2007 ANNUAL REPORT TO THE NINETY-FIFTH ILLINOIS GENERAL ASSEMBLY

January 31, 2008

Honorable Michael J. Madigan
Speaker of the House
House of Representatives
Springfield, IL 62706

Honorable Emil Jones, Jr.
President of the Senate
State Senate
Springfield, IL 62706

Honorable Tom Cross
Republican Leader
House of Representatives
Springfield, IL 62706

Honorable Frank Watson
Republican Leader
State Senate
Springfield, IL 62706

Gentlemen:

Attached is the 2007 Annual Report of the Illinois Supreme Court. I submit this Report to the General Assembly pursuant to Article VI, Section 17 of the Illinois Constitution of 1970, which requires the Supreme Court to report annually in writing to the General Assembly regarding the annual Judicial Conference. The Judicial Conference considers the work of the courts and suggests improvements in the administration of justice. In compliance with the constitutional mandate, this Report includes a summary of the work performed by the several committees constituting the Judicial Conference.

The Committees of the Judicial Conference include: (1) Alternative Dispute Resolution; (2) Automation and Technology; (3) Criminal Law and Probation Administration; (4) Discovery Procedures; (5) Judicial Education; (6) Study Committee on Complex Litigation; and (7) Study Committee on Juvenile Justice. The annual meeting of the Judicial Conference was convened on October 25, 2007, to consider the aforementioned committees' reports and recommendations. Those reports detailed initiatives undertaken during Conference Year 2007. This Annual Report summarizes those initiatives, which also foretell of the projects and goals anticipated being undertaken by the Conference Committees in 2008.

With the submission of this Report to the General Assembly, the Supreme Court renews its commitment to the effective administration of justice and the management of the courts, to the careful stewardship of those resources provided for the operation of the courts, and to the development of plans and goals designed to assure that the Illinois judicial branch provides justice to our citizens and upholds the rule of law.

On behalf of the Court, I respectfully submit the Supreme Court's 2007 Annual Report to the General Assembly.

Sincerely,

Robert R. Thomas
Chief Justice
Supreme Court of Illinois

2007 Illinois Judicial Conference The annual meeting of the Illinois Judicial Conference was held on October 25, 2007, in Chicago, Illinois. The Conference, which is authorized by Article VI, Section 17 of the Illinois Constitution of 1970, is mandated to consider the work of the courts and to suggest improvements in the administration of justice. The constitutional mandate is implemented through Supreme Court Rule 41, which defines the duties and the membership of the Illinois Judicial Conference. Consistent with the Rule, the Conference is composed of judges from every level of the judiciary representing Illinois' five judicial districts. The Justices of the Supreme Court of Illinois, including the Chief Justice, who presides over the Conference, also serve as members.

The work of the Judicial Conference is conducted throughout the year, largely by the efforts of seven appointed committees: Alternative Dispute Resolution Coordinating Committee; Automation and Technology Committee; Study Committee on Complex Litigation; Committee on Education; Committee on Criminal Law and Probation Administration; Committee on Discovery Procedures; and the Study Committee on Juvenile Justice. The rosters of the various committees include appellate, circuit and associate judges who serve as full members of the Judicial Conference. Their work is aided by judges, law professors, and attorneys, who are appointed by the Supreme Court to serve as either associate members or advisors to the committees, but are not members of the Judicial Conference itself. Senior level staff of the Administrative Office of the Illinois Courts serve as liaisons to support the committees' activities.

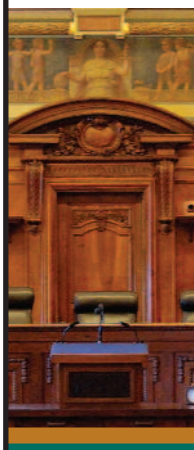
The Executive Committee, which is also authorized through Supreme Court Rule 41, acts on behalf of the Conference when the Conference is not in session. The Executive Committee consists of fourteen judges, six of whom are from the First Judicial District (Cook County) and the remaining eight from judicial districts two, three, four and five. The Executive Committee previews the written reports of the Conference committees and submits, for the Supreme Court's approval, an agenda for the annual meeting.

The 2007 Annual Meeting of the Judicial Conference was conducted in a one-day format to minimize judicial time away from the bench and to effectively manage costs. The meeting was convened by the Chief Justice of the Supreme Court of Illinois, the Honorable Robert R. Thomas. In his opening remarks, Chief Justice Thomas welcomed the Conference members and thanked them for their hard work during the Conference year. He also recognized the presence of current members of the Supreme Court as well as retired Supreme Court Justice John Nickels. In concluding his introductions, Justice Thomas recognized Cynthia Y. Cobbs, Director of the Administrative Office of the Illinois Courts, and thanked the Director and her staff for their work in preparing for the annual meeting of the Conference.

Chief Justice Thomas remarked, notwithstanding that the Judicial Conference is constitutionally mandated, such a gathering to improve the administration of justice would occur nonetheless because of the sense of commitment to duty shared by Illinois' judges. Reflecting on the role of the courts, the Chief Justice noted that the judiciary is charged not only with deciding individual cases, but also with managing and administering the system in which those decisions are made. Citing the *Federalist 82*, and Hamilton's analysis of sovereignty of State courts in regard to Federal jurisdiction, Chief Justice Thomas noted that State and Federal judiciaries are "kindred systems" that can "mature and perfect so compound a system, can liquidate the meaning of all the parts, and can adjust them to each other in a harmonious and consistent whole." The Chief Justice offered that the same can be said of the components of the State judiciary. The judicial branch is divided into several distinct systems – Circuit Courts, Appellate Districts and the Supreme Court. However, trial judges and those of the reviewing courts are able to forge a spirit of collegiality, respect and cooperation, all committed to serving the cause of justice.

Chief Justice Thomas reminded the attendees that the purpose of the Judicial Conference, "to consider the work of the courts and to suggest improvements in the administration of justice," essentially provides a compulsory self-evaluation. A little introspection, the Chief Justice suggested, is always a good thing. Coming together and sharing collective wisdom, talent and experience will afford the judiciary an opportunity to take a major step forward in identifying the most efficient ways to administer justice.

A perfect example of this paradigm at work is the Supreme Court's Special Committee on Child Custody. Formed in 2002 and charged with



developing methods to expedite the review of child custody cases, the primary focus of the Committee was expediting the time that it takes to bring child custody and adoption cases to closure. The Committee met for nearly three years, held public hearings throughout the State and sought input from not only judges and lawyers, but also from social workers, child welfare specialists and parents. The net result was adoption of a new series of Supreme Court Rules. Comprehensive in their application, these rules are designed to expedite custody cases by ensuring the coordination of related matters, regardless of statutory basis. The rules focus on the best interests of the child while protecting the rights of other parties to the proceedings. The new rules represent a major step forward in procedures for child custody matters. The Committee's work will help ensure that the children of this State are well served by the court system.

In closing, Chief Justice Thomas commented that the important work of the Conference, the amount of study, debate and analysis that are dedicated by each committee to meet its charge and tasks, is the foundation for improving the quality and efficiency of our justice system. The committees' work during Conference Year 2007 provides insight to the great things to come and will shape the future of the judicial branch.

The Annual Meeting continued with Conference Committee meetings devoted to finalizing Committee reports and initiating planning for Conference Year 2008. The afternoon plenary session included a presentation of each of the committees' activities in Conference Year 2007 and initial suggestions for tasks in Conference Year 2008. The following summarizes the written and oral substance of those reports:

Alternative Dispute Resolution Coordinating Committee

The Alternative Dispute Resolution Coordinating Committee monitors and assesses both the Court-annexed mandatory arbitration programs and mediation programs as approved by the Supreme Court. During the course of the Conference year, the Committee gathered arbitrator reference manuals from all those judicial circuits which operate a mandatory arbitration program. From information received, the Committee developed a uniform arbitrator reference manual. It is the intent of the Committee that, following the Court's review and approval, the manual will be sent to arbitration supervising judges and program administrators for use as a training tool.

During Conference Year 2007, the Committee also studied the amount of the fee required for rejecting rulings made through the mandatory arbitration program. Pursuant to Supreme Court Rule 93, a party can reject an arbitration award by paying a fee. The current rejection fee for cases valued at $30,000, or less, is $200. The Committee considered the consequences of raising the rejection fee and the potential impact on revenues as well as its effect on indigent litigants.

The Committee finalized a proposed rule addressing summary jury trials and submitted it to the Supreme Court for consideration. The summary jury trial would offer an additional settlement tool accessible by the Illinois trial courts. The Committee suggested that the summary jury trial could be of assistance to judges in resolving major civil litigation in which potential trial proceedings would consume disproportionate amounts of court time, and also could be useful in rural circuits where trial resources are limited.

Illinois State Capitol

Finally, the Committee began its consideration of the efficacy of mediation in child custody cases, and also evaluated the concept of arbitrators providing services for *pro bono* credit.

Automation and Technology Committee

In Conference Year 2007, the Automation and Technology Committee continued to research and study the technologies, capabilities, impact, legislation and rules associated with the use of video court/conferencing systems in the trial courts. The Committee is developing an impact statement to summarize its findings, including the benefits and detriments of video court/conferencing systems as they relate to both civil and criminal hearings. Also, included in the statement will be recommendations for new rules and/or revisions to existing rules relating to the use of video court/conferencing systems in Illinois. A survey was distributed to the chief circuit judges requesting input in regard to their experiences with video court/conferencing systems. The survey results will be included in the impact statement.

The Committee also discussed the need for revisions to the Disaster Recovery Guide presented to the Conference in 2006. Although no changes were recommended at this time, it was noted that opportunity exists for sharing resources among neighboring counties with similar court facilities, infrastructure, and technologies with respect to disaster recovery and related planning.

Study Committee on Complex Litigation

During the 2007 Judicial Conference year, the Committee reviewed and culled supreme court and appellate court opinions and other legal developments involving complex litigation issues to keep the *Illinois Manual for Complex Civil Litigation* and the *Illinois Manual for Complex Criminal Litigation* updated and current. The Committee also reviewed the forms contained in the appendixes of both Manuals and added several new documents to assure that any forms/orders are current. The Committee will include this information in the revised Manuals which are anticipated to be completed and disseminated later this year. The text of the Manuals will continue to be available on CD-ROM, which affords users the convenience of downloading, hyperlink and search capabilities. The forms in the appendixes also will be available electronically so that judges will have easy access to form orders.

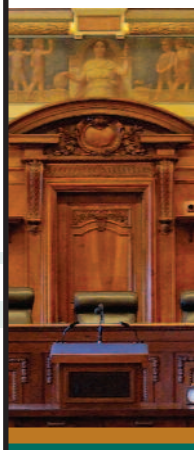
During the Conference year, the Committee also reviewed and accepted the recommended changes offered by the Alternative Dispute Coordinating Committee with regard to the draft chapter on Alternative Dispute Resolution. The final version of the ADR chapter will be included in the revised Civil Manual.

Also in Conference Year 2007, the Committee studied the practical considerations in handling complex insurance cases and determined that no new text on this issue would be added to the Civil Manual at this time. Last, the Committee reviewed the Civil Manual to determine if additional material was needed with regard to construction cases. Noting that the new ADR chapter addresses this issue, the Committee will further discuss the matter in the next Judicial Conference year.

Committee on Criminal Law and Probation Administration

During the 2007 Conference year, the Committee continued to examine the implications for the judiciary in defining the scope of pre-sentence investigations and specific conditions of probation sentences consistent with the principles of Evidence Based Practices (EBP). The Committee conducted literature reviews and discussed EBP principles and practices in regard to recidivism reduction. This resulted in the preparation of a comprehensive report and a proposed pre-sentence investigation format for potential use by the judiciary and probation officers. Given the depth and complexity of the EBP research, the Committee members also developed initial "At A Glance" EBP Guides for the judiciary and probation.

During the previous Conference year, the Committee developed and distributed a survey to Probation and Court Service Departments regarding the implementation of Problem Solving Courts within each jurisdiction. Based on the responses to the survey, the *Illinois Problem*



Solving Court Inventory was created. Throughout Conference Year 2007, the Committee updated the *Illinois Problem Solving Court Inventory* to include information relating to newly established mental health courts.

Finally, the Committee began considering the utility of a criminal dispute resolution program. The Committee examined criminal dispute resolution programs in four states: Colorado, New York, North Carolina, and Ohio. The research indicated that there are wide variances in the nature, extent, and funding of each program. Based on these variances, the Committee will continue to study the issues related to criminal dispute resolution during the next Conference year.

Committee on Discovery Procedures

During Conference Year 2007, the Committee considered and rejected a proposal, forwarded by the Supreme Court Rules Committee, to amend Supreme Court Rules 206 and 211. The proposal addressed eliminating objections to the evidence presented in discovery depositions.

During the past Conference year, the Committee reconsidered its proposed amendments to Supreme Court Rules 214 and 216 in light of comments and concerns raised at the Annual Public Hearing in January 2007. In its proposed amendment to Rule 214, the Committee sought to clarify the rule by requiring that documents, produced pursuant to a Rule 214 request, be labeled to correspond with the specific categories in the written request. Likewise, its proposed amendments to Rule 216 addressed the potential abuses arising from the strict requirements for responding to Rule 216 Requests to Admit.

In addition to examining the aforementioned Supreme Court Rules, the Committee was assigned the comprehensive task of studying and defining e-Discovery. In addressing this project, the Committee has begun exploring the electronic discovery provisions of the Federal Rules of Civil Procedure; has begun collecting the rules from states providing for e-Discovery; and has initiated research of the case law and articles written on this subject. It is the Committee's goal to prepare a report for the Court's consideration that addresses preservation, collection, review and production of electronic evidence.

Committee on Education

The Committee on Education is charged with identifying ongoing education needs for the Illinois judiciary and developing short-term and long-term plans to address those needs. In Conference Year 2007, the Committee received a continuing charge to identify emerging legal, sociological, cultural, and technical issues that may impact decision-making and court administration and, based on these emerging issues, to recommend and develop programs for both new and experienced Illinois judges. The Committee was charged with assessing the judicial education needs, expectations and program participation of Illinois judges and recommending topics and faculty for the annual New Judge Seminar, Seminar Series, Education Conference and the Advanced Judicial Academy. The Committee also was charged with the review and recommendation of judicial education programs offered by organizations and entities other than the Supreme Court as potential sources for continuing judicial education credit.

In accordance with its overall charge, the Committee undertook specific activities and priorities in Conference Year 2007:

- In collaboration with the Administrative Office of the Illinois Courts, oversaw preparation for the 30-hour curriculum for Education Conference 2008, in accordance with the Court's Minimum Continuing Judicial Education requirements;

- Launched preparation of comprehensive judicial benchbooks in each of six core curriculum areas, including civil law and procedure, criminal law and procedure, evidence, family law and procedure, traffic law/DUI issues and domestic violence law and procedure;

- Implemented the plan developed in Conference Year 2006 for enhanced identification, recruitment and preparation of judicial education faculty members in each of the recommended core curriculum areas;

- Continued development of plans for advanced use of technology to deliver judicial education programs and resources, including web-casting, web archiving, CD and DVD tutorials and other "distance learning" options and provision of benchbooks through electronic media; and

- Presented the Advanced Judicial Academy, the annual New Judge Seminar and an annual seminar series, consistent with the Committee charge.

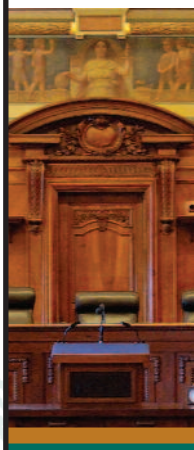
Study Committee on Juvenile Justice

In Conference Year 2007, the Committee updated Volume I of the *Illinois Juvenile Law Benchbook*, which addresses juvenile court proceedings involving allegations of delinquency, addicted minors, minors requiring authoritative intervention, truant minors in need of supervision, and confidentiality of juvenile court records. The Committee anticipates that the update to Volume I will likely be available for the New Judge Seminar in December 2007.

The Committee updated the existing section on confidentiality contained in Volume I of the benchbook. In addressing the scope of confidentiality in juvenile matters, the Committee considered Supreme Court Rule 660, which provides that all appeals filed from proceedings under the Juvenile Court Act shall be identified by the minor's first name and last initial or by initials only. The Committee is in favor of utilizing the same procedure at the trial court level in cases involving notice by publication to parents in juvenile matters.

The Committee is in the process of assessing the efficacy of the juvenile problem-solving courts in Cook County, Kane County, Peoria County and Will County. The Committee is consulting with the judges and the probation departments to obtain additional information, including the number of juveniles in the program and its effectiveness.

Finally, the Committee was assigned the project of gathering data from each circuit court with respect to mental health evaluations and services for juveniles. The Committee is preparing a survey seeking information on the nature and availability of mental health evaluations and services for juveniles in each circuit. The survey also will address the adequacy of services and the application of assessment results in rendering a dispositional order.

Summary Statement

The work of the seven Judicial Conference Committees is ongoing, with many of the projects and initiatives that began in Conference Year 2007 continuing into 2008. The Committees covered a broad range of topics and issues. Their work included suggestions on improving alternative dispute resolution processes, assessing the efficacy of problem-solving courts, the utility of video court/conferencing systems in the trial courts, as well as enhancing judicial competence through the development of manuals, benchbooks and course work. This effort will serve well the improvement of the administration of justice in Illinois.