

State of the Judiciary  
Chief Justice Richard M. Givan, Indiana Supreme Court  
Message to the Legislature  
February 4, 1982

The judiciary continues to be very busy. Although we have not completed compilation of the 1981 statistics for the entire judiciary, it is evident business is increasing as it has over the past several years.

The most recent judicial report, covering 1980, demonstrates continued growth in the judicial work load throughout the court system.

In 1980, the trial courts of record received 975,304 new cases. This was approximately 10 percent more than in 1979, and 50 percent more than in 1976.

At the trial court level there were increases in the number of filings in every general classification of case in 1980. Criminal and civil filings rose equally, at a rate of 13 percent.

Likewise, the number of case dispositions increased in 1980 to 893,225. This was an 8 percent increase in dispositions compared to 1979 and a 32 percent increase when compared to 1976.

The above statistics do not include cases before the city and town courts. What I have reported is the growth in the trial court of record: Circuit, Superior, County and Municipal Courts.

We anticipate that either this year or in the very near future we will surpass 1 million new case filings in these courts. This is 1 million cases for 261 judges.

The growth experienced in the trial courts is indicative of the entire judiciary. The Supreme Court and the Court of Appeals are receiving and deciding more cases each year.

In 1981, the total number of cases disposed of by the twelve judges of the Court of Appeals was over 1,100 and for the third year in a row the Court of Appeals has reduced its backlog.

The five judges of the Supreme Court disposed of 400 cases, not including 13 per curiam disciplinary opinions, 32 hearings on original actions and 251 civil transfers denied.

The growth in the case load we have experienced is not without cost.

Court services are being taxed; in some areas, decisions have been delayed; and in many instances, the archaic method of court funding has necessitated the increase of judicial expenditures at the expense of other county services.

In 1980, excluding city and town courts, the total cost of operating the judiciary was nearly \$47 million. This was an increase of \$7 million or 18 percent over 1979. Five million dollars of this increase was borne by the counties and \$2 million was paid by the state.

However, there was a corresponding increase in the revenues generated by the courts in 1980. The revenue generated was over \$32 million, approximately \$5 million more than the year before. However, our judicial funding system did not distribute the increased revenues in proportion to the increases in costs. The state received \$3.5 million of the \$5 million increase in revenues while the counties got the remaining \$1.5 million of the increase.

Our data suggests that we are pushing the judicial system toward financial difficulty. We cannot expect counties to fund the increasing judicial expenditures without greater state assistance. I urge you to strongly consider total state funding of the Indiana Judiciary.

The number of felons sentenced to the Department of Correction continues to exceed the capacity of our penal institutions forcing early release of prisoners. The crowded conditions of our penal institutions continue to be one of our greatest problems in protecting the public from criminal activity.

There have been five resignations from the trial bench in the past year and one resignation from the Court of Appeals. The Honorable Eugene N. Chipman resigned from the Fourth District of the Court of Appeals.

Governor Orr appointed the Honorable William G. Conover of Valparaiso from the three applicants submitted by the Judicial Nominating Committee.

The interest in serving as a judge seems to be diminishing. In 1978, when Judge Chipman was appointed to the court he was one of sixteen applicants for the position.

Last year Judge Conover was one of seven applicants for the same position. This lack of interest is noted throughout the judiciary.

Mandate by the trial courts against county officials continues to be a much discussed subject. In 1980, there were seven trial court mandates challenged by local officials. Although this is a very small number of cases, the emotional impact appears to be great enough to warrant the attention of the Supreme Court.

Complaint was made by local officials that a greater number would have been appealed if they did not have to take affirmative action to institute an appeal.

The Supreme Court amended Trial Rule 60.5 to provide for an automatic appeal from all mandates by trial judges. It is not anticipated this will be any great burden on the judiciary and will afford county officials a review in every case.

During the past year the Supreme Court caused a great deal of controversy at the Bar when it amended Criminal Rule 12 to eliminate the automatic change of judge in criminal cases.

The House of Delegates of the State Bar Association adopted a resolution asking the court to conduct formal hearings on the subject through the Rules Committee with the view in mind of reversing the rule change.

The court has requested the Rules Committee to conduct hearings concerning the automatic change in both criminal and civil cases. The committee has set a hearing for April 23.

I don't think any of us want a system which has no procedure for change from a judge or county under any circumstance; however, we cannot close our eyes to abuses of the system which cause delays and increase the cost of litigation unnecessarily.

Hopefully, the hearing will shed some light on the perplexing problem resulting in rules that will benefit all concerned.

Much has been said of late concerning space allocation in the State House. The Supreme Court, after consultation with the Court of Appeals, has written a letter to both the Speaker of the House and the President Pro Tern of the Senate outlining our views on this subject as it affects our courts.

The substance of the letter is: that after consultation with individual members of the Legislature and with legislative committees; and after conferences with the members of the court, the courts wish to state their preference on this subject.

1. It is the first desire of the Court that the Supreme Court be kept in the State House in its present location for the following reasons.

Although the entire judiciary represents the third branch of government, the Supreme Court under the Constitution heads the judiciary and for that reason we feel the Supreme Court should remain at the seat of government where all three heads: the Executive, the Legislative, and the Judiciary are housed.

The Supreme Court room itself is one of the few rooms in the State House in relatively the same condition as when the building was constructed. The room itself means a great deal to many members of the Bench and Bar for its historic significance. For that reason it would be our preference to continue holding our sessions in that room.

2. In order to agree to deviate from number one above, the court must be convinced that the move from the present State House is necessary in a government space allocation program.

In arriving at such a conclusion it is the feeling of the Court that all space not presently being used by the Governor's office or by the Legislature, should be carefully considered for reallocation before any consideration is given to the removal of the Supreme Court from the State House.

Assuming we could come to an agreement that the Supreme Court should be moved to another location, it is the position of the Supreme Court that no such move should take place unless the Court approves the location and the design of a building constructed specifically for the purpose of housing the courts.

Such a building should be suited aesthetically to house the third branch of government and should be in close proximity to the present State House.

The court is fully aware of the limitation of funding available for such a structure at the present time, therefore, we would submit the following alternatives in the event it would be determined that a court building should be constructed.

1. The construction of a court building for the use only of the Court of Appeals together with its administrative offices would, of course, be much more economical to construct and would alleviate some of the housing bind in the State House at the present time. This alternative would leave the Supreme Court housed in the State House in its present location.
2. A building for the use of the Supreme Court and the Court of Appeals together with their administrative offices.
3. A building constructed with two wings: one wing would be designated as the Court Wing to house the Supreme Court, the Court of Appeals and their administrative offices; the other wing of the building would house offices which are under the control of the Supreme Court and would make available the maximum amount of space in the State House.

Examples of offices that could be so housed would be the Disciplinary Commission, the Public Defender's office, the Judicial Center, the Board of Law Examiners, the Clerk of the Supreme Court and the Court of Appeals and the Reporter of the Supreme Court and the Court of Appeals.

This third structure would, of course, be the most expensive alternative as far as immediate outlay of funds is concerned.

It is our desire to discharge our responsibility for the proper housing of the courts in a spirit of cooperation bearing in mind the state of the economy at the present time.

Members of the Supreme Court and the Court of Appeals will be happy to meet with you or with any committee you would designate, at your convenience, to discuss the above alternatives.

We feel it is essential that we keep the lines of communication open between the three branches of government on this subject in order that we minimize the hazards of misunderstanding as to our relative positions.

The statistics I have given you in this report are but highlights of a much more detailed compilation of data from the entire Indiana judicial system. A full report on the operation of the Indiana court system is available through the State Court Administrator's office.

Any of you may obtain the full report or any portion thereof by contacting Mr. Bruce Kotzan, the State Court Administrator, in his office in Room 323 in the State House.

The judges of the state wish to acknowledge the cooperation received from the General Assembly which has been a contributing factor to the courts' ability to handle the tremendous work load.

The Judicial Center continues to be a major factor in the efficiency of the trial courts and its continued funding by the Legislature is greatly appreciated.

Any of you are most welcome in my office or in any office of the judiciary at any time you might have questions concerning the judiciary.

I appreciate the opportunity to make this report to the General Assembly.