



Indiana Supreme Court

ANNUAL REPORT 2021-2022



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Lindsey Borschel, Chris Bucher, Kathryn Dolan,
Katie Hall, Josh Hicks, Sarah Kidwell, Abbi Semnisky,
and other friends of the Court.

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Justices



Mark Massa

JUSTICE

APPOINTED

2012 by Gov. Mitchell E. Daniels, Jr.

EDUCATION

Indiana University;
Indiana University
McKinney School of Law



Steven David

JUSTICE

APPOINTED

2010 by Gov. Mitchell E. Daniels, Jr.

EDUCATION

Murray State University;
Indiana University
McKinney School of Law;

MILITARY SERVICE

28 years of Military
Service (Retired Colonel,
U.S. Army)



Loretta Rush

CHIEF JUSTICE

APPOINTED

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

EDUCATION

Purdue University;
Indiana University
Maurer School of Law



Christopher Goff

JUSTICE

APPOINTED

2017 by Gov. Eric J. Holcomb

EDUCATION

Ball State University;
Indiana University
Maurer School of Law



Geoffrey Slaughter

JUSTICE

APPOINTED

2016 by Gov. Michael R.
Pence

EDUCATION

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





Clockwise from top left: Justices Massa, Slaughter, and David chat before the 2022 State of the Judiciary; Chief Justice Rush greets lawmakers as she enters the House Chamber to deliver the State of the Judiciary; Justice Massa administers the Oath of Office to incoming Indiana Senator Gary Byrne; Justice David speaks to participants in the 2021 ICLEO Summer Institute in the Supreme Court Courtroom; at the same event, Justice Slaughter speaks to the ICLEO students as they prep for their first year of law school.





Clockwise from top left: Justices Goff and Slaughter, with Chief Justice Rush, present a certificate to former Judge Bob Mrzlack, who served as Interim Executive Director of the Disciplinary Commission while the Court searched for a new leader for the office; Justices Goff and Massa speak to trial judges at the Annual Judicial Conference; Chief Justice Rush happily takes a photo of the audience at a Judicial Conference event; the five justices at Lebanon High School before hearing a traveling oral argument there; Justices Slaughter and Goff and Chief Justice Rush participate in a moot court event at IU 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.



634
Cases Received



633
Cases Disposed



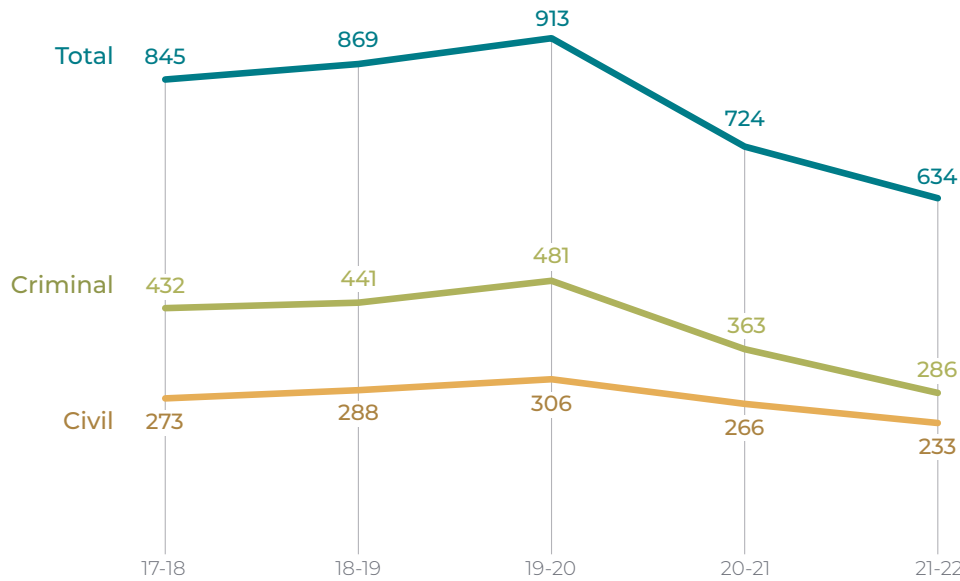
42
Transfers & Tax Reviews Granted



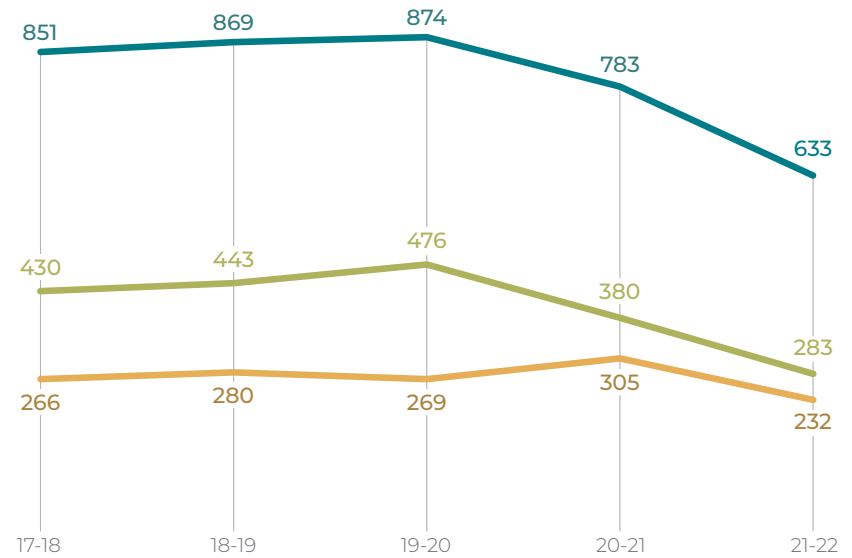
37
Oral Arguments

Trends

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



Cases received



Cases disposed

Inventory

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

	Pending 7/1/21	Received 7/1/21 – 6/30/22	Disposed 7/1/21– 6/30/22	Pending 6/30/22
Criminal	21	286	283	24
Civil	40	233	232	41
Tax	2	2	4	-
Original Actions	1	39	40	-
Board of Law Examiners	-	2	1	1
Mandate of Funds	1	-	1	-
Attorney Discipline	35	67	68	34
Judicial Discipline	-	2	1	1
Certified Questions	-	2	2	-
Unauthorized Practice of Law	-	1	1	-
Total	100	634	633	101



Cases

Received

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

Criminal

286

Petitions for rehearing	5
Direct appeals – life without parole	3
Post-conviction appeals – non-capital	47
All other criminal	231

Civil

233

Petitions for rehearing	1
All other civil	232

Discipline

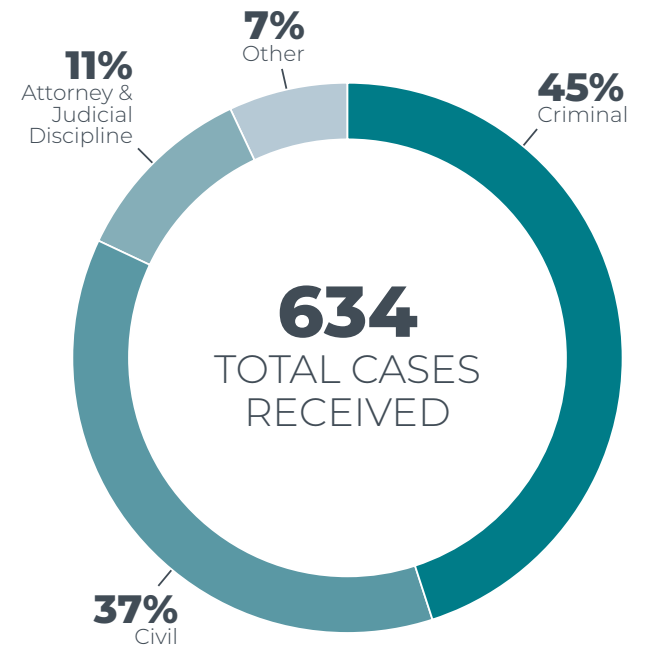
69

Attorney discipline matters	67
Formal judicial discipline charges	2

Other Types

46

Original actions	39
Tax Court petitions for review	2
Certified questions	2
State board of law examiners petitions	2
Unauthorized practice of law	1



Disposed

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

Criminal 283

Opinions on direct appeals	3
Opinions on petitions to transfer	12
Opinions on rehearing	1
Orders on rehearing	4
Petitions to transfer denied, dismissed, or appeal remanded by order	263

Civil 232

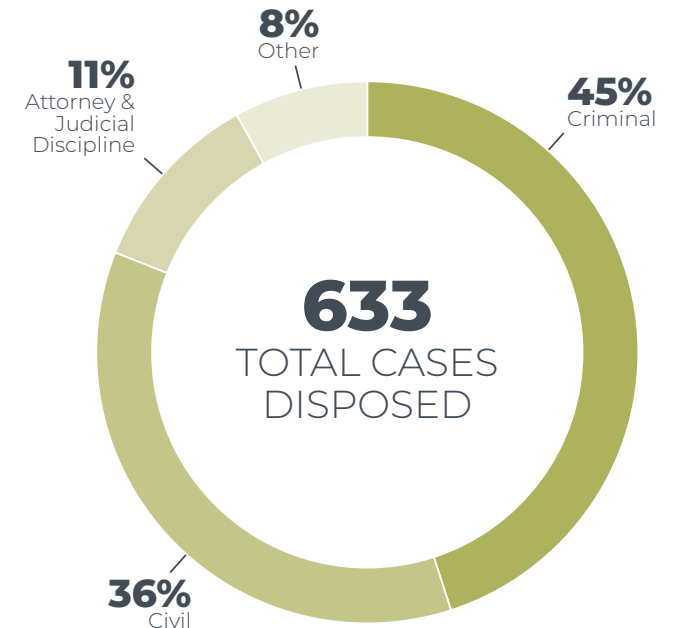
Opinions on petitions to transfer	32
Orders on rehearing	1
Petitions to transfer granted and remanded by order	1
Petitions to transfer denied, dismissed, or appeal remanded by order	198

Discipline 69

Opinions and published orders in attorney discipline cases	63
Other dispositions in attorney discipline cases	5
Opinions and published orders in judicial discipline cases	1

Other Types 49

Original actions disposed without opinion	40
Tax Court petitions for review	4
Certified questions	2
Mandate of funds	1
State board of law examiners petitions	1
Unauthorized practice of law	1



Attorney Discipline

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

Received

67

Petitions to show cause for noncooperation	26
Verified complaints for disciplinary action	16
Notices of findings of guilt (felony) and requests for interim suspension	7
Notices of foreign discipline and requests for reciprocal discipline	4
Petitions for reinstatement	6
Petitions to revoke probation	2
Petitions to terminate probation	5
Miscellaneous	1

Disposed

68

Dismissal on compliance with show cause order	11
Converting noncooperation suspension to indefinite suspension	6
Private reprimand	1
Public reprimand	5

Suspension with automatic reinstatement*	7
Suspension without automatic reinstatement*	5
Suspension with conditions/probation*	7
Suspension due to disability determination	1
Disbarment	1
Accepting resignation	1
Interim suspension on finding of guilt (felony)	6
Reciprocal discipline	2
Finding or judgment for respondent	1
Granting reinstatement	1
Withdrawal or dismissal of petition for reinstatement	1
Denying reinstatement	1
Revoking probation	1
Terminating probation	5
Miscellaneous dismissing or withdrawing action	2
Miscellaneous	3

*after verified complaint

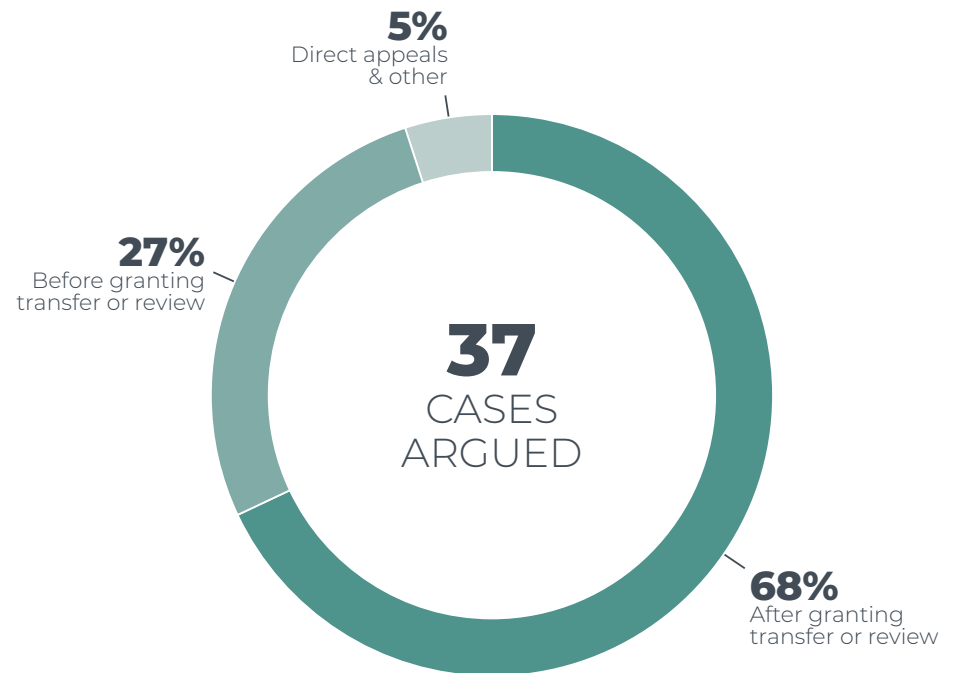
Oral Arguments

The Supreme Court heard 37 oral arguments during the fiscal year. Thirty-three arguments were held in the courtroom at the Statehouse, three were held remotely, and one took place at Lebanon High School in Boone County. All arguments were streamed live, recorded, and can be viewed online.

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

All Cases Argued

	37
Criminal (before decision on transfer)	5
Criminal (after transfer granted)	7
Criminal (direct appeals)	1
Civil/Tax (before decision on transfer/review)	5
Civil/Tax (after transfer/review granted)	18
Other case types	1



Opinions

Justices published 81 opinions during the fiscal year.



81

Total opinions



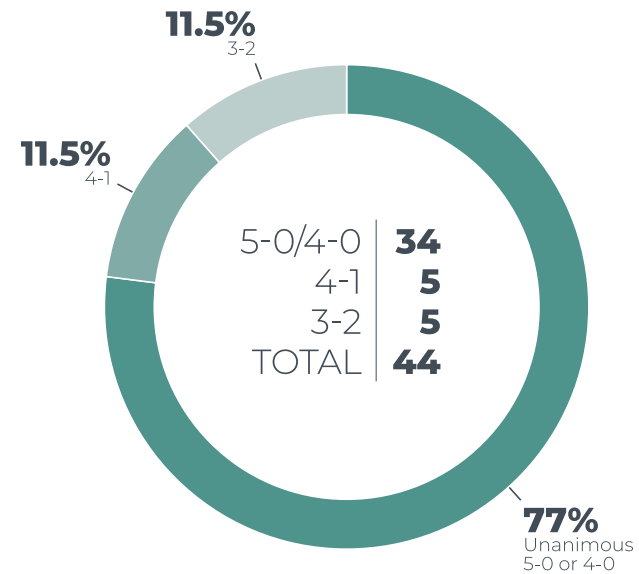
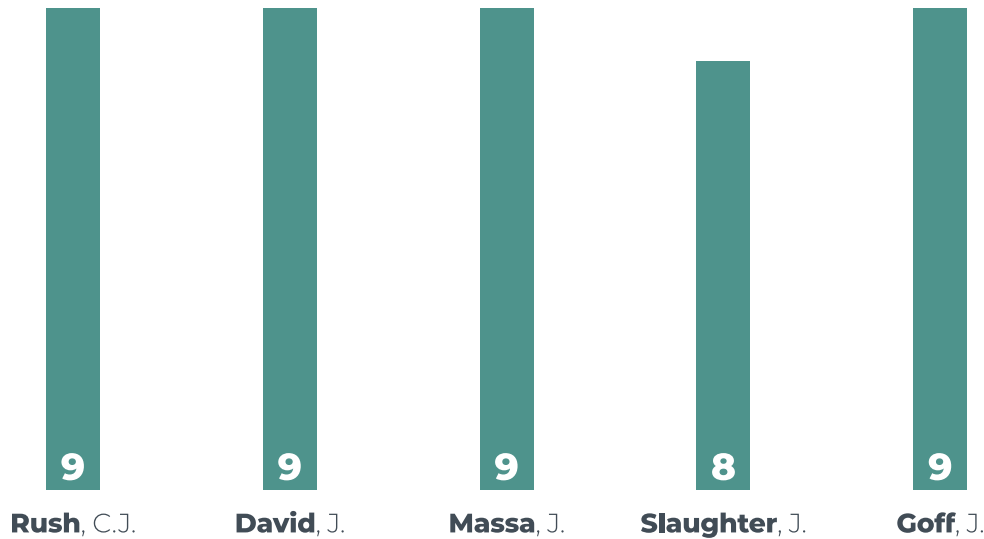
56

Majority opinions



25

Non-majority opinions

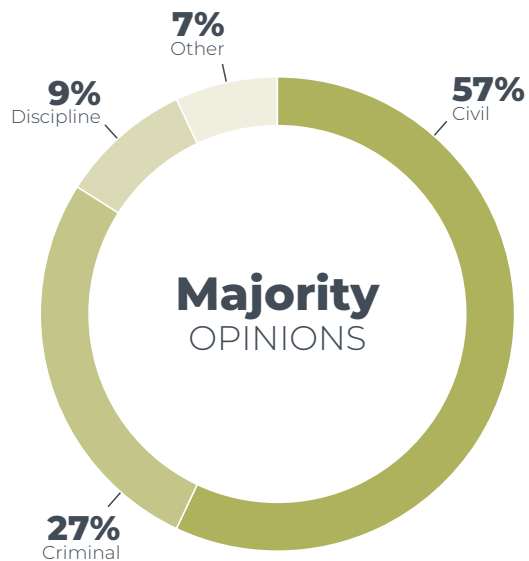


Majority opinions by author

In addition to 12 *per curiam* opinions handed down by the Court, the justices wrote 44 majority and 25 non-majority opinions.

Consensus of opinions

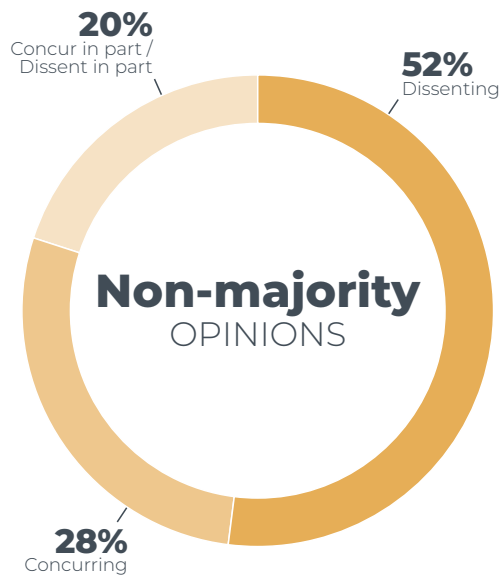
The Court is mostly unanimous in its decisions. There are some split decisions and rare “other” cases in which fewer than three justices were in complete agreement as to result. There were no “other” cases during the fiscal year. Excludes 12 *per curiam* opinions.



Majority opinions in detail

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

	Rush, C.J.	David, J.	Massa, J.	Slaughter, J.	Goff, J.	By the Court	Total
Criminal Transfer	2	2	3	1	2	2	12
Criminal Direct Appeal	1	1	1	-	-	-	3
Civil Transfer	5	5	5	6	7	4	32
Tax Review	-	1	-	1	-	-	2
Certified Questions	-	-	-	-	-	1	1
Attorney Discipline	-	-	-	-	-	5	5
Other case types	1	-	-	-	-	-	1
Total	9	9	9	8	9	12	56



Non-majority opinions in detail

Non-majority opinions are not dispositive.

	Rush, C.J.	David, J.	Massa, J.	Slaughter, J.	Goff, J.	Total
Concurring	-	-	2	2	3	7
Dissenting	-	5	2	2	4	13
Concur in part / Dissent in part	2	-	-	1	2	5
Total	2	5	4	5	9	25

Year in Review

FISCAL YEAR: JULY 1, 2021 TO JUNE 30, 2022



2021 ICLEO Fellows

📷 JULY 23 Twenty-four individuals were welcomed as ICLEO Fellows after completing the 2021 Summer Institute at IU McKinney. They join a network of 600+ law school graduates bringing diversity to the legal community. ICLEO focuses on teaching concepts that will be learned in the first year of law school and provides opportunities for professional development.

JULY 27 The Office of Admissions and Continuing Education administered Indiana's first-ever Uniform Bar Examination.



Dejuna Rodriguez (left) and Stephaney Knight (right)

📷 AUGUST 10 The Commission on Improving the Status of Children welcomed two new members: Dejuna Rodriguez and Stephaney Knight, both young adults with experience in the foster care system. They join Chief Justice Loretta Rush and Chief Administrative Officer Justin Forkner on the Commission. The legislature added the two youth members at the request of the Commission, as mentioned in their annual report for 2020-2021, released on August 18.

AUGUST 12 Governor Eric J. Holcomb appointed Derek Molter to the Court of Appeals after Judge James Kirsch retired in 2021.

Year in Review

📷 SEPTEMBER 3 At the annual judicial conference, Chief Justice Loretta Rush recognized judicial officers for their commitment to higher education and their long-time service. Forty-six received an Indiana Judicial College certificate, one received a master's certificate, and four were honored for 24 years of service on the bench.



Judges attending an education session at their annual conference

SEPTEMBER 13 The Supreme Court established a 9-member Eviction Task Force to gather input from stakeholders and provide the Court with recommendations on how to distribute federal rental assistance funds faster.

SEPTEMBER 15 The Supreme Court established a 21-member Commission on Equity and Access with the goal of improving access to justice and public trust and confidence in the court system.



Rich Kosmala (center), CASA Program Director of the Year (Lawrence County) with Leslie Dunn (left) and Rae Feller (right) of Court Services

SEPTEMBER 20 The Office of Admissions & Continuing Education announced that 300 applicants passed the July 2021 bar exam; another 88 later passed the February 2022 exam.

📷 OCTOBER 2 The 25th Annual Indiana GAL/CASA Conference took place in Fort Wayne, attended by nearly 500 GAL/CASA staff and volunteers from across the state.

OCTOBER 19 The Disciplinary Commission issued an advisory opinion about lawyers' ethical responsibilities for nonlawyer assistants' notarial acts.

Year in Review

OCTOBER 22 The Supreme Court implemented a statewide pre-eviction diversion program to help landlords and tenants access federal rental assistance funds as recommended by the Eviction Task Force in their interim report.

OCTOBER 22 Justice Geoffrey Slaughter welcomed over 200 participants to the Coalition for Court Access Annual Conference. Virtual sessions included Indiana's eviction crisis, best practices in debt collection cases, representing survivors in protection orders, and legal information to low-income litigants.

📷 NOVEMBER 1 Throughout the month, judicial officers celebrated National Adoption Day with photos and videos of adoption proceedings allowed by Supreme Court order.

NOVEMBER 3 Justice Steven David announced he would be retiring from the Court in fall 2022. The longtime judicial branch leader is Indiana's 106th justice and the longest-serving among the current justices.

Adoption Day celebration in Judge Peter Foley's court (Morgan County)



A criminal hearing in Judge Marianne Vorhees' court (Delaware County)

📷 DECEMBER 1 A pilot project for cameras in court launched in five courtrooms around the state, as authorized by the Supreme Court on November 15. The four-month pilot also allowed rebroadcasting of live-streamed proceedings with approval from the judge.

DECEMBER 13 Fourteen years after Odyssey first launched in Monroe County, Indiana's case management system became statewide in all 92 counties with the addition of Randolph Circuit and Superior Courts. Hoosiers now have 24/7 free statewide access to public case information and documents.

📷 JANUARY 12 Chief Justice Rush addressed the Governor and a joint session of the Indiana General Assembly for the annual State of the Judiciary. In an unprecedented tribute, she asked Justice David, retiring later in the year, to come to the podium to deliver part of the speech. The 2022 address, "Indiana Courts: Fulfilling Our Constitutional Responsibilities," focused on critical work to increase public trust, strengthen Hoosier families, improve public safety, and modernize courts.

Year in Review



Chief Justice Rush delivers the State of the Judiciary



The Hoosier Housing Help campaign included bus ads

📷 JANUARY 24 The Hoosier Housing Help campaign launched with a website, social media accounts, and advertising directed at landlords and tenants to provide key resources, including how to apply for rent assistance.

JANUARY 28 The Clerk's Office announced Tony Patterson of Lebanon as the winner of the District 1 election to fill an attorney vacancy on the Judicial Nominating Commission. Attorneys in District 1 voted electronically for the first time.

JANUARY 28 The new Domestic Relations Benchbook Committee—created by the Court as recommended by the Innovation Initiative's Family Law Taskforce—met for the first time to develop standardized family law forms for courts.

Year in Review



Newly-appointed Justice Molter is photographed with his family

FEBRUARY 22 The Office of Court Technology launched an Attorney Dashboard—available to lawyers who sign into mycase.in.gov—that lists their pending cases, e-notices, upcoming hearings, and quick links to other resources. By the end of the fiscal year, lawyers had visited the dashboard almost 100,000 times, and nearly 200 attorneys provided feedback to help improve it.

MARCH 4 The Disciplinary Commission held an ethics town hall attended by 34 representatives from 30 different local bar associations. The Commission has already begun implementing some of the suggestions, including establishing regional liaisons to address lawyers' and bar associations' ethical needs more effectively.

MARCH 14 The Disciplinary Commission/Judicial Qualifications Commission issued two advisory opinions. The DC opinion advises lawyers about public comments on pending matters, while the JQC opinion advises judges and candidates for judicial office about campaign conduct and statements regarding opponents.

MARCH 15 The Office of Court Services launched an “Upstream” pilot in LaPorte and Tippecanoe counties to bring community stakeholders together to review and make recommendations to improve local child welfare practices and prevention services. Upstream is a project of the National Center for State Courts and is the result of recommendations made by the National Judicial Opioid Task Force, which was co-chaired by Chief Justice Rush.

APRIL 5 The Judicial Nominating Commission interviewed 10 finalists from among the 19 lawyers and judges who applied to fill Justice David's vacancy on the Supreme Court. The JNC nominated Justin P. Forkner, Hon. Dana J. Kenworthy, and Hon. Derek R. Molter; on June 10 Governor Eric Holcomb selected Judge Derek Molter to be the 111th Supreme Court justice.

APRIL 20 The Supreme Court published the Eviction Task Force final report, including best practice recommendations and a discussion of ongoing challenges and barriers faced by landlords and tenants.

MAY 4 At the Justice Services Conference with more than 1,000 attendees, Chief Justice Rush recognized 23 probation officers for 25 years of service.

Year in Review

JUNE 9 The Office of Court Services hosted the first-ever joint conference of juvenile and family judges, with about 150 judicial officers in attendance over two days. The event was a recommendation of the Innovation Initiative's Family Law Taskforce. It provided judges with different—but overlapping—jurisdictions an opportunity to connect and receive training on working with court-involved children and families impacted by trauma.

JUNE 20 The Innovation Initiative's Civil Litigation Taskforce published a report detailing ideas to make Indiana's civil court procedures more efficient and accessible for Hoosiers.

Chief Justice Rush presents probation officer Laura Rood (Howard County) with "The Order of Augustus," awarded by the Probation Officers Advisory Board



JUNE 29 The Youth Justice Oversight Committee, established by the legislature in H.E.A. 1359 and chaired by Justice David, held its inaugural meeting at the Indiana State Library.

JUNE 30 The justices heard oral arguments in *James E. McCoy v. State of Indiana* at Lebanon High School commemorating Justice David's final argument with the Supreme Court.

JUNE 30 The Court closed the fiscal year; it heard 37 oral arguments, wrote 56 majority opinions, and disposed of 633 cases.

On the last day of the fiscal year, the Supreme Court heard an oral argument in Boone County in honor of retiring Justice Steven David, who previously served as a trial judge there



A DISTINGUISHED CAREER

Honoring Justice David during his final oral argument back home in Boone County



Students gave Justice David a Lebanon High School Tigers t-shirt that he promised to photograph at the summit of Mt. Kilimanjaro

The Supreme Court is committed to making the judicial system accessible and educating Hoosiers about its work. Twice a year, the justices travel to hear oral arguments in counties across the state, connecting with local communities while fostering greater understanding of the judicial process.

In June 2022, the Court traveled to Lebanon High School in Boone County to hold oral argument in *James E. McCoy v. State of Indiana*, a criminal case about advisement of rights. The location was selected in honor of Justice Steven H. David,

who served as Boone County circuit judge from 1995 to 2010. This was the final argument that Justice David would hear before his retirement in August 2022.

Nearly 250 guests attended, including former Supreme Court justices, Court of Appeals and trial judges, Indiana legislators, attorneys, and students. The Court's Office of Communication, Education and Outreach took several steps to further increase engagement with and accessibility to the event by making case details, associated documents, and a live stream of the event available online.



Left: Justice David addressed the crowd gathered at the Boone County Courthouse during a celebration hosted by the local bar; right: about 250 attended the oral argument held in the Lebanon High School auditorium

Following the argument, the Court answered questions from the audience. When asked by an incoming high school senior what drew the justices to public service, Justice David credited a sense of citizenship, stewardship, and responsibility shared by his colleagues on the bench. Each member of the Court was presented with a Lebanon Tigers t-shirt by student volunteers who greeted them as they arrived for the argument. Justice David closed his remarks by promising to take a photo of the Lebanon t-shirt at the summit of Mount Kilimanjaro.

Justice David is “a possessor of the highest moral character and an overall extraordinary gentleman of impeccable good spirit, generosity and humor.”

—Boone County Bar Association Resolution

Justice David has carried these commitments to public service and to the people of the Hoosier State through a decorated military and civilian career. The first member of his family to go to college, he graduated *magna cum laude* from Murray State University as a Distinguished Military Graduate on an R.O.T.C. scholarship. Following his 1982 graduation from the Robert H. McKinney School of Law, Justice David served in the United States Army Judge Advocate General's Corps on active duty until 1986. His subsequent reserve duty included



two post 9-11 mobilizations to Iraq and Guantanamo Bay where he served as Chief Defense Counsel to the Office of Military Commissions. David retired from the military with the rank of Colonel in 2010, after he was appointed by Governor Mitch Daniels as Indiana's 106th Supreme Court Justice.

In his civilian career, Justice David practiced in Columbus, Indiana law firms before becoming in-house counsel for Mayflower Transit, Inc. After being elected to the Boone County

Circuit Court in 1994, Boone County recognized him as its Citizen of the Year in 1999. Then-Judge David retained his seat in the 2000 and 2006 re-elections, and the courthouse from which he tried or presided over at least sixty jury trials is only one mile away from the location of his final oral argument.

In June, prior to Justice David's final argument, the Boone County Bar Association assembled in the courthouse in the Lebanon town square to pass a resolution honoring

Justice Steven David. In addition to being recognized for his outstanding service, he is described in the resolution as "a possessor of the highest moral character and an overall extraordinary gentleman of impeccable good spirit, generosity and humor." In his dedication to advancing the legal profession, he embodies the qualities he set to paper in "The Lawyer's Creed:" a responsibility to "always reflect professionalism and civility," and to act as "a guardian of justice, freedom, and the American way of life."





"Work hard. Do good.
Be proud. Have fun!
Remember the Rule
of Law Always!"

—Justice Steven David



Clockwise from top left (p. 24): David during court conference; David's nameplate on the Supreme Court bench; David giving the commencement speech at IU McKinney graduation; David on the bench with Justices Sullivan, Dickson, Shepard, and Rucker; David with students at Lebanon High School; David with Justices Massa, Rush, Goff, and Slaughter in the robing room before court conference; David while on active duty; David with Justice Rucker and ROTC students in Lake County; David striking a pose with an incoming ICLEO fellow; David in Corydon signing copies of a book about Indiana's Supreme Court justices; David and wife Catheryne as he was sworn in by Gov. Mitch Daniels.





Office of Judicial Administration

Justin P. Forkner · Chief Administrative Officer

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

OJA agencies work collaboratively to support the Supreme Court's case work and administrative obligations and to provide support—through education, outreach, innovation, funding, and standards—to courts, clerks, and judicial branch stakeholders across Indiana. OJA also licenses attorneys, aids in judicial selection, provides support for lawyers and judges, and monitors their ethical accountability. Much of this work is informed by countless hours of research and guidance by the judicial officers, lawyers, and other state and local leaders who serve on the Court's boards and commissions.



\$16.3 M
in grants distributed
to 91 counties



12.9 M
page views at
courts.in.gov



869
families in 18 counties
benefited from family
court projects



327
days of
education



31,660
hours of trial court
hearings live streamed

AGENCIES

Clerk of the Appellate Courts

CLERK
Gregory R. Pachmayr

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 and oversees the archiving of closed cases.

Fiscal, Operations & Personnel

CHIEF FINANCIAL OFFICER / CHIEF OPERATING OFFICER
Aaron V. Hood

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

Diversity, Equity & Inclusion

CHIEF DIVERSITY OFFICER
Dr. Gina Forrest

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



4,359
ballots distributed
for JNC election



6,044
invoices
processed



2,073
deposits
made



2,459
assets
inventoried



12,563*
cases that used court
interpreter services

Communication, Education & Outreach

CHIEF PUBLIC INFORMATION OFFICER
Kathryn R. Dolan

The **Office of Communication, Education & Outreach** manages media inquiries and creates opportunities for the community to engage with state courts. OCEO oversees the judicial branch website and social media accounts, oral argument webcasting, the Supreme Court law library, and supports justices who serve as local nominating commission chairs. The Office creates and distributes press releases and coordinates messaging campaigns on a variety of topics.



34

press releases distributed to 464 members of the media



22,779

attorneys completed annual registration online



89

counties using the guardianship registry



43,447

marriage licenses issued



3

innovation reports submitted to the Court

Court Technology

EXECUTIVE DIRECTOR
Mary L. DePrez

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.

Innovation

CHIEF INNOVATION OFFICER
Robert A. Rath

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

Court Services

EXECUTIVE DIRECTOR
Mary Kay Hudson

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. IOCS is a single agency with five divisions:

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

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

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

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.

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

Admissions & Continuing Education

EXECUTIVE DIRECTOR
Bradley W. Skolnik

The **Office of Admissions & Continuing Education** provides staff support to the Board of Law Examiners and Commission for Continuing Legal Education. ACE also maintains the Roll of Attorneys, which is the roster of attorneys licensed to practice law in Indiana.

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.

Disciplinary Commission

EXECUTIVE DIRECTOR
Adrienne L. Meiring

The **Disciplinary Commission** office provides staff support to the attorney Disciplinary Commission, the Judicial Qualifications Commission, and the Judicial Nominating Commission.

DC is responsible for investigating and prosecuting claims of attorney misconduct or fitness to practice law, as well as providing ethical guidance to lawyers. **JQC** investigates and prosecutes allegations of judicial misconduct and provides ethical advice to trial judges. These commissions serve to protect the public, courts, and members of Indiana's bar from misconduct on the part of attorneys and judges, while also protecting attorneys and judges from unwarranted claims of misconduct.

JNC interviews applicants and selects nominees for appellate court vacancies, selects the Chief Justice, and certifies senior judges.

Judges & Lawyers Assistance

EXECUTIVE DIRECTOR
Terry L. Harrell

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



74

JLAP presentations to
3,069 attendees



492

consultations on liability
and employment issues



320

contracts reviewed
and executed

FISCAL YEAR ACCOMPLISHMENTS

Organizational changes

The Supreme Court’s attorney Disciplinary Commission and the Commission on Judicial Qualifications/Judicial Nominating Commission were previously staffed by separate agencies. Beginning in August 2021, those staffs began to merge under one director. While the two Commissions continue to operate independently, staff from both agencies are being cross-trained, with the goals of improving efficiency, continuity of operations, and lowering costs.

A rule change moved the responsibility of maintaining the state’s Roll of Attorneys from the Appellate Clerk’s Office to the Office of Admissions & Continuing Education. Attorneys can now turn to a single agency for admission to the Indiana bar, continuing education, certification of law firms, and annual license renewal.

The new Office of Diversity, Equity & Inclusion gathered under its umbrella several long-standing OJA programs. ODEI now coordinates the development of language access plans in our courts, manages the certified court interpreter program, and oversees the Indiana CLEO program. The Office provides staff support to the ICLEO Advisory Committee, Language Access



18,724
active attorneys in the
Roll of Attorneys



17
ICLEO fellows
in 2022



650
ICLEO fellows
since 1997



170
certified and qualified
interpreters

Advisory Committee, Commission on Race & Gender Fairness, Coalition for Court Access, and the new Commission on Equity & Access in the Court System.

New committees

Equity & Access

The Supreme Court established the Commission on Equity & Access in the Court System to foster public trust and confidence in all Indiana courts. Charged with conducting a comprehensive review of the state court system and identifying areas where resources and efforts are needed, the Commission is staffed by the Office of Diversity, Equity & Inclusion and has established the following subcommittees:

- Pathways to the Bench and Bar
- Surveys and Focus Groups
- Best Practices
- Consequences of Convictions
- Court Case Processes
- Data Collection and Interpretation
- Diversity in ADR
- Small Claims

Youth Justice

The Indiana General Assembly directed creation of a statewide juvenile justice oversight body to develop plans for data collection, screenings and assessments, behavioral health services, transitional services for juveniles in detention, and grants for community alternatives to detention. The new Youth Justice Oversight Committee, chaired by Justice Steven David, with staff support from the Office of Court Services, held its inaugural meeting on June 29.

Evictions

The Supreme Court established a nine-member Eviction Task Force to help ensure landlords and tenants could access federal funds and a fair chance to resolve their disputes. Chaired by Court of Appeals Judge Robert Altice, Jr., with staff support from the Office of Judicial Administration, the Task Force issued interim and final reports, both of which shed light on common challenges and barriers to positive outcomes in housing disputes. As a result of the Task Force's efforts, the Supreme Court implemented a Pre-Eviction Diversion Program and launched an ad campaign to help direct the people involved in eviction cases to the available funding.



The first meeting of the Commission on Equity & Access in the Court System



Members of the Civil Litigation Taskforce present their recommendations to the Court

Innovation & pilot projects

In 2021, the Supreme Court added a Civil Litigation Taskforce to the Innovation Initiative to consider how Indiana might adopt civil case innovations recommended by organizations including the National Center for State Courts and the Conference of Chief Justices. The report was published in June and includes recommendations in 6 key areas: case management, discovery, service, self-represented litigants, alternative dispute resolution, and technology. The Taskforce suggests, for example, tailoring the civil process based on complexity and case type so that simpler cases have more

efficient paths to resolution, and—to help the people who go to court without a lawyer—establishing a self-help center in every Indiana county. The Supreme Court is now exploring how to implement many of the ideas promoted by the Taskforce.

Innovation projects

Three projects recommended by the Innovation Initiative's other taskforces moved forward this year.

ATTORNEY DASHBOARD

The Office of Court Technology developed an attorney dashboard built right into the mycase.in.gov website so that attorneys could see their electronic notices, a list of their own pending cases, a schedule of upcoming hearings, and more. By the end of the fiscal year, attorneys had downloaded nearly 4,000 e-notice documents and about 1,500 had set up quick links for easy access to other court apps.

ONLINE DISPUTE RESOLUTION

With support from the Office of Court Technology, the Innovation Initiative launched a pilot project to consider online dispute resolution tools for some civil cases. Two different tools were made available in Allen, Lake, and Marion counties for use with non-eviction small claims cases. ODR provides the parties in a case a neutral space—online and available 24/7—to negotiate their dispute without forfeiting their right to go to court. During the fiscal year, 1,481 parties exchanged 546 offers to settle their disputes using ODR.



546

offers to settle using
online dispute resolution



392

cases with evidence
shared electronically



172,975

adult & juvenile risk
assessments completed



4,251

mental health
evaluations with MAYSI-2

DIGITAL EVIDENCE PORTAL

The digital evidence portal gives parties and court staff access to tools for organizing, sharing, reviewing, and presenting documentary and multimedia case materials in a single cloud-based repository. Users can view case documents, PDFs, video, photos, and other images. Access is based on permissions, so users can easily locate key case materials, add notes, redact, and mark exhibits. During the year, the portal expanded to four counties, and so far, 25,893 pages of documentary exhibits and 32 gigabytes of multimedia exhibits have been submitted by attorneys and parties in 392 cases.

Human trafficking screening tool

The Office of Court Technology and Office of Court Services collaborated to develop and pilot a secure, online screening tool to identify victims of human trafficking. The screening tool was previously available as a document that could be filled out and submitted by file drop. The new screening tool is available through the INcite Risk Assessment app alongside the MAYSI-2 youth mental health screening tool and the Indiana Youth Assessment System for juvenile delinquency.

Detention center staff and other trained juvenile justice staff who use the screening tool are responsible for calling the Indiana Department of Child Services hotline, without delay, if there is suspicion of abuse, neglect, or if a child is a suspected victim of human trafficking. Twelve counties and the Department of Correction have joined the initial pilot.

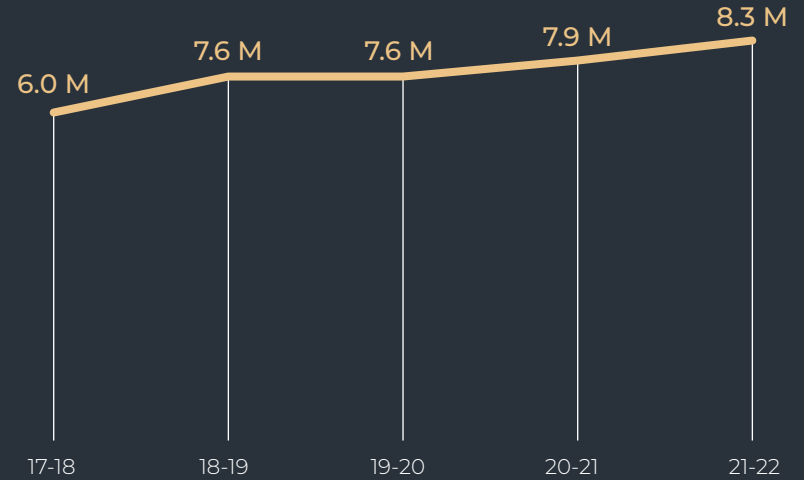
Upstream

The Office of Court Services Children and Families Division launched Upstream pilots in LaPorte and Tippecanoe counties. Upstream is a strategic framework to bring courts together with the communities they serve in a facilitated discussion about local child welfare practices, processes, and prevention services. Upstream guides community stakeholders in developing an action plan for improving prevention services, with the goal of keeping children out of foster care and safely with their families whenever possible.

Case management & technology

The Indiana Office of Court Technology supports the appellate courts and trial courts around the state. IOCT's work product may be front and center in one project and behind the scenes in another, but it is threaded throughout most of the work described in this report.

In addition to building new tools and leading innovative projects, IOCT answered nearly 64,000 requests for help from lawyers, judges, court staff, and members of the public. And as of this fiscal year, after a 14-year implementation, the Odyssey case management system is used in trial courts statewide except eight juvenile courts and one probate court using a more specialized system.



DOCUMENTS E-FILED STATEWIDE

Total number of documents electronically filed in all courts.



63,771
help desk
tickets resolved



7.4 M
trial and appellate cases
e-filed into Odyssey



8.3 M
documents e-filed
statewide



\$1 M+
unpaid court fees
recovered from tax refunds



83
counties using jury
management system



414,640
tax warrants
processed

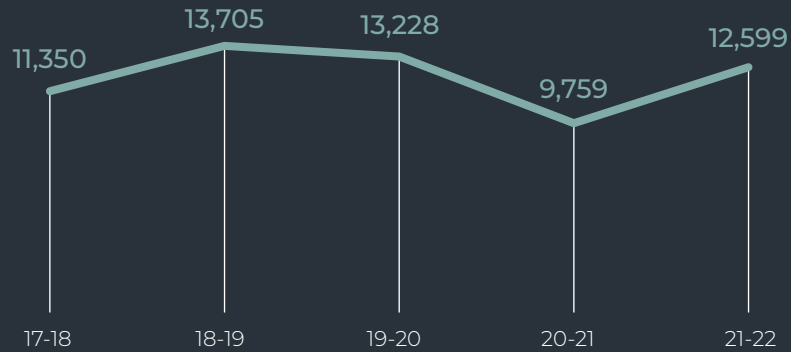


873,621
convictions/suspensions of
driving privileges



555,980
remote hearing
participants in trial courts

Office of Judicial Administration

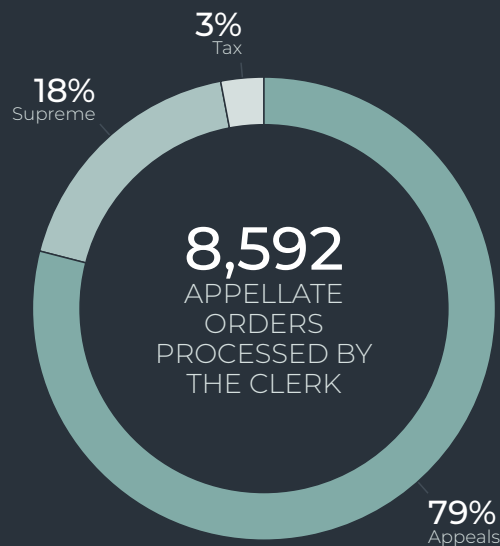


E-FILED BRIEFS PROCESSED

Total number of electronically filed appellate briefs processed by the clerk's office.

The Appellate Clerk's Office serves not just the Indiana Supreme Court, but the Court of Appeals and Tax Court too. In fact, the majority of their workload involves cases in the Court of Appeals. One improvement the Clerk made this year was an adjustment to the Notice of Defect form, which attorneys receive when there is an error in a filing. The new form is more concise than in its previous layout, now listing only items that are defective, which makes it an easier read.

The Office of Court Services Legal Support Division works with trial courts to publish their local rules and assess their caseload allocation plans, evaluating plans for 35 counties during the fiscal year.



3,620
appellate cases
managed by the clerk



1,743
appellate opinions
processed by the clerk



12,599
e-filed briefs
processed by the clerk



15,152
transcript/exhibit volumes
processed by the clerk



Charles Bleckmann presenting a postcard to Justice Slaughter. Bleckmann's grandfather received it from the Indiana Supreme Court in 1878 notifying him about his appeal in a property dispute from Warrick County. He donated the postcard to the Court, and today it hangs in the Supreme Court law library.

Public access & transparency

The Office of Communication, Education & Outreach answered more than 1,300 questions from the media, the public, lawyers, judges, and library patrons. The Office proactively distributes information via courts.in.gov, Twitter, YouTube, the *Indiana Court Times* magazine and blog, and various direct-messaging campaigns. OCEO also distributed 34 press releases announcing events, highlighting programs, and providing details on judicial vacancies to more than 460 members of the media. For Supreme Court law library patrons, OCEO began offering free remote access to the LexisNexis Digital Library.

At mycase.in.gov—developed by the Indiana Office of Court Technology—the public can access documents in many non-confidential cases, and attorneys can access additional cases and documents if they have filed an appearance in the case. During the year, nearly 9 million users accessed mycase.in.gov over 37 million times and downloaded documents more than 35 million times. In addition to showing amounts owed by parties in some cases, mycase.in.gov

OCEO ANSWERED



359
media questions



323
public questions



6,276
followers
on Twitter



137
judge questions



540
library reference questions



83
bulk data
requests

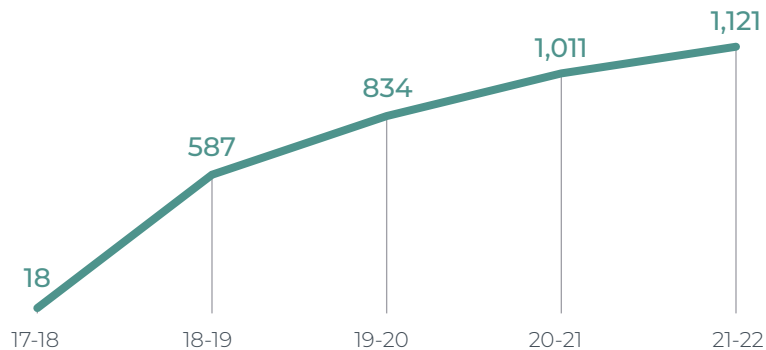
Office of Judicial Administration

now processes payments in some criminal cases and for traffic tickets in many counties. During the year, 18,830 people paid criminal fees online, and 81,923 paid a traffic ticket.

In addition to MyCase, IOCT publishes a range of public access applications at public.courts.in.gov, including an online child support calculator, a child abuse registry, the Roll of Attorneys, and statewide trial court statistics. IOCT also built and maintains a statewide Protection Order Registry and e-filing system. As of this year, one million protection orders have been filed in the registry since it launched in 2007. Of those, 12,832 were e-filed this year and more than 40,000 are currently active. The online protection order search at public.courts.in.gov allows the public to find information about protection orders online, and protected persons—who remain confidential—can get updates in their cases by text message and email.

The Office of Court Services Legal Support Division received and responded to 1,121 requests for public records and processed 83 requests for bulk court data. The Division summarized 146 appellate opinions for Case Clips and made 167 Legislative Updates on pending legislation that impacts the judiciary. Legal Support also published the Indiana Judicial Service Report, outlining trial court and probation statistics, revenue, and expenses.

The Court Improvement Program made updates to the Child Welfare Performance Dashboard, which provides data to courts and the public on timeliness measures in Child in Need of Services and Termination of Parental Rights cases from 2018 to present. The new version shows the comparative national standard against state data (where applicable), and the data is updated quarterly instead of yearly.



PUBLIC RECORDS REQUESTS

Total number of requests for public records received, including FOIA and APRA requests



52.8 M
page views at
mycase.in.gov



12,832
protection order cases
e-filed statewide



81,923
people paid
traffic tickets online



18,830
people paid
criminal fees online

Criminal & juvenile justice

Special courts and programs

The Office of Court Services Justice Services Division certified five new and re-certified 37 existing problem-solving courts during the fiscal year, bringing the total number to 121 across the state. At the end of the fiscal year, an additional 19 problem-solving courts were in the planning stages, and the state had 30 veterans' treatment courts and 22 family recovery courts in operation or in planning.

The Division also re-certified 18 of the state's 49 court alcohol and drug programs and certified nine new pretrial service agencies, bringing the total to 16, with another 28 in the planning stages.

The Division administered the Juvenile Detention Alternatives Initiative, with 38 counties participating. JDAI aims to reduce the admission of youth offenders to secure detention facilities and the Department of Correction.

JDAI outcomes

Operating in 38 counties, JDAI's community-based programs provide an alternative to secure detention for incarcerated youth.

↓ **60%** Felony petitions filed

ADMISSIONS TO SECURE DETENTION

↓ **77%** for all youth

↓ **75%** for youth of color

COMMITMENTS TO THE DEPARTMENT OF CORRECTION

↓ **75%** for all youth

↓ **74%** for youth of color



49

certified court alcohol and drug programs



140

problem-solving courts



30

veterans' treatment courts



22

family recovery courts



44

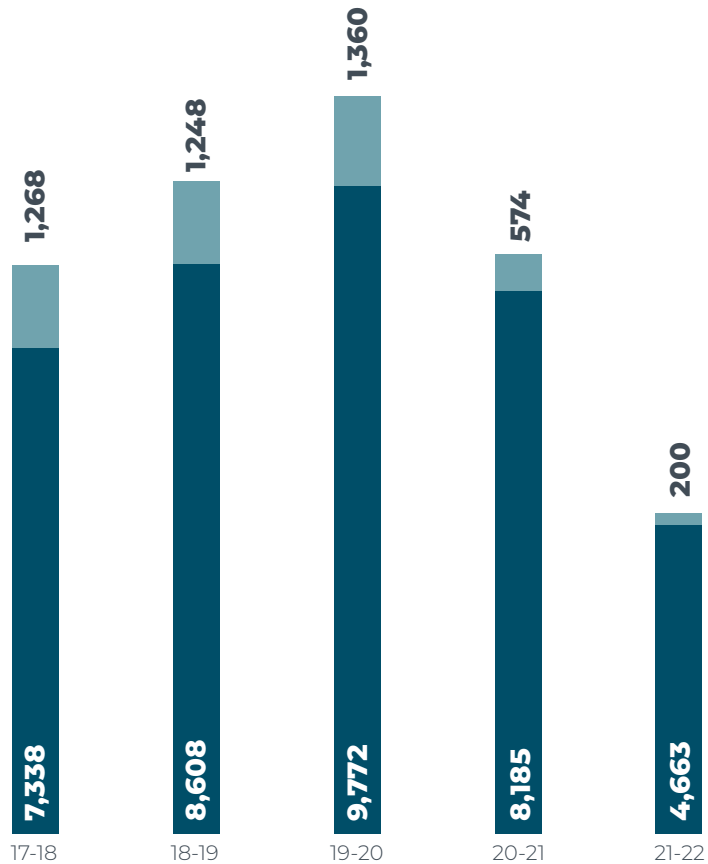
pretrial service agencies

CERTIFIED OR IN PLANNING

Office of Judicial Administration

Interstate compact

The Justice Services Division administered the interstate compacts for adult and juvenile supervision, processing 4,663 adult cases, 200 juvenile cases, 145 runaways, and 401 travel permits during the fiscal year.



PROBATION CASES

Adult and juvenile probation cases managed by interstate compact staff



162,273
criminal cases
e-filed into Odyssey



873,621
criminal documents
e-filed



67,875
felony abstracts
of judgment



113,993
criminal dispositions
added to state police
repository



6,037
individuals
reported to NICS



4,154
domestic violence
determinations
reported to NICS

Education

The Office of Court Services Education Division delivered more than 1,200 hours of education to Indiana's judicial branch and justice system stakeholders.

In addition to continuing education, IOCS offers orientation programs for new staff and testing for various certifications:

- 127** people tested to become a certified probation officer and 105 attended probation officer orientation
- 27** tested to receive the court substance abuse management specialist credential
- 436** community supervision officers sought certification or recertification to administer risk assessment tools
- 276** people participated in a permanency roundtable training or an orientation program for alcohol and drug courts, problem-solving courts, or pretrial service agencies



9,581

justice stakeholders at education events



1,567

users in the learning management system



133

on-demand courses available



216

virtual training programs offered

IOCS also awarded 18 professional development scholarships to judicial officers to attend national continuing judicial education programs.

The Office of Diversity, Equity & Inclusion presented at many education events throughout the year, including conferences for judicial officers, the GAL/CASA annual conference, a women's retreat hosted by the Indiana State Bar Association, and the Family Yes! event hosted by the Commission for Improving the Status of Children in Indiana. ODEI staff began providing local trainings to court, probation, and corrections staff, and during the year did so in Madison and Grant counties.

ODEI also administered the Court Interpreter Certification Program. During the year, 15 court interpreter candidates took the certified interpreter written exam and nine completed the oral exam: five in Spanish, two in Haitian Creole, one in French, and one in Mandarin.

Expanding education for court staff

During the year, the IOCS Education Division advanced a project to expand training and networking opportunities for court administrators and staff in the state's trial courts. Efforts included:

- Lunch and learn events for court staff, the first of which gave advice on media relations
- Development of on-demand trainings for court managers covering topics such as personnel management, internal investigations, and the ADA
- Quarterly networking events for court administrators and a dedicated administrator education track at the annual staff conference

The Division offered community supervision officers a 4-day workshop with introductory and advanced classes on Real Colors® personality assessment, interviewing skills, case management, and Carey Guides and BITS.

**calendar year 2021*



54

counties served by VASIA programs



88

counties with certified GAL/CASA programs



4,020*

total CASA volunteers in Indiana



604*

new CASA volunteers trained

Training the guardians of our most vulnerable Hoosiers

The IOCS Children & Families Division offers training for GAL/CASA staff and volunteers, adult guardians, and a variety of stakeholders handling matters involving family violence.

For Court Appointed Special Advocates program directors, staff, and volunteers throughout the state, the Division offered monthly virtual continuing education events, held monthly office hours to answer questions about the OPTIMA volunteer management system, developed "New Director Cohorts" to provide mentorship and networking for local CASA program directors, and hosted an annual conference with nearly 500 in attendance.

The Division hosted about 300 adult guardians, practitioners, and protected persons at a virtual symposium to provide education on advanced care planning and other guardianship topics. IOCS also trained over 500 judicial officers, court employees, attorneys, CASAs, and other stakeholders on technology initiatives designed to support their work, protection orders, and the dynamics of family violence and its potential lethality.



CASA staff with Lisa Stressler (Porter County, center), selected as CASA volunteer of the year



CASA staff wearing blue for CASA day to show their appreciation for volunteers around the state

Working with volunteers

Through local programs, the Indiana State Office of GAL/CASA trained 604 community members who became new volunteers in calendar year 2021, spending nearly 18,800 hours in initial training. The State Office also completed an intensive highly effective standards review by National CASA, which noted that “Indiana GAL/CASA demonstrates leadership, knowledge and engagement, as well as a strong commitment to the GAL/CASA mission... the work of the staff is highly regarded.”

More than 800* adults in 54 counties received services from the 18 Volunteer Advocates for Seniors & Incapacitated Adults programs during calendar year 2021, funded by the Office of Court Services.



23,290*
children received
CASA advocacy



824*
adults served by
guardianship programs

Alternatives to court

The Mortgage Foreclosure Trial Court Assistance Program provided \$19,120 in funding for facilitation services in foreclosure cases, including about 170 settlement conferences.

Forty-six Indiana counties have an Alternative Dispute Resolution plan, which allows them to collect a \$20 additional filing fee in dissolution, paternity, and legal separation cases. The money collected is used to help low-income litigants access mediation, reconciliation, nonbinding arbitration, and parental counseling. ADR fund counties reported that 1,462 families and 3,000 individuals benefited from these services.

Grants

The Office of Judicial Administration distributed more than \$16.3 million in grants to 91 Indiana counties. Many of these grants are administered by programs in the Office of Court Services. Some grants are distributed on a calendar year basis and others during the fiscal year.

The Children & Families Division awarded \$317,562 in court reform grants to 10 counties to fund courthouse security improvements, kiosks and wayfinding systems, and costs associated with a model housing court program in Lawrence Township (Marion County).

The Indiana State Office of GAL/CASA distributed \$6.45 million in grant funds to certified programs in 88 counties.

The Family Court Project awarded \$190,421 in family court grants to fund creation of four clinics to provide legal aid in 11 counties, increased access to alternative dispute resolution to help reduce pandemic-related backlog in Allen County, and development of a statewide triage model for family courts—a recommendation of the Innovation Initiative’s Family Law Taskforce.

\$6.45 M in grants to 88 GAL/CASA programs

\$4.3 M in grants to 36 pretrial service agencies

\$2.5 M in grants to 27 veterans' treatment courts

\$1.8 M in grants to 20 family recovery courts

\$1.3 M in adult guardianship matching grants to 18 VASIA counties

\$564 K in grants to 74 problem-solving courts

\$317 K in court reform grants to 10 counties

\$212 K in court improvement program grants and scholarships

\$190 K in family court project grants

The Court Improvement Program provided \$212,258 in grants to assist counties with mediation and facilitation programs, national adoption day activities, family recovery courts, training, and updated technology for family courtrooms.

The Adult Guardianship Office awarded \$1.3 million in matching grants to counties with a VASIA program and has assisted Lawrence County with a federal grant. The Southern Indiana Project on Abuse in Later Life grant will help local stakeholders to develop strategies, best practices, and resources for elderly adults in an effort to coordinate responses to domestic violence, intimate partner violence, and abuse.

During the fiscal year, the Justice Services Division distributed \$564,000 in grants to 74 problem-solving courts around the state, with a maximum of \$10 K per court model. The Division also distributed \$8.7 M in calendar year grants (through the end of 2022) to 36 pretrial service agencies, 27 veterans’ treatment courts, and 20 family recovery courts.





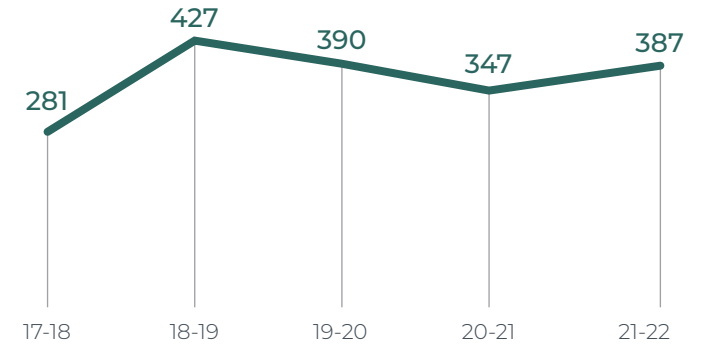
OJA staff take a midday break together for a short walk to the downtown canal to promote well-being and work-life balance

Wellness

The Judges and Lawyers Assistance Program offers a variety of support groups where participants can share common issues and form social bonds in a caring and confidential environment. Topics cover caregiver support, addiction issues, grief, mental health, and simply practicing law in the 2020s. During the year, JLAP held 132 support group sessions.

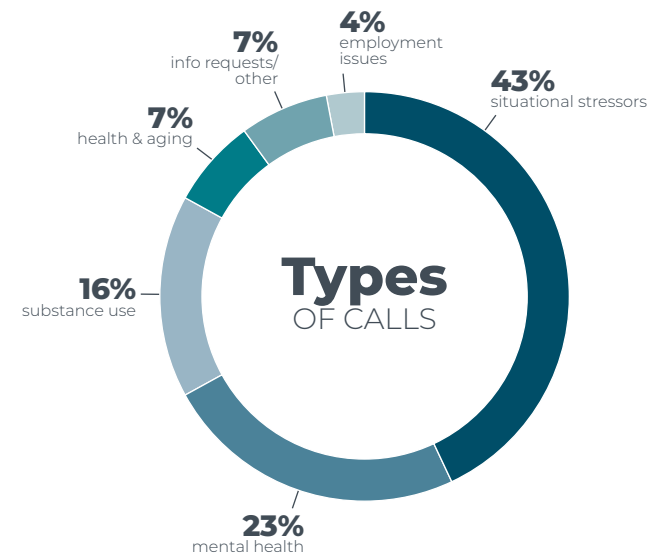
The State Office of GAL/CASA implemented a new wellness triage tool that helps local programs better determine how and when to appoint an advocate in a Child in Need of Services cases. The Office also offered wellness grants to programs statewide to help fund implementation.

The Supreme Court amended the Admission and Discipline Rules to expand the definition of professional responsibility credits in continuing legal education. In addition to courses with a main focus on professional responsibility or ethics, lawyers can now earn these required credits for courses that teach wellness or diversity, equity, and inclusion.



CALLS TO JLAP

Five-year trend (above) and reasons for calling (below)



Attorney admission & continuing education

The Supreme Court admitted 148 new attorneys on a transferred Uniform Bar Exam score that was earned in another jurisdiction and another 83 out-of-state lawyers were admitted on motion. Of the 593 applicants who took the bar exam, 388 passed.

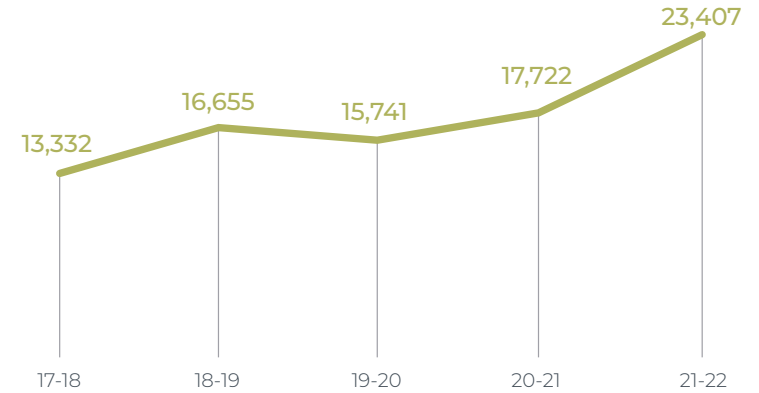
The Office of Admissions & Continuing Education accredited 23,407 continuing legal education courses, and attorneys reported 107,100 hours of distance CLE—a 43% decrease over the previous year. But the demand for distance education remains high, so the Court amended the Admission & Discipline Rules to eliminate the limit on distance education credits lawyers and judges can earn during their 3-year education cycles.



23,407
CLE courses
accredited



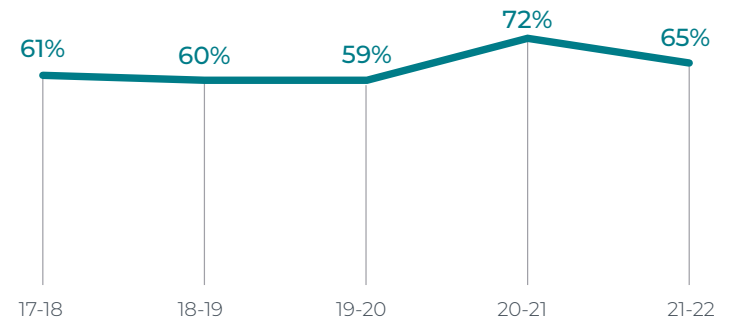
107,100
distance education
credits reported



CLE COURSES ACCREDITED
Five-year trend



388 of 593
applicants passed
the bar exam



BAR PASSAGE RATES
Five-year trend



Judicial selection



The Judicial Nominating Commission interviews candidates for the Supreme Court

Appellate courts

Each year, the Appellate Clerk's Office holds an election for an attorney member of the Judicial Nominating Commission. Over 4,000 attorneys were eligible to vote in the District 1 election this year, and for the first time, they cast their ballots online instead of on paper.

The Commission received 19 applications to fill a seat on the Supreme Court resulting from Justice Steven David's fall 2022 retirement. After the first round of interviews,

they invited ten finalists for a second interview. The Commission nominated Justin P. Forkner, Hon. Dana J. Kenworthy (Grant Superior Court), and Hon. Derek R. Molter (Court of Appeals) to fill the seat. Gov. Eric Holcomb selected Judge Molter to be the 111th Indiana Supreme Court justice.

Nine attorneys and judges applied to fill the vacancy on the Court of Appeals created by the retirement of Judge Edward W. Najam, Jr., in the summer of 2022. Interviews were held July 11, and the Commission nominated Hon. Peter

R. Foley (Morgan Superior Court), Hon. Kelsey B. Hanlon (Owen Circuit Court), and Stacy R. Uliana to fill the seat. The Governor will select the new judge in the next fiscal year.

Trial courts

Four counties use a merit selection system to appoint—rather than elect—judges, with a local nominating commission or committee chaired by a Supreme Court justice and staff support from the Office of Communication, Education & Outreach.

The St. Joseph County Judicial Nominating Commission, chaired by Justice Slaughter, filled two vacancies. The Marion County Judicial Selection Committee, chaired by Justice David, filled two vacancies. The Lake County Judicial Nominating Commission, chaired by Justice Massa, filled one vacancy. The Allen County Judicial Nominating Commission, chaired by Justice Goff, had no vacancies to fill during the year.

Attorney & judicial discipline

Allegations of attorney misconduct

The Disciplinary Commission received 1,270 complaints against attorneys from the public and, after review, dismissed 997 as having no valid issue of misconduct. Through the year, the Commission filed 16 verified complaints in the Supreme Court alleging 26 counts of misconduct, and the Court issued 57 final orders of discipline.

The Court handed down five per curiam opinions in discipline cases detailing how the lawyers in question violated ethics rules. The Court suspended one attorney for making knowingly false or reckless statements about a judge's qualifications. Another lawyer was the subject of a single opinion addressing two separate discipline matters. The Court found that he mismanaged his attorney trust account and inadequately supervised a paralegal in one matter and that he failed to respond timely to a disciplinary complaint in the other.

ATTORNEY DISCIPLINARY CASES

Discretionary Dispositions,
Corrective Actions, and Referrals

1,270 complaints submitted

997 dismissed summarily
(no valid issue of misconduct)

273 complaints *(investigations)*

72 dismissed after investigations

34 investigations pending
(at the end of the fiscal year)

Highlights

16 caution/warning letters sent

35 sent back *(not a commission matter/
no attorney listed/illegible)*

14 dismissed pending reinstatement
(attorney is already suspended)

1 dismissed as moot
due to death

1 referred out
(to JQC/other states)

24 referred to a local bar
for investigation

One lawyer was the focus of two separate opinions: one in which he was suspended for 30 days for making an improper demand that disciplinary grievances filed against him be withdrawn as a condition for settling a civil case, the other in which he was publicly reprimanded for communicating directly with a party in a civil case in which he himself was both the opposing party and acting as his own counsel. Finally, another opinion disbarred an attorney for criminal mismanagement of his trust account, forging a judge's signature, and falsifying at least one document.

There were 34 pending investigations at the end of the fiscal year.

Allegations of judicial misconduct

The Judicial Qualifications Commission received 609 complaints alleging judicial misconduct, with 94 awaiting review at the end of the fiscal year. Of the 515 remaining complaints, 464 were dismissed summarily as failing

DISCIPLINARY COMMISSION BUSINESS

- 11 Commission grievances
- 16 verified complaints
- 20 counts of misconduct
- 57 final orders of discipline
- 42 overdraft notices
- 35 overdraft inquiries closed
- 242 CLE/fees suspensions

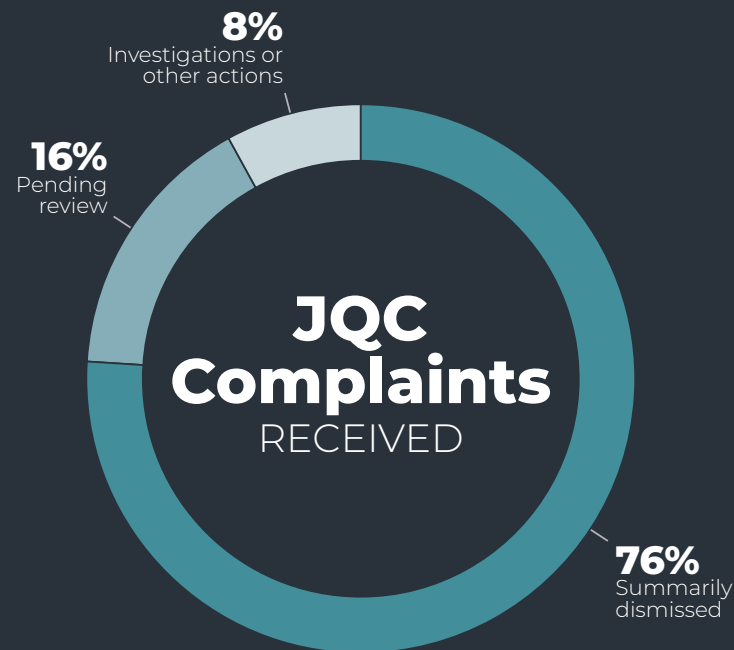
JUDICIAL DISCIPLINE ACTIONS

Breakdown of 51 cases

- 13 Pending investigations or charges
- 1 Permanent Ban on Judicial Service or Suspension
- 1 Public Commission Admonition
- 1 Private Caution
- 4 Deferred Resolutions
- 11 Advisory Letters *(not classified as formal discipline)*
- 6 Investigations Closed *(after JO resigned/retired/corrective action taken)*
- 14 Investigations Closed *(with no misconduct found)*

to raise valid issues of ethical misconduct or were dismissed following informal investigation and determination that no misconduct occurred.

In the remaining 51 cases, the Commission required judges to respond to the allegations or conducted formal inquiries or investigations. Fourteen matters were dismissed as not establishing ethical misconduct or closed after receiving the results of investigations from other agencies. Six others were closed after the judicial officer resigned, retired, or took corrective action. The Commission issued 11 advisory letters, one private caution, and four deferred resolutions.



Allegations of judicial misconduct (cont'd)

In one case, the Commission issued a public admonition against a former town court judge for modifying defendants' bonds without a motion from the prosecution or notice to the defendants, which resulted in a number of defendants being held on "no bond" determinations.

In a second case, the Commission filed formal charges against a former judge for inappropriate campaign conduct, including allowing an employee to work on his campaign during her normal workday, coordinating the distribution of one of his political campaign yard signs to a defendant with a pending matter in his court, and delivering the yard sign to the defendant to be displayed in the defendant's yard. The Commission and the former judge agreed to a conditional agreement for discipline resulting in a lifetime ban from judicial service, a public reprimand for his conduct, and monetary fines.

At the end of the fiscal year, there were 13 pending investigations.

Facilities

The Fiscal, Operations & Personnel Office made several facilities improvements during the fiscal year, from installation of new signage to upgraded security features like badge readers, intercoms, and alarm systems. They also coordinated renovation of office space to accommodate additional staff and a move by the Judges and Lawyers Assistance Program staff to a new office location.

Personnel

The Office of Diversity, Equity & Inclusion provided training to both Supreme Court and Court of Appeals staff on the foundations of DEI. They also offered 34 open discussions titled "Learn, Think, Discuss" covering topics including mass incarceration, LGBTQ+, neurodiversity, Judaism, indigenous people, abilities, and more.

The Fiscal, Operations & Personnel Office supported over 200 Supreme Court staff and nearly 800 state-paid prosecutors and judicial officers through an upgrade to the state's human resources software. They also implemented a new tool for tracking job applicants, another new tool for conducting exit interviews, and wrote an online guide to retirement for judicial officers.



100+

individual ethics opinions to judicial officers



104

senior judges certified or recertified



127

motions requesting special judge appointment



51

people hired to fill open positions



1,001

employees' payroll processed



JLAP's new office in the Capital Center building offers visitors a calming atmosphere and a variety of spaces to participate in activities from private reflection or discussion to support groups and yoga. The office has a large conference room (bottom left) and a small conference room (top left), both with video conference capabilities. Beyond the conference rooms and offices, JLAP offers visitors several spaces to take in the downtown Indianapolis scenery through large windows, grab a book from the library shelves, pull up a laptop table, and sit in a comfy chair.



Decisions in Brief

Case Work of the Indiana Supreme Court

The Indiana Supreme Court's 56 civil and criminal opinions in the fiscal year included expositions of recent bail-reform initiatives and separation of powers; and they spanned other questions of federal and Indiana constitutional law; contract, tort, taxation, and insurance matters; governmental and municipal law issues; and questions of trial and appellate procedure. The following digests the Court's chambers opinions for the year.

Exclusive Jurisdiction Cases

Life Without Parole

The Court exercises exclusive jurisdiction over direct appeals from cases involving life without parole (LWOP) and reviewed two such cases. The defendant in **Ryan Ramirez v. State**, 174 N.E.3d 181 (Ind. 2021), was convicted of fatally abusing his girlfriend's 23-month-old daughter and sentenced to LWOP for murder plus 14 years for neglect of a dependent. The Court upheld the trial court's admission of security camera footage from his parents' driveway, exclusion of certain evidence of his girlfriend's alleged prior bad acts, and supplemental instruction

given in response to a jury question during deliberations. The Court also affirmed the sentence, finding that Ramirez's abuse of the child constituted the LWOP "torture" aggravator, that LWOP was proportionate to the nature of the offense, and that neither the nature of the offense nor Ramirez's character warranted sentence reduction under Appellate Rule 7(B).

For arranging the killing of her mother's estranged husband, the defendant in **Hall v. State**, 177 N.E.3d 1183 (Ind. 2021), was convicted of murder and conspiracy to commit murder, and she was sentenced to LWOP plus 35 years. Citing evidence that Hall provided the murder weapon and ammunition, planned with and promised to pay the shooter before the killing, and met the shooter afterward to exchange payment,

the Court found sufficient proof to support her murder conviction as an accomplice, her conspiracy conviction, and the LWOP murder-for-hire aggravator. Further finding no reversible error in the trial court's evidentiary rulings, and no basis to reduce the 35-year conspiracy sentence under Rule 7(B), the Court affirmed in all respects.

Civil Forfeiture

In **Abbott v. State**, 183 N.E.3d 1074 (Ind. 2022), the State seized cash and several firearms from Abbott during a search related to drug-dealing charges, and it sought civil forfeiture of those items under Indiana's general-forfeiture and racketeering-forfeiture statutes. On transfer, the Court held that Abbott was entitled to a trial to dispute whether the seized property was "derived

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.

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from,” “realized through,” or “used in the course of” his illegal conduct. But it also held that the racketeering-forfeiture statute did not allow Abbott to use the seized property to pay for a lawyer or other defense costs. The Court also held that despite the case presenting “exceptional circumstances” that could allow appointment of civil counsel, the trial court acted within its discretion in finding that Abbott was unlikely to prevail and therefore denying his request to appoint counsel.

Constitutional Law

The Court in *State v. Katz*, 179 N.E.3d 431 (Ind. 2022), considered a constitutional challenge to Indiana Code § 35-45-4-8, Indiana’s statute criminalizing distribution of an intimate image. Katz was accused of surreptitiously recording video of his then-girlfriend performing a sex act on him, then sending it to his ex-girlfriend via Snapchat. The trial court dismissed the charge, holding that the statute violated the state and federal constitutions’ free-speech provisions. But the Supreme Court disagreed. Under the Indiana Constitution, even though the statute burdened Katz’s protectable expression, the State could prohibit his conduct as an “abuse of that right” under Article 1, Section 9, because the harms caused by the offense “vastly outweighed” the statute’s impingement on his expression. Likewise, the Court recognized that even



though the statute was a content-based restriction on speech requiring strict scrutiny under the First Amendment, it serves a compelling government interest and is narrowly tailored to achieve that interest.

Tax Review Cases

The Court decided two cases involving property-tax assessment. First, in *Muir Woods Section One Association, Inc. v. Marion County Assessor*, 172 N.E.3d 1205 (Ind. 2021), the Court determined that a homeowners association appropriately

used a now-obsolete “Form 133 Petition for Correction of Error” to challenge its 2001–03 property tax assessments for certain common-area parcels within the development and remanded the case to the Indiana Board of Tax Review.

In *Southlake Indiana, LLC v. Lake County Assessor*, 174 N.E.3d 177 (Ind. 2021), a taxpayer challenged property-tax assessments for 2011–14 that were more than double the 2010 assessment. The Indiana Board of Tax Review considered the local taxing authority’s valuation evidence (about \$239 to \$256 million) and the taxpayer’s evidence (about \$98 to \$146 million) and placed the

correct assessments in between about \$173 and \$190 million. But Indiana Code § 6-1.1-15-17.2(b) (now repealed) provided that when a challenged assessment is more than 5% higher than the prior year and neither party carries its burden of proving the correct assessment, the assessment reverts to the prior tax year's value. The Court therefore held that the statute prevented the Board from reaching that in-between result and ordered the properties taxed at the 2010 assessed value of about \$110 million.

Civil Transfer Cases

Constitutional Questions

The Court in *Holcomb v. Bray*, 187 N.E.3d 1268 (Ind. 2022), held unconstitutional HEA-1123, which allowed the Legislative Council by “resolution” to call the Legislature out of recess into emergency session. Though the Court found that Indiana’s Constitution authorizes the General Assembly to set additional sessions, Article 4, Section 9 requires their “length and frequency” to be “fixed by law”—that is, specifically enacted by law during a legislative session. By allowing a subset of legislators to set a legislative session by resolution at a time when the General Assembly is not in session, HEA-1123 violated Article 4, Section 9. And

the law also violated Article 3, Section 1 by infringing on a power—setting a session at a time when the Legislature is not in session—that lies solely with the Governor. To be valid, the law would require a constitutional amendment under Article 16.

Contracts & Commercial Law

In *Clark County REMC v. Reis*, 178 N.E.3d 315 (Ind. 2021), a county REMC first limited, then rescinded, its longstanding policy of offering health-insurance benefits to former directors who met certain criteria. Former directors sued, alleging among other things that the policy change constituted a breach of contract. On transfer, the Court held that the policy “merely formalized the board’s internal operations and did not manifest an intention or invitation by Clark REMC to contract with another” or constitute a promise to provide those benefits in perpetuity. The policy therefore was not an “offer” that a director could accept and thus form a binding contract.

The Court considered the implied warranty of habitability and the economic-loss doctrine in *The Residences at Ivy Quad Unit Owners Association, Inc. v. Ivy Quad Development, LLC.*, 179 N.E.3d 977 (Ind. 2022). There, a condominium homeowners association (HOA) sued the developer, a concrete supplier, and four entities involved in construction of the project, alleging

problems with concrete cracking and water infiltration. The Court first held that the complaint sufficiently alleged that two of the defendants were “builder-vendors” who were subject to the implied warranty of habitability. And the Court held that the economic-loss doctrine did not bar the HOA’s negligence complaint because some of the alleged damages were not “purely economic” and because it was not clear if, or to what extent, the parties were connected contractually.

Indiana’s mechanic’s lien statute had long been interpreted to let materials suppliers have a lien only for materials provided to recipients who performed work on-site. But in *Service Steel Warehouse Co., L.P. v. United States Steel Corp.*, 182 N.E.3d 840 (Ind. 2022), a supplier recorded a mechanic’s lien on a project site to secure payment for steel it sold to a fabricator whose work for the project was all performed off-site. The project owner objected to the lien. On transfer, the Court held that the long-running interpretation was wrong. “If a supplier . . . furnishes materials for the erection of a building, it can have a lien,” because the statute broadly confers lien rights on suppliers, regardless of whether they furnish materials to a contractor, subcontractor, or another supplier.

Damages

In *Renner v. Shepard-Bazant*, 172 N.E.3d 1208 (Ind. 2021), a motorist was rear-ended, which aggravated several unrelated injuries she had previously suffered. But the trial court also found that she failed to mitigate her damages by disregarding post-crash medical advice. On transfer, the Court upheld the trial court's finding of failure to mitigate; but it reversed and remanded to recalculate damages because the trial court failed to apply the "eggshell skull" rule to determine the extent to which the other driver's conduct aggravated the motorist's pre-existing condition.

Education

Although teachers have the right to collectively bargain their employment contracts, Indiana Code §§ 20-29-6-4 and -4.5 allow bargaining only over salary, wages, and related fringe benefits, and prohibit bargaining over other subjects. In *Culver Community Teachers Association v. Indiana Education Employment Relations Board*, 174 N.E.3d 601 (Ind. 2021), the Indiana Education Employment Relations Board concluded that the agreements at issue impermissibly went beyond salary, wages, and related benefits by bargaining over what constitutes an "ancillary duty."

On transfer, the Court agreed that those statutes prohibit bargaining over what constitutes ancillary duties and permit only bargaining over wages for those duties. "The General Assembly has vested the authority to assign and direct work to schools alone."

Family & Juvenile

When dividing marital property, courts must identify the property in the marital estate, then proceed under a rebuttable presumption that an equal division is "just and reasonable." In *Roetter v. Roetter*, 182 N.E.3d 221 (Ind. 2022), the trial court identified all property in the marital estate but then set aside certain assets to the husband before calculating the value of the "remaining divisible marital pot." The preferred approach, the Court opined, "would have been for the trial court to include all assets and liabilities in the divisible marital pot, rather than setting aside those assets and liabilities" before dividing the estate. But the Court concluded that the trial court's order, though perhaps inartful, adequately explained the unequal property division. And as long as it "expressly considers all marital property" and "offers sufficient justification" to rebut the presumptive equal division," the Court explained, a trial court "need not follow a rigid, technical formula" when dividing the estate.

Government & Municipal Matters

The companion cases of *Ladra v. State*, 177 N.E.3d 412 (Ind. 2021), and *Staat v. Indiana Department of Transportation*, 177 N.E.3d 427 (Ind. 2021), addressed governmental immunity under the Indiana Tort Claims Act for losses or injuries resulting from the "temporary condition of a public thoroughfare . . . that results from weather." *Ladra* held that because there was evidence the government knew of and had ample opportunity to remedy a drainage-design defect in a public thoroughfare, it was not immune simply because the defect manifested during heavy rains (modifying *Catt v. Board of Commissioners*, 779 N.E.2d 1 (Ind. 2002)). That is, the condition was not "caused by the weather." But *Staat* found immunity because unlike *Ladra*, there was no evidence the government's conduct had contributed to the roadway conditions, and the condition was "temporary" because worsening conditions at the time of the accident meant that INDOT had not yet had reasonable opportunity to respond by posting warnings or temporarily closing the roadway.

Pre-suit notice requirements under the Indiana Tort Claims Act depend on whether the claim is against a "state agency" or a "political subdivision." In *Lowe v. Northern Indiana Commuter Transportation District*, 177 N.E.3d 796 (Ind. 2021), the Court had

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to decide which category applied to the Northern Indiana Commuter Transportation District, which operates a government-owned railroad. The Court concluded that NITCD was a “political subdivision” entitled to notice within 180 days of its employee’s alleged injury—and because the employee did not provide notice until 263 days afterward, his claim was time-barred.

In *Lake County Board of Commissioners v. State*, 181 N.E.3d 960 (Ind. 2022), the Court decided who was responsible for the legal defense of probation officers who had been sued in the course of their duties. The Court held that they are state employees for purposes of Indiana Code § 4-6-2-1.5, which requires the Attorney General to defend “any state governmental official or employee” under those circumstances. Though counties pay probation officers’ salaries and certain expenses, probation officers serve trial courts. And the courts are state entities with an inseparable relationship with the judiciary. Accordingly, the State, not Lake County, was required to provide for the probation officers’ legal defense.

In *Indiana Office of Utility Consumer Counselor v. Duke Energy Indiana, LLC*, 183 N.E.3d 266 (Ind. 2022), an electric-utility company asked the utility regulatory commission to increase its rates, including costs the company had already incurred but was tracking as an asset retirement obligation. The IURC approved the increased rates in part. As a matter of first impression,



the Court decided that a utility cannot recover past costs, adjudicated under a prior rate order, by treating them as a capitalized asset. The IURC’s order therefore violated the statutory prohibition under Indiana Code § 8-1-2-68 against retroactive ratemaking.

Insurance

One way some motor carriers can comply with federal financial-responsibility requirements is to add an MCS-90 endorsement to their insurance policies—requiring the insurer to pay any judgment against the insured arising out of an accident. In *Progressive Southeastern Insurance Company v. Brown*, 182 N.E.3d 197 (Ind. 2022), a motor carrier’s driver was involved in a fatal accident, and the truck and trailer he was operating were not listed as insured vehicles under his employer’s insurance policy. The Court held that the employer’s MCS-90 endorsement did not provide coverage because the accident that occurred during an intrastate trip transporting non-hazardous property. Under federal law, the endorsement applies only to interstate trips, and the Indiana statute incorporating the federal financial-responsibility requirements does not expand the endorsement’s applicability.

The Court interpreted the liquor liability exclusion of a general businessowners policy in *Ebert v. Illinois Casualty Company*, 188 N.E.3d 858 (Ind. 2022). There, after an

intoxicated bar patron was ejected for unruly behavior, he remained in the bar's parking lot until an off-duty bouncer from one of the owners' other bars arrived and demanded that the patron leave. The patron drove away but caused a collision when he ran a red light, and the crash victims sued the bar. The Court held that the insurer owed no duty to defend or indemnify the bar against those claims, because the policy excluded coverage for bodily injury resulting from causing or contributing to a person's intoxication, or serving alcohol to a person under the influence. The Court joined a majority of jurisdictions that apply the "efficient and predominant cause" test and held those policy exclusions applied to claims grounded in drunk driving precipitated by negligent serving of alcohol—even if such claims were reframed as negligently serving the patron or failing to provide transportation for him.

Limitation of Actions

The Indiana Business Trust Act (IBTA) allows for a five-year winding-up period after a business trust ceases operations and requires lawsuits against the business trust to be filed within that period. In *Blackford v. Welborn Clinic*, 172 N.E.3d 1219 (Ind. 2021), a patient sued her medical provider for allegedly misinforming her of a diagnosis 12 years earlier. The provider had dissolved almost six years earlier, but

the patient argued the deadline should be equitably extended, alleging the provider had committed constructive fraud by concealing the misdiagnosis. On transfer, the Court held that the IBTA, as a "statute of repose," precludes the extension of time for fraudulent concealment and that, even if an equitable exception were to apply, the patient's claim of passive—rather than active—fraud tolled the limitations period up until the time the provider dissolved (when the doctor-patient relationship ended), thus making the lawsuit untimely.

In *Miller v. Patel*, 174 N.E.3d 1061 (Ind. 2021), the plaintiff's grandson killed her husband shortly after discharge from a hospital. She sued various providers and eventually sought to amend her complaint to add a claim against the hospital whose emergency room declined to admit her grandson. But the trial court and Court of Appeals found that the federal two-year statute of limitations under the Emergency Medical Treatment and Labor Act (EMTALA) made the amendment untimely—preempting Indiana Trial Rule 15(C), which allows late amendments if they sufficiently "relate[] back" to the occurrence set forth in the original pleading. On transfer, the Court held that EMTALA did not preempt the Trial Rule and remanded to the trial court to consider whether the amendment sufficiently related back to the original complaint.

Medical Malpractice

In two decisions, the Court held that certain types of claims against medical providers are not subject to the Medical Malpractice Act (MMA). In *Lake Imaging LLC v. Franciscan Alliance, Inc.*, 182 N.E.3d 203 (Ind. 2022), the Court so held as to one medical provider's indemnification claim against another provider. The MMA applies to claims based on "professional services or health care that was provided or that should have been provided," but only as to "a patient or the representative of a patient who has a claim for bodily injury or death on account of malpractice." Ind. Code § 34-18-8-1. The indemnification claim at issue was not for injury or death, and it arose out of contract law rather than malpractice.

And in *Community Health Network, Inc. v. McKenzie*, 178 N.E.3d 1187 (Ind. 2022), the Court clarified that Indiana recognizes a tort claim for public disclosure of private facts, and it held that such a claim against a medical provider is not subject to the MMA. The medical provider's employee violated company policy by accessing a former patient's health records, but that did not necessarily place the employee's actions outside the scope of employment—the provider could still potentially be vicariously liable for the breach of patient privacy. However, plaintiffs failed to establish compensable damages, or that their private facts had been "publicized" as the public-disclosure tort requires.

Public Records

In *WTHR-TV v. Hamilton Southeastern Schools*, 178 N.E.3d 1187 (Ind. 2022), a high-school teacher was suspended for an in-class incident with a student, and WTHR made an Access to Public Records Act (APRA) request for parts of his personnel file, including the suspension’s “factual basis.” Ind. Code § 5-14-3-4(b)(8). In response, the school corporation stated only that the suspension was “due to not implementing instructions for classroom management strategies consistent with” a broad staff-conduct policy. When WTHR sued for more disclosure, the trial court and Court of Appeals both concluded that APRA required only disclosing the specified “information” and not necessarily the underlying documents, and that the brief “factual basis” satisfied APRA. Although the Supreme Court agreed on the first point, it found the “factual basis” inadequate because it was merely a bald conclusion that the teacher violated a broad policy and did not contain facts about the teacher’s action that would allow a reasonable person to understand why he was suspended.

Standing

The doctrine of standing requires a litigant to be the proper party to invoke a court’s authority; otherwise, the court cannot decide the merits of its claim. In *Solarize Indiana, Inc. v. Southern Indiana Gas and Electric Company d/b/a Vectren Energy*

Delivery of Indiana, 182 N.E.3d 212 (Ind. 2022), the Court held that Solarize, an organization promoting solar power, had not been “adversely affected” by the Indiana Utility Regulatory Commission’s “final decision, ruling, or order” as Indiana Code § 8-1-3-1 requires. The IURC decision affected only “qualifying facilities,” which Solarize was not despite its general interest in the rooftop solar market. And Solarize had not sustained and was not at immediate risk of sustaining an injury because of the decision, which affected only the viability of Solarize’s potential projects. The Court therefore dismissed the appeal.

Torts—Duty

A driver in *Reece v. Tyson Fresh Meats, Inc.*, 173 N.E.3d 1031 (Ind. 2021), seriously injured a motorcyclist when he pulled into an intersection and into the rider’s path. Besides suing the driver, the rider also sued Tyson, alleging that tall grass growing at the intersection on Tyson’s property had blocked the driver’s view. Synthesizing decades of caselaw, the Court determined that although landowners must use reasonable care to prevent injury to the motoring public on adjacent highways, there was no duty under these circumstances because the alleged obstruction was wholly contained on Tyson’s property and did not encroach upon the roadway itself.

Wilkes v. Celadon Group, Inc., 177 N.E.3d 786 (Ind. 2021), involved a commercial truck driver who was injured when his cargo fell on him. He sued the shipper and the third-party who arranged for the shipping, alleging they had negligently packed, loaded, and failed to secure the cargo. Deciding an issue of first impression, the Court adopted a longstanding federal common-law rule that the carrier has the “primary duty” for safely loading cargo, unless the shipper takes responsibility for loading cargo and creates a “latent” or “concealed” defect. Although the shipper had assumed the duty of safe loading, any alleged defect in the loading was not latent because it should have been apparent to the driver through a reasonable inspection. Accordingly, the shipper was not liable for the driver’s injuries.

Torts—Other

The “res ipsa loquitur” doctrine allows an inference of negligence when two elements are met: the instrumentality that caused injury was within the defendant’s exclusive management and control, and the accident was of a type that ordinarily does not happen when those who have control of the situation exercise proper care. The Court held in *Griffin v. Menard, Inc.*, 175 N.E.3d 811 (Ind. 2021), that the doctrine did not apply to a customer’s injury that happened when a sink fell through the bottom of a box while he removed it from the store’s shelf. The

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store's other customers also had access to the box—so the store lacked the necessary “exclusive control” from which to infer negligence.

Indiana's common law allows recovery of damages for negligent infliction of emotional distress (NIED) only in limited circumstances. The bystander rule applies when the claimant witnessed the tortious conduct and resulting death or severe injury of a relative, either as the events unfolded or in their immediate aftermath. But the Court in *K.G. v. Smith*, 178 N.E.3d 300 (Ind. 2021), narrowly expanded that rule based on the case's “extraordinary circumstances,” where an instructional assistant admitted to molesting a special-needs child at school. Under the new rule, when a caretaker assumes responsibility for a child and owes a duty of care to the child's parent or guardian, a claim against the caretaker for NIED may proceed when the parent or guardian later discovers, “with irrefutable certainty,” that the caretaker sexually abused that child and when that abuse severely impacted the parent or guardian's emotional health.

The Court held in a pair of companion cases that just as hospitals may be vicariously liable for independent contractors' acts through apparent or ostensible agency, so may non-hospital medical care entities. In *Arrendale v. Orthopaedics Northeast, P.C.*, 183 N.E.3d 1064 (Ind. 2022), the Court held that under *Sword v. NKC Hospitals, Inc.*, 714

N.E.2d 142 (Ind. 1999), and the Restatement (Second) of Torts section 429, an outpatient diagnostic imaging center could be held vicariously liable for a radiologist who read MRIs for the center on an independent contractor basis. Meanwhile, in *Wilson v. Anonymous Defendant 1*, 183 N.E.3d 289 (Ind. 2022), there was no evidence of any legal relationship between the physician group and the physical therapist at issue, so *Sword* and Section 429 did not apply. But the Court held that a different Restatement provision—Section 267—could apply, because it appeared that the group may have represented that it had an agency relationship with the therapist, and that the patient could have justifiably relied on those representations.

Trial Pleading, Practice & Procedure

In *ResCare Health Services Inc. v. Indiana Family & Social Services Administration*, 184 N.E.3d 1147 (Ind. 2022), a care facility disputed the FSSA's denial of Medicaid reimbursement for over-the-counter medicines prescribed to its patients. After an ALJ denied administrative review, the facility sought judicial review and requested a declaratory judgment that if the medicines were not reimbursed, it could charge its patients' accounts for the cost. But the trial court found that the facility should have filed a separate case to seek declaratory

judgment, and that the facility's patients would have to be joined to such an action. On transfer, the Supreme Court disagreed on both points: The trial court had authority to consider the declaratory judgment in the same action as the judicial-review claim, and the facility was not required to sue its own patients in order to obtain a declaration of whether the facility charging its patients would violate Medicaid regulations.

Wills, Trusts, & Probate

In *Rotert v. Stiles*, 174 N.E.3d 1067 (Ind. 2021), a beneficiary argued that a provision of his late mother's revocable living trust was an unlawful restraint against marriage under Indiana Code § 29-1-6-3. The challenged provision stated that his interest would be distributed to him directly if he were unmarried at the time of his mother's death, but otherwise it would be held in trust. The Court noted that by its terms, the statutory prohibition on restraints against marriage applies only to dispositions to a spouse, and only under a will. Since the challenged trust provision was neither a disposition “to a spouse” nor “by will,” the statute was inapplicable—disapproving *In re Estate of Robertson*, 859 N.E.2d 772 (Ind. Ct. App. 2007), which had applied the statute to a trust provision.

Criminal Transfer Cases

Bail & Pretrial Release

Criminal Rule 26, adopted by the Court in 2016 and codified by the General Assembly the following year, aims to reduce pretrial-detention expenses for local jails, enable defendants awaiting trial to return to their jobs and support their families, and enhance the benefits of reduced recidivism and improved public safety. To that end, the Rule directs trial courts to use “the results of an evidence-based risk assessment” when determining whether to release a defendant before trial. And if the trial court finds, based on the results of its assessment, that a defendant presents no “substantial risk of flight or danger” to himself or to others, “the court shall,” with certain exceptions, “consider releasing the arrestee without money bail or surety.” But to what extent does Criminal Rule 26 affect the legal standards governing pretrial release, the level of discretion enjoyed by trial courts, and the standard of review on appeal? In *DeWees v. State*, 180 N.E.3d 261 (Ind. 2022), the Court held that the codification of the Rule—while strongly encouraging pretrial release—ultimately enhances, rather than restricts, the broad discretion entrusted to trial courts when executing bail. And while the Rule mandates a trial court to

“consider the results” of an evidence-based risk assessment, the Court explained, those results are not dispositive and should be considered along with all other relevant evidence. Because the evidence in this case supported a determination that the defendant posed a risk of flight and potential danger to the safety of others if released on bail, the Court affirmed the trial court’s order denying the defendant’s motion for bond reduction or conditional pretrial release.

Constitutional Questions— Search & Seizure

In *Jesse R. Bunnell v. State*, 172 N.E.3d 1231 (Ind. 2021), police arrived at a home after a report of domestic battery and smelled raw marijuana when they approached a door. Relying on that smell, they obtained a search warrant for the home and discovered large quantities of raw marijuana, marijuana plants, and drug paraphernalia. The defendant argued the search warrant was invalid because the deputies’ affidavit failed to adequately detail their “training and experience” in detecting that smell. On transfer, the Court held that given marijuana’s ubiquity and distinctive scent, the officers’ general reference to their “training and experience” was enough under the circumstances, without further detail,

to present a substantial basis for probable cause in support of the search warrant. The Court also noted, however, that “it is better practice to provide additional detail.”

Discovery

The Court held that the defendant was deprived of a fair trial in *Juvenito Ramirez v. State*, 186 N.E.3d 89 (Ind. 2022). First, an impermissible local rule and an improperly issued protective order prevented his attorney from obtaining a copy of the alleged victim’s interview, contrary to Trial Rules 26, 34, and 37. Then, the State disclosed extensive new evidence the day before trial that required a change of trial strategy, but the court denied even a one-day continuance to investigate the new allegations. Although the errors relating to a copy of the interview did not require reversal under the circumstances, the denial of a continuance did. The Court therefore reversed the defendant’s conviction and remanded for a new trial.

Although the General Assembly can make or change substantive law, it cannot make procedural rules that conflict with court rules—just as court rules cannot change substantive law. In *Church v. State*, — N.E.3d — (Ind. June 23, 2022), the Court reviewed a 2020 statute that limits the right of defendants charged with sexual offenses against children to depose their alleged victims. The Court of Appeals held the

statute was procedural and impermissibly conflicted with the Trial Rules. But on transfer, the Supreme Court disagreed. It explained that despite its procedural elements, the statute is substantive because its predominant objective is public policy—protecting alleged child sex-crime victims from unnecessary re-traumatization—rather than judicial administration.

Ineffective Assistance of Counsel

The Court considered two post-conviction relief (PCR) cases involving claims of ineffective assistance of counsel. In ***Tyre Bradbury v. State***, 174 N.E.3d 608 (Ind. 2021), the defendant, then 15, had been charged as an adult and convicted of murder as an accomplice after his 19-year-old friend shot and killed a toddler while opening fire on a rival during a gang dispute. In PCR proceedings, the defendant argued that his defense attorney was ineffective in several ways, including for stipulating that the older friend had been convicted of murder and for failing to ask the jury to be instructed on reckless homicide as a lesser included offense. Finding valid strategic reasons for both decisions, the Court held that the defendant was not deprived of ineffective assistance of counsel.

In ***Conley v. State***, 183 N.E.3d 276 (Ind. 2022), Conley had pleaded guilty to murdering his 10-year-old brother when he was 17;



and in 2012, the Court affirmed his LWOP sentence. On PCR, Conley argued, among other things, that he received ineffective assistance of counsel. The Court of Appeals rejected the defendant's arguments but found *sua sponte* that counsel was deficient for not presenting evidence of juvenile brain development at sentencing. On transfer, the Supreme Court held Conley did not receive ineffective assistance of counsel and affirmed the trial court in full. Like the Court of Appeals, the Court rejected each of the ineffectiveness grounds the defendant raised on appeal; it also explained that because the sentencing judge had already considered the defendant's age and given it little mitigating weight, brain-development evidence would have been unlikely to change the outcome. Finally, the Court held that because Conley had unsuccessfully argued on direct appeal that his LWOP sentence was inappropriate under Appellate Rule 7(B), *res judicata* prevented the Court from considering that issue again on PCR.

Jurisdiction

When the Court decided ***D.P. v. State***, 151 N.E.3d 1210 (Ind. 2020), it held that juvenile courts lose jurisdiction once an alleged delinquent child turns 21. But it left open the question whether the State can file criminal charges against a person who commits an offense as a child but is an adult when charged. In ***State v. Neukam***, — N.E.3d — (Ind. June 23, 2022), the Court held that

under the governing statutes, “a child’s delinquent act does not ripen into a crime when the child ages out of the juvenile system.” Although that meant that neither the juvenile court nor the circuit court had jurisdiction over the serious charges at issue, the Court held that was “a jurisdictional gap only the legislature can close.” So although Neukam faced criminal charges for offenses committed as an adult against the same victim, the State could not add more charges for acts he allegedly committed before turning 18.

Trial Pleading, Practice & Procedure

Indiana’s criminal code defines burglary as the breaking and entering of a building or structure of another person with intent to commit a felony or theft within. Because the burglar need not actually complete the intended felony or theft for criminal liability to attach, the offense is complete, for purposes of prosecution, once the burglar crosses the threshold of the premises. But does the offense itself end simply because the State has established criminal liability? In *Fix v. State*, 186 N.E.3d 1134 (Ind. 2022), the Court concluded that it does not, holding that burglary is an ongoing crime that encompasses a defendant’s conduct inside the building or structure, terminating only

when the unlawful invasion ends. Based on this conclusion, the Court affirmed the defendant’s conviction for level-2 felony burglary while armed with a deadly weapon, despite the defendant having armed himself only after the breaking and entering.

Other

The defendant in *Larkin v. State*, 173 N.E.3d 662 (Ind. 2021), was charged with voluntary manslaughter in connection with the shooting death of his wife during a domestic altercation. But over defense objection, the jury was also instructed on involuntary manslaughter as a lesser included offense. The jury convicted Larkin of involuntary manslaughter, and he appealed. On transfer, the Court upheld that conviction, finding a serious evidentiary dispute about whether Larkin intended only to push her with the gun, or intentionally shot her while acting under sudden heat; he had fair notice of the lesser offense because it was based on his own pre-charging admission that he had pushed her with the gun; and there was sufficient evidence to rebut self-defense. The Court also found that prosecutorial misconduct in failing to disclose evidence did not require dismissal, because Larkin ultimately learned of the evidence and had adequate time to incorporate it into his defense before trial. Finally, the Court found no abuse of discretion in finding Larkin’s

use of a handgun as an aggravator, because even if it was used inappropriately, the trial court found it was “far outweigh[ed]” by the mitigators and imposed the minimum sentence.

Several aspects of the defendant’s charges and trial were at issue in *Miller v. State*, 188 N.E.3d 871 (Ind. June 29, 2022). There, one police officer observed Miller commit a traffic violation; when another pulled him over based on that report, they found drugs, as well as a gun (which he was barred from possessing because of a prior felony conviction). On transfer, the Court affirmed Miller’s convictions: The traffic stop was lawful because under the “collective-knowledge doctrine,” officers without personal knowledge can initiate a stop if they are acting upon information from another officer who has personal knowledge. Miller could not appeal whether one prospective juror should have been struck for cause, because the “exhaustion rule” required him to attempt to use a peremptory strike, even if he thought the court would have denied it. And although a jury instruction on the firearm-possession charge included the potentially prejudicial information that Miller had prior criminal history, defense counsel affirmatively agreed to the instruction as part of what the Court found to be a reasonable strategic decision—making it invited error.





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