

State of the Judiciary: Indiana Courts: Fulfilling Our Constitutional Responsibilities
Chief Justice Loretta H. Rush, Indiana Supreme Court
Message to the Legislature
January 18, 2022

Introduction

Welcome to the State of the Judiciary. It's always a privilege to address you in this magnificent chamber. We are one of the few states in the country where all three branches of government are housed in one building. While each of our branches has independent obligations, our proximity to each other cultivates opportunities to work together in so many ways for the benefit of every Hoosier.

As Chief Justice of Indiana, it is my constitutional responsibility to report to you the state of Indiana's courts—my eighth such address. And the message I offer today is one of perseverance.

Constitutional Promise

Throughout these last two years, your judiciary has embraced solutions to keep courts operational, resulting in the resolution of two million cases. But success is not measured solely by the number of cases we decide. Why? Because the Indiana Constitution's Open Courts Clause promises every Hoosier a fair, impartial, and accessible justice system. And we are delivering on that constitutional promise.

Yes, your Indiana Supreme Court thoughtfully decides cases—as our Constitution requires. But the Constitution further charges us with critical administrative responsibilities—responsibilities that are vital to the rule of law, because a judge's decision-making is only as good as the legal system in which it takes place.

Across our 92 counties, your dedicated trial court judges confront an increasingly complex array of criminal, business, family, housing, and debt cases. In many ways, courts have become the government emergency room for society's worst afflictions. Substance abuse, mental illness, domestic violence, homelessness—the challenges brought to courtrooms each day are the same challenges facing your constituents. And, like you, we are determined to find solutions. We share in the Governor's stated desire to uphold Indiana's reputation as a place Hoosiers want to live, work, play, study, and stay.

Today, I will highlight four critical components of our constitutional responsibilities.

Increasing public trust

We are implementing initiatives to increase confidence in the judiciary. And why is public trust so critical to the judiciary? Because it's the judiciary's currency. As Alexander Hamilton famously pointed out in the Federalist Papers, we have “no influence over either the sword or the purse.” True, but we do have tremendous influence over Hoosiers' trust in government. Every day, thousands of citizens across Indiana enter our courtrooms, where they are guaranteed a fair, impartial, and accessible justice system. So we must operate a justice system that bolsters our currency.

Strengthening Hoosier families

We are instituting court reforms to better serve vulnerable and endangered children and adults, to better support our veterans, and to better help our families navigate their way through divorce, child custody, or evictions. And, in doing so, we are also addressing the ever-increasing number of Hoosiers entering our courtrooms with substance use disorder and severe mental illness.

Improving public safety

We are expanding problem-solving courts and remain committed to working with all justice partners to safely implement pretrial reform.

Modernizing our courts

We are innovating—from recently completing one statewide case management system to increasing the speedy resolution of business disputes. We are committed to leveraging technology to better deliver justice across our state.

These efforts are foundational for fulfilling that constitutional promise of providing a fair, impartial, and accessible justice system for every person, in every Indiana community.

Public Service

When we are all in this room together, it is apparent that we have a tremendous connection, a bond we share because we chose public service. While we took different paths to office, the underlying motivation is the same: to serve the people of our state. And one of the most deeply committed public servants of our time—one we should all aspire to be—is Justice Steven David.

Justice David will step down from the bench after nearly 30 years as a judicial branch leader and the longest-serving justice currently on the Court. A highly decorated colonel in the United States Army, his service spans 28 years and includes tours of duty in Iraq and Guantanamo Bay.

As a tireless champion of justice, he has selflessly led many of the court reforms that I am going to speak about today. Justice David please come to the podium and provide an update on several of the initiatives.

REMARKS BY JUSTICE STEVEN H. DAVID

Thank you, Chief Justice Rush. We have served as judicial officers together for over 20 years. So thank you for sharing some of your time today with me. For a ninth generation Hoosier who grew up in Ogilville, Indiana, this is a tremendous honor.

OK, the big news—let's talk about the modernization of the courts through technology.

We now have a unified case management system. It's in every county! I'll say it again: one statewide case management system, with public access at mycase.in.gov, with 34 million visits last year. We couldn't have done it without your support, your trust, and your confidence. All Hoosiers now have free, 24-7 access to court information.

And we have our e-filing system that is also in every county; every week about

140,000 electronic filings move through the system—paperless! This saves millions of dollars for all users, including government agencies. By supporting us in this journey, we are a more responsive and transparent judiciary.

Thank you also for your unwavering support for commercial courts, available statewide. 1,300 cases have moved through this sophisticated system that handles challenging business-to-business disputes. It's timely, cost effective, predictable, and fair. Thank you to the Commercial Courts Committee, which has listened to the needs of practitioners, corporate counsel, and judges. A special shout out to Kevin Brinegar of the Indiana Chamber of Commerce as well as your own Senator Eric Koch and Representative Greg Steuerwald.

Indiana is a national leader in specialized courts, often called problem-solving courts. They focus on accountability, but also treatment. Accountability and treatment are not mutually exclusive; together, they are mutually successful!

We have 118 of these specialized dockets statewide and 21 more in the planning process. They include drug, family recovery, domestic violence, mental health, and veterans treatment courts. It has been my honor to witness hundreds of people graduate from these extraordinary programs. They are incredibly time-consuming local initiatives. But as a veteran; the son, grandson, and father of a veteran; and the husband of a Navy officer who has been recalled to active duty—I am truly grateful for your support of these profoundly impactful and life-changing, indeed life-saving, programs.

If you need to feel good about the good you do and the support you have given us in this work, please attend a problem-solving court graduation. You must experience it to really appreciate it. Watch the very police officer and the person they arrested for drug use stand together and hug each other in tears and triumph. Or attend a veterans treatment court graduation where a service member—scarred by the experiences and trauma of service, sacrifice, and conflict—who was once willing to give their life for all of us, now has a new life, thanks to all of you. It just doesn't get any better than that.

Let's talk about public safety, which includes pretrial and criminal justice reform. They allow us to enhance public trust and safeguard constitutional rights. We are working with you and our friends at the Indiana Prosecuting Attorneys Council, public defender agencies, law enforcement, and other stakeholders to build a more constitutionally transparent system to protect due process and equal protection rights while maintaining public safety. We envision transformative and lasting change in which we are not holding low-risk people in county jails. We have 12 counties now certified as pretrial service agencies led by the courts and 30 more in the planning stages. Our goal is simple: to make sure that before trial, the right people are in jail for the right reasons. Nothing more complicated than that.

And what about increasing public trust as the Chief Justice referenced? I wear this wrist band that says, "the rule of law always." It is the rule of law and our respect for it that separates us from most of the rest of the world. It makes us the envy of most of the world and the enemy of

some of the world. It is precious. It requires constant care and attention. It takes work and commitment to ensure that sacred phrase, “and justice for all!”

We have launched the Commission on Equity and Access in the Court System. Don’t be afraid of it; we aren’t. It is all about improving our systems. It is our way of doing a friendly audit of our own processes. And we aren’t doing it alone. Thank you legislators Travis Holdman, Greg Taylor, Greg Steuerwald, and Ragen Hatcher, along with my Vice-Chairs Norris Cunningham and Deborah Daniels. Will everyone who is serving on the Commission or any of its 8 working groups please stand and accept our thanks?

Let me share just one great example of strengthening families and children. We have nearly 4,000 volunteers trained as Guardians Ad Litem/Court Appointed Special Advocates serving nearly 22,000 children. With the work of these earth angels, tragedy and sadness can be turned into happiness and hope.

Together we are figuring out how to do better for our citizens, and that is indeed serving the public. I would like to leave all of you with this thought as I turn it back over to the Chief Justice of Indiana.

Public service is all about putting others first; it is giving of your time and talent in ways that may not be fully appreciated until much later. It is about doing what is right every day as best you can because you care about others. And we are glad to be doubling down on our public service efforts—with you—in 2022. Thank you!

Thank you, Justice David. You will be dearly missed, as you leave a legacy of an exceptionally stronger judicial system. So, now let’s look to the future and ways in which we will build on that legacy.

Innovation

Our Court tasked some of the biggest thinkers in our profession to provide a long-term blueprint for the court system of tomorrow. Here’s just a sampling:

Jail management

To improve public safety, we are working on a centralized jail management system. Your Jail Overcrowding Task Force identified systemic problems with multiple jail management systems: problems that prevent all of us from collecting and analyzing reliable data. You asked for a solution, and we’re answering. Our newly created centralized system will improve public safety by ensuring accurate criminal records, allowing judges to view real-time incarceration status, and alerting community agencies when a supervised individual is arrested. Sharing offender information between jails, courts, community corrections, probation, and all justice partners is vital to public safety and will give you information like you have never had before to guide your policymaking.

Evictions

Indiana has some of the highest eviction rates in the country. To find solutions, we are devoting key resources to help landlords and tenants, including piloting a housing court. Thank you to Judges Robert Altice, Jennifer DeGroote, Kimberly Bacon, and Magistrate Kathleen Belzeski, as well as landlord and tenant representatives, and state leaders working to find equitable solutions through the Eviction Task Force.

Family law

With over 100,000 divorce and paternity cases in our courts, we know that Hoosier families are facing an incredibly tough time—both emotionally and economically. The sooner they go to court and resolve differences, the better. So, we are implementing a pathways program that will tailor the court experience to a family's needs, creating efficiencies in time, scale, and structure. Thank you to Judge Elizabeth Tavitas and the other members of the Family Law Taskforce.

Remote access

We are leveraging smartphones and online access. We already use text messaging for hearing reminders, scheduling, and confirming deadlines. Now we are piloting a mobile court check-in program. And soon, some people may not need to come to court at all: a new online dispute resolution platform will allow court customers to resolve disputes at no cost and on their own time.

Mental Health System

For our final few moments, I want to talk about a remarkable opportunity all of us in this building have to fix a broken mental health system. But if we're going to do it, we must work together.

Last month, I visited Tippecanoe County Circuit Court Judge Sean Persin and heard a familiar story. His court is overwhelmed with serious mental health issues. Here is just a sampling of what he told me. Involuntary mental health commitments have tripled in the last few years. And after being found too mentally ill to stand trial, people are waiting—in jail—twice as long for placement in a state hospital. This tremendous increase in both cases and delays is not limited to one county, it's occurring statewide.

We need to first understand how we got here. Two generations ago, the federal government deinstitutionalized our nation's mental health delivery system. As psychiatric hospitals across the country shuttered their doors, primary responsibility for the care, treatment, and supervision of those with serious mental illness fell largely to local communities—police, jails, and courts. And today, mental illness permeates nearly every type of case that comes before our judges. In fact, the criminal justice system is now a primary referral source for a person to obtain mental health treatment.

Hendricks County Sheriff and recent President of the Indiana Sheriff's Association, Brett Clark, believes "the single greatest challenge facing Indiana Sheriffs is dealing with serious mental illness in the jails." Senator Mike Young and Representative Wendy McNamara recently echoed that sentiment. To their point, up to 80% of our current jail populations have mental illness,

substance abuse, or co-occurring disorders. Serious mental illness is four-to-six times more prevalent in jail than in the general population.

Police officers are not social workers, and jails are not treatment centers. And when we ask them to be, we compromise their core function of preserving public safety, which, in turn, puts everyone at risk.

This year, you, the General Assembly, will be tasked with considering how to best implement the national mental health hotline, better known as 988. It's the future of crisis care—a hotline for mental health emergencies where the immediate crisis response is connected to the infrastructure in place.

In anticipation of your important work, the Supreme Court is convening a statewide summit organized by the cross-branch efforts of Justice Christopher Goff, Sheriff Brett Clark, Senator Jack Sandlin, Mental Health Director Jay Chaudhary, and Drug Czar Doug Huntsinger. Thank you.

Teams from all 92 counties, with members of the local JRACs you created, will collaborate with each other and state-level partners to start developing responsible, cost-effective solutions. Please plan on joining your community's team at the October 21, 2022, summit.

Conclusion

At the beginning of this address I told you that today's message is one of perseverance. Last month, during a meeting with dozens of your trial court judges, I was inspired by what I heard. Judge after judge—from counties across the state—reported their resolve to hear difficult cases and handle their dockets fairly and efficiently. And they complimented Hoosiers for wholeheartedly showing up for and fulfilling their jury duty obligation. Jackson County Judge AmyMarie Travis, for example, recalled asking jurors after a recent trial what the court could do to improve their jury experience. They unanimously reported wanting to come back and serve on another jury.

We need to give thanks to our jurors, but also our clerks, probation officers, staff, attorneys, justice partners, and all our trial court judges, many of whom are here today. We have a spirit of resilience that is allowing us to fulfill our constitutional promises.

And I know you agree with me. A tenacious spirit runs deep in this state. We are proud to stand in service with you for all our fellow Hoosiers.

Thank you and may God continue to bless our great state.