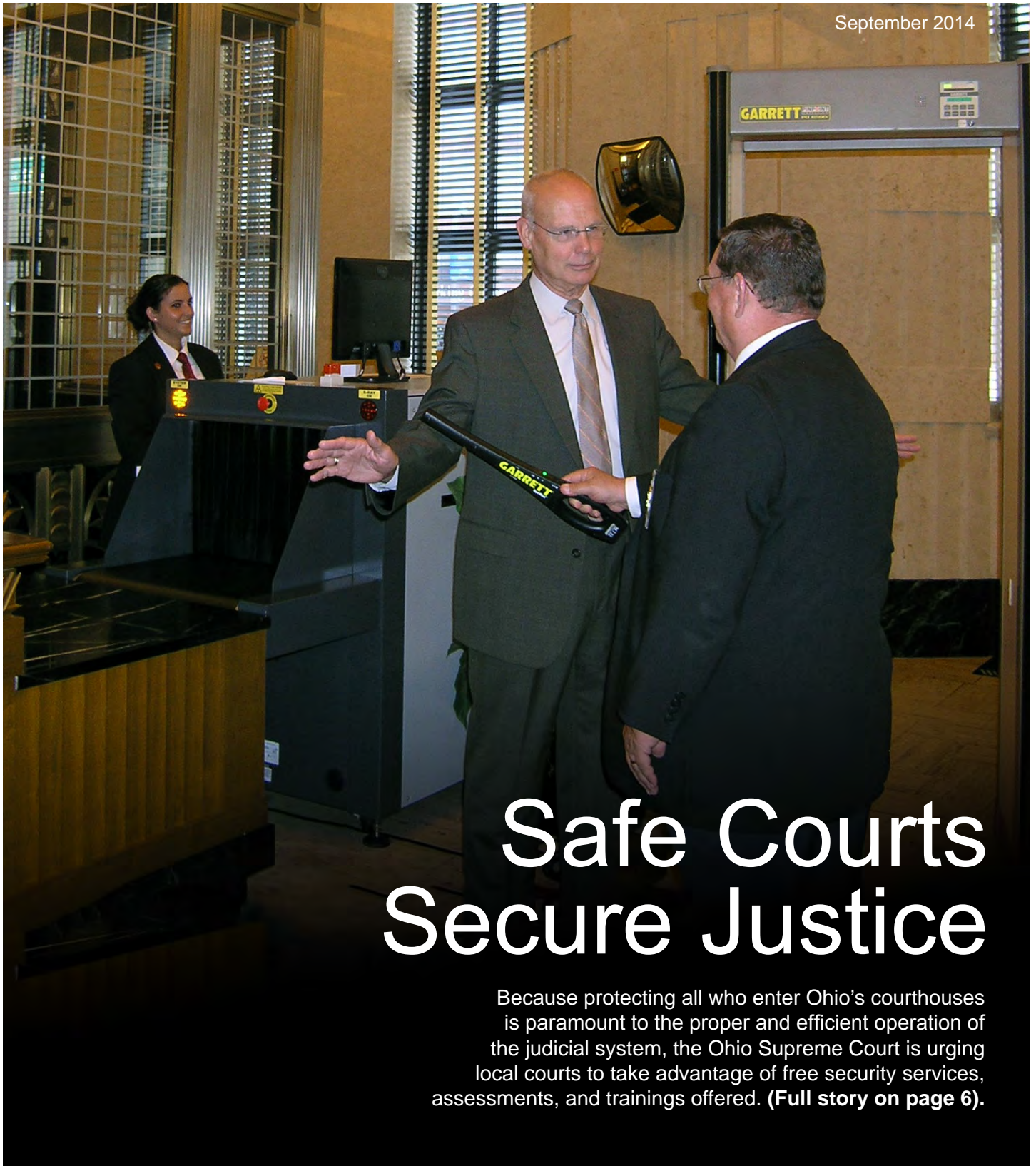




CNO REVIEW

September 2014



Safe Courts Secure Justice

Because protecting all who enter Ohio's courthouses is paramount to the proper and efficient operation of the judicial system, the Ohio Supreme Court is urging local courts to take advantage of free security services, assessments, and trainings offered. **(Full story on page 6).**

About Court News Ohio

Court News Ohio is a service of the Office of Public Information of the Supreme Court of Ohio and Ohio Government Telecommunications. Court News Ohio includes a website (courtnewsOhio.gov), a monthly print publication (CNO Review), a television program (CNO TV), a Facebook page ([facebook.com/courtnewsOhio](https://www.facebook.com/courtnewsOhio)), a Twitter feed (@courtnewsOhio), and a YouTube channel ([youtube.com/CourtNewsOhioTV](https://www.youtube.com/CourtNewsOhioTV)).

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Inside

the September Issue



3 Cases

Ninth District: State Court Can Hear Dispute Among Authors of Part of Black Eyed Peas Hit Song



4 Happening Now

Task Force on Access to Justice Holds First Meeting



6 Cover Story

Safe Courts Secure Justice

8 On the Bench

Court's Garden Still Growing After 20 Years

10 The Agenda

Ohio Association of Magistrates Fall Conference — October 1-3

Cases

Visit courtnewsohio.gov for the most current decisions from the Ohio Supreme Court, Courts of Appeals, and Court of Claims.

Supreme Court of Ohio

Threats to Governor Are Not Public Record

On August 27, the Supreme Court denied a request from a central Ohio media outlet asking the court to order a state agency to release information about threats made against the governor. Threats to the governor qualify under Ohio's public records law as security records, which are exempt from disclosure, the court ruled in a unanimous decision.

State ex rel. Plunderbund Media v. Born
Slip Opinion No. 2014-Ohio-3679

Courts of Appeals

Ninth District: State Court Can Hear Dispute Among Authors of Part of Black Eyed Peas Hit Song

The Black Eyed Peas used a sample of a 1980s song on one of their smash hits, and it has the original Cleveland-area musicians spinning through the legal system to collect their shares of the royalties. For now they've landed back in the Summit County Court of Common Pleas to proceed with a breach of contract lawsuit after an August 13 ruling by the Ninth District Court of Appeals.

McCants v. Tolliver
2014-Ohio-3478

First District: Proof As to Who Is At Fault Required for Slipping Street Plate Accident

As the Wynn family drove through Cincinnati, they crossed over a metal plate in the road that shifted and the car fell into the hole injuring some of the Wynns and damaging the car. They sued the city, county, and contractors doing public works in the area, all of who denied owning the plate. Not knowing exactly who was responsible for the plate led a trial court to dismiss the lawsuit. The First District Court of Appeals upheld the dismissal on August 13.

Wynn v. Duke Energy Ohio, Inc.
2014-Ohio-3464

Tenth District: Court Upholds \$1.3 million Judgment Against Westerville for Streetscape Project

The city of Westerville may not have intended to wall off a U.S. Bank branch from its customers as it acquired land for its gateway beautification project, but the manner in which it took control of the land gave it the right to and now it owes the property owner \$1.3 million in damages, according to an August 12 decision by the Tenth District Court of Appeals.

Westerville v. Taylor
2014-Ohio-3470

Court of Claims

Court of Claims Approves Highway Patrol Assault Settlement for \$110,000

A Vermont man settled his case for \$110,000 with the Ohio State Highway Patrol for "excessive and unjustified" force after a head-on crash in 2005 left him disoriented. The Court of Claims of Ohio approved the settlement on August 8.

Eugene Wrinn Jr. v. Ohio State Highway Patrol, Case No. 2006-05934

HappeningNow

News and Notes from Courthouses Across the Buckeye State

Task Force on Access to Justice Holds First Meeting



Pictured: Former Justice Yvette McGee Brown leads the new task force during its first meeting.

A task force charged by the Ohio Supreme Court to identify obstacles for low-income and disadvantaged Ohioans to access the civil justice system held its first meeting on August 1.

Chief Justice **Maureen O'Connor** welcomed the 11-member Task Force on Access to Justice and urged them to review how other states have addressed the issues, including permanent commissions that bring together stakeholders needed to advance and enhance access to justice.

"Thirty-two states have commissions," Chief Justice O'Connor said. "Are there states that mirror Ohio more closely, and can we utilize their lessons-learned and their models?"

Chief Justice O'Connor urged the task force to broaden the definition to include not only those who cannot afford an attorney, but also those who encounter other barriers to the legal system, such as language barriers.

The task force includes judges, representatives of legal aid organizations, the state public defender, and attorneys in private practice. It is being led by former Supreme Court Justice **Yvette McGee Brown**.

"There was great energy and commitment among the task force members to addressing the barriers to access our legal system," McGee Brown said after the meeting. "A consistent sentiment is that justice has to be accessible to all, regardless of income or other barriers."

McGee Brown adds that she would like to have recommendations ready for the Supreme Court to consider in the first quarter of 2015. The task force meets again on September 12.



Jon Ridinger / CC BY 3.0

Have Court, Will Travel

The Ohio Supreme Court will convene in official session in Portage County on September 24 as part of its biannual Off-Site Court Program.

Chief Justice **Maureen O'Connor** and Justices **Paul E. Pfeifer**, **Terrence O'Donnell**, **Judith Ann Lanzinger**, **Sharon L. Kennedy**, **Judith L. French**, and **William M. O'Neill** will hear oral arguments in three cases beginning at 9 a.m. at Ravenna High School (pictured above). The three cases are: *Felix v. Ganley Chevrolet* (Case No. 2013-1746), *State v. Johnson* (Case No. 2013-1973), and *Smith v. Chen* (Case No. 2013-2008). Summaries of these cases will be released in the coming weeks.

"Part of our mission as an institution is to educate the public about the court system," Chief Justice O'Connor said. "By conducting oral arguments in communities across Ohio, students have the opportunity to observe the court in action and how the judicial branch works."

Besides Ravenna, 10 other high schools will participate: Aurora, Crestwood, Field, James A. Garfield, Theodore Roosevelt, Rootstown, Southeast, Streetsboro, Waterloo, and Windham.

Portage County Domestic Relations Court Judge **Paula C. Giulitto** extended a formal invitation to the Supreme Court and is hosting the event along with the Portage County Bar Association.

Chief Justice O'Connor said the Portage County session will mark the 69th time the Supreme Court has heard oral arguments outside Columbus since the inception of the program. This will be Portage County's first time hosting the program.

Courts Continue to Adapt to the Influence of New Media

Courts continue to implement rules to control the use of new media like Facebook and Twitter in the courtroom while becoming more approving of the media sending real-time dispatches from court proceedings, according to a survey report released on August 6 by the Conference of Court Public Information Officers (CCPIO).

The 2014 CCPIO New Media Survey contains the results of a national survey of judges and court personnel conducted in June. It provides the judicial community in the United States its first year-to-year comparison spanning five years of data unveiling how social media and broader changes in the media industry are impacting state and local judges and courts.

In addition to the survey results, the report details recent developments in the past year, including advisory opinions and examples by courts using social media. One example is the D.C. Superior Court and Court of Appeals whose @DCCourtsInfo Twitter handle has one of the largest bases of followers of any court in the country. The entire report is available for download at www.ccpio.org.

The 2014 CCPIO New Media Survey reveals the judicial system is more accepting of the use of new media in the courtroom, but the majority of courts are still slow to embrace new media as they cautiously guard against the risks it presents.

The survey was conducted by the Conference of Court Public Information Officers, an organization of more than 120 communications professionals working in state and federal courts in the United States and worldwide. Partners in the project include the National Center for State Courts in Williamsburg, Va., the nation's leading center for research assistance to the country's state court systems, and the E.W. Scripps School of Journalism at Ohio University.

More than 9,100 individuals in the court community were invited to participate in the electronically distributed survey. Of the total individuals who completed the survey, 32.5 percent responded they were judicial officers, which is similar to the previous four surveys which ranged from a high of 33.4 percent to a low of 31.4 percent being judges or magistrates.

2014 CCPIO New Media Survey

Some major conclusions of the survey:

- In 2014, 37 percent of the courts have a social media policy for their courtroom compared to about 29 percent a year ago.
- Social media use by courts is growing. Compared to 2013, Facebook use by courts is up by more than 5 percent; Twitter use increased by 3.5 percent and YouTube by 3.2 percent.
- Court officials are less concerned about the media sending messages from the courtroom during proceedings than in past years. A year ago, nearly 66 percent of court officials objected to the media sending messages. In 2014, the gap has narrowed with only 46 percent saying it's inappropriate and 39 percent permitting it.
- In a complete reversal of opinion, more than 50 percent of court officials believe the media should be allowed, with some restrictions, to take photos and videos of a court proceeding. Only 35 percent object to photos and videos this year, an 11 percent drop from a year ago.

Part-Time Prosecutor's Law Firm Allowed to Represent Criminal Defendants

Elected county prosecutors and assistant prosecutors in Ohio are allowed to have private law practices, but a new advisory opinion examines the conflict of interest when it comes to their firms representing criminal defendants. The Board of Commissioners on Grievances & Discipline issued an advisory opinion that revisits an opinion from 1988. While Opinion 2014-2 does not deviate from the 1988 conclusion that Ohio's professional ethics rules prohibit a part-time county prosecutor from representing criminal defendants, the board now concludes that the prosecutor's private law firm may represent criminal cases under certain circumstances.

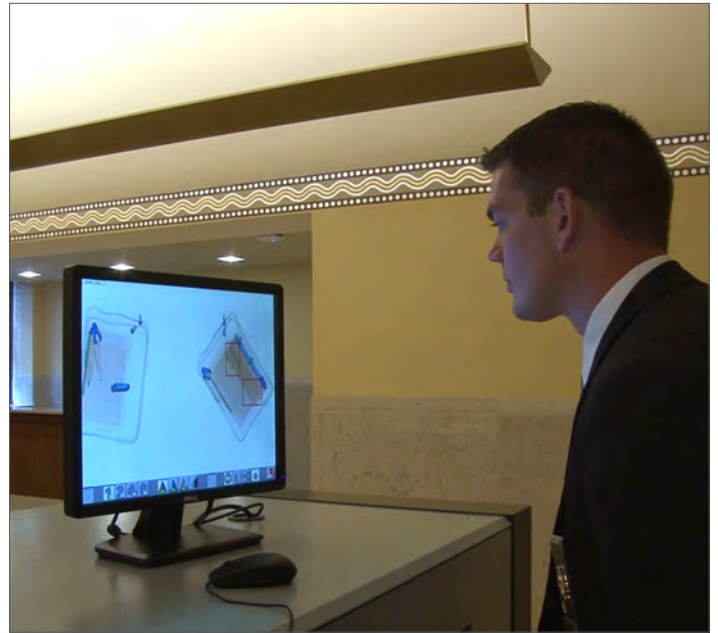
Story continues on page 11.



Safe Courts Secure Justice

An unusual dark spot on the X-ray monitor alerted a Santa Cruz County Superior Court security officer to double-check a diaper bag being brought into the Southern California courthouse by a mother carrying a baby. The officer found a loaded .25-caliber handgun tucked inside.

In a Lexington, Ky., courthouse, a man attempted to enter with a large trunk and refused to open it when security officers requested. The FBI and state police bomb squad were called and discovered the trunk had electronics, a timer, and other personal items inside.



PICTURED: Ohio Supreme Court security staff members demonstrate proper screening techniques for court security, including the use of hand-wands and X-ray image recognition.

These courts are not alone in facing situations where weapons are brought into courthouses or threats of violence are directed. Between 2005 and 2012, 406 court-targeted acts of violence, such as shootings, knifings, bomb plots, assaults, and prison escapes, took place in local courts throughout the United States, according to a National Center for State Courts report.

Because protecting everyone entering Ohio's courthouses is paramount to the proper and efficient operation of the judicial system, the Ohio Supreme Court is urging local courts to take advantage of free security services, assessments, and trainings it offers.

Supreme Court officers conduct security assessments, train court security and law enforcement personnel on how to operate security equipment, and educate judges and court personnel on threat and risk management.

"We're a good resource. We look at where you are with your security. We can point out any security gaps. When there is a change in administration or judges, it is a good time to review your security plan," said **Terry Lyons**, Security Services manager.

Since 2002, the Supreme Court has assisted local courts in reviewing security plans. Five years ago, Rule 9 of the Rules for Superintendence for the Courts of Ohio required courts to develop and implement a court security plan.

Lyons said there is no one-size-fits-all plan for courthouse security in Ohio. Each jurisdiction has to look at its specific needs. He said he works with local court leaders during the assessment to take into consideration many of the local factors such as the age of the building, the types of security they use, and any unique characteristics of the facilities.

However, there are 16 general standards that apply to all courts.

Those include the requirement that each court appoint a court security committee to meet on a periodic basis. Each court facility must have a written security plan with a policy and procedures manual that provides consistent, appropriate, and adequate security procedures.

The manual must include:

- A physical security plan
- Procedures for routine security operations
- An emergency action plan for events like a natural disaster and dangerous incidents like a hostage situation, bomb threat, escaped prisoner, or violence in the courtroom
- A plan for enhanced security for a high-risk trial.

Story continues on page 12.

ON THE BENCH

Court's Garden Still Growing After 20 Years



Tucked behind a fire station and township building near the northeast Ohio city of Painesville are rows of sweet corn, cabbage, and tomatoes in a garden that started as an idea 20 years ago.

Painesville Municipal Court Judge **Michael Cicconetti** decided that instead of putting low-level misdemeanor offenders in jail, he'd offer them an alternative – community service in a community garden.

“The easy way would have been to put them in jail,” Judge Cicconetti said. “There has to be a better way, number one, to teach them a lesson – there has to be consequences – and number two, give something back to the community here.”

With plants donated by local nurseries, equipment paid for by the defendants' fees, and supervisor **Wally Siegel's** guidance – the court garden's bountiful harvests have provided fresh

vegetables to food banks and other community service agencies for two decades. Last year, that included more than 4,000 green peppers, 11 bushels of green beans, and more than 400 dozen ears of sweet corn – for an average of three pickup loads every week.

“I've had people come back the next year and work in the garden for free. They're under no obligation. They just enjoyed it so much that they come back and volunteer to work in the garden,” Judge Cicconetti added.

Defendants working in the Painesville Municipal Court garden also get a sense of pride in knowing the plants they raised provide fresh food to those in need.

FEATURED VIDEO

The Licking County Intervention for Treatment (LIFT) Drug Court is changing lives. Watch the full video and hear from a recent graduate at courtnewsoriohio.gov/happening/2014/lickingCoDrugCt_081914.asp.



Harrison County Resident Appointed Chair of Supreme Court Committee



Kristine Puskarich (left) replaces Sharon Hickson (right) as the Judicial Family Network chair.

Harrison County resident **Kristine Puskarich** will lead the Advisory Committee on the Judicial Family Network as chair for 2014-15, the Ohio Supreme Court announced on August 8. She replaces **Sharon Hickson** whose one-year term as chair ended.

Hickson turned over chairmanship duties to Puskarich at the group's July 31 planning meeting.

With more than 700 judges at all levels of the judiciary in Ohio, the 18-member advisory committee identifies the needs and concerns of judicial families and offers them educational opportunities and a supportive network.

Puskarich, the wife of Harrison County Probate/Juvenile Court Judge **Matthew P. Puskarich**, is serving her second term on the advisory committee after her appointment in 2009. She and Judge Puskarich have been married for 16 years and have two children. Puskarich's community service includes membership on several local boards as well as the Harrison East PTO, Harrison Central Band Boosters, and Soccer Parent Clubs.

Judge Puskarich began serving on the bench in 2003. He received his law degree from Wake Forest University. He was admitted to the practice of law in Ohio on November 18, 1991.

Eric D. Martin Appointed to Muskingum County Probate Bench



Gov. **John R. Kasich** appointed Judge **Eric D. Martin** of Zanesville to serve as probate and juvenile court judge. He assumed office on August 13.

Martin replaced Judge **Joseph A. Gormley**, who retired. He must win in November 2014 to retain the seat for the full term commencing February 9, 2015. Martin previously announced his candidacy for the position and won the primary election for the post in May.

Martin has been a Muskingum County Court judge since 2005 and serves as the presiding and administrative judge. He also has been a partner at the Allen, Baughman and Martin Law Offices.

Martin previously served as assistant prosecuting attorney for Muskingum County as well as solicitor for Frazeytsburg and magistrate for Frazeytsburg, Dresden, South Zanesville, and Roseville. Martin received his bachelor of arts from Ohio University in 1992 and received his law degree from the University of Akron School of Law in 1995. He was admitted to the practice of law in Ohio on November 13, 1995.

Cuyahoga County Judge Disqualified Pending Outcome of Felony Indictment



The Ohio Supreme Court issued an order on August 26 that Cuyahoga County Common Pleas Court Judge **Lance T. Mason** is disqualified from acting as a judge because of a five-count felony indictment.

Judge Mason was indicted today by a grand jury for two first-degree felony counts of kidnapping and three second-degree felony counts of felonious assault.

Gov.Jud.R. III (6) (A) of the Supreme Court Rules for the Government of the Judiciary in Ohio states: "A Justice or judge is disqualified from acting as a Justice or judge while there is pending an indictment or an information charging the Justice or judge with a crime punishable as a felony under state or federal law."

In the order signed by Chief Justice **Maureen O'Connor**, it notes that "it is further ordered that he shall remain disqualified while any and all indictments filed in the Cuyahoga County Court of Common Pleas are pending and until further order of this court."

Copies of the order were sent to Judge Mason, the presiding judge of the court, and the court's administrator.

Access Section III (Disability Retirement, Removal, or Suspension of Judges) of the rules at <http://sc.ohio.gov/LegalResources/Rules/government/GOVJUD.pdf>.



Conferences & Meetings

September 21 & 22
Ohio Law & Citizenship Conference
Columbus
ocltre.org/calendar

September 25 & 26
Ohio Prosecuting Attorneys Association Fall Training
Cleveland
ohiopa.org

October 1 – 3
Ohio Association of Magistrates (OAM) Fall Conference
Member Magistrates, Columbus
ohiomagistrates.org

October 7 – 9
Ohio Association of Municipal/County Court Clerks Fall Conference
Columbus
oamccc.org

The Agenda

Upcoming events, training opportunities, and conferences for judges and court staff. For more information, contact the event sponsor at the website provided.

Judicial College Courses

judicialacademy.ohio.gov

September 3
Probation Officer Training Program: Introduction to Cognitive Behavioral Interventions (015)
Probation Officers
Dayton/Beavercreek

September 9
Probation Officer Training Program: Introduction to Offender Behavior Management (018)
Probation Officers, Toledo

Guardian ad Litem Pre Service Course (7 of 9)
Guardians ad Litem, Cleveland

September 10 – 12
Court Management Program (CMP) 2014 Scarlet Class: Purpose and Responsibilities of Courts
CMP Class of 2014A, Columbus

September 12
Abuse, Neglect & Dependency Video Teleconference
Judges & Magistrates
1 p.m. to 3:45 p.m.

September 12
Criminal Procedure by the Numbers: Part II
Judges & Magistrates, Columbus

September 16
Probation Officer Training Program: Introduction to Cognitive Behavioral Interventions (015)
Probation Officers, Akron

September 17
Guardian ad Litem Continuing Education Course: Understanding Child Protective Services
Guardians ad Litem
Dayton, 1 p.m. to 4:30 p.m.

September 17 – 19
Court Management Program (CMP) 2016 Class: Fundamentals of Caseflow Management
CMP Class of 2016, Columbus

September 18
Guardian ad Litem Continuing Education Course: Understanding Child Protective Services
Guardians ad Litem
Dayton, 8:30 a.m. to Noon

September 19
Acting Judge Essentials: Domestic Violence & Traffic Issues (2 of 4)
 Judges, Magistrates & Acting Judges
 Dayton

September 23
Probation Officer Training Program: Introduction to Offender Behavior Management (018)
 Probation Officers, Columbus

September 24
Taking the Lead
 Municipal & County Court Clerks
 Columbus

September 25
Interpreter Course
 Judges, Magistrates & Court Personnel
 Columbus

October 2
Sex Offender Management Course
 Probation Officers
 Columbus

October 3
Evidence-Based Pretrial Services & Ohio Law
 Judges & Court Personnel
 Columbus

Language Services Training
sc.ohio.gov/JCS/interpreterSvcs

September 12
Legal Procedure & Terminology
 Columbus

September 13
Idioms, Slang & Metaphors
 Columbus

Supreme Court of Ohio
sc.ohio.gov

September 9-10 & 23
Oral Arguments

September 24
Oral Arguments
 Off-Site Court, Ravenna

Local Court Roundtables
sc.ohio.gov/JCS

September 9
Probate, Midsized & Rural Courts
 Rural & Midsized Counties

September 16
Juvenile Chief Deputy Clerks
 Midsized & Urban Courts,
 More than 60K Population

September 23
Domestic Relations Administrators
 All Counties

September 26
Juvenile Chief Probation Officers
 Less than 100K Population

October 3
Juvenile Administrators
 Midsized & Rural Courts

ADVISORY OPINION | Continued from page 5.

“After reviewing the rules that have been modified since the 1988 opinion was issued, the board has concluded that other lawyers in the firm are able to represent criminal defendants, as long as the part-time prosecutor is not involved in the case and does not financially benefit from the case,” Board of Commissioners on Grievances & Discipline Secretary **Rick Dove** said.

The advisory opinion states:

- The part-time prosecutor should be timely screened from the firm’s criminal defense cases and should not receive a fee from the firm’s criminal defense work.
- Lawyers in the elected part-time prosecutor’s firm may not represent criminal defendants in the county in which the prosecutor is the elected official.
- The part-time prosecutor should not oppose lawyers from the prosecutor’s firm.
- Other lawyers in the prosecutor’s firm are statutorily prohibited from accepting court-appointed criminal cases.

The board’s advisory opinions are informal and nonbinding and are in response to prospective or hypothetical questions regarding the application of the Supreme Court Rules for the Government of the Bar of Ohio, the Supreme Court Rules for the Government of the Judiciary, the Ohio Rules of Professional Conduct, the Ohio Code of Judicial Conduct, and the Attorney’s Oath of Office.

The board conducts hearings and issues findings and recommendations to the Supreme Court on ethical misconduct complaints against Ohio attorneys and judges. The board also engages in efforts to promote a greater understanding of and compliance with professional ethics standards.

SECURE COURTS | Continued from page 7.

Lyons said at the top of mind for local court leaders when thinking about security is the equipment and personnel costs that come with securing a facility. He said leaders often overlook the benefits of just ensuring policy and procedures are in place and that everyone on the court staff knows their role and responsibility when a threatening situation arises. Knowing what to do and where to go during a dangerous situation is important to the safety of the staff and court visitors.

Every court must subject every person entering a court facility to a security search, and uniformed court security officers must be assigned to ensure the security of each courtroom and all court facilities.

Jeff Carper became chief security officer of the Alliance Municipal Court when **Andrew L. Zumber** took office as the municipal court judge. With 17 years of law enforcement experience, 10 years in the military and 8 years as a security consultant, Carper said he saw room for improvement in its court security. He contacted Lyons for assistance in bringing the court up to state standards.

“Mr. Lyons presented what the Ohio Supreme Court security division could do for us and even provided some examples to help me develop our security standards manual in accordance with Appendix C of Superintendence Rule 9,” he said.

Along with assessments, the Supreme Court offers training to personnel providing the security. Lyons said many courts assume all security personnel have been provided training to accurately operate screening machines, wands, and X-rays, but that is not always the case.

Without proper training, weapons and unsafe materials can slip through the screening process. Free training both at the local courts or at the Supreme Court are provided for basic courthouse security screening, X-ray operation/image recognition, and interpretation. The court staff also conducts TASER certification/recertification.

In Alliance, the police department was providing security at the court entrance, but requested the court assume the duties. Three deputy bailiffs/court security officers were hired and needed to be trained.

“I once again called on the OSC Security Division to support our training needs for security screening procedures, use and interpretation of the X-ray equipment, and magnetometer use,” Carper said. “I received contact from [Security Services Coordinator] **Ryan Fahle**, and he provided the training for the CSOs. The program Mr. Fahle executed for us was superb and actually exceeded my expectations of service and content.”

Chief Justice **Maureen O'Connor** is urging all courts to take advantage of the service to ensure all courts are secured. “Solid security does not just happen, but rather takes serious, contemplative, and dedicated effort. We are happy to assist,” she said.

For additional information or assistance, contact the Supreme Court’s Office of Court Security at 614.387.9906 or courtsecurity@sc.ohio.gov.

SNAPSHOT: VISITORS FROM CHINA

PICTURED: College students from China take in the art and architecture of the Thomas J. Moyer Ohio Judicial Center on August 15.

This visit marked the third group from China to visit this summer. Their visits were part of the Global Gateway program sponsored by The Ohio State University.

The students were from colleges in Beijing, Suzhou, and Hubei. **Harlan Schottenstein**, who accompanied the three groups, said he included the Supreme Court in the program because he wanted the visitors to see the art, architecture, and civic enterprise of the building. “It is an opportunity for them to see how American justice is open and accessible,” he said.

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