

State of the Judiciary: A Constitution Powerful in its Simplicity, Clear in its Mandate  
Chief Justice Loretta H. Rush, Indiana Supreme Court  
Message to the Legislature  
January 13, 2016

Governor Pence, Lt. Governor Ellsperman, Members of the General Assembly, my judicial colleagues, and guests:

## **CONSTITUTIONAL PROMISE**

Two hundred years ago, a handful of frontiersmen-turned-statesmen crafted the first Indiana Constitution. This governing document was powerful in its simplicity, and clear in its mandate: that justice be accomplished “speedily, and without delay.”

Our forefathers understood that justice delayed meant justice denied. And they held that belief so dear, they made “prompt access to the courts” a basic right for all Hoosiers. Timely justice is not just a good idea or a noble aspiration in Indiana, it’s a constitutional promise.

At that same time, the original three-judge Indiana Supreme Court first met in the Corydon State House in a courtroom that seated 20.

Their docket included a stolen horse purchased at a sheriff’s sale (*Morgan v. Fencher*, 1 Blackf. 10), a squatter on land not yet purchased from the United States (*Boston v. Dodge*, 1 Blackf. 19), and an indictment for “unlawfully betting on a game of cards called Loo at Craig’s tavern in Brownstown” (*Durham v. State*, 1 Blackf. 33).

Our courts’ responsibilities evolved over the next 200 years to include an array of increasingly complex criminal, civil, family, and juvenile matters. But even more significantly, Hoosiers are seeking the courts’ assistance to resolve many social issues as well. In particular, we have become the emergency rooms for some of society’s worst afflictions, such as substance abuse, family violence, and mental illness.

Our trial court judges are on the front lines of those issues every day. They are called to carry out our constitutional mission of protecting individual rights and liberties, upholding and interpreting the rules of law, and providing fair hearings—“without delay”—in every single case that comes before them, every single day. Last year alone, that meant 1,350,909 cases.

As we stand at the threshold of our third century of statehood, our Hoosier courts will be called on to be more nimble, more affordable, more accessible, more tech savvy, and more user-friendly. Nothing less will do.

## **PROGRESS FROM 2015**

Before we look at new reforms and challenges, I would like to briefly update you on three initiatives from last year:

- 1. Developing commercial courts to address complex business issues*

*2. Expanding the use of technology*

*3. Continuing to strengthen our partnerships with you in implementing the massive criminal code reform*

First, commercial courts. As Kevin Brinegar of the Indiana Chamber of Commerce stated, “Businesses locate in states that resolve

disputes consistently and reliably. Establishing commercial courts promotes confidence and predictability and keeps Indiana’s business environment competitive.” Last year, we laid the groundwork to make the possibility of commercial courts in Indiana a reality. This year, our first six commercial courts will start hearing cases.

My thanks to Mr. Brinegar, Representative Tom Washburne, Professor Frank Sullivan, Jr., and the entire hard-working committee of lawyers, legislators, academics, businesses, and judges who made this vision a reality for our State.

Second, court technology. Because of your budget support this past session, 2015 was a banner year for modernizing our courts to meet the charge of timely justice through the wise use of technology. We’ve continued integrating trial courts into a unified case management system.

And already we have implemented the first electronic filing programs in Hamilton County and all appellate courts. Next week, Clark County begins e-filing, soon followed by Harrison, Shelby, Wells, St. Joseph, and Henry counties.

This intentional expansion will continue throughout the state, allowing the courts, the litigants, their attorneys, and the public quick, easy, accurate access to the courts. In just the first six months, nearly 12,000 documents were filed electronically. When fully implemented, tens of millions of pieces of paper will be no more.

Third, criminal code reform. The creation of the nine-member Justice Reinvestment Advisory Council, consisting of criminal justice and mental health policymakers, has made your vision of criminal code reform a reality.

Johnson County Judge Cynthia Emkes says this new emphasis on collaboration brought major stakeholders in her community together for the first time. This team approach let Johnson County reassess how to allocate limited resources so they can better protect the public while also offering better services for offenders.

The funding you have provided is already making a difference. Forty- three counties have added eighty-four new community correction and probation officers. Your wisdom is allowing for a long-needed expansion of problem-solving courts and offender-supervision programs. My judicial colleagues applaud your courage in taking on this reform for our State.

In addition to the progress we made on those three initiatives announced last year, your judiciary has ventured forward on many other fronts to improve daily life for all Hoosiers. Three ongoing efforts that I will highlight this afternoon concern our children and families, problem-solving courts, and information sharing.

## **STRENGTHENING FAMILIES & CHILDREN**

Central to any society is the health and welfare of its families and children. The role of Indiana courts has been evolving since 1903, when we became the second state in the nation to create juvenile courts. Our Indiana families face no shortage of challenges; but by working together we are addressing these challenges with common sense solutions.

Department of Child Services Director Mary Beth Bonaventura will tell you that our state last year experienced a 30% increase in the number of children entering the welfare system—primarily because of parental substance abuse. Timely justice for Indiana’s most vulnerable children requires great attention from many entities – including the children having their own advocates in the courtroom. Court Appointed Special Advocates, or CASAs, are those children’s voice. Even with over 350,000 hours from these volunteers on behalf of 18,600 children, we still have over 5,000 children without a CASA. Last session, you provided increased support for us to tackle this pressing demand, and we continue our work to expand this critical volunteer program.

Nearly a quarter of our Indiana children live in poverty, and a third live in single-parent households. Hoosier families depend on our Court to set workable and fair child support guidelines and to enforce child support orders. It’s critical to those families’ economic security—Indiana collected and distributed over a half-billion dollars in child support last year alone.

Howard County Judge Lynn Murray and her team of fourteen judges were assigned the daunting task of updating the child support guidelines. They brought in experts and received extensive public input, and the result is one of the most comprehensive plans in the nation. In this instance, the guarantee of timely justice translates into a parent being able to pay rent or buy food for their child now—not two years from now.

We are proud to be the only state in the country that enjoys a Juvenile Detention Alternatives Initiative partnership involving all three branches of government. This program proves that enhancing public safety, saving taxpayer dollars, and improving outcomes for youth are not at odds. With your support, we have rapidly expanded this remarkable program—resulting in fewer children being incarcerated, lower recidivism rates, and fewer minors standing trial in the adult system. I’m sure you’ll be pleased to know that the estimated savings to the Department of Correction, from this and other juvenile reforms, has steadily grown to over \$15 million annually.

For the fourth consecutive year, the Supreme Court opened trial courts across the state to news cameras to mark National Adoption Day in November. On that day, 135 children in 44 courts went home with a “forever family.” Our goal in opening these trial courts is twofold: to raise awareness of the importance of adoption and of our State’s ongoing need for loving families for children in foster care.

## **GROWTH AND SUCCESS OF PROBLEM-SOLVING COURTS**

Indiana’s juvenile courts were the very first problem-solving courts, long before anyone coined that term. And we are still a pioneer in problem- solving courts—they are one of our judiciary’s greatest success stories.

Participants in these veteran, drug, mental health, family violence, or re-entry courts take part in intensive treatment programs, under direct court supervision. These courts are particularly vital to honoring our constitutional promise of reformative justice.

You'll remember Specialist Christopher Bunch who had just graduated from a problem-solving court himself when I addressed you last year. I am happy to report he is doing well. Christopher and his wife just closed on their first house, and he asked me to deliver this message to you: "If it wasn't for Judge Maria Granger and Veteran's Court, this all would not have been possible."

We held an inaugural Veteran's Court Summit at the Indiana War Memorial last summer, bringing together veterans' groups, judges, and prosecutors. At the Summit, I was particularly touched by Judge Jonathan Cleary of Dearborn County, who described his appreciation for veteran's courts by saying that if there is a court in heaven, he hopes it is a veteran's court.

Based on successes like those, it's not surprising you asked us to expand veteran's courts, and we have. Nineteen new or expanded veterans courts will bring us to a total of seventy-nine problem-solving courts statewide. Indiana has more veterans per capita than most states. Our pledge to you is that we will not be satisfied until all qualified veterans have access to these courts in Indiana.

## **INDIANA'S DRUG CRISIS: CRIPPLING COMMUNITIES AND FLOODING COURTS**

This past year, my Supreme Court colleagues and I traveled the state to hear from our trial court judges from all 92 counties. They shared with us what became a recurring theme: the drug crisis, particularly heroin and methamphetamine, crippling their communities and flooding their courts.

Wayne County Judge Dave Kolger told us that in his 20 years as a prosecutor, he handled a total of 20 heroin cases. Today, as a judge, he has heroin cases in his court daily. Fayette County Judge Paul Freed lamented that his county of 23,000 had 30 heroin overdoses in 30 days.

Lawrence County Judge William Sleva shared with me the story of 28-year-old Lindsay Endris. What started as a prescription to treat pain led to an addiction to heroin. As a result, Lindsay was arrested and lost her job as a first grade teacher, lost custody of her children, and lost her home.

At that time she said, "My reputation was gone. I was an A student, an overachiever. I was heartbroken by the gravity of what I had done."

But things changed when Lindsay was admitted to drug court. She says, "Drug court made me accountable. I had structure. This wasn't just about getting sober, it was about coming to grips with what caused me to use."

On October 29, 2015, Lindsay graduated from the Lawrence County Drug Court. Senator Brent Steele and Representative Eric Koch were in attendance to celebrate with Lindsay. Many of you have attended other problem-solving court graduations, and you know how powerful they are. At her graduation, Lindsay said:

"I stand before you today; proof that addiction can happen to anyone regardless of a person's upbringing, economic status, or values instilled when growing up.

I am also proof that despite how addiction can destroy your life, working a program such as drug court can and will restore your crumbling life.”

Today, Lindsay is back caring for her children, working as an office manager, and paying off her student loans and other debts. She is even organizing a drug recovery program through her church. Lindsay told me, “I am now building up my reputation. I’m building it back up in a different way—by helping people.”

We are replicating this drug court model in other parts of the state where courageous leaders sign on to a program that is about rehabilitation, not punishment. We cannot afford to incarcerate or institutionalize our way out of this drug crisis. Our approach must include helping sons, daughters, husbands, and wives return to a life after addiction. There are no easy answers, but your courts stand ready to help communities bring productivity back to those who have lost their way.

## **INFORMATION SHARING TO GUIDE SOUND DECISION-MAKING**

All of the successful programs we talked about today have two things in common: hard-working Hoosiers and access to reliable information. In this century, timely justice and sound decision-making demand instant access to accurate information.

Judges need reliable information, and we know you do too. Court information, such as offender demographics, is not used by the judiciary alone; we share it with our local, state, and federal partners to aid in your policy-making decisions. Current examples include:

- The Governor’s Management Performance Hub, which is using court data to study recidivism;
- The Legislative Services Agency, which is considering felony and misdemeanor convictions for fiscal impact; and
- The Indiana State Department of Health and the Centers for Disease Control and Prevention, which are compiling information from court records to build a more complete picture of the state’s high rate of suicide.

The Court’s main data sharing program, called INcite, has 30 applications. I would like to share a few examples of how they are used:

- When Hendricks County Judge Robert Freese sentences a felon, he can be assured that the inmate’s DNA has been processed by the State Police and, in turn, shared with other states and the FBI.
- When Cass County Judge Richard Maughmer enters a protective order, the victim gets a text message when that order has been served on the offender.
- When Clark County Judge Vicki Carmichael has a defendant before her, she can immediately verify whether there is an outstanding warrant from another court.

- When Henry County Judge Mary Willis needs to know if a child has appeared before another judge in another county, she has that vital information at her fingertips.
- When Allen County Judge Fran Gull empanels a jury, she can be sure it is the most inclusive and diverse possible, because she uses the juror list available through our INCite application. And we're all glad that she has access to that master list, because that same Judge Gull recently received a national award for her effort to make jury service more efficient and user- friendly.

In all these instances, court data is key to the efforts of all three branches of government. We will continue to collect and share court information to help policymakers at all levels in their respective efforts toward building safer and healthier communities in our State.

### **COURT CIVIC OUTREACH: STRENGTHENING HOOSIER COMMUNITIES**

As we consider our constitutional mission, set 200 years ago, we must also focus on where we go next. And I am reminded of when I first became a trial court judge. Chief Justice Randall Shepard, at that time, encouraged trial court judges to get out from behind the bench and work within our communities. He promoted court outreach programs, designed to improve civic engagement—a tradition we continue today. In this past year alone:

- Dozens of trial and appellate judges walked out of the courtroom and into the classroom on Constitution Day to teach thousands of students about our founding document.
- The Supreme Court and Court of Appeals hit the road and heard oral arguments across the state, reaching thousands of students. Many of you joined us at these real-world civics lessons, where the students' insightful questions demonstrated great hope for improved civic engagement.
- Appellate and trial courts reached thousands more students through local schools, the Capitol Tour Office, programming at the State Fair, and Statehood Day. Perhaps something as simple as trying on a robe, or sitting at a judge's bench for a picture, is what will inspire and energize the next generation to become meaningfully engaged in their home communities.

This bicentennial year offers a wide range of opportunities for a deeper level of civic engagement and celebration. In April, our Court will hear a modern case in a historic setting. The case we'll hear that day is not likely to be about a stolen horse or playing "Loo" at the local tavern, but we will hear a case in our original home court in Corydon. We are working with the Department of Education to webcast the argument to classrooms across the state—again using partnerships and technology to promote our Court's mission.

### **HONORING A CONSTITUTIONAL SCHOLAR**

In two centuries of statehood, only a handful of justices have served this Court more than 25 years. As we revisit our origins and return to our state's first courtroom in April, what better time, or more fitting place, to honor the second longest-serving justice in state history—Justice

Brent Dickson. He is retiring this year after 30 years on the Indiana Supreme Court, including having served as Chief Justice.

During his historic tenure, Justice Dickson has been instrumental in refining Indiana law. With nearly 900 opinions, his body of work reflects the many ways courts are called to bring clarity and certainty to nearly every facet of the law. His majority opinions range from property rights (*Fraley v. Minger*, 2005) to property tax (*Boehm v. Town of St. John*, 1996); from auto insurance (*Tate v. Secura Ins.*, 1992) to tort law (*Cowe v. Forum Group, Inc.*, 1991); and a broad gamut in between.

And Justice Dickson has helped give form and substance to our state's unique constitutional guarantees—of equal privileges and immunities (*Collins v. Day*, 1994); voting rights (*League of Women Voters v. Rokita*, 2010); criminal-law protections against double jeopardy (*Richardson v. State*, 1999); and more recently, public education (*Bonner v. Daniels*, 2009); school vouchers (*Meredith v. Pence*, 2013); and strict separation of powers (*Berry v. Crawford*, 2013).

Justice Dickson has shaped the heart of Indiana law for years to come through careful opinions, keen insight, intelligence, unswerving ethics, tireless work, and dedication to the rule of law. He has further led administrative reforms including dispute resolution through mediation, pretrial release, and promoting volunteer legal services for the poor.

Hearing his final argument in the Corydon courtroom befits a man who has spent his career upholding the framers' Constitution. Our entire state owes its thanks to Justice Dickson and his wife Jan, a leader in her own right as founder of the Judicial Family Institute.

## **CONCLUSION**

2016 promises to be a year of progress on many fronts, including the few I have touched on today. We will also be working hard to improve access to courts for unrepresented litigants; to better meet the needs of non-English-speaking litigants; and to reorganize our administrative structures to provide more efficient and effective services to Hoosiers seeking justice.

Our courts are neither perfect nor infallible. But each day we must reach for that goal of perfection, because our mission is critical to a free society, and to the Constitution which blessed the birth of our state 200 years ago. Our predecessors, those frontier statesmen, toiled to build a state served by a timely, effective justice system. Let's do our part, continuing to work together to preserve safe communities, a thriving economy, and the integrity of our Hoosier courts. Thank you, and may God richly bless this state that we so love.