

State of the Judiciary  
Chief Justice G. Richard Bevan, Idaho Supreme Court  
Message to the Legislature  
January 15, 2025

\* Mr. President, Mr. President pro tem, and distinguished members of the Idaho Senate, my colleagues on the Supreme Court and Court of Appeals, and fellow Idahoans.

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Thank you for having me here today. I look forward to this opportunity each year to share both our successes and the challenges we face in the judiciary.

And to the new lawmakers in the room, welcome! If you are unfamiliar with our court system, I invite you to visit your local courts to see firsthand the vital work being done by the third branch of government in your communities every day.

### ***Our Judges: The Pillars of Justice***

Our founders envisioned a judiciary of skilled judges who reflect their communities, and I am proud to say that's exactly what we have. Our judges exhibit integrity, respect for those who come before them, and a commitment to timely and impartial application of the rule of law. Our judges are independent — meaning they follow the law “without sale, denial, delay, or prejudice,” as our Constitution guarantees. Judges follow and apply the law as passed by this legislature and as dictated in Idaho's constitution, regardless of the judge's personal beliefs.

Judges must make decisions that they personally disagree with. As former Justice Antonin Scalia once explained: “If you're going to be a good and faithful judge, you [must] resign yourself to the fact that you're not always going to like the conclusions you reach. If you like them all the time, you're probably doing something wrong.” This is how Idaho judges operate. They review and apply the law to the facts before them.

### ***A Day in the Life of a Judge***

What is it like to serve on the bench? Let's consider a typical magistrate judge in Twin Falls — the county where I served as a district judge before joining the Supreme Court.

Magistrate judges handle a staggering variety of cases. Almost all criminal cases begin before them, as do juvenile cases. They hear disputes over divorce and child custody, approaching sensitive arguments with great care. They are the judges who address issues around a deceased relative's will and who resolve traffic tickets. And, when local police need a search or arrest warrant in the middle of the night, it's the magistrate judge they turn to. One of our Ada County magistrate judges who was on call a few weeks ago received 17 calls in one weekend. Magistrate

judges thus have the most direct contact with the public, and sorting this all into an efficient schedule takes work.

Twin Falls County has three magistrate judges who rotate across three weeks of distinct responsibilities:

- One week is filled with arraignments, pretrials, status conferences and child protection shelter care hearings. Each hearing involves a unique set of facts. Each one merits the full and undivided attention of the judge. On their busiest day during this week, one judge can hold hearings in as many as 124 different cases.
- The next week focuses on criminal cases. One day, the judge may handle sentencings, hearing an average of 30 cases. On another day, the magistrate judge may have anywhere from six to 20 criminal jury trials scheduled, though only one can proceed. Some cases may settle before trial. Others may not be ready to begin that day. Scheduling multiple trials ensures jurors who have taken time off work or arranged for childcare can perform their civic duty without wasting their time. The next day, the judge begins the same exercise again.
- The third week focuses on civil cases. The judge will try to fit in as many as two civil court trials a day — these are trials that don't involve a jury. Many of them involve child custody or divorce. Any remaining time is packed with status or name change hearings, adoptions, child protection hearings, probate and other civil proceedings. On an average week the judge will touch 40 to 50 civil cases on a whole range of topics.

The three magistrate judges are helped by four others who travel in from outlying counties each week to cover additional criminal trials, protection order hearings, small claims cases and juvenile proceedings. That last category alone can involve 40 to 50 hearings a week. These traveling judges take time away from their own counties to make sure justice is moving in Twin Falls — this will be important to note later.

Similar workloads apply to our district judges. These judges may see less variety in their cases, but they deal with increasingly complex topics.

District judges oversee cases involving felony criminal charges, for which the defendant, if convicted, can be sentenced to the penitentiary. These cases include an arraignment, the potential to decide multiple motions, holding trials or taking guilty pleas, and ultimately sentencing. District judges also handle challenges to a criminal conviction once one is entered.

District judges also preside over civil matters with more than \$10,000 in controversy. These include medical malpractice, employment conflicts and complex business and property disputes, but not divorce or probate cases — those stay with our magistrate judges. Just as an example, one district judge in Twin Falls reports that 424 of his criminal cases and 198 of his civil cases were closed out in 2024.

### ***Challenges of Serving in Rural Areas***

Some judges do all their work in one courthouse, but others may spend 50, 100, even 200 hours a year on the road as they shuttle from courthouse to courthouse. One district judge who is chambered in Shoshone County presides over cases there and in Benewah County. But this judge also spends at least two weeks a month in Kootenai County helping with its felony cases. The travel and time on the bench combined leave little time for research and decision writing, which is much of what a district judge is required to do.

In Bonneville County, proceedings have grown enough that district judges from Bingham and Jefferson counties step in to help manage calendars in Bonneville — one criminal, one civil. We have other judges in our Seventh Judicial District — the largest geographically — who spend one-tenth of their year behind the wheel if calculated using a standard 40-hour work week. Of course, none of our judges work only 40 hours.

### ***The Impact of Treatment Courts***

One of the most rewarding aspects of judicial work is presiding over treatment courts. I had the privilege of presiding over both a mental health court and a veterans' court during my time as a district judge. I consider that some of the most rewarding aspects of my work. Treatment courts change lives.

Most of these courts convene early in the morning or after hours. Thus, judges volunteer to preside in these courts — often allotting 2.5 hours or more on those days — to help people overcome addiction, mental health issues, and more. Half of Idaho's 150 judges preside over at least one treatment court. In the last fiscal year, 613 people graduated from treatment courts. That's 613 Idahoans who are no longer on drugs, who have found effective mental health treatment, who through veterans' court have found the support they need in a setting that is informed by the context of their service. Studies show these graduates are significantly less likely to reoffend, underscoring the value of these programs in keeping our communities safe.

### ***Judges in their Communities and their Safety***

All these events are more than statistics for our judges. They are constant and meaningful interactions with the people in their communities. Each hearing, be it criminal or civil, will include the parties and often their attorneys. Family and friends may be present. A jury trial may involve 40 or more people visiting the courthouse, participating in the proceedings, or witnessing them from the gallery.

Most people at a hearing are invested in the outcome; for the parties, life may change dramatically. Our judges spend their days navigating people who have reason to bring strong emotions with them.

As Chief Justice John Roberts recently noted, "it is not in the nature of judicial work to make everyone happy." In our system of government, the courts serve as a place to hold people accountable, to resolve our differences, and to settle difficult disputes. In making hundreds of decisions a week — decisions that may not please some of the litigants — that makes judicial work a position that is fraught with potential danger. We appreciate all that you have done to

assist in the effort to protect judges' personal information, and we are hopeful that these and future steps may make it easier for judges to sleep at night.

### ***Supporting our Judges***

I wish everyone could feel what it's like to serve our society as a judge. This work is humbling and demanding. However, the toll it takes on our friends and neighbors who serve as judges should not be underestimated.

I know that Idahoans value their courts and they rely on them to address life-altering matters. A former member of our judiciary, when speaking to the public, will point out that a judge is the one elected official who must make a decision on everything that comes before them. Keeping up with those decisions and rendering them in the timely manner that our Constitution requires is a continual challenge, especially in counties like Kootenai, Twin Falls, and Bonneville.

I described earlier some of the ways judges in these judicial districts are pitching in to cover the workload. But those solutions have become untenable and are limiting traveling judges' effectiveness. Visiting judges in Kootenai County now cover nearly a full month's work for a district judge each month, reducing their ability to serve their own counties. Bonneville County is seeing more complex civil litigation and high volumes of hearings seeking temporary orders, which must be dealt with as emergencies, without delay. Twin Falls County has gotten by with three magistrate judges for 35 years or more, notwithstanding the population growth there — and the added complexity of cases we now face since the 1970s. To meet these demands, we are requesting funding for four new judges across these counties.

### ***The Challenge of Recruitment and Retention***

Judges are elected officials. But taking that office requires the new judge to undergo a dramatic transition. This is in large part due to our code of ethics, which requires judges to be able to decide impartially on matters affecting their communities. It isn't enough to just avoid actual conflicts of interest. In order to maintain the public's trust and confidence, judges must avoid even the appearance of favoritism.

Becoming a judge often means relinquishing existing friendships, adjusting hobbies and revisiting how you spend every moment of your free time — all to ensure impartiality and fulfill constitutional duties. For the good of our society, we ask judges to completely reshape their lives and allow their work to become their identity. That means becoming a judge is a massive life step and is usually the final job many of us hold.

When I put it that way, perhaps some of our recruitment challenges become clearer.

Just five years ago, there were, on average, 11 applicants for a district judge position. Last fiscal year, that average dropped to 4.6. When judges resign, retire or pass away mid-term, the Idaho Judicial Council is required to send at least three names to the governor for appointments — for several of the most recent vacancies, three applicants were all the Council even had.

Interest in magistrate judge positions is generally better, but applications for those positions have also declined. Of large concern is the source of those applicants. Talented attorneys who are already in public service, our prosecutors and defense attorneys, are applying to become judges. But civil attorneys in private practice are far less interested in judicial work than they used to be — for vacancies in our trial courts last fiscal year, just one in five applicants came from the private sector.

I welcome former criminal attorneys to our bench — I was once a prosecutor myself. But these trends affect the balance and depth of experience of our bench, particularly in areas like business law, regulatory law, medical malpractice, and complex civil litigation. That in turn threatens the quality of service we provide the public.

At the Supreme Court, we are focused on improving the experience of judicial service as a lifelong commitment. We have the power to take some steps. But one we commonly hear about we do not control at all. That is your responsibility: judicial compensation.

### ***Judicial Compensation: A Critical Issue***

Idaho ranks near the bottom across the states and territories for how much it pays its judges. This year Idaho ranks 48th of 53 states and territories for salaries of its district judges. Of nearby states, only one touching our borders pays its judges less. Most judges in the states surrounding Idaho are paid 10% to 40% higher. And civil private practice is the field with the highest pay disparity between judges and experienced attorneys — as you likely know from the recent cases in which this body has hired legal counsel. The disparity between current judicial salaries and the compensation of attorneys in both the public and private sectors is continuing to grow. Even at current salaries, the cost of housing and other life expenses in parts of our state discourages attorneys from seeking the bench.

Pay does not just affect recruitment. This is also a retention issue. Again, becoming a judge is usually the capstone of an attorney's career. But one-third of our judges who announced their retirement in the 2024 fiscal year returned to practice as an attorney. Based on our numbers as of last week, two-thirds of retiring judges are doing the same thing this fiscal year. Until the last couple of years, this has been exceptionally rare. And when judges leave, the investment the state has made in recruiting and training leaves with them.

Experienced judges are leaving office early. Experienced attorneys are less interested in replacing them. To halt these trends, the Supreme Court proposes increasing judicial salaries to closer to \$200,000 annually for trial court judges. This request is rooted in both the Idaho market for legal services and in nearby states' judicial pay. To be clear, this will not place Idaho at the top of the pay scale, but it will make judicial service more attractive to qualified candidates and encourage current judges to stay on the bench. And I would note that even at that level, the salaries of Idaho's highly trained and skilled judges wouldn't even make the top 100 of Idaho's state government salaries.

In the long term, we propose that judicial salary changes be considered by an independent citizens' committee whose members are appointed by the executive and legislative branches,

similar to the committee that determines legislative salaries. As with that existing committee, salary changes would be subject to review by the House and Senate, preserving your role in the process.

We believe that the pay for every public servant — judge, legislator, the people who manage our water and the people who promote our economy — deserves to be decided based on the position and the work. Please join us now on a better path forward.

### ***A Call to Action***

We do not make these requests lightly. The Judicial Branch's budget makes up just 1% of the state's general fund. We understand the importance of being good stewards. As you've heard, we make the most of the resources we have available to us, working with our senior judges and sitting judges to share the load. When we bring you matters involving funding, we make sure they are meaningful — things we simply cannot do otherwise. Fair and competitive compensation is one of those matters.

We judges are invested, much like you, in maintaining this great state for its people. Fair and competitive compensation for our judges is crucial to maintaining a high-quality judiciary throughout Idaho. Idahoans deserve the best possible legal experts to resolve matters of life, liberty, and property.

From the earliest days of this state, Idahoans worried about how to ensure their courts stood among the best. And even then, there were worries about judges' salaries. Weldon Heyburn, who would become one of our early U.S. senators, talked in 1889 at our state constitutional convention about fair compensation for the work of the courts — “the salaries are insufficient and always have been,” he said. James Reid, vice president of the convention echoed his sentiments: “Cheap justice is generally injustice.”

You have many issues before you this session. We have sought to keep ours simple. As we look to the future, we ask for your support in ensuring our judiciary remains strong, independent, and capable of serving the needs of the people of Idaho.

Thank you.