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CNO REVIEW

December 2017

HIGHER CRED

Hundreds of court employees in Ohio have enriched their understanding of courts through a nationally recognized certification program that offers real-world skills and connects people across the state.

STORY ON P. 6.

About Court News Ohio

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Supreme Court of Ohio

Substitute Custodian Not Regular School Employee

A substitute custodian whose schedule is irregular with respect to days of service, hours worked, and school-building assignment is not considered a “regular nonteaching school employee” under an Ohio law that would qualify him for better wages and benefits, the Ohio Supreme Court ruled.

The Supreme Court ruled 6-1 on Nov. 1 to deny Fairland Local School District substitute custodian Kurt Singer’s demand that the district where he has worked since 2006 recognize him as a regular nonteaching school employee and pay him additional back wages and benefits.

Singer argued that he met the definition of a “regular nonteaching school employee” because he performed the same tasks and worked similar hours as the full-time custodians. However, the Court ruled that Ohio law does not define “regular nonteaching school employee,” and because Singer’s schedule varied widely, year to year and pay period to pay period, the Court found he did not meet the definition of a regular employee.

2015-1517. State ex rel. Singer v. Fairland Local School Dist. Bd. of Edn. [Slip Opinion No. 2017-Ohio-8368](#)

Separate Parole Violation Penalties Ruled Constitutional

Two separately issued parole violation sanctions, including a

three-year prison sentence, did not violate the “double jeopardy” clauses of the U.S. and Ohio constitutions, the Ohio Supreme Court ruled.

The Supreme Court unanimously rejected the request of Leodius Clark to have his 36 months of reincarceration ordered by the Ohio Adult Parole Authority nullified because his parole officer previously ordered him to 90 days of electronic monitoring. In a Nov. 2 opinion, the Court stated that double jeopardy clauses prohibit only multiple “criminal punishments” for a single offense.

The opinion explained that the double jeopardy clauses’ provisions prohibit the state from putting a person “twice in jeopardy” for the same offense. The clauses prohibit only multiple criminal punishments for a single offense. The Court ruled the term of incarceration for a parole violation was part of the original sentence and was not a second criminal punishment.

2016-1036. Clark v. Adult Parole Auth. [Slip Opinion No. 2017-Ohio-8391](#)

County Must Turn Over Girl’s Autopsy Records to Father Who Killed Her

The Cuyahoga County Medical Examiner’s Office must turn over the autopsy records of an infant to her father, who is serving 15 years to life for the murder of the child, the Ohio Supreme Court ruled.

A divided Court determined on Nov. 30 that a provision of Ohio public records law that requires incarcerated persons who seek

autopsy records to comply with certain requirements does not apply to the request of a deceased person’s next of kin for the deceased person’s records.

The Court’s lead opinion, stated that the plain language of the statute regarding coroner’s records is clear that the next of kin is entitled to the records. It concluded that if the legislature had intended to prevent the father from getting the records, then the General Assembly has the right to take note of this decision and amend the law. A concurring opinion that supplied the fourth vote to provide Michael Clay the records stated that while there is some overlap between the two laws, the medical examiner is clearly required to provide the records to Clay. The opinion noted the results seem “out of step with the General Assembly’s apparent policy decision to limit incarcerated persons’ access to public records.” It, too, invited state lawmakers to consider amending the records laws to address the conflict.

Dissenting justices maintained that the lead opinion’s interpretation leads to an absurd result. The intent of the two statutes, when read together, would prevent the father from getting the records because he is imprisoned for the infant’s murder, and that was the objective of the General Assembly when it adopted the laws, the dissent concluded.

2016-0387. State ex rel. Clay v. Cuyahoga Cty. Med. Examiner [Slip Opinion No. 2017-Ohio-8714](#)

HappeningNow

News and Notes from Courthouses Across the Buckeye State

Grants Available for Local Courts to Implement Technology Projects

Ohio courts may now apply for a new round of grants from the Ohio Supreme Court for technology projects designed to remove barriers to the efficient and effective administration of justice.

The application period runs until the close of business on Dec. 22, 2017. Any court of appeals, common pleas court (including its internal divisions), municipal court, or county court is eligible to apply. Mayor's courts are not eligible to participate in the program.

The following types of projects will be given priority consideration, in order:

1. Upgrade to the court's existing case management system (CMS) that improves case flow and/or public access.
2. Upgrade, replacement, or purchase of other technology systems that improve case flow or the fundamental duties of the court, or that improve public access.
3. Upgrade, replacement, or improvement to computer hardware or equipment that supports the CMS or other systems that affect case flow or the fundamental duties of the court, or improve public access.
4. All other computer hardware, software, or equipment that is non-security related.

In addition, a portion of the available funds will be set aside to pay for courtroom or related building security equipment upgrades or new installations.

In the past three years, nearly \$8 million in grants has been distributed to courts across Ohio. The program has aided in the completion of 288 projects in 78 of Ohio's 88 counties. Projects included case management upgrades, public online access to records, systems to file and pay fees, hardware upgrades, and a variety of other projects where technology deficiencies were a barrier to the access and administration of justice.

Details about the grant opportunity, including instructions for how to apply, are available on the Ohio Supreme Court's [website](#).

In a new step this year, staff will conduct two information sessions for courts interested in more details about the application process. Registration instructions are available on the website. Questions can be sent to **Linda Flickinger**, grant administrator, at techgrant@sc.ohio.gov.

Awards are expected to be announced in February 2018.

Client Protection Fund Releases Figures for Lawyer Theft

The Lawyers' Fund for Client Protection in Ohio awarded \$841,226.87 for 158 claims of attorney theft, according to the fund's [annual report](#) for fiscal year 2017.

The fund seeks to support public confidence in the legal profession by reimbursing clients for losses sustained as a result of dishonest conduct of their attorneys. The claims eligible for reimbursement in fiscal year 2017 resulted from the dishonest conduct of 40 attorneys.

Of the claims approved for the 2017 fiscal year, 144 (54 percent of total amount awarded) were for unearned-fee, 13 (37 percent of total amount awarded) were for thefts by fiduciaries, and one (9 percent of total amount awarded) involved theft of settlement proceeds.

Also in the report:

- 108 claimants received 100-percent reimbursement of their losses.
- Three claimants received the maximum (\$75,000) award amount.
- 34 claims were ruled ineligible.

The fund, formerly known as the Clients' Security Fund, was created in 1985 by Gov. Bar R. VIII and is supported from the Attorney Registration Fund. The board of commissioners, which is appointed by the Supreme Court justices, determines the eligibility of claims filed and manages the fund's assets.

Attorney Services Fund Annual Report Released

Nearly \$9 million in fees collected from lawyers, including registration fees, supported attorney services programs in Ohio during the last fiscal year.

The figure comes from the Ohio Supreme Court Attorney Services Fund 2017 [annual report](#) published in November. Attorney registration, late registration, reinstatement fees, and other sources outlined are in the [Rules for the Government of the Bar](#).

The Supreme Court allocated \$9.6 million from the fund at the beginning of the fiscal year 2017.

Expenditures included:

- \$5.4 million (or 60 percent of the total) for disciplinary-related activity, including \$686,475 for operation costs at the [Board of Professional Conduct](#) and \$2.8 million to the [Office of Disciplinary Counsel](#).
- \$1.4 million to the [Lawyers' Fund for Client Protection](#) Trust Fund used to compensate client victims of dishonest attorneys.
- \$653,995 for the Supreme Court Office of Attorney Services that oversees the delivery of services to Ohio attorneys and assists the Court in the exercise of its constitutional duty to regulate the practice of law.

Grants totaling more than \$1 million also were provided to the Ohio Legal Assistance Foundation to support legal services for low-income Ohioans, and to the Ohio Lawyers Assistance Program to provide intervention services to lawyers, judges, and law students who suffer from alcoholism, substance abuse, or mental illness.



Ohio Court Professionals Complete Executive Training Program

Ohio Supreme Court Administrative Director **Michael L. Buenger** (front left) and Ohio Supreme Court Justice **Patrick F. Fischer** (front right) pose with 37 court professionals who achieved national certification through the Court Management Program in 2017. Find a complete list of the Nov. 17 graduates at [courtnewsohio.gov](#).



Bar Admission Ceremonies Feature 600 New Attorneys

Nearly 600 attorneys were admitted to practice law in Ohio during two bar ceremonies at the historic Ohio Theatre on Nov. 13. Of the 936 applicants who sat for the July exam, 664 – or 70.9 percent – received passing scores.

Watch video of the [morning](#) and [afternoon](#) ceremonies at [ohiochannel.org](#).

HIGHER CRED

By Kathleen Maloney

Courts are mirrors that reflect the pressing issues society is facing – from the struggles of today’s juveniles and families to the escalation in human trafficking and people addicted to opioids. The need for court employees well-versed in efficient, modern court operations, and able to adapt to ever-changing obligations, is critical for a responsive judicial system that can ensure justice.

It’s challenging for busy court officials and employees to keep up with these and other multi-faceted demands. Courts grapple with personnel issues, case flow management, technology limitations and upgrades, security concerns, financial operations, evolving societal trends, and more. Since 2002, Ohio court employees have had the opportunity to advance their knowledge with court-specific education without leaving the state. Ohio is one of only six states that provides this kind of education. The Ohio Supreme Court, through its Judicial College, partners with the Institute for Court Management (ICM) at the [National Center for State Courts](#) (NCSC) to provide intensive training that leads to national-level certifications as a certified court manager (CCM) or a certified court executive (CCE).

Just this year, 35 court employees in Ohio to date have earned the manager certification and 40 employees have achieved the executive designation. Education for CCM certification gives a comprehensive understanding of courts with a focus on day-to-day processes. Courses in the CCE program center on enhancing leadership skills to help courts better serve their communities.

Although each certification takes three years to complete, the time commitment is relatively modest and structured to be manageable. Participants attend two-and-a-half days of training twice each year. Court employees first complete CCM training, then they can decide whether to work toward the CCE credential.

For those with even more ambition, NCSC offers a fellows certification. Students explore a topic in depth, write a formal research paper, and present their results in Washington, D.C. Thirty-four court employees in the state have attained this credential.

Connections + Know-How

Ohio uses a model in which the 40 to 45 students accepted into a certification program move together through the three years of courses, said **Dot Keil**, education program manager at the Ohio Judicial College. Students build close professional relationships with other court staff on whom they can rely for advice and insight when they return to their courts.

The courses also are designed to provide practical skills, Keil noted.

“Students can apply what they learn right away,” she said. “It’s a commitment, but the benefits are great.”

But what do participants say? We talked with three graduates and one current student to learn firsthand what the courses are really like and how the program benefited them and their courts.



What made you initially decide to enroll in a certification program?

Brown: My court administrator at the time, Michael Flanagan, who was also my mentor, encouraged me to take advantage of the new Court Management Program being offered beginning in 2002. I was naturally interested, thinking that it would help me in my work of court administration.

McNachtan: I learned about and was encouraged to enroll in the program by two co-workers while employed at the Ohio Supreme Court. I enrolled based on their

feedback and encouragement. I was skeptical, but I have to admit I learned valuable information about court culture, processes, and best practices in the classes that have helped me in my roles while employed by both courts.

Stephenson: I'm a lifelong learner. I can never know enough. The program was a growth experience and good for my brain! I also was interested in the additional support I would gain from networking with professionals who are in my line of work from across the state and nation.



“The courses provide theoretical, big-picture concepts and practical applications of how to apply those concepts in our courts here in Ohio.”

— *Laura E. Wickett*



RUSSELL R. BROWN III

Court Administrator
Cleveland Municipal Court

Court Management Program Experience:

- Certified Court Manager, 2004 (first-ever Ohio class)
- Certified Court Executive, 2006
- ICM Fellowship Program, 2006

Brown has been with the [Cleveland Municipal Court](#) for more than 20 years. To earn his fellows certification, he wrote “The Other Side of Justice: A Look at Rehabilitated and Otherwise Harmless Persons and the Long Term Effect of Having a Criminal Record.” ICM gave the work a “Director’s Award of Merit for Applied Research.”

EDWARD McNACHTAN

Deputy Court Administrator, Information Technology
Montgomery County Common Pleas Court, General Division

Court Management Program Experience:

- Certified Court Manager, 2012
- Certified Court Executive, 2017
- ICM Fellowship, application pending

McNachtan, who was employed in the Information Technology Division of the Ohio Supreme Court for nearly 10 years, joined the [Montgomery County Common Pleas Court](#) in 2014.

ELIZABETH STEPHENSON

Court Administrator
Tuscarawas County Common Pleas Court, General Trial Division

Court Management Program Experience:

- Certified Court Manager, 2004 (first-ever Ohio class)
- Certified Court Executive, 2013

Stephenson has more than 20 years of experience working for the [Tuscarawas County Common Pleas Court](#). Along with receiving the CCM and CCE certifications, she teaches the caseflow management and the CourTools courses for Ohio’s Court Management Program.

LAURA E. WICKETT

Director of Human Resources
Hamilton County Juvenile Court

Court Management Program Experience:

- Certified Court Manager, expected 2019

Wickett has been employed by Hamilton County for 22 years, and has worked for the [Hamilton County Juvenile Court](#) as director of human resources since January 2011. Certified as faculty for the Court Management Program, she taught the workforce management course earlier this year.



Wickett: First, I always want to enhance the knowledge and skills that I bring to Hamilton County Juvenile Court, so my team and I can provide the best human resources services possible. The more I understand court operations and functions, the better we can serve our court. The CMP is truly helping me better understand the various court functions, and I'm grateful for the opportunity to participate.

Second, I wanted to meet court personnel from around the state, so we could share ideas and information. We face many of the same challenges and are pursuing many of the same goals within our courts. There is a wealth of knowledge and experience in the room every time we meet for classes, and I love talking with and learning from my peers.

Q What was the most difficult part of the program?

Stephenson: The program requires participants to attend courses for two to three days, twice a year, and the courses are held outside my hometown. The hardest part of the program was stepping away from my regular job and leaving my family – I have four kids – to attend the program.

McNachtan: The hardest part for me was leaving the office for two-and-a-half days. I found myself answering

“Often, the best learning is from the students in the class.”

— Elizabeth Stephenson

work calls and emails on breaks and after class to deal with issues back at both courts.

Brown: I must say that doing the program and getting the certification was not difficult at all. You do have to travel to complete it, but the face-to-face classes and the comradery with colleagues developed over the classes are invaluable.

Nonetheless, as an introvert, the hardest part of doing the program and getting the certification for me was the numerous class exercises and presentations that were required. But those requirements made the experience more real and personal for the participants.

Q How was the program beneficial to you?

Stephenson: It's a scholarly program with instructors who bring high-level, often national, expertise, and the information provided is current. The length and depth found in this program isn't offered elsewhere in Ohio.

But what I valued most of all was making connections with other staff working in different courts. As part of the coursework, we participated in various exercises and activities, and were often grouped with people who work in similar types of courts. That was beneficial in both the class discussions and back at my court. For example, when a new law was passed in Ohio regarding expungement of civil protection orders in some circumstances, I had an automatic group of former classmates to turn to who I knew and trusted to discuss the practical implementation of and concerns about the new law.

Brown: My first class was “Court Performance Standards,” which detailed the very important principles of justice: access; expedition and timeliness; equality, fairness, and integrity; independence and accountability;

and public trust and confidence. These pillars of our justice system, which sometimes get lost in our hectic schedules, reinforced for me the best orientation, foundation, and motivation for how to carry out my day-to-day management responsibilities in court administration.

What I enjoyed most about the courses were the course content, getting to know my classmates, and getting to know my skilled trainers.

McNachtan: The most important benefit, in my opinion, is the networking and development of relationships with other court leaders throughout the state. For example, I have developed excellent relationships with several court administrators and clerks, and I was able to obtain copies of other court maintenance contracts for their case management systems to review and compare with Montgomery County's agreement. I used these documents as a starting point to re-negotiate our court's contract with a vendor. By using this strategy, Montgomery County saved more than \$1 million over a five-year deal.

Q What practical skills did you take back to your court?

McNachtan: The curriculum introduces metrics as a way to improve court administration. One of our goals at the Montgomery County General Division is to use metrics to become a data-driven court. In 2018, we will initiate a project to create dashboards to use data for critical decision-making. For example, we may track the recidivism rates of citizens that use specified drug and alcohol counseling treatments recommended by the court's probation officers. The court would track various data elements and use this data to see which programs have less recidivism. We would look to see if the program interventions work

courts and the essential service that we provide.

McNachtan: I was surprised how much I retained and how I used the curriculum and toolkits back at the office.



How has the program helped your career?

Stephenson: The certification means you’ve engaged in and completed the in-depth educational process. There’s no sliding through these courses. I am sure that I do a better job for my court because of the knowledge I have gained. I’ve been at my court for more than 20 years, and have no plan to move on, but for those seeking to advance their careers, the designation is helpful when trying to move to a different court.

McNachtan: I feel that the program and my 13 years combined at the Supreme Court and in Montgomery County has changed how I look at everything while working with courts. I see things through a judicial administration “lens” now. I also have noticed job postings from other courts that use the certifications as a way to screen applicants.



“You network and develop relationships with other court leaders, and you learn new concepts, best practices, and practical ways to do your work.”

— Edward McNachtan



Brown: I’m now a trainer for the Ohio Judicial College/ICM Leadership Course, and I’ve participated in numerous court forums and workshops, including the prestigious “Executive Session for State Court Leaders in the 21st Century” meeting at the Harvard Kennedy School of Government between 2008 and 2011. In 2015, I was part of an NCSC team invited to review the Ferguson, Mo., court as a result of U.S. Department of Justice findings associated with the unrest after the fatal shooting of Michael Brown. Earlier this year, I was elected to the NCSC Board of Directors, which is a grand opportunity to help state courts and international court systems to continuously improve the administration of justice.



How did your court support you?

Wickett: Hamilton County Juvenile Court has a long tradition of being tremendously supportive of court managers participating in the program. Court leaders were not only supportive of my application to the program, they also approved of and have allowed time for me to become certified as faculty and to instruct CMP classes. When I’m attending CMP classes, my colleagues are respectful that I’m focusing on the classes. As issues arise on those days, court leaders work with my co-workers in human resources, or they wait until after class to discuss issues with me. When I return from attending CMP classes, my colleagues ask about what I’ve learned, and we talk about how what I’ve learned applies to situations in our court.

McNachtan: My direct supervisor at the Supreme Court encouraged me to learn more about court management so that the IT division could improve customer service with the Supreme Court as well as courts throughout the state. The Supreme Court paid for the tuition and allowed time off to attend the events.

The Montgomery County Common Pleas Court also paid and provided an opportunity for me to participate in the courses. Both courts found value in the program and thought it would make me a better administrator.



What advice would you give to someone thinking about certification?

Brown: Just go for it! It will be educational, enjoyable, and you’ll meet some of our fantastic colleagues from different jurisdictions across the state. Your CMP experience will strengthen your own professional development as well as your service to your judges, staff, and the public. Moreover, your CMP experience will help provide better justice in our courts and in the lives of our neighbors, and further the stability of our local and broader communities.

McNachtan: The program is worth the time and money because you network and develop relationships with other court leaders and you learn new concepts, best practices, and practical ways to do your work. I turn to the curriculum and books as reference guides, and the curriculum provides toolkits to implement best practices.

Wickett: Jump in wholeheartedly! The Court Management Program provides a great opportunity to learn court-specific skills and to network with peers who work in courts throughout the state. Strive to meet as many colleagues as you can, and enjoy the opportunity to develop your skills. Don’t be shy about sharing your expertise and experience with others. It’s helpful.

Stephenson: If you’re debating whether to enroll, go for it. And give it your all. Go, engage, and make connections.



CNO Legislative Digest

Each month, Court News Ohio Review tracks bills and resolutions pending in the Ohio General Assembly that are of interest to the judicial community.

HB 389 - DEATH PENALTY

Rep. Nickie Antonio (D-Lakewood)

To abolish the death penalty.

STATUS: Introduced in the House Oct. 23, 2017, and referred to the House Criminal Justice Committee.

HB 394 - MANDATORY BINDOVERS

Rep. Jeffery Rezabek (R-Clayton)

To eliminate mandatory and reverse bindovers, and modify the procedures for discretionary bindovers of an alleged juvenile offender from a juvenile court to a criminal court; to revise the procedures for determining the delinquent child confinement credit; to revise certain delinquent child financial sanction dispositions and procedures and establish a separate restitution disposition; and to provide special parole eligibility dates for persons with an indefinite or life sentence imposed for an offense other than aggravated murder or another crime involving the purposeful killing of multiple persons committed when the person was under age 18 and special Parole Board procedures in those cases.

STATUS: Introduced in the House Oct. 26, 2017. Its first hearing in the House Criminal Justice Committee was Nov. 14, 2017.

HB 409 - VETERAN TREATMENT

Rep. Jim Butler (R-Oakwood)
& Rep. Rick Perales
(R-Beavercreek)

To permit courts to create veterans treatment courts and to allow courts to divert certain criminal defendants to participate in veterans treatment court.

STATUS: Introduced in the House Nov. 7, 2017, and referred to the House Criminal Justice Committee. Its first hearing was Dec. 5, 2017.

HB 410 - TRAFFIC VIOLATIONS

Rep. Bill Seitz (R-Cincinnati)
& Rep. Jim Butler (R-Oakwood)

To grant municipal and county courts original and exclusive jurisdiction over any civil action concerning a traffic law violation, to specify that the court require an advance deposit for the filing of specified civil actions by the local authority bringing the civil action, and to modify the reporting requirements and local government fund withholding that apply to subdivisions that operate traffic law photo-monitoring devices.

STATUS: Introduced in the House Nov. 7, 2017. Its first hearing in the House Government Accountability and Oversight Committee was Dec. 5, 2017.

SB 231 - OFFENDER DATABASE

Sen. Randy Gardner
(R-Bowling Green)

To provide for a violent offender database, require violent offenders to enroll in the database, and name those provisions of the act "Sierah's Law;" to modify the membership and duties of the Ex-Offender Reentry Coalition and eliminate its repeal; to require halfway houses to use the single validated risk assessment tool for adult offenders that the Department of Rehabilitation and Correction has developed; and to provide that the notice of release from prison of specified serious offense offenders that is given to sheriffs is to be the same as that provided to prosecuting attorneys and eliminate the notice to sheriffs regarding pardons, commutations, paroles, and transitional control transfers of offenders.

STATUS: Introduced in the Senate Nov. 14, 2017, and referred to the Senate Judiciary Committee. Its first hearing was Nov. 28, 2017.

The Agenda

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

Ohio Court EDU

sc.ohio.gov/Boards/judCollege

Note: Numerous [online courses](#) also are available.

Dec. 14

Assessment-Driven Case Planning for Offenders – An Evidence-Based Approach for Probation Officers

Probation Officers
Columbus

Dec. 15

Domestic Violence & Contempt for Acting Judges

Judges, Magistrates, and Acting Judges
Columbus

Dec. 19

Adult Guardianship 3-Hour Continuing Education Course: Medications & Medical Advocacy BROADCAST

Adult Guardians
Broadcast to various Ohio sites
8:45 a.m. - Noon
OR 1 p.m. - 4:15 p.m.

Guardian ad Litem Continuing Education Course - Psychiatric Issues in Adolescents

Guardians ad Litem
Columbus
8:30 a.m. - Noon
OR 1 p.m. - 4:30 p.m.

Probation Officer Training Program

Probation Officers
Akron

Dec. 21

Probation Officer Training Program

Probation Officers
Columbus

Jan. 9, 2018

Probation Officer Training Program: Assessment and Case Management

Probation Officers
Akron

Jan. 17

Court Security Officers: Court Security Fundamentals

Court Personnel
Columbus

Supreme Court of Ohio

sc.ohio.gov

Dec. 25

The Supreme Court of Ohio & the Moyer Judicial Center will be closed.

Jan. 1, 2018

The Supreme Court of Ohio & the Moyer Judicial Center will be closed.

Jan. 15

The Supreme Court of Ohio & the Moyer Judicial Center will be closed.

Jan. 23 – 25, 2018

**Oral Arguments
Live stream at 9 a.m.**

