

Center Court

Helping Courts Improve the Administration of Justice

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A Newsletter for the Court Community from the National Center for State Courts

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For information about the National Center for State Courts visit www.ncsconline.org.

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To learn more about supporting NCSC, contact the Development Office at (800) 616-6110 or development@ncsc.dni.us.

NCSC Honors California's Chief Justice with the William H. Rehnquist Award

California Chief Justice Ronald M. George recently received the William H. Rehnquist Award for Judicial Excellence—the most prestigious award presented by the National Center for State Courts.

More than 250 people attended the October 24 awards ceremony in the Great Hall of the U.S. Supreme Court. Justice Sandra Day O'Connor introduced George, calling him a "courageous, competent leader and judicial reformer the likes of whom we seldom see." Justices Ruth Bader Ginsburg and Stephen G. Breyer also attended the event.

The Rehnquist award is presented annually to a state court judge who exemplifies the highest level of judicial excellence, integrity, fairness, and professional ethics. NCSC President Roger K.

Warren called George's career extraordinary, and said he was selected as this year's recipient because "he has served at every level of the American state court system—California's municipal,

(see Rehnquist, page 2)



Chief Justice George accepts award from Chief Justice Rehnquist at ceremonies in the Great Hall of the U.S. Supreme Court.

Family Violence Policy Good for Workplace

NCSC Creates Policy as Role Model for Courts

Continuing with its leadership role in the field of domestic violence, the National Center for State Courts incorporated a domestic violence workplace policy to its employee handbook, effective Jan. 1, 2003. By doing so, NCSC becomes one of the first court organizations in the country to enact such a policy.

The policy, developed by NCSC's Family Violence Community of Practice, has two specific intentions:

- to increase staff awareness of how domestic violence can impact employees and the workplace

- to outline actions courts and staff members can take to provide assistance and resources to those affected by violence in the home.

In addition, the policy serves as a model for state courts across the country in how to introduce such policies to the workplace.

"By enacting this policy, it is our hope that courts and other agencies will be encouraged to examine their own internal staff-related policies and take steps to develop a domestic violence workplace policy," said

(see Policy, page 7)

NCSC's 2002 *Rehnquist* Events

*NCSC President Roger Warren addresses the crowd of more than 250 during the **William H. Rehnquist Award for Judicial Excellence** dinner ceremony at the United States Supreme Court in October.*



*Participants in this year's Justice Roundtable discussed mass torts. The annual event drew a crowd of about 75 corporate attorneys, court administrators, and chief justices, including **Judith Kaye, chief judge of the State of New York and chair of the NCSC Board of Directors.***



*New **Burger Society** members were inducted during the Annual Recognition Luncheon. Left to right: Chief Justice Gerald W. VandeWalle; Chief Justice Ellen Ash Peters; Ingo & Susan Keilitz; Theodore H. Curry II; Chief Justice Ronald George on behalf of Winslow Christian; Thomas C. Brown, Jr.; and Timothy Flanigan. Not pictured, Haliburton Fales 2nd and Jane A. Hess.*

Rehnquist

(cont'd from page 1)

superior, appellate, and supreme courts. He has left his mark at every level—improving the justice system every step of the way.”

New York Chief Judge Judith Kaye, chair of NCSC's Board of Directors and a past Rehnquist award winner, presided over the event.

As part of the Rehnquist events, the National Center held a luncheon to honor those who have supported the work and mission of The National Center. The following were inducted into the Warren E. Burger Society, named for the former chief justice who helped found NCSC: Timothy Flanigan, deputy counsel to the president of the United States; Thomas C. Brown Jr., partner with McGuire Woods; Haliburton Fales 2nd, senior counsel to White & Case and former president of the New York State Bar; Jane A. Hess, former state court administrator of Missouri; North Dakota Chief Justice Gerald VandeWalle; Ellen Ash Peters, retired chief justice of Connecticut; Winslow Christian, former NCSC executive director; Theodore H. Curry II, professor at Michigan State University; Ingo Keilitz, former vice president of NCSC's Institute for Court Management; and Susan Keilitz, former NCSC research attorney. **cc**



Making Technology Work for the Courts

By Hugh Collins, Robert Wessels, and Tom Henderson

The Conference of State Court Administrators (COSCA) and the National Association for Court Management (NACM), in partnership with the National Center for State Courts (NCSC), have initiated a joint national program to take advantage of the opportunities technology offers to improve court performance. The COSCA/NACM Standards Program is led by the Joint Technology Committee and staffed by NCSC. It is organized around three developments: a concept of operations to define the issues addressed by technology, standards for court-based software, and a tool for modeling court operations and procedures.

The program's final component consists of the specific applications courts require to manage their cases and ensure information is available when needed.

The program is well under way. The concept of operations has been established and provides the overall framework. The standards initiative already has developed several products and more are in progress. A

modeling program is currently under development, and the first caseflow management programs have appeared based on the initial set of functional standards. Standards are being developed in three categories: functional, data and document, and performance. In short, the program has proven to be effective means for applying technology to the needs of the courts.

The COSCA/NACM Standards Program assumes that the application of technology is a process that moves in fits and starts, instead of one project with a beginning and end. It also assumes improvements will be made incrementally. Judicial managers do not have to wait to use the tools until all standards have been developed or until a single concept of operations is available.

First, court managers are expected to use the tools developed from this program to assess and reengineer their procedures. The concept of operations, functional standards, data and document standards, performance standards, and MAPP can be used singly or in concert to provide courts objective guides to review their operations in nontechnical terms.

Second, the program provides a cost-effective means to develop the software specifications that meets courts' needs. The standards provide the framework for an RFP that vendors can understand and internal developers can recognize.

Third, the program gives vendors a framework to reduce the cost of developing case management packages and to increase the market for their products.

Fourth, the program provides an avenue for information system development to address the interdependence of courts within their environment. Courts are part of communities that require close coordination: e.g., law enforcement, mental health and treatment providers, the several bar specialties, corrections, and transportation. These are compli-

cated relationships involving interchanges with executive agencies, corporations, partnerships, individuals, and a host of subject areas.

The COSCA/NACM Joint Program is designed to make technology the handmaiden of justice—not the driver. Its intent is to provide judicial leaders with the tools needed to review their current operations, redesign procedures and practices, improve case processing, revise their information systems, and develop effective performance-reporting systems. **cc**

Editor's note: This article is an excerpt from "Making Technology Work for the State Courts," which appears in an upcoming issue of NACM's The Court Manager.

NCSC's Technology Team

The Joint Technology Committee looks to NCSC's Technology Division for the expertise to carry out its vision. To date, the Court Information Portal is perhaps the most successful JTC venture. The portal, at www.ncsonline.org, gives court personnel access to a variety of in-depth court-related information. Its mission is to provide electronic access to court information by allowing users to search numerous court and court-related Web sites, as well as NCSC's extensive holdings. For more information, contact Technology Services Director Scott Fairholm at (888) 846-6746.



NCSC's Technology staff, from left to right, Dale Kasparek, Jim McMillan, Scott Fairholm, and Doug Walker. Not pictured, Ed Papps.

COSCA/NACM Standards Program

Concept of Operations

- Judicial Decision Making
- Caseflow Management
- Information Sharing
- Adjudication Process

Modeling

- As Is
- To Be
- Gap Analysis

Standards

- Functional Standards
- Data/Document Standards
- Performance Standards

Applications

- Records Management
- E-filing
- Court Performance

Help in Dealing with Budget Issues

The National Center for State Courts' Consulting Services Division is working with the Center's Board of Directors and the Conference of State Court Administrators to help states get the most out of all available resources, such as fines and fees and interstate compact agreements to ensure that litigants cannot avoid payment of fines simply by moving to another state.

States can turn to the following NCSC resources for more information:

- **NCSC's Web site (www.ncsconline.org)** features a module on "**Court Budgeting and Financial Administration**" in its Court Information Database.
- **The 2002 Report on Trends in the State Courts** features an article "**Budget Woes and Resourceful Thinking.**" This report will be available in print and online.



- **NCSC's Institute for Court Management** is offering two courses in 2003: **Managing Court Financial Resources** (April 7-9, Alexandria, Virginia, and November 17-19, Scottsdale, Arizona) and a **Fines and Fees Collection Symposium** (June 9-11, Columbus, Ohio).

What's Up (or Down)?

Courts Respond to Budget Restrictions

In 2001, most state court administrators believed that judicial budgets were at least adequate in 2001, according to a survey conducted by the National Center for State Courts.

But what a difference a year makes. In November 2001, 71 percent of the administrators who responded to the survey said judicial budgets were "adequate," "good," or "very good." Only 48 percent shared that belief in a follow-up survey in July 2002.

Restrictions on, or reductions to, court budgets seem relatively modest for now. Sixty-three percent reported restrictions in the range of 1 to 5 percent for FY 2003 in the July 2002 survey.

Of course, courts can take a number of actions to keep expenses in line. Here are the "top ten" actions courts are taking, as reported in the July 2002 survey:

1. Out-of-state travel restrictions (29 states)
2. Reduction of capital expenditures (28 states)
3. Hiring delays or freezes (26 states)
4. More use of electronic communications (24 states)
5. New court fees (18 states)
6. Cuts in training for staff (16 states)
7. Investments in automation (13 states)
8. Cuts in funding to specialty courts (12 states)
9. Delays in pay raises (9 states)
10. Permanent layoffs (5 states)

Many responses carry significant consequences for judicial administration and public trust and confidence in the courts. For example, survey respondents indicated reductions in innovative programs, increased pressure for performance, slower case processing, and difficulties developing statewide policies. **cc**



Are Hung Juries a Flaw in the Justice System?

In recent years, courts have seen an increase in jury trials that end in deadlock. There's no question that hung juries impact the court system and society, but to what extent? To find out, the National Center for State Courts (NCSC) conducted a four-year study that looks at the frequency and causes of hung juries—and outlines some solutions.

In their findings, NCSC researchers concluded that implementing a nonunanimous verdict rule would significantly reduce the number of hung juries. They cautioned, however, that this approach has problems because it treats the symptoms of juror disagreement and not the

causes. With this in mind, the study recommends:

- attorneys be better prepared and more discriminating in selecting cases
- courts improve methods to help jurors better understand the evidence and the law
- courts expand and improve directions for jurors about deliberations.

When the researchers examined the data, they found one or more traits consistent in hung juries compared to ones that reach a verdict. The common traits included weak evidence, difficult deliberations, and

(see *juries*, page 5)

Integrating Civil and Criminal Matters in Family Court

An advisory committee established to review family courts strongly supports integrating civil and criminal family violence matters into one court, according to a study by the National Center for State Courts.

The study, “Integrating Criminal and Civil Matters in Family Courts,” outlines 10 recommendations for courts as they move to integrate civil and criminal family issues.

This project, funded by the State Justice Institute, was initiated as more states consider creating family courts are questioning whether families would benefit by all court-related matters being handled in one court. The project addressed two questions:

- What are the advantages and disadvantages of family courts handling criminal cases?
- What processes do family courts need to enhance case coordination and to improve the outcomes for families?

Family violence is a complex issue that often encompasses civil and

criminal issues – from custody disputes, which are civil matters, to spousal abuse charges, which are criminal. But when these issues come before a court, most often they are handled in different courts that frequently aren’t aware of the other charges or family violence issues.

This fragmentation can lead to inconsistent court orders, and the lack of information and coordination between courts may jeopardize the safety of family members. Although some states have established family courts, very few include any associated criminal cases.

NCSC researchers and a national advisory committee conducted a national survey of 51 existing family courts and did a cross-site comparison of three courts to reach their recommendations. The project can be found at www.ncsconline.org in the Court Information Database folder on Family Violence. **cc**



Public Access & Court Records

The Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) recently released the *Guidelines for Public Access to Court Records: A National Project to Assist State Courts*. The guidelines are intended to act as a blueprint for state courts as they develop policies to govern access to court records. The report is available at www.courtaccess.org/modelpolicy/.

The National Center for State Courts (NCSC) and the Justice Management Institute (JMI) – at the request of CCJ and COSCA – worked for two years to produce the Guidelines that aim to help courts reach the balance between ensuring privacy while providing public access to court records.

To develop the CCJ/COSCA *Guidelines*, NCSC and JMI, with funding from the State Justice Institute, formed an advisory committee of representatives from courts, media, and advocacy groups. A public comment period was included in the process.

Historically, records have been open to the public, but technology, which allows anyone with a computer access to court files, have highlighted the need for courts to develop specific access policies. Since all courts do not share the same technology or resources, a disparity in access to records compounds the problem in states.

Recommendations are broad, outlining concerns raised by representatives of several special interest groups— such as domestic violence and privacy advocates and providers of secondary data—and by state court judges and administrators. The document is expected to ease the policymaking process for courts in ways that protect individual privacy rights, promote government accountability, and allow for accessibility to court records. **cc**

Juries

(cont’d from page 4)

perceptions by the jurors of unfairness.

Researchers used the following three methods to conduct the study:

- a broad-based survey of hung jury rates in state and federal courts
- a jurisdictional study of four courts on nearly 400 felony trials that compared juries that were able to agree on a verdict to juries that deadlocked on one or more charges
- a case study of hung juries from the jurisdictional study.

In the jurisdictional study, the National Center worked with four state courts—the Superior Court of Los Angeles County; the Superior

Court of Arizona, Maricopa County; the Supreme Court of Bronx County; and the District of Columbia Superior Court—to collect information about felony jury trials. These sites were selected because of court characteristics, the court’s willingness to participate, and because Los Angeles and Washington, D.C., experience relatively high rates of hung juries.

To learn more about the recently completed study, click on www.ncsconline.org and go to the Juries folder in the Court Information Database. **cc**

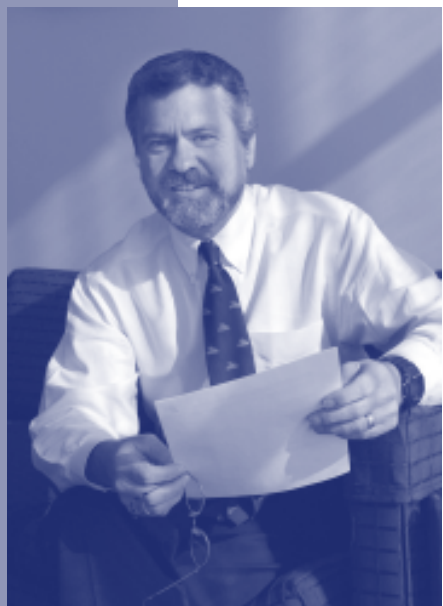
Award Named for President of the National Center

Roger K. Warren, president of the National Center for State Courts and a former presiding judge of the Sacramento Municipal and Superior Court, has been honored by the juvenile justice agencies of Sacramento, Calif., which have established an award in his name.

The **Roger K. Warren Unity Award** recognizes an individual who promotes collaboration and cooperation among all agencies—public and private—that work with children in the court system.

During Warren's more than 20 years of service in Sacramento's courts, he founded the Sacramento Child Advocates and the Sacramento CASA Program. He also was one of the founders and first chair of the Sacramento Criminal Justice Cabinet. In November, Warren traveled to Sacramento to present the award to this year's recipient, Mary Hill Hughes, who works with Sacramento Child Protective Services and serves on several interagency committees that provide juvenile services.

Warren became president and chief executive officer of the National Center for State Courts in 1996, which participates in leadership initiatives and provides research, education, and consulting services to the nation's state courts. **cc**



Roger Warren

Risk Assessment Works to Identify Nonviolent Offenders

A new system designed to determine which nonviolent offenders are the best candidates for alternative sentencing is effective, according to a recent study by the National Center for State Courts. The risk assessment system was developed by the Virginia Criminal Sentencing Commission (VCSC) to reduce the prison population while not jeopardizing public safety.

Researchers at the National Center conducted a three-year pilot study of the VCSC's risk assessment method by tracking the success—measured by recidivism—of a group of diverted offenders in six of Virginia's 31 judicial circuits.

"Our goal was to help the VCSC decide whether to make the risk assessment program a permanent part of Virginia's sentencing guidelines system and expand it statewide. We believe that it should," said Brian Ostrom, the National Center's project director. "Risk assessment was well received in the pilot courts ... This program led to cost savings for the commonwealth without jeopardizing the safety of its citizens."

In 1994 the Virginia General Assembly abolished parole and restructured the state's voluntary sentencing guidelines. This reform effort, called Truth in Sentencing, was designed to substantially increase prison terms for violent offenders. The state, however, was



Brian Ostrom

concerned that Truth in Sentencing would significantly increase costs and prison populations, which led legislators to question if alternative sentencing could be an effective, cost-efficient way to punish nonviolent felons. To find out, legislators directed the VCSC to:

- prepare guidelines for courts to determine which offenders were good candidates for alternative solutions
- develop an offender risk assessment instrument for felony cases, based on a study of Virginia felons that will predict the relative risk that a felon will become a threat to public safety
- apply the risk assessment instrument to nonviolent felony offenders and, with regard to public safety, examine the feasibility of placing 25 percent of nonviolent offenders who would otherwise receive incarceration to alternative punishments

The National Center, with funding from the National Institute of Justice, conducted this evaluation, which is the first comprehensive evaluation of risk assessment and intermediate sanctions and what effect they have on Virginia's criminal justice system. **cc**

National Center partners with GW University Law School

NCSC recently joined George Washington University as a partner in the new Jacob Burns Moot Courtroom. The partnership allows NCSC to work with new court technology and explore ways that technology can enhance court procedures. The partnership also expands NCSC's access to state-of-the-art courtroom facilities for programs in the Washington, D.C. area. **cc**



NCSC's President Roger Warren, left, joins Michael K. Young, George Washington University Law School dean; Stephen J. Trachtenbert, university president; and Kelly Garrett, trial court board president, in the opening ceremonies of the Jacob Burns Moot Court Room.

Policy

(cont'd from Page 1)

Brenda Uekert, NCSC senior research associate and a member of the Family Violence Community of Practice.

NCSC researchers can assist courts that are interested in developing a domestic violence workplace policy specific to their needs, Uekert said.

For a court to implement such a policy sends a signal that the court understands the tremendous impact domestic violence can have on employees and the workplace. Only an estimated 5 percent of companies have a policy to address domestic violence. That number is even smaller from courts and justice agencies, although they see firsthand in their courtrooms every day the serious consequences that result from domestic violence.

"Courts are trying these cases, yet they don't have policies in place to assist their own employees affected by domestic violence," Uekert said.

The employee policy includes:

- **Education Program.** NCSC will provide training to increase awareness of the problem, to identify available resources and how to access them, and to educate supervisors how to support

and counsel employees affected by family violence;

- **Counseling Assistance/Intervention.** NCSC will maintain a registry of community agencies and organizations for referral. Human Resources will advise employees how to access the resources covered by their insurance plan.

- **Performance Management.**

NCSC will provide a reasonable amount of time for employees to get assistance.

- **Time Off.** Recognizing that employees experiencing family violence may be required to take time off for medical, legal, and family matters, NCSC will work with the employee to create a work schedule that accommodates these matters. Possibilities include flexible work schedules, family and medial leave, short term disability, and personal leave of absence.

- **Confidentiality.** Employees can expect their disclosures to supervisors and Human Resources to remain confidential. **cc**



Brenda Uekert

For a copy of NCSC's policy, or for more information, contact Brenda Uekert at (757) 259-1561 or bukert@ncsc.dni.us.

Blended Sentencing Study Delivers Surprising Results

An extensive study of Minnesota's seven-year-old blended sentencing guidelines for juveniles reveals a system where race and geography make a difference in who receives what sentence—and that the system is not targeting those juveniles it was intended for, according to a study recently completed by the National Center for State Courts and the Minnesota Supreme Court.

"The results were very surprising," said Fred Cheesman, project codirector and court researcher with NCSC. "This study has strong implications for lots of states, not just Minnesota. It says,

if you're going to adopt blended sentencing, proceed cautiously, because the people getting it may not be the ones you expect to receive it." The study is available at www.ncsconline.org.

This is the first in-depth study ever conducted of the innovative blended sentencing structure. The study can serve as a reference for states considering blended sentencing, or for those states that have implemented it. Blended sentencing was created to help bridge the gap between the juvenile and adult court systems. "It is intended to give the juvenile one last chance at success in the juvenile system, with the threat of adult sanctions as an incentive not to reoffend," Cheesman said.

"What we found was unexpected," Cheesman said. "The most serious offenders were more likely to receive a blended sentence than to be transferred to adult court," while some of the lesser offenders were sent to the adult system. The evaluation, which was funded by the State Justice Institute and the Office of Juvenile Justice and Delinquency Prevention, has been handed over to the Minnesota legislature for consideration. **cc**



Fred Cheesman

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Research projects presented in **Center Court** can be found on the National Center for State Courts' Web site at www.ncsconline.org. Locate reports by topic in the Court Information Database or go to the Research Division section and click on Publications.

Schedule of Events

February 19-21, 2003 - San Francisco, CA
ICM Course: Research and Evaluation Methods

February 24-26, 2003 - San Francisco, CA
ICM Course: Navigating Courts Through the Technology Decision: Technology for Court Administrators

March 5-7, 2003 - San Diego, CA
ICM Course: Court Security and Disaster Planning

March 10-12, 2003 - San Diego, CA
ICM Course: Developing Customer Service Programs in the Courts

March 26-28, 2003 - Orlando FL
ICM Course: Elected Clerks of Court—Problems, Responsibilities, Relationships, and Opportunities



Court Technology Conference CTC8

Register now
at www.ctc8.net

Oct. 28-30, 2003
Kansas City, MO

For more information call 1-888-609-4023, or email ctcinformation@ncsc.dni.us



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