

State of the Judiciary
Chief Justice Loretta H. Rush, Indiana Supreme Court
Message to the Legislature
April 7, 2021

Introduction

Chief Justice Loretta H. Rush: Welcome. Thank you for joining me for this unique State of the Judiciary. I'm Chief Justice Loretta Rush, and on behalf of my colleagues on the Supreme Court and the entire judicial branch, I am pleased to provide you with an update on the work of the courts.

The pandemic has forced all of us to face challenges we never would have expected when I stood before you last year. And while the pandemic brought our normal lives to a halt, the conflicts that our Hoosier courts resolve did not go on lockdown. With over 1.6 million cases pending, ranging from expungement to murder, we had work to do.

Your appellate courts quickly maneuvered to hear cases remotely, with judges and justices in different locations, hearing from attorneys online. And yes, we had to say to each other and the lawyers, "I think you're on mute."

This month we are returning to our majestic courtroom to hear cases, and we're thrilled. Our trial courts are revolutionizing operations. Courts are places where many people, sometimes hundreds, come together in person, and that did not always work. So we constructed new ways to resolve disputes with safety, efficiency, and accessibility.

I am pleased to share with you how your Judiciary adapted and innovated to keep cases and vital court programs moving forward. I will also share with you how we intend to navigate the road that lies ahead, continuing the critical work of building trust and confidence in our courts.

This is the story of your Indiana Judiciary. Instead of just hearing from me, we're going to hit our Hoosier highways and byways to hear from our frontline local judges.

Local Judge Introductions

Judge Julie Cantrell: My name is Julie Cantrell. I am the judge of the Lake Superior Court, County Division.

Judge Tom Stefaniak: I'm a judge in the Lake Superior Court, Juvenile Division.

Judge Nathan Nikirk: I am the judge of the Lawrence Circuit Court in Lawrence County, Indiana.

Magistrate Cristal Brisco: I serve on the Circuit Court, sitting in Mishawaka.

Judge David Riggins: I'm what you call a volume-court judge. I hear all the misdemeanors, all the small claims, all the traffic cases.

Judge Kelly Benjamin: I'm the Bartholomew County Circuit Court judge. We have a county of about 72,000, so we're kind of mid.

Judge Darrin Dolehanty: We're a mid-size county over on the east-central border of the state.

Judge Mary Ellen Diekhoff: Monroe County encompasses Bloomington, amongst other cities.
Magistrate Melanie Kendrick: I am a magistrate in probate court in Marion County, Indiana. I preside over mental health commitments, guardianships, adoptions...

Judge Richard Stalbrink: I do everything from dividing up Tupperware, to divorce, to murder cases.

Judge Hunter Reece: We're one of the few counties in the state of Indiana that doesn't have a traffic light.

Embracing Change

Chief Justice Rush: Many of us judges, court employees, and court customers got COVID. So we worked with counties and local justice partners to shift court operations when needed. Our decision-making was informed by crowded jail and detention populations, the ever-present heavy lift related to probation, public safety, community supervision, problem-solving courts— all along with staring down case backlogs. And we immediately considered the constitutional requirement to provide public access to court proceedings.

We listened to what was needed in our local communities, and judges from across the state developed plans to help our court customers get their disputes resolved.

The ingenuity and adaptability of our judges continues to amaze me. Our judges were determined to keep courts across the state operational, and technology was the key. And as I have said in the past, the judiciary continues to be grateful for the financial support from the legislative and executive branches for our technological needs.

We bought hundreds of Zoom licenses and laptops and we even built our own application to host live court proceedings online to make them available to the public. And you know what, people watched. Meet Judges Hunter Reece of Warren County and Elkhart County Judge Michael Christofeno. They are among the hundreds of judges who took part in over tens of thousands of remote hearings this past year.

Judge Hunter Reece: When zoom licenses became available from the Indiana Supreme Court, we purchased a 360-degree camera that sits in the center of the court, in front of the bench, to allow people to see all aspects of the courtroom. It automatically focuses on litigants. It focuses the microphones on the litigants. This zoom technology allows not only litigants to participate but allows us to stream that service to the public at large.

Judge Michael Christofeno: I was totally against doing hearings remotely for a host of reasons. It was painfully obvious to me early on that if I was going to conduct any hearings in my courtroom, I would have to embrace technology. I am a total convert. I love it.

Keeping Court in Session

Chief Justice Rush: For some, social distancing and creative planning allowed court to go on as scheduled, including jury trials. For example, Vanderburgh County Judge Les Shively praises county officials.

Judge Les Shively: Were able to take our high-volume courts and move them to this convention Center facility where we had adequate spacing, adequate room sizes to accommodate—as I said, large-volume courts—and also to assist in jury selection when we were doing jury trials. And so as a result, we have been able to keep our caseload, and again, we were very fortuitous to have this facility so sort of close proximity to the courthouse. And it was a win-win situation, because COVID relief money that the county received basically “paid the rent” to be able to use this convention facility. So, turned out to be a win-win proposition.

Chief Justice Rush: Like hundreds of thousands of Hoosiers, some of our judges experienced firsthand the difficulties when they tested positive. The story of St. Joseph County Magistrate Cristal Brisco shows their resolve.

Magistrate Cristal Brisco: I immediately became concerned like everyone with that diagnosis of, “how would that impact my health.” But I also was very concerned with, “how would I be able to effectively continue to do my job.” I was increasingly fortunate and, as well as other members of the judiciary, to be able to pivot to the Zoom hearings; it was a very seamless transition.

Chief Justice Rush: Judge David Riggins, of Shelby County, is able to joke now that he was always an early adopter—but he was our first judge to get the virus. Recovering early on gave him a strong commitment to personally keep his courtroom safe and sanitized.

Judge David Riggins: I finally get to be a Ghostbuster for real. We’ve got this huge thing that we can disinfect the entire courtroom with. I’ll strap that puppy on, and we’ll disinfect the entire courtroom in just honestly a few seconds; it makes it a lot easier. We go through by hand and disinfect common-touch surfaces at least twice a day: at night when we’re done and at noon. We’ve separated the courtroom quite a bit. In fact, I can show you what the courtroom looks like here. This was my jury box over here, and we had all those chairs sitting in the jury box. We could put 12 people in there pretty comfortably in those chairs. Well, we have since taken all the chairs and put them across the back of the courtroom and spaced them out. And now we just have the benches over there. So we don’t have a lot of room in this courtroom. As you can see, it’s a pretty small courtroom, but we can put about 20 people we think in here safely-seated apart—and we’ll do that.

Causes for Celebration

Chief Justice Rush: Judges have responsibilities that include happy occasions, and we did not want those to stop. In the midst of shared community pain, there was also shared joy—through weddings and adoptions. Judges Julie Cantrell and Nathan Nikirk can tell you more.

Judge Julie Cantrell: Because of the pandemic, their wedding was cancelled. And April 7 [2020] was a very special date for them, so they really wanted to get married on April 7. So he

called me. We did the legal part, where we signed the marriage license, six foot apart outside, all masked up. But then to do the actual ceremony, so their family and friends could celebrate with them, we did a Facebook Live wedding. I was at my home; they were at their home; all their friends and family were at their home.

Judge Nathan Nikirk: So one of the things we do to make sure that the children still have that feeling of a kind of a party atmosphere—because it is a big day for the kids and the family—we allow as many people on the Zoom meeting as we can. I’ve had upwards of 55 people in Zoom—uncontested adoptions. The children line up usually with me in the courtroom, but on Zoom we’re doing that, and I mail them a little gavel after the hearing [and] a personal letter from myself, thanking them for letting me be a part of their big day.

Chief Justice Rush: You’ve heard the saying: “necessity is the mother of all invention.” In some instances, the ability to meet with people remotely actually improved court accessibility and interaction. Meet Lake County Judge Tom Stefaniak who handles a docket dedicated to children.

Judge Tom Stefaniak: We found that we have greater participation by parents and litigants in their proceedings because they no longer have to arrange for childcare; for those that don’t have their own vehicle—hire someone to drive them to court. Now wherever they’re at, off their mobile phone, what used to take half or three-quarters of a day for them, takes about 10 minutes or whatever the length of the hearing is.

Helping Those in Need

Chief Justice Rush: Trial court judges, often with chambers right on their town square, see firsthand the need for a legal matter to be decided swiftly and with fairness. Judge John Evans presides in the historic town of Corydon. Keeping his court running for what seemed a simple title matter turned out to resolve a housing crisis for one woman.

Judge John Evans: I can remember one case in particular early on; we had to hold a hearing in person, concerning an application for a motor vehicle title. When the case was over, the family member who had come with the petitioner gave a little cheer and said, “hooray, now you don’t have to live out of your car anymore!” Apparently, the woman had purchased a mobile home from a seller who didn’t have a title certificate. That’s not really that uncommon, concerning older motor vehicles, but she wasn’t able to move the mobile home from the sellers’ location to her property without that title. Certainly, having that hearing, getting the title, and moving the mobile home onto her property so she could move in was a priority for her and not something that can be put off for just another day.

Chief Justice Rush: Sadly, the human toll of the pandemic has exacerbated behavioral health needs for many Hoosiers. One area where it is crucial to push for success is in our expanded use of problem-solving courts. These courts use a collaborative model that enables individuals to take responsibility but also turn their lives around and be brought back into their communities as productive citizens. Meet Judges Jon Cleary and Maria Granger, who are two of our judicial leaders in these specialized dockets.

Judge Jon Cleary: As a state, we are approaching 127 certified problem-solving courts, and we are bravely extending the reach of these courts to every Hoosier in need. There is no magic here;

we are teaching, sharing wisdom, and building healthy relationships. Problem-solving courts save lives.

Judge Maria Granger: In fact, we started a brand-new problem-solving court for families: Family Hope Court. Because we knew that this prolonged period of separation was no time to take our foot off the gas for life-saving programs. And it became quickly clear to us that the structured accountability and the all-around support of problem-solving justice are equally accessible in the virtual courtroom.

Chief Justice Rush: A Marion County Judge saw an increase in mental health hearings and worked to make sure every person had a timely full and fair hearing. Here's Magistrate Melanie Kendrick.

Magistrate Melanie Kendrick: The one thing that I was concerned about personally was when you have mental health hearings, you have a lot of people who are experiencing paranoia and delusion. And even prior to going remote, there were people who would be paranoid about coming to court or paranoid about being near a computer. And sometimes their paranoia and delusions play into their ability to want to participate in the proceedings. And so I was afraid that would be common, and surprisingly it really hasn't. And so, the remote hearings have actually been very nice, I think, for everyone involved, because the patient is able to participate; the attorneys are able to participate; the doctors are able to participate. Everybody's safe. Of course, it's not ideal. We would all like to be in a courtroom to have the face-to-face interaction. But it has gone really well with what we've done in this past year.

Chief Justice Rush: A substantial portion of our Hoosier court cases involves our most vulnerable populations: abused and neglected children, victims of violence, and our elder populations. Court protections had to remain in place, and our network of Court Appointed Special Advocates is just one example of the critical need to maintain contact. Volunteers like Verdell Releford worried about children in distress, and she reached out to her CASA kids.

Verdell Releford: I'm usually very hands on, and I like to visit my kiddos and the families. Zoom has been really a good replacement. I mean, it's really been good. I can see the family setting and [the children] interacting with other children in the home.

Juvenile Detention Alternatives Initiative

Another way our judicial system improves public safety while promoting equity in juvenile justice is through the Juvenile Detention Alternatives Initiative. There are 33 Indiana JDAI counties. Here is Wayne County Judge Darrin Dolehanty and Probation Officer Kory George discussing how locking up fewer children actually leads to less crime in their community.

Judge Darrin Dolehanty: The goal is really [to] detain those children for whom secured detention is required for the safety of the child and the child's community. We say it all the time, "detain the right children, in the right place, for the right amount of time." That's JDAI.

Probation Officer Kory George: We went from just trying to keep them out of detention or come up with better alternatives to actually now working closely with our school and community partners to provide resources [so] that kids may not get arrested at all.

Pretrial Reform

Chief Justice Rush: Never has the hard work of pretrial reform been more important than this past year. An essential step to responsible management of county jail populations and costs is using an approved, evidence-based risk assessment system. However, this does not eliminate the bail system. I repeat, it does not eliminate the bail system.

This process allows courts to have more information and to identify candidates for collaborative justice models and get them to treatment—rather than simply jailing them—and allows those individuals to continue their employment, maintain housing, and support their families. A huge thank you to the governor and legislative leadership for so much help in these reforms. Let's hear from Monroe County Judge Mary Ellen Diekhoff on how it is working in her county.

Judge Mary Ellen Diekhoff: There is an assessment that is done by our trained probation staff, who meets with individuals who have been incarcerated; ask them questions according to the assessment, receive a score, and then that information is given to the judge to make a decision about release. On the team involved in this are members of law enforcement, the prosecutor's office, public defenders, the defense bar, and other community members.

Judicial Branch Independence

Chief Justice Rush: Our partners in justice do not always agree with one another. In fact opposite sides of an issue or a court case can become locked in dispute. But civil discourse and discussion over the facts of a case or how to guide the system unites us. We are all working hard as a third, co-equal branch of government, and that independence makes the entire system stronger. Meet Bernice Corley and Chris Naylor.

Chris Naylor: When we look at enterprise-wide system enhancements, that's when we work to be civil in an uncivil world. We have outstanding people working throughout the system. So we owe it each other, and we owe it to Hoosiers. Number one, we need better outcomes in our justice system. We all recognize that. So how do you go about doing that? Do you remain isolated in your silos? Or do you work together? Do you build consensus in identifying problems and working together for solutions?

Bernice Corley: The judicial branch and its independence are vital to a vibrant Indiana. One of the strengths of the judicial branch is our incredible diversity—not just of our members and their thoughts but also their function. But the beauty of our diversity and the strength of that is that we all come together, and we have a true north. Our true north is Indiana's Constitution and constitutionality. So as we come together collaboratively to solve problems from our diverse perspectives and insight, we're all solving toward the same end for solutions that are constitutional and also with justice in mind and fairness in mind.

Racial Equity

Chief Justice Rush: Complacency can never be the norm in providing justice. We need to constantly be more attuned to the needs of those who stand before our benches daily. Our courts work to provide equal justice just as the constitution promises. But despite all we are doing, the notion of equal justice for all remains elusive to some persons of color in matters across the legal

spectrum. What we strive for and what we have reached can be two different things. There's much work to be done.

Our judges around the state are taking the lead and convening community forums to tackle issues of race and equity in the justice system. Here is just one example from Judge Kelly Benjamin of Bartholomew County.

Judge Kelly Benjamin: We're going to move forward but do it together—not in our silo, not just law enforcement, not just social services, not just the courts, not just employers, not just people in our community—all of us together. Sitting down and knowing that together we are moving forward. That's the education part. That's getting to know the other side. That is what's going to allow us with purpose to move forward.

Strategic Planning

Chief Justice Rush: Our Hoosier judiciary must bring both vision and action to the pursuit of justice. This past year, our judges adopted a 10-year strategic plan to strive for greater accountability and access to justice. The plan galvanizes our branch to its core values to improve our system of justice under the rule of law while protecting liberties through an impartial system. Let's hear from Grant County Judge Mark Spitzer and LaPorte County Judge Richard Stalbrink.

Judge Mark Spitzer: The seven issues that we landed on were security, technology, clerk functions, court system structure, judicial selection, centralized funding, and access to justice. A big issue for us was access to justice, and that certainly ties into some of the conversations that we, as a nation, we have been having with regards to access to justice.

Judge Richard Stalbrink: I exactly see hopefulness as one of the key words. When the Strategic Plan[ning] Committee first looked at these issues—remember, the pandemic didn't exist—we began these ideas and these concepts three years ago. And as we pushed forward, it was obvious that our vision and our thoughts were correct, because, when the pandemic hit, it pushed us and caused us to have to put what we have already planned into place. And because we had planned things early, we were able to put them into place quicker. I think “hopefulness”—and “hope”—is a great word, and I think it's a word that our nation needs and our Hoosiers need right now.

Giving Thanks

Chief Justice Rush: Those courts that I highlighted today on our tour are just a small sample of the extraordinary work and heavy lifting done by our courts, staff, and justice partners this past year. We are also so fortunate to have legislative leaders and a governor who understand what happens in our courts [and] share our vision and commitment to solving the problems that bring people to court, and you work with us in the spirit of mutual respect. There are better times ahead, and rest assured, your Indiana judiciary is strong and ever poised to meet the challenges of the future.

May God continue to bless all of you and our great state.