

State of the Judiciary  
Chief Justice Maureen O'Connor, Ohio Supreme Court  
Message to Ohio Judicial Conference  
September 15, 2022

Thank you. Thank you all. Thank you, Joyce. Thank you for your leadership, your dedication during the trying times of your two-year tenure. My gosh, you were the lead during COVID. So, for that, we're grateful. Very grateful.

Thanks to Paul Pfeifer and the staff of the OJC, not only for this conference, but for what they do day to day and their job to serve your needs through this organization. I think they do a great job.

Good morning, members of the judiciary. And good morning to the justices who are with us today. They are seated in the back row. I will start with Justice Fisher, who is here. Justice Stewart who was here. And Justice Donnelly, who is here. Obviously, it's campaign season or we'd have more attendees.

Welcome to Chief Justice Nathan Hecht of the Supreme Court of Texas, Chief Judge Ana Blackburne-Rigsby of the District of Columbia Court of Appeals, and Judge Robert E. Bacharach of the Tenth District U.S. Court of Appeals. Your participation in this conference broadens our perspective and exemplifies the collaboration that is required to make the judiciary stronger. Thank you for being here.

To the hundreds of judges who have assembled from across the state, I am honored to be here with you for my final State of the Judiciary.

We have come a long way. Together.

In 2011, I stepped in to fill the big shoes left by Chief Justice Tom Moyer. When I did that, I promised you, that we would work together, that we would be strong, even in the face of uncertainty and challenges. We just didn't know the challenges that we were going to face. If I remember correctly, we were working our way out of the recession that followed the 2008 mortgage lending crisis. It was one of the worst economic times in history. Reduced tax revenue and funding cuts came as the demand for services increased.

State and county budgets were squeezed for funds and the financial pain was felt by courts. Judges hadn't had a raise in years.

Yet, I promised you that we would face the challenges and "seize opportunity as the vehicle for positive change" to build a better judiciary. I think that's taken from my remarks from my first address.

That is what I wanted for my time and leadership and to this organization: Continuous improvement.

Now, I want to look back a bit -- reflect on where we are and talk about the opportunities that lie ahead.

Together – over the last 12 years – we have seized and created opportunities. There has been positive change.

I have accomplished nothing by myself. If it weren't for the Supreme Court's competent, hardworking, brilliant staff, none of what we have achieved would have been possible. I will miss working with the men and women of the Supreme Court. I will miss working with the men and women of the Supreme Court and those of the judiciary of Ohio. One of the smartest things I did was continue convening a task force when there were big problems to tackle. And I learned that from Chief Justice Moyer.

During my tenure, I have convened two dozen task forces and commissions and received their reports and recommendations. The efforts have involved many, many members of the judiciary, the bar, court staff, the legislature, the executive branch, and the public. Far too many people to name here. But they have my gratitude for the good work they have done. And I have shown my appreciation by working tirelessly to follow through on what they recommended.

A task force is a phenomenal tool to solve problems. It brings everybody to the table. Often it is comprised of people who would not normally sit at the same table with one another. They look at the issues, data, best practices, and they hear from experts to innovate possible solutions. And they make recommendations. If they recommend changes in law, then it is up to the legislature to move forward. If they recommend changes in rules, we can work to implement those in the Rules of Superintendence or the Rules of Practice and Procedure at the Court.

At the end of the day, maybe everyone doesn't agree with everything in the final reports. And that's okay. Because they have had their say and they were heard. We have input from a variety of perspectives. And I believe in the work of compromise. There don't always have to be losers in order to have winners. Sometimes the final result is a great outcome because even though everyone didn't get everything, nobody got nothing. Compromise, it is a component of fairness and the fair administration of justice.

Nothing has advanced the administration of justice as much as the changes we have been able to make as a result of technology.

It is ironic that the first chief justice of the Supreme Court to “age out” of the job as ushered in the greatest modernization in history of Ohio courts.

Getting back to technology, I am proud of what we have accomplished because technology allows access to our courts, 24/7. It reduces costs for litigants. It enables attorneys to provide better service to clients. It reduces failure-to-appear rates. It makes it possible for judges to better manage their dockets to speed justice. And it has saved the taxpayers, exponentially.

## **Technology**

Technology has been a bright spot in the lessons that we learned from the pandemic. The pandemic just took us from being technology-driven to technology-dependent.

But my commitment to technology – and yours -- didn't start with the pandemic.

Nearly a decade ago, the Supreme Court went to e-filing. E-filing increases access to courts. It reduces costs for litigants and taxpayers. And it makes the work of clerks and court administrators easier. Many of them are already stretched so thin.

And I know local courts don't always have the money to make the initial investment in technology.

That's why, in 2015, I took money from the Supreme Court's budget to give to lower courts around Ohio through a program that we started, and it was called Technology Grants. Each year it was as many millions of dollars that I could divert. At the start of the pandemic and throughout, we saw the need to give you even more. There were urgent needs to keep your courts moving, and you needed technology in order to do that.

This year, we were able to fund 48 courts' projects at a total cost of \$3.1 million. And over the life of the program, the Court has invested more than \$38 million – in your courts. The largest of the grants this year went to Muskingum, Tuscarawas, Richland, and Erie Counties.

As an example, Erie County will replace its 30-year-old system with a modern electronic system for access to the docket, filing, paying fees and more. And the common pleas, the domestic relations, and the probate courts will be integrated into one system for the first time.

When the new system is completed – the public, attorneys, and staff will have remote access, 24/7. When it is completed in 2023, this big project will improve efficiency, and save litigants time and money. It is a huge win. I am happy the Supreme Court could make it possible with the initial outlay of money.

We have also completed the investment of more than \$4 million dollars in case management technology so that all appellate courts can have electronic filing and electronic document management capability. The Supreme Court is committing a half-a-million dollars per year to maintain and upgrade the system.

## **Text Reminders**

Text reminder technology is an important trend. Primarily used to remind someone of a hearing.

I probably don't have to tell you that people who are involved with the court system don't necessarily manage their schedules very well, and so they don't show up for their appearances, or conferences, or hearings or even trials. In many types of cases, from traffic, to felony matters, and everything in between, there is a high 'Failure to Appear' rate.

One solution is text reminders to the individual. It's really a pretty simple application that

mimics the notifications that we all received from other businesses that have used them for years: your dentist, your doctor's office, school events, and most importantly, your salon.

In Ohio, courts are using texting technology. Eight courts got tech grants this year to pilot technology and collect data so that we will have statistics to assist us with best practices around using this technology. There are various studies across the country which show very promising results. New York City Criminal Courts found that receiving any pre-court message reduces failure-to-appear for their court dates.

The most effective messages were combination messages; texts that include both a reminder to make a plan of how to get to court and the consequences of failing to appear. In addition to, of course, reminding them of the date.

Monitoring our own pilot programs and other courts' results is very instructive. Not just about the use of messages, but what the message should say, how frequently they should be sent, what time of day, and more.

What we are learning overall is that reaching people through their personal technology – their cell phone -- leads to timely compliance.

Nobody knew in 2015 that there would be a global pandemic. But because of the early vision and commitment by so many of you, Ohio was technologically better prepared than many states.

## **iCOURT**

Last year we talked about the work of the 25-member iCOURT task force. It gathered information on how courts innovated during COVID, what practices worked, what technologies were best, and what changes were made that improved things for the better. It's a 600-page report. I think you will recall me telling you that I said we were not going to deliver it, but you can download it or simply read it on our website.

Judge Rocky Coss of Highland County was the right leader to Chair the task force. You will all benefit from his leadership on this, for years to come. Justice Pat DeWine as an ex-officio member on the task force. And to Supreme Court staff attorney who did probably more work than anybody connected with the project is Kyana Pierson, who continues work to implement the recommendations.

The iCOURT task force which was formed during the pandemic continues to provide advantages for your local courts

The first rule of changes based on iCOURT recommendations went into effect July first. Next week, a 45-day public comment period will open on the next round of rules changes which include:

Requiring criminal and juvenile courts to provide an e-filing option. This mirrors the requirement for civil cases.

I encourage you to go to our website and review the proposals and make comment if you have any. The rules package also includes some non- technology components. It is a robust package. So please, take a look. Let us know what you think.

### **Court IT Leaders Forum**

I'd also like to thank Robert Stuart and the IT team at the Supreme Court for leading the collaboration among courts.

The Court IT Leaders Forum has conducted an annual survey of all the courts in Ohio about their technology. So, we are keeping tabs on what you have, what your capacity is, and how we can help. And they have an online working group to share information. With 385 courts in the state, 10-20% are changing core applications each year – upgrading, replacing, and so on. But for each of them, it may be the first time in maybe 20 years to do a project of that magnitude. Through the forum, an administrator can see what systems other courts use, learn the pros and cons of the experience. As one court administrator said, “it saves time and money but mainly it provides the confidence that I wasn’t alone.”

Those types of comments make me extremely happy, and I love it when judges and your court administrators recognize what a fabulous group of men and women work at the court, always ready to listen and help.

### **Supreme Court Website**

And we want to continue to serve you better. I have heard you loud and clearly that our website – our main communication tool and how we connect you to our resources – is not easy to navigate, to say the least.

I am happy to announce that on October first, just a few days from now, the Supreme Court of Ohio will launch our new website. Our #1 goal was to create a tool which you can easily navigate to find what you need. Under the eye of Director Lyn Tolan, our PIO staff and our vendor brought the website into the 21st century. So please, visit October 1st.

It is designed based on data. As soon as you log in, you will see “Opinions and Announcements”. Our data shows that is what people look for most on our website. So, it is right there. And we want to be your resource. We want to make your job easier.

Judges, simply click on the button that says, “Judicial Officers”.

That takes you right to The Judicial College, IGOR, Judicial Liability Insurance – everything you need without sorting through everything else. It is tailored to the judiciary.

But research shows that many people go right to the search on any website. Thank you, Google. You have trained us well. So, we have a big, beautiful new search bar, at the top, front and center. October first, visit supreme court-dot-Ohio-dot-gov.

## **Administration of the Judiciary**

The Ohio judicial system has a solid foundation for continued technological advancement.

Technology is a good investment. In the administration of the judiciary, we must be careful spenders. We must understand the financial operations of our courts. And an investment of technology pays for itself many times over.

As I look around the room, I see many judges who are new to the bench in the last 6 years or so. So, you won't remember the days – no, the years when there were no raises for judges.

It was not fair for committed, hardworking people, who carried the weight that judges carry every day – to go 6 years – yes, 6 years without a raise in wage. My concern was that we would lose the best and brightest.

The lure of higher pay at private law firms is always a possibility. But judges set that aside every day, choosing public service in the law. But dedication has its limits. We know that children have to be fed, clothed, and educated. Families need a roof over their heads. So, thank you to the judges who stuck it out during those lean years.

In my first State of the Judiciary, I promised that when the time was right, I would advocate for pay increases for judges. This was no small feat.

Judicial salaries are set by statute. And the legislature didn't loosen the purse strings for the judiciary from 2008 to 2014.

In addition to the economic downturn, Governor John Kasich, the late Speaker of the House William Batchelder and then Senate President Keith Faber – all had budget priorities – and they didn't include the courts. But when I approached them, they listened. And they did the right thing. In 2015, Judges received a series of 5 percent market adjustments four years in a row.

I will tell you it took time, and it required compromise. I had committed to tightening our belt through the crisis and the Court took a 10% budget cut for the overall good. That was a good faith effort on my part, knowing that I was going to be coming to the legislature and to the governor for our raises.

As I made my case with Governor John Kasich, he was willing to listen and promised to approve the pay raise in the budget. He wouldn't do it in lame duck session, which is what I was asking for, the compromise is that it was in the budget. So, rather than January first, we were looking at July first. There was just one little detail. I had to get the General Assembly on board.

So, then I went to convince Speaker Batchelder. Now, if you'll recall, Speaker Batchelder was a judge during his hiatus from the legislature. He had to fill his time. So, he became like first a common pleas judge, and then an appellate judge in very short order. And then he went back to the legislature. So, I knew that former judge Speaker Batchelder knew what I was talking about

and would be kind of an easy sell. And then there was Senator Faber. He was reasonable, gracious, and he agreed. They finally agreed to put it into the budget. They had agreed but cautioned me that I would need to get the Governor on board.

So, that's how it works. They will promise you something but then they tell you what they think is going to be a hard hurdle. And they won't have to maybe come through because somebody else will say "No". But I already knew I had secured the governor's promise back at the end of 2014.

I knew John Kasich was a man of his word. He came through. He signed the budget that included our raises. So, if you ever see John Kasich, say thank you.

It did not happen fast, and it didn't happen easily. But respect for the other branches of government, understanding each other's needs and what they face, and being willing to work together was critical.

And it did work again in 2018, I worked with Governor Kasich, Speaker Ryan Smith, and Senate President Larry Obhof, together in conversation and compromise – along with the Ohio Judicial Conference. And the result was a series of 1.75 percent market adjustments to judicial salaries over a period of 9 years (2020-2028). These raises for judges will continue long after I retire.

Longevity of the deal was important because I knew I couldn't return to the legislature each year and ask for money. It had to be a package. Did it help to retain quality judges? As I look around the room, I think the answer is "yes". So, I'm very, very pleased that we were able to do that. And I hope going forward that it will allow the members of the judiciary to stay in the judiciary and attract some more of the best and the brightest from the ranks of the bar.

## **Data**

So, I'm going to talk now about. I'm going to talk about data and I'm going to link it to some of the things that we've done to kind of explain the very importance of data. You know that negotiation I just talked about, like most negotiations involve good data. So, we use data to advise us in many ways.:

Data allows analysis of a system that heretofore has had limited analysis. Data can be a powerful tool in convincing the legislature when courts need funds in the future. Data can inform you whether your decisions are having the intended results. So you can adjust.

Whatever your area of interest, think of the data that would be most useful to inform your work. Be data driven.

It is important because our work is about peoples' lives. Defendants, judges and court personnel, prosecutors and defense attorneys, law enforcement, treatment professionals, corrections, probation officers. The list goes on. Data will allow all these folks I just mentioned to do their job better, to determine if what they are doing is working. And let's not forget about the taxpayer who expects and deserves the responsible use of their tax dollars.

The establishment and widespread use of databases will advance the fair and equitable administration of justice.

We know that there is no substitute for the discretion that comes with human understanding of the unique circumstances of a legal situation and the individuals involved. You need only to look at my record to know -- I support the independence of the judiciary.

But an experienced judge who also has data: information about trends. What works and what does not. How do rulings fall compared to norms. Analysis can be effective and part of a more trusted system.

I envision data collected from the time of the arrest -- to the charges the prosecutor makes -- to the pre-trial proceedings -- to the disposition -- to the sentencing -- post sentence -- community control -- and beyond. We don't have data in any of those things I just mentioned that can be put into research and tell us what we're doing, what the system's doing, what our partners in the system, how effective it is. Data at every stage is necessary to truly understand and inform our work.

My time is limited. I am not going to see that vision come to fruition in my term. It's just not going to happen. However, some first steps are underway now. Sara Andrews and the Ohio Criminal Sentencing Commission -- is standardizing the way we collect felony sentencing data. Judge Jeff Reed, in Allen County was the first on board with the pilot. There are now 97 judges in 42 courts and 48 counties that have volunteered to participate in various ways. More are signing on every month. That's because as judges, you know that sentencing is one of the most complex parts of your job.

Recognizing it is an intricate process and ensuring clear, comprehensible sentences is of the utmost import for the administration of justice and promoting confidence in our system.

The beauty of a uniform entry minimizes any mistakes that may occur in the sentencing entries and that will need to be reversed on appeal. It will ease the burden of court staff, as well.

A uniform entry template offers a solution for collecting criminal sentencing data in a way that is efficient. It reduces duplication and does not fiscally burden local government.

The resulting information is data that can be analyzed to understand the impact of criminal laws in Ohio and provide insight into evidence-based approaches to reducing recidivism, and reasonable criminal justice reforms.

And so, we must keep moving forward. If you want to understand the work, I encourage you to contact Sara Andrews at the Sentencing Commission. Or connect with one of your colleagues involved in the project such as Judge Geoff Reed,

- Judge Andy Ballard, Lawrence County
- Judge Christine Croce, Summit County
- Judge Ashley Kilbane, Cuyahoga County



- Judge John Wells, Morgan County
- Judge Jonathan Starn, Hancock County
- Judge Jaiza Page, Franklin County

For the public to be informed and for truth to win out over rumor and fiction, people must be able to see justice administered fairly, and understand how we measure that.

Overall, there is evidence – historical, statistical evidence -- that the U.S. Criminal Justice System is fairer and more effective than ever.

Yet, we can do better.

## **DEI**

Improvement includes looking at things through different eyes.

This year, I brought a new dimension to the Court in the Office of Diversity, Equity, and Inclusion. Dr. Adrienne Fletcher joined the Court from Case Western Reserve University. And one of her first projects is working with the judiciary, the bar, and community partners to ensure we consider a diverse candidate pool for positions at the Court, to ensure no qualified person is overlooked.

Competency should drive hiring decisions. And there should be no barriers for qualified individuals seeking employment at the courts or anywhere else.

Adrienne is working with the Judicial College to raise awareness of inherent bias, and ensure legal access is not denied or defined by the color of a person's skin, their background, disability, gender, age, religion, or any distinguishing characteristics.

This is the next step for the Court to examine how we do things. And this is a resource available to you and your courts, as well.

## **Public Confidence and Support**

The better we do – the more we can help the public to know and understand the judiciary.

Fayette County Court of Common Pleas Judge Steven Beathard has an interest in history. He set out preserve and update the 169-year-old Fayette County Courthouse. It is a beautiful place. You should visit. Actually, we had off-site court and my colleagues, and I were happy to join him at the courthouse earlier this year.

Each year the school children come to the courthouse in Washington Courthouse to hear about the real-life judiciary – and some drama on their tour. They can see the bullet holes in the doors from the Ohio militia. There's actually bullet holes in the wooden doors. They were protecting a black man inside from an angry mob that had gathered outside, and the militia shot through the door in order to dispel, disperse the crowd. That courthouse and what happened and what

happened inside becomes very real to those students that tour that courthouse all their lives. They will feel connected to it because they know its story. And more importantly, they meet the judge. Most people never meet a judge, you know. So that is special.

That's important. Meet the people. Make sure that the lived experience of Ohioans matches the ideal we talk about in civics class.

Citizen education about the judiciary is extremely important.

Most Ohioans will never go to court a day in their lives. You look at the news, or your docket, it is very busy. Busy with a small percentage of Ohioans. Most people go through their lives without needing a lawyer either. So, we must explain our relevance to the people of our state. Often.

And it is a responsibility of each of us – each one of you.

The responsibility was one that Judge Michael Daugherty, of the Clinton County Municipal Court, took very seriously. It was a shock last week to get news of his untimely passing. He was just 53 years old. Heralded for his work, not just on the bench. He was one of those exemplary judge- citizens who takes off his robe and gives and gives in the community. He was active in his church teaching Sunday School, in Leadership Clinton, as a musician and with the band boosters, with the Boy Scouts, Special Olympics, as the community Santa. And he did that year after year after year. He did so much in his short time to bring honor to the bench. So, learn from his example.

### **Sandra Day O'Connor Award**

As Judge Daugherty exemplified, you can make a difference.

The Supreme Court Civic Education program is a leader. Other states envy and then learn from us. We take oral arguments into communities through off-site court. Many of you have been involved with us when we've come to your county. We brought cameras into our courtroom. Since 2003 we have made oral arguments available to over 7 million Ohioans, through their televisions and computers. Not only are they available, they are archived. In 2021, we received the Sandra Day O'Connor Award for the Advancement of Civics Education. It's a national award. It honors our multi-faceted approach to civics education -- longevity, continued program expansion, as well as the shift to online education during the pandemic. It is an honor we do not take lightly. But we can do more.

We have a unique program called "Under Advisement". This program has been in place for several years. I'm bringing it to your attention because I would like you to consider partnering with a teacher and spend time in the classroom helping tomorrow's voters to learn about the judicial system. The program, with the help of professionally created lesson plans, allows teachers to teach kids about the legal system by using a real case from the Supreme Court. They use a real, archived, oral argument and dissect the resulting opinion. It is fun, rewarding, and allows you to connect with your community. And those kids can tell everyone they met a judge:

you! And they will vote for judges because they know about our legal system.

So, consider two, three days at most, of your time with middle or high school and look at our program of “Under Advisement”. Sara Stiffler is our director and she will make anything possible. If you are interested, contact our Court.

### **Judicial Votes Count**

More than 70% of Ohioans have said loud and clear that they don't want to stop voting for the judiciary. Yet, when it comes to elections, there is a drop off in voting for the judiciary. In 2012, 40% of the voters in Cuyahoga County did not vote for the judiciary. In 2012, we had elections for the Supreme Court, the Court of Appeals and the Common Pleas Court in Cuyahoga County. That county is not alone. People who go to the polls vote in most of the races and stop when it comes to judges and judges of all courts, because they just don't know.

Six years ago, I started a cooperative partnership among the Supreme Court, the bar, academia, media organizations, and the League of Women Voters. The mission was to provide unbiased access to information about candidates for judicial office, in their own words, in one place. Judicial Votes Count -dot-org - was born. Each judicial candidate shares their information. This year, judicial votes count - dot-org has moved to the Ohio State Bar Association. Thanks to OSBA CEO Mary Augsburger and OSBA Board President, Judge Dean Wilson – and the entire board of the OSBA for supporting the project and making the investment in spreading the word and making it bigger than ever.

And thank you to the legislature, in particular, Speaker Cupp. Last year I had a conversation with Speaker Cupp. This year I don't have conversations with Speaker Cupp. But when I had a conversation with Speaker Cupp. To his credit, I asked for money for this program so we could advertise it. And I asked for money. There was a little glitch in the legislation that had the allocation. He fixed it right away. And so, we had the funding that we needed to advertise judicial votes count. So, I am grateful. I'm grateful to him and the legislature for doing this because I think this is a tool that will only continue to grow. So, if you are a judge who is on the ballot this year, please fill out Judicial Votes Count -- even if you are unopposed. And I say that because people in your county will -- or your district for appellate judges -- will go there and they'll look, and they'll learn about you. And that is extremely important.

The website will be used by media across the state. The bar association will have a media campaign behind it. Voters will know where to go to find out who is running on their ballot in their county.

Again, if you are a candidate, fill it out.

Please encourage the people in your community to get educated and vote for judicial officers. Tell them about Judicial votes count – dot -org. Tell them every chance you get because an informed electorate means good government.

### **Redistricting**

I believe in an independent judiciary. I always have. And whether you vote as an “R”, a “D”, or an “I”, when you put on the robe and take the bench, you are sworn to administer justice and follow the law. Ours is the longest-continuously operating democracy in the world because we honor the concept of three co-equal but independent branches of government.

Voters overwhelmingly voted to amend the Ohio constitution to end partisan gerrymandering.

What voters have learned this year is that Article XI is not living up to its promise. It did not prevent gerrymandering, and it did not prevent the use, in the upcoming election on November 8th, of unconstitutional maps to draw both for the Congressional and the General Assembly districts. The Supreme Court had declared five times that the maps put forth were unconstitutional. The bottom line is that Article XI has no discernable or enforceable effect to curb gerrymandering in Ohio and it specifically says that the Supreme Court cannot draw the maps when the redistricting commission fails their responsibility.

The vast majority of Ohioans said, “No” to political gerrymandering.

Yet we do not have a constitution that will end gerrymandering. What to do? As I said in my concurrence on our first opinion, declaring the first map unconstitutional to achieve the goal of ending gerrymandering, Ohio voters will need to return to the ballot box and vote to amend the Constitution once again.

Article XI must be amended to create a redistricting commission that is truly, truly independent. Other states have done this; set the model for an Independent Redistricting Commission. Ohio voters can select another model, one that distances a redistricting commission from partisan politics by not having elected officials on the redistricting commission. Let’s try having ordinary, sensible people, who are not driven by politics but rather by what’s fair -- fair representation and justice.

Securing a constitutional amendment is one of the most difficult things to do in government. The legislature can, of course, vote to place the amendment on the ballot. What do you think the chances are? But absent that, securing hundreds of thousands of valid signatures will be necessary. It will take many interested groups coming together to secure the signatures for a constitutional amendment that will be on the ballot. This is one thing that I hope to be involved with after December 31st.

Fiorello LaGuardia, a lawyer and a Republican, was elected mayor of New York City in 1933. He served through the Depression and World War 2. In his 3 terms as mayor, he gained a national reputation as an honest, nonpartisan reformer, dedicated to civic improvement. He unified the city's transit system; expanded construction of public housing, playgrounds, parks, and airports; reorganized the police department, and so much more.

LaGuardia was often cross endorsed by all parties. Because above all, he did what was good for his city.

I love this quote of his: There is no Democratic or Republican way of cleaning the streets. What that says to me is that when you are charged as a public servant to do your job, do your job and leave politics out of it. Whether you're sweeping the streets or any other job, you work for the people and the good of all of the people -- and not political parties.

Each of us is called to do that. I promise, there is so much more we can do for the people of Ohio. Stay tuned.

Now I'm going to talk about some of the challenges that we've had.

## **Opioid Epidemic**

Arguably the greatest public health crisis of our time is the opioid epidemic. Like the COVID pandemic -- it will be with us for a while -- possibly always. But COVID has been abated by vaccines. Researchers were already working on the problem before we faced it. Medical professionals moved in quickly to identify and standardize treatments. Science is learning about the disease -- and how it morphs. Medical, business, and political professionals moved quickly to identify, analyze, learn, act, and adapt based on science.

Opioid abuse -- substance use disorder overall -- has not been approached with the same vigor. Too often we see an emotional reaction of denial and blame. Would our communities be in a different place if science and medicine had taken the COVID approach from the beginning?

It is our judicial role to mete out justice in an individual case. But I believe we have a responsibility to go beyond what is required in the moment. We have a responsibility to step back, identify what is happening that impacts the system, analyze available data, and find solutions. In this way, we constantly improve our justice system.

## **Treatment courts**

And that's been happening in Ohio. We, in Ohio, are pioneers in specialized dockets.

Today, there are more than 263 specialized dockets in Ohio courts. That's a huge number.

When I mention that number to chief justices in other states, they are impressed and I'm kind of proud to quote that number. It reflects on Ohio's judges, men and women who are willing to complicate their days by running specialty dockets. It isn't easy. It can be an emotional rollercoaster for all involved, and it's just plain hard work.

These dockets -- as most of you know by now -- are dedicated to specific types of offenses or offenders and use a combination of holding offenders accountable while also addressing the underlying causes of the criminal behavior and their addiction. The root cause for participation is a struggle with either drugs or alcohol or both, and /or mental health issues.

I believe in treatment in lieu of prison for people who qualify, as is their right. It's not right for every case, of course. But for people suffering substance use disorder, veterans with PTSD, and

others with mental health issues -- jail is merely warehousing. There's no treatment, there's no recovery, there's a tremendous cost to our taxpayers.

Treatment is a chance to rebuild their lives.

The Commission on Specialized Dockets, the Court Services Specialized Docket Section – and many of you – have applied a scientific approach.

As these dockets continue to grow, judges who oversee them are more educated than ever before on the science, medicine, and societal data. It's a big commitment for those who embrace it. Your work is exemplary. And after more than two decades, specialized dockets are now a proven success story.

Yet for all your hard work, for all we have committed, opioids continue to plague your communities. In 2017, cases hit their peak and began to recede. The COVID pandemic devastated that. And In 2021, numbers surged to and surpassed that peak in 2017.

New, synthetic drugs continue to emerge on the scene, fentanyl takes the place of heroin – but is much stronger – more dangerous. And the synthetic drugs are scarier for other reasons.

What is really mind boggling is that to those who manufacture synthetic drugs, they no longer have to put up with the vagaries of Mother Nature or the DEA spraying chemicals to kill the plants that produce the raw ingredients. Now, in Mexico, there are drug production facilities that use these synthetic ingredients, courtesy of China, and for pennies, produce a product that makes them millions across the border. And in doing so, ruins the lives of millions in that process.

So, the fight goes on. Please, don't be discouraged. There isn't one solution, but maybe a combination.

## **RJOI**

In 2016, I convened RJOI -- a collaborative effort called the Regional Joint Opioid Initiative. It brought together 8 states to share information and that is the foundation for how we deal with the opioid or any crisis. Really, we had to look beyond our state lines because we know that the opioid epidemic moves beyond state lines. We knew that the pain, the opioid epidemic was filling criminal and family courts. It was killing at an alarming rate. On the night before we convened that first time in Cincinnati, 17 individuals died of overdose the night before in the city of Cincinnati. That that blew everybody away. In one night.

Examining the problem from different angles, together, allows us to cover more ground. We also cover ground with that model within the state, talking to one another, collaborating. And we do need to work collaboratively.

Technology played a key role in our work once data sharing was possible among states, especially through programs like the prescription drug monitoring programs. You know, that was put in place to combat the doctor shopping and pharmacy shopping. That is a crime. It dropped

precipitously when the prescription drug monitoring program was put in place. And it is an obligation before you write a prescription or fill a prescription that you check to make sure that it is legitimate. And this individual is not, as I said, doctor or pharmacy shopping.

Specialty dockets with the treatment providers are the best definition of community – people coming together selflessly, to support one member of the community and by doing so, strengthening the entire community. So, do not stop. Keep finding ways to save lives.

## **Bail Reform**

Fairness is a central issue when we examine bail. Bail reform has been the subject of a task force report. Fairness in the bail system should be the overarching concern. The purpose of bail is to provide the accused a means of leaving detention while awaiting resolution of a case. However, the concept of bail has been convoluted. It's looked at as a means to keep someone detained until the case disposed of. That's not the intent of bail.

For those of you who preside over arraignments, when a defendant comes before you there is usually the matter of bond to be considered.

The first thing that you must ask is this person eligible to be bonded out. And what gives you the information you need to make the call? The prosecutor, pretrial services, law enforcement, the victim, etc. If the individual is charged with a certain category of violent felony -- and that's statutorily listed -- or is determined to be a flight risk, or if the individual is a threat to the community, a threat to witnesses, a threat to victims or their families or other solid reasons, the prosecutor and law enforcement present at the bond hearing information, then the court can then determine that that individual does not get a bond. And that person is detained until the resolution of their case.

This is where a judge evaluates community safety. The very first decisions that are made by a judge in that situation is where they take into consideration community safety. If the defendant is too dangerous, proven at a bond hearing, then keep that person incarcerated and cases disposed of.

And that, ladies and gentlemen, is what the DuBose case says.

There has been a lot of discussion about the DuBose case. And I would like to set the record straight. DuBose did not take options from judges. It says we must consider each case on the facts.

Ohio deserves judicial leadership that follows the law and the constitution. It deserves judicial leadership that is free from political pressure and works to get things right.

A constitutional amendment on the ballot this fall would require judges to consider public safety when setting bail. If a judge is setting bail, he or she had better already have considered public safety because that was the first thing that they had to consider. The bond at that point is only to

ensure that the defendant returns to court.

The tools to guide your determinations are in the Eighth Amendment to the U.S. Constitution, Section 9 of the Ohio Constitution, Rules of Criminal Procedure 46 and 46(B), and in the revised Code at 2937.22.

There are options to release people pending trial. Restrictions which can limit risk, while following the commitment that all are innocent until proven guilty.

To manufacture fear and continue a pattern of jailing the people who can least afford to be released doesn't protect society. It only assures that money determines the level of freedom and civil rights that one enjoys.

### **Judicial Education**

In the last decade, the Judicial College has developed top quality judicial education programs and encouraged judges to adopt best practices that meet national quality standards.

In 2021, the Judicial College delivered a record 334 courses. That's more courses to more participants than any year in its 46-year history. And there were more options than ever before -- in person, online, and by live webinar.

Now, a special thanks to retired, Cleveland Municipal Judge Ron Adrine, —lifelong leader and teacher on access and fairness. He is the lead faculty and helped develop judicial fairness and procedural justice education for new judges. Retired appellate Judge Jeffrey Froelich and Judge Stephen McIntosh have done good work in this area. Judge McIntosh is current chair of the Judicial College Board of Trustees. Thank you, Judge McIntosh.

The Judicial College is such a tremendous resource. I was saddened at the loss of Judge Lee Sinclair of Stark County Common Pleas Court in May of this year. Probably, most every common pleas judge in Ohio was probably educated by him. Lee was the primary author of the capital cases curriculum for the Ohio Judicial College and National Judicial College. He was such a leader.

In addition to Judge Sinclair, we have lost a number of good friends since the last state of the judiciary. I'd like to take a few seconds and mention their names.

- Nancy McDonnell, Judge from Cuyahoga Common Pleas
- Judge Joseph Russo, Cuyahoga County Common Pleas
- Judge Larry Jones, Eighth District Court of Appeals/Cleveland Municipal Court
- Judge Mark Beetham, Harrison County Court
- Judge Dominic Frank, East Liverpool Municipal Court
- Judge Robert Rettich, III, Miamisburg Municipal Court
- Judge Mary Kovak, Medina County Domestic Relations Court
- Judge Frank Gorman, Retired from Toledo Municipal Court
- Judge Richard Markus, Retired from Cuyahoga County Common Pleas, also sat



on Eighth District

- Judge John Boggins, retired from Fifth District Appeals, previously judge in Stark County Common Pleas
- Ross D. Avellone, Retired from Lake County Domestic Relations; Cleveland-Marshall Law grad.
- Gustalo Nunez, retired from Lorain Municipal Court
- Joseph Nahra, retired from Eighth District Court of Appeals.

I have a little story about Judge Nahra. He lived close to me when I lived in Cleveland Heights, and he would ride his bicycle to, I think, over to the Shaker Club. But he'd ride right past my house daily. And then he found out I lived there, and I became a stop on his route practically every day. Now, of course, I wasn't home every day because, you know, I travel a lot. But when I was, I could always count on a conversation with Judge Nahra. He would get off his bicycle and we'd chat.

The Supreme Court should not be an ivory tower that just hears cases and lets the rest of the justice system fend for itself. Through technology, education and training, guidance and funding, and other supports, I have encouraged the administrative staff of the Supreme Court to help you to do your job with the best support that we can offer. And I encourage you to work together to make each other's jobs easier by communicating and sharing information, just as you are doing at this meeting.

Lean on Supreme Court and Judicial College resources to continually strengthen your knowledge of the job and the courts. Use the toolkits, guides, and bench cards. Don't hesitate to share feedback or new ideas. After all, you are on the job every day. What you experience, is probably happening in other courts. You should not have to fend for yourself.

This is a wonderful community, and it has been so rewarding to be a part of it.

Being Chief Justice has allowed me the opportunity not only to make a difference in Ohio, but to play a part on the national level.

I have been active with the National Center for State Courts in the Conference of Chief Justices. I was president of the Conference of Chief Justices was quite an honor and chair of the Board of directors of the National Center. I co-chaired the National Task Force on Fines, Fees and Bail.

Through these organizations, I have met, made wonderful friendships, and worked with people that I greatly admire. I've traveled to far away countries to teach about the rule of law, to judges, to prosecutors, and to government officials. I swam with whale sharks in the Philippines and drove with great white sharks off the coast of South Africa. It has been an adventure and I have been blessed, to say the least.

## **Conclusion**

As I leave the bench this year, I leave with a grateful heart. I won the birth lottery – into a solid family in the best country in the world. I had a good education. I have had good health. I have

the joy of good friends and a good family and six grandchildren.

My career has been enriching. And I am the first chief justice who has aged out. Now, what does that mean? I'm the first chief justice since the creation of the elected chief justice position in 1912 to actually age out. All of the others have unfortunately died in office, or their career ended because they lost their election.

Now, I'm not going to lose an election again. We know that for sure. And if I can stick out 105 more days, I think I've got a new record for the state of Ohio. As I say, a lot to be thankful for ...

Every office to which Ohioans have entrusted me, I know I have left in better shape than when I got there. My mother and grandmother would say, "Well of course you did. That's your responsibility". Nevertheless, I feel they would be proud. SO, I am proud of the work we have done together, to prepare the judiciary for its next leader.

Invariably I am asked these days: what's next. Well, I don't know. What I do know, though, is that I will embrace the Italian concept -- *Il dolce far niente* -- the sweetness of doing nothing, least for a few months. So, let's talk about what's next for you.

I want you to do great things - to continue to improve the judiciary. But focus on these three things.

1. Don't let down your collective guard on opioids & synthetic drugs. It's a game of whack-a-mole. But we have to keep fighting, for the health of our communities and for the future of our children and our families. Advance the initiatives. Continue to use and grow specialty dockets but don't be afraid to innovate and change it up a bit if the science and data tell you there are better ways.
2. Grow data collection and use it in decision making. It would be irresponsible not to! There is no business that succeeds in the state of Ohio or in this country that does not rely on data. And the courts should be no different. The legislature should be no different. The governor the same thing. They should have data to advise them on policies and where the money goes and how to innovate. And we can do that for the judicial system. Data can be a neutral and helpful advisor; it can guide the legislature on how the taxpayer resources are used, especially for criminal justice, the courts and corrections.
3. And finally, get out into the public and talk about what you do. Humanize the judiciary. Let voters hear about all the good and fair work of judges -- not just the few times someone stumbles and appears in the newspaper. Ohioans want to vote for judicial officers. But they don't. And why don't they? Because they don't know. Make it your mission to change that. To do positive things. To get the press that will highlight the positive things you do so that people will get a different perspective on what judges do.

In the words of Fiorello LaGuardia, as he announced his retirement into private life: "You gave me a job to do, and I did it. And now it is up to the people."

So, God Bless