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APRIL 2015

Major Changes coming in Juror Management Curtesy of the State Legislature



In December, outgoing Governor Quinn signed into law SB3075, which makes two major changes relating to jurors.

The first is the reduction of the number of jurors required for a civil trial from 12 to six. The other is an increase in the amount jurors are paid from \$5.00 a day to \$25.00 for the first day of service and \$50.00 for each subsequent day of service. The change in the payment structure is projected to increase juror costs locally by nearly \$250,000.00 over the next two years.

The Circuit Court of the 22nd Judicial Circuit is committed to taking steps to lessen the impact of this increase in costs, but lessening the impact will not elim-

inate it. While the Court believes that the significant role jurors play warrants an increase in payment, it is concerned about the effect of increasing costs on the funding stream that pays for jurors, the McHenry County General Fund. The General Fund is supported by the taxpayers of McHenry County. In essence, more tax dollars would be required from taxpayers in order to pay jurors—who are themselves taxpayers—for their service.

Several initiatives that the Court is currently analyzing for mitigating increasing costs include what is called one day/one trial term of jury service. This means that each juror would only serve one day or one trial if seated on a

jury. By moving to such a term of service, the cost of subsequent days of service will be minimized and any potential loss of income for the juror because of their service will be reduced.

Additionally, fewer jurors will be sent to courtrooms for questioning (voir dire) in misdemeanor and civil trials. By reducing the number of jurors being sent to those courtrooms, the Jury Commission will not have to summon as many jurors as it has in the past and will further reduce costs.

Misdemeanor courtrooms will also utilize a backup judge when available so trials can begin earlier in the day. Presently, misdemeanor trials, which make up the bulk of all trials, begin in the afternoon of the day they are scheduled. Moving the trial status call to a backup judge allows for trials to commence in the morning instead. Since most misdemeanor jury trials last two days, this practice will allow the trial to be completed in one day, eliminating the need for a second day of juror service.

The Court will continue to evaluate this situation as it develops.

Doris Berry Retires after 37 Plus Years in Court Services—Congratulations



Doris Berry

Former Director Phil Uhlmer



Office of Special Projects—Director Jason Sterwerf



The Twenty-Second Judicial Circuit Office of Special Projects falls within the Department of Court Administration and has five full-time employees whose primary task is the programmatic administration and care coordination of defendants involved in the Adult Drug Court and Mental Health Court programs. The Court Administration staff includes a director, nurse, case manager and two clinicians. Specialty Courts such as Drug and Mental Health Courts are integral pieces of the criminal justice system. Research confirms that 60-80% of individuals incarcerated in local jails and prisons meet criteria for substance abuse/dependence, and there are more persons with mental illness in jails and prisons than in hospitals. Recognizing the need to break the cycle of untreated behavioral health disorders and crime, Adult Drug Courts now number 2500 worldwide and Mental Health Courts now number over 300 throughout the nation. In Illinois alone there are currently 61 Drug Courts, 23 Mental Health Courts and 13 Veterans Courts. The Twenty-Second Judicial Circuit's Mental Health Court was convened in April of 2007, and the Adult



Drug Court accepted its first participant on December 1, 2011. Combined, the programs have 98 graduates who have less than a 12% criminal recidivism rate as compared with the Illinois Department of Corrections' 52% recidivism rate. The scientific community has put Specialty Courts under its microscope and concluded that they significantly increase recovery and reduce crime while doing it cheaper than any other justice strategy.

Recently the Specialty Courts have experienced new changes. The program is now under the direction of Jason Sterwerf. Jason Sterwerf has a Master's Degree in Counseling, is a Licensed Professional Counselor, and a National Board Certified Counselor. Sarah Payton has been hired to replace former Mental Health court clinician Scott Brown. Sarah Payton has a Master's Degree, is a Licensed Professional Counselor, and a Certified Domestic Violence Professional.

Moving forward the Specialty Courts plan to continue to reduce recidivism rates within the county, reduce client law enforcement contacts, and provide access to psychiatric and therapeutic care. We also will continue to improve participants' ability to independently manage psychiatric, therapeutic, and medical care, while improving family, social, and community relationships.

In order to help the Specialty Court participants obtain and maintain stability in the community, the Adult Drug Court and Mental Health Court

programs are always seeking new opportunities and collaborative partnerships. The programs recently implemented Moral Reconation Therapy (MRT), which is a Substance Abuse and Mental Health Services Administration recognized evidence-base practice. MRT is a cognitive-behavioral counseling program that combines education, group and individual counseling, and structured exercises designed to foster moral development in treatment-resistant clients. MRT is designed to alter how clients think and make judgments about what is right and wrong in attempt to move clients from hedonistic (pleasure vs. pain) reasoning levels to levels where concern for social rules and others becomes important. As research shows, increased education and stable employment also strongly increase the likelihood of sustained recovery in the community. Currently our program offers a MRT group that is facilitated by the Drug Court Clinician. In the near future, we will send three additional team members to complete MRT training to assist in offering additional groups, with different schedules to ensure that we offer some flexibility for treatment for our participants.

Our program is committed to completing many of these goals that keep our team continuing to train using evidence-based Practice to respond with the most appropriate interventions for our clients. If you have any questions, please contact Jason Sterwerf (815) 334-4913.

Mandatory Arbitration—Alison Lowery

I was appointed to the position of Arbitration Administrator for the Twenty-Second Judicial Circuit in late 2011, after several years working first in the Circuit Clerk's Office and then in the Office of the Court Administrator. The job's description captivated me; having worked in both the courtrooms and the offices whose personnel supported them administratively, I knew what a boon alternative dispute resolution (ADR) could be.

Arbitration, like its close cousin, mediation, falls under the umbrella of ADR. Both are designed to relieve congestion in the Court. This congestion can block the judicial system's airways in two particularly critical ways: financially and temporally. Although filing costs bring our organization instant gratification (it costs \$156 or \$241 to file one new arbitration, or AR, case, depending on the money damages sought), that gratification is short-lived. Ultimately, the cost of a case languishing in the system for years before proceeding to trial will only marginally be recovered from that initial filing fee. Neither is the investment on any of the attorneys' or parties' parts concluded when a case is assigned an official McHenry County case number. Perhaps it goes without saying that the time spent litigating a case and the financial burden of sustaining extended litigation correlate, and this correlation strains the resources of both the system and the players within it.

Sending a case to arbitration is like loosening a tie: it provides a little more breathing room. Arbitration is a propellant toward resolution and disposition,

and the rules governing it set specific timelines designed to prevent courtroom dawdling. In McHenry County, arbitration is mandatory in certain cases. Any civil suit claiming money damages between \$10,000 and \$50,000 is classified as an AR case and its parties must go through an arbitration hearing before they can seek a trial. Small claims cases in which a jury demand is filed are also subject to arbitration, as well as cases that are transferred to arbitration from other divisions. (For example, in the event the property claim of an LM complaint is resolved but a claim for damages remains, the presiding judge may choose to set that case for arbitration hearing.)

For many pro se litigants, the arbitration hearing is an enigma. It is either an informal gathering to hash out issues in the hopes that, à la mediation, a resolution will be reached, or it is a terrifying inquisition before a panel of three judges. In fact, it is neither. (It may be unfair to say that only pro se litigants misunderstand this process; attorneys have vocalized similar misconceptions.) In many respects, the arbitration hearing is like a trial, where all the rules of evidence apply (Illinois Supreme Court Rule 90(c), which necessarily abbreviates the duration of the hearing, is the slight deviation from this analogy), and, instead of one judge, there are three. But they don't wear black robes.

This point is vital. These three "judges," or, properly, arbitrators, are attorneys licensed in Illinois who must have been engaged in the active practice of law for at least two years prior to applying to become an arbitrator. Judges can be arbitrators, but only after they have retired from the bench. The decision these

three render at the conclusion of the arbitration hearing is never a judgment, and it never takes the form of an order.

This vocabulary belongs to the courtroom, not to the Arbitration Center. Although the shape of an arbitration hearing is similar to that of a trial, the end result is vastly different. The arbitrators only have the authority to make an award, which is never binding, provided that all parties participate in good faith. If one or both parties choose to reject the award, they are entitled to a trial, and the case will resume its life in the courtroom. If neither party rejects, the award is rendered into a judgment by the judge approximately thirty days after the arbitration hearing, thereby disposing of the case.

In many ways, I am like an event coordinator, where the event is the arbitration hearing. With the stage set and the players lined up, I step back to let the arbitration hearings proceed accordingly and hope that the result is that the tie around the Court and attorneys (and their clients, witnesses, adjusters, etc. etc.) is loosened. ADR and arbitration are far from perfect solutions to the issue of caseload overload, and I won't pretend that some attorneys don't use the arbitration hearing as a platform for discovery, but the inherently proactive and cooperative spirit of ADR prevents me from disbelieving in the arbitration program's obvious virtues. I look forward to continuing my work to highlight these virtues and to promote systems and technologies that alleviate the financial and temporal burdens on the court system.



Civil E-Record and aiSmartBench



The Court, in conjunction with the Office of the Circuit Clerk, has begun the process of obtaining approval from the Illinois Supreme Court for Civil E-Record.

The Twenty-Second Judicial Circuit is currently "in between" using paper files and E-Record. For each court case except traffic cases, the Circuit Clerk maintains both a paper file and an electronic file that includes images of court documents. Some of the processes the Court employs, such as e-Citations, are already paperless.

Utilizing measures established by the National Center for State Courts and moving toward a paperless/fileless system would create an instant cost savings simply by reducing paper costs and the cost for file jackets. Other costs that would be reduced include those incurred from the storage of paper files and the work hours relating to maintaining the files.

Presently, the Clerk of the Court has 9,331 banker boxes of records in storage; this translates to an annual

cost of storage of \$59,625.09.

Every year an average of an additional 780 banker boxes are added to storage, increasing the cost of storage by \$4,984.20 every year.

The Circuit Clerk's Office handles, manages, files, and scans approximately 550,000 documents each year. At an estimated cost of \$0.58 per page, the annual cost of receiving, storing, and using these documents is \$319,000.00. When the Court is approved for E-Record, and if the Court still accepts paper copies which will be disposed of after being scanned, the cost per page is reduced to \$0.22, or \$121,000.00 annually; this is a cost savings of \$198,000.00 in the first year. An estimated 276,984.6 minutes of clerk time would be saved annually.

As part of the Supreme Court's standards to be approved for E-Record status, the Court must have the resources available to allow members of the judiciary to perform their tasks efficiently. In November of last year, the

Court launched a technology project to implement Mentis Technology's aiSmartBench application to meet these standards.

aiSmartBench will further enhance the judges' available resources by enabling more efficient and reliable access to relevant data to conduct and monitor their individual caseload. aiSmartBench can assist with automating the current paper workflow process from case filing to disposition and offers seamless document viewing, access to party information (including related or prior case history), and full text search capabilities. It also provides a separate electronic space for the judges to create notations not maintained as part of the official court record.

Form templates can be used very easily for the creation of standard orders. Once created, these orders can be signed either individually or in batches.

aiSmartBench is a single portal system, which enables a judge to view court information in a manner that is most meaningful to that judge. Each judicial application of aiSmartBench is configurable to each judge according to their preferences.

Continued on Page 7

Court Collections—Kathy Keefe,

Circuit Clerk of the Court



On January 1, 1996, the Circuit Clerk launched the *Financial Compliance* program based on information received from a National Center for State Courts seminar on "Collecting Fines & Fees in Traffic Cases." At that time, we began setting up payment plans for defendants who could not pay their balance due on the date of sentencing. While we have greatly streamlined the *Financial Compliance* process over the years, we still operate under the same general idea that traffic and misdemeanor fines and fees are due on the date of sentencing; however, if the defendant cannot pay, the Circuit Clerk will work with them to set up a payment plan. Back in 1996, there was a separate office where payment plans were set up. Today, those payment plans are set up with a quick, automated process at our payment windows. If the defendant fails to keep up with their payments, the Circuit Clerk sends a series of notices to try to keep them on track to pay their balance in full.

Obviously, even with the *Financial Compliance* program, we do not collect from all defendants. In January 2009, the State's Attorney signed our first collection contract with debt collector Alliance One to collect debts owed to the Court. While Alliance One had some success in the early years of the contract, the company was later sold to a larger corporation and we no longer had

the same success. In May 2014, the Alliance One contract was terminated and the State's Attorney signed a new collections contract with the Chicago firm Harris & Harris. Harris & Harris is a collection agency that works with their own law firm, Arnold Scott Harris, P.C., to collect debts on behalf of many large municipalities and most of the larger Circuit Clerk's offices in Illinois.

We have had great success with Harris & Harris since we placed our first file of debt with them in July 2014. After only nine months, Harris & Harris has collected almost \$350,000 in debt owed to the Court. Our current process automatically places cases with Harris & Harris that have no future court dates and no Financial Compliance plan in place, but still have a balance due. We use an automated interface with Harris & Harris to send them new files on a weekly basis. They have been very aggressive in collecting debts owed to the Court. Harris & Harris' fees are paid by the defendants. Additionally, we are now collecting interest on the balance due as allowed by the statute. The Circuit Clerk is also participating in the Illinois Comptroller's *Local Debt Recovery Program* for the second year. Through an intergov-

ernmental agreement with the Comptroller, the *Local Debt Recovery Program* allows any municipality or government agency to collect unpaid debt. We place our file of debt electronically with the Comptroller. The Comptroller "matches" our unpaid debt records for up to the past seven years against the Comptroller's records. Prior to the Comptroller issuing any state check for items such as a tax refund, lottery payout, commercial payout, or payroll check, the amount owed to the Court plus an administrative fee is deducted from the debtor's state payment. The debtor is then provided notice and given 60 days to protest the offset with the Comptroller's office. If no protest is made during the 60-day period, the amount owed the Court is transferred to the Circuit Clerk. At that point we apply the payment to the defendant's case and the funds are distributed to the county, state, and municipalities owed on the case. The vast majority of Comptroller offsets are received from state tax refunds during the months of February, March, and April.



Court Collections—Continued

The McHenry County Circuit Clerk was the first Circuit Clerk in Illinois to place debt with the Comptroller last year. This year, a number of Circuit Clerks from the larger counties have followed our lead and joined the program. Currently, in the 2015 tax season, we have held back over \$178,000.00 from 1,229 state tax refunds, and the season is not over yet. In our first year in the program, we collected over \$260,000.00 from more than 2,200 defendants. Many of the cases we see collected through the *Local Debt Recovery Program* are petty offense traffic tickets or ordinance violations where the defendant never appeared on the case. This is a very simple way to collect debt that

is owed to the Court. It costs us nothing and has collected more than \$438,000.00 in additional revenue in only two years. The Circuit Clerk's office is always looking to increase the amount of debt we are able to collect from defendants in traffic and criminal cases. Fines and fees are ordered by the Court. If they are not paid, the integrity and credibility of the Court is called into question. We take the enforcement of these orders seriously. This revenue is critical to the municipalities, county, and state, where we ultimately distribute fines and fees. Further, theories exist that posit that collecting fines and fees may have rehabilitative value and deter future violations. Between the two programs,



an additional \$788,000.00 in debt was collected at no cost to the Court in only two years. These debt collection efforts have a positive impact on all the agencies we serve and create a reputation in the community that court orders will be enforced.

E-Record and aiSmartBench—Continued

This eliminates the need for paper files to be pulled for cases that are added to a judge's court call. Judges are able to search for cases, enter orders, and hold hearings without stopping and waiting for someone to retrieve the file, deliver the file to the courtroom, and then return the file to the Clerk's Office.

Four judges have agreed to be part of the initial implementation project: Circuit Judge Charles Weech, Associate Judge James Cowlin, Associate Judge Suzanne Mangiamele, and Associate Judge Mark Gerhardt.

Recently, these judges travelled to the 12th Judicial Circuit

in Manatee County, Florida, to see aiSmartBench in use.

Judges were able to interact with other judges using the application and see how the application is used both in the courtroom and in chambers for case preparation. Judges were also given a demonstration of the system and were able to "test drive" aiSmartBench for the first time. It is anticipated that aiSmartBench will be live in the 22nd Circuit in July of this year.

aiSmartBench is currently utilized in courts in Florida, Texas, and statewide in Arizona.

"I found the hands-on afternoon time the most profitable as it allowed me to use the theory of what I have heard about aiSmartBench into the reality of how I will use it each day." - Associate Judge Mark Gerhardt

The Changing Face of Drug Testing—

Court Services—Lori Danczyk

A small dorm-size refrigerator with a padlock sat in the corner of the McHenry County Court Services Office. A Probation Officer held the key to this lock. Located in the refrigerator was a box designated as a biohazard. The biohazard was offenders' urine samples that were collected to be packaged and sent to a laboratory for testing for the presence of illegal drugs. The percentage of offenders ordered to submit to random testing was extremely low and the cost of testing these samples was significant. The results of the testing would arrive within a few weeks, and a positive test usually resulted in a violation of probation. Flash forward to the year 2015: The dorm room refrigerator is gone, replaced with shelves of drug test cards, collection cups, oral fluid drug screen devices, and Intoximeters. The costs are minimal and the results are known within minutes.

Research over the past years has linked drug abuse and criminal behavior. In recognizing this evidence, the Court has put an emphasis on drug testing and treatment. In order to effectively intervene with an offender's addiction or abuse, the Department of Court Services has stocked their toolbox with test strips that test for a single drug or multiple drugs, including alcohol and K2/Spice. In addition, self-contained cups are available for conducting tests in the field. For those individuals who are unable to submit a urine sample, or in the event that a same sex officer is not available, saliva testing can be conducted.

Each urine screen is observed by a same sex officer whenever possible and collected in a sample cup affixed with a temperature strip to minimize any effort by the offender to tamper with the sample. As the testing technology advances, so have offenders' efforts to "beat" the test. Unfortunately, the internet has attempted to cash in on those individuals who are desperate and willing to use any means possible to pass a drug test by deception. These deceptions include attempting to flush the body's system by consuming excessive amounts of water, introducing "all natural" substances into the body to mask continued drug use, and transporting clean urine in storage bags, containers, or other devices and offering it as a legitimate sample. Each effort of deceit is combated by enhanced officer training in observation, new test products to measure for adulterants, and, for those caught tampering with a sample, a felony arrest for Defrauding Drug and Alcohol Screening Tests, a Class 4 Felony.

There have been additional advancements in the detection of alcohol. An Intoximeter can detect alcohol on an individual's breath simply by waving the device in front of that person's mouth. In instances where an officer is in the field, the Intoximeter FST can be held over any beverage to determine if the beverage contains alcohol. The Intoximeter will detect the presence of alcohol consumed up to 12 hours previously, but with the recent introduction of EtG testing, an officer can test a urine sample for the presence of alcohol in



excess of 12 hours. McHenry County continues to use the services of a laboratory for confirmation purposes. The confirmations received from the lab will identify and quantify the specific drug detected in the sample. These results are received in days, not weeks, as in the past. In 2014, the McHenry County Department of Court Services conducted 21,818 drug tests on 7,163 urine samples.

The philosophy of conducting drug testing to "catch" individuals positive left McHenry County with the mini fridge. With the advancement of drug testing tools has come an improved philosophy, incorporating drug testing as a supervision tool. Drug testing is used to monitor abstinence and to deter future drug use. For those individuals that test positive, it allows for rapid intervention with referrals for treatment. The ultimate goal is to promote change in an individual and reduce recidivism.

Walt Pesterfield—Director of Probation and Court Services

Walt began his career with the Circuit Court of the 22nd Judicial Circuit on January 12, 2015. He received his Bachelors of Science, Criminal Justice Administration Degree from North-eastern State University in Tahlequah, Oklahoma.

Since graduating, Walt has served in many different public service roles; he has been a police officer, Treatment/Unit Manager, Juvenile Detention Supervisor, Adult Parole/Probation Officer, and Director of Community Justice in St. Helen, Oregon. Most recently, Walt served as the

Director of Adult Parole for the State of Colorado, overseeing nearly 400 employees responsible for managing over 10,000 parolees.

Walt brings with him a solid understanding of evidence-based practices and has worked with Dr. Edward Latessa from the University of Cincinnati in order to further these practices—including Motivational Interviewing and Effective Practices in Community Supervision—within the field of community corrections.



Jury Commission Continues to Seek Current Magazines

Every Monday, 160 jurors are summoned for jury duty. The Jury Commission tries to supply magazines for the jurors while they are waiting. The court does not subscribe to any magazines, newspapers, or periodicals, but tries to secure them through other means. Many of the maga-

zines are outdated.

If you have a stack of magazines that you would like to donate to the Jury Commission, it would be very much appreciated. When you're done reading your favorite monthly magazine, please think about dropping it off at the Jury Commission.



I WANT YOUR



From the Desk of the Court Administrator—Dan Wallis



In March, I had the very unique and very pleasurable experience of being interviewed and shadowed for a day by a student, a student who just happened to be the son of one our court interpreters. Nehlan Minnis, son of Monica Minnis, joined me for a day in the life of a court administrator as part of a school project. One of his first questions was, "What does a court administrator do?" Followed closely after with, "What do you like about your job?" Nothing like getting the hardest questions out of the way early.

Nehlan had the opportunity to see first hand how the best-laid work plans can become a shambles when something unexpected came up and needed my attention. I believe he was also surprised at how fast paced my job can be depending on the situation and that I didn't "just sit behind a desk." (After all, it is very difficult to put out a fire if you are sitting behind a desk.) If you have ever been to my office, you have probably seen the fire helmet that hangs on my wall, and yes, I really was a firefighter in a previous life. However, putting out fires is only a small aspect of what a court administrator does.

So what do court administrators do? Here's a partial list: Attend meetings (lots and lots of meetings), prepare budgets, manage personnel issues, work with judges on case management issues, work with vendors, develop methods to improve case man-

agement, provide information to judges (whatever they need, whenever they need it), oversee the Jury Commission, Law Library, Arbitration Center, Office of Special Projects, and Department of Probation and Court Services, enhance relationships with other offices, formulate policies, inspire a shared vision (keep in mind that a vision seen by only one person is called a hallucination), receive complaints from the public, and work with the Administrative Office of the Illinois Courts and the Supreme Court of Illinois on various projects. I think you are starting to get the picture. Being a court administrator is seldom boring. You never know what is going to happen from one day to the next.

What do I like about my job? Everything, but mostly Judge Nader (she made me put that, since she is the editor). Seriously though it is the challenges, the opportunities, but most of all, the people. I have the privilege of working with some of the most amazing people and the judicial leadership of the

22nd Judicial Circuit is without equal. I often tell people that in over six years with this court, I can honestly say that I have only had one bad day. The only reason for such a claim is the people that I get to work with every day. Ronald Reagan once said, "Don't be afraid to see what you see." When I see members of my staff, I see dedicated public servants who are willing to follow me on an exciting journey into the future for one of the noblest of causes—the administration of justice.

I told Nehlan that the best piece of advice that I could give him was this: Determine what it is that you want to do, obtain all of the education and training you can so you can become the very best at it, love what you do, and you will never work a day in your life. My philosophy has always been that we spend so much time at work, we might as well enjoy it and the time that we spend together.



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A time of danger;

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A time of opportunity;



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**The mission of the 22nd
Judicial Circuit of
McHenry County is to be
the guardian of life, lib-
erty and property to all
seeking access to justice,
by adhering to practices
that ensure equality,
fairness and confidence
in the judiciary.**

