

The Ohio Court of Appeals Fifth District

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January 9, 2014

Steven C. Hollon
Administrative Director
The Supreme Court of Ohio
65 South Front Street, 7th Floor
Columbus, OH 43215-3431

RE: Advisory Committee on Court Security 2013 Annual Report

Dear Mr. Hollon:

In accordance with the Operating Guidelines for the Advisory Committee on Court Security, I am pleased to present the following summary detailing the Advisory Committee's activities and accomplishments during 2013.

The purpose of the Advisory Committee is to provide ongoing advice to the Supreme Court and its staff regarding the promotion of statewide rules and uniform standards concerning the establishment and operation of court security programs in Ohio courts, including emergency preparedness programs; the development and delivery of services to Ohio courts on matters involving court security, including training programs for judges and court personnel; and the consideration of any other issues the Advisory Committee deems necessary to assist the Supreme Court and its staff regarding court security in Ohio courts.

The Advisory Committee met twice this year, on March 1st and September 20th. As discussed in further detail below, the Advisory Committee primarily focused on two items this year: (1) proposed new rules to the Rules of Superintendence for the Courts of Ohio concerning powers of the Chief Justice during a judicial emergency and related proposed new legislation governing the temporary relocation of courts during emergency events and (2) a proposed updated training course for court bailiffs and security officers.

Powers of Chief Justice During Judicial Emergency and Temporary Relocation of Court During Emergency Event

Current Sup.R. 14 (Administration of Courts During Civil Disorder) grants certain powers to the Chief Justice during a judicial emergency, including the authority to suspend the operation of local court rules, to promulgate temporary rules of court, and to do and direct all things necessary to ensure the orderly and efficient administration of justice for the duration of the emergency. However, emergency-related events, such as the H1N1 influenza virus outbreak and recent severe weather events, as well as the emergency management related portions of the Court's 2009 amendments to Sup.R. 9 (Court Security Plans) have raised the question as to whether Sup.R. 14 should be updated, especially since the language of the rule has remained substantially unchanged since its original enactment in 1971.

In response, the Advisory Committee, working with staff in the Supreme Court's Office of Court Security and in consultation with the various judicial and law enforcement associations, prepared proposed new Sup.R. 14 through 14.02. These new rules would provide greater clarity as to the powers and responsibilities of the Chief Justice during a judicial emergency, as well as promote interaction with the affected court or division. Specific changes include:

- Requiring the Chief Justice to issue an order declaring a judicial emergency and setting forth basic information about the emergency;
- Allowing the Chief Justice to extend the duration of a judicial emergency beyond the initial 30-day period for additional periods of time as determined by the Chief Justice in consultation with the administrative judge of the affected court or division;
- Adding the authority to adopt temporary rules of the Supreme Court for the affected court or division to the existing powers of the Chief Justice during a judicial emergency as well as to suspend or modify the operation of any rule or requirement of the Supreme Court for the affected court or division.

On a related topic, events such as the closing of the Logan County Courthouse in July of 2012 due to storm damage have raised the question as to whether current Ohio law adequately addresses the temporary relocation of an Ohio court in the event of an emergency, especially relocation to a site outside of the court's territorial jurisdiction. Art. IV, Sec. 4(A) of the Ohio Constitution does allow the judge of a court of common pleas to temporarily hold court in any other county. However, there is no such authority for municipal and county courts or the courts of appeals. Additionally, Ohio law provides no guidance as to what steps a court should take when temporarily relocating. In light of this lack of authority and direction for courts, the Advisory Committee, working with Court staff and in consultation with the various judicial associations, prepared proposed legislation that would specifically allow and provide the framework for the temporary relocation of a municipal court, county court, a division of a court of common pleas, and a court of appeals.

On January 9, 2014, the proposed rules and legislation were presented to the Court for consideration. The Court approved publication for public comment of the proposed Rules of Superintendence for the Courts of Ohio concerning the Chief Justice's powers during a judicial emergency. Additionally, the Court approved submission of the proposed legislation concerning the temporary relocation of the courts during emergency events to the Ohio General Assembly at a subsequent date.

Court Bailiff and Security Officer Training

The Ohio Police Officers Training Academy ("OPOTA") currently provides a training course for individuals engaged in court security, including bailiffs, peace officers, court constables, probation officers, and court security officers. Prior to 2010, the course consisted of 160 hours of training covering 13 different modules on topics such as administration, legal, human relations, firearms, and defensive tactics. However, in 2010, OPOTA revised the training course to consist of 40 hours of training on only one module – firearms. This change resulted in a training program which is irrelevant for bailiffs and security officers who do not carry a firearm and fails to cover even the most basic court-security related training topics. The practical effect is that no bailiff or security officer in Ohio has received substantive court security training in the past three years.

To remedy this, the Advisory Committee, in conjunction with staff in the Supreme Court's Office of Court Security, began this year preparing a proposed updated training course. The proposed updated training course calls for 12 to 86 hours of training on a series of function-related training modules, including training on security screening, court security issues, legal matters, communication, civil process, firearms, subject control, medical, and TASER use. Additionally, the bailiff or security officer's judicial or appointing authority would choose the precise training modules the bailiff or security officer would be required to take.

The Advisory Committee will continue to work on the proposed updated training course this year and may have a proposal to present for the Court's consideration later this year.

Potential items for the Advisory Committee's Consideration

Finally, there are two potential items for the Advisory Committee's consideration this year. The first concerns the various titles used for court bailiffs and security officers. While working on the proposed updated training course, the Advisory Committee noted there are several different terms used throughout the Revised Code and Supreme Court rules to describe persons who provide court security, including "bailiff," "constable," "court security officer," and "probation officer." Additionally, there is no clear delineation under current legislation and Court rules as to how these positions differ. As a result, the specific titles and authority of the various individuals providing court security differ from court-to-court throughout the state, causing confusion. The Advisory Committee members have expressed an interest addressing this situation and will likely begin reviewing the matter and preparing recommendations this year.

A second potential item for the Advisory Committees' consideration is a review of the Court Security Standards contained in Appendix C to the Rules of Superintendence for the Courts of Ohio. Although a wholesale revision of the standards is unnecessary, in light of the fact that the standards were last amended in 2009, it would be beneficial for the Advisory Committee, working in conjunction with staff in the Supreme Court's Office of Court Security, to review the standards to determine what, if any, updates or revisions are necessary.

In closing, I want to thank you for your support and the continued opportunity to participate in the important work of the Supreme Court regarding court security. I welcome your feedback and suggestions on the Advisory Committee's work.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Scott Gwin". The signature is fluid and cursive, with a large initial "W" and a stylized "G".

Judge W. Scott Gwin
Chair