

State of the Judiciary: Addressing the Needs of Our Customers
Chief Justice Loretta H. Rush, Indiana Supreme Court
Message to the Legislature
January 16, 2019

Welcome to the 2019 State of the Judiciary.

You just saw photographs of judges from all 92 counties, standing in front of their courthouses, and what a view! Those magnificent structures were proudly built in the center of our communities, open to those seeking justice.

Each day, our 600 judges serve as problem solvers, carefully listening to the millions of people who walk through those courthouse doors. The 1.3 million new cases filed in Indiana courts last year are not anonymous case numbers; they are our neighbors, employers, people we see at the ball park, church, the grocery store.

We are so fortunate to have Legislative leaders and a Governor who understand what happens in our courts, who share our commitment to solving the problems that bring people to court, and who work with us in the spirit of mutual respect. Today, I speak for your Hoosier judges and lawyers to affirm that the state of your Indiana judiciary is sound, steady, and strong.

Customer Focused

Our mission is to protect individual rights and liberties, to impartially apply the laws of our state and nation, to remain free from the pull of political influence, and to provide a neutral forum for the peaceful resolution of disputes. This requires an independent judiciary; one that continually refines and adapts itself to meet the evolving needs of its customers.

Yes, I said “customers.” It’s not common for us to call court users customers. Justice is not for sale, and we don’t have a product that can be changed to satisfy the needs of every person. But what we do have is a constitutional charge to provide open, accessible, and fair courts. That is achieved only when we place litigants, victims, witnesses, jurors—all court customers—at the center of every equation, just as our courthouses are at the center of every community.

A quarter of a century ago, then-Chief Justice Randall Shepard stood at this podium pledging to make the judiciary “cheaper, faster, simpler.” He boldly announced that the courts for the first time ever would accept paperwork via fax machine. That decision laid the foundation for today’s electronic filing, which accepts a half-million electronic documents each month.

He dared to proclaim that we would have a statewide network of volunteer lawyers, giving birth to our modern Coalition for Court Access. And when he told you we would do more to help the children of divorcing parents, who could have known how crucial that framework would be to the initiatives we have today, which help children who face issues far deeper than a split household?

We’ve stuck with the cheaper-faster-simpler mantra because it allows us to concentrate on customer-focused service. Thank you, Chief Justice Shepard, for yet again leading the way.

Public Health Epidemic

It is a sad truth that substance abuse and addiction have invaded every Indiana community.

Last year, when we talked about the opioid crisis, we pledged judicial branch action to attack this public health epidemic. And we agreed that none of us could solve this extraordinarily complicated problem alone. So, what did we do?

We partnered with the Indiana Family and Social Services Administration, Indiana University Addictions Grand Challenge, and the Association of Indiana Counties to host an Opioid Summit.

We asked judges to convene their own county team for the training. Because from the 9-1-1 call, to arrest, to court, to relapse, to getting someone back on their feet, a person struggling with addiction interacts with a multitude of our justice professionals.

With all 92 counties in attendance, 1,000 of us rolled up our sleeves; and as only Hoosiers can, we got to work. Our first speaker of the day, Bill Nelson, shared a devastating 9-1-1 call that he and his wife, Kristy, made when they found their son had died of an opioid overdose.

Judicial officers from Marion County stand inside the City-County Building in downtown Indianapolis. The City-County Building was built in 1962.

Their willingness to open up about such a personal story helped define the day. Their tragic narrative not only reminded attendees why we hosted the event; it also exposed that this epidemic has no boundaries. When Bill Nelson introduced himself to the audience, he left out one fact: his title. Marion County Superior Court Judge Bill Nelson takes the bench everyday knowing both the pain of losing a loved one to addiction and the hope of a judge trying to keep other families from suffering a loss that he knows only too well.

Those 92 community teams with judges, prosecutors, public defenders, probation officers, law enforcement, correctional officers, health professionals, and local officials brought strong resolve to join Judge Nelson in this fight. As Wabash County Probation Officer Sarah Lochner said, “One of the greatest things from the summit was it sparked action. It was the catalyst for making new ideas happen right now!”

The teams took home concrete tools on the science of addiction and which treatments work, models for family recovery courts, how to connect people to care, jail-based treatment programs, workforce development, program opportunities, and how to share data across systems. And we will sustain the momentum this year with trainings and workshops throughout Indiana to continue to bring community-based solutions to this scourge.

While the Summit began heavy hearted, it ended with the hopeful message of Brandon George. Like Judge Nelson, Brandon too carries a job title: Director of the Indiana Addiction Issues Coalition. Having taken his own road to recovery, he told the audience what titles he is most proud to hold—father, husband, son, and good person. He explained, “I am proof that recovery is possible, and treatment works.”

Vulnerable Children

We have several other important initiatives dealing with addictions. Less than a year ago, Indiana was proud to have seven Family Recovery Courts across the state. Today, we have 18 of these specialty courts that are certified or in the planning stages.

Family Recovery Courts are imperative to address the addictions crisis. They require judges to work with many community partners to create a path for parents with addiction to work toward safe reunification with their children, thereby preserving their families.

Future generations depend on their parents' sobriety—because from that sobriety comes safety, love, and stability. Our own Justice Christopher Goff led a Family Recovery Court when he was a trial court judge in Wabash County. He says, “The graduation ceremony is more than a successful completion of a difficult case. It is the celebration of lives reclaimed and the anticipation of positive change for generations to come.”

Governor Holcomb, thank you for getting behind this initiative. The impact of your support is enormous.

Courts are in a unique position to support our most vulnerable customers—our children. And there are many reasons children and families come to court. Right now, we have about 135,000 cases involving children—matters like divorce, paternity, delinquency, support and custody, adoption, child welfare, termination of parental rights, and more. In Indiana, over one-third of our children live in single-parent households and almost 60,000 are being raised by grandparents. Tragically, Indiana is one of the top states in the country with children whose parents are incarcerated.

Last year, Senator Travis Holdman and Superintendent Jennifer McCormick invited me to meet with Hoosier educators. When I did, those educators expressed tremendous concern for students who are shuttled from house to house, parent to parent, and the impact it can have on these children's education and well-being. Judges share the educators' concerns, and we have many effective tools in place to address the challenges facing our Indiana families. Let's talk about just a few.

This past year, we created the Parenting Time Calendar. This online application follows the Indiana Parenting Time Guidelines and works in concert with the Department of Education's school calendars. Providing a conflict-free, predictable schedule through our electronic calendar simplifies the process for families—our customers.

Another online tool we developed is the Child Support Calculator. Would you believe that this past year nearly one billion dollars was collected in Indiana through court-ordered child support? Our regular review of Indiana's Child Support Guidelines is underway, led by Fulton County Judge Christopher Lee.

As part of the review, the judges and lawyers on the Domestic Relations Committee look at the fundamental needs of children—food, healthcare, education, clothes, housing. And the committee gets information from economists and many other partners to create the guidelines. You know who else they heard from? Parents! Mothers and fathers in real world situations sent us letters and emails and came to our State House courtroom to explain what they need from the

Child Support Guidelines. Judge Lee delivered the message these customers deserved, “Your voice will be heard.”

Technology

Quality court customer service depends on reliable and useful technology. Courts no longer close their doors at the end of the day; we provide court access after-hours with the ability to pay fines, file cases, and many other services. This means our customers don’t have to miss work, leave family, stand in line, pay postage, make copies—all to pay a traffic ticket, file a case, or learn about a court date.

Today, 80% of the state’s new caseload is in one central court case management system, and our court customers readily take advantage of the free online access. More than 6 million users visited our mycase.in.gov website more than 20 million times last year.

Electronic filing of court documents has proven to be a game changer for the judicial branch. Over a half-million documents are electronically filed each month. In a short time, we have already saved 25 million pieces of paper. Chief Justice Shepard, thank you for installing that first fax machine.

Just last May we started a program to send text messages to criminal defendants to remind them of their next court hearing. This simple tool is already used by 40 counties, and nearly 350,000 text reminders have been sent both five days and one day before a person’s upcoming hearing.

The goal here is simple: to reduce the number of people who fail to show up for their court hearing. Fewer failures to appear means fewer arrest warrants need to be issued, which means fewer defendants are re-arrested, which means fewer people are sent to our already overcrowded jails. How’s that for an inexpensive and effective way to use court technology?

Criminal Justice Reform

While we’re talking about safe and effective ways to manage our local jail populations, imagine you’re sitting in the county jail, awaiting trial in a criminal case. You have not been convicted of anything, so you’re presumed innocent. The problem is you don’t have the money to pay your bond.

Even if you are a low-risk, non-violent offender, you sit in jail—you may lose your job, your entire family suffers while you await trial—and the county taxpayers foot the bill. At the same time, a high-risk offender who has access to cash and posts bond is back on the street within hours of an arrest. Why do we keep doing this?

Last session we joined forces with you, the Legislature, to tackle the interrelated criminal justice issues of pretrial release and bail reform. Make no mistake, like you, community safety remains our number one goal. But keeping non-violent, non-convicted, presumed- innocent community members in jail is counterproductive. The toll it takes is crushing.

One vital step in revamping our system is to examine pretrial detention. What happens once a person is arrested? Here’s one example. In Monroe County this past year, a 20-year-old man was

brought to court for a drug-possession charge. His parents were willing to help him, but not by bailing him out of jail.

They told Judge Mary Ellen Diekhoff that they feared he would simply be released and use again. But instead of languishing in jail, the Monroe County pretrial team coordinated his release straight to treatment, giving him a much better chance at recovery and a path to avoid re-arrest or overdose. Thank you to Judge Diekhoff, Monroe County Prosecutor Erika Oliphant, Chief Public Defender Phyllis Emerick, and Pre-Trial Services Supervisor Becca Streit for a job well done.

It is a heavy lift to reform the front end of our entire criminal justice system, but we are seeing promising early results. In Monroe County, over 90% of those released made all court appearances and were not re-arrested. We already have 31 counties researching, developing, and implementing pretrial best practices.

Our pretrial efforts are joined with the expansion of problem-solving courts. By the end of this year, we should have over 110 courts, representing a 40% increase in just the last three years.

These courts have a proven track record of reducing recidivism while keeping our citizens safe. We are very proud to say 85% of all Indiana problem-solving court participants remained arrest-free last year. We are working hard to close that long-standing revolving door back into the criminal justice system.

Commercial Courts

In looking to the needs of our business customers, we are in the third year of a Commercial Court Pilot project. It's no secret: a strong, predictable court system is good for our state's businesses and workforce, and in turn, good for our economy. That is why we developed the program with support from the business community.

Picture, if you will, a lawsuit with two large corporations at loggerheads over a contractual dispute regarding certain leasing provisions. Millions of dollars are at stake. These businesses need prompt decisions and learned guidance from the judge.

In truth, there is no need to imagine such a situation at all. Both sides are here today, because their case is resolved, not bogged down in costly litigation detrimental to both businesses. While the nature of a lawsuit is adversarial, the nature of business is to get back to work—and after just 143 days, this complicated case is over.

Today these corporations, Simon and Starbucks, are developing new business ventures together. Marion County Judge Heather Welch; the attorneys on that case,¹ Andy Detherage and Bryan Strawbridge; their clients; and all our commercial court judges are here. Thank you for being a part of the pilot—it will help guide how the courts can best serve our business customers.

¹ *Simon Prop. Grp. v. Starbucks Corp.*, No. 49D01-1708-PL-32170 (Ind. Super. Ct. Nov. 27, 2017) (Commercial Ct.). 13

Access to Justice: Civil Legal Aid

At the opposite end of the spectrum from that commercial case are those cases where no lawyer is present, and a person is left to navigate the court system on their own, even though life-shattering outcomes may be at stake. Imagine yourself in court with no access to a lawyer, in a case where you could lose your children, you could lose your home, you could lose your livelihood.

While no one is above the law, it is equally true that no one is beneath it. According to a recent survey, more than 70% of low-income households have been involved in eviction cases, employment disputes, or other civil legal matters in the last year. In 80% of those cases, they lacked legal counsel. Justice only for those customers who can afford it is not justice for all. In fact, it is not justice at all.

To address this vital need of fundamental fairness, we created the Coalition for Court Access, made up of 20 legal stakeholders who provide a focused and comprehensive organizational structure for Indiana's civil legal-aid programs.

Thank you, thank you, thank you to the 7,780 Hoosier attorneys and hundreds of law students who donated over a half-million hours of volunteer legal services last year to help meet the Coalition's goals of improving the quality of civil legal services for those of limited means.

Last year, the Legislature appropriated 1.5 million dollars for basic legal services, and we are asking you to increase that to two million dollars. There is a remarkable return on your investment. An Indiana Economic Impact Study showed that for every one dollar invested in legal aid, nearly seven dollars goes back into the economy. Legal aid helps court customers be productive.

To illustrate the good that comes from bringing civil legal aid to Hoosiers, let me tell you about Franci. Franci is in her seventies. She has an independent spirit and has worked hard to meet her own needs. But some health issues crept in, and she was cited for ordinance violations that she wasn't able to resolve on her own. Franci was in very real danger of losing her home.

Fortunately, Laurie Goggins, an attorney with Indianapolis Legal Aid Society, received a referral from the Marion County Health Department and represented Franci in numerous court hearings. Today, Franci is in her home. Having a lawyer represent her made all the difference. Your Hoosier judiciary is committed to closing the justice gap for customers like Franci, and we are tremendously grateful for your support.

Conclusion

Our judges care so deeply for the people they serve—those customers at the center of our judicial system. When a person walks into their county courthouse, they are often facing the toughest day of their life. And you know who they face on the bench—people like Bill Nelson, who has faced his own tough times; Chris Lee, who is pledging to listen; and Mary Ellen Diekhoff, who made sure someone's son got to treatment. You saw their pictures at the beginning of this address, and many of them are here today.

There is no one I'd rather see standing at the center of our communities than you—our judges—because I know that means our customers are the center of everything we do.

Thank you, and may God continue to bless our great State.