

**Discussion Points**

1. Recommended FY 2008 budget language authorizes increases in judges' salaries, the first salary increase since 2002. A total of \$3.6 million is recommended in various accounts to fund these salary increases. Funding for the increases has been obtained by transferring monies from the general salary accounts within the Judiciary to the judges' salary accounts.

- **Question: Why are these salary increases proposed within the annual appropriations act rather than through permanent statute? Would the proposed funding shift leave the remaining salary accounts in deficit? Will the recommended increase result in increased salaries for the Judiciary's rank and file employees? If so, what would be the cost?**

**Response:** Meetings of the Chief Justice, Governor, Senate President, Speaker of the Assembly, and State Treasurer resulted in a plan to implement a three step increase in judges' salaries. The first step was to be accomplished through budget language, consistent with the process followed in the 1980's. The second and third phases of the increase are to be addressed through legislation which presumably will be considered during the final portion of the legislative session starting in November of 2007.

Through careful management we will be able to reallocate our salary resources to cover the \$3.6 million increase in judicial salaries. The salary increases for the Judiciary's rank and file employees are based upon the current collective bargaining agreements, and the increase in judge salaries will not result in increased salary costs beyond the \$3.6 million.

2. Pending legislation, Senate Concurrent Resolution Number 109 of 2006 proposes a constitutional amendment to increase the mandatory retirement age for judges and justices from age 70 to age 75.

- **Question: Please comment on the above resolution. How would the passage of a constitutional amendment increasing mandatory retirement age affect the operation of the courts?**

**Response:** Senate Concurrent Resolution Number 109 would propose a constitutional amendment be put to the voters to amend Article VI, Section VI, paragraph 3 to modify the age at which justices and judges must retire from age 70 to age 75.

It is difficult to quantify the potential impact of the legislation as it is unclear whether justices and judges would choose to continue in service to the State beyond age 70 or how long they would choose to remain in service after the age of 70 should they decide to remain in service beyond age 70.

Current retirement statistics may provide some insight, however. There were a total of 126 “retirements” between Jan 2002 and March 2007. The average number of retirements per year was 24. Of the total retirements, approximately twenty-four percent (24%) or 19 included resignations, medical disabilities, deaths and non-reappointment and thirty-nine percent (39%) or 49 judges retired before even reaching the age of 64. Additionally, twenty-five percent (25%) or 31 judges retired between 65-68 years of age. Thirty-seven percent (37%) or 46 remained in active service until between their 69<sup>th</sup> and 70<sup>th</sup> year. We use 69 instead of 70 as a measure as judges often retire at the end of the court year or when it is convenient prior to actually attaining their 70<sup>th</sup> birthday. Given the percentage waiting until almost 70 to retire as compared to the other age groupings, it is unclear what percentage of judges will take advantage of staying beyond age 70 should a constitutional amendment be passed, as these individuals would likely constitute a sub-set of those staying up to almost 70, particularly given the potential loss of benefits for their loved ones should they die while serving.

This is not a new issue, however. The members of the 1947 Constitutional Convention grappled with the same question and decided that 70 was the appropriate age at which to set mandatory retirement. *See* Consideration of Amendment No.6, Proceedings of the Constitutional Convention of 1947, Volume I, 548-559 (Aug 19, 1947). The Amendment, proposed by Delegate Robert Carey would have amended Paragraph 3, Section 5 of the report from the Committee on the Judiciary to replace ‘70’ with ‘75.’ *See* Amendment No.6 to Committee Proposal 4-1, Proceedings of the Constitutional Convention of 1947, Volume II, 1213 (1947). The delegates considered many factors before deciding that 70 was the appropriate age. Among these was the ‘industry standard’ of 65 years for retirement in private business. *See* Consideration of Committee Proposal 4-1, Proceedings of the Constitutional Convention of 1947, Volume I, 489 (Aug 18, 1947) (statement of Delegate Amos F. Dixon). They also considered the fact that several of the esteemed delegates to the Constitutional Convention who were invaluable additions to the convention were well above 70. *See* Consideration of Amendment No.6, Proceedings of the Constitutional Convention of 1947, Volume I, 534, 548 (Aug 19, 1947) (statement of Delegate Robert Carey). *See also Id.* at 548 (Aug 19, 1947) (statement of Delegate Frank H. Sommer). Further, they deliberated the competency of those over 70 to serve as well as the importance of allowing younger individuals a chance at service. *See Id.* at 548 (Aug 19, 1947) (statement of Delegate Frank H. Sommer). They decided that 70 was a more appropriate choice by a vote of 41 – 30. *See Id.* at 559 (Aug 19, 1947).

However it has been almost 60 years since the Convention and age expectancies have changed. In 1947 life expectancy was approximately 68.1 years. *See* CRS compilation from National Center for Health Statistics (NCHS), United States Life Tables, 2002, *National Vital Statistics Reports*, vol. 53, no. 6, Nov. 10, 2004. For 2003: NCHS, Deaths: Preliminary Data for 2003, *National Vital Statistics Reports*, vol. 53, no. 15, Feb. 28, 2005. Today life expectancy is 77.85 years. *Id.* Moreover the age at which Social Security benefits can be conferred has changed from 62 years to 67 years. *See* Full Retirement Age, Social Security Administration, <http://www.socialsecurity.gov/retire2/retirechart.htm#chart>.

3. As of March 23, 2007, there were 35 judicial vacancies with an additional 6 vacancies anticipated by July 1, 2007 due to impending retirements.

- **Question: How has the number of judicial vacancies impacted upon the Judiciary's court case backlog? Where has the backlog improved? Where has the backlog grown? What can be done in order to improve the backlog situation?**

**Response:** Backlog is, in large part, a function of judicial vacancies. While the full implementation of “best practices” has had a positive effect on case management, it is the presence of a judge that ultimately leads to case dispositions. Current vacancies are at an almost historic high. Even with the tremendous efforts of judges and staff, backlog has increased in a number of case types for the first time in years.

Unfortunately, backlogs have increased over the last year in Criminal/Quasi Criminal, Juvenile Delinquency, Municipal Appeals, Criminal Post-Indictment, Termination of Parental Rights, Abuse/Neglect, Domestic Violence and Probate Cases.

Until the vacancies are filled, assignments of trial judges will continue to be evaluated to see where to place this limited resource to the best advantage.

4. According to the Department of Human Services, there are between 400 - 450 patients at the various State Psychiatric hospitals who are classified as "not guilty by reason of insanity", "incompetent to stand trial" or "detainer" who require periodic court review of their legal status. An additional 30 patients in the Moderate Security Unit at the New Lisbon Developmental Center who have been sentenced to the unit by the courts must have their status reviewed periodically by the courts.

- **Question: What arrangements, if any, have been made to conduct these reviews via video conferencing, saving the associated time and travel expense? If not, what are the impediments to conducting the reviews via video conferencing?**

**Response:** Arrangements have not been made to employ video conferencing technology to facilitate these periodic court reviews, or Krol hearings, as necessary parties to the process are opposed to the use of the technology for these type events given the special circumstances of the committed individuals. We are advised that the Office of the Public Defender is strongly opposed to video conferencing for Krol hearings. The Public Defender is of the view that given the unique nature of this particular client population, who typically have difficulty understanding the nature of proceedings and who require personal, instant contact with counsel, the use of video conferencing technology would be impossible. The Public Defender also advises that use of such a process precludes the ability of the representing attorney to be with the client and also in the courtroom for purposes of questioning other witnesses. Further, the Public Defender is of the view that using video conferencing for Krol hearings could have a negative impact on the attorney-client relationship and counsel's ability to effectively represent the client at these proceedings.

Additionally, an individual committed pursuant to Krol has the right to be in court during proceedings, especially if evidence is being presented against a change in his/her status. In State v. Krol, 68 N.J. 236 (1975), State v. Fields, 77 N.J. 282 (1978) and, more recently, State v. Ortiz, 389 N.J. Super. 235 (App. Div. 2006), the New Jersey Supreme Court and the Appellate Division have made it clear that committed individuals have a full range of procedural guarantees. The comment to N.J.S.A. 2C:4-8 and -9 references R. 4:74-7 which sets forth the procedure to be used for Krol proceedings. New Jersey Court Rule 4:74-7(e) provides that at the initial hearing, "The patient shall have the right to appear at the hearing, but may be excused from the courtroom during all or any portion thereof if the court determines that because of the patient's conduct at the hearing it cannot reasonably continue while the patient is present." It continues, "The patient, through counsel, shall have the right to present evidence and to cross-examine witnesses." Comment [3] to N.J.S.A. 2C:4-9 suggests that the procedure for all reviews of commitments is found in R. 4:74-7(f). *See* Cannel, Criminal Code Annotated, Comment N.J.S. 2C:4-9 (Gann). That Rule mandates that "[a]ll reviews shall be conducted in the manner required by paragraph (e) of this rule" except in certain cases

older than two years where the committed individual is suffering from severe mental retardation or severe irreversible organic brain syndrome. R. 4:74-7(f). This is a very circuitous way of saying that an individual committed pursuant to a Krol finding, has the right to be in court during proceedings, especially if evidence is being presented against a change in his/her status.

How a committed individual relates with his/her surroundings and the court is crucial information for judges when deciding whether to reduce restrictions or release a committed individual. Video conferencing does not provide the judge the ability to see the full range of interaction which is available when everyone is present in the courtroom. This, in turn, makes it more difficult for the judge to observe and appreciate a committed individual's behavior.

Finally, in the majority of cases attorneys do not have the time to meet with their clients prior to the hearing. Rather, they utilize the court event to have a personal interaction with their client that allows them to better represent the client's needs. Without this face-to-face contact the client often feels neglected or distrustful of counsel since a face-to-face-bond has not been developed.

5. The budget recommendation indicates that the Judiciary will collect \$12.3 million in fees for the Court Technology Improvement Fund in FY 2008.
  - **Question: What is the current status of the Judiciary's IT Strategic Plan? Does this plan include the use of web-based technology? How is this technology being used? How have these improvements affected the court's ability to provide services to the public and respond to inquiries from the Legislature? How have the improvements affected the Judiciary's ability to obtain and provide information about court usage and activities?**

**Response:** Since its adoption in 2001, the Judiciary's Information Technology Strategic Plan has provided a framework to define and prioritize key initiatives, allocate staff and funding resources, and maintain momentum for forward-looking programs in alignment with the expanding and evolving demands of the courts. The Judiciary has continued to make significant progress in the strategic areas of case management improvement, web-enabling, electronic filing, electronic document management, and network expansion. In addition, our infrastructure and applications are developed and supported in cooperation with appropriate executive branch agencies to provide effective interfaces and functionality.

Conversions of our database systems, driven by the need to replace obsolete high-risk technology, continue successfully. Municipal Court systems were migrated in October 2005 followed by Civil Court systems in March 2006. We expect the conversions of our Family and Criminal Court systems to be complete in 2007 and 2008 respectively.

Currently, we are working with staff of our Appellate and Supreme Courts in pursuit of optimal new technology solutions to meet their specialized demands. Efforts are also underway leading toward conversion of probation systems as well as the Judiciary's administrative support systems. The Superior Court and county jail networks are now fully deployed.

Additionally, electronic filing was implemented statewide in regular Special Civil Part Courts and will be extended to other courts as we update and refresh underlying technical infrastructure. Electronic document management for Special Civil Part also promotes a paperless environment in 19 of the 21 counties today with services to be implemented in the two remaining counties in 2007.

Consistent with the strategic plan, modernization of all statewide Municipal Court IT infrastructure and communications will be complete in July 2007. Also in parallel with the plan are several other important initiatives including necessary usage driven upgrades of the Judiciary's Local Area Network and PC infrastructure, further development of a resilient data warehouse architecture, and ongoing critical emphasis on comprehensive data security.

The Judiciary recognizes the long term strategic and service improvement potential of prudent application of web-enabled technologies. We continue to focus on development of a modular, portable, and flexible framework which supports the development and operations of web-based services. Such web-based systems can eliminate repetitive processes by capturing data once at the point of origin, thereby reducing paper, and improving timeliness and accuracy. This improves our delivery of services to the public. Web-based applications also leverage the capabilities of our data warehouse to facilitate the ready availability of complete court information and statistical data as needed.

Some examples of our progress in deployment of web-enabled technology include:

- E-CDR –Law enforcement agencies in 400+ municipalities use the internet for real-time entry of criminal complaint data into the Judiciary's Municipal and Superior Court systems. This ensures accurate and complete data is made instantly available with no paper to transport or store and eliminates the need for data entry transcription by the court.
- E-TRO – Allows law enforcement officers to create and access Temporary Restraining Orders via the web providing expedited update of the statewide Domestic Violence Central Registry. This eliminates redundancies across agencies, significantly speeds docketing of cases, and provides for swift victim protection.
- CCM – Internet browser-based Criminal Case Management forms system provides automated integrated data retrieval from multiple statewide systems. The system provides fast, efficient, and paperless compilation of criminal history data while eliminating repetitive data entry and manual processing tasks.
- JEFIS – The Judiciary's electronic case filing and document imaging system for Special Civil Part has reduced the need for data entry, paper handling, storage and

retrieval, and labor intensive microfilming by providing a secure reliable system to submit / route / scan / retrieve electronic documents quickly and easily. More than 1.6 million paperless case filings direct from attorneys have been received to date.

- NJMCDirect – Internet-based system allowing the driving public to view outstanding traffic tickets and instantly pay fines on-line by credit card. This system operates in all 532 municipal courts and integrates with both the Judiciary’s traffic system and the Motor Vehicle Commission. This web service resolves more than 1 million traffic tickets annually without paper or staff resources.
- PATS – An internet and wireless application enabling parking enforcement officers to electronically issue accurate and complete parking tickets via portable handheld devices. This paperless system eliminates archival ticket storage, updates all systems without need for data entry, and provides for instant warrant lookups. More than 1 million parking tickets are issued annually using PATS.

There are additional web-enabled services now in active development and scheduled for introduction soon. Examples are:

- E-TICKETING – Working in close collaboration with the NJ State Police, this system will bring capabilities similar to PATS (above) to police officers issuing moving violation tickets. Officers will issue complete and legible computer printed tickets while the system automatically updates all relevant databases with the motorist’s violation. All handling of paper tickets is eliminated. (Pilot in 2007)
- NJMCDirect Enhancements – The next generation of our web-based traffic ticket payment service is under development. Planned additions include support for bail waiver and suspended license payments, the ability to enter not-guilty pleas, multiple ticket payments per transaction, installment payments, plus others.

As expected in any set of highly complex and integrated program initiatives, there have been challenges along the way. Plans and schedules have been adjusted for lessons learned in the course of these strategic activities. Our significant progress is made possible by recognizing and reacting to events which call for changes in development and testing methodology, scheduling, and staffing. As we continue pursuit of these initiatives, we do so with respect to the concrete experience and knowledge gained during each phase of the projects.

The Judiciary views the IT Strategic Plan as a constantly evolving document with no finite end. The Plan was updated in 2003 and defines initiatives through FY2010. We are now in a new update cycle with Supreme Court approval anticipated in 2007. The refreshed plan will address strategic initiatives in parallel with our fiscal projections through FY2013. The total of funds expended to date (FY2001 – 2007) on IT Strategic Plan initiatives is \$145 Million.

6. During the past several years, the State of New Jersey has been faced with the growing problem of gang activities within the communities and within the State's correctional facilities.

- **Question: What has been the response of the judiciary to law enforcement's efforts to address the gang problem? What actions can be taken by the Judiciary to aid the law enforcement community in dealing with gangs?**

**Response:** The Judiciary recognizes the problems that gangs present in today's society. We continue to work with federal, state and local level law enforcement agencies, such as the Office of the Attorney General, and the Office of the US Attorney in numerous ways. However, the Judiciary's participation must be appropriate given its independent constitutional responsibility in impartially adjudicating criminal cases.

One initiative currently being implemented resulted from legislation requiring bail source hearings in cases where a hearing is requested by the prosecutor. The Supreme Court's Criminal Practice Committee is considering necessary rules to implement this legislation. Additionally, the Criminal Presiding Judges have discussed various administrative and legal issues that may arise in handling these cases.

Another initiative has been our collaboration with the Attorney General's Office to plan for specialized treatment of certain cases involving guns (Operation Cease Fire Program). Currently the program operates in Newark, Irvington and Camden. Paterson, Trenton and Plainfield are expected to be operational by mid-April. The Judiciary has agreed to make judges available for expedited processing of cases selected by the state for specialized prosecution. We note that this program will also require participation by the public defender.

Further, the Judiciary, at the request of the county jails, has added a field to the County Corrections Information System (CCIS) to allow law enforcement to identify the individual as a gang member in the system.

The Judiciary's Probation Services Division has a long history of working in partnership with local law enforcement agencies where information is garnered by judiciary staff to alert them to areas and individuals involved in gang activities. Over the past several years, the Judiciary has also encouraged participation in local gang intelligence law enforcement meetings by supervisory staff. This information is then used by Probation Services to direct the focus of their supervision to areas of need. For example, if the gang activity is centered on drug abuse, then this problem is addressed by the probation officer.

Perhaps our most substantial effort in this area has centered around training and awareness. In an effort to keep probation officers and other Judiciary staff aware and informed of the changing nature of gangs in New Jersey, the Administrative Office of the Courts has partnered with the state police and the Office of the Attorney General to provide on going gang awareness training. In November of last year, Judiciary staff

participated in the New Jersey Gang Summit 2006 sponsored by the United States Attorney General and the New Jersey State Attorney General. The theme was “Focus on Prevention.”

Likewise, at the 2006 Family Division Education Conference in June 2006, a workshop entitled “Gang Influence on Youth” was offered to judges hearing juvenile matters, Family Division Managers, Assistant Family Division Managers, and AOC staff. The workshop included a presentation on the culture and traits of gangs, the psychology of gang involvement, its effect on the family and community, and strategies to curb the spread of gang influence on our youth. There was also a discussion on family case dispositions and parenting time issues involving gang members.

The Judiciary remains committed to ensuring that judges and staff at all levels of involvement are provided training in recognizing the signs of gang affiliation, understanding the psychology of gang involvement and working to become aware of prevention and intervention models as they develop.

7. In FY 2005 the Judiciary expanded the drug court program to all 15 vicinages. Drug courts provide for intensive, court supervised substance abuse treatment for carefully screened non-violent, addicted offenders as an alternative to incarceration.

- **Question: What evaluation data are available to help determine if drug courts are meeting the expectations set out during their implementation? What is the recidivism rate of drug court graduates as compared to the rate of recidivism of offenders housed in the general prison population?**

**Response:** The adult drug court statewide implementation project focused on providing a sentencing alternative for non-violent drug addicted offenders in all of New Jersey's 15 court vicinages. Since September 2004, the drug court program has been operational in all 21 counties. In addition, statewide operational guidelines and a comprehensive transfer policy allows program participants to receive the same quality of judicially supervised intervention regardless of the county of residence or offense. The Judiciary set a goal in FY06 of 1,300 new drug court sentences statewide. The number of offenders sentenced to drug court in FY06 was 1,242 (96% of yearly goal). A similar goal has been set for FY07 and it is expected that the drug courts will reach this goal by the end of FY07.

The drug courts seek to save money compared to incarceration by leveraging the coercive power of the courts to provide a rehabilitative program that combines quality substance abuse treatment services, regular court hearings, intensive supervision and frequent drug testing. The dual goals of participant rehabilitation and public safety are not distinct priorities, but integral program components. The expectation of the drug courts is that this type of intervention will create meaningful change in the lives of program graduates. Drug court graduates are expected to commit significantly fewer offenses than those sentenced to state prison, improve their education and employment levels during the course of the program, support their families, maintain a sober and drug free lifestyle and become productive citizens.

The adult drug courts have achieved these goals as indicated by the following outcome data:

- The State saves an estimated \$14,938 - \$38,871 by diverting one offender from state prison to drug court;
- 93 percent of offenders sentenced to drug court would have otherwise received a state prison sentence;
- Currently, 68 percent of offenders who are sentenced to the drug court program are projected to graduate successfully; there are currently approximately 790 graduates from all phases of the program;
- Drug court graduates paid a total of \$794,079 in court assessed fees, fines and mandatory penalties while in the program;

- 95 percent of all drug tests conducted on drug court participants were negative;
- 78 babies have been born drug free to previously addicted participant mothers and 76 participant parents were able to regain child custody due to their participation in the program;
- 93 percent of drug court graduates were employed at graduation, but only 27 percent were employed at the time of admission;
- 48 percent of drug court graduates are covered by medical benefits, but only 12 percent had such benefits at the time of admission;
- 57 percent of drug court graduates had a valid drivers' license at the time of graduation, but only 3 percent had a valid license at the time of admission;
- During the time they were in drug court, 24 percent of program participants improved their level of education or job skills.

The following chart provides the recidivism rate data requested:

<b><u>RECIDIVISM COMPARISON</u></b> <b>Groups Studied</b>	Re-arrest Rate	Reconviction Rate
Drug offenders released from NJ prisons	54%	43%
Property offenders released from NJ prisons	62%	52%
<b>All adult drug court graduates</b>	<b>14%</b>	<b>7%</b>

The Administrative Office of the Courts study on drug courts and Department of Corrections study on offenders released from state prison both involve re-arrests/new convictions for indictable offenses in NJ within three years of graduation or release from custody respectively. The latest DOC recidivism study was conducted in 1998.

8. The Supreme Court adopted a Statewide Municipal Court Security Policy in July 2006 requiring all New Jersey municipal courts to create a municipal court security committee and develop a municipal court security plan. Plans were to be submitted to the appropriate assignment judge by February 5, 2007. Thereafter, the security committee is to review court security on a continuing basis and conduct an annual risk assessment. Each security plan is required to address a series of security measures included in the "New Jersey Municipal Court Schedule of Protection", as follows: armed law enforcement assigned to courtrooms; pre-entry weapons screening; silent duress alarms at the bench and payment window; emergency egress from the courtroom for the judge and court staff; emergency response plans; immediate emergency response force; ballistic shielding in the judge's bench; ballistic shielding and bullet-proof glass at payment windows; window protection or coverings to prevent line of sight into the courtroom; controlled light switches for the courtroom.

- **Question: What actual events or incidents, or what other considerations, compelled the Supreme Court to require municipal court security planning and implementation at this time? Is the Administrative Office of the Courts (AOC) monitoring municipal compliance with security planning and implementation of security measures? If so, please provide a progress report on compliance. What steps will the Supreme Court take in the case of municipalities that do not develop or implement an adequate security plan? Is the AOC monitoring costs incurred by municipalities to implement security plans? If so, please inform the Legislature of cost impacts. Please describe any forms of assistance, e.g., consultative, technical, financial, offered by the AOC to municipalities in security planning and implementation.**

**Response:** The New Jersey Judiciary Model Court Security Plan, published in September 2001 with the participation of the league of Municipalities and the New Jersey Chiefs of Police Association, recommended that each jurisdiction form a local court security committee and promulgate a local court security plan. It also recommended that all of the security standards for the Superior Courts, whether recommended or mandatory in the Model Plan, be considered in the municipal court plan.

Between February and July of 2005 there were at least six highly publicized incidents outside New Jersey during which judges, court staff, security officers, litigants and a judge's family members were shot or murdered in incidents directly associated with court matters. There were hundreds of other lesser incidents, including assaults and other attacks in courtrooms and around court facilities.

As a direct result of these incidents, two National Court Security Summits were convened in Washington D.C. in the summer and fall of 2005. Two key strategies emerged from these summits. The first included a call upon the states' Chief Justices to provide

leadership in assessing security vulnerabilities and initiating security enhancement strategies. The second strategy involved weapons screening measures as a security multiplier as such a practice greatly mitigates the level of violence by keeping guns, knives and other potential weapons out of the courthouse.

The New Jersey Judiciary responded by appointing a Judicial Council Security Subcommittee to assess the current security posture and make recommendations for any actions needed to meet current risks. This subcommittee and the full Judicial Council identified municipal court security as an area requiring immediate attention.

The Conference of Presiding Judges-Municipal Courts also independently embarked on an effort to measure the status of municipal court security statewide. They found that most municipal courts did not have a local plan and only 11% had weapons screening. As a result of the work of these two bodies, the Administrative Director of the Courts issued Directive #15-06 promulgating guidelines for municipal court security.

Staff of the Assignment Judge in each vicinage monitor the compliance of planning efforts. Each Assignment Judge, along with the Presiding Judge-Municipal Courts for that vicinage, will work directly with the municipal governing officials to develop adequate security plans.

AOC Municipal Court Services Division is tracking statewide compliance rates, which are currently at 99% for submission of security plans. The AOC does not monitor costs incurred by municipalities because any costs incurred are funded locally.

Between August 2006 and February 2007, most vicinages conducted a court security summit for municipal court stakeholders (judges, police chiefs, officials). This summit is presented by the United States Marshall Service, the New Jersey State Police, Sheriffs' departments and the AOC, jointly.

Additionally, Municipal Division Managers perform annual visitations of municipal court operations, including security. During that visit, they provide guidance and assistance on security issues and have specifically included the publication of a current security plan on their compliance checklist.

The Court Access Unit of the AOC presents Workplace Violence and Security Training to the municipal court administrators and personnel. They also provide individual consultation to municipal courts and municipal officials, including police chiefs, on security planning, facility design and security technologies.

9. In recent action, the Supreme Court has taken up the matter of State v. Chun, an action challenging the State's use of the Alco test 71 10 MK-III-C breath testing device. The Supreme Court appointed a Special Master to conduct a hearing requiring the State to present evidence supporting the scientific reliability

of the test device, and to make findings and provide recommendations to the New Jersey Supreme Court for court action.

- **Question: What is the status of State v. Chun? What has been the court's progress with regard to pending DWI decisions?**

**Response:** The Supreme Court's January 10, 2006 order provided the courts with guidance on how to handle Alcotest DWI cases while awaiting the Court's final decision in State v. Chun. The order stated that for first offenders, prosecutions shall proceed to trial, but sentences should be stayed pending the Court's final decision, unless the public interest requires the immediate execution of the sentence. In determining the public interest, the judge should consider the severity of the incident and the prior record of the defendant. With regard to repeat offenders, prosecution and sentencing shall proceed in the normal course, unless the conviction is based solely on Alcotest readings. In other words, repeat offenders have their licenses suspended, except in rare circumstances.

Three days after the Court's January 10 order, the AOC e-mailed all municipal courts detailing the procedures that the courts should use to track all the DWI cases in which the sentences are stayed by the Supreme Court order (e-mail attached). These procedures have been operating successfully, so that when the Supreme Court releases its final decision, the courts will be able to call back the affected defendants and sentence them promptly.

From January 10, 2006 to February 9, 2007, municipal courts have stayed the sentences of 5165 DWI cases pending the outcome of Chun. During the same period, DWI backlog (cases over 60 days old) has increased statewide only slightly from 3247 to 3602. There has also been only a small increase in the total number of pending DWI cases, from 7532 to 7648.

The AOC has been working closely with the Motor Vehicle Commission, to deal with issues as they arise regarding the Chun stay and the steps necessary to properly record license suspensions once Chun is decided.

The Court had appointed a Special Master, retired Appellate Division Presiding Judge Michael Patrick King December of 2005. Judge King issued his 268 page report to the Supreme Court on February 13, 2007. After an accelerated briefing schedule, the Supreme Court heard oral arguments on April 5, 2007. We await the Supreme Court's decision, which is expected to be released shortly.

Finally, a subcommittee of the Conference of Presiding Judges has been studying the King report to determine what additional actions should be taken once the Court's final decision is issued. That subcommittee is looking at creating training programs for municipal court judges to help them implement the Chun decision, taking into consideration, of course, their judicial discretion.