

WINTER - SPRING 2018



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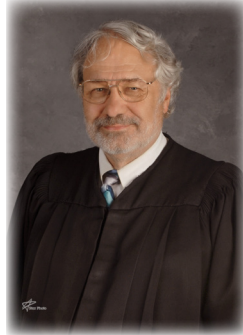
An Educational Newsletter Publication of
The Circuit Court of Madison County
(Divisions 1-6)



Angela Warner Sims
Judge
Circuit Court 1



G. George Pancol
Judge
Circuit Court 2



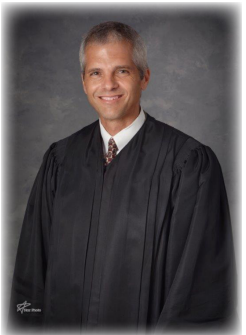
Thomas Newman
Judge
Circuit Court 3



David A. Happe
Judge
Circuit Court 4



Thomas Clem
Judge
Circuit Court 5



Mark Dudley
Judge
Circuit Court 6

An Essay on Purposeful Incarceration by Judge Thomas Newman Jr.

In 2009 the Indiana Department of Correction embarked on a rehabilitation program that genuinely modifies the way people think and as a result, their lives change for the better.

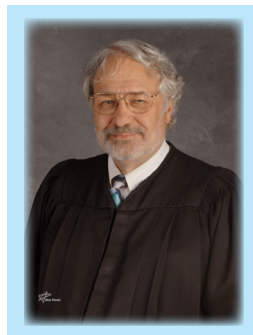
The program is "Purposeful Incarceration." The opportunity for an offender to participate in Purposeful Incarceration begins when the home court judge sentences a chemically addicted offender to the Department of Correction and recommends participation in Purposeful Incarceration. The sentencing order must state "Upon successful completion of the clinically appropriate substance abuse treatment program as determined by the IDOC, the court will consider a modification to this sentence."

This revolutionary rehabilitation concept was created at Texas Christian University in conjunction with Dr. Stanton Samenow, who, after extensive study and research at St. Elizabeth's Hospital in Washington, D.C. co-authored a book titled "The Criminal Personality." Dr. Samenow developed a program called "Commitment to change, Overcoming errors in thinking" that is heavily relied

upon in rehabilitating offenders.

As you would expect, the program is designed to target inmates whose criminal behavior is tied to substance abuse and addiction. In the past, an offender would enter and exit a prison sentence with the same problem existing that placed the person there in the first place. Now we are blessed with a treatment plan that overcomes such recidivism.

Once in the program, the offender is placed in a special residential setting with other participants. The minimum time to successfully complete the program is eight months. However, for some the program may last up to a year. The initial stage of the 4 stages is an intensive program using proven treatment models. The program requires very strict compliance with rules and policies. In other words, this is not an easy program and many inmates fall by the wayside and are returned to



INSIDE THIS ISSUE

1: Essay on Purposeful Incarceration - *Judge, Thomas Newman Jr*, Circuit Court 3.

3: *JDAI_Juvenile Detention Alternatives Initiative - Traci Lane, JDAI Coordinator*

4: *Senior Judge Dennis Carroll*
Why can't I just represent myself?

5: *Judge Mark Dudley*
Jury Service and You

6: Madison County Courthouse Closes - *Jim Hunter, Court Administrator*



the general population.

Once the first stage is complete the next goal is to begin working on successful re-entry into the community. During this time the offender may play the role of a mentor for new offenders coming into the program. I find this to be one of the most intriguing aspects of the process. A participant is mentored as they move through the process and then, as a result of their program success they become a mentor themselves, and as such are teaching the skills and techniques they have learned. It is like a double learning experience.

An inmate who completes the program is then eligible for a 6 month sentence time cut. But most importantly, the home court is notified of the successful program completion which means there will probably be an opportunity for the offender to be returned to his/her home court for a possible sentence modification.

For those offenders who have been sentenced from Circuit Court III and who successfully complete the program, this protocol is followed. First, we request a Department of Correction Progress Report. This report is a summary of the person's activity in the DOC, including educational, employment, treatment, disciplinary and prognosis. If this report is favorable, we request Doug Taylor of the Community Justice Center to prepare an evaluation at the Community Justice Center's Transition Program. Each person is evaluated and provided with a specific plan designed for them to do the right thing when released. The Community Justice Center has been generous with their resources and have allowed the Community Transition Program to facilitate reintegration for those who have completed Purposeful Incarceration.

Once Mr. Taylor has submitted his evaluation, the participant is returned from the Department of Corrections to the home court for a modification hearing. As soon as the inmate is transported to our jail, they are given a urine test. If they fail the test they are returned to the DOC and are not given an opportunity to request a modification. To date, only one person has failed such a screen. These

hearings are held on Friday along with other matters, such as sentencings, guilty pleas, revocation proceedings, bond concerns, etc. These hearings are open to the public and we would be pleased if you attended. You can call in advance to learn if there will be any such modification hearings on a particular Friday.

"I sternly admonish the participant that this is a ZERO TOLERANCE program."

Judge Thomas Newman Jr.

Before being modified to the Community Transition Program, I sternly admonish the participant that this is a ZERO TOLERANCE program. Rules must be followed. If they cannot follow the rules, their opportunity to participate further in Community Transition is over and they will have caused themselves to be returned to the Department of Correction to serve the balance of their term. As stated, each person is evaluated for a program that would best reintegrate them into society. They may begin on work release or in home detention. Once their Community Transition phase is completed we then hold a hearing to determine if they should be placed on Continuum of Sanctions (a Community Justice Center Program) or on probation. It is also important that those persons who have been modified receive encouragement and support to maintain good behavior. So, in that regard, Maxine Cook, therapist, has a MOD support group that meets Sundays to make sure everyone is on the same page, to share information and to give one another encouragement.

In staying on the bright side, the recidivism rate for those who have successfully completed Purposeful Incarceration and who have been placed on Community Transition has been amazing. Almost 250 persons have been released by Circuit Court III pursuant to this opportunity, and only five have been returned to the DOC for failing the zero tolerance policy.

The prosecuting attorneys and I really enjoy listening to the testimony of

those who are present for modification. What the inmates learn about themselves and how they subsequently modify their thoughts and behavior patterns is heartwarming. Sometimes they actually appear to be different people than when they were sent to the DOC. We have actually had defendants request to be sent to the DOC so they could participate in the purposeful program because of the success rates it produces.

A young man who was released through the program, and who is doing very well observed: "I held the belief that my drug activity wasn't harming anyone but me. I now know that many people in society are negatively affected by drug activity. The State of Indiana is a victim. Using and selling drugs is inherently wrong. Addiction tears families apart and costs taxpayers enormous sums of money. This new belief makes me remorseful, guilty and saddened for the harm I've done. These feelings make me want to be a man of integrity. Integrity is the vortex to where my values meet my behavior. Now I understand why Indiana Courts are in support of Purposeful Incarceration."

The ripple effect of success is outstanding. The purposeful program produces productive, law abiding citizens who are now a positive for society. Just recently a young man was modified after completing the program. He had been in and out of prison three times. He has successfully completed the CTP portion of his reintegration and is now on Continuum of Sanctions. At his hearing he presented a news item of his success story. This person's 21 year old son also observed significant changes in his dad, his dreams, his goals and his attitude. His son was so impacted that he realized he had to make the same changes, learning from his dad's mistakes. His dad said, "Nothing is better than that" reflecting on how his son has grown. To be honest, I got a little choked up and a little watery eyed during this hearing.



Madison County Juvenile Detention Alternatives Initiative Update
By Traci Lane, JDAI Co-Coordinator

January, 2018 marks the beginning of the fifth year for Madison County in the Juvenile Detention Alternatives Initiative (JDAI). As our data collection practices continue to improve, we can provide reliable data to show the impact that this system reform initiative is working.

		2013	2017		
Secure Detention Population	Secure Detention Total Admissions	272	139	-49%	
	Total Releases	273	139	-49%	
	Average Daily Population	12.6	7.6	-40%	
	Average Length of Stay	16.7	19.2	15%	
Public Safety	Felony Petitions Filed	223	143	-36%	
	FTA Rate (while on ATD)	N/A	5%		
	Re-Arrest Rate (while on ATD)	N/A	17%		
Racial/Ethnic Disproportionality	Youth of Color (YOC) Admissions	126	53	-58%	
	YOC Releases	119	54	-55%	
	YOC Average Daily Population	6	2.8	-53%	
	YOC Average Length of Stay	17.9	20.5	15%	

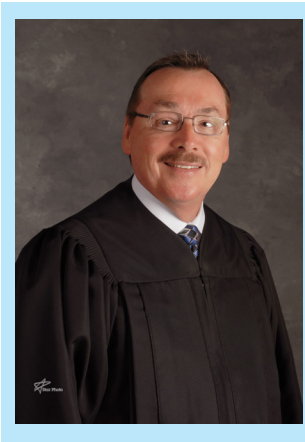
(Note: FTA = Failure to Appear, ATD = Alternatives to Detention, YOC = Youth of Color)

Through JDAI, the Madison County Juvenile Center staff are also continuing to push forward in our efforts to collaborate with agencies across the county that work with youth to implement programs that can improve outcomes. In 2017 Madison County was one of 11 Indiana counties invited to participate in the *JDAI Implicit Bias Training Institute* presented by Rita Cameron-Wedding, Professor of Women’s and Ethnic Studies, Sacramento State University. Three professionals from Madison County completed the Training for Trainers course, receiving the skills needed to conduct local trainings on the concept of implicit bias. The goal of the local trainings, which will begin this year, is to open up dialogue in regard to unconscious bias, colorblindness, and institutional racism and the effects of implicit bias in decision-making at the various decision making points in the juvenile justice system. The goal for 2018 is to train local stakeholders and eventually open up the training opportunity to any and all persons interested in participating in this solution-focused training.

Also in 2017, Madison County was able to send three education professionals to become trainers in *Teaching the Teen Brain*. This program, developed by Dr. Brandi Oliver of Butler University focuses on teaching educators about adolescent brain development, the impact of trauma in the school environment and classroom management strategies to increase compliance and decrease disruptions during the day, thus decreasing suspensions and increasing learning for students. In October, 2017 South Madison Community School trainers, Allyson Gordan and Ashley Zukowski, trained approximately 16 teachers from their corporation. (Pictures attached) They are planning another training for April, 2018 and have opened up the training to faculty from area schools. Anderson Community Schools trainer, Ellen Finney-Pickett, is also working on setting up training for ACS faculty for March, 2018 and also welcomes faculty from other schools.

Traci Lane, JDAI Coordinator

Why can't I just represent myself? by Senior Judge Dennis Carroll



Senior Judge Dennis D. Carroll

"Why can't I just represent myself?" That is a question judges hear a lot. And the answer we usually give goes something like this:

"You may represent yourself, but it is likely a very bad idea!" There is an old saying in the law, "The man who represents himself has a fool for a client!" Perhaps a bit harsh, the honest answer remains the same: "You may legally represent yourself, but it is almost always a bad idea!"

Judges give that answer not because they are in league with lawyers, but because we know that "selfrepresentation" (sometimes called "pro se" representation) often leads to a bad result. When I was being a bit sarcastic, I used to say, "You can do your own appendectomy, if you

don't mind living with the results." Of course, no layman would be foolish enough to think he was qualified to perform surgery. Yet, some folks think a lawyer isn't really necessary to handle a court proceeding or serious legal matter.

In our consumer oriented society with self-help books and numerous on-line sites that offer to provide assistance to persons representing themselves in legal matters, we often forget that the law is complex with numerous procedural and evidentiary rules that require strict compliance. And TV makes it look so easy!

True, it may be possible for a sophisticated consumer to handle her own small claims matter, defend a divorce in a marriage that is short-term/without assets/without children, or enter a guilty plea in a traffic speeding charge without the benefit of counsel. While a lawyer is helpful even in these simple matters, a lawyer is a "must" in a serious criminal charge. A trained attorney is also important for a spouse or domestic partner in paternity and dissolution cases involving children, a long-term relationship, the disability of a party, or assets including a pension. Other serious legal matters such as a lawsuit involving thousands of dollars face serious challenges without the assistance of competent counsel.

Sometimes it is what we don't know that harms us the most. And, sometimes an illustration proves the point.

First, let's look at some pitfalls in domestic relations law that attorneys need to address:

What is the significance of joint "legal" custody with primary "physical" custody to dad? In such a case who decides medical or educational disputes? When does mom have the children for holidays and vacation? True, Indiana courts generally follow "Parenting-Time Guidelines" found at :

<http://www.in.gov/judiciary/rules/parenting/index.html>. But these are only GUIDELINES. When is it appropriate for a party to request a deviation from the guidelines? Or how about a deviation from the child support guidelines (found at http://www.in.gov/judiciary/rules/child_support/index.html)? **THESE ARE QUESTIONS THAT LAWYERS ARE TRAINED TO ANSWER.** And the right answer at the time of final hearing may be critical to the future of the parent-child relationship, the children's well-being, or economic security.

Here's another important question: what are the legal rights of a disabled spouse or a full-time homemaker? Or, what if the family home was inherited from the husband's family and remains in his name alone? Does it make a difference if the couple have been married 25 years? What factors suggest that a 50-50 split of assets would not be fair for one party? Again, **THESE ARE QUESTIONS THAT LAWYERS ARE TRAINED TO ANSWER.** And, self-representation during negotiation or at the time of final hearing may result in an unfortunate, but final, resolution compromising important legal protections and financial security the law can provide only with the help of trained counsel.

Second, let's look at some risks of self-representation in common civil litigation.

Perhaps you have been sued, and you receive a summons, because you fell behind in your mortgage payments, you made unwise credit card purchases, or your neighbor claims your lawn fertilizer killed his prize apple tree. What happens if you ignore the summons? Perhaps you think you can file your own "answer" and request a hearing? But what do you do if a "Discovery" Motion or a Motion for Summary Judgment from the plaintiff's lawyer arrives in the mail? **THESE ARE QUESTIONS THAT LAWYERS ARE TRAINED TO ANSWER.** Self-representation when you are the defendant in a lawsuit can put your legal security and finances in grave peril. For example, the failure to properly and timely respond to a discovery Motion can result in sanctions against you. The failure to follow the strict response guidelines of Trial Rule 56 regarding Summary Judgments can result in a judgment against you for the full amount requested without a trial or opportunity to present your defense. To repeat: Sometimes it is what we don't know that harms us the most. The illustrations above concern defending against a lawsuit. It is also true that good legal advice is important when you are a potential plaintiff. If you have a claim against the estate of a person recently deceased, if a person who owes you money files bankruptcy, if your property has been damaged, or if you have been injured by the carelessness of another, make an appointment to talk with a lawyer. You may have important rights to protect.

Third, and finally, what are the dangers of self-representation if a serious criminal charge has been brought against you or a member of your family?

Most everyone has heard the advisement, "You have the right to a lawyer at public expense." In our legal system, public defenders are employed by the courts to represent persons without enough money to hire their own lawyer. Unfortunately, defendants often get frustrated because they don't understand why their lawyer is handling their case in a particular way, or the case is moving too slowly. So, they "demand" the right to fire their PD and represent themselves. **THIS IS ALMOST ALWAYS A BAD IDEA.** It is perfectly reasonable to insist that your PD communicate with you in a timely fashion, and explain why your lawyer is proceeding in a particular way. It is not reasonable (or permissible) to attempt to force your lawyer to file certain Motions or schedule hearings he/she considers frivolous or not in your best interest. Although the law give your lawyer the right (and obligation) to decide what legal strategy that is best to follow in your case, your lawyer has an obligation to discuss that strategy with you and to explain the rationale.

If you get frustrated and ask to fire your lawyer and to proceed "pro se" in a serious criminal case, you are at the mercy of a system with rules and procedures you have not been trained to follow. On the few occasions I have had some frustrated criminal defendant "demand" to fire his lawyer and proceed pro se, I begin the conversation with him by saying, since you don't have any formal legal training, answer this question: "If the prosecutor threatens to offer damaging 404(b) evidence against you, how will you respond? "HUH?" is the typical answer followed by, "Judge I probably need to keep my lawyer!" Again, I make the point: **THESE ARE QUESTIONS THAT LAWYERS ARE TRAINED TO ANSWER.**

Never attempt to represent yourself in any serious legal matter, whether it involves your children, your marriage, your assets, your civil and legal rights and obligations, or your constitutional and criminal procedural rights. Of course, professional help comes with a price tag. It is always OK to ask in advance about fees, a payment plan, or the possibility that the other party might be required to help with your fees. But, remember the old adage from the beginning of this article: "The man who represents himself has a fool for a client!" Like the surgical suite in a hospital where the help of a trained surgeon is necessary, the court environment and legal rules of procedure also require the professional help of a lawyer. A lawyer can't guarantee an outcome, but your rights will be protected and your best chance for a fair result are greatly improved with the help of a skilled attorney.

Senior Judge Dennis Carroll, January, 2018

"Sometimes it is what we don't know that harms us the most."

Senior Judge Dennis Carroll



Jury Service and You



I am currently a judge; however, in the past, I was a lawyer that tried cases to juries. My experience with juries as a

lawyer, and now as a judge, is amazingly consistent. The people called in are always hesitant and unsure if they can or want to serve on a jury. For those that are selected, at the end of the trial, the jurors always say “that was not so bad, I learned a lot”. I also perceive that they have a sense of performing an important job.

What do you think when you receive a jury summons in the mail? In the past, people tried to avoid jury service by not voting. The thought was that if I am not on the voter list, I could not be called for jury service. I am sure there were myriad reasons to avoid jury service. It disrupts your daily routine. It takes you away from work. It places you in a position of judgment over the acts of another human being.

“In the past, people tried to avoid jury service by not voting”

Judge Mark Dudley

Jury service is intimidating. The court now summons jurors from voting records, driving records and tax records. If you drive, pay taxes or vote, you will receive a summons for jury service. A sample juror summons and juror questionnaire are located at www.madisoncty.com. This is not a bad thing. The Indiana Supreme Court in January 2003 adopted a set of rules designed to modernize jury service. With the, not so new jury rules, the experience is now more geared to jurors’ needs.

How does the process of being called for jury service work? You are

mailed a juror questionnaire. After completing your questionnaire and mailing it back to the court, there is often a delay of one (1) to three (3) months prior to receiving your jury summons in the mail. The summons instructs you to call after 6 p.m. on the day prior to your assigned date. If the recorded message says not to report, then you are no longer on the hook for potential jury service. If you must report, then you report the following day to your assigned court. Just because you show up at the courthouse does not mean that you will be on a jury. A process called voir dire, French for to speak the truth, occurs where the lawyers and the judge ask questions and select jurors from the pool of potential jurors that reported. Be prepared, the voir dire process can be lengthy. A civil case and a level 6 felony case require six jurors. A felony case levels 1 through 5, require 12 jurors. To serve on a jury you must be at least 18 years old, a citizen of the United States, a resident of Madison County, and able to read speak and understand English. If you are 75 or older, you can ask for an exemption from jury service. A prospective juror can also request a deferral of jury service for hardship, extreme inconvenience, or necessity. An affidavit of deferral is located at www.madisoncty.com.

If you served on a jury before 2003, the courts have worked to make the experience more positive. In the past, jurors were not given an orientation video describing their service. Jurors were not given the written instructions on the law to review while being read in court or while they deliberated. Jurors were unable to ask questions of witnesses during a trial. Jurors were unable or not permitted to discuss the case at all until the conclusion of the case. I can imagine this was very frustrating for many people. Jurors, not trained in the law were told the law applicable to the case but then are not given the law in a written form for

reference during their deliberations. Jurors, with their inherent wisdom, were not allowed to ask the questions omitted by the lawyers of important witnesses. After seeing or hearing important evidence jurors were told not to discuss it.

How did the jury rules try to tackle some of these frustrations? The new jury rules mandate that juries are given the written instructions for their

“Jurors are now allowed to discuss evidence, as the trial happens, however, jurors are still not allowed to discuss the ultimate resolution until the end of the case.”

Judge Mark Dudley

review. Jurors are now allowed to submit written questions to witnesses through the judge. The judge and the lawyers determine if the questions are acceptable and if so, they are asked of the witness. Jurors are now allowed to discuss evidence, as the trial happens, however, jurors are still not allowed to discuss the ultimate resolution until the end of the case.

During 2017, there were 4 civil jury trials and 31 criminal jury trials in Madison County. Jury service is a great civic responsibility. It is how we resolve disputes without resorting to violence. I believe it is a hallmark of a civilized society to submit disputes to a determination by a jury of one's peers. It is a great service. It is a great learning opportunity and you are doing your civic duty at the same time. If you have questions concerning this process feel free to call or email Madison County Court Administration at 765-641-9503 or jhunter@madisoncounty.in.gov.

Judge Mark Dudley

Madison County Courthouse Closes - The Circuit Court Relocates to AU Flagship Enterprise Center

In December of 2017, the Madison County Courthouse was closed to the public indefinitely to allow the building to undergo remediation (removal) of asbestos. The courthouse was built in the early 1970's, when the use of asbestos as fireproofing was commonplace. The Circuit Court of Madison County (Divisions 1-6), and all other governmental offices housed at the courthouse were vacated in the last week in November of 2017 to allow the remediation to take place. The asbestos remediation project is estimated to take 8 months to complete. If that estimated time frame can be met, the courts and other governmental offices would be moving back to the courthouse sometime in July or August of 2018.

The following is a listing of important court related facts and information specific to the closing of the courthouse during the asbestos remediation period.

- 1) **The Circuit Court of Madison County has relocated to the Anderson University Flagship Enterprise Center at 2705 Enterprise Drive, Anderson, IN 46013. Also relocating to that building are the Office of Court Administration, the Madison County Prosecutor's Offices, the Chief Administrative Public Defender's Office, and the Sheriff's Civil Office.**
- 2) **Most court hearings, both civil and criminal, will be held at the 2705 Enterprise Drive address. However, not all court functions will be housed at the Flagship. Most jury trials will be held at the AU Flagship Enterprise Center address.**
- 3) **Problem Solving Court (Re: Drug Court, Mental Health Court, Re-entry Court) hearings will not be held at the Flagship Center. Those hearings will be held at Anderson City Court, located at 1034 Main St., Anderson, IN 46018.**
- 4) **Problem Solving Court Staff will also be located in downtown Anderson. The Problem Solving Court Staff has relocated to the 6th floor of the First Merchant's Tower at 33 West 10th St., Anderson, IN 46016**
- 5) **Adult Probation Services will be located at 3420 Mounds Road, Anderson, IN 46017. The Adult Probation department will deploy staff at other court or governmental office locations as dictated by need.**
- 6) **Juvenile Court (Hearings for Juvenile offenders) will be held at the Juvenile Center, located at 3420 Mounds Road, Anderson, IN 46017.**
- 7) **Children in need of services (CHINS) hearings are being held at multiple locations: Anderson City Court, 1034 Main St., Anderson, IN 46018; 3420 Mounds Road, Anderson, IN 46017; and the AU Flagship Enterprise Center, 2705 Enterprise Drive, Anderson, IN 46013. Your court paperwork and/or summons should have the address/location of where your hearing will take place. Contact the court identified on your court paperwork if you have questions or are not sure where to appear. The Information Desk for the courts is 765-641-3947.**
- 8) **Court fees and fines will be paid at the Clerk's Office. Children in the Middle Class fees for divorcing/separating parents are also paid in the Clerk's office. The Clerk is located on the 2nd floor of the First Merchant's Tower at 33 West 10th St, Anderson, IN 46016. The Courts do not collect their own fees. Court fines and fees are almost always paid to the Clerk's office. See Item #9 for exceptions to fees paid in the Clerk's office**
- 9) **Certain fees or taxes that the public might associate with the courts might not be paid at the Clerk's office. Examples of fees not paid to the Clerk: a) Fees to be paid to the Prosecutor's Diversion Program. Those fees are paid directly to the Prosecutor's Office. Prosecutor Diversion Program fees would be paid at the AU Flagship Enterprise Center at 2705 Enterprise Drive, Anderson, IN 46013 (see Carolyn Davis): b) Taxes on Sheriff Sale properties would be paid to the Sheriff Civil Office. This office is also located at the Flagship location.**
- 10) **For information on a case or your case with the Madison County Circuit Court, visit <https://mycase.in.gov> .**
- 11) **For those without internet access needing court, jury, or hearing information, contact the Circuit Court Information Desk in person, or by phone at 765-641-3947.**