants County Bank. He is the former president and general counsel for the Pleasants Memorial Estates and the St. Marys Motel, Inc.

Judge Sweeney is a past president of the West Virginia Prosecuting Attorneys Association, a 4-H Foundation volunteer and board member, and the president of the Pleasants County Library Board.

Judge Sweeney received a bachelor’s degree in business administration from West Virginia University. In 1980, he earned his law degree from the West Virginia University College of Law.

Judge Sweeney lives in St. Marys. He is married and has four children.



Carrie Webster is sworn in by the Thirteenth Judicial Circuit Chief Judge Tod Kaufman as her husband, Greg Skinner, holds the Bible. *Photo by Jennifer Bundy*

Kanawha County Circuit Judge Carrie Webster elected

Judge Carrie L. Webster was sworn in November 19, 2010, as a judge in the Thirteenth Judicial Circuit (Kanawha County) at a public investiture ceremony.

Thirteenth Judicial Circuit Chief Judge Tod J. Kaufman administered the oath to Judge Webster in Courtroom Four, the historic courtroom on the second floor of the Kanawha County Courthouse.

Judge Webster was elected on November 2. She previously was appointed by then-Governor Joe Manchin III on December 2, 2009, to fill the seat left vacant by President Obama's appointment of Judge Irene Berger to the federal court in the Southern District of West Virginia.

Before her appointment, Judge Webster had been a member of the House of Delegates since 2001 and chairwoman of the House Judiciary Committee since 2006.

Judge Webster was an associate with the Charleston law firm Bucci, Bailey & Javins. She previously was an assistant public defender in the Kanawha County Public Defender's Office from 1997 to 2000. She has a bachelor's degree in political science from West Virginia University and a law degree from West Virginia University College of Law.

She was born in Fairfax, Virginia, grew up in Moorefield, and has lived in Charleston since 1989. She is married and has one daughter.

Circuit Judge Fred L. Fox, II, retires

Judge Fred L. Fox, II, retired November 30, 2010, from the Sixteenth Judicial Circuit (Marion County) after forty years of service. Judge Fox, 72, submitted his letter of resignation on October 13 to then-Governor Joe Manchin III. Judge Fox became a Senior Status Judge and will continue to perform his judicial duties in the Sixteenth Circuit until his replacement is named.

The Marion County Commission on December 17 voted to rename the Division I Courtroom in the Marion County Courthouse the Fred L. Fox, II, Courtroom.

Judge Fox literally grew up in a courtroom. His father was a longtime Braxton County prosecutor and his grandfather was a Supreme Court Justice from 1937 to 1952. Judge Fox often went to court with his father.

"I loved it," he told *The [Morgantown] Dominion Post*. "It was like theater. You can imagine. I saw murder trials. I saw all kinds of things that were really interesting to me at the time."

Judge Fox was a three-sport athlete in high school and played a year of Division I baseball at Washington and Lee University before his father, concerned about his poor grades, made him transfer to Davis and Elkins College.

After college, Judge Fox served in the Marines from 1960 to 1963 before attending West Virginia University College of Law. He opened a law practice in Fairmont and joined the Marine Reserve. He was recalled to active duty and served eleven months in Vietnam before being injured by a mortar and shot in the foot on January 31, 1969. His left leg was badly injured. He received two Bronze Stars, the Vietnamese Cross of Gallantry, and a Purple Heart.

After returning to Fairmont to practice law, he was elected circuit judge in 1970. He was re-elected every eight years thereafter.



Senior Status Judge Fred L. Fox with his wife Debby and daughter Charlee. *Photo provided by Marion County Circuit Clerk Barbara Core*

“He moved into a place near our home, and he and my father became friends, then later on we would become friends,” Circuit Judge David R. Janes, who started practicing law in 1977, told the newspaper. “Judge Fox is one of the finest men I ever met. He is an outstanding judge. He has the ideal temperament and the ideal intellect, which is evident when you look at his years of service and the respect he has from everyone.”

In 1995, Judge Fox served ten months by assignment on the Supreme Court of Appeals during the illness of the late Justice William Brotherton.

Judge Fox said he plans to spend his retirement fishing and with his family. He married his wife, Debra, in 1989. Between them they have four children and three grandchildren.

Circuit Judge Dan O’Hanlon retires

Sixth Judicial Circuit Judge Dan O’Hanlon retired October 31, 2010, after serving as a circuit judge in Cabell County for twenty-five years.

Judge O’Hanlon resigned August 16. He delayed the effective date to give the governor time to find a replacement.

Judge O’Hanlon, 62, was elected in November 1984. He was re-elected in 1992, 2000, and 2008. After his retirement he took a new job as Vice Chancellor for Technology at the West Virginia Higher Education Policy Commission.

Judge O’Hanlon received the Governor’s Information Technology Award in 1999 for his part in developing a video system linking courthouses to jails and prisons in West Virginia. He also won the IQ Internet Leadership Award in 2002. He was chairman of the West Virginia Supreme Court’s Technology Committee from 1993 until his retirement and chairman of the Vision Shared Technology Integration Committee beginning in 2002.



Judge Dan O’Hanlon

As a circuit judge he also presided over the Cabell County Adult Drug Court, Juvenile Drug Court, and Day Report Center. He has been on the YMCA Board of Directors since 1992.

Marshall University in June 2009 named its annual event Dan O’Hanlon Constitution Week. He received the APEX Award (Active Partners in Educational Excellence) in 2005 and was named Judge of the Year by the West Virginia Association for Justice in 2007.

“He’s just been the epitome of a public servant,” Supreme Court Administrative Director Steve Canterbury told *The Herald-Dispatch*. “Dan is a one-of-a-kind guy, and you can’t replace the remarkable amount of knowledge he brings to the bench. He’s responsible for so many initiatives that you could fill the newspaper with them.”

Judge O’Hanlon was born in Omaha and grew up in Chicago. He graduated from Lyons Township High School in 1966. He received his bachelor’s degree in speech from Marquette University in Milwaukee, Wisconsin, in 1970, and his law degree (with honors) from Arizona State University in 1973. He was a law clerk for the U.S. District Court in Tucson, Arizona, from 1974 to 1978.

He was director of the Marshall University Community College paralegal program from 1978 to 1982 and chairman of Marshall University’s Criminal Justice Department from 1982 to 1984. He simultaneously served as a part-time assistant prosecuting attorney in Cabell County from 1979 to 1980 and as the City of Huntington municipal judge from 1981 to 1984.

He is a wine connoisseur and a beekeeper. He was named the 2010 Beekeeper of the Year by the West Virginia Beekeepers Association. He is also a member of MENSA.

Judge O’Hanlon was appointed four times to serve as an Acting Justice on the West Virginia Supreme Court of Appeals and has served four times as Chief Judge in Cabell County.



Twenty-Third Judicial Circuit Judge David Sanders (left) swears in new Magistrate Jim Humphrey. *Photo courtesy of Jim Humphrey*

Berkeley County gets new magistrate

Former Berkeley County Magistrate Jim Humphrey was appointed by Twenty-Third Judicial Circuit (Berkeley, Jefferson and Morgan Counties) Judge David H. Sanders to fill the unexpired term of Magistrate William R. "Randy" Smith.

Magistrate Humphrey was sworn in on September 13, 2010. Judge Sanders said Magistrate Humphrey did a good job as a magistrate previously when he was appointed to the bench in 2005 and when he was elected the following year. The Martinsburg resident held that office until the end of 2008 when he was defeated by Magistrate Smith and four incumbent magistrates.

Magistrate Humphrey will hold the seat until 2012, when Magistrate Smith's four-year term would have expired.

Magistrate Smith resigned after winning a \$79 million Powerball Jackpot on August 21. He retired on September 3.

Magistrate Smith opted for the one-time cash payout of \$44.3 million. Federal income taxes of \$11 million and state income taxes of \$3 million were deducted from that amount. He picked up the check in a ceremony at the West Virginia Lottery headquarters in Charleston on August 23.

Magistrate Smith served two terms as Berkeley County sheriff before he ran for magistrate.

Magistrate Smith, 63, said he plans to use the money to pay off his mortgage, buy a new vehicle, and help his family. He has two adult daughters and three grandchildren. "We have some illness in the family, and I take care of a disabled sister," he said. While he doesn't want the money to make his children idle, "I do plan to buy them homes," he said.

A Martinsburg resident, he pledged to spend most of the money in West Virginia.

Smith worked in the orchards, as a welder, and in a manufacturing plant before running for office. He "is known as a Good Samaritan in Berkeley County," said Lottery Director John Musgrave.



Magistrate Randy Smith (center) is awarded a lottery check from then-Governor Joe Manchin III (right) and Lottery Director John Musgrave. *Photo courtesy of the Charleston Daily Mail*



Twelfth Judicial Circuit Judge John W. Hatcher, Jr., swore in Janice Wiseman as a Fayette County Magistrate with her daughter, Caitlin, and husband, Jim, by her side. *Photo courtesy of Janice Wiseman*

Fayette County gets a new magistrate

Janice Wiseman became a Fayette County Magistrate on December 11, 2010, replacing Magistrate Mike Parsons, who took a medical disability.

Magistrate Wiseman was Magistrate Parsons' assistant before taking her oath of office on December 11. She started her new duties on December 15.

"It has been my honor and privilege to serve the citizens of Fayette County as a magistrate for the past 21 years," Magistrate Parsons wrote in a November 5 letter of intent to Twelfth Circuit Chief Judge John W. Hatcher, Jr.

"Magistrate Parsons has been a dedicated, honorable and hard-working public servant, and as he leaves the magistrate court system he will take with him an exemplary and unblemished record," Judge Hatcher said.



Rebecca L. Tate

Marion County magistrate retires, new magistrate appointed

Fairmont attorney Rebecca L. Tate was appointed to the Marion County magistrate seat left vacant by the retirement of Muriel “Peggy” Twyman. Her first day was September 1, 2010.

At the time of her appointment, Magistrate Tate had a general law practice in Marion County. She also served on the sheriff’s civil service commission, was a commissioner in chancery, and was a mental hygiene commissioner. She previously worked with the West Virginia Attorney General’s Office, according to *The [Fairmont] Times West Virginian*.

Magistrate Tate has practiced law since 1997. She was appointed by Sixteenth Judicial Circuit Chief Judge David R. Janes, who chose her with the consent of Judge Fred L. Fox II.

Magistrate Twyman was elected in 1980 and re-elected every four years thereafter. She recalls the introduction of the first computer to the magistrate court – in 1988 – and moving from an office in the Marion County Library to the Magistrate Court’s current location on the second floor of the J. Harper Meredith building.

“Over these years I have watched the court grow and develop. The work has changed, the technological system has changed and the demands of the court have increased. That is a very good thing for the court, but it’s one of the reasons I have decided to let it go,” Magistrate Twyman told the newspaper.

The Magistrate Court caseload has increased, with more felony charges and an influx in domestic violence cases. There also has been an increase in the amount of responsibilities assigned to magistrates, who now preside over mental health hearings when mental hygiene commissioners are not available. Magistrates also preside over abuse and neglect cases and juvenile detention hearings.

Magistrate Twyman said she plans to devote more time to her family, friends, and church.



Muriel “Peggy” Twyman



Emily Bradley

Wood County magistrate turnover

Wood County Magistrate Emily Bradley, 60, retired April 30, 2010. She had been a magistrate for twenty-two years.

Prior to being elected, Magistrate Bradley worked as a magistrate assistant for five and a half years. She also worked as a secretary in the Prosecutor’s Office and the Parkersburg Police Department.

Chief Circuit Judge Robert Waters appointed her assistant, Rachel Harpold Ferguson, to replace her. Magistrate Ferguson began work on May 1. She had worked as Magistrate Bradley’s assistant for eighteen months, and prior to that worked as a magistrate assistant in Roane County for eight years.

Magistrate Ferguson did not seek election to the position in the 2010 general election. Her assistant, Republican Robin Waters, was elected. Magistrate Waters is married to Judge Waters.



Fourth Judicial Circuit Judge J.D. Beane swears in new Wood County Magistrate Robin Waters. She is surrounded by her family, including her husband, Wood County Circuit Judge Robert Waters, and their children: Andrew, Elizabeth, and Isaac. *Photo courtesy of Robin Waters*



Kanawha County Magistrate Clerk Agnes Riffel (center) is shown with coworkers at a retirement party in her honor. From left: Angel Cincinnati, Kim Pauley, Andrea Cooper, Nena Jarrett, Lisa Good, Agnes Riffel, Kathy Yates (hidden behind Ms. Riffel), Irene Milam, Brenda Wilkinson, and Michele Cook. *Photo courtesy of the Charleston Daily Mail*

Kanawha Magistrate Clerk Agnes Riffel retires

Longtime Kanawha County Magistrate Clerk Agnes Riffel retired August 31, 2010. She began working for the court system even before magistrates existed – in 1974. Ms. Riffel was hired in Nicholas County that year.

In 1977, the magistrate system replaced justices of the peace and Ms. Riffel became Nicholas County's first magistrate court clerk. In 1988, she and her husband, Wayne, a mining equipment salesman, moved to Morgantown. She worked in the Monongalia County Magistrate Clerk's Office until 1993, when the

couple moved to the Charleston area. Ms. Riffel was hired as a deputy magistrate court clerk in Kanawha County and became the clerk in 1998, according to a story in the *Charleston Daily Mail*.

Ms. Riffel said many things have improved in her years of service, especially technology. "Computers have been a great thing. I couldn't imagine doing it now without them, especially with the large caseload we have here in Kanawha County," she told the newspaper.

Ms. Riffel, 60, a native of Webster County, plans to spend her retirement with her husband of 42 years. They will split their time between Kanawha County and the second home they own in Georgia.

New Kanawha Magistrate Clerk sworn in

Angel Cincinnati was sworn in as the new Kanawha County Magistrate Clerk on September 1, 2010, by Thirteenth Circuit Chief Judge Tod Kaufman. Ms. Cincinnati replaced Agnes Riffel, who retired on August 31.

Ms. Cincinnati, 40, went to work in the magistrate clerk's office immediately after she graduated from Charleston High School. Other than the time she spent as an assistant to former Kanawha County Magistrates Maryanna Aliff and Kathy DeMarco, between about 1995 and 2000, she has been a deputy clerk ever since.

"I just enjoy helping the public," she said.



Thirteenth Circuit Chief Judge Tod Kaufman swears in new Kanawha County Magistrate Clerk Angel Cincinnati. *Photo by Chris Dorst, The Charleston Gazette*

New circuit clerks elected in thirteen counties in November

- Braxton County: J.W. Morris did not run; Susan Frame Lemon was elected.
- Grant County: Betty Moomau did not run; Nancy Berg Dayton was elected.
- Hardy County: Janet Ferrell did not run; Kim Kimble Evans was elected.
- Jackson County: Keith Brotherton did not run; Bruce DeWeese was elected.
- Jefferson County: Laura Ratteni was elected to the position to which she had been appointed in November 2008.
- Logan County: Alvis Porter did not run; Vickie Kolota was elected.
- McDowell County: Francine Spencer was elected to the position to which she had been appointed in December 2009.
- Mineral County: Mary M. Rinehart did not run; Krista Johnson Dixon was elected.
- Monroe County: Julia Light did not run; Leta Gullette was elected.
- Pocahontas County: Butch Michael did not run; Connie Carr was elected.
- Raleigh County: Janice Davis did not run; Paul Flanagan was elected.
- Roane County: Beverly Greathouse did not run; Andrea Stockner was elected.
- Wirt County: Theresa Rollins did not run; Carol Frame was elected.

Awards

Judge Gaughan wins national award

First Circuit Judge Martin J. Gaughan received the National Association of Drug Court Professionals' Community Transformation Award in December. The award was presented by West Huddleston, the organization's chief executive officer, at a First Circuit Drug Court graduation ceremony.

Judge Gaughan is one of only five judges to receive the award since the inception of the NADCP twenty years ago.

Mr. Huddleston praised Judge Gaughan for helping to establish West Virginia's first drug court and similar programs that also were firsts in the state. In addition to the drug court, Judge Gaughan helped form a mental health court in 2004, a re-entry court in 2009, and a juvenile drug court in Brooke and Hancock counties in October 2010.

Judge Gaughan and Jim Lee, chief probation officer for the First Judicial Circuit (Brooke, Hancock, and Ohio Counties), said all of the programs are intended to help individuals charged with misdemeanors whom prosecutors and judges believe are good candidates for rehabilitation. Those who fail to comply with the programs' conditions are returned to the criminal court system.

Mr. Huddleston thanked Judge Gaughan "for giving people an alternative to incarceration and a nudge to accountability when they needed it."

Judge Gaughan said the local court was a vision shared by Mr. Lee and state Supreme Court Administrative Director Steve Canterbury, according to a story in *The [Steubenville] Herald Star*.

He said he was "overwhelmed" to receive the national award. He said he has the most satisfaction whenever a past drug court recipient "tells me how long they have been clean, or when people I don't know come up to me on the street to say, 'Thank you, you've saved my son's or daughter's life.'"

First Judicial Circuit wins national award

First Judicial Circuit Judge Martin J. Gaughan and First Circuit Chief Probation Officer Jim Lee were recognized for the success of the Northern Panhandle Treatment Courts program they helped create. They received an award at the National Criminal Justice Association Forum on August 3 in Fort Myers, Florida, for the Best Criminal Justice Program in the Southern Region. There are four regional winners each year, and this was the first time a program in West Virginia was recognized.

"It's gratifying for everyone in the judicial system that the pioneering work of Judge Gaughan and Jim Lee is being recognized beyond the state's borders. We know that because of their leadership we are doing great work, but it's always pleasant when other people notice," said Supreme Court Administrative Director Steve Canterbury, who along with Judge Gaughan and Mr. Lee is considered one of the founders of community corrections in West Virginia.

Norbert Federspiel, West Virginia Division of Criminal Justice Services Director, nominated the Northern Panhandle Treatment Courts and Judge Gaughan and Mr. Lee because of the community corrections effort they have led across the state and their focus on treatment courts.

"Our community corrections probably wouldn't exist without them, or at least would be crippled without what they have done," said Mr. Federspiel.

In 2004, West Virginia's first mental health court opened in the First Judicial Circuit (Brooke, Hancock and Ohio Counties), followed by a drug and DUI Court. In 2009, a reentry court was established. A juvenile drug court opened there in October 2010.

"This award is the result of the entire community including judges, prosecutors, and county commissioners working together for over ten years to create a criminal justice program that protects the community and changes the lives of everyone involved in the system," said Judge Gaughan.



First Circuit Chief Probation Officer Jim Lee (left) and First Circuit Judge Martin J. Gaughan accept an award from the National Criminal Justice Association for the Best Criminal Justice Program in the southern region. *Photo courtesy of Judy Gaughan*

Jim Lee receives 2010 West Virginia Liberty Bell Award

On behalf of the Supreme Court, Justice Thomas McHugh presented the 2010 West Virginia Liberty Bell Award to Jim Lee, the Chief Probation Officer in the First Judicial Circuit. He gave Mr. Lee the award on April 24 at the Brooke County Veterans Memorial Park Foundation Dinner in Wellsburg. Mr. Lee is chairman of the Foundation.

The Liberty Bell Award is presented each year to a person who has “promoted better understanding of the rule of law, encouraged greater respect for the law and the courts, stimulated a sense of civic responsibility, or contributed to good government in the community,” according to criteria set by the American Bar Association.

Mr. Lee, a decorated Vietnam veteran, also is a criminal justice professor at West Liberty State College and Wheeling Jesuit University. He has a master’s degree in Leadership Studies from Marshall University and a master’s degree in Science in Education from the University of Dayton.

In the 1990s, Mr. Lee served on the Supreme Court’s Commission on the Future of the West Virginia Judiciary. In 2000, he was instrumental in establishing the Lee Day Report Center, which began operations in January 2001. Mr. Lee also authored West Virginia’s 2001 Community Corrections Act, and he was instrumental in starting the state’s first drug/DUI and mental health court in 2004.

In 2004, Mr. Lee was honored as a Distinguished West Virginian in recognition of his efforts to improve the criminal justice system. In 2009, he was named to the Governor’s Committee on Overcrowded Prisons.

In March 2010 West Virginia Attorney General Darrell McGraw appointed Mr. Lee to a statewide Citizens Advisory Committee, citing his extensive experience in criminal justice and involvement in community programs.



Justice Thomas E. McHugh speaks to McDowell County school children.

Justice McHugh receives McDowell County Liberty Bell Award

Supreme Court Justice Thomas McHugh received the McDowell County Liberty Bell Award during that county’s celebration of Law Day on April 30.

The program at the main courthouse in Welch included a presentation of prizes to school children who participated in poster, poetry, PowerPoint, and essay contests.

“The students should be very proud of what they have done,” said Justice McHugh, who was given the award for his service and dedication to the law and the community.

Eighth Judicial Circuit Judge Booker T. Stephens has organized Law Day events in McDowell County for fourteen years, along with his colleague Judge Rudolph J. Murensky, II.

Law Day was proclaimed by President Dwight D. Eisenhower in 1958 as a day to reflect on the role of law in the founding of the United States and to recognize its importance for society. The 2010 Law Day theme was “Law in the Twenty-First Century: Emerging Challenges and Enduring Traditions, Defending Liberty and Pursuing Justice.”

Law Day is usually held on or around May 1.

Judge Keadle honored for service

Circuit Judge Thomas H. Keadle was honored January 15 for his twenty-five years on the bench. Judge Keadle is the only judge in the Twenty-Sixth Judicial Circuit (Lewis and Upshur Counties).

Supreme Court Justice Brent D. Benjamin presented Judge Keadle with a certificate of recognition from the Supreme Court.

Judge Keadle said he was “totally surprised and thrilled” with the event, held at Lambert’s Winery outside of Weston. Judge Keadle was raised in Alderson in Greenbrier County. He and his wife Beverly now live in Buckhannon and have two adult children.



From left: Supreme Court Justice Brent D. Benjamin, Twenty-Sixth Circuit Judge Thomas H. Keadle, and Twenty-Second Circuit Judge Donald H. Cookman, who is Judge Keadle’s brother-in-law. Judge Keadle was honored for twenty-five years of service at an event in January at Lambert’s Winery. *Photo by John G. Wolfe, Weston Democrat*



Circuit Judge Jeffrey B. Reed

Reed named Judge of the Year by CASA

Fourth Judicial Circuit (Wirt and Wood Counties) Judge Jeffrey B. Reed was named 2010 Judge of the Year by the West Virginia Court-Appointed Special Advocates for his longtime commitment to protecting children’s rights in child abuse and neglect proceedings.

“Judge Reed believes that every child has the right to a healthy, secure, and stable life, and, more than just his beliefs, he demonstrates the child’s legal rights to have the life they deserve,” said Margaret Burdette, program director for the Voices for Children Foundation CASA of Wood, Wirt, Pleasants, Doddridge and Ritchie Counties, which nominated Judge Reed for the statewide honor.

“Judge Reed was actively involved in the start-up of our program ten years ago and has remained a strong link to the program and the court system. He’s always been available after-hours for CASA meetings, fund-raisers and ceremonies.

He has participated as keynote speaker at the CASA Volunteer Recognition Dinner. He has also served as a spokesperson to promote the CASA program and recruit volunteers,” Ms. Burdette told *The [Parkersburg] News and Sentinel*.

Judge Reed said, “Receiving a statewide award is always humbling, but especially so when it comes from an organization such as CASA.

“There’s a saying that the measure of a society is in how it treats the defenseless or the ones among us who cannot speak for themselves, and that’s what CASA is all about. They speak for the children in abuse and neglect cases. They watch out for the children and do what’s in the child’s best interest, so to have them recognize me for what I try to do, it’s very humbling and I appreciate it,” Judge Reed told the newspaper.

Judge Reed is also the recipient of the 2003 Commissioner’s Award given by the United States Department of Health and Human Services, awarded for outstanding achievement in the field of child abuse and neglect prevention. He assisted in writing the Rules of Procedure for Child Abuse and Neglect and assisted in writing and editing the judicial handbook used statewide by judges and practitioners in the area of child abuse and neglect.



Circuit Judge Dan O’Hanlon in his beekeeper’s clothing

Judge O’Hanlon named State Beekeeper of the Year

Sixth Judicial Circuit (Cabell County) Judge Dan O’Hanlon was named State Beekeeper of the Year by the West Virginia Beekeepers Association at its fall meeting, held September 25 at Jackson’s Mill. He was nominated by Gabe Blatt, president of the local Cabell-Wayne Beekeepers Association.

Judge O’Hanlon has been keeping bees and making honey on his New Wind Rising Farm in Huntington since 1988. He started selling his honey at a farmers market in 2006.

“He’s done an awful lot for the bees and beekeepers across the state,” Mr. Blatt said. He cited Judge O’Hanlon’s work to advance the art of beekeeping, along with local efforts to assist new members and organize workshops, including a 2008 meeting at Marshall University that drew more than 350 beekeepers from across the country.

Judge O’Hanlon also writes the local chapter’s newsletter, which is distributed throughout the state. “Lots of people have commented how much they enjoy reading it,” Mr. Blatt said.

Chief Justice Davis receives award from West Virginia Wesleyan

Chief Justice Robin Jean Davis was given an Alumni Achievement Award from West Virginia Wesleyan University during the Alumni Banquet on October 2. The banquet is part of the school’s homecoming celebration.

Chief Justice Davis graduated from West Virginia Wesleyan in 1978. She received her master’s degree and law degree from West Virginia University in 1982.

While she was attending West Virginia Wesleyan University, Chief Justice Davis was president of her sorority, Alpha Delta Pi; she played on the university tennis team; and for four years she was a professor’s assistant to earn money for tuition. In 1998 she served on the West Virginia Wesleyan University Board of Trustees.



Laura Rattenni

Laura Rattenni wins Court Clerk of the Year award

Jefferson County Circuit Clerk Laura Rattenni won the Court Clerk of the Year Award presented by the West Virginia Association for Justice at its annual meeting in Charleston on June 5.

“It was such an honor to be recognized for doing something that I really love,” said Ms. Rattenni, who had been on the job only eighteen months at the time.

Ms. Rattenni was appointed Clerk in November 2008 to fill the unexpired term of Patsy Noland, who won a seat on the Jefferson County Commission. Ms. Rattenni won election to the clerk’s post on November 2.

Charles Town attorney David Hammer nominated Ms. Rattenni for the award. Mr. Hammer told *The [Martinsburg] Journal* that Ms. Rattenni and her staff have done an excellent job of modernizing the office while dealing with the increased demands of a growing county.

Ms. Rattenni lives in the Harpers Ferry District with her husband, Louis Rattenni, Jr. They are the parents of Charles, 27; Bradley, 17; and Nicole, 15.

Bar Foundation selects 2010 Foundation Fellows

Circuit Judge Gary L. Johnson and Senior Status Judge Thomas W. Steptoe, Jr., were among the 2010 Bar Foundation Fellows. The West Virginia Bar Foundation is the philanthropic organization of the legal profession.

Judge Johnson, of the Twenty-Eighth Judicial Circuit (Nicholas County), is Chairman of the West Virginia Court Improvement Program Oversight Board. He also has received numerous national and state awards and led several initiatives to improve the child welfare system in West Virginia. Judge Johnson lives in Summersville.

Senior Status Judge Steptoe chose not to seek re-election in the Twenty-Third Judicial Circuit (Berkeley, Jefferson, and Morgan Counties) in 2008. He had served the area since January 1, 1985.

For ten years, the Bar Foundation has selected “lawyers whose professional, public, and private careers have demonstrated outstanding dedication to the welfare of their communities and honorable service to the legal profession, with the individuals selected reflecting the diverse nature of the legal profession in West Virginia.”

Judge Johnson and Judge Steptoe were inducted at the Fellows Dinner on April 30 in Charleston.

News from West Virginia Courts

Judges speak at Boy Scout dinner

Ninth Judicial Circuit Judges Omar Aboulhosn and Derek Swope talked about their experiences as Eagle Scouts at an event on February 8, marking the one hundredth anniversary of the incorporation of the Boy Scouts of America.

The judges spoke at a dinner and annual Court of Honor at the First United Methodist Church in Princeton. The dinner honored the approximately twenty-five boys who are members of Troop One, which is sponsored by the Methodist Men at the church.

Troop One is the oldest Boy Scout troop in Mercer County. It was founded in 1917, only a few years after the Boy Scouts of America was incorporated on February 8, 1910, and a year after the national group was chartered by Congress in 1916. Troop One was briefly inactive in the late 1950s but has been continuously chartered since 1962. Judge Aboulhosn was a member of Troop One and earned his Eagle Badge in 1982.

"I know how important scouting was to me growing up, and I credit scouting for helping me to become a judge," Judge Aboulhosn said. "Earning the Eagle Badge as a teenager helped to open many doors for me. I believe in the mission of the Boy Scouts so much that I still work in the Boy Scouts even though I do not have a son in scouting. Every opportunity that I have to speak about how scouting changed my life I will do so. I look forward to speaking to the scouts in attendance to encourage them to continue on their journey to earning their Eagle Badge."

Judge Swope said, "The Boy Scouts is a very important means for young men to learn valuable skills that will help them throughout life. This is particularly true when one arrives at the rank of Eagle Scout."

Judge Swope said that while it's good for all boys to be in scouts, the work it takes to earn the Eagle Badge teaches self-reliance, physical strength, and perseverance. "Those are lessons that will help you throughout your life," Judge Swope said.



From left: UJA trainer Andrea Snyder and Marion County Circuit Clerk Barbara Core
Photo by Jennifer Bundy

Supreme Court embeds technician in Marion County Circuit Clerk's Office

A Supreme Court technician was embedded in the Marion County Circuit Clerk's office for two weeks beginning April 19 as the first step toward expanding the Unified Judicial Application (UJA) system to circuit courts throughout the state.

Andrea Snyder, a UJA trainer, was in Marion County to observe how the clerk's office uses its current computer system to do its daily business. Ms. Snyder shadowed Marion County Circuit Clerk Barbara Core.

"She is to digest as much as she can about the basic processes in circuit clerks' offices generally and Marion County specifically, with an eye on how we can use that information to have the best possible transition to the UJA when we get to rolling it out in circuit clerks' offices statewide," said Supreme Court Administrative Director Steve Canterbury.

"We have to start our planning now, and we have to start getting information about the best technological practices before we start to determine how we will fold them into the UJA," Mr. Canterbury said.

The UJA is fully functional in the Greenbrier County Magistrate Clerk's Office. It will be rolled out to other magistrate clerks' offices, likely several at a time, until all offices are connected.

Once the UJA is operational in all magistrate clerks' offices, the Supreme Court will begin beta tests in selected circuit clerks' offices, then expand it statewide to all circuit clerks' offices. Family courts and probation offices will follow.

Ms. Snyder specifically studied the Marion County Circuit Clerk's case management and business processes.

"This is the first step in learning how a circuit clerk's office operates and what technology we are going to need to make the systems work statewide," said Ms. Core.

Circuit Clerks discuss modernizing recordkeeping

A committee of circuit clerks established by the Supreme Court of Appeals of West Virginia met February 16 at the Charleston Marriott to discuss potential ways to modernize the storage of court orders.

Specifically, the group is studying whether circuit clerks' offices, which have the ability and capacity to scan all court orders and store them electronically, also need to keep paper copies in order books. Order books and the special paper used in them are expensive. Storing orders electronically with two backups would be a cheaper and a safer alternative in the event of a fire or natural disaster. Currently, a paper copy of each order also is placed in the individual court file. That would continue to be done if order books are eliminated.

Marion County Circuit Clerk Barbara Core, chairwoman of the committee, estimates her office alone could save up to \$6,000 a year if she did not keep order books.

"We are trying to improve our offices as well as save the counties money and preserve the record as outlined by our duties," said Ohio County Circuit Clerk Brenda Miller, a member of the committee. "We will still have the original paper of each order signed by the judge within each individual file, but the order books are an additional 'copy' of the original or duplicate paperwork. Each clerk's office only has so much space for storage of these books. Unfortunately, most courthouses were built long ago before storage was even a consideration."

Not all clerks' offices have the same technological capacity, so any recommendations of the committee will simply give circuit clerks the option to scan orders in lieu of keeping paper copies, not force them to do so, Ms. Core emphasized.

"For counties that have been investing in technology, this is a logical next step. No one is anticipating this be ordered for anyone," said Supreme Court Administrative Director Steve Canterbury.

Upshur County Clerk accepting credit cards

The Upshur County Circuit Clerk's Office in 2010 became one of two in the state that began accepting credit cards for payments. The West Virginia Supreme Court is sponsoring the pilot program in Upshur County and also in Kanawha County.

With this program, there are no fees attached to the payments. Upshur County Circuit Clerk Brian Gaudet said the program started at the beginning of October and payments are accepted for all transactions except for bonds. BB&T in Charleston operates the program.

Judge Kaufman conducts private swearing-in ceremony for Tomblin

On November 15, Thirteenth Judicial Circuit (Kanawha County) Chief Judge Tod J. Kaufman delivered an oath of office to Senate President Earl Ray Tomblin when he started acting as governor after the resignation of Joe Manchin III. The private ceremony was held in the Governor's Office. On November 16, Chief Justice Robin Jean Davis delivered the oath of office to Senator Tomblin in a public ceremony held outside the Senate Chamber at the Capitol.



On November 15, Thirteenth Circuit Chief Judge Tod J. Kaufman (right), delivers an oath of office to Senate President Earl Ray Tomblin while Joanne Tomblin (center) holds a Bible during a private ceremony in the Governor's Office. Senator Tomblin began acting as governor after Joe Manchin III resigned to take a seat in the U.S. Senate. *Photo courtesy of Martin Valent, West Virginia Legislative Photography*

Author of revised rules dedicated to his work and his eclectic personal life

Whether he's writing new rules as the Clerk of the Supreme Court of Appeals of West Virginia or playing acoustic guitar in his band, Red Salt, Rory Perry is passionate about everything he does.

"I just get involved. I like to do stuff," said Rory, who has been the Clerk of the Court since July 2000. When he was hired as Deputy Clerk in 1998, his primary task was to update the Court's case management system. By January 2000, he had implemented a new system. In September of 2001, West Virginia became one of only six Supreme Courts in the country to webcast oral arguments live on the Internet. It was through Rory's leadership that West Virginia has stayed on top of technology advances that benefit the Supreme Court.

"At that time, technology was still pretty new, but we have refined it over the years," Rory said. "We have tried to expand open access to the courts by making more court filings and other documents available on the Internet. You can now review briefs, lower courts' orders, and the Supreme Court opinions online."

In his tenth year as Clerk, the most significant project Rory has worked on is revising the appellate court rules, which had not been comprehensively changed in more than thirty years. He has essentially been working on the project since he became Clerk, but he has done the bulk of the work in the last four years. The new rules went into effect December 1.

"One of the things you do as clerk is to listen and pay attention to the types of issues people have working with appeals. The rules that we have now help people do a better job with their case and help the Court better understand the case.

"Over the course of those years, you can't help but make a running list of all the ways the rules or the procedures could be improved. In addition, I have spent a fair amount of time as clerk researching how things were done in the old days, before there was a lot of the modern equipment we have now."

The new rules are more modern and will result in a sharp increase in the number of decisions on the merits.

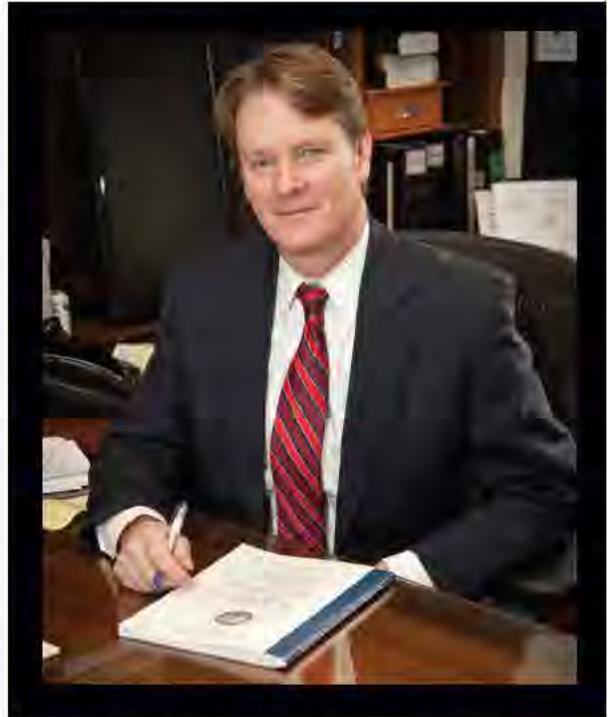
"Modernizing the process, making it clearer for both the litigants and the Court, and strengthening appellate review by moving from discretionary review to an appeal of right . . . in doing that, we will in all likelihood triple the number of decisions on the merits in 2011."

While keeping up with all his regular duties as Clerk, Rory visited ten cities across the state to educate local court officials, members of the Bar, the press, and general public about changes to the rules. These trips, as well as several other seminars Rory was invited to present, were completed during the public comment period about the new rules.

"It is without question that the quality of the public comments we received – over forty comprehensive sets of public comments from individuals and stakeholders – were clearly very well thought out and responsive. As a result of those comments, the Court made a number of important changes to the new rules," Rory said.

Rory credits Deputy Clerk Eydie Nash Gaiser and the entire Clerk's Office staff for keeping things running seamlessly in his office, and the five Justices for being very supportive.

"The Court's support for this project was absolutely essential. The members of the Court work very well together, and as a result of that, I was able to focus on this project for a sustained period of time. And the Justices each personally worked on this project. We had numerous, lengthy conferences to discuss strategies, gather feedback, and review the rules in other states. This was absolutely a joint effort and could not have been done without the cooperative spirit in 2009 and 2010."



Supreme Court Clerk Rory Perry in his office adjacent to the Supreme Court Chamber. Rory has been the Court's clerk since 2000. Photo by Michael Switzer

“West Virginia is fortunate to have a Clerk of the caliber of Rory Perry,” said Chief Justice Robin Jean Davis. “His dedication to the Court over the years has been unwavering. The new appellate court rules, which he was instrumental in writing, are a testament to his talent and put West Virginia at the forefront of appellate courts across the country.”

Rory not only has earned accolades from co-workers, but he has also been recognized nationally by his peers.

In August 2010, Rory was elected Vice-President of the National Conference of Appellate Court Clerks (NCACC) and will serve as the group’s President beginning in August 2012. A member since 2003, Rory has served as chairman of the group’s website committee, served for two years on the executive committee, and was asked to represent the NCACC on two teams involved in setting national standards. He also served as program chairman in 2008 for the annual education meeting, and he has spoken twice at the National Center for State Courts International Court Technology Conference.

“It’s been a great help to me to call on my colleagues of the National Conference of Appellate Court Clerks to learn and to enhance my professional development, and I am honored to have been elected vice-president this past summer,” said Rory. “Our organization is run by the members without a paid staff. Lots of effort goes into the annual education meeting and the ongoing work with subcommittees.” The NCACC is in its thirty-eighth year and has about two hundred members. It is made up of appellate court clerks in state and federal courts across the country, including the Clerk of the Supreme Court of the United States.

Rory has a plethora of interests in his personal life to keep him busy: gardening, cooking, and remodeling, among others.

“My wife is a potter, so we have a pottery studio in a remodeled cottage behind our house. I enjoy helping her with the studio.” Rory has been married to his wife, Reneé, for twenty years. They have one son, Zane, who grew up as an avid skateboarder. “I have faithfully tagged along, built ramps, and videotaped him. I appreciate the sport; those guys work hard.”

Rory also is a member of the International Chili Society and is an organizer of the Bramwell Oktoberfest. The one-day festival is in its sixteenth year and features ten musical acts and about sixty-five different micro-brews.

He also is a musician. His band, Red Salt, recently started playing local gigs. Rory sings and plays the acoustic guitar and blues rock harmonica. “Playing music has been a great source of enjoyment and stress relief over the years. In this job, it’s very important to have a creative outlet.”

Rory also is involved in both the West Virginia Youth in Government Program and West Virginia Civics Literacy Council.

The Huntington native left West Virginia in the second grade and moved to South Carolina and then graduated from a Georgia high school. He moved back to West Virginia in the 1980s and attended Marshall University, where he earned an English creative writing degree and spent his summers helping his uncle, Mike Perry, at the Heritage Farm Museum. He also worked one summer at Disney World. He graduated from West Virginia University College of Law in 1994.



“Rory is not only a colleague and a friend but he’s helped me as my mentor, confidant, and pressure relief valve on more occasions than I can count. He’s extraordinary at his job and an even more extraordinary human being,” said Supreme Court Administrative Director Steve Canterbury. “West Virginians are very fortunate to have him in such a vital position in state government.”

Clerk Perry at his desk in the Supreme Court Chamber. When the Court is in session, he calls the docket and controls the courtroom’s audio and webcasting systems. *Photo by Jennifer Bundy*

Court Association Officers

2010 Judicial Association Officers



President: Jack Alsop,
Fourteenth Judicial Circuit
(Braxton, Clay, Gilmer, and
Webster Counties)

Vice-President: Ronald E. Wilson,
First Judicial Circuit (Brooke,
Hancock, and Ohio Counties)

Secretary: Darrell Pratt,
Twenty-Fourth Judicial Circuit
(Wayne County)

Treasurer: Derek Swope,
Ninth Judicial Circuit
(Mercer County)

2010 Magistrate Association Officers



President: Riley Barb (Tucker County)
Secretary: Carol L. Wolfe (Gilmer County)
Treasurer: Julie M. Yeager (Kanawha County)

Vice-President First District:
Patricia L. Murphy (Ohio County)

Vice-President Second District:
Gail C. Boober (Jefferson County)

Vice-President Third District:
John D. Morton, Jr. (Nicholas County)

District Representatives

First District:
Michael H. Allman (Brooke County)
Michael K. Griffin (Tyler County)
Hank E. Middlemas (Marion County)

Second District:
Jason D. Bennett (Roane County)
Richard G. Postalwait (Calhoun County)
Joseph L. Shelton (Kanawha County)

Third District:
Teddy E. Mays (Wayne County)
Kevin L. Miller (Monroe County)
Mike J. Woelfel (Cabell County)

2010 Association of Probation Officers



President: Kevin Runyon
(Logan County)
Vice-President: Danica Barrett
(Monongalia County)
Secretary: Jennifer Wells-Browning
(Cabell County)
Treasurer: Kay Browning
(Logan County)

2010 Family Court Association Officers



President: Mary Ellen Griffith,
Twelfth Family Court Circuit
(McDowell and Mercer Counties)

President-Elect: Beth Longo,
Twenty-First Family Court Circuit
(Barbour and Taylor Counties)

Secretary: Lisa Clark,
Twelfth Family Court Circuit
(McDowell and Mercer Counties)

Treasurer: Patricia Tolle Hill,
Twentieth Family Court Circuit
(Monongalia and Preston Counties)

Executive Committee:

Ken D. Ballard, Eleventh Family
Court Circuit (Kanawha County)
Donald K. Bischoff, Sixteenth Family
Court Circuit (Clay and Nicholas
Counties)
David P. Greenberg, Twenty-Fourth
Family Court Circuit (Berkeley
and Jefferson Counties)
Jason D. Harwood, Ninth Judicial
Circuit (Logan County)
Robert C. Hicks, Second Family
Court Circuit (Marshall, Tyler, and
Wetzel Counties)
Louise G. Staton, Thirteenth Family
Court Circuit (Raleigh, Summers,
and Wyoming Counties)

2010 Court Reporters Association Officers



President: Kathy J. Davis
(Putnam County)
Vice-President: Rebecca R. Harris
(Preston County)
President-Elect: Jo Ann Betler
(Cabell County)
Secretary: Terri R. Cheslock
(Marion County)
Treasurer: Sharon L. Vincent
(Monongalia County)

Court Conferences

The Supreme Court sponsored the following conferences in 2010:

February 12.....	New Leave Record Keepers Teleconference
February 19.....	Experienced Leave Record Keepers Teleconference
March 18	In-House Continuing Education Program for Supreme Court Legal Staff, Charleston
March 25-26.....	Court Improvement Board: Judicial Roundtable VI, Charleston ¹
April 13-15.....	Family Court Staff, Charleston
April 19-23	New Sex Offender Intensive Supervision Officer Training, Clarksburg
April 30	Judges and Journalists Regional Meeting, Martinsburg
May 5-6.....	Family Court Judges Conference, Charleston
May 17	Proposed Revisions to the Rules of Appellate Procedure, Charleston
May 18	Proposed Revisions to the Rules of Appellate Procedure, Wheeling
May 19	Proposed Revisions to the Rules of Appellate Procedure, Fayetteville
May 20	Proposed Revisions to the Rules of Appellate Procedure, Parkersburg
May 21	Proposed Revisions to the Rules of Appellate Procedure, Buckhannon
May 24	Proposed Revisions to the Rules of Appellate Procedure, Logan
May 25	Proposed Revisions to the Rules of Appellate Procedure, Morgantown
May 26	Proposed Revisions to the Rules of Appellate Procedure, Moorefield
May 27	Proposed Revisions to the Rules of Appellate Procedure, Martinsburg
June	Conservatorship and Guardianship Training put online
June 3	Proposed Revisions to the Rules of Appellate Procedure, Huntington
June 9	New Mental Hygiene Commissioners Training, Charleston
June 10-11	All Mental Hygiene Commissioners Training, Charleston
June 11.....	Juvenile Drug Court Training, Charleston
June 15-18	Judicial Conference, Roanoke
June 21-22.....	Court Improvement Board Cross-Training I, Davis ¹
June 24-25.....	Court Improvement Board Cross-Training II, Martinsburg ¹
July 12-13	Court Improvement Board Cross-Training III, Huntington ¹
July 20-21	Family Court Mediators and Parent Educators, Charleston ²
August.....	Magistrates Legislative Update put online
August 10-13	Circuit Clerks Conference, Davis ³
August 16.....	Supreme Court In-House Cardiopulmonary Resuscitation Training, Charleston
August 25-27.....	All Law Clerks Training, Charleston

¹Funded by the U.S. Department of Health and Human Services, Administration for Children and Families, 0901WVSCIT State Court Improvement Program Training Grant

²Special Fund

³Limited court funding

August 26-27	New Circuit Court Law Clerks Training, Charleston
August 29-31	Joint Sex Offender Intensive Supervision Officer and Federal Probation Officer Training, Charleston
September 2.....	West Virginia Board of Law Examiners Character Committee Workshop, Charleston
September 16-17	Juvenile Drug Court Technical Assistance Training, Dunbar ⁴
September 21-23	Magistrates Conference I, Charleston
September 28-30.....	Magistrates Conference II, Charleston
October 5-7	Bailiffs Conference, Shepherdstown ⁵
October 5-7	Circuit Court Reporters Conference, Shepherdstown
October 5-8.....	Judicial Conference, Martinsburg
October 12-15	Family Court Judges Conference, Charleston ⁶
October 18-19	New Probation Officers Conference, Charleston
October 19-22	All Probation Officers Conference, Charleston
October 29.....	Statewide Networking for Juvenile Drug Court Coordinators, Beckley
November 3.....	Abuse and Neglect Database Training for Circuit Court Staff I, Charleston ⁷
November 4	Abuse and Neglect Database Training for Circuit Court Staff II, Morgantown ⁷
November 23.....	Adult Drug Court Database Training, Parkersburg ⁸
November 24	Adult Drug Court Database Training, Wellsburg ⁸
November 29.....	Adult Drug Court Database Training, Princeton ⁸
November 30.....	Adult Drug Court Database Training, Moundsville ⁸
December 1	Adult Drug Court Database Training, Morgantown ⁸
December 1	Adult Drug Court Database Training, Huntington ⁸
December 2	Abuse and Neglect Database Training for Circuit Court Staff, Make-Up Session, Charleston ⁷
December 3	Adult Drug Court Database Training, Logan ⁸
December 6	Adult Drug Court Database Training, Lewisburg ⁸
December 7	Adult Drug Court Database Training, Kingwood ⁸
December 7-10	New Circuit Clerks Conference, Charleston
December 10	Adult Drug Court Database Training, Charleston ⁸

⁴Funded by the West Virginia Division of Justice and Community Services 10P-JDC-01 Perdue Pharma Asset Forfeiture Fund

⁵Funded by the West Virginia Division of Justice and Community Services 10-CS-26 Court Security Fund

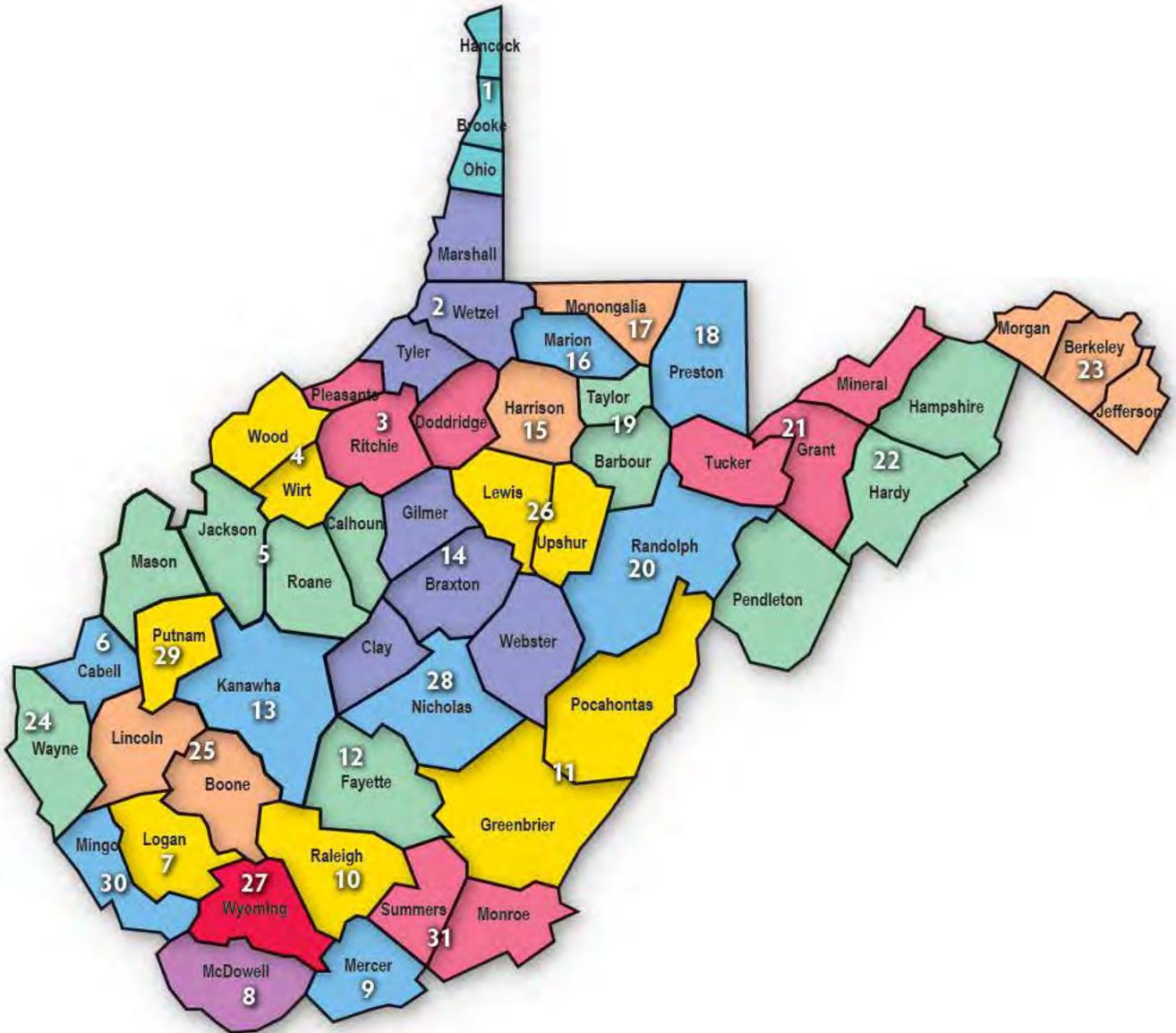
⁶Funded by the U.S. Department of Justice, Office on Violence Against Women 2007-WE-AX-0010 Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program

⁷Funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families 0901WVSCID State Court Improvement Data Sharing Program Grant

⁸Funded by the West Virginia Division of Justice and Community Services 08P-DCE-01 Perdue Pharma Asset Forfeiture Fund

Roster of Circuit Court Judges

West Virginia Circuits



1st Judicial Circuit Martin J. Gaughan James P. Mazzone Arthur M. Recht Ronald E. Wilson	10th Judicial Circuit Robert A. Burnside, Jr. John A. Hutchison H. L. Kirkpatrick III	18th Judicial Circuit Lawrance S. Miller, Jr.	25th Judicial Circuit Jay M. Hoke William S. Thompson
2nd Judicial Circuit David W. Hummel, Jr. Mark A. Karl	11th Judicial Circuit Joseph C. Pomponio, Jr. James J. Rowe	19th Judicial Circuit Alan D. Moats	26th Judicial Circuit Thomas H. Keadle
3rd Judicial Circuit Robert L. Holland, Jr. <i>(Died September 20, 2010)</i> Timothy Sweeney <i>(Took office December 30, 2010)</i>	12th Judicial Circuit Paul M. Blake, Jr. John W. Hatcher, Jr.	20th Judicial Circuit Jaymie Godwin Wilfong	27th Judicial Circuit Warren R. McGraw
4th Judicial Circuit J. D. Beane Jeffrey B. Reed Robert A. Waters	13th Judicial Circuit Jennifer Bailey Louis H. "Duke" Bloom Tod J. Kaufman Charles E. King James C. Stucky Carrie L. Webster Paul Zakaib Jr.	21st Judicial Circuit Philip B. Jordan Lynn A. Nelson	28th Judicial Circuit Gary L. Johnson
5th Judicial Circuit Thomas C. Evans, III David W. Nibert	14th Judicial Circuit Jack Alsop Richard A. Facemire	22nd Judicial Circuit Donald H. Cookman Jerry D. Moore <i>(Last day December 14, 2010)</i> Charles E. Parsons <i>(Took office December 15, 2010)</i>	29th Judicial Circuit O. C. Spaulding Phillip M. Stowers
6th Judicial Circuit Alfred E. Ferguson F. Jane Hustead Dan P. O'Hanlon <i>(Retired October 31, 2010)</i> David M. Pancake	15th Judicial Circuit Thomas A. Bedell J. Lewis Marks, Jr. James A. Matish	23rd Judicial Circuit Gina M. Groh David H. Sanders Gray Silver, III Christopher C. Wilkes John Yoder	30th Judicial Circuit Michael Thornsburry
7th Judicial Circuit Eric H. O'Briant Roger L. Perry	16th Judicial Circuit Fred L. Fox, II <i>(Retired November 30, 2010)</i> David R. Janes	24th Judicial Circuit Darrell Pratt James H. Young, Jr.	31st Judicial Circuit Robert A. Irons
8th Judicial Circuit Rudolph J. Murensky, II Booker T. Stephens	17th Judicial Circuit Russell M. Clawges, Jr. Phillip D. Gaujot Susan B. Tucker		
9th Judicial Circuit Omar J. Aboulhosn William J. Sadler Derek C. Swope			

Circuit Courts

West Virginia's fifty-five counties are divided into thirty-one circuits with seventy judges. The circuits vary in size; one has seven judges while nine have one judge each. While every county has a courthouse where a judge presides, a single circuit can comprise up to four counties.

Each circuit judge has a law clerk, a secretary, and a court reporter.

The circuit courts are trial courts of record. They have jurisdiction over all civil cases in which more than

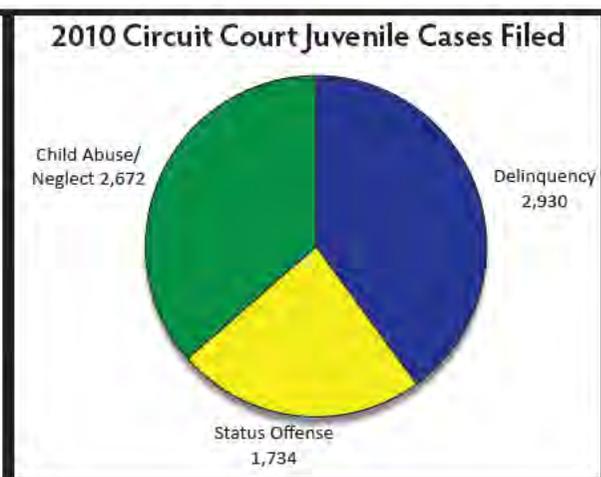
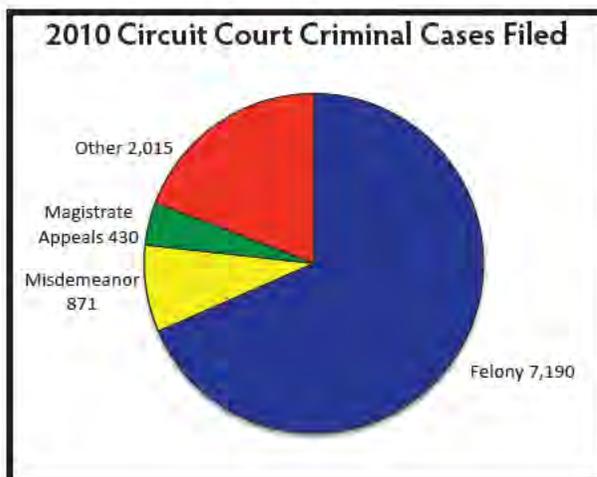
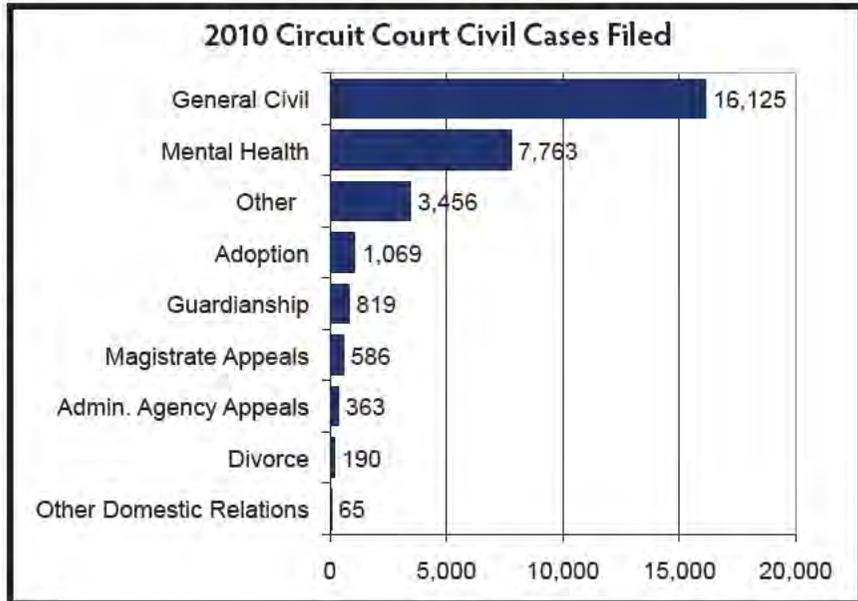
\$300 is at issue; all cases on equity; proceedings in *habeas corpus*, *mandamus*, *quo warranto*, prohibition and *certiorari*; and all felonies and misdemeanors.

Circuit courts receive appeals from magistrate courts, municipal courts, and all administrative agencies except from the Division of Workers' Compensation. Workers' compensation appeals go directly to the Supreme Court of Appeals.

Circuit courts also can hear appeals of family court rulings, but both parties can agree to appeal domestic relations decisions directly to the Supreme Court. Additionally, circuit judges receive recommended orders from judicial officers who hear mental health hygiene matters.

In 2010, a total of 48,278 cases were filed in West Virginia's circuit courts. Of that, 30,436 filings, or about sixty-three percent, were civil cases; 10,506 filings, or about 22 percent, were criminal cases; and 7,336 filings, or about 15 percent, were juvenile matters.

In addition to their regular caseloads, circuit judges also serve on the Mass Litigation Panel, the Business Court Committee, the Court Improvement Program Board, the Compliance Committee on Prisons and Jails, and several other special committees of the Supreme Court. Circuit judges preside over numerous juvenile and adult treatment courts throughout the state, and dozens of judges are active in civic education programs in public schools, private schools, and colleges and universities.



Circuit Court County Filings

Calendar Year 2001-2010

County	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001
Barbour	277	252	353	306	308	202	213	209	251	410
Berkeley	2,336	2,329	2,851	2,715	2,526	2,514	2,112	1,927	1,725	2,676
Boone	999	977	942	824	750	531	656	731	551	1,261
Braxton	271	290	303	321	326	342	279	279	253	462
Brooke	472	519	533	600	751	597	606	983	575	1,520
Cabell	3,755	3,933	4,038	3,897	3,859	3,915	3,867	3,803	3,628	5,229
Calhoun	165	154	127	136	128	139	130	109	96	220
Clay	297	193	228	242	182	296	263	226	209	369
Doddridge	147	147	168	137	132	146	151	121	114	182
Fayette	823	840	887	947	915	878	848	775	815	1,349
Gilmer	125	140	157	147	131	142	83	111	56	135
Grant	278	253	225	224	265	200	222	243	140	315
Greenbrier	825	795	801	881	903	964	948	917	751	1,319
Hampshire	367	353	420	471	464	477	369	344	334	572
Hancock	684	740	573	680	683	688	684	713	710	947
Hardy	207	269	244	292	286	286	321	243	229	390
Harrison	1,567	1,674	1,859	1,816	1,614	1,602	1,623	1,545	1,757	2,379
Jackson	540	487	472	469	437	393	397	395	337	726
Jefferson	1,020	1,082	1,050	972	936	884	926	925	834	1,315
Kanawha	7,529	6,989	6,354	5,358	4,806	4,586	5,634	6,448	6,687	9,460
Lewis	646	738	702	815	729	777	693	670	657	916
Lincoln	630	625	706	669	636	685	694	630	625	613
Logan	1,224	1,025	1,144	1,260	1,389	1,402	1,415	1,312	1,274	2,119
Marion	1,526	1,584	1,452	1,487	1,432	1,451	1,431	1,276	1,431	1,740
Marshall	835	968	974	1,025	972	880	874	946	905	1,227
Mason	658	539	1,154	632	605	671	663	2,408	342	1,034
McDowell	503	--	642	712	705	746	641	719	735	1,242
Mercer	1,970	2,045	2,238	2,441	2,662	2,413	2,305	2,201	2,040	2,918
Mineral	649	703	629	673	535	294	404	544	327	711
Mingo	1,006	1,218	1,113	1,008	1,048	1,060	850	831	603	1,522
Monongalia	1,937	2,010	1,996	1,828	1,896	1,726	1,672	1,837	1,737	2,307
Monroe	210	226	233	277	212	186	225	163	150	372
Morgan	368	399	364	424	356	346	319	407	280	498
Nicholas	690	768	720	773	713	721	644	620	658	1,043
Ohio	1,402	1,294	1,609	1,443	1,371	1,577	1,358	1,343	1,029	1,498
Pendleton	97	108	111	89	116	121	116	133	132	172
Pleasants	136	154	139	151	275	244	228	259	279	187
Pocahontas	220	237	241	238	221	232	257	237	235	348
Preston	662	661	688	714	663	650	608	481	565	848
Putnam	1,076	1,163	967	1,096	1,062	1,196	1,205	1,057	1,113	1,941
Raleigh	2,436	2,383	2,321	2,389	2,583	2,496	2,621	1,632	2,244	3,255
Randolph	513	661	692	822	775	748	747	705	729	1,085
Ritchie	214	213	187	239	185	232	184	177	149	275
Roane	288	293	316	327	373	328	256	263	240	414
Summers	275	250	299	341	257	320	292	301	289	459
Taylor	366	365	439	490	511	503	429	486	393	536
Tucker	124	136	136	200	125	177	141	115	141	215
Tyler	156	165	177	191	178	152	182	160	140	243
Upshur	466	478	483	481	466	429	461	455	423	761
Wayne	966	1,015	1,144	1,358	1,117	1,112	985	1,036	1,033	1,554
Webster	237	188	200	216	183	192	226	171	148	294
Wetzel	406	450	451	454	392	1,793	380	387	345	515
Wirt	94	82	92	106	92	67	157	107	104	144
Wood	2,074	2,156	2,170	2,230	2,133	2,186	2,263	2,038	2,036	2,916
Wyoming	534	607	585	555	628	640	632	618	587	919
Total	48,278	48,323	50,099	49,589	47,998	48,535	46,890	47,772	44,170	68,077

Notes: (1) Mass Litigation filings handled by the Mass Litigation Panel are not included in 2010 filing totals. Please refer to the mass litigation section of this report for statistical information on mass litigation cases. (2) Due to personnel turnover and technical issues, data for McDowell County Circuit Court is unavailable for 2009. (3) The decrease in total filings in 2002 is attributed to the creation of new Family Courts in January 2002. Before 2002, the family law master system caseload appeared on the Circuit Court caseload. Please refer to the Family Court County Filings. (4) In 2003, the total Circuit Court caseload included Family Court appeals.

2010 Circuit Court Civil Case Filings

County	Total	Admin. Agency Appeals	Adoption	Divorce	General Civil
Barbour	150	0	17	0	100
Berkeley	1,595	9	73	0	1,058
Boone	541	0	23	0	290
Braxton	128	3	11	0	65
Brooke	269	1	10	0	170
Cabell	2,589	5	44	0	924
Calhoun	81	0	8	0	30
Clay	138	0	10	0	61
Doddridge	101	1	3	0	45
Fayette	489	3	33	0	334
Gilmer	106	0	1	0	35
Grant	184	0	4	0	106
Greenbrier	474	6	18	0	272
Hampshire	261	0	14	0	175
Hancock	355	1	8	0	224
Hardy	132	0	4	0	101
Harrison	928	4	20	1	587
Jackson	312	6	20	1	185
Jefferson	701	0	29	0	575
Kanawha	4,974	190	80	0	2,210
Lewis	533	1	7	0	108
Lincoln	320	2	16	0	142
Logan	627	5	42	1	360
Marion	938	8	23	0	461
Marshall	549	1	13	57	226
Mason	409	0	10	0	157
McDowell	314	1	20	0	236
Mercer	1,099	10	47	0	646
Mineral	207	0	12	0	123
Mingo	476	1	22	0	383
Monongalia	1,524	11	30	0	893
Monroe	128	0	6	0	88
Morgan	209	2	13	0	127
Nicholas	373	10	16	0	196
Ohio	1,133	10	13	0	455
Pendleton	57	0	10	0	31
Pleasants	77	0	5	0	33
Pocahontas	129	0	2	0	68
Preston	381	4	22	0	272
Putnam	696	12	45	0	427
Raleigh	1,619	29	47	119	1,121
Randolph	321	0	10	0	217
Ritchie	130	0	7	0	81
Roane	160	0	14	0	70
Summers	122	1	6	0	66
Taylor	200	5	11	0	93
Tucker	91	0	1	0	71
Tyler	84	0	7	2	39
Upshur	234	1	12	2	136
Wayne	524	8	50	0	276
Webster	105	1	10	0	48
Wetzel	274	0	5	7	104
Wirt	54	0	2	0	26
Wood	1,555	10	52	0	580
Wyoming	276	1	31	0	218
Total	30,436	363	1,069	190	16,125

2010 Circuit Court Civil Case Filings

County	Guardianship	Magistrate Appeals	Mental Health	Other Civil Cases	Other Domestic Relations
Barbour	8	3	13	9	0
Berkeley	41	40	179	195	0
Boone	15	10	89	100	14
Braxton	8	0	18	23	0
Brooke	4	2	57	25	0
Cabell	51	65	1,317	183	0
Calhoun	3	7	22	11	0
Clay	19	2	19	20	7
Doddridge	1	3	18	30	0
Fayette	16	7	43	53	0
Gilmer	7	1	5	57	0
Grant	7	9	14	43	1
Greenbrier	18	4	117	39	0
Hampshire	16	8	20	28	0
Hancock	10	1	38	73	0
Hardy	5	2	17	3	0
Harrison	19	16	221	60	0
Jackson	18	10	34	33	5
Jefferson	12	1	84	0	0
Kanawha	112	147	1,654	580	1
Lewis	10	5	364	38	0
Lincoln	12	13	89	46	0
Logan	16	12	172	15	4
Marion	26	20	289	111	0
Marshall	16	21	153	62	0
Mason	9	0	142	91	0
McDowell	8	5	44	0	0
Mercer	44	26	128	198	0
Mineral	20	4	19	29	0
Mingo	8	0	39	23	0
Monongalia	22	34	243	291	0
Monroe	8	4	5	16	1
Morgan	2	3	13	49	0
Nicholas	15	11	70	55	0
Ohio	14	20	413	208	0
Pendleton	4	0	4	5	3
Pleasants	3	2	5	29	0
Pocahontas	5	1	35	18	0
Preston	10	6	43	22	2
Putnam	19	3	166	20	4
Raleigh	28	5	224	28	18
Randolph	10	6	26	52	0
Ritchie	4	3	12	23	0
Roane	8	4	46	18	0
Summers	6	1	12	27	3
Taylor	6	5	49	31	0
Tucker	4	0	6	9	0
Tyler	4	1	19	11	1
Upshur	12	4	18	49	0
Wayne	19	5	87	79	0
Webster	10	0	5	31	0
Wetzel	3	0	146	8	1
Wirt	5	2	8	11	0
Wood	30	22	678	183	0
Wyoming	9	0	12	5	0
Total	819	586	7,763	3,456	65

2010 Circuit Court Criminal Case Filings

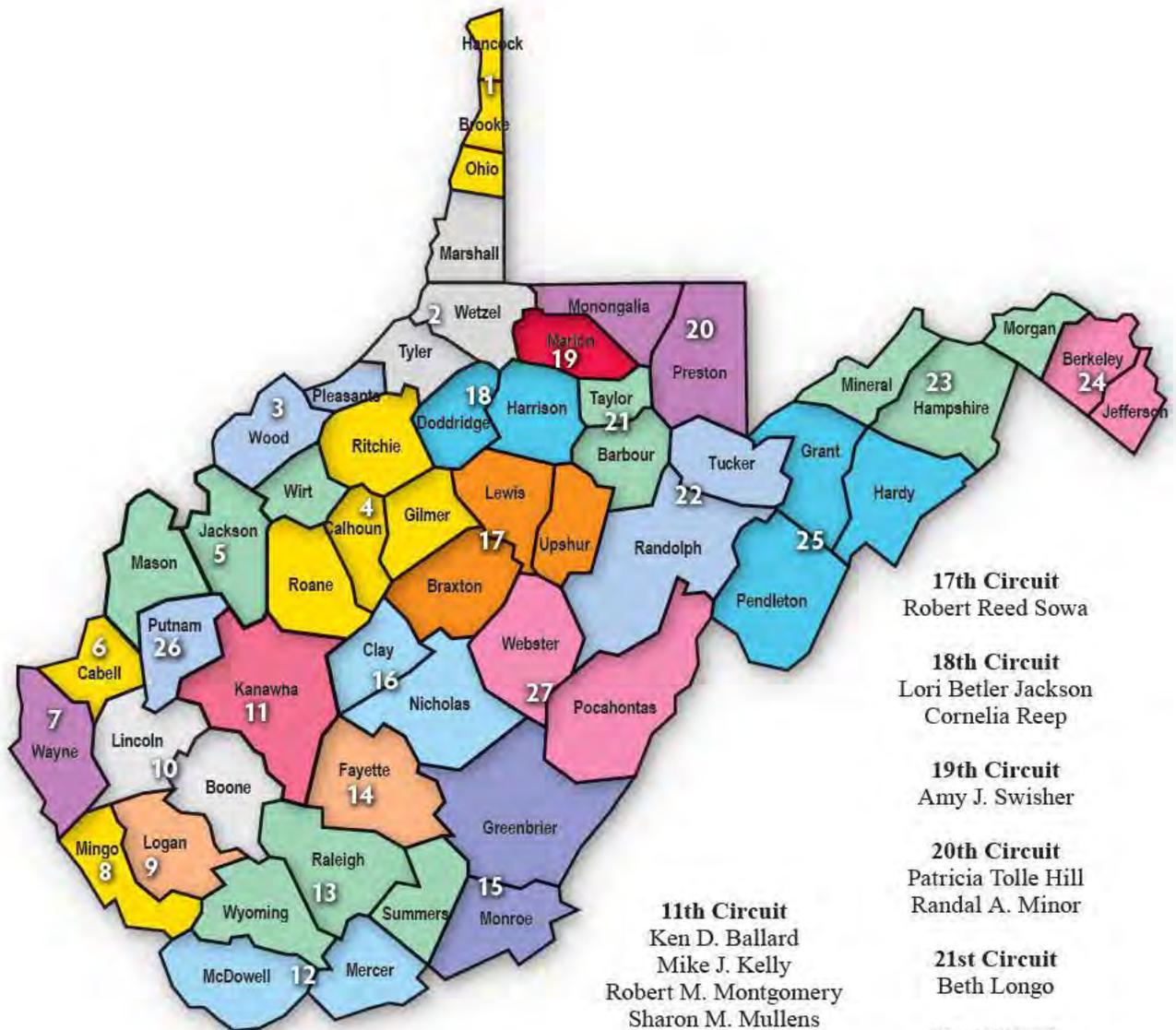
County	Total	Felony	Magistrate Appeals	Misdemeanor	Other Criminal Cases
Barbour	53	44	2	2	5
Berkeley	339	188	151	0	0
Boone	159	126	3	29	1
Braxton	85	51	1	1	32
Brooke	130	100	0	4	26
Cabell	614	392	8	29	185
Calhoun	19	18	0	1	0
Clay	36	34	1	1	0
Doddridge	23	21	0	2	0
Fayette	219	176	14	4	25
Gilmer	18	17	0	1	0
Grant	64	52	7	5	0
Greenbrier	181	136	6	14	25
Hampshire	82	36	7	2	37
Hancock	223	152	1	5	65
Hardy	45	30	0	0	15
Harrison	297	197	8	33	59
Jackson	155	142	5	8	0
Jefferson	207	169	6	32	0
Kanawha	2,019	1,178	13	298	530
Lewis	83	82	1	0	0
Lincoln	117	39	2	0	76
Logan	291	193	2	68	28
Marion	341	249	52	38	2
Marshall	74	61	8	5	0
Mason	131	114	1	7	9
McDowell	99	99	0	0	0
Mercer	589	384	16	21	168
Mineral	283	170	13	14	86
Mingo	411	153	0	8	250
Monongalia	322	272	7	22	21
Monroe	46	41	2	3	0
Morgan	100	84	1	3	12
Nicholas	135	83	0	0	52
Ohio	145	135	1	0	9
Pendleton	20	16	4	0	0
Pleasants	34	27	4	3	0
Pocahontas	52	28	5	4	15
Preston	202	88	2	10	102
Putnam	280	144	22	14	100
Raleigh	384	299	10	75	0
Randolph	107	66	11	6	24
Ritchie	44	35	2	6	1
Roane	80	70	3	7	0
Summers	104	99	1	4	0
Taylor	107	70	2	12	23
Tucker	13	9	0	3	1
Tyler	46	30	2	5	9
Upshur	142	106	0	23	13
Wayne	169	148	2	11	8
Webster	52	51	0	1	0
Wetzel	71	63	1	7	0
Wirt	24	20	4	0	0
Wood	289	265	16	7	1
Wyoming	151	138	0	13	0
Total	10,506	7,190	430	871	2,015

2010 Circuit Court Juvenile Case Filings

County	Total	Child Abuse and Neglect	Delinquency	Status Offense
Barbour	74	11	22	41
Berkeley	402	109	192	101
Boone	299	111	165	23
Braxton	58	37	14	7
Brooke	73	22	48	3
Cabell	552	115	377	60
Calhoun	65	38	3	24
Clay	123	110	8	5
Doddridge	23	14	5	4
Fayette	115	69	31	15
Gilmer	1	1	0	0
Grant	30	22	6	2
Greenbrier	170	51	52	67
Hampshire	24	13	10	1
Hancock	106	42	64	0
Hardy	30	13	12	5
Harrison	342	92	163	87
Jackson	73	27	44	2
Jefferson	112	29	81	2
Kanawha	536	242	197	97
Lewis	30	18	11	1
Lincoln	193	19	58	116
Logan	306	91	47	168
Marion	247	95	103	49
Marshall	212	22	103	87
Mason	118	27	39	52
McDowell	90	33	42	15
Mercer	282	153	97	32
Mineral	159	36	88	35
Mingo	119	50	13	56
Monongalia	91	36	27	28
Monroe	36	16	13	7
Morgan	59	8	35	16
Nicholas	182	80	51	51
Ohio	124	49	57	18
Pendleton	20	4	15	1
Pleasants	25	6	17	2
Pocahontas	39	28	8	3
Preston	79	37	21	21
Putnam	100	17	18	65
Raleigh	433	166	176	91
Randolph	85	32	28	25
Ritchie	40	33	7	0
Roane	48	27	19	2
Summers	49	26	18	5
Taylor	59	12	18	29
Tucker	20	2	15	3
Tyler	26	13	11	2
Upshur	90	38	43	9
Wayne	273	82	98	93
Webster	80	64	16	0
Wetzel	61	14	37	10
Wirt	16	7	6	3
Wood	230	110	52	68
Wyoming	107	53	29	25
Total	7,336	2,672	2,930	1,734

Roster of Family Court Judges

2010 Family Court Circuits



1st Circuit
Joyce Dumbaugh Chernenko
William F. Sinclair

2nd Circuit
Robert C. Hicks

3rd Circuit
Brian C. Dempster
C. Darren Tallman

4th Circuit
Larry S. Whited

5th Circuit
Rebecca Stafford Cornett
Connie Fisher Thomas

6th Circuit
Ronald E. Anderson
Patricia A. Keller

7th Circuit
R. Stephen Lewis

8th Circuit
Miki J. Thompson

9th Circuit
Kelly Gilmore Codispoti
Jason D. Harwood

10th Circuit
Cynthia J. Jarrell
Scott E. Elswick

11th Circuit
Ken D. Ballard
Mike J. Kelly
Robert M. Montgomery
Sharon M. Mullens
D. Mark Snyder

12th Circuit
Anthony Bisaha
Lisa K. Clark
Mary Ellen Griffith

13th Circuit
K. Bruce Lazenby
H. Suzanne McGraw
Louise G. Staton

14th Circuit
Janet Frye Steele

15th Circuit
David M. Sanders

16th Circuit
Donald K. Bischoff

17th Circuit
Robert Reed Sowa

18th Circuit
Lori Betler Jackson
Cornelia Reep

19th Circuit
Amy J. Swisher

20th Circuit
Patricia Tolle Hill
Randal A. Minor

21st Circuit
Beth Longo

22nd Circuit
Michele W. Good

23rd Circuit
Charles E. Parsons
(Resigned December 14, 2010)

24th Circuit
David P. Greenberg
Sally G. Jackson
William T. Wertman Jr.

25th Circuit
Amanda Hatfield See

26th Circuit
William M. Watkins, III

27th Circuit
Jeffrey L. Hall

Family Courts

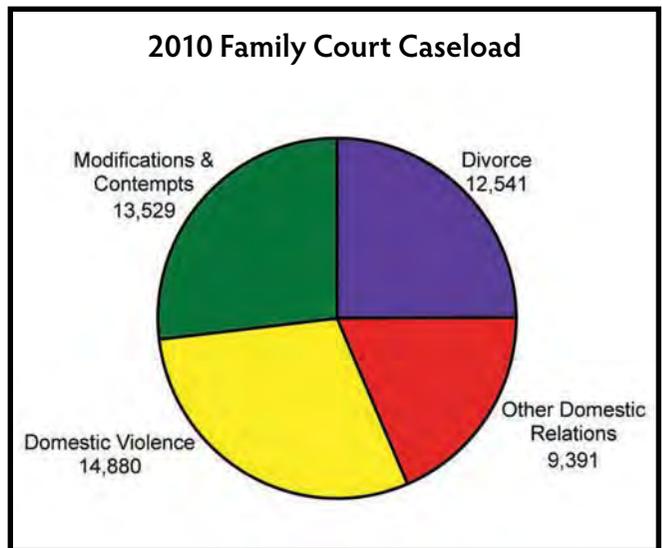
Before 2001, West Virginia had thirty-three family law masters who served twenty-four family court circuits. Family law masters were special commissioners the governor appointed to hear family court cases and to issue recommended orders to circuit courts. A constitutional amendment approved by voters in November 2000 elevated family courts to a separate court system with thirty-five judges in twenty-six circuits.

The governor appointed the first family court judges to one-year terms. They then stood for election in partisan races in 2002 and took office for initial six-year terms in January 2003. Subsequent terms beginning January 1, 2009, are for eight years, the same as terms of circuit judges. In 2007 the Legislature added ten family court judges, one additional family court circuit, and restructured nine circuits to balance caseloads statewide. The new judges were elected on November 4, 2008, and began their eight-year terms on January 1, 2009.

Family court judges have authority to make final decisions in family court cases. Circuit courts hear appeals of family court decisions unless both parties agree to appeal divorce and other domestic relations decisions directly to the Supreme Court of Appeals.

Family courts have jurisdiction over divorce, annulment, separate maintenance, paternity, grandparent visitation, name change, infant guardianship, child custody, and family support proceedings, except those incidental to child abuse and neglect. Family court judges also hold final hearings in civil domestic violence protective order proceedings and may perform marriages.

In 2010, there were 36,812 new cases filed in family courts in West Virginia. Of those, 14,880 were domestic violence, 12,541 were divorces, and 9,391 were other domestic relations. There also were 13,529 modification and contempt proceedings in cases reopened during the year, which were not counted as new cases filed. Those proceedings accounted for 26.87 percent of the family court judges' statewide workload.



Family court judges can refer parents to mediation and parent education and refer children for guardian *ad litem* services. The Supreme Court does not charge families who cannot afford to pay for these services.

Guardians *ad litem* must be attorneys. They conduct investigations to help family court judges make decisions in the best interest of the people the guardians represent. Family court judges can appoint guardians *ad litem* on behalf of children, incarcerated persons, and people who have been adjudicated incompetent who are involved in family court disputes.

Family court judges require all parents to attend mediation sessions if they cannot otherwise resolve parenting issues or agree to a parenting plan. Parents first go to individual pre-mediation screening sessions with a trained family case coordinator to determine if they are candidates for mediation. About twenty percent of parents are not candidates for mediation for various reasons.

If parents go to mediation, they must attend a mediation session with a Supreme Court-approved family court mediator who helps them draft a parenting plan to present to a family court judge.

Along with mediation, family court judges order parents who are divorcing to attend a one-time, mandatory parent education class. Classes are offered in every West Virginia county. Adults learn about preparing a parenting plan, mediation, and the effects of family dissolution and domestic violence on children. The class teaches parents how to minimize the negative effects of divorce and family dissolution on children.



In 2007 the Supreme Court approved an expansion of “high-conflict” parent education classes, and in September 2008 the Court launched child-focused classes for parents who are divorcing. These classes are designed for parents who continue to have disputes after attending the mandatory one-time parent education class required of all divorcing couples who have children. Family courts refer select couples to the series of six, two-hour classes.

The advanced child-focused parent education classes educate parents regarding the impact of conflict on their child’s development; help parents identify their contribution to conflict while increasing impulse control; teach parents anger management, communication, and conflict resolution skills; and educate parents about children’s issues in divorce.

West Virginians Served by Supreme Court-Supported Family Visitation Centers in 2010

Category	Number
Total Parents Served	1,030
Fathers	492
<i>(389 non-custodial; 103 custodial)</i>	
Mothers	503
<i>(118 non-custodial; 385 custodial)</i>	
Grandparents/Legal Guardians	35
Children Involved	926
Supervised Visitation	597
Neutral Drop-off	397
Visitation Enforcement	126

Total Clients Served = fathers + mothers + grandparents/legal guardians

Family Court County Filings Calendar Year 2002-2010

	2010	2009	2008	2007	2006	2005	2004	2003	2002
Barbour	317	196	236	244	247	184	138	141	244
Berkeley	1,744	1,713	1,740	1,728	1,814	1,803	1,722	1,603	1,569
Boone	592	649	553	645	621	605	663	610	608
Braxton	257	234	209	208	235	220	233	243	282
Brooke	348	341	300	318	304	344	332	308	323
Cabell	2,427	2,572	2,483	2,475	2,454	2,388	2,328	2,440	2,341
Calhoun	138	137	147	113	119	142	174	158	130
Clay	241	305	249	258	325	326	282	243	288
Doddridge	108	117	117	121	124	142	133	125	126
Fayette	960	1,031	1,039	933	1,030	946	990	897	981
Gilmer	124	125	122	86	126	66	50	58	123
Grant	204	220	192	186	180	250	127	191	121
Greenbrier	723	714	685	593	640	685	713	736	630
Hampshire	322	308	307	308	282	279	333	254	276
Hancock	547	611	456	519	595	443	388	516	505
Hardy	210	271	230	264	276	289	257	247	218
Harrison	1,267	1,388	1,282	1,263	1,354	1,268	1,187	1,181	1,092
Jackson	633	703	446	560	456	487	457	419	472
Jefferson	790	817	736	768	752	775	826	783	677
Kanawha	4,397	4,686	4,244	4,153	4,302	4,741	4,270	4,418	4,375
Lewis	291	284	282	265	276	233	285	241	283
Lincoln	476	447	417	474	528	549	511	631	550
Logan	1,074	1,350	1,156	1,052	1,185	1,283	1,210	1,192	1,225
Marion	913	868	920	858	843	849	836	901	842
Marshall	525	582	554	513	448	526	465	547	461
Mason	634	596	433	529	562	474	524	461	480
McDowell	537	628	622	684	781	3,220	817	804	788
Mercer	1,574	1,755	1,724	1,834	1,894	1,943	1,830	1,644	1,691
Mineral	486	425	467	507	403	362	380	407	426
Mingo	1,136	1,108	874	1,025	1,061	1,125	1,119	1,097	1,157
Monongalia	1,207	1,195	1,235	1,208	1,171	1,183	1,228	1,150	1,110
Monroe	301	299	303	329	295	289	298	233	222
Morgan	163	223	212	186	223	218	274	226	249
Nicholas	673	615	521	507	518	471	495	457	460
Ohio	678	687	678	620	731	717	1,386	659	674
Pendleton	90	71	96	78	95	87	56	58	60
Pleasants	113	127	105	131	156	129	108	109	136
Pocahontas	203	165	182	172	214	221	211	184	183
Preston	590	609	600	554	523	514	559	521	499
Putnam	950	926	930	957	904	946	923	890	871
Raleigh	1,679	1,772	1,637	1,594	1,669	1,617	1,529	1,319	1,637
Randolph	600	613	560	552	511	505	428	500	502
Ritchie	188	191	174	148	156	185	145	189	228
Roane	320	330	357	300	362	305	329	278	319
Summers	240	242	252	270	305	284	246	445	221
Taylor	272	201	217	241	221	214	169	199	178
Tucker	93	107	100	77	81	99	92	98	124
Tyler	184	158	117	151	136	132	145	147	154
Upshur	369	364	308	347	343	312	339	357	397
Wayne	670	657	676	776	780	821	840	909	800
Webster	203	222	230	243	237	193	238	206	179
Wetzel	251	272	264	279	230	248	222	290	273
Wirt	89	112	90	106	131	103	114	117	131
Wood	1,957	1,826	1,633	1,633	1,607	1,647	1,524	1,420	1,506
Wyoming	734	737	667	763	663	793	746	661	768
Total	36,812	37,902	35,366	35,706	36,479	39,180	36,224	35,118	35,165

2010 Family Court Case Filings

County	Total Filings	Divorce	Domestic Violence	Other Domestic Relations	Total	Contempt	Modification
Barbour	317	110	142	65	120	38	82
Berkeley	1,744	622	619	503	682	254	428
Boone	592	211	201	180	414	125	289
Braxton	257	92	97	68	75	17	58
Brooke	348	122	124	102	42	15	27
Cabell	2,427	705	1,236	486	918	328	590
Calhoun	138	67	43	28	43	13	30
Clay	241	96	106	39	125	45	80
Doddridge	108	42	42	24	34	11	23
Fayette	960	363	392	205	401	143	258
Gilmer	124	44	54	26	36	11	25
Grant	204	68	74	62	89	19	70
Greenbrier	723	250	284	189	262	148	114
Hampshire	322	132	75	115	133	47	86
Hancock	547	168	189	190	75	35	40
Hardy	210	87	63	60	80	31	49
Harrison	1,267	393	573	301	308	136	172
Jackson	633	241	229	163	261	85	176
Jefferson	790	271	294	225	280	108	172
Kanawha	4,397	1,326	1,872	1,199	1,992	836	1,156
Lewis	291	142	67	82	68	18	50
Lincoln	476	161	195	120	402	220	182
Logan	1,074	333	467	274	382	145	237
Marion	913	344	300	269	423	150	273
Marshall	525	141	213	171	260	87	173
Mason	634	227	223	184	200	82	118
McDowell	537	179	195	163	216	64	152
Mercer	1,574	482	676	416	510	209	301
Mineral	486	205	146	135	152	46	106
Mingo	1,136	342	444	350	263	82	181
Monongalia	1,207	332	647	228	335	133	202
Monroe	301	79	144	78	85	39	46
Morgan	163	74	42	47	83	44	39
Nicholas	673	280	293	100	180	61	119
Ohio	678	201	256	221	142	72	70
Pendleton	90	44	21	25	26	8	18
Pleasants	113	49	41	23	33	16	17
Pocahontas	203	58	89	56	138	64	74
Preston	590	176	296	118	207	78	129
Putnam	950	380	353	217	194	89	105
Raleigh	1,679	572	688	419	565	272	293
Randolph	600	188	272	140	253	98	155
Ritchie	188	72	72	44	86	49	37
Roane	320	149	101	70	139	51	88
Summers	240	100	86	54	116	40	76
Taylor	272	122	89	61	159	63	96
Tucker	93	44	24	25	37	19	18
Tyler	184	73	68	43	64	22	42
Upshur	369	174	119	76	92	20	72
Wayne	670	333	143	194	286	104	182
Webster	203	73	81	49	98	48	50
Wetzel	251	82	86	83	96	34	62
Wirt	89	40	28	21	45	25	20
Wood	1,957	667	825	465	600	276	324
Wyoming	734	213	381	140	224	88	136
Total	36,812	12,541	14,880	9,391	13,529	5,361	8,168

Magistrate Courts

There are 158 magistrates in West Virginia. There are at least two magistrates in every county, and ten in the largest county, Kanawha.

Magistrates use their training and sound judgment to oversee the application and enforcement of state laws, municipal laws, and court procedures. Magistrates have jurisdiction over civil cases in which the financial amount in dispute is less than five thousand dollars. They hear misdemeanor cases and conduct preliminary examinations in felony cases. In criminal cases they issue and record affidavits, complaints, arrest warrants, and search warrants. They also set bail and make decisions concerning proposed plea agreements, the collection of court costs, cash bonds, and fines.

Magistrates issue emergency protective orders in cases involving domestic violence. They immediately enter domestic violence petitions into the Domestic Violence Database and Registry.

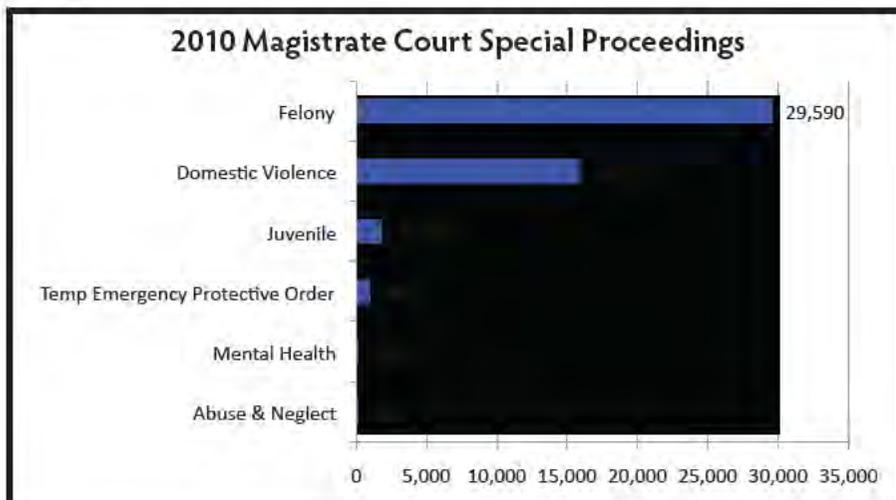
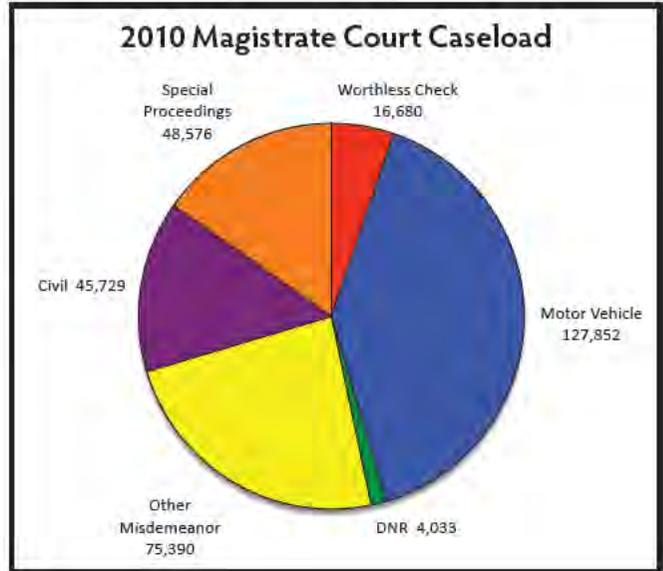
In counties where there are no mental hygiene commissioners, the chief judge can designate a magistrate to handle all or part of probable cause involuntary hospitalization cases. Magistrates, however, cannot handle final commitment or guardianship cases. In some counties, both mental hygiene commissioners and designated magistrates are appointed by the chief judge to do portions of mental hygiene work. Magistrates can enter mental hygiene orders into West Virginia's Mental Health Registry and issue applications and temporary placement orders after hours and on weekends when needed.

Circuit courts hear appeals of magistrate court cases.

Magistrates work under the administrative supervision of the Supreme Court of Appeals of West Virginia. Former Kanawha County Magistrate Janie Moore is Director of Magistrate Court Services. Brenda Magann is the division's paralegal and Melody Jordan is the Magistrate Court Division Administrative Assistant.

Magistrates run for four-year terms in partisan elections. The West Virginia Constitution prohibits requiring magistrates to be lawyers, although some are. Circuit judges appoint magistrates to fill vacancies. An appointee who wishes to remain in office must run in the next election.

A county-by-county list of magistrates in West Virginia, along with their office telephone numbers and FAX numbers, is available on the Supreme Court website. The website also has blank magistrate court forms that can be downloaded and printed for the public's use, rules governing media coverage of magistrate court proceedings, a copy of the West Virginia Benchbook for Domestic Violence Proceedings, and a domestic violence brochure, among other information.



Magistrate Court Case Filings

Calendar Year 2001-2010

	2010		Total	2009	2008	2007	2006	2005	2004	2003	2002	2001
	Criminal and Civil	Special Proceedings										
Barbour	1,547	294	1,841	2,073	2,144	2,106	2,207	2,100	2,517	2,988	2,119	2,213
Berkeley	16,928	3,529	20,457	18,594	22,086	20,464	17,820	17,284	19,480	18,768	18,983	20,515
Boone	3,994	930	4,924	5,087	5,309	5,903	5,723	6,142	6,394	5,515	5,061	5,227
Braxton	2,916	552	3,468	2,855	3,188	3,711	3,894	3,944	4,072	3,901	5,004	4,579
Brooke	2,732	455	3,187	3,162	2,948	3,136	3,925	3,992	4,111	3,217	3,158	4,628
Cabell	15,835	3,005	18,840	18,370	18,488	20,355	20,169	21,333	23,391	21,150	19,624	19,164
Calhoun	806	126	932	939	922	765	773	958	926	839	1,079	933
Clay	1,686	264	1,950	1,714	1,713	2,534	2,526	2,352	2,500	2,027	1,951	2,628
Doddridge	1,141	120	1,261	1,269	1,105	1,973	1,276	1,097	1,376	1,346	1,198	1,479
Fayette	7,046	1,547	8,593	8,497	8,118	7,191	7,744	7,851	8,949	7,970	8,476	10,026
Gilmer	758	135	893	1,009	803	1,029	1,102	999	699	938	900	1,211
Grant	1,822	344	2,166	2,136	2,385	2,479	2,454	2,743	1,969	1,865	2,501	3,146
Greenbrier	3,599	464	4,063	4,431	4,963	5,053	6,699	6,085	6,715	6,055	6,542	6,560
Hampshire	4,137	409	4,546	4,686	4,765	5,778	6,079	5,808	5,233	4,598	3,807	3,573
Hancock	3,276	627	3,903	4,125	4,014	4,040	3,889	3,801	3,972	4,207	4,672	4,543
Hardy	2,818	208	3,026	3,380	3,483	3,234	4,038	4,364	4,473	3,668	3,730	4,319
Harrison	10,441	1,547	11,988	11,717	12,350	12,725	12,621	12,020	13,322	15,719	14,508	17,911
Jackson	2,945	819	3,764	3,880	3,990	4,483	4,528	4,754	5,118	4,116	3,585	3,890
Jefferson	7,762	1,527	9,289	9,241	7,740	10,531	15,734	10,962	10,578	9,545	8,227	10,985
Kanawha	28,156	5,318	33,474	38,658	44,802	50,477	39,710	41,920	40,458	34,955	39,289	43,690
Lewis	3,893	225	4,118	4,324	4,306	5,399	5,177	4,729	5,611	6,417	5,232	5,314
Lincoln	3,463	711	4,174	4,627	4,695	4,171	3,666	3,314	3,542	3,232	2,773	3,602
Logan	7,364	2,249	9,613	9,374	10,349	11,995	12,133	11,526	11,653	8,768	8,584	9,811
Marion	6,174	1,073	7,247	9,008	7,428	8,035	7,870	7,259	7,716	7,396	8,750	9,533
Marshall	3,894	543	4,437	4,767	4,347	5,153	5,052	4,972	4,751	4,691	6,854	5,915
Mason	3,556	462	4,018	5,272	4,735	5,418	4,530	4,194	5,222	4,005	4,853	5,795
McDowell	3,793	1,172	4,965	4,925	6,034	5,896	5,064	5,732	5,358	5,156	4,373	4,607
Mercer	11,587	3,331	14,918	14,143	14,755	16,942	18,628	20,545	18,802	17,442	21,585	18,232
Mineral	4,235	612	4,847	4,976	4,638	4,574	4,860	4,896	4,824	3,992	3,160	3,437
Mingo	4,195	1,287	5,482	6,301	7,483	7,204	6,061	6,561	5,384	4,363	5,529	5,229
Monongalia	11,927	1,460	13,387	11,215	13,509	13,889	12,970	11,919	13,048	12,298	12,660	14,244
Monroe	1,142	316	1,458	1,362	1,355	1,340	1,334	1,263	1,362	1,499	1,425	1,572
Morgan	2,817	157	2,974	3,758	3,312	3,236	3,221	4,141	3,946	3,670	3,731	3,897
Nicholas	4,754	974	5,728	7,887	7,268	6,775	7,657	7,665	7,112	6,409	7,618	8,022
Ohio	6,937	754	7,691	7,566	6,726	7,742	8,862	8,596	10,376	9,861	9,024	9,469
Pendleton	807	63	870	865	901	727	1,082	1,200	1,279	1,347	1,607	1,921
Pleasants	996	173	1,169	1,169	1,257	1,407	1,340	1,195	1,369	1,523	1,438	1,366
Pocahontas	1,527	259	1,786	1,989	1,490	1,950	2,592	1,444	2,159	1,849	1,929	2,445
Preston	3,788	442	4,230	4,591	5,621	5,392	5,909	5,788	5,288	5,481	6,605	5,699
Putnam	6,100	936	7,036	8,110	8,733	8,696	9,641	9,428	10,545	9,557	9,121	9,254
Raleigh	14,800	3,122	17,922	15,545	17,108	18,680	19,937	19,490	21,827	20,676	24,312	24,923
Randolph	5,346	696	6,042	5,969	6,899	6,591	5,845	6,877	7,069	7,592	6,943	8,139
Ritchie	2,033	160	2,193	2,429	3,168	3,850	3,665	3,477	3,287	2,548	2,731	3,386
Roane	2,345	489	2,834	2,619	3,069	3,507	3,518	3,310	3,393	2,683	2,940	3,939
Summers	1,564	284	1,848	1,782	1,788	2,053	1,904	1,780	1,786	1,606	2,140	2,365
Taylor	1,893	225	2,118	1,800	2,121	2,378	2,173	1,866	1,852	1,955	2,243	2,235
Tucker	1,134	61	1,195	1,080	996	1,138	1,141	1,395	1,469	1,275	1,311	1,549
Tyler	905	160	1,065	972	1,041	1,024	1,138	1,034	1,148	1,003	1,186	1,035
Upshur	4,908	368	5,276	5,310	4,368	5,159	5,235	5,771	6,087	6,758	5,705	5,752
Wayne	4,848	599	5,447	5,155	5,705	5,264	5,894	6,983	9,298	7,956	5,815	5,623
Webster	1,091	223	1,314	1,363	1,614	1,559	1,533	1,297	1,666	1,589	1,222	1,363
Wetzel	1,606	245	1,851	2,005	1,946	1,576	1,861	1,884	1,434	1,601	1,684	1,620
Wirt	769	33	802	1,244	1,054	959	1,176	917	1,021	998	805	1,108
Wood	11,101	1,548	12,649	14,262	19,666	20,873	17,835	16,001	14,068	12,622	13,338	12,671
Wyoming	2,047	944	2,991	3,299	3,475	3,574	3,667	3,987	3,917	3,889	4,362	4,616
Total	269,684	48,576	318,260	326,886	348,276	372,093	367,082	362,945	374,922	347,094	358,002	380,908

2010 Magistrate Court Case Filings

	Total	Civil	DNR	Motor Vehicle	Other Misdemeanor	Worthless Check
Barbour	1,547	212	36	740	349	210
Berkeley	16,928	6,805	93	6,325	3,222	483
Boone	3,994	297	52	1,984	1,580	81
Braxton	2,916	203	46	1,843	707	117
Brooke	2,732	270	37	1,553	665	207
Cabell	15,835	2,979	20	7,750	4,518	568
Calhoun	806	133	50	264	268	91
Clay	1,686	149	72	739	506	220
Doddridge	1,141	109	7	741	204	80
Fayette	7,046	824	19	4,221	1,559	423
Gilmer	758	84	10	372	231	61
Grant	1,822	221	65	1,047	352	137
Greenbrier	3,599	863	61	995	699	981
Hampshire	4,137	856	68	1,881	998	334
Hancock	3,276	488	21	1,369	1,348	50
Hardy	2,818	531	72	1,261	488	466
Harrison	10,441	1,886	70	4,977	2,802	706
Jackson	2,945	447	132	1,265	849	252
Jefferson	7,762	1,517	207	2,563	3,336	139
Kanawha	28,156	3,894	107	13,879	9,731	545
Lewis	3,893	568	131	2,312	371	511
Lincoln	3,463	196	28	1,655	1,488	96
Logan	7,364	507	159	3,919	2,577	202
Marion	6,174	1,377	87	2,790	1,456	464
Marshall	3,894	648	9	1,728	1,229	280
Mason	3,556	461	107	1,704	1,066	218
McDowell	3,793	255	74	458	2,994	12
Mercer	11,587	3,516	51	4,176	3,160	684
Mineral	4,235	348	46	2,861	836	144
Mingo	4,195	267	111	2,252	1,495	70
Monongalia	11,927	2,485	55	6,459	2,455	473
Monroe	1,142	211	48	345	444	94
Morgan	2,817	573	50	1,567	535	92
Nicholas	4,754	544	253	2,160	1,354	443
Ohio	6,937	776	22	3,630	2,256	253
Pendleton	807	111	37	440	113	106
Pleasants	996	116	52	467	217	144
Pocahontas	1,527	218	78	590	355	286
Preston	3,788	772	85	1,767	627	537
Putnam	6,100	750	64	3,186	1,580	520
Raleigh	14,800	1,650	67	7,689	4,608	786
Randolph	5,346	1,116	114	2,009	568	1,539
Ritchie	2,033	144	64	1,474	226	125
Roane	2,345	240	99	832	1,074	100
Summers	1,564	124	102	437	570	331
Taylor	1,893	310	39	1,199	271	74
Tucker	1,134	151	36	519	187	241
Tyler	905	119	86	394	223	83
Upshur	4,908	950	138	2,486	803	531
Wayne	4,848	469	50	3,205	864	260
Webster	1,091	127	196	244	370	154
Wetzel	1,606	225	44	721	433	183
Wirt	769	90	38	378	172	91
Wood	11,101	2,272	150	5,559	2,868	252
Wyoming	2,047	275	18	471	1,133	150
Total	269,684	45,729	4,033	127,852	75,390	16,680

2010 Magistrate Court Special Proceedings

	Total	Abuse/ Neglect	Domestic Violence	Felony	Juvenile	Mental Health	Temporary Protective Orders
Barbour	294	0	141	91	62	0	0
Berkeley	3,529	3	756	2,193	135	1	441
Boone	930	0	241	611	0	0	78
Braxton	552	18	99	430	5	0	0
Brooke	455	0	134	243	77	0	1
Cabell	3,005	0	1,157	1,839	0	0	9
Calhoun	126	0	46	70	0	10	0
Clay	264	19	109	130	3	3	0
Doddridge	120	3	42	58	12	4	1
Fayette	1,547	0	414	1,120	0	11	2
Gilmer	135	3	52	70	9	1	0
Grant	344	30	86	140	87	1	0
Greenbrier	464	0	302	160	0	0	2
Hampshire	409	0	76	333	0	0	0
Hancock	627	2	205	373	47	0	0
Hardy	208	3	65	119	20	1	0
Harrison	1,547	0	665	725	155	0	2
Jackson	819	0	208	588	23	0	0
Jefferson	1,527	0	0	1,077	79	0	371
Kanawha	5,318	0	1,860	3,458	0	0	0
Lewis	225	0	67	158	0	0	0
Lincoln	711	0	232	343	131	5	0
Logan	2,249	1	520	1,702	23	2	1
Marion	1,073	0	448	624	0	0	1
Marshall	543	0	236	302	3	0	2
Mason	462	0	240	220	2	0	0
McDowell	1,172	0	212	909	36	10	5
Mercer	3,331	0	745	2,513	73	0	0
Mineral	612	0	151	458	2	0	1
Mingo	1,287	6	441	760	78	1	1
Monongalia	1,460	0	707	751	0	0	2
Monroe	316	2	146	166	2	0	0
Morgan	157	0	42	43	18	0	54
Nicholas	974	8	326	559	63	18	0
Ohio	754	0	285	427	41	0	1
Pendleton	63	1	21	30	11	0	0
Pleasants	173	3	45	111	13	1	0
Pocahontas	259	0	89	164	3	0	3
Preston	442	0	300	142	0	0	0
Putnam	936	0	440	495	0	1	0
Raleigh	3,122	20	833	1,856	356	46	11
Randolph	696	0	336	360	0	0	0
Ritchie	160	2	77	72	7	2	0
Roane	489	1	101	342	31	13	1
Summers	284	0	89	192	1	2	0
Taylor	225	0	90	101	31	3	0
Tucker	61	0	24	36	1	0	0
Tyler	160	1	66	87	6	0	0
Upshur	368	12	146	173	34	1	2
Wayne	599	0	185	405	0	9	0
Webster	223	0	88	120	13	2	0
Wetzel	245	0	103	138	4	0	0
Wirt	33	0	27	6	0	0	0
Wood	1,548	4	966	568	10	0	0
Wyoming	944	1	391	429	121	2	0
Total	48,576	143	15,873	29,590	1,828	150	992



Twenty-Fifth Circuit Chief Judge Jay M. Hoke talks about new white oak paneling that replaced walls in the Lincoln County Courthouse courtroom. *Photo by Sean O'Donoghue, The Lincoln Journal*

Administrative Director Steve Canterbury, several county officials, and courthouse employees. "This is the civic temple of justice," Judge Hoke told the crowd. "This is where real people resolve real problems."

Judge Hoke said the courtroom had not been significantly updated since 1963 and the new technology would benefit jurors participating in cases.

Judge William S. Thompson, also a judge in the Twenty-Fifth Judicial Circuit, said the renovated courtroom is impressive. He encouraged citizens to come to the courtroom to watch trials.

Also on August 24, Judge Hoke, Judge Thompson, and other Lincoln County elected officials spoke at an open house for the new Lincoln County Community Corrections office, which was formerly used by the county's school system.

Putnam Judicial Building finally receives engraving

A design oversight had left two limestone and concrete panels flanking the Putnam County Judicial Center entrance bare for thirteen years. But in July 2010, Twenty-Ninth Circuit Judge O.C. Spaulding proposed the job be finished.

"At the time we just forgot," Judge Spaulding told the *Charleston Daily Mail*. "For thirteen years I've stared at those blank panels."

Judge Spaulding presented the Putnam County Commission with a \$3,200 proposal from Sears Monument Company to sandblast "Equal Justice Under the Law" on one panel and engrave the scales of justice on the other.

The commission unanimously agreed, and the work was done in mid-July during hours when the building was closed.

Lincoln County gets renovated courtroom, new day report center

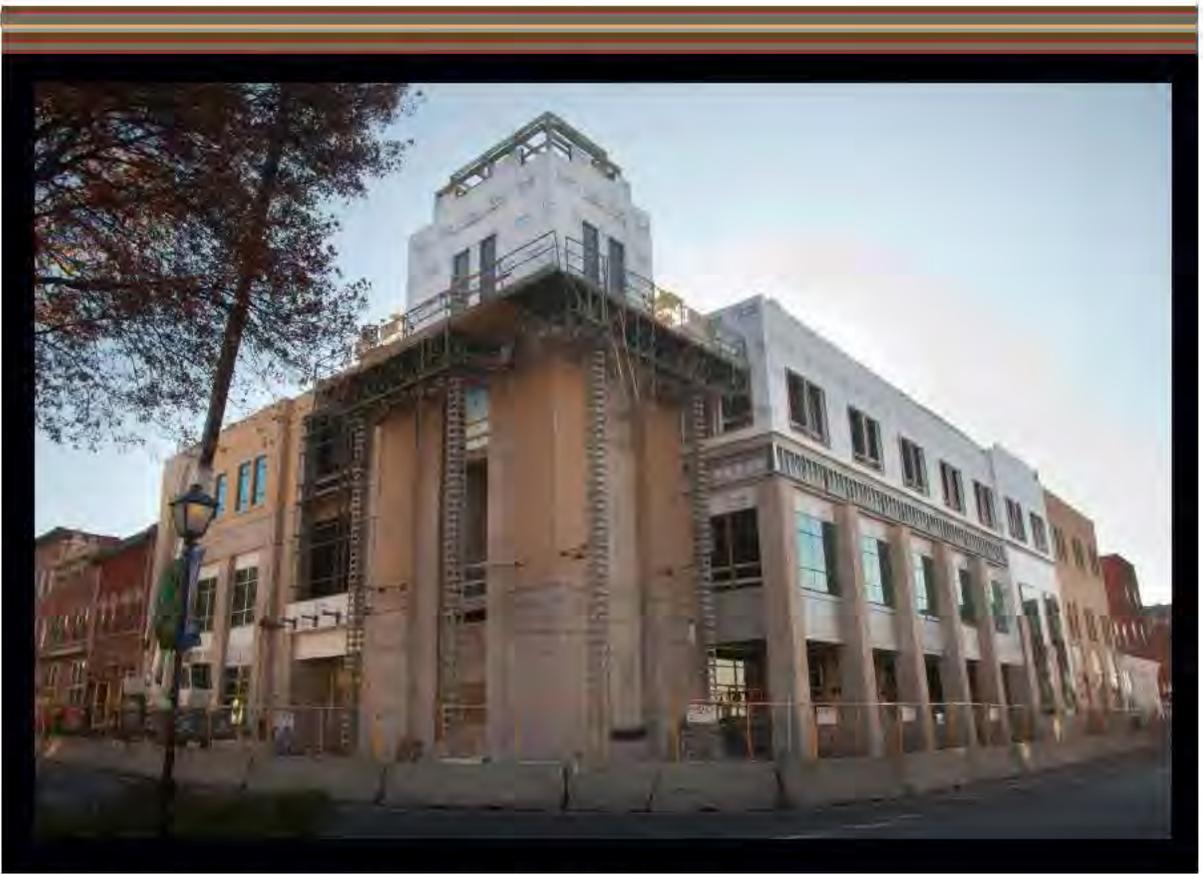
Lincoln County officials and residents had two reasons to celebrate on August 24: the circuit courtroom was re-dedicated and an open house was held at the new community corrections facility in Hamlin.

The Lincoln County Circuit Courtroom was re-dedicated after extensive work to install new flooring, seats, white oak paneling, and many technological improvements.

Twenty-Fifth Circuit (Boone and Lincoln Counties) Judge Jay M. Hoke led the re-dedication ceremony, which was attended by Supreme Court



Putnam County Judicial Center engraved panel
Photo by Michael Switzer



Raleigh County Judicial Center construction in Beckley *Photo by Michael Switzer*

West Virginia Courthouse Facilities Improvement Authority

The West Virginia Legislature created the Courthouse Facilities Improvement Authority in 2001 to assist county governments with the modification of existing courthouse facilities and the construction of new courthouse structures. According to WV Code §29-26-1, the authority shall consist of twelve voting members and eight advisory members. The voting board consists of two members from each of the following organizations: the West Virginia Sheriffs' Association, the West Virginia Prosecuting Attorneys' Association, the West Virginia County Clerks Association, the West Virginia Association of Circuit Clerks, the County Commissioners Association of West Virginia, and the Association of West Virginia Assessors. The advisory board consists of two members from each of the following organizations: the West Virginia Judicial Association, the West Virginia Magistrates' Association and the West Virginia Family Court Judicial Association. One senator and one delegate from the West Virginia Legislature fill the final two positions on the advisory board.

In 2003, the Legislature passed additional law and legislative rules to fund the authority grants. The grants are funded by fees charged in county courthouse offices. Therefore, no tax dollars support the authority. Each year the authority solicits grant applications from all counties. The maximum amount that is provided to each county is \$80,000 annually. The grants require a twenty percent match from county funds.

Many of the projects focus on fire safety. Other projects address structural issues, asbestos abatement, roof repairs, electrical upgrades, and other improvements. Since its inception, the authority has awarded about \$14 million to counties.

The authority hired Executive Director Melissa Garretson Smith on September 1, 2010. The current Board of Directors' President is W. Richard Staton, Wyoming County prosecutor. In 2001, he was Chairman of the Judiciary Committee for the House of Delegates and played an instrumental role in the creation of the West Virginia Courthouse Facilities Improvement Authority. Mr. Staton recently said, "The authority is proud of our beautiful and functional courthouses. Our mission is to keep them that way and maintain them as treasured parts of their communities."

For further information on the authority, contact 304-558-5435 or melissa.smith@wvcfia.com or visit the authority's website at www.wvcfia.com.

Courthouse Facilities Improvement Authority

Seventh Cycle Funding Awards

County Applicant	Improvement	Project Cost	Award Amount
Boone	Repair Water Table and Gutter	\$ 93,000	\$ 74,000
Braxton	Bell Tower Repair	91,000	72,800
Brooke	Courtroom Repair	125,000	80,000
Cabell	Clock Tower Repair	100,000	80,000
Clay	Annex Roof	99,912	79,929
Hardy	Exterior Entry/ADA	40,443	32,355
Jefferson	Exterior/Masonry Repair	250,000	80,000
Kanawha	Phase III Sprinkler System	115,000	80,000
Lewis	Roof Repair	130,350	80,000
Lincoln	Courtroom Upgrade/Security	127,255	80,000
Marion	Window Replacement/Restoration	100,000	80,000
Mason	Phase II Exterior Joints	179,932	80,000
McDowell	Water Issues/Masonry	180,000	80,000
Mingo	Elevator for Annex	159,900	80,000
Morgan	Building New Courthouse	10,448,000	80,000
Ohio	Generator for 911	225,985	80,000
Preston	Elevator and Stair Tower	277,593	80,000
Putnam	Stair Repair	80,850	64,680
Raleigh	Window Replacement	336,700	80,000
Randolph	Roof Repair	40,950	32,760
Tyler	Clock Tower Repair	112,000	80,000
Upshur	Phase II HVAC	925,000	80,000
Wetzel	Window Replacement	100,000	80,000
Wirt	Roof/Exterior	89,128	71,302
Wood	HVAC and Ductwork Replacement	190,000	80,000
Total		\$14,617,998	\$1,867,826