



ANNUAL
REPORT
2020-2021

Indiana Supreme Court

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FROM YOUR

Indiana Supreme Court

On behalf of my Supreme Court colleagues and our staff, I am pleased to present the 2020-2021 annual report. The report provides detailed information about the work of the Court and our agencies as we navigated the challenges of the pandemic and ensured access to justice.

In addition to supporting trial courts—which remained operational throughout the year with more than 1 million cases filed—the Supreme Court:

- Offered over 300 virtual education opportunities to more than 14,000 participants
- Had 33 million visits to mycase.in.gov
- Adopted the Uniform Bar Exam
- Built a website to live stream trial court hearings
- Allowed adoptions to be celebrated with photographs and video year-round
- Created an Office of Diversity, Equity & Inclusion

It is an honor to serve with my judicial colleagues and our many partners in justice. Together, we are committed to revolutionizing operations and crafting new ways to resolve disputes with safety, efficiency, and accessibility.



Loretta H. Rush
Chief Justice of Indiana



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Office of Communication, Education & Outreach
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317-234-4722

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Chris Bucher, Kathryn Dolan, Josh Hicks,
Sarah Kidwell, and other friends of the Court.

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Year in Review

FISCAL YEAR: JULY 1, 2020 TO JUNE 30, 2021



Thirteen people applied to fill a vacancy on the Court of Appeals to which Leanna Weissmann was appointed.

JULY 1 The Judicial Nominating Commission interviewed seven finalists from among 13 applicants for a vacancy on the Court of Appeals created by the retirement of Judge John Baker. On September 1, Governor Eric Holcomb would appoint Leanna Weissmann from among the three nominees selected by the Commission.

JULY 13 The Disciplinary Commission issued Advisory Opinion #1-20 about third-party comments on lawyers' social media pages. The opinion encourages attorneys to amend, remove, block, or reject additions to their social media that violate ethical rules.

JULY 20 The Judicial Qualifications Commission issued Advisory Opinion #1-20 on the ethics of judicial officers participating in marches and other public events addressing social issues. The Commission concluded that judges may participate in a manner that does not impact the independence, integrity, and impartiality of the judiciary.

JULY 29 The Supreme Court ordered adjustments—in light of pandemic restrictions and technical complications—to the first-ever remote bar exam. Rescheduled for August 4, more than 500 applicants were permitted to take the one-day test in an open book format.

Year in Review

AUGUST 19 The Commission on Improving the Status of Children released its annual report, providing data for the 2019-2020 fiscal year and outlining goals for the upcoming year.

AUGUST 20 The Judicial Qualifications Commission issued Advisory Opinion #2-20 on what type of legal assistance a judicial officer ethically may provide to a family member. The Commission concluded that a judicial officer may attend court-related events in a supportive role (not as a legal advocate) and that private legal advice may be given if the officer takes precautions to avoid the impression that they are serving as the family member's attorney.

AUGUST 26 The Supreme Court launched the Landlord and Tenant Settlement Conference Program. The free statewide program aims to help those facing eviction and those trying to collect rent reach mutually beneficial resolutions.



Virtual bar admission ceremonies allowed new attorneys to be sworn in remotely.

AUGUST 31 The Allen County Judicial Nominating Commission, chaired by Justice Steven David, held public in-person interviews of five applicants and announced three nominees to fill a vacancy on the Allen Superior Court.

SEPTEMBER 2 The Marion County Judicial Selection Committee, chaired by Justice Mark Massa, concluded public in-person interviews of 41 applicants and announced nine nominees to fill three vacancies on the Marion Superior Court.

SEPTEMBER 8 The Office of Admissions & Continuing Education announced that 398 applicants passed the July 2020 bar exam; another 72 later passed the February 2021 exam.

SEPTEMBER 9 The Supreme Court announced that lawyers could report pro bono hours for volunteering at polling places on General Election Day and earn continuing legal education credit for the required poll worker training.

SEPTEMBER 22 During a remote annual judicial conference, nine judicial officers received an Indiana Judicial College certificate and 15 were honored for 24 years of service on the bench.

SEPTEMBER 23 The Supreme Court signed an order allowing families and press to celebrate adoptions with photographs and video in the courtroom year-round until further order of the court.



Year in Review

SEPTEMBER 23 The St. Joseph County Judicial Nominating Commission, chaired by Justice Christopher Goff, announced five nominees to fill a vacancy on the St. Joseph Superior Court.

OCTOBER 2 The Office of Court Technology enhanced Indiana's Jury Management System, adding a feature for trial courts to text and email jurors regarding reminders, cancellations, and rescheduling.

OCTOBER 22 The Lake County Judicial Nominating Commission, chaired by Justice Geoffrey Slaughter, held public in-person interviews of 10 applicants and announced three nominees to fill a vacancy on the Lake Superior Court.

NOVEMBER 24 The Supreme Court ordered adjustments to the February 2021 bar exam and announced Indiana will adopt the Uniform Bar Examination beginning July 2021.

DECEMBER 11 The five justices celebrated Statehood Day with a virtual message.



The Chief Justice pre-recorded her State of the Judiciary remarks.

DECEMBER 14 The Supreme Court suspended jury trials through March 1 due to the ongoing COVID-19 public health emergency.

DECEMBER 15 The Marion County Judicial Selection Committee live streamed in-person interviews of 10 applicants and announced three nominees to fill a vacancy on the Marion Superior Court.

MARCH 4 The Office of Court Technology promoted a new online calendar for trial courts to display their daily dockets, with about 100 courts participating at launch and 150 by the end of the fiscal year.

MARCH 15 The Allen County Judicial Nominating Commission held public in-person interviews of four applicants and announced three nominees to fill a vacancy on the Allen Superior Court.

APRIL 5 The St. Joseph County Judicial Nominating Commission announced five nominees to fill a vacancy on the St. Joseph Superior Court. Because one of the nominees was appointed to fill a different judicial vacancy, the Commission would revise this list of nominees on April 16 to add a new fifth candidate.

APRIL 7 Chief Justice Loretta Rush issued a video address for the 2021 State of the Judiciary.

Year in Review



Justices heard oral arguments from the historic courtroom in the Indiana State House.

APRIL 22 Supreme Court oral arguments were heard in person in the historic Supreme Court Courtroom for the first time since March 2020. Arguments continued to be live streamed for public access as they have been since 2001.

JUNE 8 The Judicial Nominating Commission interviewed 12 finalists from among 23 applicants for a vacancy on the Court of Appeals created by the retirement of Judge James Kirsch. Governor Eric Holcomb would appoint Derek Molter on August 12 from among the three nominees selected by the Commission.

JUNE 25 The Supreme Court named Adrienne Meiring as the new Disciplinary Commission Executive Director.

JUNE 30 The Court closed the fiscal year; it heard 47 oral arguments, wrote 53 majority opinions, and disposed of 783 cases.

Justice Goff (left) and Chief Justice Rush (right) participated in oral arguments remotely from their chambers at the State House.



Adapting **judicial business** to **remote workspaces**

No corner of Hoosier life remains untouched by the COVID-19 pandemic, and while slowing the spread has meant reducing in-person interaction, courts are constitutionally required to remain open for business. One way courts have adapted is to move events that would normally take place in person—in a courtroom, conference room, or other venue—to online spaces, with participants appearing on video from wherever they are.

Trial court hearings

Authorized by Supreme Court order, trial courts began holding video hearings in May 2020 to move cases forward. The Supreme Court's Office of Court Technology built a website to live stream those hearings for the public. Approaches to broadcasting hearings differ from court to court. Some share a single, wide-angle view of their entire courtroom, while others manage a collage of individual video feeds showing judges, attorneys, and litigants from their kitchens, living rooms, home offices, or detention centers.

Oral arguments

Supreme Court oral arguments have been live streaming from the historic courtroom for about two decades, but social distancing requirements demanded the justices and counsel appear by video. While this impacted the logistics of these events, live streaming was uninterrupted, and the Court was able to hear cases without delay. The public window into the Court's fundamental duty—resolving disputes—remained in place.

Public meetings

Committees and commissions used the same streaming technology trial courts used to provide a public view of important decision-making work. During the fiscal year, the Justice Reinvestment Advisory Council live streamed nine meetings, and the Interstate Compact State Council hosted four. The Commission on Improving the Status of Children has streamed their meetings live for years and continued with five full Commission meetings, one Child Services Oversight



Justice Massa (left), Justice Slaughter (center), and Justice David (right) questioned attorneys at oral argument just as freely from behind their computer screens as from behind the bench.

Committee meeting, and three recorded meetings of its Juvenile Justice Reform Task Force. The Judicial Nominating Commission held two rounds of interviews in 2020 for a vacancy on the Court of Appeals and live-streamed both.

Bar ceremonies

Bar admission ceremonies usually involve hundreds of attendees, including the attorneys being sworn in, their friends and family members, and a host of state and federal judges who offer advice and administer oaths. During the fiscal year, nearly 400 new lawyers were invited to turn on their cameras while being sworn in remotely as proud families and friends watched online.

Staff meetings

Unseen by the public were the hundreds of hours of meetings that Supreme Court staff held over video conference when state buildings were closed. The work staff completed remotely—including through video meetings—helped ensure court operations statewide did not falter.

State of the judiciary

Chief Justice Loretta Rush delivered the 2021 State of the Judiciary address by recorded video for the first time in history on April 7. Typically, the Chief Justice provides the formal update on the work of the judicial branch in person to a crowded State House audience including the Governor, Indiana General Assembly, and judges from across the state.

The video address focused on Indiana courts revolutionizing operations and crafting new ways to resolve disputes with safety, efficiency, and accessibility. Judicial branch stakeholders also made appearances, discussing court technology, problem-solving courts, juvenile justice, pretrial reform, equity, judicial branch independence, and strategically moving the judiciary forward.

Though in-person interactions may be ideal for most court hearings, committee meetings, and day-to-day work, the ability to connect with one another through video screens has been a vital tool for continuity of judicial branch operations.



Watch the 2021 State of the Judiciary



Justices



Mark Massa

JUSTICE

APPOINTED

2012 by Gov. Mitchell E. Daniels, Jr.

EDUCATION

Indiana University;
Indiana University
McKinney School of Law



Steven David

JUSTICE

APPOINTED

2010 by Gov. Mitchell E. Daniels, Jr.

EDUCATION & MILITARY SERVICE

Murray State University;
Indiana University
McKinney School of Law; 28 years of Military Service (Retired Colonel, U.S. Army)



Loretta Rush

CHIEF JUSTICE

APPOINTED

2019 as Chief Justice;
2014 as Chief Justice;
2012 by Gov. Mitchell E. Daniels, Jr.

EDUCATION

Purdue University;
Indiana University
Maurer School of Law



Christopher Goff

JUSTICE

APPOINTED

2017 by Gov. Eric J. Holcomb

EDUCATION

Ball State University;
Indiana University
Maurer School of Law



Geoffrey Slaughter

JUSTICE

APPOINTED

2016 by Gov. Michael R. Pence

EDUCATION

Indiana University;
Indiana University Kelley
School of Business;
Indiana University
Maurer School of Law



Cases

Most cases in Indiana are decided by trial courts. Less than 1% of the cases in the state are appealed to the Supreme Court.



724

Cases Received



783

Cases Disposed



45

Transfers & Tax Reviews Granted

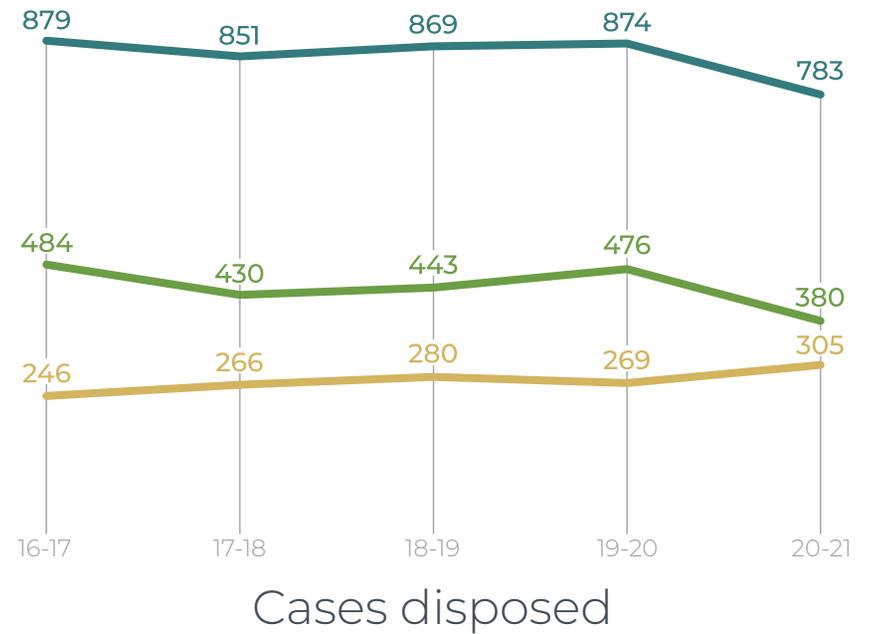
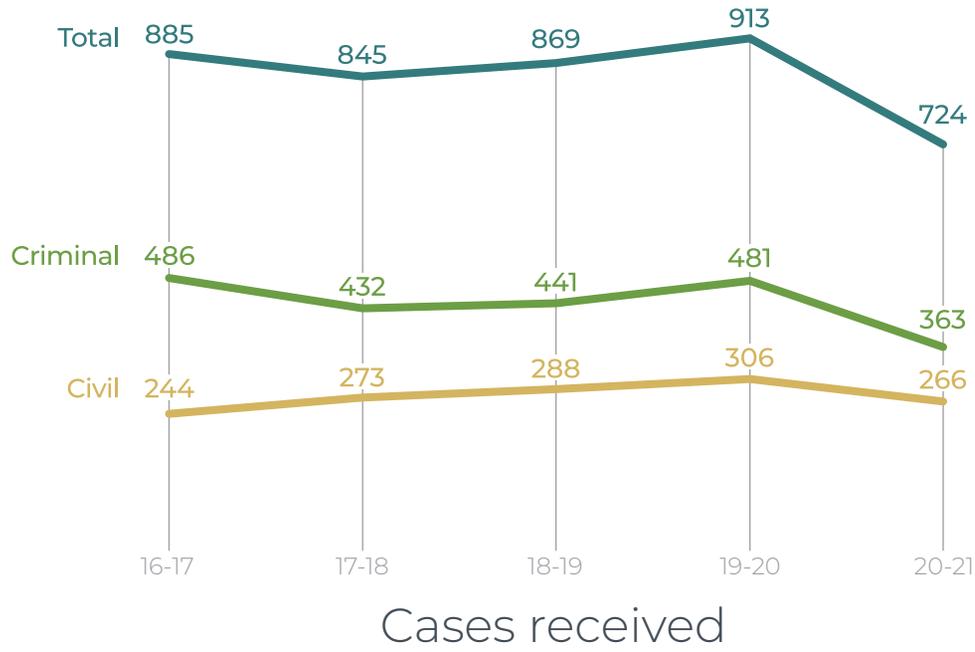


47

Oral Arguments

Trends

Total cases received and disposed by the Court across a five-year period, also comparing the criminal and civil cases included in the totals.



Cases

Inventory

An accounting of the number of cases pending at the beginning and end of the fiscal year by case type.

	Pending 7/1/20	Received 7/1/20 – 6/30/21	Disposed 7/1/20– 6/30/21	Pending 6/30/21
Criminal	38	363	380	21
Civil	79	266	305	40
Tax	-	3	1	2
Original Actions	1	20	20	1
Board of Law Examiners	-	1	1	-
Mandate of Funds	-	1	-	1
Attorney Discipline	41	65	71	35
Judicial Discipline	-	2	2	-
Certified Questions	-	3	3	-
Total	159	724	783	100

Cases

Received

All cases received by the Supreme Court during the fiscal year, organized by case type.

Criminal 363

Petitions for rehearing	4
Direct appeals – life without parole	3
Direct appeals – other	1
Post-conviction appeals – non-capital	62
All other criminal	293

Civil 266

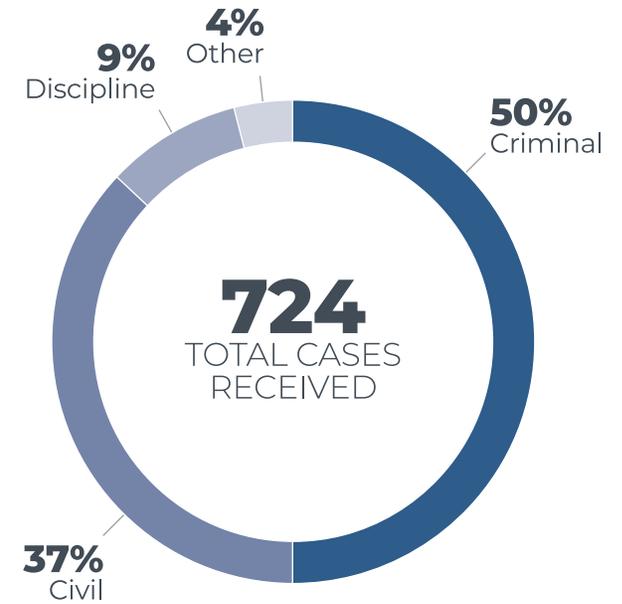
Petitions for rehearing	2
All other civil	264

Discipline 67

Attorney discipline matters	65
Formal judicial discipline charges	2

Other Types 28

Original actions	20
Tax Court petitions for review	3
Certified questions	3
Mandate of funds	1
State board of law examiners petitions	1



Cases

Disposed

All cases disposed by the Supreme Court during the fiscal year, organized by case type.

Criminal

380

Opinions on direct appeals	3
Opinions on petition to transfer	19
Orders on rehearing	5
Petitions to transfer denied, dismissed, or appeal remanded by order	353

Civil

305

Opinions on direct appeals	2
Opinions on petitions to transfer	23
Petitions to transfer granted and remanded by order	1
Petitions to transfer denied, dismissed, or appeal remanded by order	275
Orders on rehearing	3
Other opinions and dispositions	1

Discipline

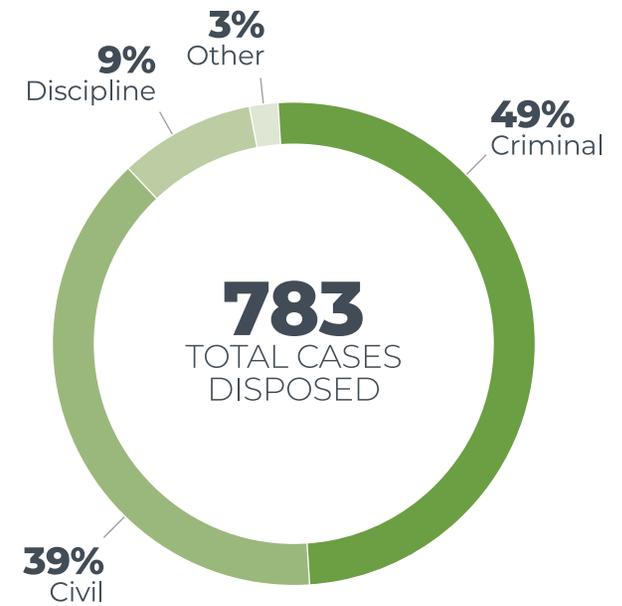
73

Opinions and published orders in attorney discipline cases	42
Other dispositions in attorney discipline cases	29
Opinions and published orders in judicial discipline cases	2

Other Types

25

Original actions disposed without opinion	20
Orders on Tax Court petitions for review	1
Certified questions	3
State board of law examiners petitions for review / petitions to revoke	1



Cases

Attorney Discipline

Details on the types of attorney discipline matters received and the result of each matter disposed.

Received	65	Private administrative admonition	1
Petitions to show cause for noncooperation	17	Private reprimand	2
Verified complaints for disciplinary action	28	Public reprimand	6
Private administrative admonitions tendered	1	Suspension with automatic reinstatement*	4
Notices of findings of guilt (felony) and requests for interim suspension	7	Suspension without automatic reinstatement*	4
Petitions for reinstatement	3	Suspension with conditions/probation*	10
Petitions to terminate probation	8	Accepting resignation	4
Miscellaneous	1	Interim suspension on finding of guilt (felony)	2
		Finding or judgment for respondent	3
		Granting reinstatement	3
		Withdrawal or dismissal of petition for reinstatement	2
Disposed	71	Denying reinstatement	1
Dismissal on compliance with show cause order	10	Terminating probation	8
Terminating noncooperation suspension on compliance with show cause order	3	Miscellaneous dismissing or withdrawing action	1
Dismissal of show cause proceeding due to other suspension	3	Miscellaneous	2
Converting noncooperation suspension to indefinite suspension	2		

*after verified complaint

Cases

Oral Arguments

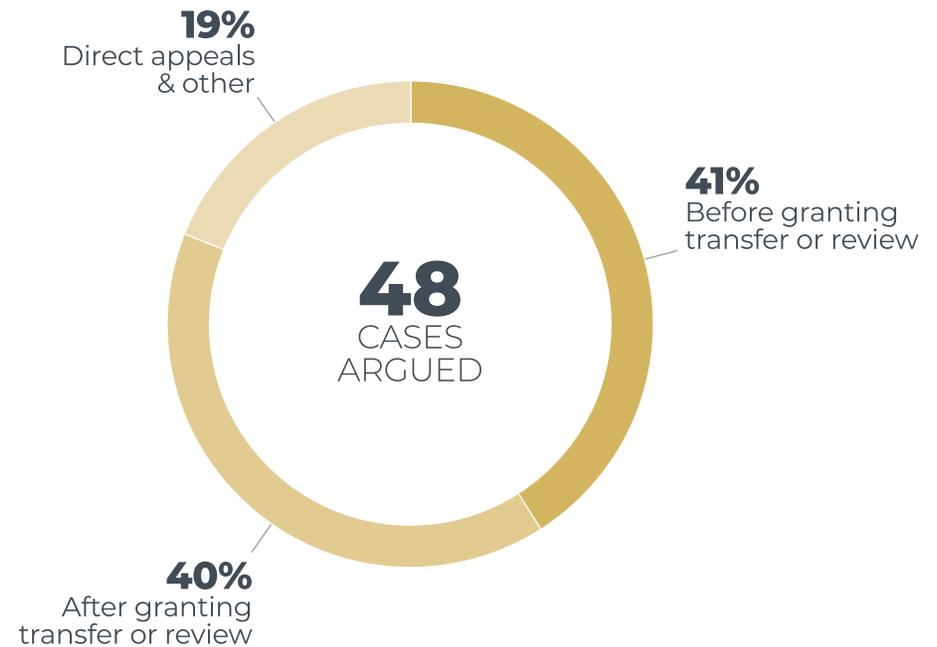
The Supreme Court heard 47 oral arguments in 48 cases during the fiscal year. Twenty-seven arguments were held remotely and 20 were broadcast from the Supreme Court Courtroom. All arguments were streamed live, recorded, and can be viewed online.

The following details the types of cases presented at oral argument:

All Cases Argued

48

Criminal (before decision on transfer)	7
Criminal (after transfer granted)	6
Criminal (direct appeals)	4
Civil/Tax (before decision on transfer/review)	13
Civil/Tax (after transfer/review granted)	13
Civil (direct appeals)	1
Other case types	4



Opinions

Justices published 74 opinions during the fiscal year.



74

Total opinions



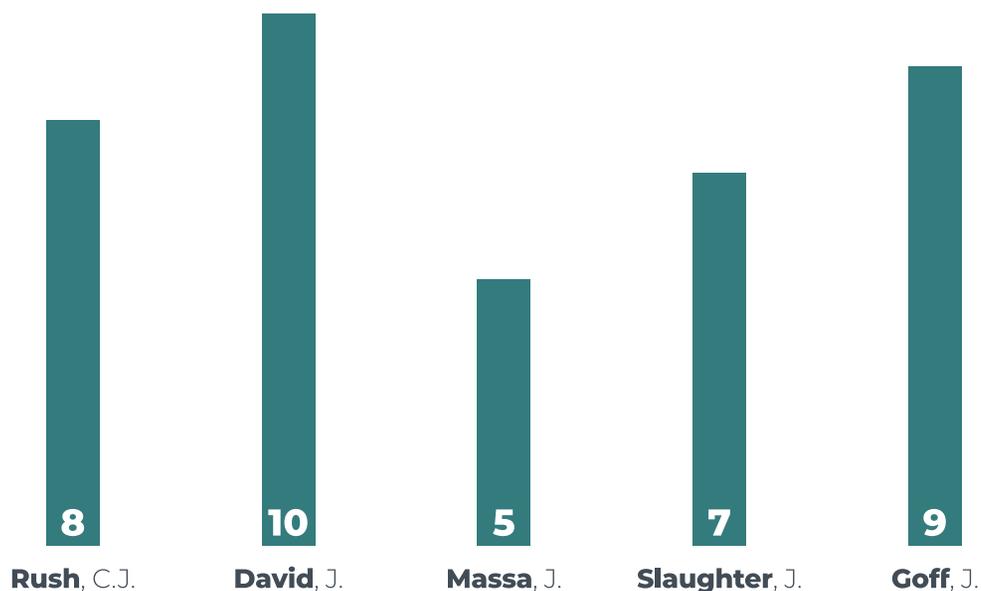
53

Majority opinions



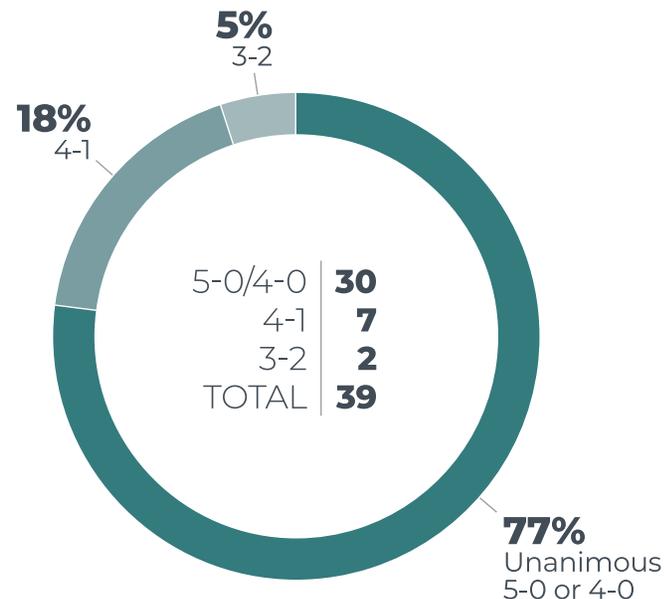
21

Non-majority opinions



Majority opinions by author

In addition to 14 *per curiam* opinions handed down by the Court, the justices wrote 39 majority and 21 non-majority opinions.



Consensus of opinions

The Court is mostly unanimous in its decisions. There are some split decisions and rare “other” cases in which fewer than three justices were in complete agreement as to result. There were no “other” cases during the fiscal year. Excludes 14 *per curiam* opinions.



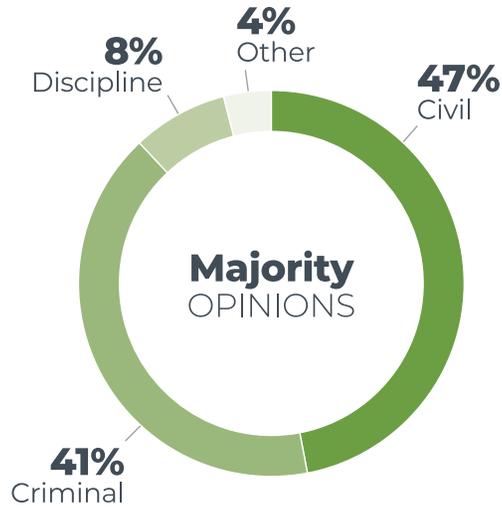
Read appellate decisions



Opinions

Majority opinions in detail

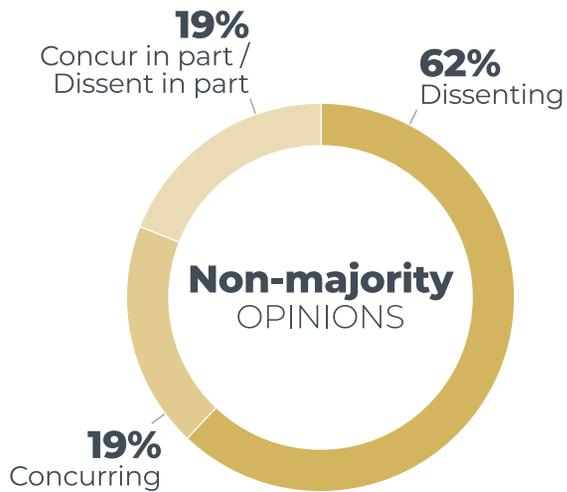
A breakdown of the majority opinions authored by each justice for each case type heard by the Supreme Court.



	Rush, C.J.	David, J.	Massa, J.	Slaughter, J.	Goff, J.	By the Court	Total
Criminal Transfer	3	4	3	-	4	5	19
Criminal Direct Appeal	-	-	-	2	1	-	3
Civil Transfer	4	5	2	4	3	5	23
Civil Direct Appeal	1	-	-	-	1	-	2
Certified Questions	-	1	-	1	-	-	2
Attorney Discipline	-	-	-	-	-	4	4
Total	8	10	5	7	9	14	53

Non-majority opinions in detail

Non-majority opinions are not dispositive.



	Rush, C.J.	David, J.	Massa, J.	Slaughter, J.	Goff, J.	Total
Concurring	-	1	1	2	-	4
Dissenting	2	3	1	5	2	13
Concur in part / Dissent in part	-	-	1	3	-	4
Total	2	4	3	10	2	21



Decisions in Brief

Case Work of the Indiana Supreme Court

The Indiana Supreme Court's 53 civil and criminal opinions in the fiscal year included a significant revision of Indiana double-jeopardy principles; other questions of federal and Indiana constitutional law; contract, commercial, and insurance matters; governmental and municipal law issues; and questions of trial and appellate procedure. The following digests much of the year's caseload.

Exclusive Jurisdiction Cases

Death Penalty & Life Without Parole

The Court affirmed the denial of post-conviction relief in *Isom v. State*, 170 N.E.3d 623 (Ind. 2021), a death-penalty case, rejecting Isom's claims that his trial counsel and appellate counsel were ineffective and that the post-conviction court made errors before and during the post-conviction proceedings.

In *Wright v. State*, 168 N.E.3d 244 (Ind. 2021), a life-without-parole case, the Court held that Wright's pretrial request to waive counsel and represent himself was knowing and voluntary, but not unequivocal or intelligent, so the trial court properly denied it. The Court also declined to reduce Wright's sentence under Appellate Rule 7(B).

The Court affirmed the convictions and LWOP sentence in *Tate v. State*, 161 N.E.3d 1225 (Ind. 2021), finding no error in admitting certain evidence during trial and sufficient proof of three aggravating circumstances to support LWOP.

Certified Questions from Federal Court

Answering a federal district court's certified question in *Branscomb v. Wal-Mart Stores East, L.P.*, 165 N.E.3d 982 (Ind. 2021), the Court concluded that a store manager could not be held personally liable for an injured store customer's claims of failure to properly hire, train, and supervise; failure to have or implement proper safety policies and procedures; and failure to inspect and maintain the property.

These summaries are not official opinions of the Court and constitute no part of the opinions summarized, but have been prepared by the Indiana Office of Court Services, Division of Supreme Court Services for the convenience of the reader.

Decisions in Brief

Addressing a certified question from the Seventh Circuit, the Court held in *Cutchin v. Beard*, 171 N.E.3d 991 (Ind. 2021), that Indiana’s Medical Malpractice Act applies to a third party’s wrongful-death claim against a physician who allegedly negligently prescribed opioids to a patient who later ran a red light, killing both the patient and the third party’s wife and child. Thus, the physician’s liability was subject to the Act’s statutory cap, and the third-party could seek “excess damages” from the Patient’s Compensation Fund after settling with the physician for the limits of his malpractice insurance policy.

Civil Forfeiture

The Court in *State v. Timbs*, 169 N.E.3d 361 (Ind. 2021), affirmed the trial court’s conclusion that forfeiture of Timbs’ Land Rover violated the Eighth Amendment’s Excessive Fines Clause because the forfeiture was grossly disproportional to the gravity of the drug-dealing crime the vehicle was used to commit and to the owner’s culpability for the vehicle’s misuse.

Civil Transfer Cases

Alternative Dispute Resolution

In *Berg v. Berg*, 170 N.E.3d 224 (Ind. 2021), the Court held that information exchanged to assist in mediation is confidential under Indiana’s Alternative Dispute Resolution Rules and Evidence Rule 408, even if disclosed before mediation. Thus, evidence that a stock account was inadvertently omitted from a balance sheet divorcing spouses used in their negotiations was inadmissible to attack the settlement—but the evidence was admissible on a contract-law claim for breach of the settlement agreement’s mutual warranty that all of either party’s assets and debts had been “correctly and truly revealed” to each other.

Appellate Practice & Procedure

The “law of the case” doctrine prevents relitigation of the same issue with substantially the same facts. In *Brown v. Indiana Department of Environmental Management*, 154 N.E.3d 822 (Ind. 2020), the Court vacated the portion of the Court of Appeals opinion limiting the doctrine’s application to prior decisions of appellate courts—not those of trial courts. But it summarily affirmed the Court of Appeals’ conclusion that the doctrine did not apply to consideration of remand of a former IDEM employee’s claims that he was a protected whistleblower under Indiana Code section 4-15-10-4.

Constitutional Questions

In *City of Bloomington Board of Zoning Appeals v. UJ-Eighty Corp.*, 163 N.E.3d 264 (Ind. 2021), the Court held that a city’s zoning ordinance, allowing sorority and fraternity houses sanctioned by the local university in a certain zone, did not unconstitutionally delegate zoning authority to the university by defining “sorority” and “fraternity” based on their relationship with the university.



Decisions in Brief

Contracts & Commercial Law

In *Hartman v. BigInch Fabricators & Constr. Holding Co., Inc.*, 161 N.E.3d 1218 (Ind. 2021), a shareholder agreement required the company to repurchase certain shares at their “appraised marked value” as determined by a third-party under generally accepted accounting principles. Drawing on freedom-of-contract principles, the Court held that valuation provision contemplated applying “minority” and “marketability” discounts, even for that compulsory, closed market sale.

In *Doe v. Carmel Operator, LLC*, 160 N.E.3d 518 (Ind. 2021), the Court held that a company hired to run background checks on a senior living facility’s employees could not enforce an arbitration clause in the agreement between the facility and its patient’s guardian, because the company was not a signatory to the agreement and was not the facility’s agent.



Damages

The Court held in *Humphrey v. Tuck*, 151 N.E.3d 1203 (Ind. 2020), that evidence the plaintiff failed to fill (or update) a prescription for eyeglasses and delayed in seeking treatments for a hormonal imbalance was enough to support instructing the jury on the defense of failure to mitigate damages.

Education

In *Poore v. Indianapolis Public Schools*, 164 N.E.3d 130 (Ind. 2021), the Court clarified an agreed misstatement of law in the Court of Appeals opinion and held that International Baccalaureate courses do not satisfy Indiana’s Dual Credit Statute, Ind. Code § 20-30-10-4, but otherwise summarily affirmed the Court of Appeals opinion.

Evidence

The Court resolved a split in Court of Appeals decisions in *Matter of K.R.*, 154 N.E.3d 818 (Ind. 2020), holding that drug-test laboratories’ reports may be admissible into evidence under Evidence Rule

Decisions in Brief

803(6)'s "business records exception" to the hearsay rule, finding the trial court acted within its authority to find the records at issue "trustworthy" as that Rule requires.

Family & Juvenile

In *D.P. v. State* and *State v. N.B.*, 151 N.E.3d 1210 (Ind. 2020), a consolidated appeal, the Court held that because juvenile courts' jurisdiction is generally limited to people under 21, they cannot waive a person over age 21 into adult criminal court—even though criminal charges for child molestation may be brought any time before the victim turns 31.

In *K.C.G. v. State*, 156 N.E.3d 1281 (Ind. 2020), the Court held that the juvenile court lacked subject-matter jurisdiction over delinquency charges for dangerous possession of a firearm, because the State sought to prove the juvenile delinquent for committing an act "that would be an offense if committed by an adult," Ind. Code § 31-37-1-2—but the dangerous-possession offense applies only to a "child," id. § 35-47-10-5, so an adult cannot commit the offense.

A parent's consent to adoption of a child is not required where the child is in another person's custody and the parent, for at least one year, fails to communicate significantly with the child without justification or fails to support the child when able and required to do so by law. Ind. Code § 31-19-9-8(a). In *Matter of Adoption of I.B.*, 163 N.E.3d 270 (Ind. 2021), the Court noted that inquiry is fact-intensive and held that sufficient evidence supported a trial court's decision that the failure to communicate or support exceptions applied.

In *Matter of Paternity of B.Y.*, 159 N.E.3d 575 (Ind. 2020), the Court noted that only the most egregious violations of court orders that put the child's welfare at stake should play a critical role in a custody order, and it held the trial court erred by granting sole legal and physical custody to Father after finding Mother in contempt of court when Mother relocated her child due to an out-of-state job.

Government & Municipal Matters

The Court in *Indiana Land Trust Co. v. XL Investment Properties, LLC*, 155 N.E.3d 1177 (Ind. 2020), held the county auditor's tax-sale notice to a landowner satisfied due process when it was sent by certified and first-class mail to the last address on record, only the certified mail was returned, a skip trace for a better address was performed, and notice was published in the newspaper; the auditor was not further required to search its internal records for a better tax sale notice address.

In *Holcomb v. City of Bloomington*, 158 N.E.3d 1250 (Ind. 2020), a majority of the Court held that a 2017 statute blocking Bloomington from annexing several surrounding areas was unconstitutional under Article 4, Sections 22 and 23 of the Indiana Constitution, which prohibit localized "special legislation" when "a general law can be made applicable"; and that the Governor was a proper defendant for this declaratory judgment action.



The justices met in conference following the first in-person oral arguments since the COVID-19 pandemic prompted remote work.



Decisions in Brief

The Court adopted the “adverse-domination doctrine” for tolling the statute of limitations in *City of Marion v. London Witte Group, LLC*, 169 N.E.3d 382 (Ind. 2021), in which the City’s new administration sued an advisor to the City’s former mayor, alleging corruption in the former administration and that the advisor aided that corruption. The Court concluded that genuine issues of material fact remained concerning whether the former mayor dominated the City during his administration and whether the advisor helped him do so, so that the statute of limitations should be tolled until the former mayor left office.

Insurance

The Court interpreted an insurance policy in *Glover v. Allstate Prop. & Cas. Ins. Co.*, 153 N.E.3d 1114 (Ind. 2020), and held that the victim of a fatal car crash had coverage as a “resident relative” under her parents’ UIM insurance because her children had moved in with her parents at the time of the crash, and she was not excluded as an unreported “operator” in the household because she had her own car and was not driving her parents’ vehicles.



The Court considered a “ransomware” attack under a commercial insurance policy’s “computer fraud” provision in *G&G Oil Co. of Indiana v. Cont’l W. Ins. Co.*, 165 N.E.3d 82 (Ind. 2021), and held that while the loss resulted directly from the use of a computer, questions of fact remained on whether the ransomware attack also involved “fraud” as the policy terms required.

Judgment

Applying a deferential standard of review, the Court in *Riddle v. Cress*, 153 N.E.3d 1112 (Ind. 2020), held that under the unusual circumstances, sufficient evidence supported the trial court’s decision to set aside a default judgment on grounds that the defendants were sincerely confused about whether they needed to respond.



Decisions in Brief

Remedies

The Court held in *New Nello Operating Co., LLC v. CompressAir*, 168 N.E.3d 238 (Ind. 2021), that one company's purchase of another company's assets was not a "de facto merger" with or "mere continuation" of the seller, because there was no continuity of ownership between the two companies—and so the asset buyer did not also take on the seller's liabilities.

Trial Practice & Procedure

The Court held that a potential juror in a medical malpractice case should have been struck for bias in *Clark v. Mattar*, 148 N.E.3d 988 (Ind. 2020), when he stated repeatedly and emphatically that he could not render a decision about non-economic damages (necessarily prejudicial to the plaintiff), had generally positive feelings about doctors (necessarily favorable to the defendant physician), and was equivocal about whether he could set those feelings aside and weigh the evidence with an even scale.

In *Smith v. Franklin Twp. Comm. Sch. Corp.*, 151 N.E.3d 271 (Ind. 2020), the Court held that Indiana Trial Rule 41(F)—which allows reinstatement of dismissed cases on grounds like mistake, excusable neglect, and fraud—cannot be invoked to challenge a dismissal's legal merits on grounds that were known or knowable at the time of the dismissal.

Although appellate courts retain jurisdiction to hear an appeal even if it is untimely, the Court in *Cooper's Hawk Indianapolis, LLC v. Ray*, 162 N.E.3d 1097 (Ind. 2021), found no "extraordinarily compelling reasons" to restore the restaurant's untimely appeal.

The Court in *Choi v. Kim*, 158 N.E.3d 774 (Ind. 2020), summarily affirmed the Court of Appeals' reversal of a \$350,000 verdict on Kim's theft claim because the trial court improperly emphasized certain jury instructions. But the Court vacated the Court of Appeals decision in defendants' favor and instead remanded the case for a new trial.

Criminal Transfer Cases

Constitutional Questions—Double Jeopardy

The Court overhauled its double-jeopardy jurisprudence in the companion cases of *Wadle v. State*, 151 N.E.3d 227 (Ind. 2020), and *Powell v. State*, 151 N.E.3d 257 (Ind. 2020), overruling in part its 1999 decision in *Richardson v. State* and concluding that the Indiana Constitution prohibits only procedural double jeopardy, while substantive double jeopardy focuses primarily on statutory interpretation. *Wadle* applies when a single criminal act violates multiple statutes with common elements, while *Powell* offers a slightly different analysis when a single criminal act violates a single statute but causes multiple injuries. Applying the new tests, the Court held that *Wadle*'s act of purposefully causing serious bodily harm while driving drunk and leaving the scene was a single continuous offense of Level 3 felony leaving the scene of an



Decisions in Brief

accident, subsuming his other convictions as included offenses; and that the evidence established Powell's intent to kill both occupants of a car when he fired multiple gunshots, permitting two convictions for attempted murder.

Constitutional Questions— Search & Seizure

In *State v. Diego*, 169 N.E.3d 113 (Ind. 2021), the Court reversed a trial court order suppressing Diego's station-house statement to a detective—holding that no “Miranda advisement” was needed because under the totality of objective circumstances, a reasonable person would have felt free to end the questioning and leave.

The Court concluded in *Combs v. State*, 168 N.E.3d 985 (Ind. 2021), that even without a warrant, the police properly seized Combs' van from his driveway as evidence of leaving the scene of an accident minutes earlier; it was in plain view, its incriminating character was immediately apparent, and police lawfully inventoried its contents under a reasonable towing-related procedure.

In *State v. Ellis*, 167 N.E.3d 285 (Ind. 2021), the Court held that the agreement Ellis signed when he was placed on home detention unambiguously waived his right against searches without reasonable suspicion, so evidence found during a suspicionless search was admissible.

The Court affirmed a conviction for dealing in a look-alike substance in *Johnson v. State*, 157 N.E.3d 1199 (Ind. 2020), holding that a Gaming Enforcement Agent lawfully patted down Johnson based on a casino patron's report of Johnson selling what appeared to be cocaine and video surveillance. The agent had reasonable suspicion criminal activity was afoot, Johnson could be armed and dangerous, and the lump in Johnson's pocket was immediately apparent as contraband, despite later proving to be only baking soda.

Expungement

The Court addressed the permissive expungement statute, Ind. Code § 35-38-9-4, in *Allen v. State*, 159 N.E.3d 580 (Ind. 2020), holding that Allen was not categorically barred from receiving an expungement. But because it was unclear

whether the trial court mistakenly concluded Allen was categorically ineligible or decided in the exercise of discretion that Allen's conviction should not be expunged, the Court remanded to the trial court for reconsideration.

Guilty Pleas

In *Williams v. State*, 164 N.E.3d 724 (Ind. 2021), the Court affirmed Williams' six-year sentence but reminded trial judges that even though defendants who plead guilty waive the right to directly appeal their convictions, the plea agreements, plea and sentencing colloquies, and sentencing orders must be clear and consistent as to whether a defendant has further waived the right to appeal the sentence.

Sentencing

The Court held in *Wilson v. State*, 157 N.E.3d 1163 (Ind. 2020), reh'g denied, that a juvenile's 181-year sentence did not violate the Eighth Amendment, but that Wilson's prior appellate counsel was ineffective for not challenging the length of

Decisions in Brief

the sentence under Appellate Rule 7(B). After considering the nature of Wilson’s offenses and his character, including his age, the Court revised Wilson’s sentence to 100 years.

Applying its power under Article 7, Section 4 of the Indiana Constitution, the Court in **Mullins v. State**, 148 N.E.3d 986 (Ind. 2020), reviewed a 24½-year aggregate sentence stemming from four controlled buys of methamphetamine and possession of the drug and paraphernalia and revised it to 18 years in light of the defendant’s young age, history of severe abuse dating from childhood, and untreated mental health and addiction issues.

Speedy Trial

In **Battering v. State**, 150 N.E.3d 597 (Ind. 2020), Indiana Criminal Rule 4(C)’s one-year deadline to bring the defendant to trial elapsed while the State was appealing a pretrial ruling. Because the State had moved only to continue the defendant’s trial during the appeal, but not to stay the proceedings, the “clock” continued to run during the appeal, and so the defendant was entitled to discharge.

In an earlier appeal, the defendant in **Watson v. State**, 155 N.E.3d 608 (Ind. 2020), had been granted a new trial on a sentencing enhancement—but despite Watson’s repeated requests, the State and the trial court caused nearly four years of delay before he was retried. The Court held that Watson’s federal and state constitutional speedy-trial rights were violated by that “exceptional” and “unacceptable” delay, so it reversed the enhanced portion of his sentence.

Trial Practice & Procedure

The Court held the State had waived a previously-filed sentence enhancement in **State v. Vande Brake**, 150 N.E.3d 595 (Ind. 2020), because the State never pursued the enhancement before or during trial and raised the issue only after the trial court had accepted the underlying guilty verdicts and excused the jury.

In **Harris v. State**, 165 N.E.3d 91 (Ind. 2021), the Court held that Indiana Evidence Rule 615(c) may apply to allow a parent of a juvenile tried in the adult criminal justice system to remain in the courtroom despite a separation-of-witnesses

order—but that Harris failed to establish his mother was an “essential person” for his defense as the Rule requires. The Court also held that the trial court did not abuse its discretion by failing to sentence Harris under an alternative juvenile sentencing scheme and that his sentence of 37 years for attempted murder was appropriate and should not be revised.

In **Loehrlein v. State**, 158 N.E.3d 768 (Ind. 2020), the Court held that even though a juror committed gross misconduct by withholding that she had been a victim of a crime and had a criminal history, Loehrlein was not harmed because the issue at trial was whether he was sane at the time he murdered his wife and attempted to murder his daughters, not whether he committed the crimes.

The Court clarified in **Anderson v. State**, 160 N.E.3d 1102 (Ind. 2021), that once counsel is appointed for a defendant, a defendant speaks to the court through counsel, even if counsel has not yet appeared in the case. After counsel has been appointed, trial courts may, but are not required to, consider pro se filings like requests for speedy trial.

Decisions in Brief

Post-Conviction Relief

The Court held in *Kinman v. State*, 152 N.E.3d 1060 (Ind. 2020), that the trial court could not summarily deny the defendant's motion because it was one that must be treated as post-conviction relief, and Indiana Post-Conviction Rule 1(6) requires specific findings of fact and conclusions of law.

Recognizing major shifts in the law (regarding appellate review of sentences and imposing the most severe sentences on children), a majority of the Court in *State v. Stidham*, 157 N.E.3d 1185 (Ind. 2020), reh'g denied, found that extraordinary circumstances required revisiting its prior decision on the appropriateness of Stidham's sentence—reducing his 138-year maximum sentence to 88 years.



Other

In *Temme v. State*, 169 N.E.3d 857 (Ind. 2021), the Court held that a defendant erroneously released from prison early, through no fault of his own, was entitled to credit for time erroneously at liberty—including accounting for any good behavior (or any violations) during that time—as if he were still incarcerated. After applying such credit time, defendants must be released if no sentence remains to be served, or else be recommitted for any sentence still remaining.

The Court held in *State v. Jones*, 169 N.E.3d 397 (Ind. 2021), that because an informant's identity is inherently revealed through physical appearance at a face-to-face interview, a defendant's request for such an interview triggers the confidential informer's privilege. If the defendant then makes an argument that disclosure is necessary to prepare a defense or ensure a fair trial, the trial court must apply a balancing test to determine whether this disclosure is warranted.



Office of Judicial Administration

Justin P. Forkner | Chief Administrative Officer

The Office of Judicial Administration consists of ten agencies and the Clerk of the Appellate Courts. The Office is overseen by the Chief Administrative Officer, who reports directly to the Chief Justice of Indiana and serves as the link between the Chief Justice and the agencies of the Court.

During the fiscal year, administrative changes included bringing the Human Resources Office under the Fiscal, Operations & Personnel Office and adding the Office of Diversity, Equity & Inclusion. Staff members and responsibilities were adjusted accordingly.

Agency Reports

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Clerk of the Appellate Courts

Gregory R. Pachmayr, Clerk

The **Office of the Clerk of the Supreme Court, Court of Appeals, and Tax Court** processes incoming filings and outgoing orders and opinions for Indiana's appellate courts.

The Clerk's Office responds to inquiries from attorneys, litigants, and the public; oversees the archiving of closed cases; and maintains the Roll of Attorneys, which is the roster of attorneys licensed to practice law in Indiana.

During the fiscal year, the Clerk's Office processed 1,685 opinions and 7,536 orders for all three appellate courts working in person and remotely during the pandemic to process filings, orders, and opinions.

The Office distributed over 3,600 ballots for the election of the District 3 attorney member of the Judicial Nominating Commission and tabulated the results with the Offices of the Attorney General and the Secretary of State.



Clerk's Office staff counted ballots for the election of the District 3 attorney member of the Judicial Nominating Commission in the Supreme Court Courtroom.



9,759

E-filed briefs processed



7,536

Orders processed for all 3 appellate courts



18,615

Active attorneys in the Roll of Attorneys



3,600+

Ballots distributed for JNC Election



Office of Diversity, Equity & Inclusion

Dr. Gina Forrest, Chief Diversity Officer

The **Office of Diversity, Equity & Inclusion** leads the development and implementation of initiatives promoting equity and inclusivity and provides training and resources designed to enable judicial branch stakeholders to learn and think through the perspective of others.

Following events in 2020 that led to public outcry for racial equity, Chief Justice Loretta Rush issued a statement calling for the Hoosier legal community and judicial stakeholders to confront perceived disparities in the justice system. In turn, the Supreme Court created an Office of Diversity, Equity & Inclusion and moved key programs under its supervision, including ICLEO, Language Access, and staffing the Commission for Race & Gender Fairness.

Near the end of the fiscal year, the Office began training and leading discussions on diversity, equity, and inclusion for Supreme Court staff and participated in a broader program in partnership with the Indiana State Bar Association called *Open Conversations: Racism and Racial Injustice*. This award-winning continuing legal education series about race and culture featured Justice Steven David and Marion County Public Defender Agency attorney Angka Hinshaw as moderators of monthly discussions that highlighted struggles and triumphs of attorneys and judges of color.



Lawyers participated in one of the *Open Conversations* programs hosted by the Indiana State Bar Association and supported by the Supreme Court.



Office of Communication, Education & Outreach

Kathryn R. Dolan, Chief Public Information Officer

The **Office of Communication, Education & Outreach** manages media inquiries, public information, and opportunities for educators to engage with the judicial branch.

OCEO oversees the Supreme Court's website, law library, webcasting, and social media accounts; creates and distributes press releases; and coordinates messaging campaigns on a variety of topics.

Working with the press

OCEO answered nearly 275 media inquiries during the fiscal year. The Office proactively distributes information via courts.in.gov, Twitter, and various direct-messaging campaigns. More than 450 members of the media received 46 press releases announcing events, highlighting programs, and providing details on judicial vacancies.

Website and messaging

The Office manages daily content publishing on the courts.in.gov website, with more than 13 million page views this year. OCEO launched a website for publishing appellate opinions and created a site for voters to learn more about appellate judges up for retention in the November General Election.

The Office distributed weekly messages to trial court judges, a monthly newsletter to Court staff, 11 technology-related notifications, and published *Indiana Court Times*—including several video interviews—covering topics of interest to the judiciary.

OCEO continued to distribute messaging and update the website regarding the pandemic and coordinated the streaming of oral arguments, bar ceremonies, and judicial selection interviews. The Office produced the first-ever recorded video State of the Judiciary featuring Chief Justice Rush and other justice stakeholders.



13.5 M

Web page views
at courts.in.gov



5,948

Followers
on Twitter



467

Media and public
questions answered



595

Library reference
questions answered

Outreach efforts

The Office promoted National Adoption Month with distribution of the Court's order permanently authorizing broadcast coverage and participated in Statehood Day events with a video message from the justices.

While the State House was temporarily closed during the pandemic, law library operations shifted, and OCEO streamlined the collection, reorganized materials, and added public access to online resources.

Streamlining the law library collection improved ease of access to the stacks and made room for new content as caselaw continues to evolve. Computer workstations were updated with plexiglass dividers in preparation for public visitors. The library also served as the filming location for the Chief Justice's State of the Judiciary.



Office of Court Technology

Mary L. DePrez, Executive Director

The **Indiana Office of Court Technology** provides support to trial and appellate court staff for day-to-day operations; assists the Supreme Court with creating a vision for how technology can improve court operations and access to justice; develops custom applications for data sharing with the public and local, state, and federal agencies; and supports thousands of users across the state with case management, e-filing, and other technology needs.

Statewide case management

The state's Odyssey Case Management System was implemented in Jay, Jefferson, LaGrange, Marion (Juvenile Court), Martin, Noble, Spencer, and Vermillion counties, as well as the Elkhart, Elwood, Lake Station, and West Lafayette city courts. By the end of the fiscal year, Odyssey was in use by all but three counties, resulting in nearly 95% of the state's caseload being maintained in Odyssey and available at mycase.in.gov.



of the state's caseload managed with Odyssey



7.9 M

Documents e-filed statewide



11,500

Protection order cases e-filed statewide

E-filing

Electronic filing in court cases is available in all three appellate courts, all trial courts, and many city and town courts. In 2019, Court Technology began offering an e-filing service for protection order requests. This system streamlines the submission of court-issued protection orders—through Indiana's statewide protection order registry—to Indiana State Police and federal law enforcement agencies. During this fiscal year, 32% of the more than 35,000 protection orders in the registry were e-filed.

Public access

The Office provides applications connecting the public with trial and appellate court services at public.courts.in.gov. During the fiscal year, the Office launched three new applications:

Trial court remote video hearings

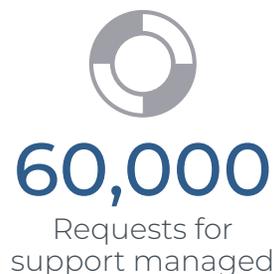
In an effort to support trial courts operating on an emergency basis during the pandemic, the Office developed a streaming service for courts to broadcast public hearings held remotely over video conferencing software.

Trial court calendars

Courts can opt in to display their daily dockets showing which cases are being heard on a given day.

Fast-track facilitation

Similar to the online dispute resolution options being explored by the Innovation Initiative—and as part of the Landlord and Tenant Settlement Conference Program—the Office launched this tool to connect landlords and tenants in eviction cases to promote settlement.



At mycase.in.gov the public has access to documents and orders in many non-confidential cases, and attorneys continue to access additional cases and documents if they have filed an appearance in the case. During the fiscal year, nearly 9 million users accessed mycase.in.gov over 33 million times and downloaded documents more than 14 million times.

Internal IT support

Court Technology supported a system through the Indiana Courts Portal for many Supreme Court agencies to efficiently accept electronic materials from attorneys, including:

- **22,708** annual attorney registrations
- **12,103** reports of attendance at **6,383** CLE events
- **752** statements of economic interests
- **75** applications for court vacancies

Innovation Initiative

Robert A. Rath, Chief Innovation Officer

The **Innovation Initiative** and its three subgroups—Family Law Taskforce, Technology Working Group, and Civil Litigation Taskforce—explore ways to make Indiana's justice system more efficient, less expensive, and easier to navigate.

The work to modernize people's court experience requires outside the box thinking, so the Initiative invited a wide range of experts to contribute their knowledge and ideas.

Both the Family Law Taskforce and the Technology Working Group completed reports outlining recommendations in their respective areas based on industry research and a review of reform efforts on the national level, in Indiana, and in other states. The reports were submitted to the Supreme Court in April with unanimous support from Innovation Initiative members.



19

Family Law Taskforce recommendations

Some of the recommended strategies from the Family Law Taskforce are:

- triage of family law cases
- online dispute resolution
- trauma-informed training
- additional resources for self-represented litigants

During the pandemic, the taskforce issued guidance to family law practitioners and offered four webinars on issues facing family courts and practitioners.



6

Pilot projects promoted by the Technology Working Group

The Technology Working Group recommended six pilot projects. One such pilot for a digital evidence portal launched in Hamilton County. The portal allows attorneys, judges, and court staff to manage documents, videos, pictures, and other digital files presented in court.

The Supreme Court established the Civil Litigation Taskforce in January 2021 to recommend improvements for civil litigation. The taskforce will submit its report to the Innovation Initiative by December 31, 2021.



Strategic Planning

On September 15, 2020, the Judicial Conference of Indiana approved an updated strategic plan for the state's justice system presented by its 12-member Strategic Planning Committee. Since the Committee's inception in 2008, it has continued its efforts through education, implementation, and additional planning to carry out its overall mission:

“to improve our system of justice under the rule of law while protecting individual rights and liberties in a fair, impartial, equally accessible, prompt, professional, and efficient manner.”

This new 20-page plan reaffirmed prior areas of focus, acknowledged achievements made by the judiciary and stakeholders over the last decade, and incorporated new goals for enhancing and improving Indiana's justice system. The plan details the current landscape within seven key areas and describes why improvements must be sought to reach these long-term goals, specifically focusing on:

- access to justice
- security
- technology
- clerk functions
- court structure
- judicial selection
- centralized funding



Even as the Committee prepared to present its final work product to the Judicial Conference Board of Directors, the COVID-19 pandemic further demonstrated the importance of addressing technology, security, and related court operations.

Setting forth this vision for the judiciary was just the beginning. The Committee formed small teams to identify the existing activities in these seven key areas, outline priorities for implementing system improvements, and develop action plans to achieve these long-term goals.

 [Read the report at on.in.gov/2020forward](https://on.in.gov/2020forward)

Office of Court Services

Mary Kay Hudson, Executive Director

The **Indiana Office of Court Services** assists the Supreme Court in its role as the head of Indiana's judicial system by developing education, programs, and projects to improve the administration of justice.

IOCS also supports the Judicial Conference of Indiana and its Board of Directors, composed of judicial officers from across Indiana, and provides staff support to multiple committees.

Assisting courts, leading initiatives

IOCS is a single agency with five divisions – Children & Families, Education, Justice Services, Legal Support, and Supreme Court Services. During the fiscal year, IOCS held online conferences and educational sessions as well as provided ongoing support to local JDAI sites, pretrial sites, and problem-solving courts via remote meetings. Highlights from the fiscal year include:



813

New CASA
volunteers trained



314

Live webinars
offered



6

Newly certified
problem-solving courts



1,011

Public record
requests



1,500

Orders
drafted

Children & Families

Education

Justice Services

Legal Support

Supreme Ct. Services



IOCS

Children & Families Division

The Children & Families Division manages projects and grants aimed at improving outcomes for those involved in the court system, including divorce, custody, juvenile, domestic violence, adult guardianship, mortgage foreclosure, and eviction proceedings.

Training

Through local programs, the Indiana State Office of GAL/CASA trained 813 community members who became new volunteers in calendar year 2020, bringing the total to nearly 4,300 volunteers who advocated for over 23,699 children. These volunteers and local programs found creative ways to ensure contact with the children they serve and increased the number of contacts by 24% over the previous calendar year.

The Family Violence Resource Attorney trained over 300 judicial officers, court employees, attorneys, advocates, and stakeholders on protection orders, family violence dynamics, and criminal domestic violence and created protocols for firearm surrender in domestic violence protection order cases.

The Adult Guardianship Office hosted the first virtual Indiana Adult Guardianship Symposium, attended by more than 225 people, including judges, attorneys, volunteers, advocates, and other professionals.



23,699

Children received
CASA advocacy



2,000

Families benefited from
Family Court grants



800

Adults in need served by
guardianship programs

Grant funding

In calendar year 2020, the Indiana State Office of GAL/CASA distributed over \$6.6M in grant funds to certified programs in 88 counties.

In 2021, the Adult Guardianship Office provided more than \$1.2M in matching grant funding to 20 Volunteer Advocates for Senior and Incapacitated Adults (VASIA) programs, serving over 800 incapacitated adults in 50 counties. The Adult Guardianship Office received a \$309K federal grant from the Department of Justice, Office on Violence Against Women, to administer a three-year demonstration grant project on abuse in later life in Lawrence County.

During calendar year 2020, the Family Court Project awarded more than \$50K in grants to support 20 counties and nearly 2,000 families through court-related programs such as document preparation, co-parenting counseling, and legal assistance.



During calendar year 2020, Court Reform awarded more than \$437K in grants to 13 counties for improvements to courthouse security and innovative ideas, but the awards could be converted to COVID-19 related expenses.

The Court Improvement Program awarded more than \$9K in professional development scholarships, over \$110K to support technology for juvenile courts, and over \$120K in grants supporting mediation and facilitation programs, family recovery courts, data collection and analysis, outreach activities, and training programs.



IOCS

Education Division

The Education Division ensures that Indiana's citizens are served by well-trained judges and judicial branch staff. A combination of in-person training programs in Indianapolis, regional or county workshops, and distance education courses provide a blended learning environment.

Training

IOCS delivered more than 832 hours of education to Indiana's judicial branch and justice system stakeholders. Programming covered various subject areas, including:

- Race, equity, and inclusion
- Mental health and addiction
- Treatment courts
- Trauma-informed courts
- Ethics

Certification

Over 235 people tested to become a certified probation officer, court interpreter, or to receive the court substance abuse management specialist credential. Over 1,800 community supervision officers sought certification or recertification to administer risk assessment tools.

Orientation

IOCS offers a variety of training opportunities for new judicial branch employees.

- 217 people participated in programs for alcohol and drug court and problem-solving courts
- 183 people attended probation officer training, which included a live virtual component coupled with 10 hours of required on-demand courses
- 94 recently elected and appointed judicial officers participated in three sessions covering general and juvenile jurisdiction

Online Learning

As schools and universities across the nation transitioned to distance learning during the pandemic, so did the state's judicial branch.

The Office of Court Services provides education to judicial personnel and, prior to COVID-19, would host an average of more than 200 days of in-person training each year. This year, nearly all training was offered online.

IOCS hosts the Indiana Courts Education Network—a platform to deliver online, on-demand training—and in early 2020 had only just begun creating opportunities for distance education. During the fiscal year, the Office added 180 new courses to the Network for a to-

tal of 218, and the number of active users soared to 2,788—a 311% increase from the previous year.

Delivering live, online training requires just as much planning and attention to detail as in-person training, but it certainly draws on different skills. Webinars are highly-scripted events involving many participants who:

- Host the session and admit students
- Answer technical questions
- Moderate subject matter questions
- Act as emcee and introduce faculty
- Present content, teach, and answer subject-matter questions
- Manage what appears on the screen (e.g., video, slide deck, other visual aids)

IOCS staff not only had to learn webinar software, but they also had to support faculty in using that software. They had to learn a whole new set of logistics in producing such an event as well as techniques for keeping online audiences engaged, and they had to practice their new skills—like a dress rehearsal—before going live.

Distance learning was always going to become a large share of the judicial education offered by IOCS, but the pandemic forced that future to unfold a little faster than expected. The Office has since fully embraced the blended learning environment with distance education complementing traditional in-person programming.



14,493

People attended education events



317

Total days of education offered



2,788

Users in the learning management system



218

On-demand courses available

COMPREHENSIVE BEHAVIORAL HEALTH SERVICES

People with undiagnosed or untreated mental illness who enter the criminal and juvenile justice systems present a challenge that courts and corrections struggle to meet. It is difficult to accurately assess a defendant's risks and potential when their behavioral health needs are unmet.

While the majority of people with mental illness are nonviolent and can be treated safely and effectively in the community—instead of in detention—this approach requires a coordinated system of behavioral health services that are evidence-based and accessible. And while courts are among the largest

referral sources for behavioral health services in the state, a broader coalition is necessary.

To address this challenge, the Supreme Court and Office of Judicial Administration have joined a multi-disciplinary team that includes the Governor's Office, General Assembly, Family and Social Services Administration's Division of Mental Health and Addiction, and Indiana Sheriffs' Association. The team received a technical assistance grant from the State Justice Institute to explore changes to policies and state laws in support of this objective, and to provide training and technical assistance at the local level.

In October 2022, the Indiana Supreme Court will convene a statewide summit to identify strategies for improving justice system outcomes for persons diagnosed with behavioral health disorders.

The team will consider potential improvements, including:

Identifying earlier points of intervention

Help people with behavioral health needs get assistance before they ever enter the criminal justice system, perhaps by creating local or regional crisis response centers.

Reducing wait times for evaluation and services

When a defendant claims or a court suspects incompetence to stand trial, have them evaluated as soon as possible to avoid further worsening their status by keeping them jailed. If incompetent, get them access to services immediately.

Establishing mental health courts

For people with behavioral health needs who enter the justice system on more serious charges, separate dockets with specialized judicial officers—much like commercial courts and drug courts—can help ensure accountability and better access to the correct type of care.



Justice Services Division

The Justice Services Division works with criminal and juvenile justice stakeholders to support and certify local court programs serving justice involved individuals and families. The Division provides grants and supports evidence-based practices in community supervision for adults and juveniles.

Certified courts and programs

The Division certified six new problem-solving courts and re-certified 28 existing problem-solving courts during the fiscal year, bringing the total number to 117 across the state. At the end of the fiscal year, an additional 19 problem-solving courts were in the planning stages.

Indiana has 52 certified court alcohol and drug programs, nine of which were re-certified during the fiscal year.

The Division certified six new pretrial service agencies during the fiscal year, bringing the total to eight. At the end of the fiscal year, an additional 27 pretrial service agencies were in the planning stages.

Grants

To align with county budget and Department of Correction grants, IOCS will be moving to calendar year grant awards in

2022. To accommodate the shift in funding during the second half of 2021, IOCS extended funds:

- \$842,516 to 26 veterans' treatment courts with funding by the Indiana General Assembly
- \$648,004 to 19 family recovery courts with funding from the Governor
- \$1,823,760 to 29 counties with pretrial service agencies with funding from Supreme Court
- \$623,253 to 69 problem-solving courts with a maximum of \$10K per court model

Juvenile detention alternatives initiative

IOCS provided more than 49 hours of education—including a virtual biannual conference—to approximately 1,200 stakeholders in 38 counties implementing JDAI. The two-day conference drew more than 300 youth justice stakehold-

ers from across the state attending sessions with local, state, and national presenters. JDAI demonstrated impact with a 77% overall reduction—76% for youth of color—in admissions to secure detention for all youth; a 63% total decrease in felony petitions filed; and an 80% overall reduction—79% for youth of color—in commitments to the Department of Correction.

Interstate compact

The Division administered the interstate compacts for adult and juvenile supervision, processing 8,185 adult cases, 574 juvenile cases, 174 runaways, and 320 travel permits during the fiscal year. Indiana compact staff were key in the launch of UNITY, a national juvenile compact case system, and provided training for all 92 counties in the new system. Additionally, staff provided interstate compact training to juvenile judges and local justice stakeholders in Floyd and Clark counties.





IOCS Legal Support Division

The Legal Support Division is responsible for collecting court and probation data, responding to legal questions from trial courts, and monitoring legislative changes affecting the judicial branch.

Assistance to courts

During the fiscal year, training sessions on procedural and fee changes, case types, new legislation, and statistical reporting were presented to several organizations including the State Board of Accounts and the Association of Clerks of Circuit Courts of Indiana.

As the pandemic continued, the Division researched and continually updated guidance on holding remote hearings as well as changes to the federal and state foreclosure and eviction moratoria. Working closely with Supreme Court Services and the General Counsel, the Division assisted counties with drafting plans to resume in-person court hearings.

Promoting equal justice

The Indiana Conference for Legal Education Opportunity, a program designed to help underrepresented students excel at law school and increase diversity in the Indiana legal community, successfully held its 2020 summer intensive preparatory institute remotely. All 14 ICLEO fellows eligible to sit for the bar this fiscal year passed the test on their first attempt.



80

Bulk data requests

Statistical analysis

IOCS received 1,011 requests for public court records, a 20% increase over the previous fiscal year.

The Division received 80 bulk/compiled data requests and assessed caseload allocation plans for 40 counties to ensure an even distribution of cases.

Published information

During the fiscal year, IOCS compiled 48 issues of *Case Clips* summarizing 122 cases, posted 179 entries to the *Legislative Updates* blog detailing work of the General Assembly of interest to the judiciary, and published the *2019 Judicial Service Report* which includes:

- Court and probation case statistics
- Revenue collected by trial courts
- Expenditures made by state, county, and local municipalities for Indiana's court system



The Office of Judicial Administration and most of its agencies are located in the Capital Center building, a few blocks from the Indiana State House.

IOCS **Supreme Court Services Division**

The Supreme Court Services Division manages the Court's pending cases and provides legal research, analysis, and draft legal memoranda for the Court.

Supreme Court Services oversaw case management in all cases presented to the Court for review, providing advisory memoranda in nearly half of those. The Division also administered the Court's weekly conference agenda, oral argument schedule, and case statistical reporting.



723

Cases managed



323

Legal memoranda drafted

Office of Admissions & Continuing Education

Bradley W. Skolnik, Executive Director

The **Office of Admissions & Continuing Education** provides administrative support to the Board of Law Examiners and Commission for Continuing Legal Education.

BLE certifies that all individuals admitted to practice law have fulfilled the requirements for admission. **CLE** oversees the legal education requirements of attorneys, judges, and mediators; maintains a mediator registry; and accredits independent attorney specialization organizations.

Bar exam

The bar exam is administered twice a year, in February and July. Historically, it was administered in person, but for the first time in the 90-year history of the exam, applicants completed the test both remotely and electronically.

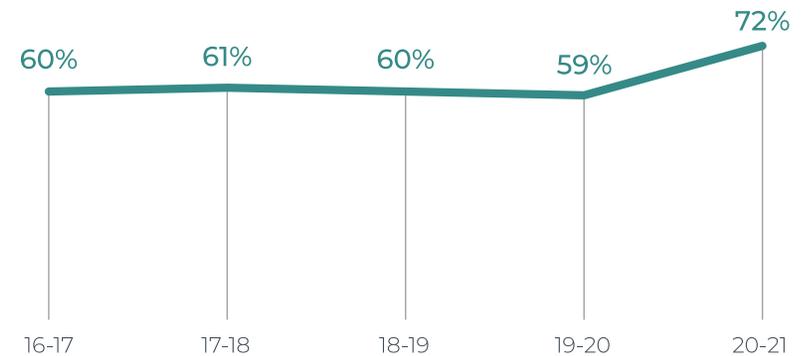
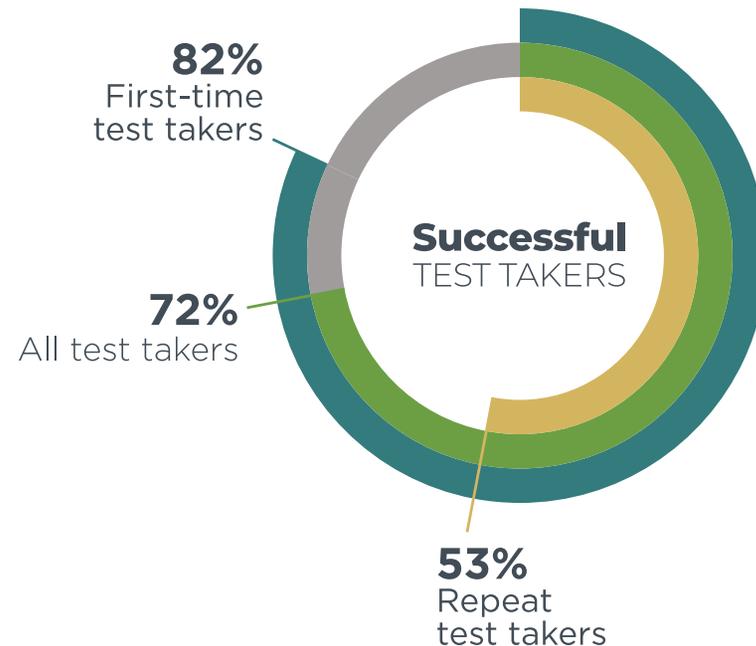
During the fiscal year, 470 of 657 applicants passed the exam for an overall passage rate of 72%, which is a 22% increase over the prior fiscal year.

In November, the Court adopted the Uniform Bar Examination to begin with the July 2021 exam. The UBE allows test-takers to transfer their score to any other jurisdiction that also uses the UBE. During the fiscal year, 30 bar applicants who sat for the UBE in another state transferred their score to Indiana.



470 OF 657

Applicants passed the bar exam



Bar exam average success rate



Lawyers admitted on motion

BLE is responsible for the admission of attorneys from other states who seek to be admitted in Indiana without taking the bar exam. Those admission on motion include foreign license and limited business counsel license. During the fiscal year, 75 out-of-state lawyers were admitted on motion in Indiana.

Record number of distance education credits

Attorneys are required to earn 36 credits of continuing education every three years, and by rule, may receive half through distance education. Because of the need for social distancing during the pandemic, the Court suspended the limit on distance education, resulting in a record 187,678 hours of distance education reported by attorneys—nearly 14 times the number reported five years ago.



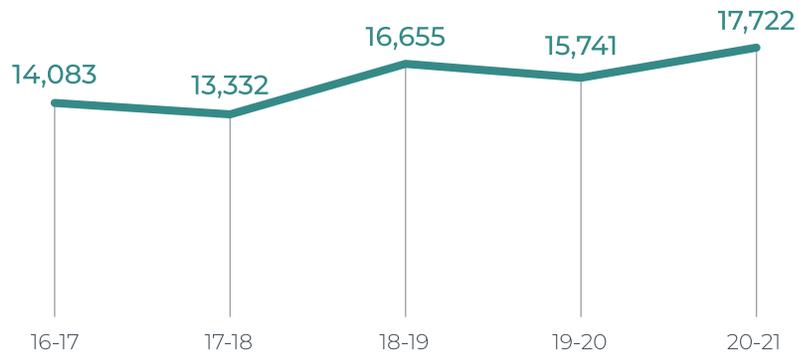
187,678

Distance education credits reported

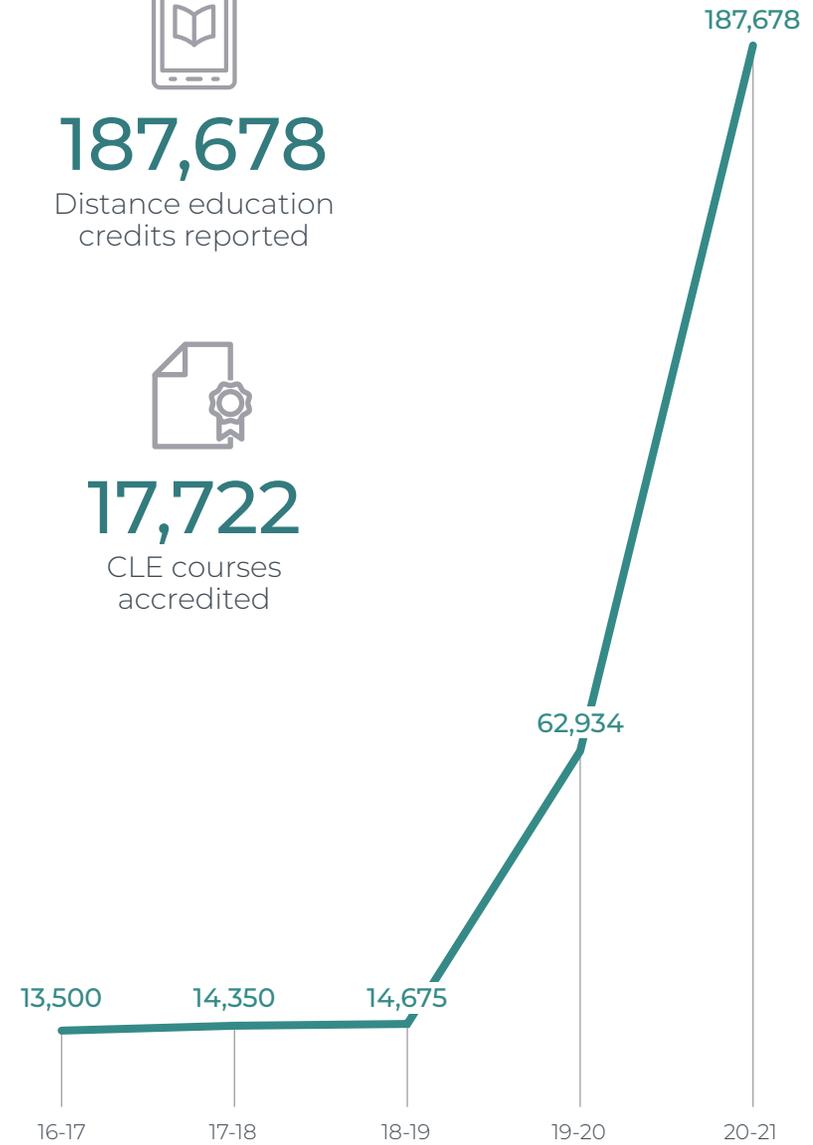


17,722

CLE courses accredited



Courses accredited



Distance credits reported



Indiana Adopts the Uniform Bar Exam

THE Study Commission on the Future of the Indiana Bar Examination recommended that Indiana adopt the Uniform Bar Examination. Following careful consideration, the Court announced in November that Indiana would adopt the UBE beginning with the July 2021 test. Indiana joins 40 other jurisdictions who are (or soon will be) offering the UBE.

Developed by the National Conference of Bar Examiners, the UBE is a two-day exam that is uniformly administered, graded, and scored. The purpose of the exam is to test knowledge of general principles of law, legal reasoning and analysis, and communication skills to ensure that applicants are prepared to practice law.

The test consists of three components: the Multistate Bar Examination, the Multistate Performance Test, and the Multistate Essay Examination. To obtain a

UBE score, applicants must take all three tests in the same jurisdiction during the same test administration. Applicants who earn a UBE score may then transfer their exam score to seek admission in any of the other 40 jurisdictions that participate.

For more than 20 years Indiana has used two of the three UBE components—the MBE and the MPT. The MBE is a 200-question multiple choice exam that tests applicants' knowledge in seven substantive areas of law. Meanwhile, the MPT consists of two 90-minute items that test an applicant's ability to demonstrate fundamental legal skills regardless of the specific areas of law.

The only change to the structure of the exam is that the six-question MEE will replace the six-question Indiana Essay Examination. The MEE requires applicants to draft essay answers on potentially as many as 12 areas of law.

To ensure they are sufficiently familiar with important aspects of Indiana law, all applicants admitted on the UBE—whether administered in Indiana or in another jurisdiction—will be required to complete a new Indiana Law Course within six months of admission. Applicants seeking admission on a transferred score will still be subject to the same rigorous character and fitness review by the Board of Law Examiners as those who sit for the exam in Indiana.

The UBE provides flexibility for new attorneys who may still be seeking their first job after law school and are unsure of where that job will be located. As the Study Commission observed in its report to the Court, “the UBE recognizes the realities of today’s legal market in which it is far more common than it may have been a generation ago for lawyers to move from firm to firm, city to city and, in increasing numbers, from jurisdiction to jurisdiction.”

Judges & Lawyers Assistance Program

Terry L. Harrell, Executive Director

The **Judges & Lawyers Assistance Program** provides confidential, compassionate support to all judges, lawyers, and law students by promoting well-being, improving lives, and fostering connection—thereby elevating the competence of the profession. All interactions with JLAP are confidential.

Coping with COVID

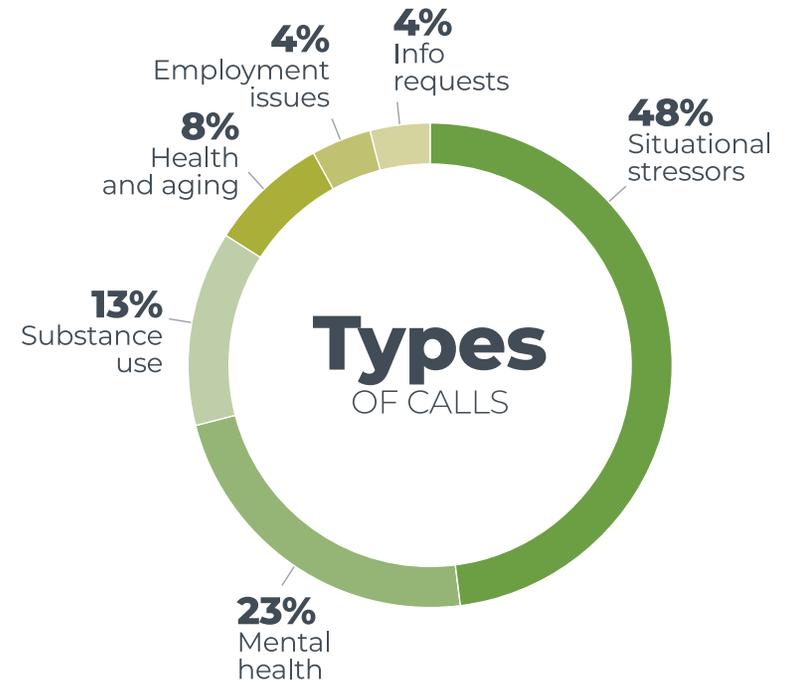
The legal profession continued to look to JLAP for support and guidance during the pandemic, with almost half of those seeking support struggling with everyday life stressors: caregiving, grief, parenting, and readjusting to in-person activities. The Program connected with law students, legal professionals, and court staff during 73 remote presentations covering topics such as collective trauma, grief, loss, and uncertainty. JLAP saw an increase in legal professionals turning to contemplative practices and provided regular yoga and guided meditation sessions.

Better access

JLAP increased support groups from six to 12 each month. Thanks to videoconferencing, peer support groups are now available to law students, lawyers, and judicial officers regardless of location. The Program plans to keep remote services to ensure accessibility and enhance volunteer efforts.

Diversity, equity and inclusion

The JLAP committee voted to require DEI training for all volunteers to learn about implicit biases and recognize racism. Staff and committee members participated in similar training, and JLAP continues to develop ongoing opportunities for discussion. One such opportunity this fiscal year was a panel discussion on how racism intersects with well-being.



Disciplinary Commission

G. Michael Witte, Executive Director
through February 2021

Hon. Robert Mrzlack, Interim Executive Director
February to August 2021

Adrienne L. Meiring, Executive Director
appointed in June 2021

The **Disciplinary Commission** is responsible for investigating and prosecuting claims of attorney misconduct or fitness to practice law, as well as providing ethical guidance to lawyers. The Commission serves to protect the public, courts, and members of Indiana's bar from misconduct on the part of attorneys, while also protecting attorneys from unwarranted claims of misconduct.

Caution letters

During the fiscal year, the Commission issued 24 caution letters for violations of the Rules of Professional Conduct. Rule violations most commonly addressed included:

- **Rule 1.3:** Diligence in representing client
- **Rule 1.4:** Diligent communication with client
- **Rule 1.7:** Conflict of interest
- **Rule 8.4(b) & Admission and Discipline Rule 23(11.1):** Criminal convictions and/or failure to self-report criminal convictions

Ethical guidance

The Commission began offering informal guidance to attorneys in 2018, receiving 345 requests in total, and 98 requests during this fiscal year. Attorneys most often ask about confidentiality of information (Rule 1.6), current client conflict of interest (Rules 1.7 and 1.8), duties to former clients (Rule 1.9), duties to a prospective client (Rule 1.18), and information about legal services (Rules 7.1 - 7.5).

COMMISSION BUSINESS

16 Commission grievances

28 Verified complaints

29 Counts of misconduct

70 Final orders of discipline

17 Overdraft notices

18 Overdraft inquiries closed

234 CLE/Fees suspensions

Members and staff of the Disciplinary Commission met in conference space at Capital Center.



CASE HIGHLIGHTS

Attorney discipline allegations reviewed by the Commission

Complaints submitted <i>requests for investigation against attorneys</i>	1062
Dismissed summarily <i>no valid issue of misconduct</i>	965
Complaints <i>investigations</i>	97
Dismissed after investigations	79
Investigations pending <i>at the end of the fiscal year</i>	26

DISCRETIONARY DISPOSITIONS, CORRECTIVE ACTIONS, AND REFERRALS

Cases reviewed by the Commission

Caution/Warning letters sent	24
Sent back <i>not a commission matter/no attorney listed/illegible</i>	27
Dismissed pending reinstatement <i>attorney is already suspended</i>	11
Dismissed as moot due to death	3
Referred out <i>to JQC/other states</i>	7
Referred to local bar for investigation	25

Office of General Counsel

Aaron Johnson, General Counsel

The **Office of General Counsel** provides legal services to Supreme Court agencies, including drafting internal policies, reviewing contracts, and ensuring compliance with various federal laws. The Office oversees language access, provides contract and employment law counsel to state courts, provides legal advice on county authority and general legal problems, and consults with the Attorney General on litigation involving the courts as a party. The Office staffs the Judicial Qualifications Commission and Judicial Nominating Commission.

Assisting judges and staff

The Office led six trainings and provided 475 consultations with judges and court managers on employment and liability issues. The Office reviewed 217 contracts for legality and form and processed 121 motions seeking appointments of special judges.



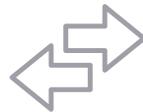
475

Consultations on liability and employment issues



217

Contracts reviewed



9,712

Cases used court interpreter services*

The Office provided counsel to the Task Force on Resuming Operations as the pandemic required adjustments to maintain court operations statewide and assisted IOCS and the Clerk of the Appellate Courts with review of Administrative Rule 17 plans for trial courts.

Language access

The Language Access Program awarded nearly \$750K through 57 grants to courts for interpreter services, including the use of Language Line and the interpreters certified or qualified by the Court Interpreter Certification Program. During calendar year 2020, interpreter services were used in nearly 10,000 cases, providing access through a total of 66 sign and spoken languages.

*calendar year 2020





GENERAL COUNSEL

Judicial Qualifications/Nominating Commission

The **JQC** provides ethical advice to trial judges and investigates and prosecutes allegations of judicial misconduct. The **JNC** interviews applicants for appellate court vacancies, selects the Chief Justice, and certifies senior judges.

Advising judges and judicial candidates

The Commission issued two advisory opinions and answered numerous ethical inquiries from judges for informal advice. Advisory Opinion #1-20 addresses ethical considerations for judges to weigh before participating in marches and other public events addressing social issues. Advisory Opinion #2-20 covers ethical considerations when judicial officers are asked to provide legal assistance to family members.

Court of Appeals vacancy

The JNC solicited applications and interviewed 23 applicants to fill a vacancy created by the retirement of Judge James Kirsch. The Chief Justice, on behalf of the JNC, submitted Hon. Mark Dudley, Derek Molter, and Hon. Heather Welch as finalists for the Governor's

consideration. On August 12, 2021, Gov. Eric Holcomb appointed Molter as the next judge for the Court of Appeals of Indiana's Second District.

Judicial discipline

The JQC received 518 complaints alleging judicial misconduct, with 75 yet to be reviewed at the end of the fiscal year. Of the 443 remaining complaints, 398 were dismissed summarily as failing to raise valid issues of ethical misconduct or were dismissed following informal investigation by staff and a determination that no misconduct occurred. Four additional complaints were dismissed with advisory letters to the judges on better practices to follow. Three other matters are awaiting action from another agency.

The Commission required judges to respond to the allegations or conducted formal inquiries or investigations for the remaining 38. Nine matters



were dismissed because ethical misconduct could not be established, and three were closed after judicial officers no longer held judicial office or took corrective action. In addition, the JQC issued six advisory letters, two private cautions, and five deferred resolutions.



JUDICIAL DISCIPLINE ACTIONS

Breakdown of 38 Cases

12 Pending investigations or charges

1 Permanent ban on judicial service/suspension

2 Private cautions

5 Deferred resolutions

6 Advisory letters
(not classified as formal discipline)

3 Investigations closed
(after JO resigned/corrective action taken)

9 Investigations closed
(with no misconduct found)



518

Complaints against judges received



75

Complaints waiting for review



398

Complaints dismissed summarily



150+

Informal individual ethics opinions

One magistrate was permanently banned from judicial service and suspended from the practice of law for a period of one year, with the first 90 days served as active suspension and the balance conditionally stayed subject to successful completion of at least two years of probation. While on probation, the former judicial officer violated the terms of his probation and was suspended for an additional 180 days, without automatic reinstatement.

At the end of the fiscal year, there were 12 ongoing investigations.

Fiscal, Operations & Personnel

Aaron V. Hood, Chief Financial Officer/Chief Operating Officer

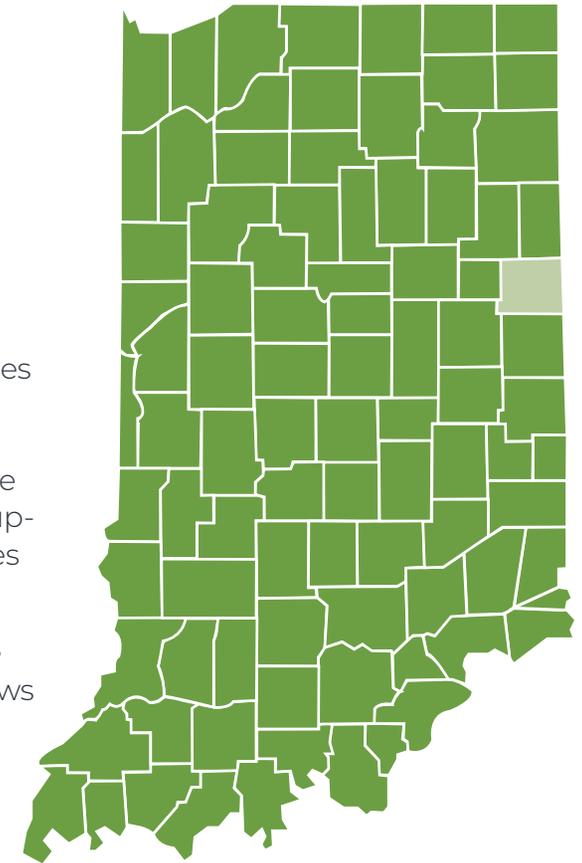
The **Fiscal, Operations & Personnel Office** manages the Supreme Court budget and assets; processes financial transactions and invoices, including payroll and benefits; provides accurate, timely financial information to the Court and other government officials; manages building operations and continuity of operations for the Court; and assists Supreme Court agencies with hiring, performance, and employee engagement.

The financial business of the Supreme Court continued uninterrupted during the pandemic as a result of paperless processes already in place. With both revenue and spending down during the fiscal year, the Court was able to increase funding for civil legal aid, adding \$1.5M to assist qualified organizations that provide low-cost or no-cost legal assistance to Hoosiers in need.

The Office helped implement safety measures throughout Court workspaces—providing masks and sanitizing supplies, as well as installing signage and plexiglass barriers where appropriate—and provided guidance and support to trial courts who made similar changes in their buildings.

While hiring procedures changed to provide social distancing—requiring remote interviews and orientations—the need to recruit new staff did not change. During the fiscal year, the Office assisted with hiring 31 new employees.

The Office also inventoried over 2,100 pieces of furniture, computers, and other assets.



\$16.25 M

in grants distributed to 91 counties for drug and alcohol programs, problem-solving courts, court interpreters, court reform and court improvement, adult guardianship programs, Guardians *ad Litem*/ Court Appointed Special Advocates, pretrial release, civil legal aid, education, and commercial courts



2,101

Assets inventoried



4,690

Invoices processed



1,026

Employees' payroll processed





Indiana Supreme Court
courts.in.gov