

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
ANNUAL REPORT**

Introduction. The U.S. District Court for the Northern District of Ohio serves the 5.9 million citizens of the forty most northern counties in Ohio, with 4.4 million people now residing in the Eastern Division and 1.5 million people residing in the Western Division. With twelve authorized district judgeships, it is the nineteenth largest district court. The Eastern Division has courthouses in Cleveland, Akron, and Youngstown. The Western Division courthouse is in Toledo.

During the past year, the Court has experienced a dramatic rise in foreclosure case filings. Most recently, we have been among those districts most substantially impacted by the retroactive application of the crack cocaine sentencing guidelines. Many of the District Judges also have MDL cases. Case filings in many other areas have, however, declined.

The Court has continued its efforts to reach out to Congress, the media, the bar and the community to help them better understand how the courts operate, the services courts provide, and the importance of sufficiently funding the Judiciary. Internally, the Court has improved its technology infrastructure and our emergency preparedness substantially and provided significant training to employees at all levels.

Longer-term projects include designing and obtaining construction funding for the new Toledo courthouse, implementation of a court-initiated proposal to install video-conferencing between the Eastern Division courthouses and a private detention facility near Youngstown, and moving forward with plans for a privately-funded and operated detention facility adjacent to the Cleveland courthouse.

Notable Changes. The Court appointed new Magistrate Judge Greg A. White in March, 2008, to fill a vacancy in Cleveland created when Magistrate Judge Patricia A. Hemann retired after serving the Court since 1993. Magistrate Judge White previously served as the Northern Ohio United States Attorney. William Edwards was appointed Acting United States Attorney in March, 2008, following Magistrate Judge White's entry on duty. Akron Magistrate Judge James S. Gallas has announced that he will retire at the end of June, 2008. Magistrate Judge Gallas will serve in retired-recalled status in Cleveland. The process to fill the resulting Akron Magistrate Judge vacancy is underway.

District Judges. The Northern District of Ohio is authorized eleven permanent and one temporary judgeship (extended for a year by Congress in December, 2007) and currently operates at full judicial strength. The Court has requested that the temporary judgeship be converted to permanent status, or in the alternative be extended for five years, through the current Biennial Survey of Judgeship Needs.

The active District Judges are: Chief Judge James G. Carr and Judge Jack Zouhary in Toledo; Judges John R. Adams and Sara Lioi in Akron, Judge Peter C. Economus in Youngstown; and Judges Solomon Oliver, Jr., Kathleen M. O'Malley, Donald C. Nugent,

Patricia A. Gaughan, James S. Gwin, Dan Aaron Polster, and Christopher A. Boyko in Cleveland. Four Senior Judges handle a portion of the Court's workload considerably beyond minimum requirements. The Senior Judges are: Ann Aldrich and Lesley Wells in Cleveland, David D. Dowd, Jr., in Akron, and David A. Katz in Toledo. As in many other Districts in our Circuit and elsewhere, the work of Senior Judges and the contribution they make, though often overlooked by the public, is of invaluable assistance.

In addition to their work for this Court, several Judges have served on national Judicial Conference committees. Chief Judge Carr completes a term as a member of the Foreign Intelligence Surveillance Court in May, 2008. Northern District members of Judicial Conference Committees include Judge Polster, Committee on the Administration of the Magistrate Judge System (appointed 2002); Judge Gwin, Committee on Information Technology (appointed 2003); Judge O'Malley, Committee on Space and Facilities (appointed 2005); Judge Katz, Committee on the Administrative Office (appointed 2006); and Judge Gaughan, Committee on Federal-State Jurisdiction (appointed 2007).

Magistrate Judges. The Northern District of Ohio has eight Magistrate Judges, including one on retired-recalled status, with five assigned to Cleveland and one each to Akron, Toledo and Youngstown. The role of the Magistrate Judges in the management of civil cases is significant. Magistrate Judges were the presiding Judicial Officers for 298 (8%) of the 3,891 civil cases closed in 2007. Excluding MDL actions, Magistrate Judges presided over nearly 6% (141 of 2,473) of the pending civil docket at the close of 2007. The Court has permitted Magistrate Judges to accept pleas of guilty in criminal cases upon the consent of all counsel and the defendant since October, 1999. Until the appointment of the Sixth Circuit CJA Case Budgeting Attorney, Magistrate Judges also helped counsel establish budgets for death penalty habeas corpus cases and monitored those budgets on behalf of the Court.

The Magistrate Judges are: David S. Perelman, Nancy A. Vecchiarelli, William H. Baughman, Jr., Kenneth S. McHargh and Greg A. White in Cleveland; Vernelis K. Armstrong in Toledo; James S. Gallas in Akron; and George J. Limbert in Youngstown.

Civil Pro Bono Protocol. In February 2007, the Court established a Pro Bono Civil Case Protocol under which counsel may be assigned to represent a pro se litigant in a civil case. Assignment of counsel is not a right of a pro se litigant but may be utilized at the discretion of the Judicial Officer in those limited cases in which the Judicial Officer believes such an assignment is warranted. The Court uses non-appropriated funds to reimburse assigned counsel for actual expenses incurred in providing representation up to \$1,500, with additional expenses being reimbursable at the discretion of the Court. Pro bono counsel have been appointed in twenty cases including: seven prisoner civil rights cases; ten civil rights cases, two foreclosure actions and one ERISA case.

Congressional Outreach. The Court has actively pursued opportunities to meet with our Congressional representatives for the purpose of keeping the Congress better informed on issues related to the Judiciary. Chief Judge Carr regularly visits with our Congressional representatives while conducting judicial business in Washington, D.C. and the other

Judges maintain regular contact with those whom they know. In May, 2007, the U.S. House of Representative's Domestic Policy Committee conducted an open hearing on the Federal Reserve's oversight of the national foreclosure crisis at the Court House in Cleveland, chaired by Congressman Dennis Kucinich (D-OH) and attended by Congressman Darrell Issa (R-CA).

International Judicial Outreach. In November, 2007, the Court participated in the Open World Program of the Library of Congress. Judges Boyko and Zouhary hosted five Ukrainian Judges for a week-long visit to Cleveland and Toledo. Sessions were provided on the American Judicial System, Legal Education in America, Defendants' Rights, the Role of Mediation in Civil Cases, and Evidence.

Media Outreach. The Court has also reached out to media representatives to better inform them, and through them the public, of the mission and activities of the Court. Judges have met with media company representatives and have conducted brown-bag lunches with reporters. Chief Judge Carr and Judge Polster met with the new editor of the Plain Dealer. The Clerk's Office established media level read-only access accounts to the Court's electronic filing system to provide reporters with access to a virtual online press box, access to written opinions and the ability to obtain automatic e-mail notification in cases that they wish to follow. In addition, Court calendars were made available on the Court's web site for the convenience of the media, the bar and the public. The Clerk's Office has also trained media representatives in how to best obtain information from the Court's web site, PACER and the CM/ECF system. Some of the Judges provide copies of all opinions and summaries of all sentences directly to media personnel by e-mail.

Bench/Bar Conference. In October, 2007, our District joined with the Southern District of Ohio to conduct a fourth biennial Ohio Federal Bench Bar Conference in Columbus. The Conference included both plenary and breakout sessions covering a wide variety of topics including: a Supreme Court update, Ethics in Litigation under the New Ohio Rules, Electronic Discovery, Multi District Litigation, Criminal Law, Employment Law and Jurisdictional Issues. More than 200 Ohio attorneys participated in the Conference.

Civil Docket. Civil case filings rose 22% from 3,908 in 2006 to 4,764 in 2007. The increase was primarily due to increased MDL filings and a dramatic influx of diversity foreclosure case filings. MDL filings grew 42% from 639 in 2006 to 911 in 2007, with the overwhelming majority being filed in Judge Katz's birth control patch litigation. Foreclosure case filings rose 194% from 374 in 2006 to 1,101 in 2007. Prior to 2004, the Court typically had fewer than a dozen foreclosure cases per year. Contract cases also rose 11% from 338 to 376. Those increases were partially offset, however, by double-digit percentage declines in social security, personal injury, habeas, unfair competition, patent, tax, antitrust and admiralty cases. Traditional (non MDL and asbestos) civil case closings increased 13% from 3,440 in 2006 to 3,891 in 2007. The district also closed 2,061 MDL cases and 12 asbestos cases in 2007.

Criminal Docket. Criminal case filings rose 4.6% from 569 in 2006 to 595 in 2007. The number of new criminal defendants decreased 6.9% from 1,002 to 933 during the past

year. Reflecting an overall drop in criminal filings the past two years, criminal case closings declined 13% from 633 in 2006 to 552 in 2007 and the number of criminal defendant closings fell 27% from 1,286 to 932.

MDL Cases. The Northern District of Ohio is the transferee court for seven Multi District Litigation matters involving 2,411 pending cases. Judge O'Malley has three MDL matters including the welding fume litigation with more than 1,300 pending cases from over 5,000 filed overall. Judge Katz's birth control patch litigation also has over 1,000 pending cases. Judges Economus, Nugent, and Polster also have pending MDL matters.

Foreclosure Cases. To avoid a significant backlog in foreclosure case processing that had developed in state court, plaintiffs began filing diversity foreclosure cases in large numbers in our Court about two years ago. The Court has adopted a foreclosure case processing plan under which it appointed a Panel of Master Commissioners to obtain appraisals and oversee property sales. Master Commissioners have been appointed in over 900 cases and nearly 600 properties have been sold. Foreclosure filings have decreased substantially since November, 2007, when Judges Boyko and O'Malley dismissed several cases in which plaintiffs failed to file adequate assignment documentation.

Notoriety Cases. The Court has had several notoriety cases including the *U.S. v. Amawi*, involving allegations of criminal acts in furtherance of terrorism (pending before Chief Judge Carr) and two capital cases, *U.S. v. Galan* (Chief Judge Carr) and *U.S. v. Moonda* (Judge Dowd). Each of these cases involved extensive pre-screening and other procedures designed to facilitate voir dire.

Retroactive Application of Crack Cocaine Sentencing Guidelines. The District is estimated to have the eleventh highest number of defendants potentially eligible for crack cocaine sentencing reductions. Thanks to the cooperative efforts of the Federal Public Defender (appointed initially to represent all potentially eligible defendants), the U.S. Attorney's Office, and our Pretrial Services/Probation and Clerk's Offices, processing of motions to apply the retroactive guidelines have thus far been handled expeditiously and efficiently, with the Defender's Office and U.S. Attorney's Office making joint recommendations in nearly all cases.

Security/Emergency Planning. Security issues remain a high priority for the Court. The Chief Judge, Akron Judges, and Clerk of Court have been working closely with the Administrative Office, GSA, and the City of Akron to develop Security Site Guidelines to be followed by the City of Akron for a proposed parking structure originally designed to be within one foot of the Court House in Akron. The Occupant Emergency Plans, Shelter in Place Plans and Continuity of Operations Plans are regularly updated and drills and training sessions are conducted. Building Security Committees meet regularly in each location to communicate security issues with all tenants and the District Court Security Committee meets quarterly.

New Toledo Courthouse. The design kickoff for the new Toledo Courthouse was held with all tenants and architect Mehrdad Yazdani of Cannon Design in November, 2007. Design

meetings leading to a final concept design will be held throughout 2008. The building will house the District Court, the U.S. Marshals Service, the U.S. Attorney's Office, the Federal Protective Service, GSA, and a U.S. Representative. Construction funding for the 222,751 square-foot structure is expected in 2011 with the facility to be completed in 2014. The Courthouse will be one of the first in the nation designed following the new 2007 U.S. Courts Design Guide.

Attorney Wireless Access. Wireless internet access has been provided to registered attorneys on all courtroom floors, in lunchrooms and attorney lounges at each of the seven district and bankruptcy courthouses to meet their remote computing needs.

Electronic Courtrooms. Electronic courtrooms were added in Akron and Toledo raising the district-wide total of fully electronic courtrooms to thirteen. All active District Judges now have electronic courtrooms. Plans are underway to upgrade two Senior Judge courtrooms in Cleveland in Fall, 2008.

Video Conferencing and Satellite Reception. The District has had video conferencing and satellite reception equipment at each court location since January, 1999. The equipment has been used for remote witness testimony, prisoner video conferencing, arraignments, Judges' meetings, district-wide meetings with the Federal Public Defender and CJA Panel members, Clerk's Office meetings, and participation in long-distance learning programs offered by the Administrative Office and the Federal Judicial Center. The Court, the Federal Public Defender and the U.S. Marshals Service have urged that the private detention facility near Youngstown obtain video-conference equipment to help reduce the time and cost of transporting detainees for routine hearings and conferences.

Naturalization of New Citizens. The Court administered the oath of allegiance to 4,036 new citizens in 2007. In Cleveland, ceremonies are held twice per month, and in Toledo, naturalization ceremonies were conducted monthly. Ten special ceremonies were also held at public locations throughout the district.

Clerk's Office. The Clerk's Office currently supports twenty-four Judicial Officers. The Clerk of Court serves as the Chief Administrative Officer of the Court as well as the Administrative Assistant to the Chief Judge. The Clerk's Office takes a leadership role in emergency planning, administration of the district's consolidated IT department, finance, web site development, space/facilities, procurement, implementation of electronic filing and video conferencing, the installation and support of electronic courtrooms and audio-digital recording equipment, and the renovation of Court facilities. The Clerk's Office is proud of its public Internet and internal Intranet web sites, both of which provide a wealth of information and educational materials regarding Court policies and procedures, local rules, electronic filing and upcoming activities. The office currently has 95 staff on board and is authorized 89.7 work units, a figure which has gyrated widely each year with the sharp rises and declines in case filings, particularly those related to MDL actions.

Electronic Case Filing. Northern Ohio was the first Court to permit attorneys to file documents over the Internet. The Court now has records for 147,000 cases available

online. The number of documents filed electronically by attorneys increased 8% from 69,841 in 2006 to 75,322 in 2007. Overall, 8,230 attorneys have electronically filed over 540,000 documents since the system went into operation (maritime asbestos cases, January, 1996; civil cases, October, 1997; and criminal cases, May, 2005). Since the Court began allowing attorneys to file new civil cases electronically in June, 2006, attorneys have opened nearly 4,000 new cases online. According to the Administrative Office, the district consistently ranks among the top courts in the percentage of documents and new cases filed electronically by attorneys.

Pretrial Services and Probation Office. The Pretrial Services Office and the Probation Office were consolidated into a single unit in February, 2006. The combined unit has 108 employees.

Pretrial Services.

There were 933 cases activated and 860 cases supervised. There were 840 defendants interviewed and 93 defendants were not. There were 386 defendants detained and never released. Pretrial Services received \$58,855 in supplemental funding for treatment alternatives from the Office of The Federal Detention Trustee (OFT) which was spent on alternatives to detention including substance abuse and mental health treatment, electronic monitoring and halfway house placements.

Aftercare Treatment: There were 507 cases active with drug aftercare conditions including substance abuse testing and treatment. Of these, 277 were opened during FY 07 and 230 were continuing cases. In addition, there were 139 cases with mental health conditions active in FY 07 including 82 cases opened in FY 07 and 57 that were previously active. The 82 new cases represent a 17% increase over FY 06 figures.

Home Confinement: There were 65 active home confinement cases at the beginning of FY07, and home confinement was ordered as a condition of release in 126 additional cases during FY 07, a 37% increase over FY 06. During FY 07, all 126 cases were electronically monitored. Remote alcohol testing technology was used in four cases.

Conferences: The Pretrial Services and Probation Office hosted two national conferences. The National Association of Pretrial Services Agencies (NAPA) was held in Cleveland in September 2007. Supervisor Robin Leftward was selected the NAPA Pretrial Officer of the Year. The NAPA conference marked a close collaboration between the U.S. Probation Office, Cuyahoga County Probation Office and OAPSA (Ohio Association of Pretrial Service Agencies) and NAPA. That conference was followed by the U.S. Pretrial Services Conference celebrating the 25th Anniversary of the Pretrial Services Act of 1982. The conference attracted more than 250 participants and was opened by Chief U. S. District Judge James G. Carr. Keynote speaker was James C. Duff, Director of the Administrative Office of the U.S. Courts.

Community Outreach: "Project Penalty Awareness" is a multimedia federal drug prevention program designed to educate the public about federal drug trafficking offenses and

penalties. The program targets groups that may be predisposed to engage in drug trafficking offenses such as juveniles, gang members, drug users, and individuals with a prior drug conviction. Posters and flyers have been distributed throughout Northern Ohio as well as other districts. Presentations have been made at local schools, life skill and rehabilitation centers, a Black Achievers Leadership Development Camp, a Youth Excellence Performing Arts Workshop, prisons, and juvenile detention facilities as well as at two national training conferences for criminal justice professionals. Presenters include District and Magistrates Judges, Chambers staff, Pretrial and Probation Officers and Probation Clerks.

Probation

Presentence Investigations: The Presentence Units completed 922 presentence investigations compared to 1,011 the prior year.

Post Conviction Supervision: At the close of FY 07, the district was supervising 1,811 offenders, a slight decrease from FY 06. Adherence to the Revised Monograph 109 has been fully implemented. Following consolidation two supervisors in post conviction units were cross trained in the pretrial services function and are now supervising pretrial units in Akron and Youngstown. Conversely, a pretrial services supervisor was cross trained and is now supervising post conviction officers and specialists.

Aftercare Treatment: The theme of service expansion continued. There were 486 offenders in 34 contract treatment service agencies in FY 07. Substance abuse treatment services included outpatient assessment, individual and group counseling, urine collection and testing by Kroll Laboratories, instant drug testing by officers and residential detoxification and short-term placement programming. The \$984,341 spent on drug/alcohol treatment services in FY 07 was a 26% increase over FY 06. The Aftercare Treatment Team completed a successful solicitation cycle in FY 07 for the FY 08 service agreements. Services were expanded with the establishment of 44 treatment service agreements, renewable annually over the next three years. Mental health services include psychological and psychiatric evaluation, individual and group psychotherapy, as well as medication monitoring. Additionally, sex offender-specific services are contracted to provide evaluation, therapy and polygraph examinations. While the objective of standard mental health treatment is the management of psychiatric symptoms so that compliance with Court-imposed conditions is enhanced, the objective of sex offender-specific treatment is risk management. The \$260,415 spent on mental health/sex offender treatment services in FY 07 was a 30% increase above FY 06.

Home Confinement: The cost of electronic monitoring services was reduced from \$3.26 to \$3.17 per day. There were 230 electronic monitoring cases during the year with an average daily caseload 60 cases. The average length of time on electronic monitoring was 122 days. Electronic monitoring services cost \$74,454 which was reduced to \$55,222 by collecting a total of \$19,232 on self-pay cases.

The Court is moving forward with a Location Monitoring Program including GPS monitoring

of certain offenders and defendants.

Heritage Celebrations. The district participates in the Administrative Office's Heritage Celebration Series by holding an annual African-American Heritage Ceremony each February and an Hispanic Heritage Celebration in the fall. Retired Congressman Louis Stokes serve as the keynote speaker of our most recent African-American Heritage Ceremony.

Advisory Group. Pursuant to the Civil Justice Reform Act of 1990, the Court appointed an Advisory Group of attorneys to provide an avenue for a continuing dialog on all matters of interest to the bench and the bar. Though the Act has now sunset, the group continues to meet with the Judges in May and October and has established three committees that meet independently as needed: Civil Rules, Criminal Rules and Alternative Dispute Resolution. The continued work and support of the Advisory Group has proven invaluable to the Court.

Respectfully Submitted,

James G. Carr
Chief Judge