

State of the Judiciary: Connecting, Convening, and Collaborating with our Communities
Chief Justice Loretta H. Rush, Indiana Supreme Court
Message to the Legislature
January 15, 2020

INDIANA’S JUDICIARY

Welcome Governor, legislators, judges, colleagues, and friends. Didn’t you enjoy the pictures of our problem-solving court graduates? Each one a remarkable success. Each one a life changed. Each one a person rejoining a community. Last year, we reached a milestone by certifying Indiana’s 100th problem-solving court.

Today marks the sixth occasion that I have had the high honor of standing before you to fulfill my constitutional responsibility of reporting on the state of Indiana’s judiciary. In the past, I described your judiciary as strong—thanks to our commitment to pursuing justice for all Hoosiers with energy and innovation. That is still the case. This year, I want to highlight our commitment to fighting the addiction epidemic, pursuing pretrial and criminal justice reform, and supporting and strengthening families.

Because Indiana’s judiciary remains committed to connecting with our communities, and because you have so willingly joined us in that collaboration, 2020 brings another report of amazing success for our State.

PROBLEM-SOLVING COURTS

We know problem-solving courts work. We have many types of specialized courts, among them veterans, drug, mental health, domestic violence, reentry, and family recovery courts. These courts work because judges get out from behind the bench, convene community partners, and truly connect with those standing before them in desperate need of a new path.

Pulaski County Judge Crystal Kocher developed a veterans treatment court last year after recognizing her rural community was being ravaged by methamphetamine and heroin. Judge Kocher told me, “I wanted a non- adversarial approach to treating the drug and mental health epidemic. I knew we could be effective with a team approach to making our community better.”

It was the April certification of her problem-solving court that brought us to the 100 mark.

We didn’t stop after certifying problem- solving court number 100. In fact, with the vital support of Governor Holcomb in providing additional funding for family recovery courts, we already have 107 certified courts, and 2020 will see the advent of many more. Thank you, Governor Holcomb, for your unwavering commitment to this proven model of success!

If there is any doubt about how our justice system serves those in need of rehabilitation, I encourage you to attend a problem-solving court graduation. Please accept this as an open invitation to witness for yourself the transformative nature of these courts.

Montgomery County Judge Peggy Lohorn says a once-lost soldier found his way back, thanks to her county's veterans court. That soldier agrees with her.

In 2008, Army Specialist Jonathan Bushong was escorting a convoy of semis through Iraq when a roadside bomb exploded. While he escaped physically unharmed, he suffered from wounds that could not be seen. He says, "I would drink. Get drunk as ever. Go sit in the church parking lot and just talk to God. Try to find answers. I didn't want to be here anymore."

Once he was admitted to the veterans treatment court, it was still a long and difficult road. But now he wasn't traveling that road alone. In addition to the court team, General Wayne Black of the Indiana National Guard stepped up to serve as Jonathan's mentor. The once-suspicious soldier began to see the program as an opportunity. Today, Jonathan is enrolled at Ivy Tech Community College and studying auto mechanics. He has reconnected with beloved family members, including his daughter, and is proud to say he is a problem-solving court graduate.

He now intends to step up himself and serve as a veterans court mentor. Specialist Bushong, his wife Constance, General Black, and his Judge Peggy Lohorn are here today.

Most of us will never serve in uniform, feel the stress from accompanying sacrifices, or face the horrors of war. But what we can say is that if a self-sacrificing military member falls on hard times, we have their back.

In 2019, Representative Dennis Zent recognized the opportunity to help connect the U.S. Department of Veterans Affairs to our court case management system. Today, this legislation helps us quickly identify veterans coming through our courts, so that our eligible Hoosier service members get the support they need.

From the first to the 107th, every problem-solving court has tremendous reach. Along with participants come spouses, parents, children, employers, friends, and community members. Let's put some faces to these success stories. We have some problem-solving court graduates, their families, and many of our problem-solving court judges here today.

Problem-solving courts are only possible with strong judicial leadership. And nowhere is this leadership more apparent than the role judges have in combating the addiction epidemic.

This devastating public health crisis, which has left families with heartbreaking loss, affects the administration of justice in courthouses throughout Indiana. The addiction epidemic is not only about criminal cases. It's also causing the removal of thousands of children from their homes, guardianship cases where grandparents are raising the next generation, divorces, evictions, and foreclosures. This is not a crisis any of us can solve alone. Every day is about turning the tide to reverse this catastrophe, and it will take the work of all three branches of government, along with our community partners, to save lives!

After three years of my co-chairing the *National Judicial Opioid Task Force*, three truths stand out. First, those with opioid use disorder are 13 times more likely to be involved in the criminal justice system. Second, the justice system is the single-largest referral source to get someone to treatment. And third, the justice system must treat opioid and substance abuse disorders as chronic, treatable brain diseases—and not as moral failures.

Judges must better understand addiction, treatment, and recovery. We have already pulled in Indiana's best and brightest to train our judges on the science of addiction and evidence-based treatment. Thank you, Family and Social Services Administration Director Dr. Jennifer Sullivan and Dr. Leslie Hulvershorn, for providing large doses of judicial education on what works. Together, we form a strong alliance combating the addiction epidemic.

This epidemic, in no small part, has caused our jail populations to increase. And it is one more, very pressing reason to examine and reform how we do business in our criminal justice system.

PRETRIAL & CRIMINAL JUSTICE REFORM

Under pretrial and criminal justice reform, lower-risk offenders should be released without having to post bail. Our courts should make use of all available information, including evidence-based risk assessments, to ensure that fairness prevails for all Hoosiers, regardless of wealth, geography, race, or gender.

This conversation goes to the heart of our Hoosier values, a continuation of the very same reform Hoosiers aspired to nearly two centuries ago! During the 1850 Indiana Constitutional Convention, Delegate Phineas Kent said, "the present [bail] system is very expensive, and frequently operates with great hardship." Delegate Henry Thornton condemned the practice of "act[ing] upon the presumption of guilt...and refus[ing] bail."

We are in good company today by engaging in thoughtful conversations among all branches as to how we implement fairness while preserving public safety. Not a single one of us wants to release a dangerous person into the community. We all want to live in safe communities.

To this end, last October almost 800 justice partners from across Indiana convened to reform our State's pretrial release procedures. Judges, sheriffs, prosecutors, public defenders, medical professionals, elected officials, probation officers, and others joined together to work on criminal justice reform in their communities.

Representative Greg Steuerwald opened the session by stating he could think of no more important work being done in Indiana. Representative Steuerwald, just as we pay deference to the delegates who crafted this constitutional framework, history will also remember your dedication to providing solutions to fulfill that promise of justice in Indiana.

Community collaboration is the only way to make progress on this issue. Here's just one example.

"For many nonviolent offenders, we have failed to address their underlying issues of substance abuse and mental illness. Some people need to be incarcerated. More people just need help. A strong justice system must do both."

In Martin County, Judge Lynne Ellis formed the Martin County Justice Coalition. Those justice leaders meet regularly to discuss pretrial reform in their county. They've developed a pretrial release matrix and are building a system that fits their own county culture. As Judge Ellis puts it, "Our Coalition's ability to work together is paramount to achieving the goals set forth in pretrial reform."

These convenings and conversations are happening in counties throughout Indiana.

As we work together on reform, we must address the reality that state incarceration rates have skyrocketed. For many nonviolent offenders, we have failed to address their underlying issues of substance abuse and mental illness.

Some people need to be incarcerated. More people just need help. A strong justice system must do both.

The Jail Overcrowding Task Force was created to study the causes of, and potential solutions for, this very issue. Our own Justice Steven David chaired the group composed of all three branches of our government. Representative Randy Frye called the task force “an historic joint effort which brought an eye-opening overview of this complex issue. It illustrates that by working together we can transform the lives of incarcerated Hoosiers.” Representative Frye, I agree with you. The members of the Jail Overcrowding Task Force, including Representatives Steuerwald and Ragen Hatcher, and Senators J.D. Ford and Mike Gaskill, deserve our gratitude.

SUPPORTING & STRENGTHENING FAMILIES

Strong families are the foundation of strong communities. Our courts focus on strengthening families who are under great stress and in many instances have endured unthinkable trauma. The following programs would not exist, much less thrive, without your support.

In 2012, our Adoption Day event began with three judges and 50 children. For Adoption Day 2019, over 40 judges participated, and over 300 children celebrated in joining their forever families.

In 2013, you established our Adult Guardianship Office. As a result, we’ve connected with local communities, and today, adult guardianship programs are found in 49 counties, serving 800 endangered adults.

In 2016, you increased CASA funding, and you could not have done so at a better time. As a result, Indiana’s CASA programs have modernized operations, recording nearly one million hours of training and advocacy for children. Last year, over 4,500 volunteers in a record 86 counties served over 25,000 abused and neglected children.

Families are desperate for us to better respond to those with mental health challenges. This past year, we sent a team to a mental health summit so we can better address the underlying behavioral health issues that bring people to our courtrooms. Justice Christopher Goff, Senator Jack Sandlin, Sheriff Brett Clark, Doug Huntsinger, Jay Chaudhary, Justin Forkner, and Mary Kay Hudson, thank you for working together on this issue.

The Commission on Improving the Status of Children in Indiana, led by Director Julie Whitman, is in its seventh year and serves as a national model because all three branches are working together to promote the well-being of children. And that means tackling issues such as child trafficking, teen suicide, infant mortality, vaping, and school discipline, to name just a few. Now, the Commission is bringing its efforts to prevent child abuse under one umbrella, in a statewide, strategic framework.

The dedicated members of the Children’s Commission, and its task forces and committees, include Senators Jean Breaux, Jon Ford, Travis Holdman, Erin Houchin, Tim Lanane, Mark Messmer, and Frank Mrvan and Representatives Ed Clere, Dale DeVon, Wendy McNamara, Vanessa Summers, and Melanie Wright.

There is a glaring area where we can do better, and it is an area that will have a direct impact on children and families, but we need your help. It has to do with legal representation. I humbly ask you again to consider our request for increased legal aid funding.

Our families must have reliable housing. I recently spent a morning in a small claims court. The morning docket included 275 eviction cases. None of the defendants/tenants had legal representation. Not one. They all faced the judge and opposing lawyer alone. That is not the model of a legal system where the poor, disadvantaged, and vulnerable are protected.

In making this request for help, we are not passing off a problem. We are already doing a great deal to ensure courts are open and fair to all. The Coalition for Court Access continues to advance *indianalegalhelp.org* to provide self-help forms and connections to legal service providers. Last year Indiana lawyers contributed nearly a half-million hours of volunteer legal services. And Indiana law students are embracing a public service mindset. These budding lawyers recently logged 100,000 volunteer hours. Indiana Law Deans, including Andrew Klein and Austen Parrish, are present today and deserve our gratitude for their foresight and dedication to instilling the core values of public service, volunteerism, and access to justice in our next generation.

COURT MODERNIZATION

We continue to modernize our courts by strategically leveraging technology.

Want an example? We’ve gone paperless!

E-filing is occurring in every county, with over a half-million documents being filed electronically each month. In the words of attorney and Senator Mike Young, “Electronic filing is the greatest event in the profession in my lifetime.” Clerks, judges, and staff have done enormous work to make this cost- and time-saving process a reality.

Our statewide case management system is operating in almost 80 counties. We expect the remaining counties to be on board by the end of next year. Free, online, public access to court cases is available through *mycase.in.gov* with more than 27 million visits a year. Courts can now send text messages to defendants in criminal cases, reminding them of their next court hearing.

One very foresighted, persevering, and pioneering member of our Court led the charge to embrace court technology—former Justice and now Professor Frank Sullivan.

These many judicial branch successes cannot cause us to become complacent. We must be vigilant in driving ourselves, and each other, to greater successes and dreams of what may be possible.

In 1903, two brothers with Indiana roots engineered a machine to go airborne. Yes, the plane flew for only a few seconds, ten feet off the ground, and a distance about the length from here to the Senate chamber. But the Wright brothers proved that what was once considered impossible was possible, and fulfilled the dream of flight.

To release the potential of Indiana's judiciary, we created the Innovation Initiative. This Hoosier justice system's think tank is not accepting the status quo and strives to follow the Wright brothers' example.

We are already national leaders in justice reform areas such as evidence-based decision-making, pretrial release, juvenile justice, problem-solving and commercial courts, along with court technology. But opportunities must be sought to make Indiana's system of justice more efficient, less expensive, and easier to navigate, while continuing to ensure that justice is fairly administered, and the rights of all litigants are protected. I look forward to keeping you updated.

We thank all of our Innovation Initiative leaders, including Senator Eric Koch.

CIVIC ENGAGEMENT

Staying connected with our communities is a priority of our judiciary. Our judges regularly take time to provide law-related civics education to thousands of students and community members through Constitution Day, mock trials, Statehood Day, We the People, and other civic events.

Our 15-member Court of Appeals has made civic engagement a cornerstone of their outreach.

Like the early pioneer judges who traveled the circuit, taking the court to the people, our Court of Appeals has now held oral argument in every single one of our 92 Indiana counties!

Their "Appeals on Wheels" program, which has built relationships in over 500 communities, provides students at high schools, colleges, and law schools, guests at tourist sites, and even retirement home residents an opportunity to get up close and personal with their government. The power of taking the court to the people left one Washington High School student, Macy Brandenburg, in awe. She said, "It's such an odd thing to see something so important in our high school. Like this is a big deal. This isn't something a lot of people get to experience."

Yes, Macy, it is a big deal. The value in making these community connections is incalculable. These visits put a face on our judiciary and illustrate how disputes are resolved civilly, based on the rule of law. The hard-working, circuit-riding judges on our Court of Appeals deserve our appreciation.

MAKING HISTORY

I would like to take note of one last historical milestone. One hundred years ago, women were finally able to vote. Last year, for the first time in history, the following Indiana courts were all led by women. As Chief Justice of Indiana, I would like to introduce you to my sister chiefs: Jane Magnus-Stinson, Chief Judge of the U.S. District Court for the Southern District of Indiana; Theresa Lazar Springmann, Chief Judge of the U.S. District Court for the Northern District of Indiana; Robyn Moberly, Chief Judge of the U.S. Bankruptcy Court for the Southern District of

Indiana; Martha Wentworth, Judge of the Indiana Tax Court; and Nancy Vaidik, who just completed her second term as Chief Judge of the Court of Appeals of Indiana.

IN CLOSING

Today's address is titled "Connecting, Convening, and Collaborating with our Communities" for a carefully chosen reason. Each of us entered public service in order to make a difference. To serve whom? Well, of course, our communities. And we all have been around long enough to know we can't go it alone. Let us imagine together what your courts and our State can be as we pursue justice for all Hoosiers.

The framers of our constitution divided the power of government among three separate and co-equal branches. But that separation does not mean we should isolate ourselves from one another. Instead, it calls for us to summon the very best in ourselves to walk that tightrope of equality without isolationism. And we're doing it: listening to one another, helping one another, working toward common goals.

Our work is difficult, and even if we do it thoughtfully, with the openness and humanity it requires, there will inevitably be challenges and setbacks. But it is work that draws its sustenance from that divine spark in each of us. I commend all of you for joining us in this work.

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