



INDIANA SUPREME COURT

Annual Report

2019-2020

FROM YOUR
Indiana Supreme Court

I am pleased to present the 2019-2020 annual report. This fiscal year brought the unforeseen challenge of adapting to the pandemic. With emergency orders, operational adjustments, remote work, and seemingly constant change, the Indiana judiciary remained steadfast in its approach to serving the people of the state. Looking at the judiciary through a lens outside of COVID-19 seems almost impossible, but many branch accomplishments prior to March deserve equal attention:

Among the highlights of the year:

- Hosted a Pretrial Release Summit
- Held oral argument on the road in Parke County
- Celebrated National Adoption Day in 30 counties
- Commemorated 30 years of the State Office of GAL/CASA
- Admitted around 400 new attorneys to the Indiana Bar
- Considered nearly 1,000 cases on appeal

It is an honor to work with our partners in justice and to showcase the invaluable work of Indiana's judiciary. Amid crisis, we continue upholding our commitment to administer fair and equal justice and provide innovations for open access to courts.



Loretta H. Rush
Chief Justice of Indiana

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Year *in* Review

FISCAL YEAR: JULY 1, 2019 TO JUNE 30, 2020

July 9 Two updated online child support calculators for parents and practitioners were made available on the Court's website. The Office of Court Technology and the Domestic Relations Committee maintain the calculators, which were used by nearly 125,000 people during the fiscal year.

August 14 The Commission on Improving the Status of Children in Indiana released its annual report to the public. The report details the Commission's activities over the fiscal year and sets goals moving forward.



The Judicial Nominating Commission reappoints Hon. Loretta Rush for a second, five-year term as Chief Justice.

August 21 The Judicial Nominating Commission voted to reappoint Chief Justice Loretta Rush for a second five-year term as Chief Justice of Indiana.

September 4 The Supreme Court celebrated the achievement of reaching statewide e-filing with the addition of Sullivan County to the project.

September 9 The Office of Admissions and Continuing Education announced that 296 applicants passed the July 2019 bar exam; another 119 later passed the February 2020 exam.

Year *in* Review



Marion County Judge Mark Stoner celebrates Constitution Day with Crooked Creek Elementary students.

September 17 Over 50 judicial officers visited more than 4,000 students across the state in observance of Constitution Day.

September 20 At the annual meeting of the Judicial Conference of Indiana, 26 judicial officers received an Indiana Judicial College certificate for completing 120 hours of education; and 18 were honored for 24 years of service on the bench.



(Left to right) Justice Goff, Chris Naylor (Indiana Prosecuting Attorneys Council), and Justice David present at the Pretrial Release Summit.

October 1 The Office of Court Technology launched a new protection order e-filing service allowing individuals, advocates, and attorneys to request protection orders anywhere they can access the internet.

October 4 The Court hosted a Pretrial Release Summit, which included remarks from Chief Justice Rush and Justices Steven David and Christopher Goff. Leaders from courts, law enforcement, and local government attended the collaborative sessions.



Parke Heritage High School is full of students and guests listening to a traveling oral argument.

October 4 The Coalition for Court Access, chaired by Justice Geoffrey Slaughter, held a statewide civil legal aid conference attended by 200 civil legal aid providers, *pro bono* lawyers, law schools, and members of the judiciary.

October 22 The Court traveled to Parke Heritage High School (Parke County) to hear oral argument in *Cavanaugh's Sports Bar & Eatery, Ltd. v. Eric Porterfield*, which was attended by more than 500 students, local judges, attorneys, and other guests.

Year *in* Review



Morgan County Judge Pete Foley gives a child a high five after her adoption hearing.

📷 November 1 Forty Indiana judicial officers celebrated National Adoption Day with heartwarming events throughout the month. By order, the Court allowed families and press to record video and photograph the adoption proceedings.

November 4 The Indiana Innovation Initiative held its first meeting. The Initiative brings judicial officers and legal professionals from across the state together to identify, evaluate, and test reforms to the court system and legal profession.



Justice Massa speaks to students at the State Library on Statehood Day.

November 20 The National Judicial Opioid Task Force, co-chaired by Chief Justice Rush, released its final report to the public. The report highlighted how the justice system can lead the way in delivering solutions to the opioid crisis.

December 6 Indiana's Jail Overcrowding Task Force, chaired by Justice David, held six meetings in locations across the state and released a 14-page report with potential solutions to ease overcrowding in county jails.



The Bar Study Commission meets in the Supreme Court Conference Room.

📷 December 11 The Court celebrated Statehood Day by welcoming students to the Supreme Court Courtroom in the State House, while Justice Goff and Justice Mark Massa spoke to groups around the state government campus.

📷 December 16 The Bar Study Commission delivered its report on the future of the Indiana Bar Exam to the Court. The report was compiled after a year of careful evaluation and included seven recommendations.

Women leaders in Indiana's federal and appellate courts gather before the State of the Judiciary: (from left) Hon. Jane Magnus-Stinson, Hon. Nancy Vaidik, Hon. Theresa Lazar Springmann, Hon. Loretta Rush, Hon. Martha Wentworth, Hon. Robyn Moberly



Year *in* Review



Judges from around the state give a round of applause at the annual State of the Judiciary.

December 20 The Court named Amy Karozos as the new State Public Defender. She succeeded Stephen Owens, who retired after a 33-year career in the State Public Defender's Office.

January 15 Chief Justice Rush delivered the State of the Judiciary address to a joint session of the Indiana General Assembly. "Connecting, Convening, and Collaborating with our Communities" highlighted the work of the judicial branch.



Over 350 CASA directors, volunteers, and supporters gather in the State House for CASA Day 2020.

February 25 The Court announced the 30th anniversary celebration of the State Office of GAL/CASA which highlights the importance of child advocacy.

March 4 The Court began preparing trial courts for the judicial branch response to the COVID-19 pandemic, encouraging them to review their local emergency plans. Two days later the Governor declared a public health emergency.

March 9 The Marion County Judicial Selection Committee, chaired by Justice Massa, interviewed 13 incumbent judges, found them to be qualified, and recommended voters retain them in the general election. Three judges did not seek retention, creating vacancies on the Superior Court.

March 10 The Office of Judicial Administration launched a website about the judicial branch response to COVID-19 at courts.in.gov/covid, including guidance to courts and links to public health resources.

Year *in* Review



March 16 The Court ordered trial courts statewide to implement emergency operation plans while working with public health authorities. All courts petitioned for emergency measures under Administrative Rule 17.

March 31 The Court issued the first of several orders to adjust for remote legal work and education. By the end of the fiscal year, orders

allowed for witnessing wills, administering oaths, and notarizing documents by video-conference; increased the maximum number of online hours for attorney and judicial officer education; extended the application deadline for and made adjustments to the July bar exam; and authorized trial courts to live-stream remote video hearings.



Above: Justice Slaughter prepares for a remote oral argument. **Left:** Court of Appeals Judge Edward Najam, Jr., delivers the state oath of attorneys during the state's first live-streamed, virtual bar admission ceremony.

May 5 New lawyers were sworn in during the state's first live-streamed, virtual bar admission ceremony. Admittees recited their oaths and introduced themselves to state and federal judges by video-conference.

May 14 Though the Court has made online video of in-person oral arguments available since 2001, it heard arguments entirely over video-conference for the first time in history. Of the 45 total oral arguments in the fiscal year, 14 were held remotely.

Year *in* Review

June 1 The Office of Court Technology introduced a new Senior Judge Portal to assist judges in identifying senior judges who are available to serve in the trial courts. Senior judges also use this application to submit claims for service.

June 5 Chief Justice Rush released a statement in response to public outcry demanding racial equity. The statement calls on Indiana courts, lawyers, and law schools to confront racial disparities within the justice system and improve fairness throughout the judicial branch.

June 9 The Allen Superior Court Judicial Nominating Commission, chaired by Justice David, announced three finalists to fill a vacancy. The Commission opened applications in February and interviewed seven applicants in June. The Governor appointed the new judge in July.

June 10 The Judicial Nominating Commission live-streamed interviews for a Court of Appeals vacancy. Thirteen candidates were interviewed by video-conference, and seven finalists were selected to move forward.

June 19 Forty-two attorneys applied to be considered by the Marion County Judicial Selection Committee to fill three vacancies on the Marion Superior Court.

June 29 The Office of Court Technology announced a website for trial courts to stream proceedings live at public.courts.in.gov to provide public access with social distancing in place.

June 30 The Court closed the fiscal year; it heard 45 oral arguments, wrote 57 majority opinions, and disposed of 874 cases.



2020 State of the Judiciary.

Top: (from left) Justices David, Massa, Slaughter, and Goff listen to the address. **Middle:** Problem-solving court judges and graduates receive praise.

Bottom: Trial court judges line up in the State House ahead of Chief Justice Rush's speech.



JUSTICES



JUSTICE MARK MASSA

APPOINTED 2012 by
Gov. Mitchell E. Daniels, Jr.

EDUCATION Indiana
University; Indiana University
McKinney School of Law

JUSTICE STEVEN DAVID

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)

CHIEF JUSTICE LORETTA RUSH

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

EDUCATION Purdue
University; Indiana University
Maurer School of Law

JUSTICE CHRISTOPHER GOFF

APPOINTED 2017 by
Gov. Eric J. Holcomb

EDUCATION Ball State
University; Indiana University
Maurer School of Law

JUSTICE GEOFFREY SLAUGHTER

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.



913
cases received



874
cases disposed

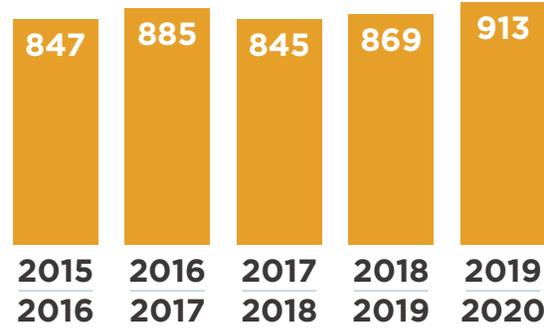


47
civil & criminal
transfers granted

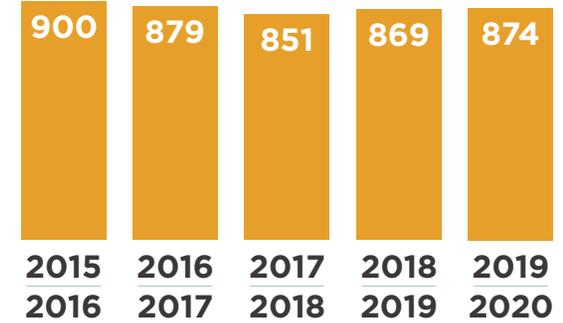


45
oral arguments

Cases received
Five-year comparison



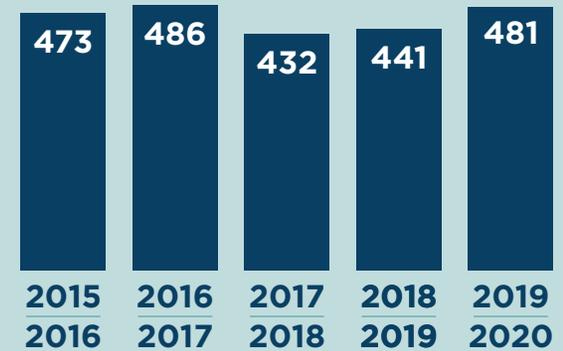
Cases disposed
Five-year comparison



6% increase
in civil cases received
compared to previous year



9% increase
in criminal cases received
compared to previous year



Case Search
mycase.in.gov



CASE INVENTORY

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

	Cases Pending JUL 1, 2019	Cases Received JUL 1, 2019 - JUN 30, 2020	Cases Disposed JUL 1, 2019 - JUN 30, 2020	Cases Pending JUN 30, 2020
Criminal	33	481	476	38
Civil	42	306	269	79
Tax	-	4	4	-
Original Actions	-	30	29	1
Board of Law Examiners	-	-	-	-
Mandate of Funds	1	-	1	-
Attorney Discipline	44	87	90	41
Judicial Discipline	-	4	4	-
Certified Questions	-	1	1	-
Total	120	913	874	159

CASES RECEIVED

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

CRIMINAL CASES

Petitions for rehearing	6
Direct appeals – death penalty	1
Direct appeals – life without parole	4
Post-conviction appeals – death penalty <i>(including successive requests)</i>	1
Post-conviction appeals – non-capital <i>(including successive requests)</i>	68
All other criminal	401
Criminal Total	481

CIVIL CASES

Petitions for rehearing	5
Direct appeals	3
All other civil	298
Civil Total	306

TAX CASES

Tax Court petitions for review	4
Tax Total	4

ATTORNEY DISCIPLINE

Petitions to show cause for noncooperation	38
Verified complaints for disciplinary action	35
Private administrative admonitions tendered	1
Affidavits of resignation <i>(tendered before filing Verified Complaint)</i>	4
Notices of findings of guilt <i>(felony)</i> / Requests for interim suspension	2
Petitions for reinstatement	3
Petitions to terminate probation	4
Attorney Discipline Total	87

JUDICIAL DISCIPLINE

Formal disciplinary charges	4
Judicial Discipline Total	4

OTHER CASE TYPES

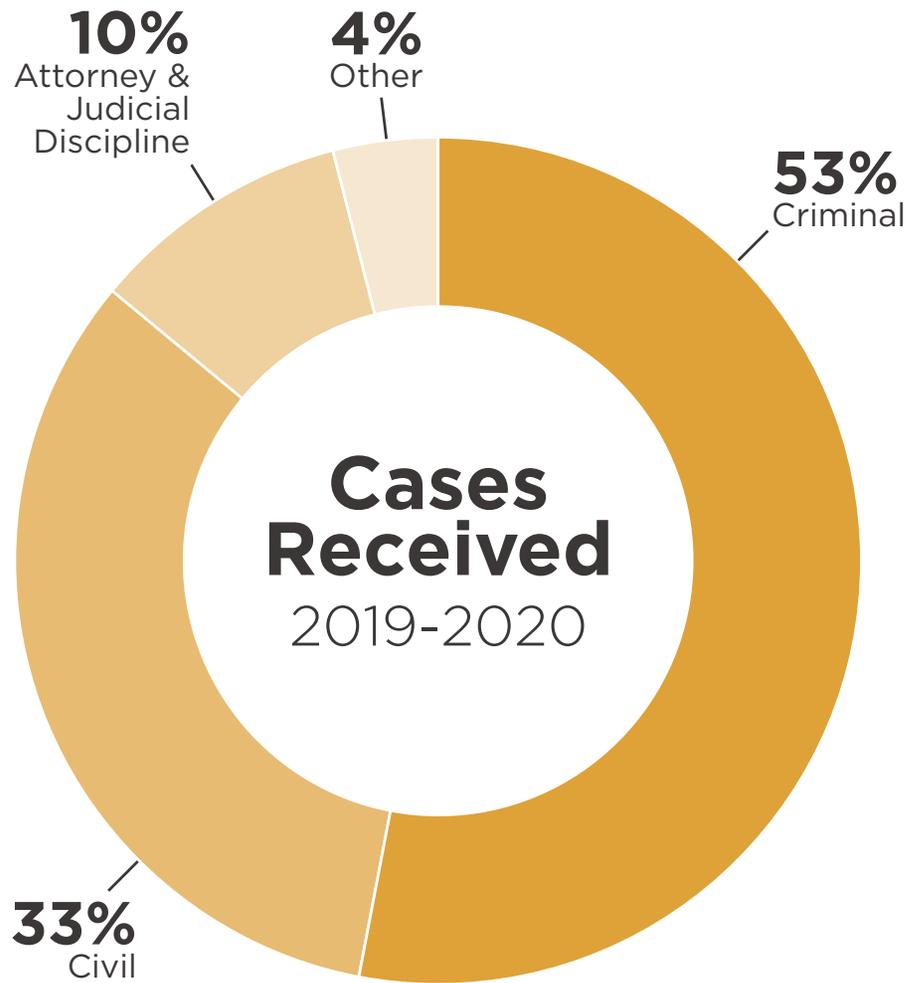
Certified questions	1
Original actions	30
Other Total	31

Total Received 913

More attorney discipline data available
on pages 58-60



CASES RECEIVED



CASES DISPOSED

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

CRIMINAL CASES

Opinions on direct appeals	4
Opinions on petitions to transfer	17
Orders on rehearing	5
Petitions to transfer denied, dismissed, or appeal remanded by order	448
Petitions to transfer granted and remanded by order	1
Other opinions and dispositions	1
Criminal Total	476

CIVIL CASES

Opinions on petitions to transfer	27
Opinions on rehearing	1
Orders on rehearing	4
Petitions to transfer denied, dismissed, or appeal remanded by order	237
Civil Total	269

TAX CASES

Dispositive orders on Tax Court petitions for review	4
Tax Total	4

ATTORNEY DISCIPLINE

Dismissal on compliance with show cause order	22
Terminating noncooperation suspension on compliance with show cause order	6
Dismissal of show cause proceeding due to other suspension	6
Converting noncooperation suspension to indefinite suspension	8
Private administrative admonition	1
Private reprimand	2
Public reprimand	5
Suspension with automatic reinstatement (<i>after verified complaint</i>)	5
Suspension without automatic reinstatement (<i>after verified complaint</i>)	4
Suspension with conditions / probation (<i>after verified complaint</i>)	7
Disbarment	3
Accepting resignation	6

Interim suspension on finding of guilt (<i>felony</i>)	1
Reciprocal discipline (<i>suspension</i>)	1
Finding or judgment for respondent	2
Granting reinstatement	3
Terminating probation	4
Miscellaneous dismissing or withdrawing action	2
Miscellaneous	2
Attorney Discipline Total	90

JUDICIAL DISCIPLINE

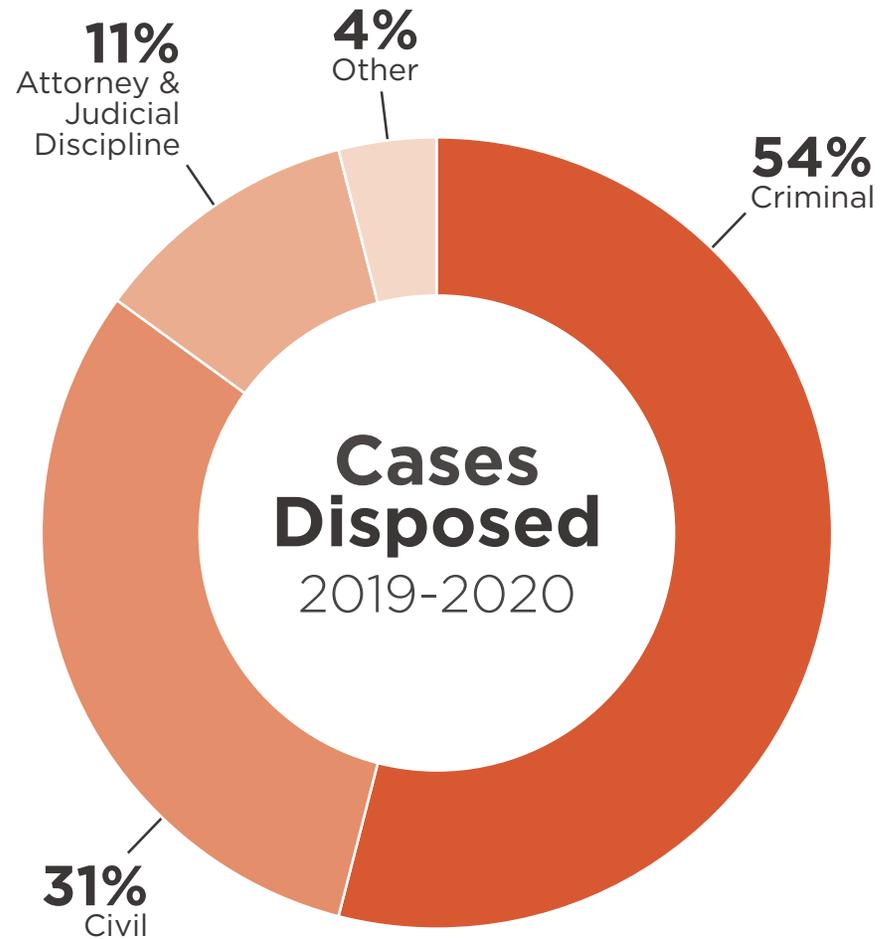
Opinions and published orders	4
Judicial Discipline Total	4

CASES DISPOSED

OTHER CASE TYPES

Certified questions	1
Mandate of funds <i>(opinions and published orders)</i>	1
Original actions <i>(disposed of without opinions)</i>	29
Other Total	31

Total Disposed 874



More attorney discipline data available
on pages 58-60

SUPREME COURT On the Road

In October 2019, the Indiana Supreme Court traveled to Parke County to hold oral argument in *Cavanaugh's Sports Bar & Eatery, Ltd. v. Eric Porterfield*, a civil negligence case. At Parke Heritage High School, over 400 students from five area schools and approximately 40 local bar association members, dignitaries, and other guests were in attendance. After arguments concluded, attendees asked the justices questions about their backgrounds and daily work life.

Traveling oral arguments provide interactive experiences for students, press, and the public in areas beyond the state capital to further understanding of the judicial system. The events are organized by the Office of Communication, Education, and Outreach. There have been 46 arguments away from the State House Courtroom since 1994.

Traditionally, the Supreme Court holds two traveling oral arguments a year, but social distancing requirements prevented a second argument.



 [More photos on Flickr](#)

Left: A student asks the Court a question after hearing the oral argument. **Middle:** Parke Heritage High School students and guests listen to an oral argument. **Right:** A student walks with Justice Massa into the school.



Justice Slaughter (far right) walks with a group of law clerks after a gathering at Turkey Run State Park in Parke County. The Indiana Supreme Court held a traveling oral argument at a nearby high school in the fall of 2019.



WEBCASTING STATISTICS

Supreme Court staff operated the webcasting equipment in the Courtroom. Since 2001, the Court has webcast:

- 869 hours of oral arguments, educational programs, and ceremonies
- 1,183 Supreme Court arguments

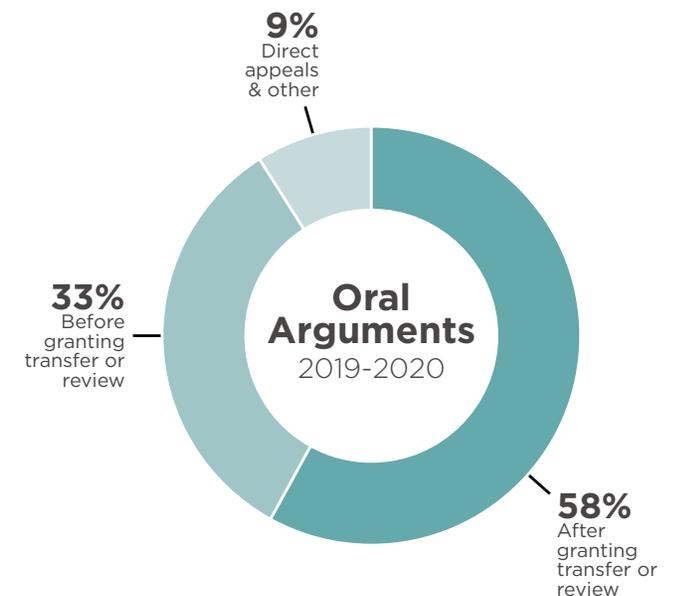
During this fiscal year, 43 Supreme Court arguments were webcast from the Supreme Court Courtroom for a total of 33 hours.

One traveling oral argument was webcast live and recorded at an off-site location.

CASES HEARD AT ORAL ARGUMENT

The Supreme Court heard 44 oral arguments in 45 cases during the fiscal year, including one traveling argument in Parke County. All arguments were recorded and can be viewed online. Arguments were also broadcast live on the web. The following details the types of cases presented at oral argument:

Criminal <i>Before transfer decision</i>	6
Criminal <i>After transfer granted</i>	10
Criminal <i>Direct appeals</i>	1
Civil/Tax <i>Before transfer/review granted</i>	9
Civil/Tax <i>After transfer/review granted</i>	16
Civil <i>Direct appeals</i>	2
Other case types	1
Total	45



Oral Argument Video
mycourts.in.gov/arguments



OPINIONS

Justices published 80 opinions during the fiscal year.



57

majority opinions

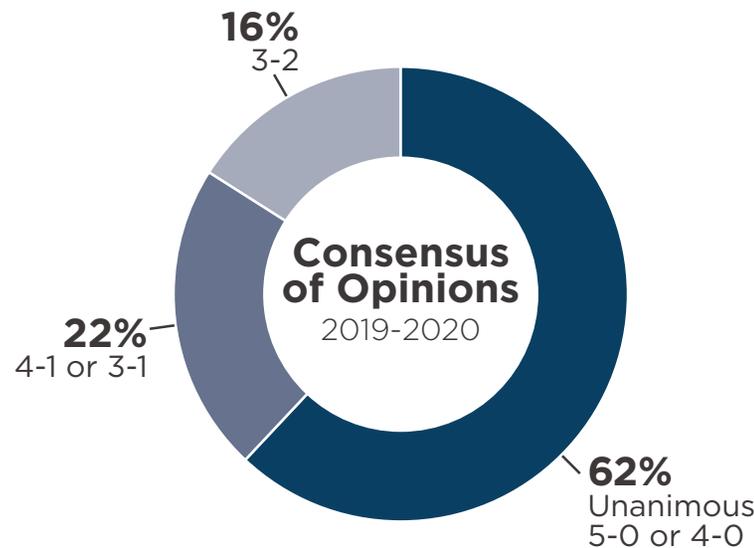
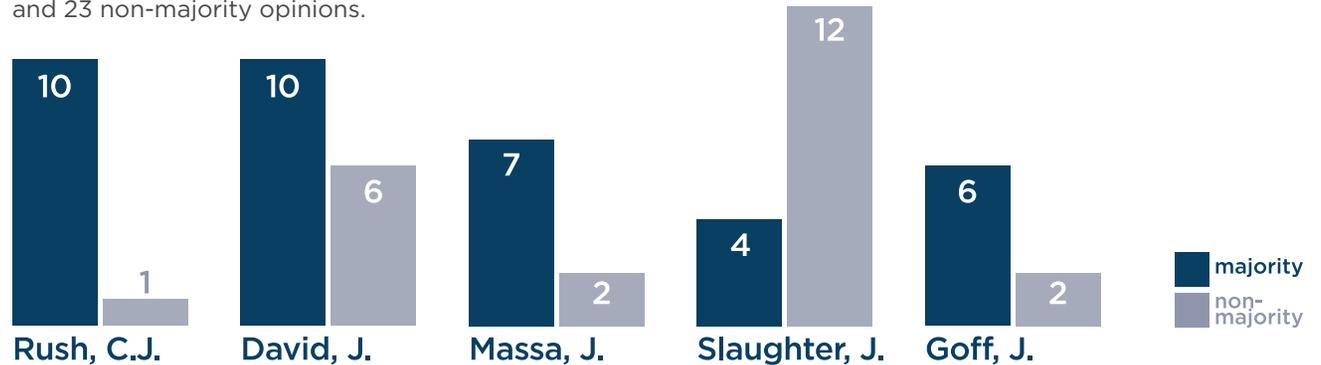


23

non-majority opinions

Majority opinions by author

In addition to 20 *per curiam* opinions handed down by the Court, the justices wrote 37 majority and 23 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.

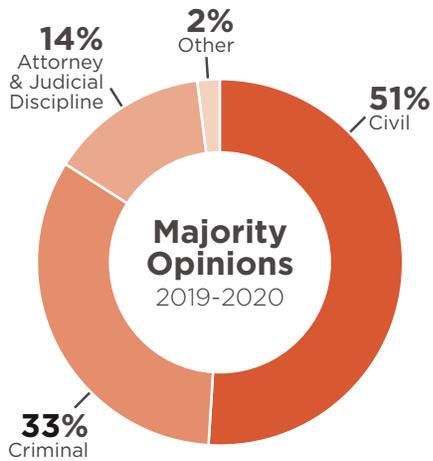
Excludes 20 per curiam opinions.

5-0 or 4-0 (Unanimous)	23
4-1 or 3-1	8
3-2	6
Total	37

OPINIONS

Majority opinions by author and type

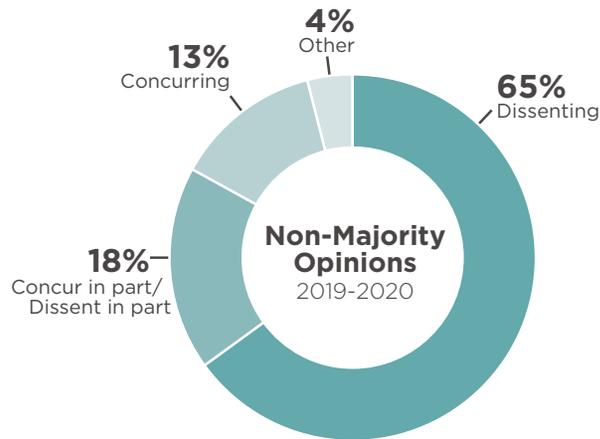
A breakdown of the majority opinions authored by each justice for each case type heard by the Supreme Court.



	<i>Rush, C.J.</i>	<i>David, J.</i>	<i>Massa, J.</i>	<i>Slaughter, J.</i>	<i>Goff, J.</i>	<i>By the Court</i>	<i>Total</i>
Criminal Transfer	2	2	3	-	3	7	17
Criminal Direct Appeal	-	-	1	-	-	1	2
Civil Transfer	8	7	2	3	3	4	27
Civil Direct Appeal	-	-	1	-	-	-	1
Civil Rehearing	-	1	-	-	-	-	1
Attorney Discipline	-	-	-	-	-	7	7
Judicial Discipline	-	-	-	-	-	1	1
Certified Question	-	-	-	1	-	-	1
Total							57

Non-majority opinions by author and type

Non-majority opinions are not dispositive.



	<i>Rush, C.J.</i>	<i>David, J.</i>	<i>Massa, J.</i>	<i>Slaughter, J.</i>	<i>Goff, J.</i>	<i>Total</i>
Concurring	-	-	-	3	-	3
Dissent to majority opinion	-	-	2	5	2	9
Dissent to denial of transfer	1	4	-	1	-	6
Concur in part / Dissent in part	-	2	-	2	-	4
Other	-	-	-	1	-	1
Total						23

Decisions *in* Brief

CASE WORK OF THE INDIANA SUPREME COURT

The Indiana Supreme Court’s caseload in the fiscal year was wide-ranging. Its opinions in civil and criminal cases included novel federal constitutional questions, and others ranged from tort, contract, and employment matters to criminal law questions involving jury instructions, guilty pleas, and effective assistance of counsel. The following is a sampling of the year’s caseload.

Exclusive Jurisdiction Cases

DEATH PENALTY & LIFE WITHOUT PAROLE

In *Gibson v. State*, 133 N.E.3d 673 (Ind. 2019), a consolidated opinion addressing two cases, the Court affirmed the denial of post-conviction relief from death sentences imposed for Gibson’s separate murders of an elderly friend of his late mother and of a woman he met at a bar. The Court concluded that defense counsel was not ineffective in either case by unreasonably delaying representation, and any delay in assembling a defense team did not prejudice the investigatory, voir-dire, plea-negotiation, or

sentencing phases. Nor was counsel ineffective for not challenging certain evidence or jury instructions about the effect of its sentencing “recommendation,” or for advising Gibson to accept a guilty plea with open sentencing. Finally, counsel’s fiscal duties in administering the public defender office and complying with Criminal Rule 24 caseload limits did not conflict with his duty to zealously represent Gibson.

The Court also affirmed convictions and sentences of life without parole in two cases. In *Cardosi v. State*, 128 N.E.3d 1277 (Ind. 2019), the Court concluded among other things that failure to admonish jurors at a few points

during Cardosi’s eight-day trial was not fundamental error, and the undisputed, weighty aggravator of multiple killings supported life without parole. And in *Schuler v. State*, 112 N.E.3d 180 (Ind. 2019), the Court held that the trial judge did not consider impermissible non-statutory aggravators in sentencing. Noting that Schuler’s “participation in this crime was not minor” went to the weight of the charged statutory aggravator, intentional killing during commission of a burglary; and its comment that “two innocent victims were killed without justification” appropriately recognized multiple victims, because the court also imposed a term of years for felony murder of the second victim.

Decisions *in* Brief

CERTIFIED QUESTIONS FROM FEDERAL COURT

The Court also decided a question of Indiana products liability law certified from a federal District Court in *Estabrook v. Mazak Corp.*, 140 N.E.3d 830 (Ind. 2020), holding that the Indiana Product Liability Act’s 10-year limitations period under Indiana Code section 34-20-3-1(b) is a statute of repose that cannot be extended by a manufacturer’s post-delivery repair, refurbishment, or reconstruction of the product.

Civil Transfer Cases

APPELLATE PRACTICE & PROCEDURE

The Court addressed appellate review of judgment on the pleadings in *Bayer Corp. v. Leach*, 147 N.E.3d 313 (Ind. 2020). When analyzing pleadings for purposes of judgment on the pleadings under Trial Rule 12(C), Indiana courts must address the viability of each claim presented, disposing only of unviable ones; a single claim’s viability does not preserve the entire complaint. Because the Court of Appeals analyzed the viability of only one of the multiple claims presented, the Supreme Court remanded to the Court of Appeals to also consider the remaining claims.

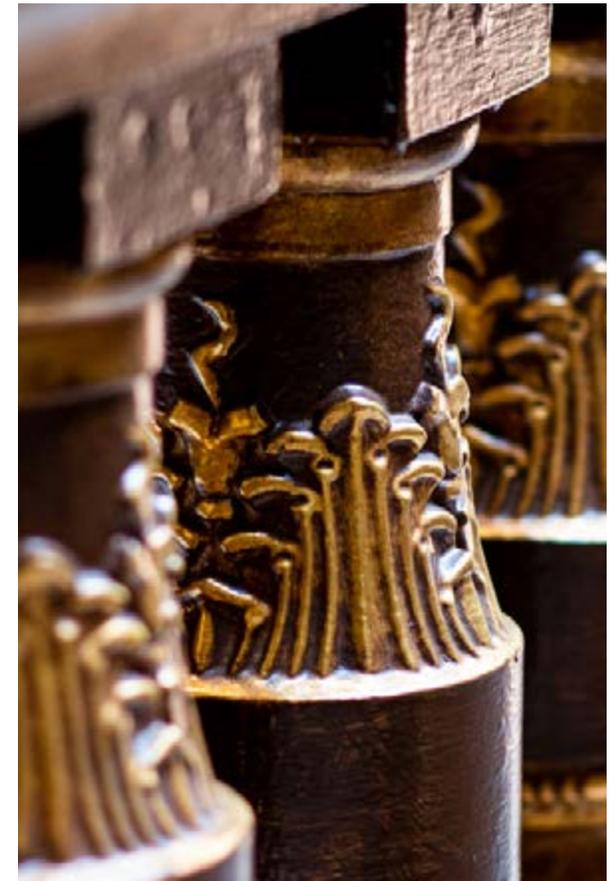
CONSTITUTIONAL QUESTIONS

On remand after grant of certiorari from the Supreme Court of the United States, a majority of the Court in *State v. Timbs*, 134 N.E.3d 12 (Ind. 2019) announced a balancing test for assessing civil forfeitures under the Eighth Amendment’s Excessive Fines Clause: When forfeited property was an instrumentality of the underlying offense, courts must decide whether, based on the totality of the circumstances, a civil forfeiture’s punitive value is “grossly disproportional to the gravity of the underlying offenses and the owner’s culpability for the property’s criminal use.”

CONTRACTS & COMMERCIAL LAW

In *Rainbow Realty Group, Inc. v. Carter*, 131 N.E.3d 168 (Ind. 2019), the Court determined that a “rent-to-buy” contract for residential property was a rental agreement, not a land-sale contract. Most of the transaction’s terms and formal structure suggested an unorthodox sale with no down-payment; but in substance, at least for the first two years, it was a residential lease with contingent commitment to sell. The contract was therefore subject to residential landlord-tenant habitability statutes, thus voiding the tenants’ purported waiver of the warranty of habitability.

The Court considered a breach of warranty claim involving forty dump trucks in *Kenworth of Indianapolis, Inc. v. Seventy-Seven Limited*, 134 N.E.3d 370 (Ind. 2019). The warranty agreement included a one-year limitations period to bring suit. But the buyers allowed the seller for several years to repeatedly attempt to repair an ongoing problem and did not bring suit until the seller had first sued them. The Court concluded the buyers’ warranty claims did not accrue until they knew or should have



Decisions *in* Brief

known of the breach, and the seller's conduct relating to repair of the trucks could be "of a sufficient affirmative character to prevent inquiry, elude investigation, or mislead the other party into inaction"—thus tolling the limitations period by equitable estoppel.

The companion cases of *Blair v. EMC Mortgage, LLC*, 139 N.E.3d 705 (Ind. 2020) and *Collins Asset Group v. Alialy*, 139 N.E.3d 712 (Ind. 2020) addressed the limitations period for suits on closed installment contracts. The Court concluded that, unlike for open accounts, there is no need to add a rule of reasonableness to either the general statute of limitations for actions upon promissory notes, I.C. § 34-11-2-9, or the UCC's statute of limitations for actions "to enforce the obligation of a party to pay a note payable at a definite time," I.C. § 26-1-3.1-118. Instead, a lender may as its option sue for a missed payment within six years of a borrower's default; exercise an acceleration clause and then bring suit within six years of that acceleration date; or wait and sue for the entire amount owed within six years of the note's maturity date. Accordingly, the lenders' suits for amounts owed under the borrowers' mortgages and promissory notes were not time-barred.

EMPLOYMENT

The Court considered liquidated-damages provisions of former employees' non-competition and non-solicitation agreements in *American Consulting, Inc. v. Hannum Wagle & Cline Engineering, Inc.*, 136 N.E.3d 208 (Ind. 2019). A majority of the court held those provisions, based on the employees' salaries without being fairly correlated to the employer's actual losses, were unenforceable penalties. But an issue of material fact remained for trial on the former employer's claim against the employees for tortious interference with contract.

A different question arose under the non-competition agreement in *Heraeus Medical, LLC v. Zimmer, Inc.*, 135 N.E.3d 150 (Ind. 2019). On transfer, the Court reiterated that courts' authority to reform unreasonable covenants under the "blue pencil doctrine" is limited to deleting language—it does not let them add terms, even if the parties' agreement purports to authorize additions.

FAMILY, JUVENILE, AND CIVIL PROTECTION

A natural parent's consent to adoption may be irrevocably implied when the parent fails to prosecute their challenge to the adoption "without undue delay." I.C. § 31-19-10-1.2(g). But in *Matter of the Adoption of C.A.H.*, 136 N.E.3d 1126 (Ind. 2020), the Court held that implied consent may not be based solely on the parent's failure to appear at a single hearing, absent further findings.

The Court also addressed two procedural matters in Child in Need of Services (CHINS) cases. First, the Court ruled in *Matter of R.L.* 144 N.E.3d 686 (Ind. 2020), that the claim-preclusion doctrine barred DCS from filing a successive CHINS action after the first petition was dismissed with prejudice. Relying on last year's decision in *Matter of Eq. W.*, 124 N.E.3d 1201 (Ind. 2019), the Court held the second petition was barred because its new allegations either could have been raised in the first petition or were immaterial. "DCS must have its house in order when it institutes a CHINS proceeding or else it risks dismissal that will bar future actions."

Decisions *in* Brief

The Court also held in *Matter of M.S.*, 140 N.E.3d 279 (Ind. 2020), that even though Indiana Code section 31-34-11-1(d) requires a CHINS petition to be dismissed unless a factfinding hearing is held within 120 days, Trial Rule 53.5 allows continuance beyond that deadline for “good cause.” Because the dismissal statute is procedural, it yields to the contrary Court rule—so Mother’s motion to dismiss was correctly denied when the factfinding hearing was continued beyond 120 days for good cause on her own motion.

Then, the Court addressed a similar 180-day deadline for termination of parental rights (TPR) cases in *Matter of J.C. and R.C.* 124 N.E.3d 427 (Ind. 2020). By statute, courts must either complete a TPR hearing within 180 days after the petition is filed or dismiss the petition without prejudice. I.C. § 31-35-2-6. But because Mother had not objected when a hearing date was set beyond 180 days and affirmatively waived that deadline, she invited any error and could not later invoke it as grounds for dismissal.

The Court also upheld a trial court’s refusal to terminate parental rights. *Matter of M.I.*, 127 N.E.3d 1168 (Ind. 2019), emphasized

the deferential standard of appellate review and held the trial court’s conclusion that TPR would not serve the children’s best interests was not contrary to law. The decision was supported by evidence that Mother was making progress, and the children were strongly bonded with her and had doubtful prospects for a permanent adoptive home, despite her lack of stable housing and inconsistent compliance with the parent-participation plan.

And in *Matter of Ma.H.*, 134 N.E.3d 41 (Ind. 2019), the Court concluded that Father had not been forced to choose between admitting a crime or losing his parental rights in violation of the Fifth Amendment. The TPR court ordered Father only to choose and complete a sex-offender treatment program. When the program Father chose eventually required an admission of guilt, he did not seek out another program, ask for other options, or show that no other program was reasonably available; he just stopped attending. Therefore, the trial court could properly find that Father’s failure to address the underlying sexual-abuse allegations was grounds for TPR.

The Court settled an unresolved juvenile-delinquency question in *A.M. v. State*, 134 N.E.3d 361 (Ind. 2019). Juveniles are entitled to effective counsel in delinquency proceedings, but the standard for assessing counsel’s performance was unclear. Because the focus of juvenile proceedings is the child’s best interests, not guilt or innocence, the Court did not apply *Strickland v. Washington*’s Sixth Amendment criminal-law standard. Instead, a majority of the Court announced a less rigorous Fourteenth Amendment Due Process standard: whether counsel’s overall performance ensured the juvenile received a fundamentally fair hearing that resulted in a disposition serving the child’s best interests.

The Indiana Civil Protection Order Act serves vital purposes to give swift protection to domestic-violence victims. But because it can severely limit a restrained person’s liberty, it requires proof that the respondent “represents”—in the present tense—a credible threat. A majority of the Court therefore concluded in *S.H. v. D.W.*, 139 N.E.3d 214 (Ind. 2020), that the circumstances leading to entry of a prior order generally cannot be the sole basis for entering a new order or renewing or extending the previous one.

Decisions *in* Brief

GOVERNMENT & MUNICIPAL MATTERS

The Court on rehearing modified its opinion issued the previous fiscal year in *International Business Machines Corporation v. State of Indiana*, 138 N.E.3d 255 (Ind. 2019) to clarify when post-judgment interest against the State began to run. Under Indiana Code section 34-13-1-6, a money judgment against the State begins to accrue interest from “the date of the adjournment of the next ensuing session of the general assembly” after the judgment, rather than the date of the judgment itself.

A building authority formed by Floyd County and the City of New Albany owned a criminal justice center and leased it back to the County, which in turn sublet space to the City. In *City of New Albany v. Board of Commissioners of the County of Floyd*, 141 N.E.3d 1220 (Ind. 2020), the City challenged the lease’s “turn-over” provision, requiring the building authority to convey the building to the County after the lease expired. The authority had that power under Indiana Code section 36-1-11-8, which gives governmental agencies in general power to transfer or exchange property, even though Indiana Code chapter 36-9-13, specific to building authorities, lacked a similar provision.

Finally, in *Robertson v. State*, 141 N.E.3d 1224 (Ind. 2020), the Court considered claims against a county bookkeeper for misappropriating public funds. I.C. § 5-11-5-1(a). The Court concluded that the limitations period for such claims begins to run only after the Attorney General receives the State Board of Accounts’ final, verified report. But the discovery rule governed claims against the bookkeeper under the Crime Victims Relief Act; and because the State knew or should have known of injuries caused by the bookkeeper when it received the SBOA’s preliminary report over a year earlier, those claims were time-barred.

REMEDIES

Under Indiana Code section 23-14-59-2, a cemetery that learns of a burial in the wrong gravesite must promptly “correct the wrongful burial.” But in *Salyer v. Washington Regular Baptist Church Cemetery*, 141 N.E.3d 384 (Ind. 2020), the trial court instead awarded the plaintiff a vacant gravesite next to her family plot to replace the one in which the wrongful burial had occurred. A majority of the Court on transfer held that because the wrongful-burial statute imposes a specific duty to “correct” the burial, courts cannot weigh equities to fashion another form of relief.

TORTS

The Court decided four tort cases through the year—two involving the Indiana Tort Claims Act, one applying recent premises-liability precedent, and one wrongful-termination case.

Although Indiana has adopted comparative fault for most negligence actions, claims against State entities under the Tort Claims Act are still subject to contributory negligence—under which any fault, however slight, by the claimant totally bars recovery. The Court examined that principle under tragic facts in *Murray v. Indianapolis Public Schools*, 128 N.E.3d 450 (Ind. 2019), in



Decisions *in Brief*

which a 16-year-old student was murdered after he left school grounds to engage in a criminal act (purchasing either guns or drugs). The Court concluded that because the student knew those acts involved danger, his acts were “at least a slight cause” of the harm he suffered—barring his estate’s wrongful-death claim against the school corporation as a matter of law.

The Tort Claims Act also protects State employees against personal liability for acts within the scope of their employment. In *Burton v. Benner*, 140 N.E.3d 848 (Ind. 2020), a police officer was involved in a crash while driving his issued vehicle off-duty pursuant to department policy requiring off-duty officers to maintain radio contact and respond to nearby emergencies when using their vehicles. The officer was undisputedly in compliance with the vast majority of that policy, so any minor traffic-law violation did not take his operation of the vehicle “clearly outside” the scope of his employment, as Indiana Code section 34-13-3-5(c)(2) requires.

Applying recent premises-liability precedent, the Court reiterated in *Cavanaugh’s Sports Bar & Eatery, Ltd. v. Porterfield*, 140 N.E.3d 837

(Ind. 2020) that it would not impose a comprehensive “duty on proprietors to afford protection to their patrons” from unpredictable criminal attacks. Instead, a landowner’s duty depends on knowing or having reason to know of any present and specific contemporaneous evidence that would cause a reasonable person to recognize the probability or likelihood of imminent harm. Under that standard, a majority of the Court found the landowner owed Plaintiff no duty because the after-hours fight that left him “grievously injured” was not foreseeable.

The Court considered the public-policy exception to employment at-will in *Perkins v. Memorial Hospital of South Bend*, 141 N.E.3d 1231 (Ind. 2020). The employee alleged he had been fired in retaliation for testifying adversely to the employer in a former coworker’s unemployment case. A majority of the Court concluded that testimony compelled by a subpoena or other statutory duty is protected under the public policy exception to at-will employment. Accordingly, the former employee’s suit could proceed beyond summary judgment.

TRIAL PRACTICE AND PROCEDURE

In a combined opinion in *C.S., Jr. v. State and Z.T. v. State*, 131 N.E.3d 592 (Ind. 2019), the Court considered whether the juveniles’ due process rights were violated by appearing remotely for their disposition-modification hearings. The Court noted that Indiana Administrative Rule 14(B) required either obtaining the parties’ consent, or finding good cause, for appearing remotely. Since the parties had not consented, the trial court erred by holding remote appearances without making good-cause findings. But the error was not fundamental, so the juveniles’ failure to object at trial waived the issue for appeal.

The Court examined three grounds for trial courts to award attorney fees as a sanction in *River Ridge Development Authority v. Outfront Media, LLC*, 129 N.E.3d 239 (Ind. 2020). The first two—the common-law obdurate behavior exception and Indiana Code section 34-52-1-1’s General Recovery Rule—require a “prevailing party,” and so they did not permit awarding attorney fees against a party that voluntarily dismissed its suit with prejudice. Third, courts have inherent authority to sanction a party by shifting



Decisions *in* Brief

fees, but the dismissing party's litigation behavior was not "calculatedly oppressive, obdurate, or obstreperous" as such an award requires.

OTHER

Under ERISA, regulation of covered employee benefit plans is exclusively a federal concern. Federal law thus preempts claims requiring interpretation of ERISA-plan documents, but not claims based on a separate legal duty, independent of an ERISA-covered plan. In *FMS Nephrology Partners North Central Indiana Dialysis Centers, LLC, v. Meritain Health, Inc.*, 144 N.E.3d 692 (Ind. 2020), a medical provider sued two employers and their respective employee-benefit plans, alleging they did not pay for covered services at the rates set in separate network contracts. On transfer, the Court held that defendants failed to sustain their burden on summary judgment to prove preemption. The record was unclear why the plans did not pay the disputed claims. If the plans determined the provider's services were not covered, then the claims would be preempted. But if the plans determined the claims were covered yet still refused to pay the contractually agreed rates, then the claims would not be preempted. Because of this factual uncertainty, the Court ordered further proceedings in the trial court.

Ex-offenders may expunge their criminal convictions once, after waiting a set period of time after their "date of conviction." In *Gulzar v. State*, 148 N.E.3d 971 (Ind. 2020), the Court considered whether reducing a felony conviction to a misdemeanor triggers a new "date of conviction" and new waiting period. A majority of the Court held that an amendment to the misdemeanor expungement statute, enacted while the appeal was pending, applied retroactively to Gulzar's expungement petition.

Criminal Transfer Cases

APPELLATE PRACTICE & PROCEDURE

Generally, Indiana Post-Conviction Rule 1(12) requires a defendant who has pursued post-conviction relief (PCR) once to obtain court approval before filing a subsequent petition challenging the same conviction. In *Shaw v. State*, 130 N.E.3d 91 (Ind. 2019), *reh'g denied*, Shaw's first PCR was denied, but he won a new direct appeal from a federal court. When he petitioned again for PCR, alleging that his counsel in the new appeal was ineffective, it was dismissed as an unauthorized "subsequent" petition. On transfer,

the Court held the new petition did not require approval under Rule 1(12), because it was limited to issues and events that had not yet occurred at the time of the initial PCR.

CONSTITUTIONAL QUESTIONS

A cutting-edge question at the intersection of smartphones and the Fifth Amendment came before the Court in *Seo v. State*, 148 N.E.3d 952 (Ind. 2020). A majority of the Court concluded that a warrant compelling Seo to unlock her smartphone for law enforcement violated her Fifth Amendment privilege. Surrendering an unlocked smartphone would implicitly communicate, at a minimum, that (1) Seo knows the password; (2) the files on the device exist; and (3) Seo possessed those files. And because the State did not show it already knew that information, the "foregone conclusion" exception did not apply.

In *Paquette v. State*, 131 N.E.3d 166 (Ind. 2019), a single incident of resisting law enforcement caused multiple deaths. The Court determined in a previous appeal that Double Jeopardy precluded convicting Paquette separately for each victim killed as a result of the resisting but allowed separate convictions of operating a vehicle causing death for each vic-

Decisions *in* Brief

tim. On appeal after resentencing, the Court of Appeals attempted to cure new Double Jeopardy violations by reducing the single conviction for resisting law enforcement causing death to a lesser-included “resisting” offense. The Supreme Court on transfer reinstated the higher-level resisting offense and instead reduced one of the “operating” offenses to a lesser-included offense.

The Court heard three search-and-seizure cases. It held in *Heuring v. State*, 140 N.E.3d 270 (Ind. 2020) that Heuring’s removal of a GPS tracking device police had placed on his vehicle did not establish probable cause for theft of the tracker. Search warrants obtained on that basis for Heuring’s home and his father’s barn (where his vehicle had been parked while being tracked) were therefore so lacking in probable cause that the good-faith exception to the exclusionary rule did not apply and the evidence seized must be suppressed.

But the Court upheld searches in two other cases. In *Hardin v. State*, 148 N.E.3d 932 (Ind. 2020), a majority of the Court concluded that when Hardin pulled into his driveway while his home was being searched, searching his vehicle was constitutional. The general warrant to search Hardin’s home also covered vehicles

within the curtilage under his actual or apparent control or ownership. And in *State v. Ryder*, 148 N.E.3d 306 (Ind. 2020), the Court held that a probable-cause affidavit supporting a blood-draw search warrant was “filed with the judge” as Indiana Code section 35-1-6-2 requires. When the judge issued the warrant, she certified the affidavit had been filed with her. A few hours’ delay in delivering the affidavit to the clerk’s office did not invalidate the warrant; the statute’s purpose of ensuring prompt access to a complete, accurate record of testimony considered in issuing the warrant was satisfied.

DEFENSES

The Court decided two criminal cases involving affirmative defenses. In *Payne v. State*, 144 N.E.3d 706 (Ind. 2020), a defendant with a well-documented history of long-running mental illness raised an insanity defense against arson charges, and all expert opinion evidence agreed Payne was legally insane. A majority of the Court held that evidence of Payne’s demeanor was insufficient to establish sanity. The Court therefore reversed Payne’s conviction and 90-year sentence, instructing the trial court on remand to hold an involuntary-commitment hearing upon the State’s petition.

Indiana’s self-defense statute prohibits the defense from being asserted by a person who “is committing ... a crime.” *Gammons v. State*, 148 N.E.3d 301 (Ind. 2020) considered whether carrying a handgun without a license precluded asserting self-defense. The Court held the prohibition requires an “immediate causal connection between the crime and the confrontation.” Instructing the jury that the defense was barred if illegally carrying a handgun was merely “re-



Decisions *in* Brief

lated to” the confrontation set the standard too low, so the Court reversed Gammons’ convictions and remanded for a new trial.

GUILTY PLEAS

In companion cases, the Court affirmed denial of a sentence modification in *Rodriguez v. State*, 129 N.E.3d 789 (Ind. 2019) and reversed a modification granted in *State v. Stafford*, 128 N.E.3d 1291 (Ind. 2019). The Court explained that recent amendments to Indiana Code section 35-38-1-17 did not alter settled caselaw that the parties and trial court become bound by a plea agreement’s terms once the plea is accepted by the court. Accordingly, trial courts cannot modify sentences imposed under fixed-term plea agreements.

And in *Johnson v. State*, 145 N.E.3d 785 (Ind. 2020), a majority of the Court held that Johnson should be allowed to pursue a belated direct appeal. His plea agreement’s general waiver of the right to appeal his sentence, which also included an unenforceable waiver of post-conviction relief, was insufficiently explicit to establish a knowing and voluntary waiver of his right to appeal a sentence.

STALKING

The Court in *Falls v. State*, 131 N.E.3d 1288 (Ind. 2019) upheld a stalking conviction. The Court held a single episode of continuous conduct may constitute stalking—so evidence that Falls followed a college student’s vehicle for more than two hours as she attempted to evade him was enough to support the conviction.

OTHER

The Court considered a claim of juror bias in *Easler v. State*, 131 N.E.3d 584 (Ind. 2019), involving a trial on charges of operating while intoxicated. After being selected but before being sworn, a juror submitted a note acknowledging that a family member had been killed by a drunk driver. The Court held the note raised a question of potential bias, so the trial court should have allowed further questioning of the juror. Because the presence of even one biased juror would be a structural error, the Court reversed and remanded for a new trial.

The first opinion of the fiscal year is the last one discussed here. In *Dadouch v. State*, 126 N.E.3d 802 (Ind. 2019), the Court held that Dadouch’s waiver of jury trial on misdemeanor charges

was invalid, because the record did not show his oral or written advisements of rights communicated the deadline to demand a jury trial and the consequences of failure to do so timely, and did not show that he understood those advisements. The Court further advised that although it is not required, the “very best practice” is to use both the dialogue in the Criminal Benchbook and a written advisement of rights form.

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.



Clockwise from top left: Chief Justice Rush speaks during a naturalization ceremony; Justice Massa swears in the 120th Speaker of the House Todd Huston; Justice David poses with the 2019 Summer Institute ICLEO class.



Statehood Day

Students from around the state celebrate Indiana's 203rd birthday in the Supreme Court Courtroom.



 [More photos on Flickr](#)





Clockwise from top left: Justice Slaughter greets a student at Parke Heritage High School before hearing a traveling oral argument; Justice Goff poses with interns from the Indiana Civil Rights Commission in the Supreme Court Courtroom; Criminal justice stakeholders collaborate on a panel during the 2019 Pretrial Summit; Marion County Magistrate Tamara Rogers visits Turning Point School.





Administering justice through a pandemic

ADOPTING AND ADAPTING TO A NEW NORMAL

When the COVID-19 pandemic arrived in Indiana, daily routines drastically changed with schools, businesses, and government agencies closing their physical doors to the public. Recognizing that courts must remain open, the Indiana Supreme Court responded to the crisis and provided operational guidance to courts across the state.

On March 4, the Office of Judicial Administration sent notice to all state judicial officers prompting them to activate their local emergen-



300 documents including orders, petitions, transition plans, guidance, and other resources posted

courts.in.gov/covid

cy plans. By the end of June, the Supreme Court had approved petitions from trial courts in every county for major operational adjustments.

OJA launched a website detailing the judicial branch response to COVID-19. Over the months that followed, the Supreme Court issued orders and other resources providing guidance on adjusting operations with continued public access to the legal system.

Guidance provided to courts included:

- case matters that could be postponed for the sake of public health
- reopening buildings to the public
- collecting masks, sanitizer, and cleaning products
- handling matters related to family law, foreclosure and eviction, problem-solving courts, and community supervision

Leaders from all three branches of state government sent a joint letter encouraging stakeholders

to review local correctional facility populations for potential—and responsible—release of non-violent juvenile and adult inmates.

Courts adapted quickly to changing needs. In May, the Supreme Court held oral arguments entirely by video-conference for the first time and hosted a virtual Indiana Bar admission swearing-in ceremony with over 100 participants. And OJA quickly developed a tool for trial courts to live-stream hearings to allow public access to proceedings.

The Disciplinary Commission offered ethical guidance to lawyers, and the Board of Law Examiners announced adjustments to the Bar Exam.

By the end of the fiscal year, Indiana was waiting to see how opening would impact local health and planning for courts to resume operations. The Supreme Court demonstrated rapid actions and leadership during the pandemic and continues to provide guidance as needed.



400+ licenses
for judicial officers to hold remote hearings



9,500 hearings
and other meetings held remotely



64K participants
in remote proceedings



Judicial officers and others from around the state participate in a remote meeting of the Judicial Conference Board of Directors.



Office of Judicial Administration

Justin P. Forkner
Chief Administrative Officer

The **Office of Judicial Administration** consists of ten agencies and the Office of the Clerk of the Indiana 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 combining Appellate Court Technology and Trial Court Technology into the Indiana Office of Court Technology, creating the Innovation Initiative, adding a Human Resources Office, and bringing the Judicial Qualifications/Nominating Commission under the General Counsel Office. Staff members and responsibilities were adjusted accordingly.

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Clerk of the Indiana 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 2,139 opinions and 9,193 orders for all three appellate courts. While the State House temporarily closed to the public due to the pandemic, the Office maintained in-person and remote employees to process filings, including a deluge of emergency petitions and orders related to the pandemic.

The Office distributed over 7,700 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 count ballots for the election of the District 3 attorney member of the Judicial Nominating Commission in the Supreme Court Courtroom.



7,700

ballots counted for Judicial Nominating Commission election



9,193

orders processed for the Supreme Court, Court of Appeals, and Tax Court



13,228

briefs electronically filed in 3,547 cases for the three appellate courts



18,463

active attorneys in the Indiana Roll of Attorneys

Related Information

Indiana Supreme Court Cases and Opinions Data PAGES 10-18

Fiscal & Operations

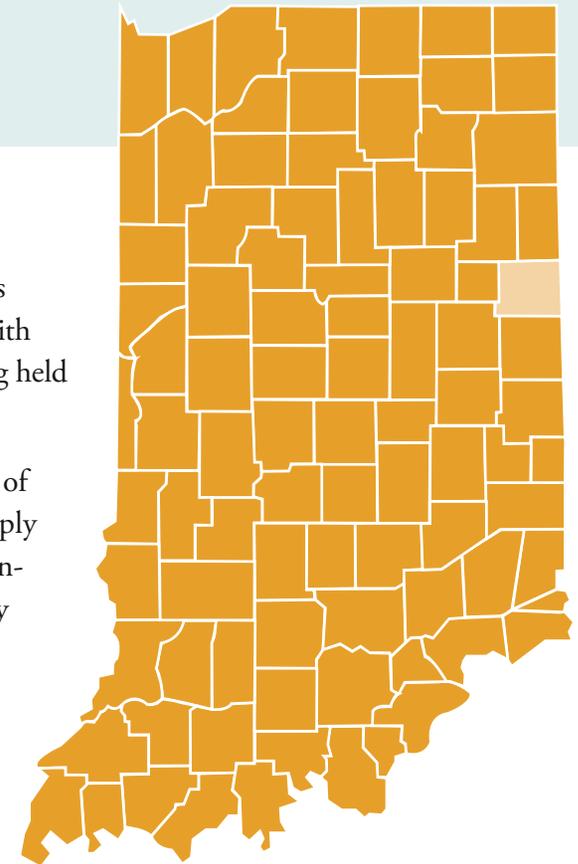
Aaron V. Hood, Chief Financial Officer

The **Fiscal & Operations Office** manages the Supreme Court budget and assets; processes financial transactions and invoices; provides accurate, timely financial information to the Court and other government officials; and manages building operations and continuity of operations for the Court.

The Supreme Court reverted over \$2.1 million back to the State's General Fund as a result of increased efficiency. In partnership with the State Budget Agency, the Office reconciled all federal funding held by the Supreme Court.

During the fiscal year, the Office inventoried over 2,000 pieces of furniture, computers, and other assets; implemented a new supply procurement process to streamline ordering and centralize inventory; and created an accounts payable dashboard to track timely payment of invoices.

For building operations, the Office oversaw several security upgrades; managed two construction projects to accommodate staff reorganization; and implemented adjustments in physical workspaces to provide for social distancing in response to the pandemic.



\$20.7M

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



8,175
invoices processed



1,605
deposits made

OUR
JUDICIAL
BRANCH
USES
LESS THAN 1%
OF THE
TOTAL
STATE
BUDGET

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.

Related Information

Oral arguments and webcasting
PAGES 16-18

Working with the press

OCEO answered 469 media inquiries during the fiscal year. The Office proactively distributes information via courts.in.gov, Twitter, and various direct-messaging campaigns. Four hundred seventy-seven members of the media received 44 press releases announcing events, highlighting programs, and providing details on judicial vacancies.



Chief Justice Rush speaks to media about the 2018-2019 Supreme Court Annual Report in the law library.



Top: Justice David speaks to over 100 government students at Zionsville High School. **Bottom:** 4H State Fair Leadership Conference attendees (from left) Matthew Tibbs, Aubree Whicker, and Thomas Carroll, pose for a photo in the Indiana State House.

Website and messaging

The Office manages daily content publishing of the courts.in.gov website, with over 13 million page views each year. The launch of a new website template brought a refreshed look to the site. Staff from each agency are trained to use the content management system, which requires OCEO to review and analyze content before publishing updates.

During the fiscal year, OCEO distributed weekly messages to trial court judges, a monthly newsletter to Court staff, and 17 technology-related notifications. The Office also published *Indiana Court Times*, a magazine and blog on topics of interest to the judiciary.

Outreach efforts

The Office coordinated a traveling oral argument in Parke County, promoted National Adoption Day, participated in Statehood Day events, and coordinated Constitution Day activities with 54 judges who visited over 4,000 students across the state. The law library welcomed 4,172 guests and reviewed its collection to maximize efficiency.

OCEO coordinated and distributed regular and emergency messages regarding the pandemic to trial courts, lawyers, and the public. Several web pages were created and maintained; numerous orders and transition plans were posted online; and oral arguments and meetings were conducted remotely beginning in March with OCEO assistance.



93 judges

assisted with everyday media matters and high-profile cases



5,785 followers

& 504 tweets, including articles, opinions, and announcements



Over 4,000

students visited by 54 judges for Constitution Day



629 reference questions

answered by the law library

Capturing Forever Families

National Adoption Day allows cameras in courtrooms

National Adoption Day events showcase the value of adoption and allow communities to congratulate newly minted families. The Indiana Supreme Court has issued an order every year since 2012 allowing photos and videos of uncontested adoptions. Allowing an exception to the rule that prevents broadcasting of court proceedings gives families and press an opportunity to capture the joyous Adoption Day events.

Approximately 300 children joined their forever families in November 2019 as part of National Adoption Day. Forty judicial officers in 30 counties opened their courtrooms to cameras as part of the celebrations. The Office of Communication, Education, and Outreach encouraged judges, case workers, family members, and the press to share images of the happiest day in court, which raises awareness of the urgent need for adoptive families. Indiana has nearly 4,800 adoptions a year.



[More photos on Flickr](#)

Top: A family celebrating an adoption take a festive photo in Henry County. **Middle:** Madison County Judge Mark Dudley invites a child up to his bench after the child's adoption. **Bottom:** Hamilton County Judge Jonathan Brown poses with adopted children in celebration of National Adoption Day.





Approximately **300** children joined their forever families in November 2019 as part of National Adoption Day.

Clockwise from top left: A child ready to be adopted sings a song to Tippecanoe County Judge Sean Persin; Fountain County Judge Stephanie Campbell hugs two children during her courtroom's celebration; Allen County Magistrate Lori Morgan celebrates with a family in her courtroom.

Indiana 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 Adams, Clay, Daviess, Decatur, Newton, Pulaski, and White counties, as well as the Edgewood City Court. By June 2020, case data from 346 courts in 81 counties—nearly 90% of the state's caseload—was in Odyssey and available at mycase.in.gov.

E-Filing

Electronic filing in court cases is available in all three appellate courts and in trial courts across the state. Court Technology released a new e-filing service provider for protection order requests. The new system is linked to the statewide protection order registry, streamlining the submission of information to Indiana State Police and federal law enforcement agencies. During the fiscal year, nearly 4,000 of the over 32,000 protection orders in the registry were e-filed.

An improved Roll of Attorneys search was launched, which includes a notation on an attorney's record confirming that the attorney may be electronically served through the E-filing Public Service List.



90%
of newly filed cases
are in Odyssey



7.6 Million
documents e-filed statewide



3,900
protection order cases
e-filed statewide



28 Million
visits to mycase.in.gov



12 Million
document downloads
from mycase.in.gov



76,000
traffic tickets paid online



40,000
marriage licenses issued



112,000
criminal dispositions
sent to state police



4,700
criminal case fines paid
online



58,000
support tickets answered
from court & clerk staff,
attorneys, and the public



512,000
driver convictions &
suspensions sent to BMV

Public Access

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. More than six million users accessed mycase over 28 million times and downloaded documents nearly 12 million times during the fiscal year.

At public.courts.in.gov, trial courts were provided a website to stream hearings during the pandemic. Additionally, the public could begin a marriage license request, look up adult guardianships, search active protection orders, pay traffic tickets, and calculate child support.

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:

- **22,589** annual attorney registrations
- **7,950** reports of attendance at **4,755** CLE events
- **926** statements of economic interests
- **77** applications for court vacancies
- **58** applications for Indiana CLEO fellowship

Judicial Dashboard

Court Technology develops and maintains a custom application for the Supreme Court to manage cases and administrative matters. The Dashboard pulls appellate briefs and other documentation directly from Odyssey and allows staff to submit research for matters discussed at court conference. During the fiscal year, the Dashboard was updated to automatically add hyperlinks to citations in appellate briefs.

Innovation Initiative

Robert A. Rath, Chief Innovation Officer

The **Innovation Initiative** was established in September 2019 to foster innovation in Indiana's courts and legal profession. The Initiative and its two subgroups—the Family Law Task Force and the Technology Working Group—explore ways to make Indiana's justice system more efficient, less expensive, and easier to navigate.

In its first meeting in November 2019, the Technology Working Group proposed courts hold hearings by video-conference to eliminate traveling to the courthouse and save time. This would become a critical option for all courts to continue operations during the pandemic.

Additionally, the Group reviewed online dispute resolution as an option to resolve cases in less time, provide better results for litigants, and reduce caseloads for courts. An online dispute resolution tool will be piloted before it can be made available statewide.

The Family Law Task Force released guidance for courts and communities on operating during the pandemic and for resuming operations. The Task Force also delivered online education courses to share ideas for managing family law cases, especially during a pandemic.

The Initiative partnered with the Coalition for Court Access to propose a pilot program for attorneys to offer *pro bono* services through video-conferencing. The goal would be to increase the time donated since the process would be easier and more efficient.



During the kickoff meeting of the Innovation Initiative, members participated in a brainstorming exercise and agreed on the group's shared vision and mission.



304

people responded to a survey seeking input on their court experience



Indiana 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.

INDIANA OFFICE OF COURT SERVICES

Education

Justice
Services

Legal Support

Programming
& Projects

Supreme
Court Services

Assisting courts, leading initiatives

IOCS is a single agency with five divisions—Education, Justice Services, Legal Support, Programming & Projects, and Supreme Court Services. During the pandemic, IOCS collaborated with Indiana courts to implement 113 local emergency operational plans, conducted training for remote hearings, and developed guidance on community supervision and family law. Highlights from the fiscal year include:



**834 public
record requests**



**256 days
of education**



**111 problem-
solving courts**
with 8 new courts certified
& 28 re-certified



257% increase
in counties served by Adult
Guardianship Office since 2014

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 county workshops, and distance education modules provide a blended learning environment.



256

days of educational opportunities



14,191

attendees at education events throughout the year



38

online courses made available

Training

IOCS delivered more than 1,100 hours of education over 256 days to Indiana’s judicial branch and justice system stakeholders.

Programming covered a variety of subject areas, including:

- Court preparedness during the pandemic
- Race, poverty, and equity
- Cultural and language competency
- Labor trafficking, immigration, and visas
- Adoption, foster youth advocacy, and guardianship
- Neuroscience of addiction
- Community supervision and risk assessment

In October, justice system stakeholders attended a summit to learn how to implement Criminal Rule 26 with risk assessment tools, supervision strategies, and other pretrial practices.

Online learning

The Division produced 49 live webcasts and managed the Indiana Courts Education Network, a website that delivers electronic on-demand training to judicial branch staff and stakeholders. By the end of the fiscal year, 38 courses were available to over 500 active users.

During an education event in 2019, Jennifer Storm retold the story from her book *Blackout Girl* about her experience with addiction as a teenager.



The Justice Services Division works with criminal and juvenile justice stakeholders to provide supervision, services, and support to court-involved individuals and families. The Division offers alternative programs for youth and supports evidence-based practices in pretrial and sentencing.

Certified courts & programs

The Division certified eight and recertified 28 problem-solving courts during the fiscal year, bringing the total number of these courts to 111 across the state. Another 16 problem-solving courts were in the planning stages at the end of the year.

The Supreme Court continued its partnership with the Governor and the Department of Child Services to expand the number of certified family recovery courts to 14, with six in the planning stages by the end of the fiscal year.

Indiana has 53 certified court alcohol and drug programs, 14 of which were recertified by the Division during the fiscal year.

IOCS awarded over \$1.2 million in grants to 25 veterans treatment courts with funding appropriated by the Indiana General Assembly and over \$574,000 in grants to 63 problem-solving courts with funding from the Supreme Court. IOCS also awarded more than \$1 million in grants to 18 family recovery courts, with funding from the Governor.

Pretrial release

IOCS facilitated training sessions at the October Pretrial Summit and provided technical assistance to pretrial services agencies throughout the fiscal year. More than \$2.5 million in grants were awarded to 26 Indiana counties for local pretrial efforts. As a result of the Judicial Conference approving the Pretrial Services Rules, IOCS certified the first county-level pretrial services agency during the fiscal year.

Juvenile detention alternatives

IOCS provided more than 80 hours of education to approximately 1,100 stakeholders in 32 counties participating in the Juvenile Detention Alternatives Initiative. All counties received training on how to conduct Equity Impact Assessments on local policies. Through the pandemic, JDAI supported counties by providing assistance focused on case processing, remote supervision, and supporting youth and families.

Interstate compact

The Division administered the interstate compacts for adult and juvenile supervision, processing 9,772 adult cases; 1,360 juvenile cases; 224 runaways; and 245 travel permits during the fiscal year. Staff provided interstate compact training for judicial officers, prosecutors, defense attorneys, and probation officers from 32 counties.



11,601

matters handled by interstate compact staff



\$2.5 Million

in grants awarded to 26 counties for local pretrial efforts

CRIMINAL *Justice* REFORM

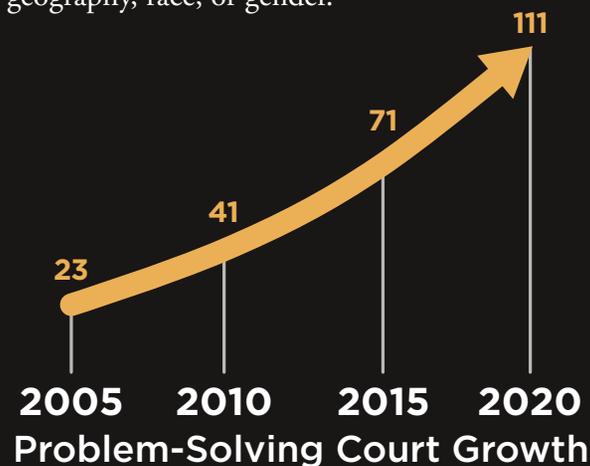


The Pretrial Summit drew criminal justice stakeholders from around the state.

Criminal justice reform efforts have focused on increasing collaboration and looking at research to inform decision-making. Risk assessment, pretrial release, criminal code reform, and problem-solving courts are a few examples of these efforts.

The October 2019 Pretrial Summit focused on Criminal Rule 26, pretrial risk assessment, legal foundations of bail and pretrial release, best practices in pretrial supervision, and local pretrial practices. Nearly 800 justice partners joined together to work on criminal justice reform in their communities.

Under pretrial and criminal justice reform, lower-risk offenders should be released without having to post bail. Indiana courts are using all available information to ensure that fairness prevails for all Hoosiers, regardless of wealth, geography, race, or gender.



Numerous groups in the criminal justice system continue working to implement fairness while preserving public safety:

- The Jail Overcrowding Task Force issued a report detailing initial, short-term, and long-term recommendations, as well as noting that real solutions will be specific to each county
- The Justice Reinvestment Advisory Council issued a report covering five policy and practice areas for possible local, regional, and statewide solutions to bail reform and pretrial issues
- The Indiana Pretrial Pilot Project, as a branch of the Evidence-Based Decision Making initiative, established Pretrial Services Rules to form the basis for voluntary certification of counties implementing pretrial best practices
- By the end of the fiscal year, 111 certified problem-solving courts promoted outcomes that not only benefited the justice-involved individual and their family, but also the victim and society

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.

**63**

county visits

**834**

public record requests

**79**

bulk data requests

Physical assistance to courts

IOCS visited over 63 courthouses and provided guidance to clerks and court staff on record retention. Training sessions on court record confidentiality, new case types, and procedures for collecting court statistics were presented to organizations, including the State Board of Accounts and the Association of Clerks of Circuit Courts of Indiana.

During the first few months of the pandemic, the Division researched and produced guidance on holding remote hearings, the impact of federal and state emergency orders on foreclo-

sure and eviction proceedings, and maintaining court operations during the state of emergency. The Division worked closely with Supreme Court Services and the General Counsel to review all continuity of operation plans for county trial courts and city/town courts.

Statistical analysis

IOCS received 834 requests for public court records, an increase over the previous fiscal year.

The Division reviewed 79 bulk/compiled data requests and assessed caseload allocation plans for 36 counties to ensure an even distribution of cases.

Published information

During the fiscal year, IOCS compiled 48 issues of *Case Clips* summarizing 197 cases, posted approximately 140 entries to the *Legislative Updates* blog detailing work of the General Assembly that is of interest to the judiciary, and published the *2018 Judicial Service Report*, which includes:

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

The Programming & Projects Division works to ensure equal access to justice through initiatives focusing on families, children, victims of domestic violence, and others.



\$6.2 Million
in GAL/CASA grants
to counties*



\$275,000
in court reform
grants awarded



\$225,000
in family court
grants awarded

Protecting Hoosiers in need

The Adult Guardianship Office awarded more than \$1.3 million in grants to volunteer-based programs, expanded the statewide online guardianship registry to over 80 counties, and helped three courts pilot an accounting project which identifies financial exploitation. Twenty guardianship programs served close to 800 vulnerable and incapacitated adults in 50 counties.

The Indiana State Office of GAL/CASA marked 30 years of advocating for abused and neglected children. GAL/CASA programs provide volunteer advocacy in 86 counties. In calendar year 2019, the State Office awarded nearly \$6.2 million in grants to support certified programs; and nearly 4,500 volunteers advocated for more than 24,000 children involved in abuse and neglect cases.

The Family Violence Resource Attorney trained over 500 judicial officers, court employees, attorneys, advocates, and law enforcement personnel on human trafficking, updates to the civil protection order statutes, family violence, criminal domestic violence, and sexual assault issues.

During calendar year 2019, the Family Court Project supported 20 counties and over 4,100 families through court-related programs, providing support to litigants such as document preparation, co-parenting counseling, and legal assistance.

Ten counties were awarded Court Reform grants during the 2019 calendar year to extend resources for Medication Assisted Treatment, in support of the development of a mobile application to monitor substance-use offenders, and to improve courthouse security.

The Court Improvement Program awarded more than \$22,000 in professional development scholarships and over \$70,000 in grants supporting mediation and facilitation programs, family dependency drug courts, outreach activities, and training programs. CIP also devoted nearly \$100,000 to support technology in juvenile courts.

Promoting equal justice

Since 1997, the Indiana Conference for Legal Education Opportunity has helped over 600 diverse scholars enter law school. Twenty-three ICLEO fellows completed the 2019 summer intensive preparatory institute and enrolled in an Indiana law school.

*calendar year 2019



Justice for All

In the 2020 State of the Judiciary, Chief Justice Loretta Rush asked the General Assembly to consider increased legal aid funding. Indiana needs a legal system where the poor, disadvantaged, and vulnerable are protected. Chief Justice Rush emphasized that “in making this request for help, we are not passing off a problem. We are already doing a great deal to ensure courts are open and fair to all.”

An increase in civil legal aid will close the gap between needs and resources, producing a greater benefit to Indiana as a whole. The Court, its agencies, and its partners continue to advocate to ensure that access to justice means access for all.

- During the fiscal year, the Coalition for Court Access, chaired by Justice Slaughter, continued adding self-help forms and connections to legal service providers on indianalegalhelp.org
- In the 2018 calendar year, Indiana lawyers contributed nearly 275,000 hours at no charge and over \$1 million to *pro bono* legal needs services
- As of January 2020, Indiana law students volunteered 100,000 hours to assist with access to justice
- During the fiscal year, the Civil Legal Aid Fund provided monetary assistance to private nonprofit organizations that provide civil legal services to low income Hoosiers

195,411

hours provided at a reduced charge



274,695

hours provided at no charge



\$1+ million

contributed to *pro bono* services



Justice Slaughter chairs the Coalition for Court Access, which provides connections to legal service and more.

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 over one-third of those. Supreme Court Services also administered the Court's weekly conference agenda, oral argument schedule, and case statistical reporting.



1,811
orders drafted



30
original actions received



338
legal memoranda drafted



913
cases overseen & presented
to the Court for review



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.

Increase in distance education

Distance education credits for attorneys increased over 300% during the fiscal year. This was the first full fiscal year in which Admission & Discipline Rule 29 allowed attorneys to earn up to 18 distance education credits within their three-year CLE reporting cycle. In March, in response to the pandemic, the Court relaxed limitations on distance education credits to ensure continued education with social distancing.



62,934

distance education credits reported by attorneys

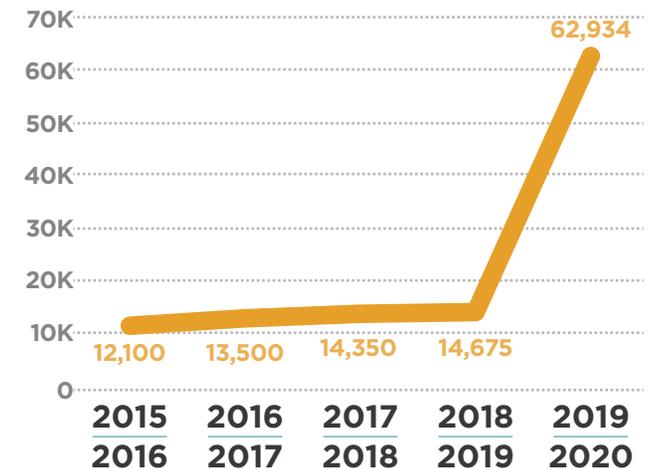


15,741

continuing education courses accredited

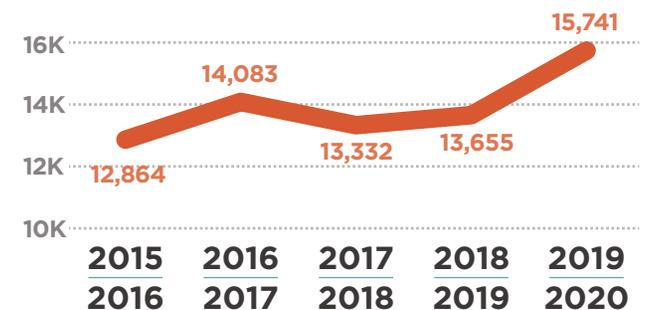
Distance credits reported

Five-year comparison



CLE courses accredited

Five-year comparison

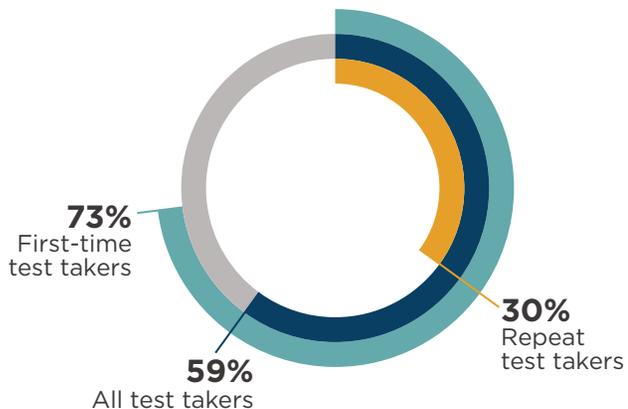




415 of 703
applicants passed the
bar exam

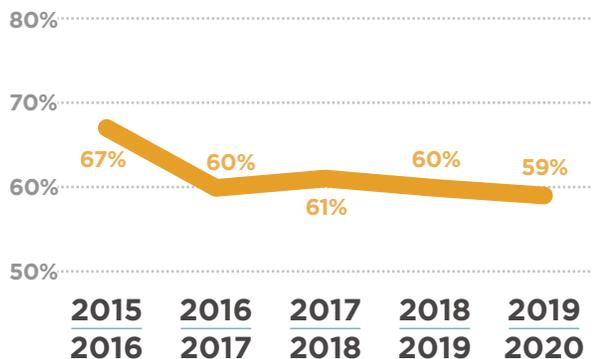
Successful test takers

First-time test takers, repeat test takers, and the average success rate for this fiscal year.



Bar exam average success rate

Five-year comparison



New lawyers take their oath at the October 2019 bar admission ceremony.

Bar exam

The bar exam is administered twice a year, in February and July. During the fiscal year, 415 of 703 applicants passed the exam.

In December, the Study Commission on the Future of the Indiana Bar Exam submitted its final report to the Court, which evaluated the content and format of the exam and recommended whether changes are warranted.

Virtual bar admission ceremony

The pandemic did not prevent the Supreme Court from celebrating the admission of bar applicants who were successful on the February 2020 Indiana bar exam. On May 5, the Su-

preme Court hosted the first-ever remote bar admission ceremony, during which applicants introduced themselves and were admitted to the Indiana bar and the United States District Courts for the Northern and Southern Districts of Indiana.

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 admissions on motion include foreign license and limited business counsel license. During the fiscal year, 62 out-of-state lawyers were admitted on motion in Indiana.





Bar Exam Study Commission

IN December 2018, the Supreme Court established the Study Commission on the Future of the Indiana Bar Examination to evaluate current developments in bar admissions and make recommendations to the Court regarding the bar exam.

Over the next year, the 14-member Commission held 12 public meetings at the Indiana State House where leaders and experts on bar admissions, testing, and the legal profession were invited to share their ideas either in-person or virtually. The Commission also solicited comments from the legal community with nearly 200 letters and comments received.

The Commission delivered its final report to the Supreme Court in December 2019, prior to the start of the pandemic. The report consists of a series of in-depth findings and recommendations regarding the format and content of the exam, whether the passing score on the exam should be retained, how the exam should be scored,

and whether the exam has a disparate impact on any particular groups.

Among the Commission findings are that Indiana should join the 37 states that presently offer the Uniform Bar Examination, administered and scored by the National Conference of Bar Examiners, by replacing the six-question Indiana Essay Examination with the six-question Multistate Bar Examination. The report also proposed that the current passing score on the Indiana bar exam should be retained and that all bar exam applicants be required to complete an Indiana state-law-specific component—a class, test, or combination of the two—within six months of being admitted to the bar.

The Supreme Court is considering the Commission's findings to determine what, if any, adjustments should be made to the exam. Unrelated to the work of the Commission, the Court approved adjustments to the exam in 2020 because of the pandemic.

Twelve of the Commission's 14 members.



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 our profession. All interactions with JLAP are confidential.

Improving well-being

JLAP increased efforts to assist legal employers in proactively improving the well-being of their workforce. When specific challenges to well-being arose or after traumatic events in the workplace, JLAP met with small groups and individuals to offer guidance and encourage resilient coping. Additionally, JLAP took therapy dogs to visit law firms, courts, and law schools throughout the fiscal year.

Fostering connection in isolated times

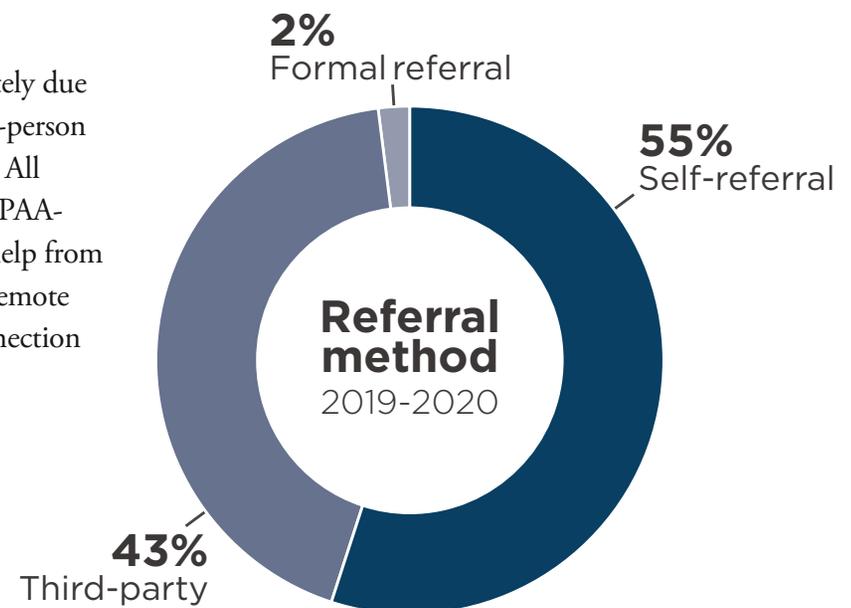
When court agencies began operating remotely due to the pandemic, JLAP transitioned from in-person support to assisting via phone or video chat. All existing support groups were moved to a HIPAA-compliant video-conference platform with help from Court Technology. JLAP launched weekly, remote support groups geared toward fostering connection and combating isolation.



109
peer support group sessions



Over 4,600
people attended 78 presentations about JLAP



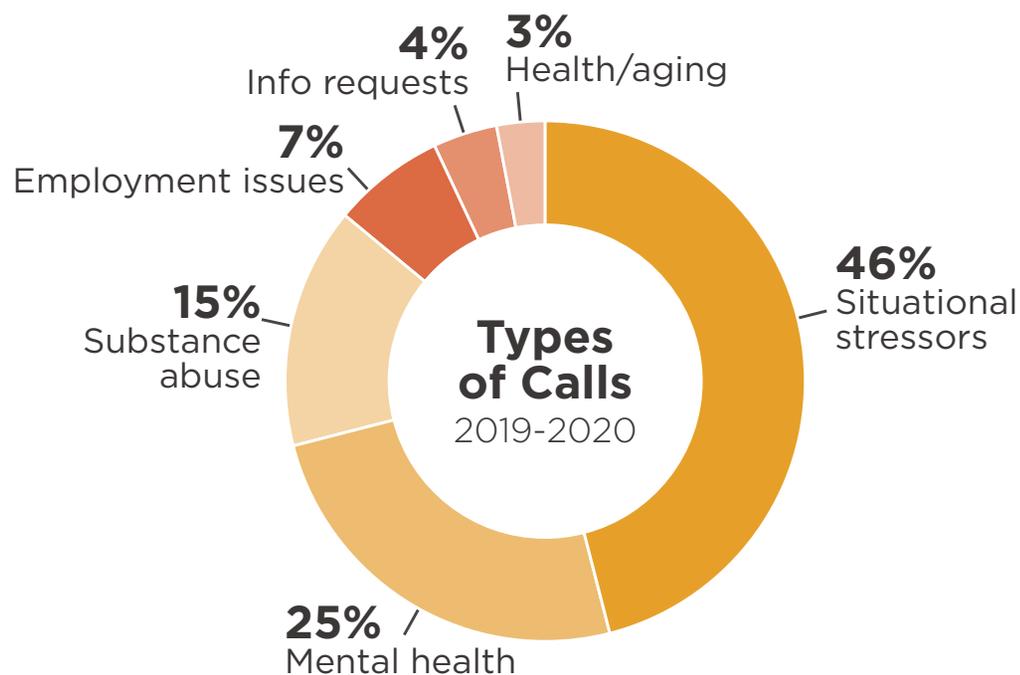
Collaboration through ISBA

JLAP strengthened its partnership with the Indiana State Bar Association through several programs:

- *Mindful Monday* presentations with ISBA's Wellness Committee focused on how to maintain connections, manage emotions, and stay resilient during the pandemic
- ISBA's Solo and Small Firm Committee invited JLAP to virtually present a well-being message to 400 attendees
- The *Just Mercy and Access to Justice* CLE highlighted racial inequity

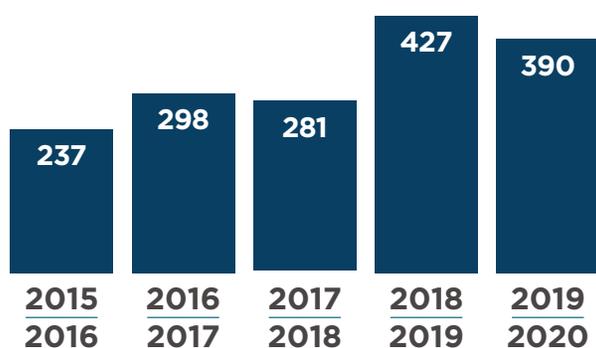
Strengthening the future of the profession

JLAP's outreach efforts, onsite at IU Maurer and McKinney law schools prior to the pandemic, transitioned to weekly and individual support by phone or video chat. The efforts created a 5% increase in law student referrals from last fiscal year.



Calls for help

Five-year comparison



18%
of calls for help
from law students



390
total calls for assistance

Disciplinary Commission

G. Michael Witte, Executive Director

The **Disciplinary Commission** is responsible for investigating attorney misconduct, prosecuting lawyer discipline proceedings, and providing ethical guidance to lawyers. The Commission is primarily a reactive agency that responds to grievances filed by other individuals.

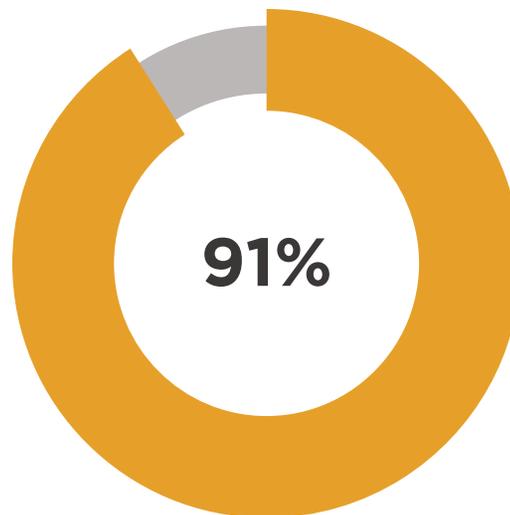


35 verified complaints

Misconduct charges filed by the Commission

Dismissed summarily

91% of complaints were dismissed by the Commission as having no valid issue of misconduct.



Related Information

Discipline matters received and disposed by the Court PAGES 10-15

COMMISSION BUSINESS FISCAL YEAR STATISTICS

82 Commission Grievances

35 Verified Complaints

42 Counts of Misconduct

90 Final Orders of Discipline

49 Overdraft Notices

55 Overdraft Inquiries Closed

257 CLE/Fees Suspensions

Caution Letters

During the fiscal year, the Commission issued 17 caution letters for violations of the Rules of Professional Conduct. Rule violations that were addressed more than once included:

- **Rule 1.4:** Diligent communication with client
- **Rule 1.8:** Conflict of interest
- **Rule 3.3:** Candor toward the tribunal
- **Rule 4.4:** Respect for the Rights of Third Persons
- **Rule 8.4(b) & Admission and Discipline Rule 23(11.1):** Failure to self-report a criminal conviction

Ethical Guidance

The Commission received 121 requests for informal guidance. Over half of the inquiries referenced current client conflict of interest (Rule 1.7), declining or terminating representation (Rule 1.16), confidentiality (Rule 1.6), and former client conflict of interest (Rule 1.9). The remaining inquiries dealt with 31 other Rules of Professional Conduct.

Pandemic

While complaints were down overall from past years, likely due to the pandemic, the Commission continued receiving grievances and license inquiries throughout the fiscal year. Commission staff operated remotely and held the first lawyer discipline remote trial in June.

CASE HIGHLIGHTS

ATTORNEY DISCIPLINE ALLEGATIONS
REVIEWED BY THE COMMISSION

1142 Complaints submitted *requests for investigation against attorneys*

1040 Dismissed summarily *no valid issue of misconduct*

102 Complaints *investigations*

72 Dismissed after investigations

30 Investigations pending *at the end of the fiscal year*

DISCRETIONARY DISPOSITIONS, CORRECTIVE ACTIONS, AND REFERRALS

CASES REVIEWED BY THE COMMISSION

17 Caution / Warning letters sent

21 Sent back *not a commission matter / no attorney listed / illegible*

20 Dismissed pending reinstatement *attorney already suspended*

4 Dismissed as moot due to death

7 Referred out *to JQC / other states*

20 Referred to local bar for investigation



Ethical Questions

Disciplinary Commission provides informal ethics guidance to attorneys

Since 2018, the Disciplinary Commission has provided informal ethics guidance to any Indiana licensed lawyer in good standing. The service allows a lawyer to confidentially submit an ethical conduct question to Commission staff by writing electronically through the Indiana Courts Portal. The Commission has restrictions and will not provide guidance on issues including another lawyer's conduct, pending litigation, or lawyer advertising.

The informal guidance process is known as a pointer system. The Commission points the lawyer to applicable rules, official comments, caselaw, and legal articles on the topic. The Commission does not directly answer the question posed, so that Commission staff cannot later be subpoenaed as a witness in a legal proceeding where lawyer ethics are at issue. The pointer system gives the inquiring lawyer insight to the Commission's analysis and legal sources should the facts evolve to an actual misconduct investigation.



256 requests
for informal guidance
since 2018

Sample response

You have recognized a Rule 4.2 situation. Please see Comment (4) to the rule regarding communications between the parties without their lawyers' involvement. Also, see Comment (6) regarding permissible by-pass communication and *In re Jones*, 999 N.E.6d 999 (Ind. 2024).

The response points the lawyer to legal authority, hints to where the case may lie after Commission analysis, points to possible relief from ethical restrictions, and cites a reported case that might lend instruction.

Office of General Counsel

Brenda F. Rodeheffer, General Counsel

The **Office of General Counsel** provides legal services to Supreme Court agencies, including drafting internal policies, reviewing contracts, and ensuring compliance with federal law. The Office oversees language access, provides contract and employment law counsel to state courts, and processes payroll and benefits for judicial branch officers. The General Counsel also consults with the Attorney General on litigation involving the courts as a party.

The Office staffs the Judicial Qualifications Commission and Judicial 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.

Assisting judges and staff

During the fiscal year, the Office led 22 trainings and provided 356 consultations with judges and court staff managers on employment and liability issues. The Office reviewed 209 contracts for legality and form and processed 136 motions seeking appointments of special judges.

The Court Interpreter Certification Program awarded over \$860,000 in 51 grants to courts for interpreter services promoting equal access to the courts. There are 50 spoken and sign languages available for the nearly 15,000 cases in which court interpreter services were used.

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

Chief Justice selection

In August 2019, Chief Justice Loretta Rush was appointed for a second 5-year term as Chief Justice in a unanimous decision by the Commission.



754
judges' and prosecutors'
payroll processed



356
consultations on employment
and liability issues



93 senior judges
10 newly certified and
83 recertified



14,452
cases where court interpreter
services were used*

**calendar year 2019*



Left: The Judicial Nominating Commission prepares to interview seven finalists for a vacancy on the Court of Appeals. **Right:** The Governor signs a declaration appointing Leanna Weissmann.



Court of Appeals Vacancy

In January 2020, Court of Appeals Judge John Baker announced his intent to retire. The JNC solicited applications; interviewed 13 applicants in June; and invited back seven finalists for a second interview in July. The Chief Justice, on behalf of the JNC, submitted Judge Lakshmi Reddy, Ms. Lisa Reger, and Ms. Leanna Weissmann as the three nominees to the Governor for consideration. On September 1, Governor Eric Holcomb selected Weissmann as the next judge on the Court of Appeals.

Judicial Discipline

During the fiscal year, JQC received 498 complaints alleging judicial misconduct. One hundred one were waiting for review at the end of the fiscal year.

Three hundred sixty-eight were dismissed summarily as failing to raise valid issues of judicial misconduct or were dismissed following informal investigation by JQC staff and a determination that no misconduct occurred.

In the remaining 29 cases, the Commission either required the judge to respond to the allegations or conducted formal inquiries or investigations. Three judges were suspended



498
complaints received



368
dismissed summarily



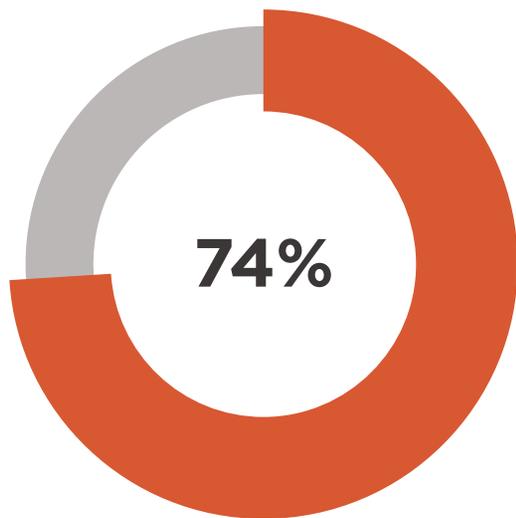
101
complaints waiting review

(one for 60 days and the others for 30 days) after being intoxicated and involved in a profane verbal altercation that became violent. In a separate matter, another judge received a public reprimand for abusing the power of his office in a dispute with county officials regarding benefit payments for his drug court coordinator.

One matter was dismissed as not establishing ethical misconduct; three were closed after the judicial officer resigned; one was closed after the judicial officer took corrective action; and two were closed after the complainants withdrew their complaints. In addition, the JQC issued two advisory letters, two private cautions, and three deferred resolutions. At the end of the fiscal year, there were eleven pending investigations or charges filed.

Dismissed summarily

74% of complaints were dismissed by the Commission; 6% resulted in formal investigations; 20% were waiting for review.



JUDICIAL DISCIPLINE ACTIONS

BREAKDOWN OF 29 CASES

- 11 Pending investigations or charges
- 3 Suspension
- 1 Public Reprimand
- 2 Private Cautions
- 3 Deferred Resolutions
- 2 Advisory Letters *(not classified as formal discipline)*
- 4 Investigations Closed *(after resignation/corrective action)*
- 1 Investigations Closed *(with no misconduct found)*
- 2 Investigations Closed *(after complainant withdrew)*

Related Information

Discipline matters received and disposed by the Court PAGES 10-15

Human Resources

Fred Burks, Human Resources Director

The **Human Resources Office** provides services to Supreme Court staff and agencies, including drafting internal policies; hiring, performance, and employee engagement; and processing payroll and benefits.

During the fiscal year, the Human Resources Office facilitated leadership training for Supreme Court managers and conducted lunch & learns for staff. These events provided time for employees to connect with each other, in person or remotely, and learn more about various topics such as health benefits and diversity in the workplace.

The Office managed the annual performance review process designed to engage employees, provide a record of employee performance, and allow the Court to improve pay parity.

The Office also assisted with hiring 32 new employees, which required hundreds of job postings, interviews, background checks, and pay analyses.



251

Supreme Court employees' payroll and benefits processed



21

trainings provided to Supreme Court staff



A group of Supreme Court staff walk together alongside the canal near the Government Center in Indianapolis.





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ON THE COVER

Indiana's five Supreme Court justices after hearing an oral argument at Parke Heritage High School.

PHOTOGRAPHY

Chris Bucher, Kathryn Dolan, Josh Hicks, Sarah Kidwell, John McGauley, David Sexton, Nita Wright, and other friends of the Court.

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