

# AJA BENCHMARK

A Publication of the American Judges Association • Vol. 25, No. 3 • Fall 2002

## AJA Says “Aloha” from Maui

**E**ducation in paradise! That’s the best way to describe the AJA’s Annual Educational Conference, when 170 judges from all across the United States and Canada convened in Maui from September 8 to 13, 2002. One of the best attended conferences in recent AJA history, this conference boasted 15.75 hours of continuing judicial education credit, with even more hours of fun in the sun.

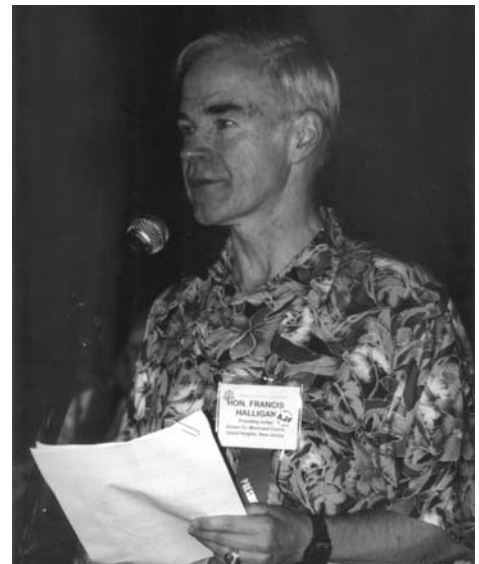
The conference officially began on Sunday evening with a welcome reception for 15 new members and 37 first-conference attendees, their spouses, and guests. There were also eight invited guests from the National Association for Court Management, Conference of Chief Justices, National College of Probate Judges, National Association of State Judicial Educators, National Court Reporters Association, and National Center for State Courts.

On Monday, while spouses and guests enjoyed a sightseeing tour to Old Lahaina, the Iao Valley, the Maui Tropical Plantation, and the Maui Ocean Center, the judges turned out in record numbers to hear a three-hour morning program on jury reform. A panel consisting of two judges, a law professor, and a former juror delivered a very thought provoking presentation on the challenges and issues facing jurors and the jury system in general. Judge Marie Milks from the circuit court in Honolulu entertained, enlightened, and educated the judicial audience with her keynote address at Monday’s luncheon on “Queen Kaahumanu, Innovator of Legal, Political, and Social Change.” For the remainder of the afternoon, the judges enjoyed Professor Charles

Whitebread’s U.S. Supreme Court update, delivered with his usual charm and humor, followed by a look at judicial burnout.

Several vendors displayed products and services of unique interest to judges at the vendor show on Tuesday.

The Second Annual Golf Tournament began at noon and was declared an overwhelming success by tournament host Michael Cicconetti, who coordinated the tournament for 26 participants. The putting contest was difficult for all participants due to the unique grass, but three judges emerged as winners: Judge Ed Kidd captured first place, followed by Judge Jim Van Winkle in second and Michael Cicconetti in third. A very well attended and received program on the effects of violence on children followed later in the afternoon. To close out the evening, participants enjoyed a spectacular



*AJA’s new president, Judge Francis Halligan*

*continued on page two*

## AJA Elects New Officers at Maui Conference

**J**udge Francis X. Halligan, Jr., of New Jersey, became the new president of the American Judges Association at the 2002 Annual Conference on Maui. He replaces Judge Bonnie Sudderth, of Texas, who will serve as immediate past president. AJA’s new president-elect is Judge Michael R. McAdam, of Missouri, who previously served as first vice-president.

AJA’s new first vice-president is Judge Gayle Nachtigal, of Oregon, and the new second vice-president is Judge Michael Cicconetti, of Ohio. Judge Steve Leben, of Kansas, was elected secretary.

Judge Harold V. Froehlich, of Wisconsin, will continue as AJA’s treasurer. 

lar live theatre production of *Ulalena* at the Maui Myth and Magic Theatre

Wednesday marked the one-year anniversary of the events of September 11, and many judges participated in memorial services on Maui that morning. Milt Nuzum, John Rosson, and Bonnie Sudderth commemorated the day by visiting the *U.S.S. Arizona* Memorial and Pearl Harbor on Ohau. That afternoon also featured a workshop on judicial ethics.


AJA presented its annual awards at the American Judges Foundation breakfast meeting on Thursday morning. Three law students were recognized for their essays submitted in the AJA Law Student Essay Competition. Judge Gerald T. Elliott received the Judge Bob Jones Memorial Award for his outstanding educational efforts for AJA. Judge Gayle Nachtigal received the Judge William H. Burnett Award for outstanding service to the organization. Tom Henderson from the National Center for State Courts received the Glenn R. Winters Award, which is presented to a layperson in recognition for outstanding contribution to the judiciary. New York Chief Judge Judith S. Kaye received the Chief Justice Richard W. Holmes Award of Merit, AJA's highest award.

On Thursday afternoon, the educational sessions were concluded with two workshops on teen courts and substance abuse. Later that evening, the conference came to a festive conclusion with a wonderful outdoor luau, complete with Hawaiian music and hula dancers.



*Judge Shackley Raffetto at the session on jury reform: "One of the real values of the jury system . . . is the tremendous educational opportunity it gives us for the citizenry."*

Mahalo to everyone who worked so hard to make the Maui conference a success. We look forward to seeing everyone again in Montreal.

P.S. Many judges were seen leaving Maui wearing their commemorative AJA Hawaiian shirts. If you didn't get one, there are still some available in varying sizes. Contact Shelley Rockwell at (757) 259-1841 or e-mail [srockwell@ncsc.dni.us](mailto:srockwell@ncsc.dni.us) for more information. 



*Judge Peggy Hora discusses substance abuse issues.*



*Judges Gerald T. Elliott and Gayle Nachtigal were recognized for their outstanding service to AJA.*

# Accessing a Bigger Picture Through the AJA

By Steve Leben, AJA Secretary

**D**ay in, day out, we come to our offices, are greeted by a mass of paper or people, and do our best to carry out our assignments for the day. In the midst of this press of business, it's easy to lose sight of the long-sought "big picture"—why we're here and how we fit into the larger system of justice and government.

Having just returned from the American Judges Association's annual educational conference, I'm here to tell you that attending such conferences really is a great way to break out of your daily routine while enhancing your sense of mission and purpose when you return home.

Now I'm not going to pretend that going to Maui didn't, all by itself, help to recharge my batteries. It did—and that's one of the reasons we try to schedule our meetings in good locations. Upcoming conferences for the next three years in Montreal, Anchorage, and San Francisco should help on that score as well.

Another thing that helps, of course, is that we have some great educational sessions with excellent speakers, most of whom we don't see at our regular in-state educational programs. USC law professor Charles Whitebread's annual review of the last year's U.S. Supreme Court decisions is both entertaining and thought provoking (unless, perhaps, you're that rare judge who has already read

every decision handed down in the past year!). Other programs this year gave me some really in-depth understanding of substance abuse and a review of jury reforms that included both new information and different perspectives, including that of a former juror.

What really helps in strengthening your resolve as a judge, though, is having the chance to interact with other judges from around the United States and Canada who, like you, are committed to doing a great job, are interesting people, and have backgrounds and experiences different from your own. Just by way of example, I had some excellent conversations this year with judges from Michigan, Washington, and Canada regarding their attempts to incorporate therapeutic jurisprudence concepts into their domestic violence and drug offender dockets. Those discussions dovetailed nicely with an educational program (developed by the AJA) on judicial involvement with substance abuse programs. And, of at least equal importance, I got to see old friends and make new ones among those who are committed to an enduring and fair system of justice for all.

I know that most of you have never attended one of our national meetings. I hope you'll give some thought to attending next year. bm

## Enter the Roll of English Solicitors

**M**embers of the bench who wish to become accredited to practice law in the United Kingdom and, by extension, to qualify for other Common Law jurisdictions throughout the world are offered an opportunity to become an English solicitor. An open-book "conversion" test, the Qualified Lawyers Transfer Test (QLTT), will be administered in New York, Los Angeles, Washington, D.C., and Toronto.

Are you interested in a Certificate of Eligibility from the Law Society (the United Kingdom's equivalent of the American Bar Association)? Call QLTT at (800) 430-3588, or consult [www.QLTT.com](http://www.QLTT.com), for more information, including application requirements, print and electronic study materials, and fees. bm

### AMERICAN JUDGES ASSOCIATION Future Conferences

#### 2003 Midyear Meeting

May 15-17

Billings, Montana

The Sheraton Billings

(\$65-\$95 single or double, depending on room type)

#### 2003 Annual Conference

September 14-19

Montreal, Quebec

Omni Hotel Mont-Royal

(\$220 Canadian single or double)


# Are You Delegate Material? Join AJA's House of Delegates!

**P**erhaps one of the least known bodies within the governing structure of AJA is the House of Delegates. It is composed of one AJA member from each state, territory, and possession of the United States, including the District of Columbia; each Canadian province; and each state of Mexico. The House of Delegates serves in an advisory capacity to the Board of Governors and as a liaison with the membership of AJA.

Three governors represent each district. Most districts encompass several states and provinces. The House of Delegates ensures that there will be an AJA member in direct contact with our fellow AJA members in each state or province, even if that state or province has no direct representative on the Board of Governors.

Unfortunately, nearly half of the available positions on the House of Delegates are vacant, often because the governors who appoint members do not know that a colleague is interested in serving. In

most cases this is not a time-consuming commitment. The following states, territories, and provinces lack delegates: Alaska, Alberta, American Samoa, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Kentucky, Maine, Manitoba, Massachusetts, Montana, Nebraska, New Brunswick, Newfoundland, New Hampshire, North Carolina, North Dakota, Northwest Territories, Nova Scotia, Oklahoma, Pennsylvania, Prince Edward Island, Puerto Rico, Quebec, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, Virgin Islands, West Virginia, Wisconsin, Wyoming, and the Yukon Territory.

If you are willing to serve, please contact Shelly Rockwell at the National Center for State Courts, P.O. Box 8798, Williamsburg, Va., 23187-8798 (e-mail [srockwell@ncsc.dni.us](mailto:srockwell@ncsc.dni.us)) and let her know of your interest. AJA will be in touch. 


## IJC Looking for Trial Observers and Fact Finders

**T**he International Commission of Jurists is expanding its pool of experts to serve as trial observers, members of fact-finding missions, or both. Almost 50 years ago, ICJ pioneered the practice of sending experts to observe trials where there were concerns about the integrity of the proceedings. ICJ also conducts fact-finding missions in countries in which there are prima facie concerns regarding the proper functioning of the administration of justice.

The profile for an ICJ expert would be legal education and training (common- or civil-law systems); experience as a practicing judge or lawyer; ideally, experience in conducting fact-finding missions and trial observations; knowledge of the legal system and preferably knowledge of the language of the country to be visited (in addition to fluency in English or French); human

rights knowledge and experience; ability to work on a team; good and sound judgment; initiative; ability to work impartially and objectively; promptness with deadlines; and willingness to enhance the administration of justice throughout the world.

Trial observers and mission experts work as volunteers. ICJ covers all direct expenses, including travel, accommodations, per diem, interpreters, and visa fees. Generally, trial observations take from several hours to several days, depending on the trial. Fact-finding missions require a minimum of five to six days.

Applications for trial observers and fact finders can be found online at <http://www.icj.org/sections.php?op=viewarticle&artid=94> (trial observation) and <http://www.icj.org/sections.php?op=viewarticle&artid=92> (fact-finding missions). 

# NGSC Reports on Federal Activities Important to State Courts

**T**he Government Relations Office (GRO) of the National Center for State Courts monitors congressional and federal executive agency activity that affects state court operations and reports to the AJA leadership. GRO usually monitors about 25 to 30 issues at any one time. A sampling of the issues and the status of the issues that are currently being monitored follows.

## State Justice Institute (SJI)

- ✓ The FY 2002 federal budget only allocated \$3 million for SJI, the only dedicated federal funding source for the improvement of state court operations. These are close-out funds for terminating SJI effective September 30, 2002.
- ✓ GRO has coordinated an effort by judicial associations, including AJA, to encourage Congress to continue and increase funding for SJI. Numerous meetings have taken place with key players on the Appropriations Subcommittees with jurisdiction over SJI.

- ✓ The president did not include any funds in his FY 2003 budget proposal. The Senate Appropriations Committee awarded \$3.1 million to SJI in its markup on July 18, 2002. The time frame for taking the bill to the Senate floor is unknown at this time. The House Appropriations Committee has not published its FY 2003 budget yet.

## Privacy and Social Security Numbers


- ✓ Because of the concern for identity theft and stalking, a number of bills have been introduced over the last few years that require the redaction of Social Security Numbers (SSNs) from public documents or prohibit the display of SSNs on the Internet. None of these bills have passed.
- ✓ Senator Feinstein (R-CA) introduced S. 848, the SSN Misuse Prevention Act, which would require the redaction of SSNs in 11 types of public documents, including court judgments, child support documents, and divorce petitions and decrees.

*continued on page eight*

## New Book Describes More “User Friendly” Court

**R**ising costs are forcing more litigants to come to court without legal representation, especially in routine matters. Is your court system prepared to deal with the growing number of litigants who choose to represent themselves? A new book from the National Center for State Courts, *The Self-Help Friendly Court: Designed from the Ground Up to Work for People Without Lawyers*, will show you how to redesign your court to provide more affordable justice for all. This book will show you how to

- Overcome barriers to innovations to help all litigants
- Design the courthouse as an overall helping, informing, and deciding environment
- Use technology to improve your court’s service to the public
- Manage cases that involve both represented and unrepresented litigants

This book was published by the National Center for State Courts with funding from the State Justice Institute and the Open Society Institute. For more information, contact the National Center’s Research Division at (800) 616-6109. 



# NCSC Releases Guidelines for Public Access to Court Records

**A** final draft of "Public Access to Court Records: Guidelines for Policy Development by State Courts," is being released this month by the National Center for State Courts.


The guidelines, which were endorsed in August by the Conference of Chief Justices and the Conference of State Court Administrators, act as a blueprint for states to use as they develop their own policies governing access to court records.

Although court records historically have been open to the public, many state courts now find themselves grappling with the issue because of technology that allows electronic access to court records, which has left courts searching for the delicate balance of ensuring privacy while providing public access. The issue becomes even more complex because not all courts have the same resources or the same level of technology, which has created a disparity in access to records from court to court within the same state.

The guidelines are the culmination of nearly two years of research, committee meetings, and public com-

ment carried out by the National Center and the Justice Management Institute, with funding from the State Justice Institute. They are available online at [www.outaccess.org/modelpolicy/](http://www.outaccess.org/modelpolicy/).

The guidelines are broad in scope, outlining all concerns raised by representatives of several special interest groups—the media, domestic violence and privacy advocates, providers and compilers of secondary data—and by state court judges and administrators. The document is expected to ease the policymaking process for state courts, as it outlines how to manage access in ways that

- maximize accessibility to court records
- support the judiciary's role
- promote governmental accountability
- contribute to public safety
- minimize risk of injury to individuals
- protect individual privacy rights and interests
- safeguard proprietary business information
- make the most effective use of court staff
- avoid undue burdens on judicial business 

**WILLIAMSBURG, VA**  
300 Newport Avenue (23185)  
P.O. Box 8798  
Williamsburg, VA 23187  
Association Services  
(800) 616-6165  
Education  
(800) 616-6206  
Information  
(800) 616-6164  
Publications  
(888) 228-6272  
Research  
(800) 616-6109  
Technology  
(888) 846-6746

**DENVER, CO**  
1331 17th St., Ste. 402  
Denver, CO 80202-1554  
Consulting  
(800) 466-3063

**ARLINGTON, VA**  
2425 Wilson Blvd., Ste. 350  
Arlington, VA 22201  
Government Relations  
(800) 532-0204  
International Programs  
(800) 797-2545

*Court leadership education, consulting, research, technology, and information for the courts – not only in the U.S., but worldwide.*

## Upcoming Events

**Dec. 9-11, 2002 - E-Court Conference**

**Feb. 11-12, 2003 - Court Security Summit**

**Oct. 28-30, 2003 - Court Technology Conference (CTC8)**

## Online Help At

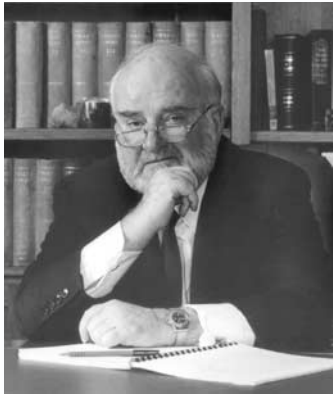
**[www.ncsconline.org](http://www.ncsconline.org)**

*Access research, publications, answers to frequently asked questions, comparative data, and other useful resources. Call (800) 616-6160 for an Institute for Court Management course catalog.*



*helping courts  
anticipate change  
and better serve the public*





## AJA MEMBER PROFILE

### John W. McClung

*Justice of Appeal, Court of Appeal of Alberta  
Edmonton, Canada*

**J**ustice John McClung formally joined the bars of Alberta and the Northwest Territories in 1959, but when he was younger, he had not set his sights on a specific career. As he puts it, “I sort of backed into it [law].”

When it came to a career in law, he said, “I didn’t have a hell of a lot against it.” Family ties to the profession helped him make his choice. His father had been a lawyer, and he “liked the way dad did things.”

He earned his law degree from the University of Alberta in 1958. He was appointed to the District Court of Alberta in 1976; he served as an appointed deputy judge of the Yukon Territory from 1978 to 1983; and he was appointed to the Trial Division of the Supreme Court of Alberta in 1977, to the Queen’s Bench of Alberta in 1979, to the Court of Appeal of Alberta in 1980, and to the Court of Appeal of the Northwest Territories in 1980. He has served as an administrator of the Government of the Province of Alberta since 1992.


Justice McClung joined the American Judges Association in the late 1980s. He was initially attracted by AJA’s publications and the chance to travel to places he’d never been before, such as New Orleans, for the annual conferences. He was quite impressed by the quality of AJA’s educational programs, and particularly by Prof. Charles Whitebread’s annual reports on U.S. Supreme Court decisions. (Justice McClung is also a member of the Supreme Court Historical Society.)

He’s fairly impressed with U.S. judges in general—“a classy bunch,” he said. He appreciated U.S. judges’ consciousness of what they’re doing and

their tendency to issue more opinions than Canadian judges. He attributes this to judicial elections, which force U.S. judges to articulate the reasons for their decisions. As a group, according to Justice McClung, Canadian judges tend to be “a little more smug,” probably because they’re appointed for life, as opposed to being elected, and are less likely to offer reasons for decisions.

His own local history is also very important to Justice McClung. He’s a member of the Edmonton and District Historical Society, as well as an honorary member of the Legal Archives Society of Alberta. He even served as “Honourary Chief Factor of Fort Edmonton” from 1998 to 1999. Back in 1795, when Edmonton was still a trading post for the Hudson’s Bay Company, the day-to-day lives of people living at Fort Edmonton were controlled by “factors” with “almost dictatorial powers,” says Justice McClung. As the Honourary Chief Factor, he dressed in period costume, made speeches, and presided over historical society events (such as auctions) at a replica of the old fort.

He feels that it’s important to keep history “in the public eye,” even if it means cavorting about in old-fashioned dress. “Like having a beer for breakfast,” he said. “Boorish, but it gets people talking [about history].”

Justice McClung used to be a bit of a sportsman, as well, but admits that he’s slowed down from his younger days. He used to enjoy hunting with retrievers, but says now that the hunt isn’t what interests him. “Watching a good retrieve is more fun than bringing a goose down,” he says. 

- ✓ It doesn't seem likely that S. 848 will pass this Congress, but likely will be introduced again in the 108th Congress.

### Interstate Compact on Adult and Juvenile Offender Supervision

- ✓ The Council of State Governments (CSG) led an effort over the last two years to revise the Interstate Compact for Adult Offender Supervision.
- ✓ Thirty-eight states have adopted the revised adult offender compact, and legislation is pending in nine additional states.
- ✓ An interstate commission will draft the rules that will govern the movement of adult offenders. The Conference of Chief Justices will be represented on the commission.
- ✓ CSG is revising the juvenile offender compact. The Conference of State Court Administrators has a representative on the drafting commission. It will be modeled after the Interstate Compact for Adult Supervision.


### Child Abuse Prevention and Treatment Act (CAPTA)

- ✓ The reauthorization for CAPTA, which provides grant funds for a variety of purposes for which courts can

apply, including visitation centers and neutral drop-off centers, expired on September 30, 2002.

- ✓ The House passed H.R. 3839 on April 23, 2002, to reauthorize CAPTA.
- ✓ The Senate's version of CAPTA reauthorization (S.2998) was introduced in late September.

### Temporary Assistance for Needy Families (TANF)

- ✓ The TANF program, which provides block grants to states for public assistance, was created in 1996 as part of Welfare Reform.
- ✓ The House reauthorized TANF by passing H.R. 4737, which includes some provisions for enhancing tools for child support enforcement, on May 16, 2002.
- ✓ The Senate Finance Committee amended H.R. 4737 in July, but it is unclear when it will be debated on the Senate floor.
- ✓ There are significant differences between the House and Senate versions of the bill related to work requirements and child care, and if the House and Senate cannot reach agreement on a major reauthorization bill, they may agree on a straight one-year extension of the current program. 

# BENCHMARK

## American Judges Association

Association Services  
National Center for State Courts  
300 Newport Ave. (Zip Code 23185)  
P.O. Box 8798  
Williamsburg, VA 23187-8798

#### President

Judge Francis X. Halligan  
P.O. Box 1286  
Toms River, NJ 08754

#### Editor

Judge Milt Nuzum  
Marietta Municipal Court  
301 Putnam St.  
Marietta, OH 45750

#### President-elect

Judge Michael R. McAdam  
Kansas City Municipal Court  
1101 Locust  
Kansas City, MO 64106

#### Managing Editor

Chuck Campbell  
National Center for State Courts

Nonprofit Org.  
U.S. Postage  
**PAID**  
Richmond VA  
Permit No. 750

*Postmaster: Please expedite  
Dated material*