

# Court Review

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## EDITOR'S NOTE

In this issue, we present articles, essays, and other contributions by an impressive group of authors on a wide range of subjects of interest to the judiciary.

The issue opens with an exchange of views regarding the ethical questions raised by the publication by Judge Richard Posner of a book examining the conduct that led to President Clinton's impeachment. Northwestern University law professor Steven Lubet, one of America's leading experts on judicial ethics, argues that Posner has violated judicial ethics rules forbidding comment on "pending or impending" cases. In response, Posner, one of America's most acclaimed judges, argues that no proceedings were "impending" when, after the impeachment trial had concluded, his book was published.

Next is an essay by Stephen Ceci and Maggie Bruck, authors of a critically acclaimed book on the problems presented with testimony by children. In the short space of an essay, they provide a vivid discussion of some of the problems and propose, by way of solution, that interviews of child witnesses should be recorded.

The next item fits none of our normal categories of contributions, consisting of the reprinting of two letters sent 28 years apart to the same judge regarding the sentencing of a man who had pled guilty to drug smuggling. Providing the wisdom that can only come through a long career, former Dean Paul Carrington of Duke Law School shares both his letters to the judge and his change of heart, 35 years after he first advocated sentencing guidelines, on their value in achieving justice.

Our book review in this issue, by law and business professor Frank Cross, reviews Terri Jennings Peretti's book, *In Defense of a Political Court*. Whether one ultimately agrees with her or not, Cross finds her positions and research worthy of careful review.

We have two articles. In the first, U.S. Magistrate Judge Andrew Wistrich explores the possibility of placing an overall page limit on the motions that can be filed by each party in any single lawsuit. Whether that—or another—solution ultimately seems best, it is hard to quarrel with his contention that a judge's available time to review motions, like his or her time in court, is a limited resource that sometimes can be overburdened. In the second, Patricia Zapf and Ronald Roesch, psychologists with more than 25 years of combined experience in the field of mental competency examinations, provide an overview for judges of the legal and psychological concepts involved.

Last, our Resource Page features excerpts of a new Eighth Circuit decision placing in doubt the constitutionality of court rules deeming unpublished court decisions non-precedential or non-citable. Because the opinion of Judge Richard Arnold truly adds a new dimension to a decades-old debate, we reprint it here.

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*Court Review*, the quarterly journal of the American Judges Association, invites the submission of unsolicited, original articles, essays, and book reviews. *Court Review* seeks to provide practical, useful information to the working judges of the United States. In each issue, we hope to provide information that will be of use to judges in their everyday work, whether in highlighting new procedures or methods of trial, court, or case management, providing substantive information regarding an area of law likely to be encountered by many judges, or by providing background information (such as psychology or other social science research) that can be used by judges in their work. Guidelines for the submission of manuscripts for *Court Review* are set forth on page 12. *Court Review* reserves the right to edit, condense, or reject material submitted for publication.

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Letters to the Editor, intended for publication, are welcome. Please send such letters to *Court Review's* editor: Judge Steve Leben, 100 North Kansas Avenue, Olathe, Kansas 66061, e-mail address: sleben@ix.netcom.com. Comments and suggestions for the publication, not intended for publication, also are welcome.

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