

The Supreme Court of Ohio

**Budget Testimony
On Behalf of the Judiciary/Supreme Court**

Before the

**Ohio Senate
Finance Committee
Corrections Subcommittee**

Thursday, April 30, 2015

Chairman Uecker, Ranking Member Brown and Members of the Subcommittee:

I am Michael Buenger, the Administrative Director of the Supreme Court of Ohio. On behalf of Chief Justice Maureen O'Connor, the justices of the Supreme Court, and the judges and court staff of Ohio, I want to thank you for this opportunity to testify on the Court's submitted 2016-2017 biennium budget.

Background

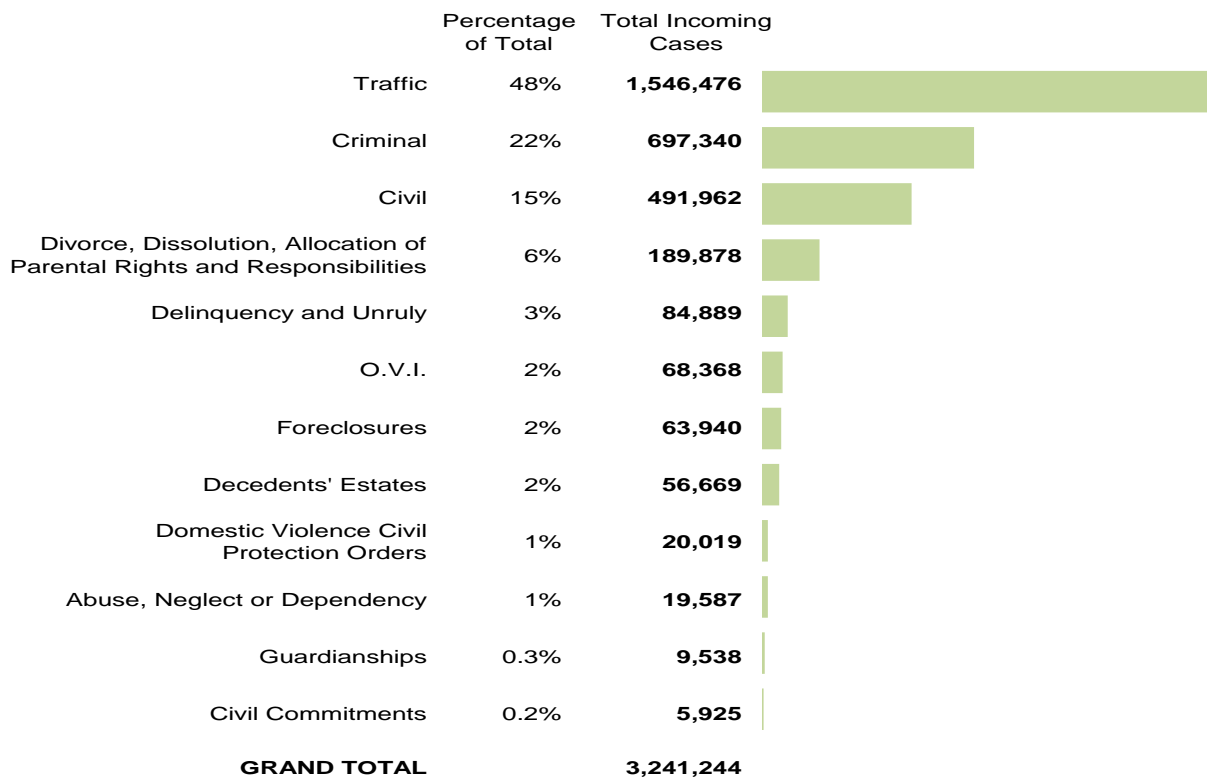
Because public budgets are not just about numbers, I think it important to present the Supreme Court's submitted budget in a context. This context is particularly important with regards to a proposed series of market adjustment to the judicial compensation schedule. As many of you know, Ohio's trial judges now rank 44th in the nation in compensation. This is the very reason that the market adjustment proposed in this budget is supported by a wide variety of interested parties, including a coalition of business organizations as indicated in the letters

attached to this testimony. The Ohio Council of County Officials, the Governor, many members of the Senate including the President, and many members of the House support this adjustment notwithstanding the fact that the House removed funding for the request. They all recognize the importance of a strong judiciary to our state because they recognize that judges have a profound impact everyday on people’s lives and businesses operations, whether they are in court or not. Our legal system, in the words of Jack Fisher at the Ohio Farm Bureau, is “only as good as the judges on the bench.”

You have before you a series of charts that provide important visual context regarding what is happening in Ohio’s courts today. Chart 1 illustrates the total incoming case filings in Ohio trial courts in 2013.

Chart 1

Total Incoming Cases in Ohio's Trial Courts
Selected Major Case Types, 2013



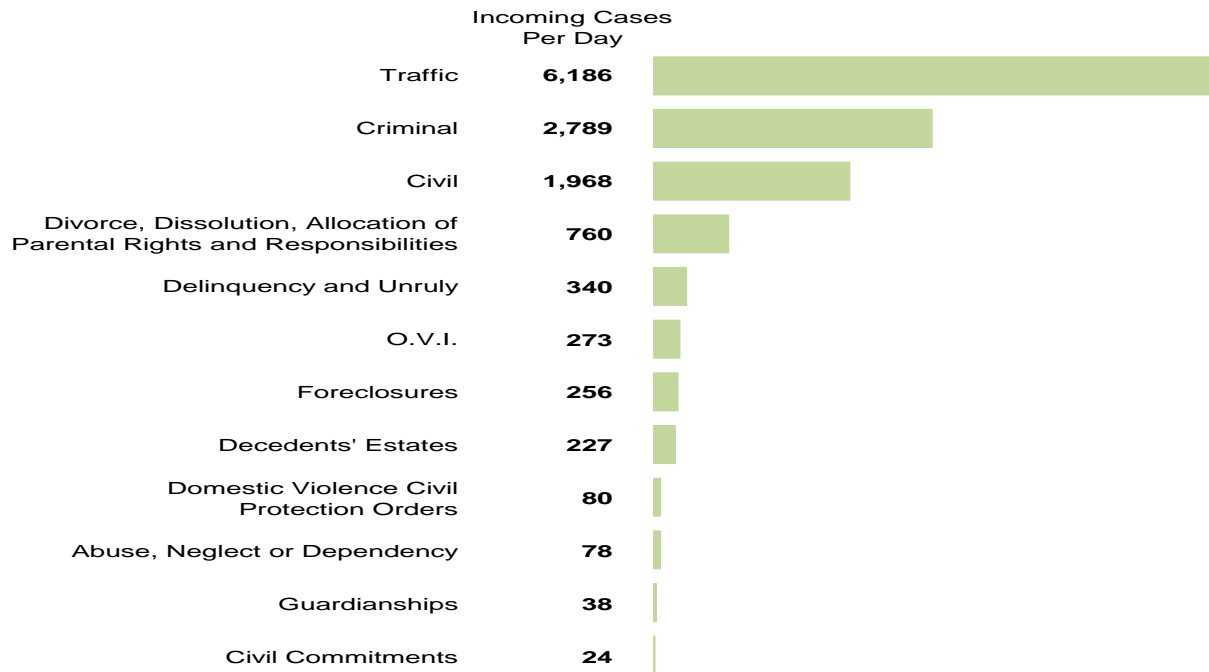
SOURCE: Trial court judges' caseload statistical reports pursuant to Sup.R. 37.

As you can see, in 2013 the Ohio trial courts saw over 3.2 million new cases filed or old cases reopened. For comparison, the entire federal judiciary of the United States received just over 1.4 million cases in that same time frame of which just over 1 million cases were bankruptcy cases. This is less than ½ of Ohio’s total caseload. This disparity is framed by a single consideration: the state courts of our nation are its primary and general jurisdiction courts charged with adjudicating all manner of cases. This explains why state courts account for 95 percent of this nation’s judicial caseloads.

Another way of contextualizing Ohio’s caseload is illustrated on Chart 2. Chart 2 gives you a picture of what is filed in Ohio’s trial courts, on average, every working day of the year – approximately 13,000 cases per day.

Chart 2

Typical Daily Workload in Ohio's Trial Courts
Selected Major Case Types, 2013



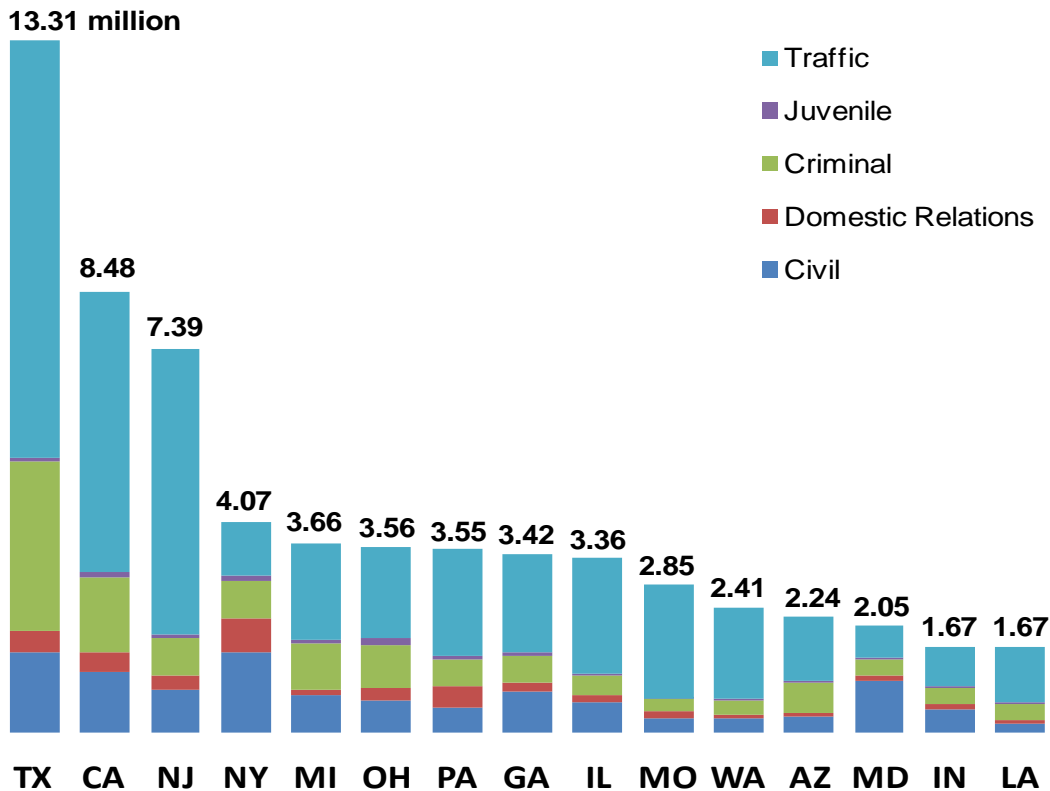
SOURCE: Trial court judges' caseload statistical reports pursuant to Sup.R. 37.

As you can see from Chart 2, in addition to over 6,000 traffic cases filed each day in Ohio, the trial courts receive over 2,700 criminal cases, almost 2,000 civil cases, some 760 divorce and parental rights cases, and 340 delinquency and unruly cases – on average each day.

Chart 3 provides information on where Ohio ranks nationally in terms of caseloads. For ease of illustration, we have included only the top 15 states as opposed to all 50 states and the District of Columbia.

Chart 3

Ohio Ranks 6th in the Nation in Total Incoming Caseloads
 Top Fifteen States in 2012



SOURCE: Court Statistics Project, National Center for State Courts

It is particularly important to look at the mix of cases illustrated on Chart 3. If you compare, for example, the caseloads of New Jersey with the caseloads of Ohio, you see that Ohio

has a proportionally higher “density” of cases in the non-traffic areas. These cases, on balance, tend to be cases of higher complexity, although to be sure some traffic cases can be quite complex. The same comparison principle holds true when you examine Ohio against Michigan.

While Ohio is the seventh most populous state in the nation, it is also:

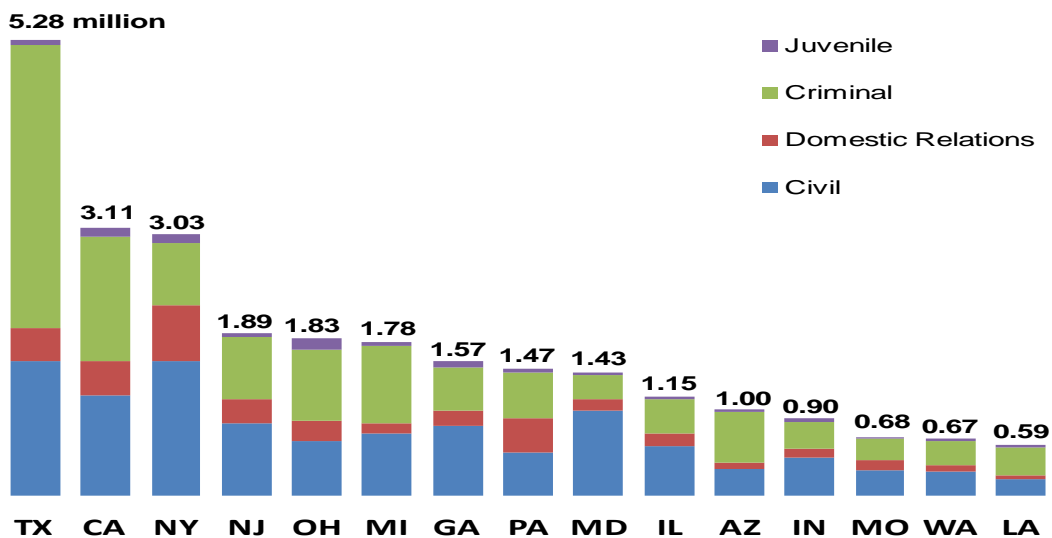
- Sixth in the nation in overall total caseload;
- Sixth in the nation in domestic relations caseload;
- Fifth in the nation in criminal caseload; and
- First in the nation in juvenile caseload.

Chart 4 illustrates Ohio’s caseload profile excluding traffic cases since states often handle traffic cases through a variety of different mechanisms. Some states, for example, process certain traffic cases through administrative or civil processes.

Chart 4

Ohio Ranks 5th in the Nation in Total Non-Traffic Incoming Caseloads

Top Fifteen States in 2012



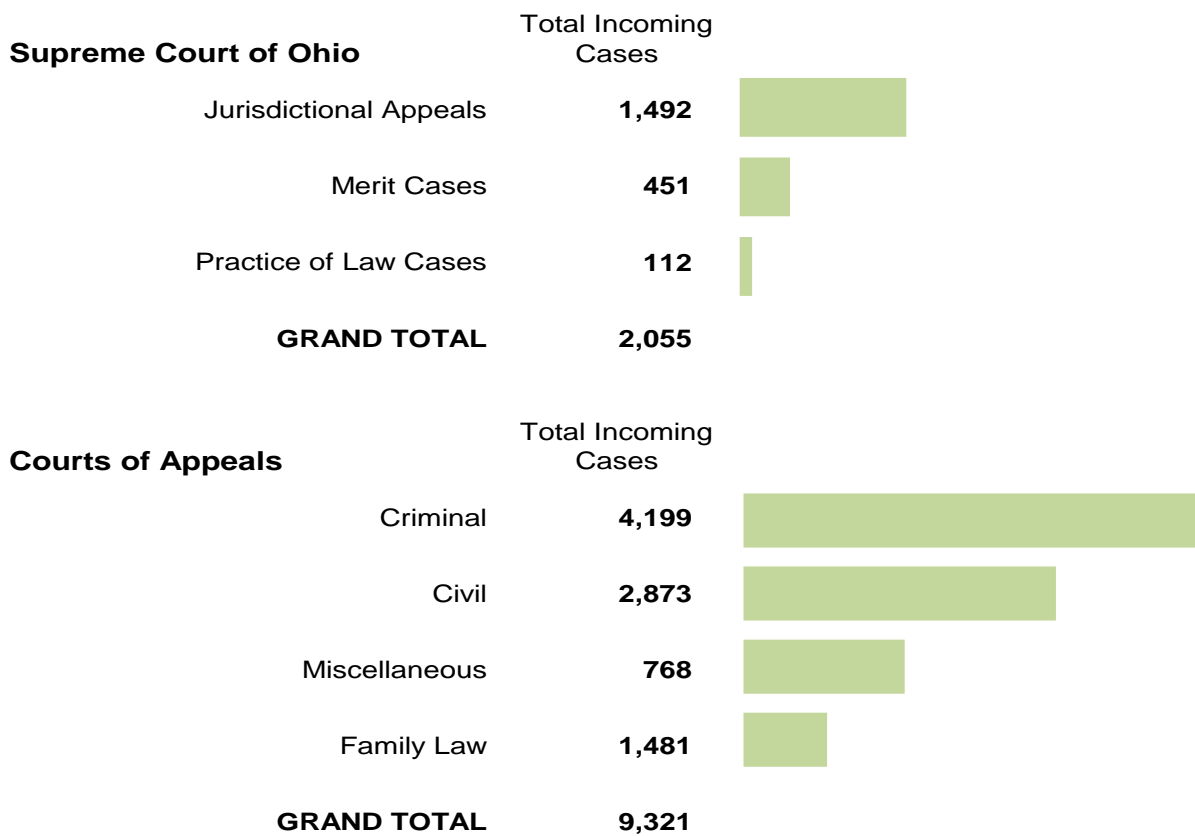
SOURCE: Court Statistics Project, National Center for State Courts

When we exclude traffic cases from the mix, Ohio climbs to fifth in the nation in total caseload, just slightly behind New Jersey and slightly ahead of Michigan.

Chart 5 provides information on the appellate court caseloads in Ohio. In 2013, the Ohio Supreme Court received over 2,000 cases while the appellate courts received just over 9,300 cases. These cases are in addition to the information provided on trial court caseloads.

Chart 5

Total Incoming Cases in the Supreme Court of Ohio and the Courts of Appeals
Major Case Types, 2013



SOURCE: Office of the Clerk, Supreme Court of Ohio and appellate court judges' caseload statistical reports pursuant to Sup.R. 37.

On average, over 45 appeals are filed every business day in this state. While that number may not strike some as anything earth-shattering, many of these appeals involve some of the most

difficult legal and constitutional issues in Ohio and, therefore, can be highly complex, challenging, and time-consuming.

But what do all these charts and numbers really mean? They demonstrate that the Ohio state court system is one of the busiest in the nation. That the people of Ohio rely on that system on average some 13,000 times a day to resolve their disputes, enforce the laws of this state, and give legal guidance. It tells us that Ohio's courts sit at the center of its justice system managing a wide array of services and controlling access to our corrections systems, much of our mental health system, and many other services that people rely upon every day. It tells us that families, crime victims, businesses, and many others rely upon the judicial system each day to secure their rights, protect their interests, bring surety to their legal affairs and, therefore, to their lives. And it tells us that Ohio courts make a difference every day – directly and indirectly – to millions of people in our state inside and outside of courtrooms.

But there is another story behind these raw numbers and that is the degree to which the entire nature of the judicial process has changed over the years in light of the challenges we face as a state and as a nation. What often goes unnoticed is this simple fact: Ohio's judges and Ohio's courts are increasingly the "short-stops", the point of last resort or the point of first relief, in addressing many seemingly intractable problems ranging from drug abuse, to crime, to family disintegration, to juvenile justice, to corrections and mental health, to complex business disputes. When I started working in courts over twenty-five years ago we could boil dockets down to essentially four areas: domestic relations, juvenile, civil and criminal. Today's dockets are very different and reflect new demands. Today we speak of specialized dockets such as drug courts, veterans' courts, mental health courts and so forth. We talk of problem-solving courts and therapeutic courts. We do this because as other efforts to address these complex challenges

falter, we increasingly turn to the courts to see if they can provide solutions to difficult problems. Chart 6 reflects this important change in what we expect of our courts today.

Chart 6

Specialized Dockets in Ohio
 Certified Dockets as of March 12, 2015

Drug	49
Juvenile Dockets	31
Mental Health	27
Family Dependency	16
Veterans	14
Reentry	10
O.V.I.	6
Domestic Violence	5
Child Support	1
Human Trafficking	2
SAMI	1
GRAND TOTAL	162

SOURCE: Specialized Dockets Section, Office of Court Services, Supreme Court of Ohio

These specialized dockets are a response to the increasing demands on the courts to be a default social service system coordinator and provider. These dockets also represent a breakthrough in pragmatic judicial philosophy, the role of courts, and the adjudicative process. Rather than simply calling balls and strikes – an “inputs/outputs” approach to resolving cases – courts in Ohio are becoming “outcome-focused.” They are not simply concerned with clearing cases but are focused on reaching decisions that can have a long-term positive impact on people. And while a particular court may not have a certified docket that does not mean that they are not driven by outcomes. I particularly want to draw your attention to reentry courts where judges literally become the “bookends” of the criminal justice system overseeing inmates released from the corrections system as they reintegrate back into society. Why do I note this specialized docket? Because working in conjunction with the DRC and parole authorities, 10 courts are utilizing their criminal justice expertise to assist in an area that has historically been the

exclusive territory of others. This is silo-breaking within the justice system at its best and oftentimes because of the willingness of judges to accept new roles and new responsibilities in our communities. Likewise with veterans' courts we see the judicial system adjusting its approach to adjudication recognizing that veterans, particularly those with combat experience, can often present a different series of challenges that must be addressed if an "outcome" is to be transformative and sustainable. While there is a cost-savings aspect to this approach to justice administration, it is more importantly an approach that focuses on helping people succeed and become productive members of society.

Today's courts, therefore, are not just arenas for adversarial battles with judges sustaining or overruling objections. Rather, we are in an era where judges are umpires, social services coordinators, parent figures, coaches, experts in both law and human behavior. The demands on the system are not just expressed in numbers, therefore. They are expressed in expectations about what judges can and must do in addressing current and future challenges. And given the nature of the problems and challenges we face, we want to recruit and retain judges and court personnel that have a mix of skill sets because of the expectations we all now have of judges. Those expectations are framed by the fact that more than anyone involved in a legal dispute, it is the judge who ultimately must decide who goes to prison, who gets access to mental health services, which of two warring parents gets the children, whether an aging parent is competent to manage their affairs, whether a veteran with PTSD will receive treatment for the factors that might be driving aberrant behavior, what will happen to a business's intellectual property. We want to retain and recruit good judges and like all institutions we compete in an ever more competitive marketplace for that talent.

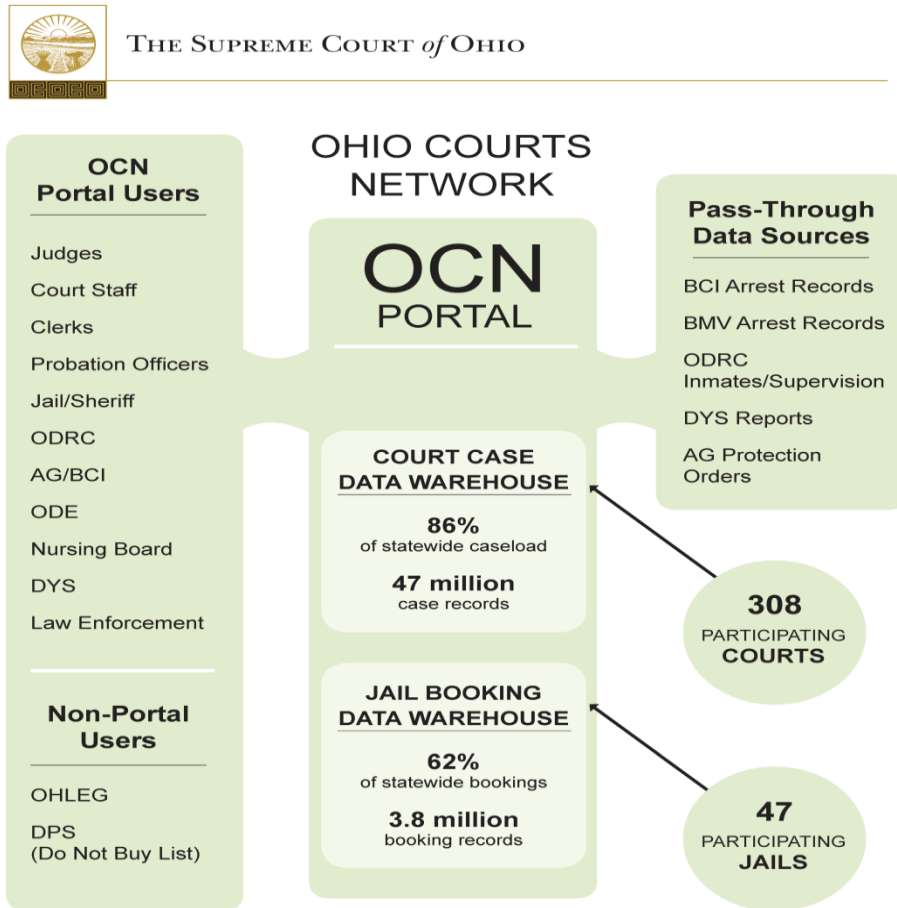
Budget Request

The Supreme Court's budget accounts for less than ½ of 1 percent of the state's overall General Revenue Fund spending and less than 1/5th of 1 percent of the state's total operating budget. Notwithstanding this low percentage of expenditures, the Court has been and remains cognizant of the fact that it is a steward of public resources and uses those resources to promote an efficient and effective court system. The total budget request for the Judiciary/Supreme Court in FY 2016 is \$153,368,942 GRF plus \$9,205,244 in other funds authority for a total of \$162,574,186. This represents an increase of \$9,616,564 over FY 2015. For FY 2017 the proposed budget is \$161,592,239 GRF plus \$9,182,709 other funds authority for a total of \$170,774,948. This represents an increase of \$8,200,762 over FY 2016. The majority of these increases are attributable to funding market adjustments to the current judicial compensation schedule; to cover step increases, additional law clerks, and OBM direct fringe benefits for the Courts of Appeals; and to fund several IT positions, an access to justice counsel, a program manager, and a grants administrator at the Supreme Court of Ohio. The remaining increases fund a variety of program operations at the Court such as civics education and IT operations. I would like to highlight three major aspects of the proposed FY2016-2017 biennium budget.

Technology Initiatives

The Ohio Courts Technology Initiative facilitates electronic information exchange throughout the Ohio judiciary and between Ohio's courts and many partner agencies utilizing the Ohio Courts Network, or the "OCN". This continuing initiative helps defray the costs of acquiring hardware and software by local courts. Chart 7 illustrates how the OCN facilitates information exchanges within the state's justice system.

Chart 7



The OCN serves as a central data warehouse for case-related information, enabling courts and justice system partners to share information. The OCN supports functions such as criminal history reviews, protection order searches, pre-sentencing investigations, background checks, and pre-custody reviews. Currently, 308 of the state’s 382 courts are currently connected to the OCN representing more than 86 percent of the caseload volume statewide.

One major focus of the Supreme Court’s technology initiative this year and in the coming biennium will be to improve criminal history reporting between the courts and the central criminal history repository managed by the BCI. We are working in close partnership with the

BCI to improve the reporting system with the ultimate goal of establishing a single portal for reporting such information. This is not, to be clear, simply reporting statistics. Our goal – the Supreme Court, the Attorney General, and the BCI – is to improve the system in order to promote public and law enforcement officer safety. On February 10th Chief Justice O’Connor announced the availability of technology grant funding to local courts with a priority given to those courts seeking to improve access to and the integrity of OCN reporting data. We appreciate the legislature’s continued support in funding this initiative, which includes \$3.35 million in each of FY 2016 and FY 2017. Other technology initiatives in the coming biennium will include seeking statewide input in conjunction with a study conducted by the Gartner Group to improve court case management capabilities and working in partnership with local courts to smooth out business processes.

Caseload Analysis

The Supreme Court’s proposed budget includes funding to conduct a weighted caseload study for Ohio. This study will enable us to analyze workload issues with greater precision. The outcome of this study will provide the Supreme Court, the General Assembly, and local courts with a better understanding of workload demands along with a series of tools for evaluating the impact of caseloads on our courts. The study entails an assessment of court caseloads and corresponding workloads and the number of judicial officers required to handle caseloads effectively and efficiently.

We currently have limited analytical tools for understanding the impact of workload on our courts and how changes in laws or demographics of the state impact the courts and their services. For example, the state is initiating a review of its criminal code with the goal of re-codifying it. Changes to the classification of crimes could have a significant impact on various

levels of courts. While the Court welcomes this process and is participating actively in it, at this point we have no measurement tools to understand the impact of the effort, which may affect future decisions of the General Assembly.

Market Adjustments

As noted, the FY 2016-2017 biennium request contains two market adjustments to the state's judicial compensation schedule. The judicial compensation schedule has not been adjusted in Ohio since January 1, 2008. The market adjustment proposed in this budget will address the disparity between judicial compensation and the work of our courts. As I noted earlier, Ohio is the 7th most populous state in nation. It consistently ranks in the top ten if not the top five court systems in terms of caseload. But in contrast to these numbers, Chart 8 gives us a different set of numbers. Chart 8 illustrates where Ohio ranks nationally in judicial compensation.

Chart 8

Judicial Salaries

States Ranked Across Court Systems, 2014

State	General Jurisdiction Courts		Intermediate Appellate Courts		Highest Court	
	Salary	Ranking	Salary	Ranking	Salary	Ranking
Alabama	\$134,943	36	\$178,878	6	\$180,005	12
Alaska	\$183,252	5	\$187,236	5	\$198,192	6
Arizona	\$145,000	26	\$150,000	25	\$155,000	31
Arkansas	\$140,372	29	\$144,982	27	\$149,589	34
California	\$184,610	4	\$211,260	1	\$225,342	1
Colorado	\$145,219	25	\$151,463	23	\$157,710	29
Connecticut	\$162,751	12	\$169,245	11	\$180,204	11
Delaware	\$180,233	6			\$191,860	8
District of Columbia	\$199,100	1			\$211,200	3
Florida	\$146,080	23	\$154,140	20	\$162,200	26
Georgia	\$155,252	15	\$166,186	12	\$167,210	22
Hawaii	\$189,456	2	\$194,724	3	\$210,312	4
Idaho	\$124,000	43	\$130,000	36	\$135,000	45
Illinois	\$187,018	3	\$203,806	2	\$216,542	2
Indiana	\$134,112	37	\$157,014	17	\$161,524	27
Iowa	\$143,897	27	\$154,556	18	\$170,544	16
Kansas	\$120,037	48	\$131,518	33	\$135,905	43
Kentucky	\$124,620	42	\$130,044	35	\$135,504	44
Louisiana	\$146,262	22	\$152,091	22	\$162,404	25
Maine	\$121,118	45			\$129,230	49
Maryland	\$149,600	19	\$158,800	15	\$171,600	15
Massachusetts	\$159,694	14	\$165,087	13	\$175,984	14
Michigan	\$139,919	30	\$151,441	24	\$164,610	24
Minnesota	\$138,318	31	\$147,346	26	\$156,375	30
Mississippi	\$120,085	47	\$124,939	38	\$132,390	46
Missouri	\$145,343	24	\$154,176	19	\$168,636	19
Montana	\$117,600	51			\$124,949	51
Nebraska	\$148,500	21	\$152,513	21	\$160,540	28
Nevada	\$160,000	13			\$170,000	17
New Hampshire	\$143,018	28			\$152,476	32
New Jersey	\$165,000	10	\$175,534	8	\$185,482	10
New Mexico	\$118,385	50	\$124,616	39	\$131,174	47
New York	\$174,000	7	\$177,900	7	\$192,500	7
North Carolina	\$126,875	40	\$134,109	31	\$139,896	40
North Dakota	\$135,611	34			\$147,996	35
Ohio	\$121,350	44	\$132,000	32	\$141,600	39
Oklahoma	\$131,835	38	\$130,410	34	\$137,655	41
Oregon	\$119,468	49	\$127,820	37	\$130,688	48
Pennsylvania	\$173,791	8	\$188,903	4	\$200,205	5
Rhode Island	\$152,191	16			\$169,041	18
South Carolina	\$136,905	32	\$140,508	29	\$144,111	37
South Dakota	\$120,612	46			\$129,131	50
Tennessee	\$165,204	9	\$171,108	10	\$176,988	13
Texas	\$149,000	20	\$158,500	16	\$168,000	20
Utah	\$136,500	33	\$143,300	28	\$150,150	33
Vermont	\$135,369	35			\$142,396	38
Virginia	\$162,878	11	\$173,177	9	\$188,949	9
Washington	\$151,809	17	\$159,455	14	\$167,505	21
West Virginia	\$126,000	41			\$136,000	42
Wisconsin	\$129,887	39	\$137,681	30	\$145,942	36
Wyoming	\$150,000	18			\$165,000	23

SOURCE: Judicial Salary Tracker, National Center for State Courts

As you can see from Chart 8, we are 39th in the nation in compensation for the state supreme court, 32nd in the nation for intermediate appellate courts, and 44th in the nation for our general jurisdiction trial courts. On a comparative basis, all surrounding states outrank Ohio, in some or all of the categories of courts, and in many cases by significant amounts. We are even well below states with far smaller caseloads such as Wyoming, North Dakota, Nevada, Nebraska, Louisiana, and Hawaii, to name but a few examples. Ohio, in fact, ranks one step below Idaho and one step above Maine in trial court judicial compensation, states having approximately 12 percent and 6 percent of our caseload respectively.

We ask you to support this important request just as Governor Kasich is supporting this request along with the President of the Senate, many members of this body, the Farm Bureau, the Ohio Chamber of Commerce, the Ohio Manufacture's Association, the Retail Merchants and the NFIB. For many members of the public who do not routinely interact with the courts, the issue of keeping judicial compensation competitive may be of little concern or perhaps even an irritant. But to a child sandwiched between two warring parents in a difficult divorce, to a defendant facing prison, to a juvenile held in detention, to a family struggling to manage the affairs of aging parents, to a veteran suffering from PTSD, to a business trying to protect its investment or its intellectual property, the question of whether we are getting and keeping the best and the brightest on the bench is not a mysterious question – it is a life-altering question because getting it right has real consequences for them. We hope that this subcommittee, the Finance Committee, and the Senate will support efforts to address this problem, which will only grow worse over time if we, to borrow a cliché, keep kicking the can down the road.

Summation

In summation, the total budget request for the Judiciary/Supreme Court budget in FY 2016 is \$162,574,186. For FY 2017 the proposed budget is \$170,774,948. Again, the Supreme Court takes its stewardship of public resources very seriously. It has exercised restraint in budget requests in the past and has limited its spending during the last several budget cycles. As you consider this budget, and in particular as you study those areas where we are asking for increased funding, I ask that you consider my remarks concerning what it is that judges do in this state every day. This is not to diminish the important work of others. It is simply to acknowledge a truism about our system of government: Judges decide cases, often very difficult cases, and their decisions are life-altering. Thank you for your consideration, I will try to answer any questions you might have.