

“Most Justice Happens in the County Courthouse”

State of the Judiciary Address

To a Joint Session of the Indiana General Assembly

By Chief Justice Randall T. Shepard

January 17, 2007

Governor Daniels and Members of the General Assembly:

When I have been privileged to give you this annual report, I have usually spoken less about the Supreme Court or the Court of Appeals or the Tax Court, and focused instead on advances we have made in Indiana’s trial courts, in the county courthouses, or in our city and town courts.

This emphasis flows partly from the fact that the Constitution requires that I report to you on the “condition of the courts” generally and designates my office as Chief Justice of Indiana rather than Chief Justice of the Supreme Court.

There is a more important reason why I spend so much time and energy on the work of Indiana’s trial courts. There were about 1.6 million new cases filed last year (about 70,000 more than the year before). More than 99% of those cases started and finished before a judge or jury in a trial court. Put another way, like justice in every state, justice in Indiana is either delivered or not delivered in the 170 courthouses and city and town halls where we hold court. Nothing in state government engages more Hoosiers more often than the court system. Maybe forty percent of the adult population comes through our doors in any given twelve months.

This is hardly a new feature of American life. You will recall that a young Frenchman named Alexis de Tocqueville came through America during the early 1830s, and his journals reflect that the widespread and local nature of the system of justice made a strong impression on him.

An Electronic BMV System

I was reminded of this recently as I worked through a pile of invoices for payments to local courts, places like Bluffton, East Chicago, Aurora, and Evansville. You know that our most ambitious project is the creation of a statewide case management system, to which we are completely committed. But that pile of invoices reflected a genuine success achieved in 2006.

Automobiles are everywhere, and the traffic violation system is a feature of government that finds its way into every metropolis and every hamlet. People who plead guilty or who are found guilty of speeding, or running a stop sign, or drunk driving are penalized and the record of that goes to Indianapolis, from time immemorial, on paper. Somebody in the courthouse typed up a report and mailed it to Indianapolis, where another public employee keypunched it in again.

Since the early 1990s, the Bureau of Motor Vehicles has been striving to arrange for this to be done electronically. But by the beginning of 2005, of the 200 courts where most traffic cases are heard, just 33 had been enlisted to transmit electronically. Today, two years later, 156 courts do that.

This progress has been possible only because of the efforts of the Judicial Technology and Automation Committee (JTAC), chaired by Frank Sullivan, and the staff who work for Lilly Judson, State Court Administrator, and Mary DePrez, and by the excellent cooperation we have received from the Bureau of Motor Vehicles.

Why does that matter? Under the paper system it took seven weeks for data from local courts to show up in the state's computers. So, the fellow who got arrested for drunk driving and had his license suspended pending trial could leave the courthouse in his car, head toward the tavern, and when stopped for running a red light be turned loose, because the information available to the officer showed the driver had a license in good standing. Those days will soon be gone.

Combating Domestic Violence

And that brings me to something else we are doing in technology -- to help combat domestic violence. Just yesterday, we began the first operation of a new electronic registry for protective orders in two lead counties, Blackford and Tippecanoe. A major hole in the protective shield that these orders represent has been the inability of law enforcement officers to access protective orders. When a battered ex-spouse calls the police because she sees her abuser waiting outside a restaurant in Blackford County, how does the responding officer know whether the court next door in Delaware County actually issued a protective order, or what that order requires?

Now, officers will be able to access protective orders electronically statewide to better protect domestic violence victims, 9000 of whom fled to shelters last year. This, too, has only been possible through close collaboration among our court technology staff,

local courts and prosecutors, by JTAC, the Indiana Criminal Justice Institute, and the State Police. We can do more to protect these victims, and we will.

Better Advocacy for Children

Our work protecting children at risk is also changing dramatically as we implement the decision you made during the 2005 session to mandate court appointment of an advocate for every child who comes to court because of abuse or neglect. This mandate was good policy, which is why it passed both houses by unanimous votes. We are implementing it in the most cost-effective way possible: recruiting and training volunteers to be mentors and advocates for the abused or neglected child and only for the child, one child at a time.

This sort of child advocacy and mentoring, like the increase in child protective caseworkers you authorized, can really matter.

Kelly Russell came into the juvenile system when she was eleven. She and her two brothers lived in a house where their parents manufactured meth. Over the seven years Kelly spent under agency and court protection, she stayed in four foster homes, two residential homes, three juvenile facilities, and the Girls' School. One of the few stable and consistent figures in Kelly's life was her court-appointed volunteer advocate Gloria Parish. Kelly is today a biology graduate of Purdue University, she's married, lives in West Lafayette, volunteers her own time to train new child advocates and tells anybody who'll listen that she wouldn't be where she is today if she didn't have Gloria Parish.

We have to do everything we can to replicate that story. It's why the decision you made in 2005 was the right one, even though you knew it would cost some money. The fiscal note for the 2005 legislation was \$4.5 million, but there was no appropriation for the current budget. Fortunately, the Department of Child Services committed \$500,000 in federal funds as a start toward implementing your decision.

The Budget Committee has now recommended an appropriation that approaches the original estimate, Representatives Avery and Klinker have made child advocacy a hallmark of their public service, and it was Governor Daniels who urged these improvements to our child protective arrangements. Today, I just say, in the words of a famous Brit: "Give us the tools, and we will finish the job."

Courts that Solve Problems

I want to report about work in our trial courts to make us smarter about crime. Trial court judges have devised new ways to separate the worst offenders, who should occupy cells at DOC, from defendants who can safely be handled in specialized, intensive programs close to home. These local initiatives have been spread across the state through the hard work of the judges themselves and through support from our Indiana Judicial Center and from State Court Administration.

You have frequently confirmed these initiatives through legislation and given us the ability to expand the best of them. Ten years ago you asked us to begin certifying local court programs that deal with drug or alcohol offenders and to train their personnel. Does the local court probation officer have the sort of training and support necessary to assess whether an offender can be sent to treatment or must be committed to prison? Five years ago you asked us to begin training and certification for local drug courts. Last year you asked us to begin doing that for “re-entry courts.”

The general name for these efforts is “problem-solving courts.” This reflects attention paid not just to whether the court conducts a trial and imposes a sentence, but to whether the particular sentence imposed does the best job possible for the least expense at preventing an offender from re-offending. Some city and county governments and local social agencies, and in a few instances Department of Correction, have been willing to put up money to build on this promising approach. So, we now have some 40 communities where these very intensive programs operate.

We have also been examining the effectiveness of these enterprises, drug courts, in five counties. We have early results for two of them. Offenders assigned to the Vanderburgh County Drug Court at a cost that’s half what traditional imprisonment costs for comparable offenders, re-offend 17% less often than the people sent to prison. Put another way, the results for the St. Joseph County Drug Court show that 85% of offenders sent to prison are re-arrested within three years, as compared to 54% for drug court offenders. More of this sort of progress can be made in other communities, and we have been grateful for your help in making it happen.

Addressing the Language Barrier

Perhaps the most dramatic sight last year was hundreds of court employees, court clerks and judges trooping off to Spanish class so they could communicate with people who speak little or no English. Think about the variety of questions posed to court staff, such as, “What court do I go to?”, “When is my next court date?”, “Where is the Clerk’s office?”, and the ability of court staff to reply to the questions. Language differences can make court processes difficult for everybody.

To help overcome these barriers, the Indiana Supreme Court partnered with Ivy Tech Community College to develop a WorkPlace Spanish® Training Program for Indiana’s courts, featuring 24 hours of classroom instruction and a textbook with companion CD to help people maintain the skill learned in class. These classes are held at one of the 17 Ivy Tech regional campuses.

Since the program started last summer, almost 500 people from local court offices and clerks’ offices have enrolled in this course from 34 different counties, including Perry, Posey, Pulaski, Scott, St. Joseph, Stark, Tippecanoe, and Tipton. Why does this matter? When interviewed by the *Wabash Plain Dealer*, Judge Robert McCallen told about a student participating in a Day Reporting Program who would periodically turn to his parents in the audience. Judge McCallen first thought that the student was not paying attention to the proceedings, but later realized the student was actually translating for his parents.

Initiatives like this language program, and the enthusiasm with which local court personnel have greeted it, reflect a strong determination to serve people of all backgrounds, litigants, witnesses, relatives, and anyone else who enters the courthouse hoping for justice.

Such projects might be launched by a single court or a single county, but it is much more difficult. In the example I just mentioned, Judge Barbara Brugnaux of Terre Haute generated the idea for a language program. A committee she chaired and our Judicial Center put together the plan with Ivy Tech, tested it in the courts of Vigo County, and then the Supreme Court rolled it out, at state expense, an expense lower than it might have been because we only had to invent it once and because we were buying in volume.

A good court system, like a good state government, has room for both local innovation and state participation. And I want to mention two other areas of court work that might be improved through similar approaches: indigent criminal defense and

probation/community corrections. In both of these, Indiana still maintains a relative patchwork, financed partly through local property tax, and partly by fees, and partly by the state general fund. We would represent indigents more effectively and cost-efficiently, and we would save money in the DOC budget, if these efforts were instead budgeted by the state. I mention these today because of the upcoming discussion about property tax relief. Neither of these services represents enough money to stand alone as a means of significant property tax relief, but they would be good parts of a larger package, in part because the burden falls more or less equitably across every county.

Matters “Inside the Limestone”

Now yes, I’ve spoken today largely about local courts. All of this is not to say we do not tend to our knitting on matters assigned to the appellate courts or court administrative offices here in Indianapolis. Even international events affect our work -- as we periodically must replace judges or prosecutors called up for military duty, as Judge Terry Snow was when he recently spent a tour in Afghanistan, or as Judge Matt Hanson will be when he soon goes to Iraq to assist in prisoner evaluation. In another international vein, the need to build new courts in the former Soviet republics has led Indiana’s courts to a relationship with the Ukraine, whose judges have been traveling here to learn more about how to run a court system.

And as for appellate litigation, I should mention that while you have periodically added judges and magistrates to deal with growing caseloads in the trial courts, it has been 17 years since we added judges to the Indiana Court of Appeals, and since then the caseload has grown enormously. The Commission on Courts with Senator Bray in the chair and Representative Dvorak making the motion, has recommended adding three judges to the Court of Appeals. There are some natural barriers to this, including “the natural reluctance some might feel about giving a governor from the other party new judicial appointments.” Those are the words I used on January 17, 1990, when I asked a Republican Senate and an equally divided House to create judgeships that would be filled by Evan Bayh.

In the end, this has little to do with which party controls which house or who holds the Governor’s office. And it’s not about light work for appellate judges. The members of our Court of Appeals are working at record levels. It has to do with citizens who will increasingly ask all of us why they have to wait longer for a decision in their

case. We are now well above the number of appeals per judge that existed in 1990 when I last asked you to add a panel to the Court of Appeals.

And while we're on changes here in this building, I want to renew the offer I've made before to help make the case to our fellow citizens that better compensation arrangements that permit able people to serve or continue to serve in the legislature or the executive branch is in the best interest of our state's future.

Conclusion

Finally, my profession is often characterized as a center of contention and argument, and there is some truth to that. But it's also a place where good people do many fine things, frequently for pay, frequently for free. Just two weeks ago *The Madison Courier* reported a classic Indiana sort of event. There was an election contest in the joint circuit of Jefferson and Switzerland Counties between a practicing lawyer, Steve Tesmer, and the incumbent judge, Ted Todd. One thing helped set the tone of that campaign. The two candidates promised each other that whoever lost would swear in whoever won. And so it was, on December 29th, that a considerable crowd gathered to watch Steve Tesmer administer the oath to Ted Todd.

I think many people would be surprised to know how often moments with that sort of comradeship and respect occur in politics, in government, in Indiana. We in the judicial branch do what we can to make sure it will always be so.