

JUDGE DONALD JOHNSTON

Judge Donald Johnston's 'Accidental Legacy' as a Criminal Law Specialist

“Like anything else, once you get into something up to your eyebrows, you either get interested in it or you go crazy.”

So says Kent County Circuit Judge Donald Johnston while describing criminal law, an area of law that he has been intimately involved with throughout his legal career. But surprisingly, the Wayne Law graduate never even planned on pursuing it in the first place.

“My worst grade in law school was criminal law — I think I got a C+. I spent most of my elective time studying corporations and securities law, so I originally thought I would go into that rather arcane field,” he shared.

After earning his degree, however, he eventually relocated to Kent County and became an assistant prosecuting attorney. After losing an election for chief prosecutor, he was appointed as a 61st District judge in 1979, a position he held (including eight years as Chief Judge) until his election to the circuit court in 1988.

Now, on the eve of his retirement, Judge Johnston is reflecting on his numerous accomplishments from his time on the bench.

“One of our most pressing goals was to move cases through the system as quickly as we possibly could. We adopted these so-called criminal status conferences, in which newly bound-over criminal cases would be assigned for a review hearing to determine if a plea deal was possible. This allowed us to remove many cases from the docket almost as soon as they



Judge Johnston

got here and expedite the whole process. We wanted to keep sand from slowing the gears of justice, so to speak.”

Judge Johnston’s implementation of the status conferences, which he personally considers to be one of his proudest achievements from his time on the circuit court, occurred during his eight-year stint as Chief Judge. “I finished out four two-year terms as Chief at the end of 2017, and prior to that I served as Chief Judge Pro Tempore, who’s basically the second-in-command,” he recalled. “However, both roles are members of a leadership team that works with issues such as the budget, new personnel, and paper flow, so I was involved in leadership for a long time.”

Judge Johnston has been busy on the administrative side of the justice system. For example, he drafted the Kent County Circuit Court Business Court Pilot Project Plan, and implemented it several months

before the Legislature established business courts across the state, using Kent County’s plan, in part, as a model. In addition, after a long campaign with the State Court Administrative Office, the Legislature, and the County Commission, he succeeded in having an 11th judgeship added to the Circuit Court in the 2016 election cycle, to help them handle the caseload of a growing County.

Judge Johnston’s resume includes successfully tackling complicated projects with lots of moving parts. This includes his work with the State Bar of Michigan’s Standing Committee on Standard Criminal Jury Instructions (which he also chaired), the Council on Law Enforcement and Reinvention (CLEAR), and the Jail Bed Allocation Committee.

“You constantly have to write new jury instructions because the Legislature passes new statutes and modifies old ones,” Judge Johnston explained. “Nowadays, the process is different: the Michigan Supreme Court has the responsibility for standardizing jury instructions, and they appoint the committee instead of the State Bar.”

He continued, “As for CLEAR, our work included an effort to update and optimize the 911 system, consolidate smaller police departments to provide better law enforcement coverage in certain areas of the state, centralize police pension systems, and pursue bail reform and other legislative initiatives — really the whole gamut of criminal justice issues.”

Judge Johnston ranks his chairmanship of the Jail Bed

Allocation Committee as one of his greatest career accomplishments. For example, he helped conceive and set up the Jail Bed Allocation Plan, and then for many years chaired the Jail Bed Committee, which was established to implement and monitor the plan. As Judge Johnston, explains: “The reason we can tolerate one or two judges exceeding their allocations from time to time is that most other judges will be under their allocations, so we never actually reach the designed capacity of the jail.”

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“We had a big problem with jail overcrowding, and due to statutory requirements we had to periodically trigger an emergency release to free up space for other inmates,” he remarked. “To remedy this, we set up a scheme whereby jail beds would be systematically allocated among the various judges and criminal justice agencies in the county. This allowed us to tolerate occasional overcapacities without having to release

inmates early, and we’ve been using this allocation process successfully for about 35 years now.”

In addition, for eight years, Judge Johnston chaired the Kent County Community Corrections Advisory Board (CCAB), which is responsible for apportioning State grant money to various non-governmental organizations (NGO) providing different rehabilitative services for sentenced felony defendants who are placed in the community rather than in prison.

Although Judge Johnston plans to retire at the end of this year, he has many plans for the future. “I have a couple months’ worth of projects around the house that have built up, and I will undoubtedly be assigned to those,” he quipped. ✎

