



2021  
ANNUAL REPORT

*A Year of Progress*

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**Ohio First District Court of Appeals**

# Our Judges



**PIERRE H. BERGERON**  
*Administrative Judge*



**MARILYN ZAYAS**  
*Presiding Judge*



**BETH A. MYERS**  
*Judge*



**CANDACE C. CROUSE**  
*Judge*



**ROBERT C. WINKLER**  
*Judge*



**GINGER S. BOCK**  
*Judge*



# Introduction

Perhaps more than any other year in recent history, 2021 was a period of growth and change for the First District Court of Appeals.

As the Court began its first full year of responding to restrictions related to the COVID-19 pandemic, it also welcomed a new judge to the bench (Ginger S. Bock) as well as two new top administrators (Julie Kahrs Nessler, Court Administrator, and Angela M. Hayden, Assistant Court Administrator).



Under the guidance of Administrative Judge Pierre H. Bergeron, the six judges of the Court oversaw several initiatives aimed at modernizing operations to increase accessibility for constituents of Hamilton County. The pandemic afforded us the opportunity of a “pause” to step back and critically examine the Court’s operations, and with the benefit of that perspective, the First District implemented a variety of reforms.

Among other things, these projects allow the Court to function more efficiently and transparently, confronting the challenges facing the judicial system in today’s world.

A key element for transparency is being accessible. With periodic surges in COVID infection rates throughout 2021, in-person oral arguments remained suspended in favor of using an online format. The public is able to view the proceedings on YouTube, where they are streamed live and then archived, and these recordings have been accessed thousands of times. The Court will continue to be flexible and responsive to the evolving environment to ensure the continuity of its operations.

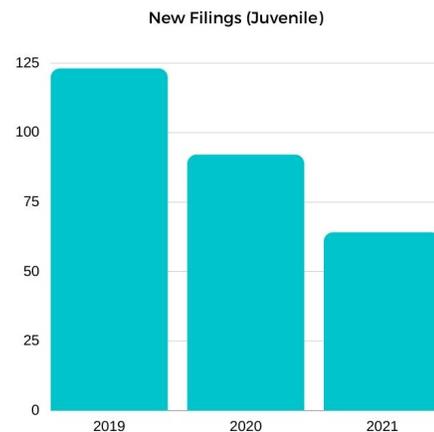
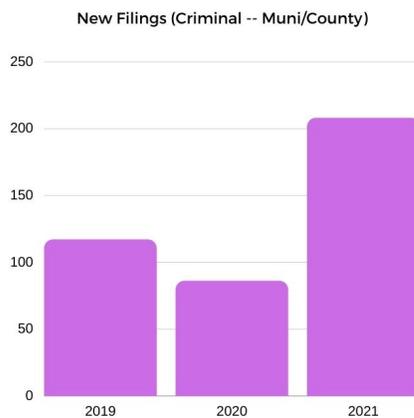
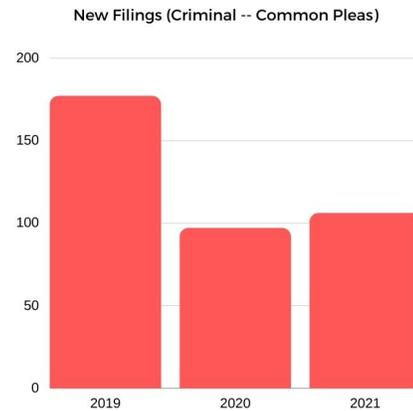
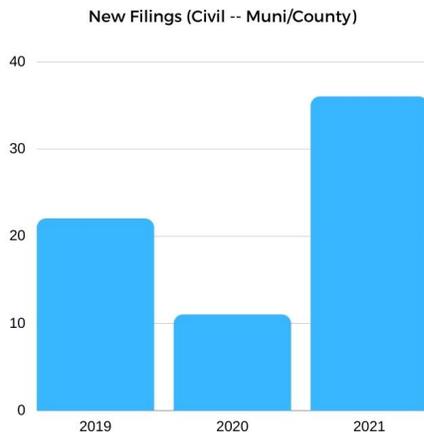
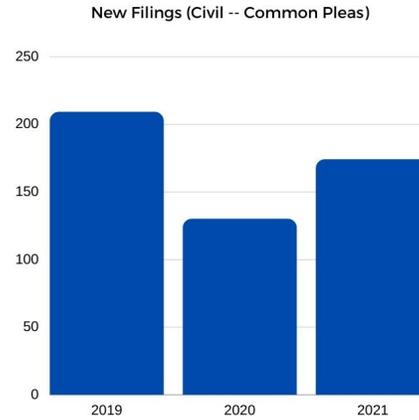
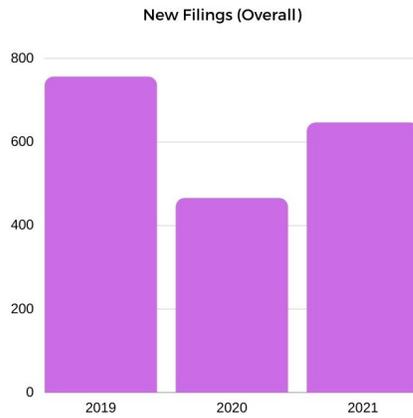
In 2021, the Court implemented or began a number of other procedural and technological changes to make it more user-friendly for litigants and the public.

As the following pages highlight, the First District is continually seeking innovative ways to deliver equal justice under the law and achieving the just, fair, and timely resolution of all matters that come before our Court. We look forward to hearing from you about your experience in our Court.



# New Filings

***Tracking new filings by case type can reveal trends in litigation. Caseloads declined in 2020 due to COVID-19 and related lockdown, but rebounded in 2021 to nearly pre-pandemic levels.***



# Improving Accessibility

The First District took a number of major steps toward ensuring its operations are more accessible to all stakeholders, including the public.

## **Pro Bono Program**

To help litigants without an attorney, the Court created its first-ever Pro Bono Program. Its purpose is to aid appellate review of matters before the Court that would benefit from counsel involvement, in which a party cannot afford to hire his or her own legal representation.

The Court connects litigants with attorneys who are willing to work free of charge.

Under the program, applications for pro bono assistance are referred to the Legal Aid Society of Greater Cincinnati in civil cases, and to the Ohio Justice and Policy Center in criminal cases.

The First District is grateful for Legal Aid and the OJPC's commitment to the program.



## **Pro Se E-Filing Guide**

In a similar vein, the Court created an online Pro Se E-filing Guide to help litigants without an attorney navigate their way through the appellate process.

The guide gives users step-by-step instructions for the actions needed to file an appeal



## ***Improving Accessibility --***

and follow it through to a decision by the Court. It also includes various online forms needed for appeals.

Additionally, for oral arguments held via Zoom, the Court provided computer access to pro se litigants who otherwise may not have a computer or reliable Internet access.

## **Public Information & Data Specialist**

To facilitate understanding of the Court's operations, the First District has also hired Kevin Osborne as its first Public Information and Data Specialist. The new position is responsible for planning outreach efforts and serving as a liaison between the Court, the media, the Bar Association, community organizations, and the public.

The Public Information and Data Specialist also assists with data-related projects to improve overall Court transparency. Utilizing the case management system, the position generates reports to identify trends and disseminate information to parties who may be affected by how the Court conducts its business.



# Increasing Efficiency

The First District strives to ensure the timely and fair administration of justice.

To achieve these goals, the Court undertook initiatives and programs in 2021 aimed at obtaining the best possible results in cases by effectively using resources and eliminating delay.

## **Ohio Supreme Court Recommendations**

The First District proactively contacted the Ohio Supreme Court for recommendations to improve the processing of cases. Among the changes implemented, the First District:

- Generally reduced the time allowed for the record to be submitted from 60 days to 40 days;
- Clarified the information required for docket statements;
- Coordinated with trial courts and the Clerk of Courts to ensure the timely transmission of exhibits on appeal; and
- Limited extensions for the filing of briefs.



# ***Increasing Efficiency --***

## **New Case Management System**

Also, the Court began using C-Track, a new case management system developed by the Ohio Supreme Court and Thomson Reuters. C-Track provides a wider array of information to analyze trends, gauge the Court's overall effectiveness, and identify areas for improvement.

The system went live in July 2021, and the First District was one of the first appellate districts in Ohio to implement it.

## **Appellate Mediation Program**

Another innovation was the revamping and expansion of the Court's mediation program. Launched in October 2021, the expanded program is designed to offer litigants an alternative to adversarial and often lengthy court proceedings.

Mediation can help parties avoid the delay and expense of continued litigation. It provides participants with the opportunity to work together to design their own resolution to the dispute, rather than the court deciding who wins and loses. Even if a case isn't settled in its entirety, appellate mediation often streamlines the appeal by clarifying issues, addressing procedural problems, and reducing assignments of error, thereby saving time and money.

The Court hired Sarah M. Foster to serve as its mediator and coordinate the program. A graduate of Chase College of Law and the University of Kentucky, Ms. Foster previously worked for the Warren County Common Pleas Court, General Division, where she served as a magistrate, staff attorney, and mediator for nine years.

With certain exceptions, all civil cases, domestic relations cases, and original actions are eligible to be selected for the Court's mediation program. Ms. Foster



## ***Increasing Efficiency --***

will screen cases for eligibility upon the filing of the Notice of Appeal and schedule cases for a screening conference. Alternatively, parties may file a request for mediation or the Court may order a case to mediation.

## **Adoption of Revised Local Rules**

The Court overhauled its Local Rules to ensure the timely administration of justice. A version was drafted and submitted to a committee of practitioners for comment in September, before being posted for public comment. After input from the committee and the public, the local rules were finalized in December.

## **Staff Training**

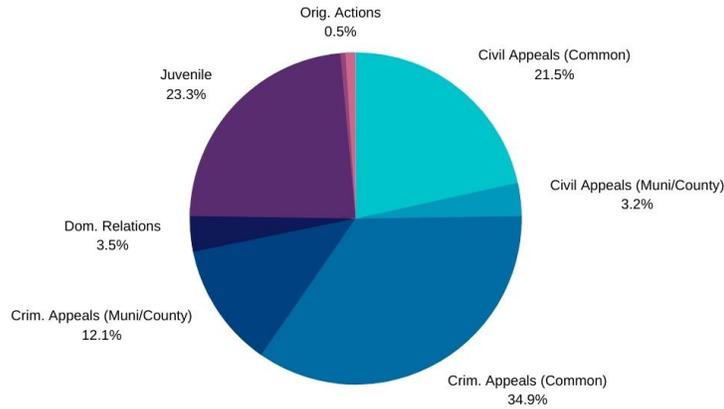
New training materials were developed for the Court's staff attorneys. They replaced an outdated version and are designed to help new staff attorneys acclimate to the court more quickly.



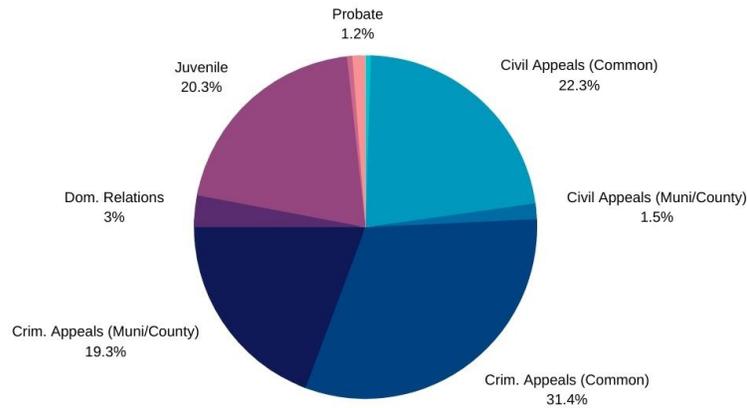
# Decisions

*Tracking decisions by case type can show where the Court spends most of its time.*

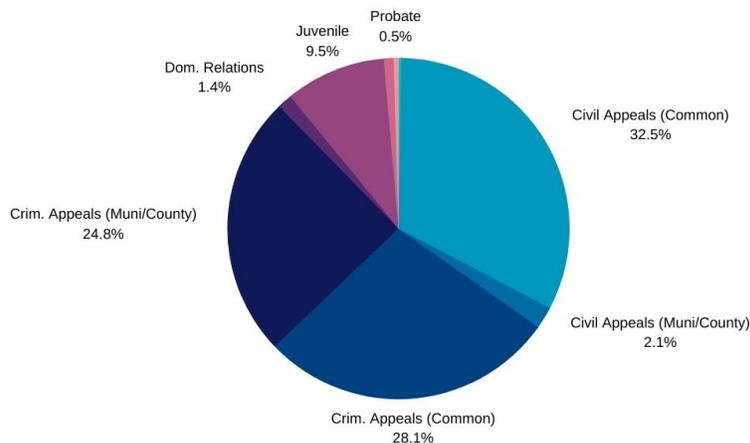
Decisions (2019)



Decisions (2020)



Decisions (2021)



# Modernizing Technology

The First District made significant investments to upgrade its technology in 2021.

## Grants for Video Recording & New Website

Thanks to two technology grants from the Ohio Supreme Court, the First District was able to install a state-of-the-art video recording system in its courtrooms and begin work on a new, more user-friendly website.

Due to the COVID-19 pandemic, the Court began using Zoom to conduct oral arguments virtually in July 2020. The arguments were made available to the public on the Court's YouTube channel. The Court conducted a survey of the legal community about the use of Zoom and the response was overwhelmingly



positive. Its use will continue as an option once the Court returns to in-person arguments sometime in 2022.

Additionally, grant money was used to begin a complete redesign and overhaul of the Court's outdated website.

Once it goes live in January 2022, the new website will provide users with direct access to video of oral arguments. It also will allow more targeted searching of Court opinions and include sections about the Court's pro bono and mediation programs, along with a portal to Hamilton County's e-filing system.

## Updating Email & Web Security

Other technology improvements included updating the Court's email system to Microsoft Office 365/Outlook. The change will increase security for its cloud-based work.



# ***Modernizing Technology --***

## **Technology Audit**

In July, a comprehensive audit of the Court's technological needs was conducted by an independent contractor. It assessed the Court's strengths and weaknesses in this sector, and provided recommendations for future purchases to help guide the budget planning process.

## **Changes Due to Remote Work**

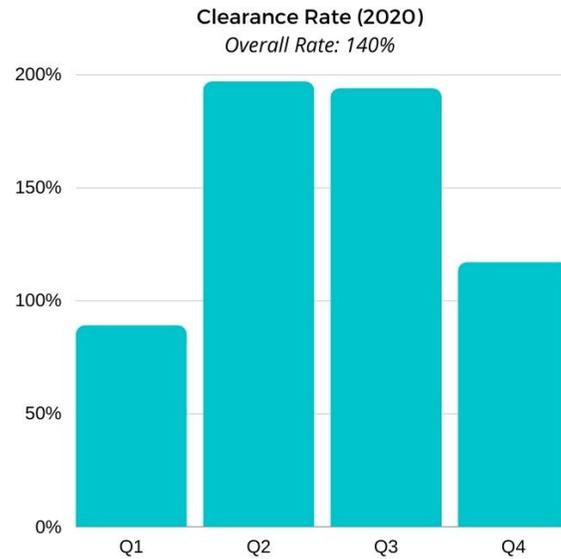
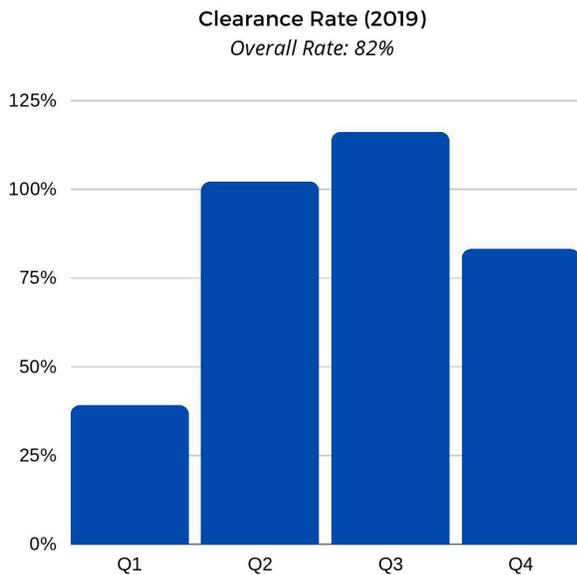
The Court initially had its employees work remotely because of the pandemic during part of 2020. To prepare for the possibility of remote work in the future and make it function more efficiently, the technology audit recommended the Court purchase a terminal server so users can log onto the server rather than logging on through individual desktops. This will be more secure and reduce maintenance and support costs.

The planned terminal will also allow the Court to use laptops purchased through an Ohio Supreme Court grant, reducing the need to buy new desktop computers.



# Clearance Rates

**A "clearance rate" measures how a court is keeping up with its incoming caseload. If a clearance rate is regularly less than 100%, it means the court will likely develop a backlog. Conversely, a rate above 100% shows the court is resolving more cases than are being filed (and thus reducing any backlog).  
Clearance Rate = (# of cases terminated/ # cases filed x 100).**



**The Court worked diligently through the pandemic to reduce its preexisting backlog. By the end of 2021, it was eliminated. Many of the new policies & procedures adopted in 2021 should prevent new backlogs from occurring.**

# Engaging the Community

The First District's judges adhere to a credo of service, even when they take off their robes and leave the courtroom.

## "Give Back Fridays"

Beginning in September, Judge Beth A. Myers coordinated with her colleagues to volunteer on "Give Back Fridays."

On the second Friday of each month, many of the First District's judges, in coordination with other Hamilton County courts, have performed community service at area nonprofit organizations.



So far, events have been held at New Life Furniture Bank, which collects gently used furniture to provide to people in need throughout Greater Cincinnati and Northern Kentucky; St. Vincent de Paul, which offers medical exams, clothing and household items to low-income people; and the Freestore Foodbank, which collects, prepares and delivers food donations.

## Easing the Burden of Cancer

After defeating breast cancer in 2021, Judge Ginger S. Bock volunteered to deliver a "gift of fun" from the Cincinnati chapter of the Karen Wellington Foundation to a neighbor battling breast cancer.

The group provides lighthearted activities for women battling cancer, reminding them to try to enjoy life despite the health challenges they face.



# Engaging the Community --

## Minority Internships

During 2021, the Court created a Minority Internship Program. Its goal is to provide learning opportunities for law students of color, which are under-represented in area courts. For its first year, three students from the University of Cincinnati (UC) were hosted at the Court. Moving forward, the program anticipates expanding the number of internships.

The Court also hosted internships for law students at UC and undergraduates at Xavier University. The internships let students learn about the court system to better inform their career decisions.



## "Educating Tomorrow's Leaders"

Presiding Judge Marilyn Zayas continued the Court's "Educating Tomorrow's Leaders" program. The program invites students to interact with judges and attorneys, learn about the law, and inspire them to dream big and never give up. During the pandemic, Judge Zayas hosted virtual and in-person programs.

## Implicit Bias Training

To help ensure the fair and impartial administration of justice, the Court had its attorneys and staff participate in implicit bias training.

An "implicit bias" is when someone has attitudes toward certain people or connects stereotypes with them without conscious knowledge. The training, conducted by UC, focused on identifying potential factors affecting court decisions and interactions with the public. Additional training is planned for 2022.



# ***Engaging the Community --***

## **Virtual CLE Event**

In November, all of the First District's judges participated in a Continuing Legal Education event. The "Appellate Biennial Law Update" was held virtually via Zoom, in conjunction with the Cincinnati Bar Association.

Topics included tips for conducting oral arguments online, information about brief writing, and an introduction to the Court's new mediation program.



## **More to Come**

Once COVID-related restrictions are loosened for public gatherings, the First District expects to revive its "Court in the Community" program. It involves holding oral arguments before audiences at locations throughout Hamilton County. Past events were held at locations such as the University of Cincinnati and Mount St. Joseph University.

Additionally, the First District plans to offer educational tours of the courtrooms and related facilities to area students and civic groups; and begin a new program involving our judges traveling off-site to give speeches and answer questions to promote better understanding of the judicial system.



## ***Engaging the Community --***

The First District's judges also serve on various boards and committees. They include:

**Judge Zayas** -- Commissioner for Ohio Supreme Court's Board of Character and Fitness; member of the University of Cincinnati Law School Dean's Advisory Board; and member of the Board of Directors at Beech Acres Parenting Center.



**Judge Myers** -- Member of the Ohio Supreme Court's Commission on Professionalism; member of the Ohio Sentencing Data Platform Governance Board; member of UC College of Law's Board of Visitors.

**Judge Bergeron** -- Trustee of the Cincinnati Bar Association; instructor on State Constitutional Law at UC's College of Law; serves on the Ohio Supreme Court Wrongful Conviction Task Force.

**Judge Crouse** – Member of the Ohio Judicial Conference Jury Instructions Committee; member of the Ohio Board of Professional Conduct; trial team coach for the UC College of Law's team in the John L. Costello National Criminal Law Trial Advocacy competition.

**Judge Winkler** – Member of the Ohio Supreme Court's Hearing Panel for Grievances against Justices and Candidates; Board of Governors of the Cincinnati Children's Dyslexia Center; member of Ohio Courts of Appeals Judges Association.

**Judge Bock** -- Member of the Ohio Judicial Conference Judicial Ethics, Professionalism and Diversity Committee; member of the Ohio Judicial Conference Appellate Law and Procedure Committee; member of the NAACP's Cincinnati chapter.

