ANNUAL REPORT 2022

FIRST DISTRICT COURT OF APPEALS

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Judges

Beth A. Myers
Presiding and Administrative Judge

Marilyn Zayas
Judge

Pierre H. Bergeron
Judge

Candace C. Crouse
Judge

Robert C. Winkler
Judge

Ginger S. Bock
Judge

Introduction

Expanding on the changes and improvements in 2021, the First District Court of Appeals continued in 2022 to look for ways to improve the efficient operation of the Court, while continuing to promote access to the Court and the fair and impartial administration of justice.

Under the guidance of Presiding and Administrative Judge Beth A. Myers, the six judges of the Court continued to make improvements to operations, access to the Court and technology. In addition, with expanding mediation services, the Court was able to assist litigants in resolving their cases prior to the time and expense of going through the appeals process. The Court also swore in as magistrates, its two top administrators, Julie Kahrs Nessler (Court Administrator) and Angela Hayden (Assistant Court Administrator), allowing them to handle certain matters, thereby aiding in the efficiency of the Court.

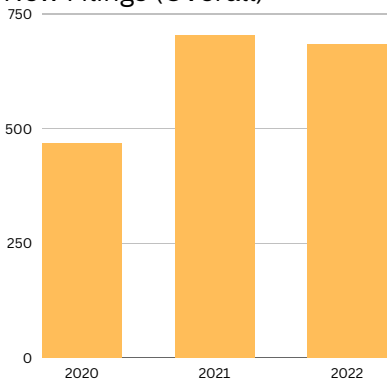
Finally, our judges and staff continued to be involved in the community both on a professional and personal level. With the help of technology and our partners in the community, we were able to bring our Court to the community and our community to the Court.

We hope you enjoy our annual report and look forward to hearing from you!

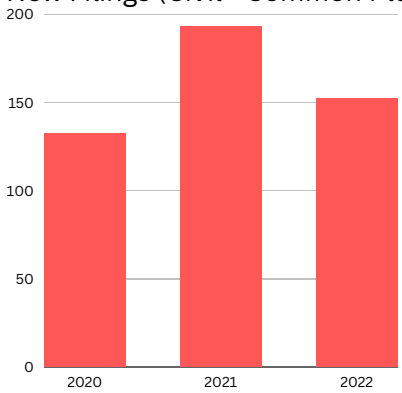
Incoming Cases

"Incoming cases" includes new filings, cases re-opened, and cases transferred to the Court from other appellate districts.

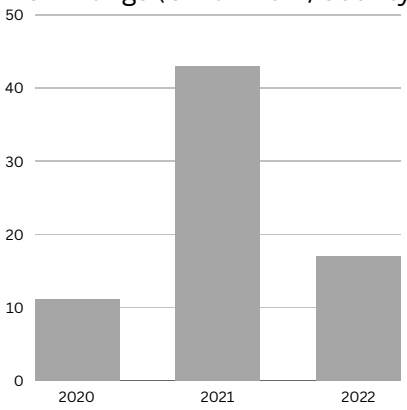
New Filings (Overall)



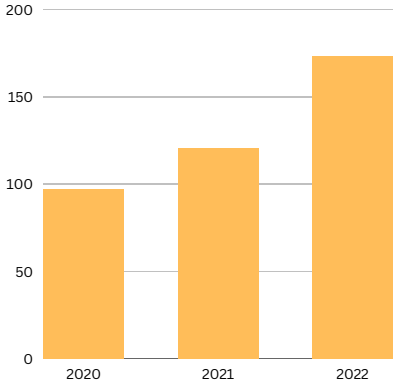
New Filings (Civil - Common Pleas)



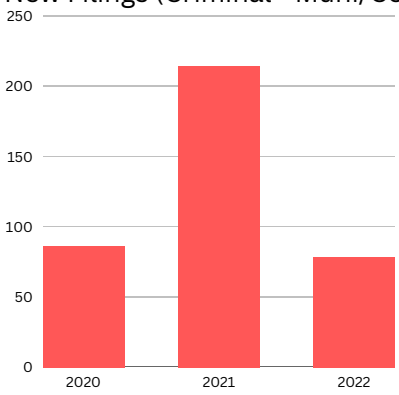
New Filings (Civil - Muni/County)



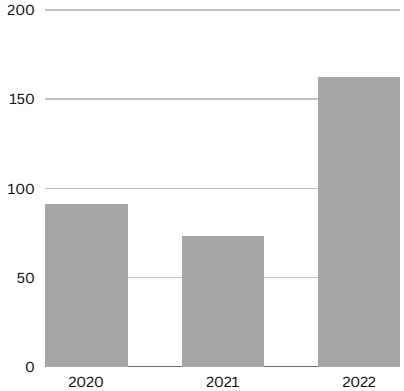
New Filings (Criminal - Common Pleas)



New Filings (Criminal - Muni/County)



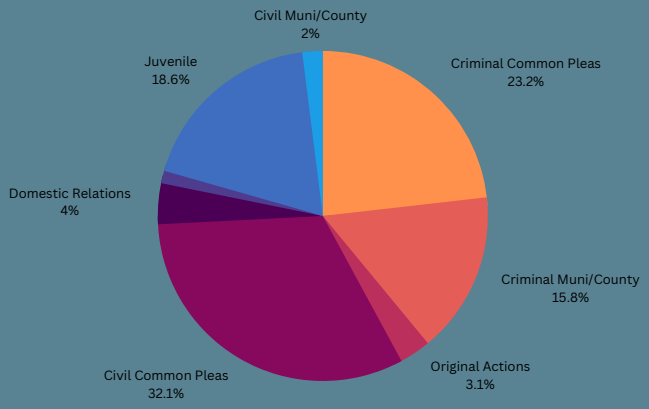
New Filings (Juvenile)



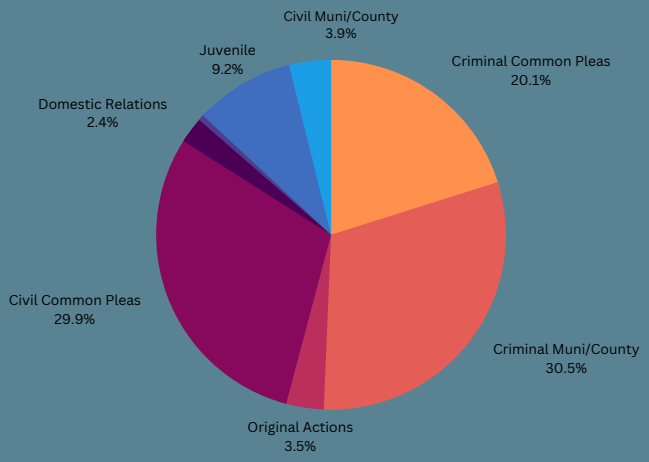
Tracking incoming cases by case type can reveal trends in litigation

Outgoing Cases

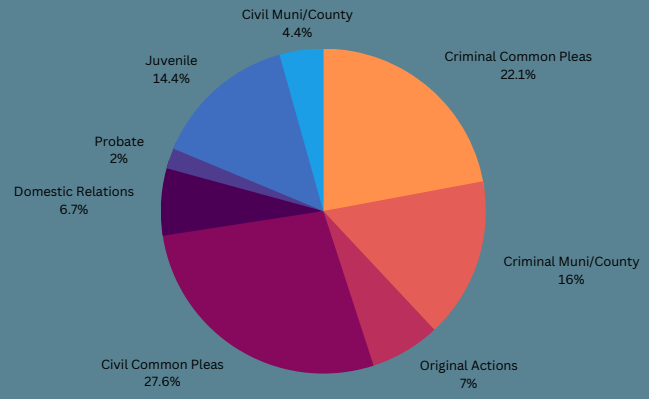
Outgoing cases measures the number of cases disposed by the Court. This includes cases terminated by a decision or opinion of the Court, or by a dismissal.



Outgoing Cases (2020)



Outgoing Cases (2021)



Outgoing Cases (2022)

Case Management

A continued focus on efficient operations.

In 2022, the Court implemented the changes in the Court's local rules that were adopted at the end of 2021. Judge Bergeron, Court Administrator Julie Kahrs Nessler, and Assistant Court Administrator Angela Hayden each presented at various Continuing Legal Education (CLE) events to highlight these changes to local practitioners.

In furtherance of its efforts to streamline case management, the Court appointed two new magistrates to the Court. On January 18, 2022, Court Administrator Julie Kahrs Nessler and Assistant Court Administrator Angela Hayden were sworn in by Presiding Judge Beth A. Myers as magistrates. The magistrates are authorized, via an order of reference, to issue certain procedural orders and rule on certain procedural motions that are filed with the Court, as well as any other duties assigned by the Court.

The Court also hired two new administrative staff members. Among other duties, they are responsible for inputting information into the Court's case management system. Proper staffing and use of the Court's updated case management system allows the Court to ensure cases are efficiently processed through the Court.

Case Management --

Finally, the Court is always looking for educational opportunities to inform the judges and staff of legal issues that come before the Court. In the Fall of 2022, the Court hosted a Continuing Legal Education training program for judges and employees of the First District and local Hamilton County trial courts. The training focused on final appealable orders and provided an overview of R.C. 2505.02 and case law surrounding final appealable orders in Ohio. The speaker, Andrew Pollis, Professor of Law at Case Western Reserve School of Law, Milton and Charlotte Kramer Law Clinic, also discussed decisions made by the trial court that impact the jurisdiction of the appellate court. More CLE training programs like this one are expected in 2023 with the intention of offering them to local practitioners, as well as the courts.

Mediation Program

The First Year

The Court's appellate mediation program completed its first full year of operation. Developed in 2021 as part of several initiatives to increase efficiency and access to the Court, the mediation program aims to provide parties with structured assistance in reaching resolution prior to briefing and oral argument. The Court's mediator, Sarah Foster, screens civil appeals for eligibility and works directly with the attorneys and parties to explore options for resolution. As part of the eligibility review, she also reviews each appeal for jurisdictional defects (i.e., whether the appeal is timely and from a final appealable order), identifies those defects that can be cured, and conducts prehearing conferences with parties when appropriate.

The Court's mediator has several tools at her disposal to assist parties and their counsel to explore resolution options in the manner that works best for each case. She regularly conducts premediation conferences with counsel and unrepresented parties and undertakes follow-up efforts as agreed upon. Cases referred to the mediation program may, by agreement of the parties, be put on a mediation stay, which extends deadlines for case briefs and allows parties to focus their efforts on settlement.

Mediation Program --

Mediations are conducted virtually or in-person at the First District. Over the course of 2022, most parties elected to mediate virtually, but there was a shift toward in-person mediations during the second half of the year.

In 2022, the mediator held 83 premediation conferences and 20 mediations. Ultimately, 15 appeals reached settlement agreements following mediation efforts and those appeals were voluntarily dismissed - a 75% success rate for this first-year program. Early case review for jurisdictional defects resulted in the court dismissing 29 appeals for lack of appellate jurisdiction. In a number of cases, the parties were able to cure the jurisdictional defects such that the case could be refiled and proceed to a resolution on the merits.

75% Success Rate

As part of outreach efforts to the legal community, the mediator presented on appellate mediation topics to the Ohio Women's Bar Association, the Cincinnati Bar Association, and the Lawyers Club of Cinicnnnati.

Modernizing Technology

In 2022, the Court continued to build upon the modernization of its technology that began in 2021. Specifically, the Court continued to focus on ways to enhance access to the court process, as well as enhancing the Court's ability to work remotely.

Creating a Hybrid Model of Participation in Oral Arguments and Mediation

On March 7, 2022, the Court returned to in-person arguments after more than a year of exclusively using the Zoom video conferencing platform to hold oral arguments. With the return to in-person arguments, the Court was able to utilize the equipment purchased in 2021 from one of the technology grants received from the Ohio Supreme Court to record and broadcast oral arguments. While in-person arguments are open to the public, they are also live streamed on the Court's YouTube channel and on the Court's website. The Court's website and YouTube Channel both contain an archive of prior arguments heard by the Court. Remote arguments remain an option. If a party to an appeal wants to participate in oral arguments via Zoom, he or she must file a motion detailing the reasons for the request.

Modernizing Technology--

Although the Court began shifting away from using Zoom as the primary method to conduct oral arguments in early 2022, the Court identified other areas of potential improvement to its video recording equipment in the courtroom. The Court applied for and received a technology grant from the Ohio Supreme Court in May 2022. The focus of this grant is to equip the courtrooms with tools to create a hybrid model for oral arguments. This hybrid model would use video carts to allow one party to participate virtually while the other party is present in-person. The Court is committed to providing additional options to ensure cost, distance, and other limitations are not barriers to participation in the court process. Due to disruptions in the supply chain, the Court anticipates these courts to be operational by early 2023.

Another advancement made possible by the technology grant from the Ohio Supreme Court is to permit hybrid participation in the Court's mediation program. With funds provided from the 2022 technology grant, the Court was able to purchase video-conferencing equipment such that participation in mediation can be simultaneously in-person and remote. Equipment was also purchased to create a hybrid model for court staff meetings and court trainings.

Creating a hybrid model in all these aspects of the court process permits greater flexibility in court services. The Court hopes these efforts will result in higher participation rates in oral arguments, mediations, and court trainings, while decreasing costs.

Remote Work Once Again a Focus

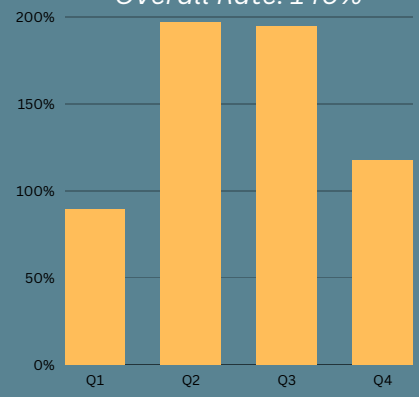
Working through the restrictions occasioned by Covid-19 presented an opportunity for the Court to review its workflow and consider ways to streamline operations. One area where the Court found it could modernize its operations was through migrating to a terminal server to enhance remote work capabilities. With the support of the Hamilton County Commissioners, the Court purchased equipment for a terminal server. This new server will allow Court employees to work more efficiently at long-term cost savings for the Court.

Clearance Rates

A "clearance rate" measures how a court is keeping up with its incoming caseload. If a clearance rate is less than 100% it means that the court is receiving more cases than it is disposing of. In those cases, 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). The First District continued its recent trend of having a positive clearance rate.

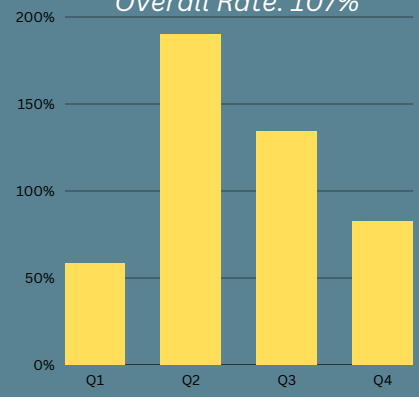
Clearance Rate 2020

Overall Rate: 140%



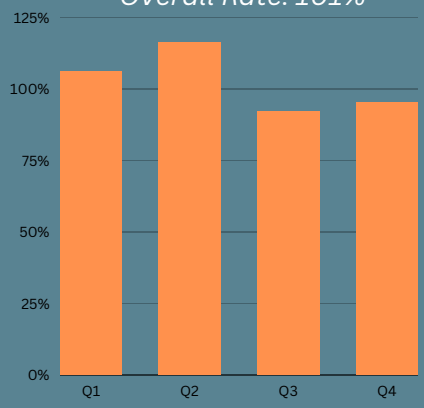
Clearance Rate 2021

Overall Rate: 107%



Clearance Rate 2022

Overall Rate: 101%

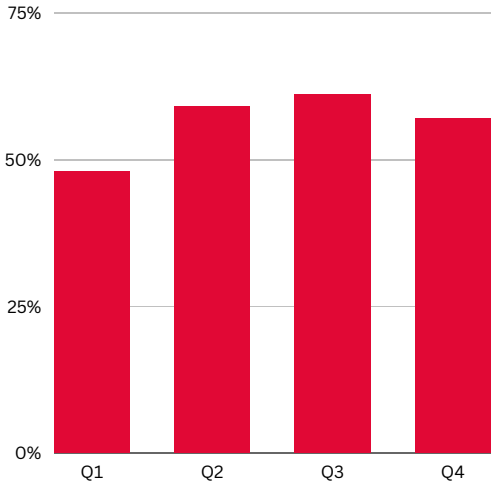


Overage Rates

The “overage rate” identifies the extent to which a court’s pending caseload is lagging past applicable time standards set by the Ohio Supreme Court, or, overage. The First District has made a number of changes in its processing of cases to decrease its overage rate. In 2022, the First District again continued its progress in reducing its overage rate.

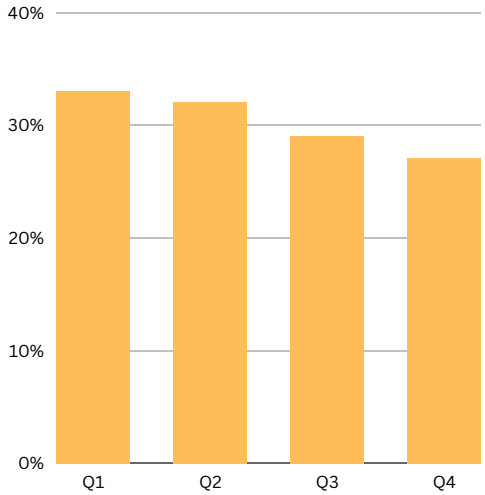
Overage Rate (2020)

Overall Rate: 56%



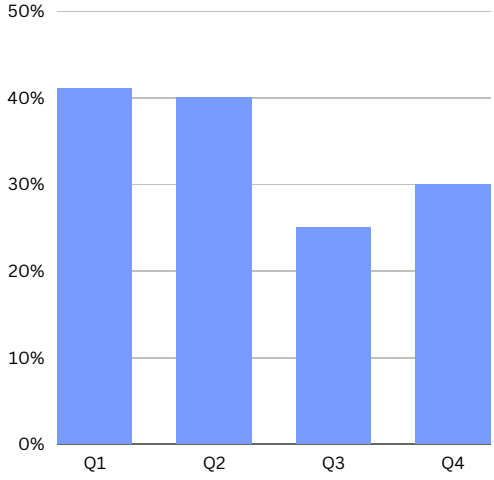
Overage Rate (2021)

Overall Rate: 35%



Overage Rate (2022)

Overall Rate: 30%



Engaging in the Community

Give Back Friday

Spearheaded by Judge Beth A. Myers and Judge Wende Cross of the Hamilton County Court of Common Pleas, local judges gathered several Friday mornings and Saturdays during the year to give back to the community.

In January, Judge Myers, Judge Bock, and Judge Bergeron volunteered with judges from the Court of Common Pleas and Hamilton County Domestic Relations Court to write letters for the United Way.

At other events throughout the year, judges from the First District Court of Appeals were joined by judges from the Hamilton County Court of Common Pleas and Hamilton County Domestic Relations Court. In April, Judge Myers, Judge Bergeron, and Judge Winkler volunteered their time at New Life Furniture Bank in Blue Ash. In May, the group of judges supported Saturday Hoops. Finally, in August, Judge Myers, Judge Crouse, and Judge Bock volunteered at St. Vincent de Paul.

Engaging in the Community--

University of Cincinnati Law Students Tour the First District

Students from the University of Cincinnati College of Law participating in the university's Appellate Court Clinic were given the opportunity to tour the First District in April. Students toured one of the courtrooms and the administrative offices before participating in a question-and-answer session led by Judge Bergeron.

First District Welcomes Undergraduate Students from Xavier University

Students from Xavier University were welcomed to observe arguments in the First District's courtroom in the fall. The students were currently enrolled in a Civil Society and Government course at the university and were involved in various internships in local government throughout the city, including in our own court.

The students heard arguments in three cases before the three-judge panel consisting of Presiding Judge Crouse, Judge Winkler, and Judge Bock. At the conclusion of arguments, the judges and their staff attorneys participated in a question-and-answer session with the students.

Engaging in the Community--

Internships in the Court

In 2022, the Court continued its Diversity and Inclusion Internship Program in partnership with the University of Cincinnati College of Law. The goal of this program is to provide learning opportunities in area courts for law students that are supportive of diversity and inclusion. The Court hosted one intern in the summer of 2022 as part of this program.

The Court hosted a number of externships for local law students from the University of Cincinnati College of Law in 2022. Additionally, the Court hosted undergraduate students from Xavier University, as well as Centre College. These internships allow students the opportunity to learn more about the court system. The programs have allowed students to work with both judges and their judicial staffs, as well as court administrators.

Off-Site Arguments Resume

For the first time since 2019, the Court was able to resume off-site arguments in 2022. In August 2022, oral arguments were held at the newly-constructed Finneytown Elementary School. As part of the First District's "Courtroom in the Community" initiative, events like these give Hamilton County residents the opportunity to observe the judicial system in action. At this event, Presiding Judge Zayas, Judge Winkler, and Judge Bock heard arguments on two different cases before participating in a question-and-answer session with the community.

Engaging in the Community--

Off-Site Arguments held at University of Cincinnati College of Law

In November, the Court held off-site arguments once again, but this time at the newly-renovated University of Cincinnati College of Law. Many law students heard arguments in three cases before the three-judge panel consisting of Presiding Judge Myers, Judge Zayas, and Judge Bergeron. After concluding a question-and-answer session between the judges and students, law students joined Judge Myers, Judge Zayas, Judge Bergeron, their staff attorneys, and some local practitioners, including attorneys from the Hamilton County Prosecutor's Office and the Law Office of the Hamilton County Public Defender for lunch. The law students in attendance were interested in working for the judicial system and were able to learn more about their desired career path.

Engaging in the Community--

Limited Scope Representation Comes to Hamilton County

In 2022, the Court collaborated with other Hamilton County courts, local practitioners, and the Cincinnati Bar Association to bring unbundled legal services to Hamilton County. Limited Scope Representation, or unbundled services, provides legal representation to litigants who may only have the means to hire an attorney for a limited purpose.

In late summer 2022, the Hamilton County Domestic Relations Court convened a group of legal professionals including the court administrators of the First District Court of Appeals, Hamilton County Domestic Relations Court, and Hamilton County Juvenile Court, and representatives from the Cincinnati Bar Association Lawyer Referral Service, Legal Aid, and the University of Cincinnati Law Clinic Program. The intent of the meetings was to investigate ways to provide additional means of access to justice in local courts. Specifically, the group targeted assisting those clients who may not have sufficient funds to secure full representation by an attorney but would benefit from representation in a limited part of a case. After many meetings, the idea of the Limited Scope Representation Panel was born.

In December, the new program, which was added to the Cincinnati Bar Association's Lawyer Referral Service Program, was presented at a Continuing Legal Education (CLE) event. The program creates a panel of willing and qualified attorneys who can aid clients in parts of a case rather than fully representing them. This resulted in a financially sound way to retain counsel and access justice in local courts, including the First District Court of Appeals.

Implicit Bias Training

In 2022, the Court continued its quest for fair and impartial administration of justice. Building upon the implicit bias training provided to court staff by the University of Cincinnati in 2021, judges and employees of the First District Court of Appeals participated in a Legal Emphasis Implicit Bias Workshop in December 2022, presented by trainers from the YWCA of Greater Cincinnati. Participants in the workshop engaged in conversations and activities with the intention of increasing awareness of how implicit bias impacts individuals at different levels while highlighting the impact on the judicial system. The Court's efforts to address and eliminate these biases will continue in 2023.

Engaging in the Community--

The judges of the First District Court of Appeals continue to be involved in the community. Below is a sampling of each judge's involvement in the community.

Judge Zayas
Member of the Ohio Supreme Court's Judicial Ethics, Professionalism, and Diversity Committee; member of the University of Cincinnati College of Law Dean's Advisory Board; creator and host of "Bridges to the Bench," a statewide educational program for law students.

Judge Myers
Member of the Ohio Supreme Court's Commission on Professionalism; member of the Ohio Sentencing Data Platform Governance Board; member of the University of Cincinnati College of Law Dean's Advisory Board.

Judge Bergeron
Trustee of the Cincinnati Bar Association; instructor on State Constitutional Law at the University of Cincinnati College of Law; served on the Ohio Supreme Court Wrongful Conviction Task Force.

Judge Candace Crouse
Member of the Ohio Judicial Conference Jury Instructions Committee; member of the Ohio Board of Professional Conduct; member of the Potter Stewart Inn of Court.

Judge Robert Winkler
Board of Governors of the Cincinnati Dyslexia Center; member of the Ohio Courts of Appeals Judges Association.

Judge Ginger Bock
Member of the Ohio Judicial Conference of Judicial Ethics, Professionalism, and Diversity Committee; member of the NAACP's Cincinnati Chapter; volunteer with Karen Wellington Foundation