

# **State of the Judiciary**

**Grant County, Indiana  
By Judge Mark E. Spitzer  
Grant Circuit Court  
February 13, 2008**

Even before I began serving in office, as I was educating myself about this position, I noticed that there were scarce opportunities for the Judiciary to communicate with the other branches of government and the public in any formal fashion. While we appear before the Council or the Commissioners from time to time, we usually do so when we are asking for something. While the separation of powers contemplated by the framers of our Indiana Constitution necessarily causes some tension between the judiciary and its other coequal branches of county government, as a practical matter county government works best when the branches of government work together toward goals which are often shared by all branches. Following the model at the state level, it occurred to me that it would be valuable to our county leaders and to the public to have an opportunity to communicate the successes, failures, accomplishments and objectives of our county judiciary as we enter a new year. After speaking with the other judges and President Scott, the opportunity to do so tonight became a reality. My comments tonight are the product of the work and insight of all four of our county judges.

## **County Government Working Together**

It seems best to start with an example of collaborative success from last year – the jail overcrowding situation. The nature of the problem is well known – increases in crime rates in the county have led to steady increases in the jail census. Ultimately, the jail became populated above its capacity on a regular basis. While there were early attempts at addressing the issues, with some success, the county continued to see high daily numbers in the jail. Early in 2007, a committee chaired by President Scott and consisting of representatives from the Council, the Board of Commissioners, the judges, and the public defenders began to study the problem. Other representatives from county government such as the Prosecutor, Probation, the County Clerk, and the Sheriff attended the meetings and provided input into the problems. The conclusion of the Committee was that many small but beneficial changes could be made to the way that we did business which could help alleviate the problem.

These changes included new software for the jail which gives us better information about the inmates and helps us make sure their cases are heard promptly. Installation and

implementation of that software is nearly complete, and it is in use by the jail, courts, and law enforcement. The changes included expanded use of remedies such as home detention and day reporting for nonviolent offenders whose issues can be addressed outside the jail. The changes included a revision of the bond schedule by the judges with input from the Prosecutor and public defenders to provide that nonviolent offenders be permitted to post cash bonds which can be used to pay public defender fees and court costs, which both lessens the burden on taxpayers, and insures that our scarce jail resources are used for those who present a risk to the community. The changes included an aggressive effort by the Sheriff to move inmates who had been committed to IDOC quickly to their destination and out of the jail. The changes included a prioritization of trial scheduling by the judges to give first priority to those who are in jail. And, in all circumstances, the changes were accompanied by cooperation from the Judges, Prosecutor, Sheriff, public defenders, and probation to make those changes work.

The results have been immediate and dramatic. I attach a table provided to me by Sheriff Himelick which depicts the average monthly inmate population over the last 5 years.<sup>1</sup> You will note that beginning in June of 2004, the monthly average inmate population was 296 or greater for all but 4 months until October of 2007. Beginning in December of 2006, we began to see monthly averages below those in the previous year, and in 2007, each month's monthly average was less than the previous year. Beginning in October, the monthly averages have declined substantially, with a per month decrease of at least 45 inmates in the last quarter of 2007. The declines in January and February have even been greater. The jail population today is 224. These figures are well within the jail's rated capacity. While it is not uncommon to see numbers increase in the warmer months, we are hopeful that our numbers will remain below capacity.

I thank you for your cooperation in managing this problem. I believe that these results illustrate that when we work together in Grant County, we can accomplish great things.

### **Courts Which Solve Problems**

It may not be commonly known that the Grant County criminal justice system and community corrections programs are rightly regarded statewide as on the cutting edge in their area. Thus, when the legislature in recent times opened the door for "problem solving courts," Grant County has been among the first to take advantage of these new tools to address our problems. You don't have to be on the bench too long to see some of the same people who keep

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<sup>1</sup> See Appendix, Chart 1.

moving through the system. This is a problem which is called “recidivism”, and there’s plenty of it in Grant County.

Authorities in the criminal justice arena have begun to study the use of problem solving courts to combat the recidivism problem. In the problem solving court model, courts focus on closer collaboration with the service communities in their jurisdiction and stress a collaborative, multidisciplinary, problem-solving approach to address the underlying issues of individuals appearing in their courts. While these approaches are not a panacea for all offenders, in many cases they can help an individual overcome prior bad choices, deal with underlying issues which contribute to criminal behavior, and reintegrate as a productive member of society. You are already familiar with one of those efforts – the Drug Court program which is administered by Judge Natalie Conn. Since its inception in Feb 2005, 47 participants have successfully completed and graduated from the program. In addition, there are currently 72 active participants. Studies of the program so far indicate that there is a recidivism rate of 6-7% for drug court graduates and 30-33% for all drug court participants including those that were discharged prior to graduation, as opposed to a recidivism rate of 60-65% for the normal population not participating in drug court. This is consistent with national figures for drug courts in other jurisdictions. The model works on a national level, and it works in Grant County.

Building upon the success which we have seen in the Drug Court, in January of this year, Judge Jeff Todd began the Reentry Court program. Reentry courts provide offenders released from the Department of Correction access to comprehensive, wrap-around services for a maximum of one year to promote their successful reintegration into the community. Studies have indicated that of all offenders released from prison, 51% will be back in prison within three years. Reentry Courts attempt to address this daunting recidivism rate by providing tools to integrate nonviolent offenders who have spent more than two years at the Department of Correction and have a record of good behavior back into society during the last year of their executed sentence. Studies have shown that Reentry Courts result in a dramatic reduction in the recidivism rates for their participants. At the same time, they allow local officials to maintain tight control over the offenders as they reenter the community. Judge Todd currently has 5 individuals involved in the program, with a capacity for 30 individuals by the end of 2008.

In similar fashion, Community Corrections in 2007 implemented its Day Reporting Program. Just last month, the first four graduates of the program were honored for successfully

completing it. Day Reporting provides a more intense level of supervision than a normal probation program, and has been used by the Courts as an alternative to incarceration for nonviolent offenders who have a medium to high risk of recidivism, offenders with health issues, or offenders who have demonstrated exemplary conduct in the DOC system as they transition back to the community. It has also been used on a limited basis for pretrial purposes in lieu of incarceration, although due to limited capacity, it is only available for rare occasions for this purpose. Day Reporting has a capacity of 30 offenders at this time.

It is our belief that the use of these tools over time will help curb the recidivism rate that plagues our local criminal justice system. It is our hope that the offenders in these programs will make best use of them to become productive members of our community.

#### **Judicial Education on the State's Dime**

The Indiana Judicial Center provides educational opportunities to the State's full-time judicial officers on a wide range of topics which are relevant to our everyday work. In most circumstances, this education is provided at minimal or no cost to the County. In 2007, each of our local Judges took advantage of this opportunity to receive continuing education to keep abreast of the changing laws and trends which affect the Judiciary. We each believe that an educated judiciary translates into a more innovative court system for the county. We will continue to take advantage of those opportunities to learn on the State's dime to ensure that we are doing our job in the best and most efficient way possible.

#### **Utilizing Technology to Promote Efficiency**

We wish to thank the Commissioners for their assistance in providing us with the necessary technological tools to do our jobs, and want to report that we are continuing to find new ways that those tools can help us. Shortly before I took the bench, the Commissioners provided a computer to be used by the judge in the courtroom for the first time. This has proved invaluable, as I can quickly research a legal issue, check the status of a case, or find information about a jail inmate in real time in the course of a hearing or trial.

In early 2007, with the assistance of Pat Cline, I added a significant amount of content to our Court website, including the ability to find out what is on the court's docket, links to resources for litigants, and answers to questions which the staff is asked on a daily basis. I also provided a page for prospective jurors which allows them to log onto the website at any time and

check to see if they need to report on a Monday morning for jury duty. As we seek feedback from jurors, we have found that a surprising percentage of jurors have used this resource.

Technology is a valuable tool in our business which has continued to have expanded use in virtually all aspects of the judicial system. We can use technology to become faster, more efficient, and more accurate. We can use technology to analyze and evaluate our performance. And we can use technology to provide better service to the public.

### **Caseload Statistics for 2007**

One important use of technology is to gather caseload statistics. Coming from the private sector, I have been frustrated that decision-making in county government is often based upon opinion and innuendo, rather than solid facts. One of the first things which I sought to do when I took office is to collect information about the business which we do and gather it in a useable format. If evidence-based decision making works in the courtroom, I see no reason why it shouldn't be used to make policy.

I have provided you with a summary of selected caseload statistics for 2007, as compared to prior years.<sup>2</sup> I would point out that the 2007 figures are unofficial, as they have not yet been processed by the Division of State Court Administration, so there may be some changes to the final numbers when we receive them from the State. While the figures should be self-explanatory, there are a few areas which I would like to highlight. First, we did see a small decrease in felony filings in 2007 over 2006. However, the 2007 figures are still well above other earlier years, and over 22% greater than 2002 figures. The decrease was almost totally due to a decrease in D felony filings. The number of D felonies appears to fluctuate both ways over the years. More serious felony filings continue to remain at a high level.

As to the overall case filings, they are down over prior years, but you will note that this is due almost entirely to a decrease in misdemeanors and small claims cases. In researching this phenomenon, I find that between 2002 and 2006 (the most recent official data available), misdemeanor filings are up substantially in the city courts, which would explain the decrease in the county courts. I cannot explain the decrease in small claims cases, but would speculate that it might relate to increases in filing fees. As you know, small claims and misdemeanor cases tend not to take a significant amount of court time – they normally do not require jury trials and the

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<sup>2</sup> See Appendix, Charts 2 and 3 and Graph 1.

law provides for simplified and expedited procedures for them. As an aside, I would point out that these cases also tend to generate fees which help to support court functions.

Conversely, mortgage foreclosures and collections filings appear to be at historically high levels. This is most likely a result of the overall financial condition of the county.

To summarize, while the overall court filings are down, cases which take the most significant court resources and generate the least revenue appear to be on the rise. Also, we can expect that our community's economic challenges will place additional burdens on the courts. These are trends which we will watch closely in the future.

### **Courthouse Repairs**

In a speech about the state of the Judiciary, I would be remiss not to comment on the condition of the Grant County Courthouse. As you are well aware, nearly two years ago, the roof of the Courthouse blew off in a summer thunderstorm. While a temporary patch was performed on the roof, the integrity of the roof system was damaged. Since that time, Courthouse employees and officials have repeatedly brought to your attention problems which have resulted from the damaged roof. I know most of you have not viewed the damage. I urge you to do so to get a full appreciation of the problem. There are multiple areas of water infiltration. The water leakage has resulted in deterioration of walls, mildew and mold. There has been damage to court files. Certain important computer equipment is in danger of being compromised by the leaks. The problem extends not only to the 4<sup>th</sup> floor, but also to the 3<sup>rd</sup> and 2<sup>nd</sup> floors. The problem is serious, and it is growing.

The water infiltration problems have also raised concerns and complaints from employees about health problems. We all are aware of health concerns which can arise from toxic molds and other hazards resulting from water leakage in structures. It is irresponsible to expose courthouse employees to such a risk.

We understand the debate which is going on now about whether to build a new building or to remodel the Courthouse. That decision is yours to make and will be made by you in due time. However, the Courthouse's condition cannot wait for that decision. Whatever that decision may be, now is the time to fix the Courthouse roof and solve the leakage problem. It has been nearly two years since the roof was damaged. Waiting will not make the problem go away, and will not make it cheaper or easier to fix. Waiting is not in the best interests of the

health of Courthouse employees. The Judges implore you to make these repairs your utmost priority.

### **What the Future Holds**

There are several interesting developments on the horizon for the Courts. One is the future implementation of the statewide case management system which is now being piloted in several counties. Another is the expanded use of problem solving courts to reduce recidivism in our community. And for history buffs, I'm working on a section of the Circuit Court website which will chronicle the history of Circuit Court and the Courthouse. I'm sure there will be future challenges, such as the restructuring of county government, which we may be faced with as well in the near future.

Regarding the U.S. Constitution, noted attorney and public servant J. Reuben Clark stated, "It is the union of independence and dependence of these branches - legislative, executive and judicial - and of the governmental functions possessed by each of them, that constitutes the marvelous genius of this unrivalled document." The same can be said of our Indiana Constitution. On behalf of Judge Todd, Judge Johnson, Judge Conn and myself, I can share that it has truly been an honor for each of us to serve the county as judges. We will continue to use our independent judgment, in conjunction with the joint efforts of our sister branches of government, to ensure that the justice system in Grant County is efficient, friendly, and fair. Thank you for this opportunity for us to share our challenges and achievements with you tonight.

APPENDIX

*Chart 1, Inmate Monthly Population*

**Grant County Sheriff's Department  
Inmate Monthly Population**

	2003	2004	2005	2006	2007
January	263	261	278	321	296
February	266	295	280	311	296
March	275	292	305	301	299
April	279	285	336	305	304
May	278	299	352	309	297
June	313	308	346	317	303
July	292	323	311	315	304
August	292	335	297	309	308
September	286	335	313	343	302
October	278	334	307	353	289
November	267	294	313	325	276
December	245	278	311	288	243



**Chart 2**  
**Criminal filings, 2002 to Present**

	2002	2003	2004	2005	2006	2007 (Unofficial)
Murder - Circuit	0	2	1	3	0	0
Murder-Sup. 1	1	0	0	1	2	1
Murder - Sup 2	0	2	0	0	0	0
A Felony -Circuit	5	11	9	9	14	15
A Felony -Sup. 1	6	15	7	7	23	16
A Felony - Sup 2	8	5	15	8	15	19
A Felony -- Sup 3	0	0	0	0	0	0
B Felony - Circuit	18	26	35	42	30	29
B Felony - Sup. 1	30	34	28	36	24	25
B Felony - Sup. 2	26	23	33	36	35	27
B Felony - Sup. 3	0	0	0	0	3	0
C Felony - Circuit	33	35	47	64	50	48
C Felony - Sup 1	39	34	42	53	62	47
C Felony - Sup 2	42	46	42	52	41	38
C Felony - Sup 3	0	0	0	0	0	1
D Felony - Circuit	30	16	36	25	45	42
D Felony - Sup. 1	33	22	30	29	39	51
D Felony - Sup. 2	23	20	36	38	51	36
D Felony - Sup. 3	405	450	457	393	472	459
<b>Total Felonies</b>	<b>699</b>	<b>741</b>	<b>818</b>	<b>796</b>	<b>906</b>	<b>854</b>

**Chart 3**  
**Total Filings and Filings for Selected Case Types**

	2002	2003	2004	2005	2006	2007 (unofficial)
Collections	494	565	628	796	819	1065
Mortgage Foreclosures	439	462	456	460	486	487
Divorce	550	488	392	436	459	401
Small Claims	4175	4460	4355	4571	3087	2793
Misdemeanors	728	669	743	597	620	498
New Filings, All Cty Courts	9357	9503	9467	9553	8328	7240

Graph 1  
Graph of Chart 3

