



September 19, 2008

Christopher Ruhl  
State Budget Director  
Room 212 State House  
Indianapolis, Indiana 46204-2796

Dear Mr. Ruhl:

This transmittal letter accompanies the proposed FY 2010 & 2011 biennial budget for the Indiana Supreme Court and the ancillary budgets I manage as Chief Justice.

**A. THE MISSION OF THE COURT**

The Indiana Supreme Court is both the state's highest tribunal and the constitutional head of the judicial branch of government. It therefore has multiple responsibilities. The Court's mission is to decide appeals fairly and efficiently, establish the common law and legal precedent, interpret laws enacted by the legislature, give meaning and force to the United States and Indiana Constitutions, promulgate and enforce rules for operation of the courts and supervision of the legal profession, and provide leadership and assistance for Indiana's courts and judges.

**B. SUPPORTING DIVISIONS AND COMMISSIONS AND THEIR FUNDING.**

The General Assembly has created various entities to assist the Court in performing its mission. The Division of Supreme Court Administration aids in our adjudicative duties and general administration, housing both the Office of Supreme Court Administration and the Clerk of the Supreme Court, Court of Appeals, and Tax Court. The Division of State Court Administration supports management of the trial court system. The Judicial Nominating and Qualifications Commission has, over the past thirty-six years, helped create in Indiana one of the country's best appellate judiciaries.

Pursuant to its constitutional authority, the Court has also created by rule additional entities to assist in its duties. Three of these – the Disciplinary Commission, the Commission for Continuing Legal Education, and the Judges and Lawyers Assistance Program – *are financed completely by licensing fees paid by Indiana lawyers.* A fourth, the State Board of Law

Examiners, is largely funded from bar-applicant fees. The work of the Judicial Technology and Automation Committee (JTAC) is and will be funded in the next biennium entirely from court filing fees and grants. The Court created the Commission on Race and Gender Fairness, and this year's submission requests funds to continue its important work.

This letter transmits the budgets for the following fund centers: the Supreme Court and its principal administrative divisions (including JTAC); the State's expenses in trial court operations; trial judge and prosecutor salaries and expenses; special judges' expenses; the Judicial Branch Insurance Adjustment Account; the Public Defender Commission; the Commission on Race and Gender Fairness; the Indiana Conference for Legal Education Opportunity; the Civil Legal Aid Fund; the Guardian Ad Litem/Court-Appointed Special Advocate (GAL/CASA) program and a fund center for a small federal grant to GAL/CASA; a fund center for federal reimbursements for expenses in Title IV-D enforcement actions; and a fund center for federal grants received for the benefit of our state courts.

### **C. ACCOMPLISHMENTS DURING THE CURRENT BIENNIUM.**

We believe Indiana citizens can be justly proud of their judicial system. Improving the system and our ability to dispense effective justice is always a goal, and a major challenge. We summarize below just a few of our most significant recent accomplishments.

#### ***1. Continued progress towards a statewide case management system that will integrate technology within the Indiana justice system; and pursuing other technology initiatives.***

Under the auspices of our Judicial Technology and Automation Committee (JTAC) chaired by Justice Frank Sullivan, Jr., we have made substantial progress in our effort to equip every Indiana trial court with a 21st Century "case management system" (CMS); to provide critical interfaces between courts, law enforcement, and state agencies; and to launch additional technology initiatives that benefit Indiana courts and the public.

JTAC's principal project is the development and implementation of the statewide CMS, a computer program that enables trial courts to record and manage electronically all relevant information in all of their cases and make that information readily available electronically to judges, court and clerk's personnel, litigants and attorneys, and the public. JTAC achieved significant milestones this biennium. The new CMS, called Odyssey, was developed, tested, and deployed in Monroe County's nine circuit courts and the Marion County's Washington Township Small Claims Court. Odyssey is now "live" and operating with great success in these pilot courts, and JTAC and its vendor are working on additional enhancements that will primarily benefit probation officers and others who perform extensive supervision of individuals under the jurisdiction of the court. And, as discussed in more detail later in this letter, JTAC plans an aggressive roll out campaign for installation of Odyssey in many more Indiana courts during the current fiscal year and the upcoming biennium.

JTAC has also accomplished much with regard to creating critical interfaces between courts, law enforcement, and state agencies:

1. Bureau of Motor Vehicles Project. JTAC and BMV continued their joint efforts to bring Indiana into compliance with federal rules requiring faster reporting of serious traffic violations by commercial drivers. This effort, which primarily involves replacing Indiana's paper-based system with a paperless electronic system, has produced amazing results. Before the project began, these traffic records took an average of more than 53 days to go from the court to the BMV. As a result of this project, that average time has dropped to 8 days. Continued work will focus on allowing courts to transmit more serious traffic violations to the BMV in real time, which will drop the average time even further and ensure that appropriate driving privileges, suspensions, disqualifications, and convictions are timely posted on driver records.

2. Protection Order Registry. A major hole in the domestic violence shield that protective orders represent has been the inability of law enforcement officers to access the orders. When a battered ex-spouse calls the police because she sees her abuser waiting outside a restaurant in Blackford County, how does the responding officer know whether the court next door in Delaware County actually issued a protective order, or what that order requires? To plug this hole, JTAC, the Criminal Justice Institute, and the State Police have created an electronic statewide "Protection Order Registry." It provides accurate, comprehensive, and timely information on domestic violence protection orders to local, state, and national law enforcement agencies within minutes of their issuance. Currently, 64 Indiana counties (including the two largest) use the registry; ten more are being trained on the system; and work is underway to deploy the Protection Order Registry in every county by the end of the current fiscal year.

3. Electronic Citation and Warning System (eCWS) Project.

JTAC has joined with the BMV, the Criminal Justice Institute, the State Police, the Department of Natural Resources, the Indiana Excise Police, and local law enforcement agencies to develop an electronic traffic citation and warning system for use by officers in the field. Similar to the hand-held devices employed by rental-car agencies, officers use scanners to read bar codes on driver's licenses and vehicle registrations to create a ticket in five or six minutes rather than hand writing one in fifteen or twenty. The system has drastically reduced the officer's administrative work and increased the safety of Hoosier roadways by quickly identifying dangerous drivers and reducing the time needed for a traffic stop. Moreover, since the data is recorded electronically at the start, it no longer need be re-entered over and over as the information travels from ticket to prosecutor's office to clerk's office to court to BMV, eliminating a great administrative burden previously inherent throughout the process. The eCWS program received an honorable mention in the prestigious 2008 Best of the Web and Digital Government Achievement Awards given by the Center for Digital Government.

The Indiana State Police and eighteen local police departments currently use eCWS, and more plan to come "on line" in the near future.

4. Tax Warrant Project. JTAC and the State Department of Revenue have created a Tax Warrant Interface that allows court clerks to process tax warrants electronically, thereby reducing manual data entry, making public records easily searchable, and providing accurate records in a more timely manner. For counties using Odyssey, the tax warrant case number, judgment, and disposition is also recorded in Odyssey. Twenty-two counties use this system, with more to come on-line soon.

5. Marriage Licenses. JTAC collaborated with the State Department of Health and State Library to automate the process for issuing marriage licenses at local clerks' offices. The new system ensures current and accurate information is available to state agencies needing marriage data, eliminates much of the administrative burden and re-entry of data inherent in the old system, and gives county clerks the ability to search quickly for marriage records statewide.

6. Courts Online Reports Project. For decades, the Supreme Court's Division of State Court Administration (STAD) has collected extensive case statistics and financial data on the activities of Indiana's trial courts and has compiled that information into an annual multi-volume Indiana Judicial Services Report. This Report is used by the Supreme Court and local trial courts to understand trial court workloads and ensure an even distribution of cases among courts and judges. The Legislature also uses it to assess whether additional trial courts are needed in a given county or region. Prior to 2007, most of the data was transmitted to STAD on paper forms filled out manually by judges, clerks, and other local staff, which then had to be entered into a database by STAD employees. Now this data is submitted electronically by the local courts, dramatically reducing errors and the amount of time and administrative effort needed to produce this valuable information, and providing the data users with much greater flexibility in analyzing the data.

Finally, JTAC has also accomplished much on the technology front that benefits courts and citizens alike.

1. The Indiana Judicial Website. The Indiana Courts website is a continually growing Internet presence to which new services and new information are constantly being added. We now feature web pages for Indiana's trial courts; a "Know Your Courts" section that describes Indiana's judicial system with links to additional resources; a glossary of legal terms and information on jury duty; a database on more than 12,000 archived Indiana Supreme Court cases from 1817 to 1872; and local court rules for each county. One of the most popular features on the Indiana Courts website is a "child support calculator," which allows parents to calculate the support that would be payable, per Indiana's child support guidelines, in their given circumstances. This promotes settlement, reduces

litigation, and provides faster help for children in need. In 2007, about 800 people *per day* used this free on-line service.

2. LexisNexis Legal Research Initiative. Under a contract with JTAC, all judicial officers and county clerks can receive LexisNexis online legal research materials at JTAC's expense. The favorable pricing provisions of this contract are available to other government entities, reflecting the Court's commitment to leverage its buying power whenever possible to benefit other branches of government. Some 300 individuals in the executive and legislative branches use Lexis via JTAC's favorable pricing. We know of no other state that has a contract inclusive of state and local government, and the price is competitive for the number of users we guarantee.

3. Jury Pool Project. Jury lists used to include 60-80% of eligible jurors. Now they include more than 99%. This feat, which has received accolades from the American Judicature Society and the American Civil Liberties Union of Indiana, represented collaboration by the Supreme Court, JTAC, the Indiana Jury Committee, Purdue University, Indiana Department of Revenue (DOR), the BMV and others. This modernized list combines data from BMV and DOR, capturing for potential jury service the names of anyone with a license or state ID or who works or pays taxes. It is more inclusive of Indiana's citizens, has decreased the number of undeliverable jury service summonses returned to the courts, and has prompted a considerable increase in the diversity of many courts' jury pools.

4. Jury Management System. JTAC and the Indiana Jury Committee have developed a web-based Jury Management System (JMS) available free to all Indiana trial courts. The system allows counties to select jurors randomly, assign and manage panels, and manage claims to pay jurors. It also makes juror information current and easily searchable, and plans include permitting potential jurors to check trial status via a public website. Twenty-five percent of Indiana counties use the JMS, with several more to come on-line during 2009.

5. Ivy Tech State College Judicial Employee Computer Training Program. Under a contract with JTAC, Ivy Tech State College provides computer training at its 26 different locations for clerk and judicial employees.

6. Used Computer Initiative. From time to time, JTAC has access to a limited number of older surplus computers, which are then made available to court and clerk offices throughout the state.

A detailed report on JTAC's activities during the current biennium and plans for the upcoming biennium is included in the Account Narrative for JTAC.

We anticipate JTAC expenditures of about \$17.8 million in fiscal year 2010 and \$11.7 million in 2011. The Court requests no General Fund appropriations in the biennium for these projects. Most of these expenditures will be funded with the proceeds from the "automatic

record-keeping fee” authorized by the Legislature in IC 33-19-6-19. The Court does request that the “automatic record-keeping fee” be increased from \$7 to \$10 per case filed in an Indiana trial court. This necessary increase is discussed in more detail below.

***2. Indiana’s Court of Last Resort: Another record year for cases received and disposed.***

The caseload of the Indiana Supreme Court continued to grow at a record-setting pace during the first year of the present biennium and seems likely to set yet another record by the close of the current fiscal year.

Since a public referendum in 2000 streamlined the Court’s jurisdiction, the Court’s principal caseload has consisted of requests to accept jurisdiction following the conclusion of an appeal in the Court of Appeals. The number of these requests, called “petitions to transfer,” has risen dramatically over the last six years. During fiscal 2001, the Court received 785 transfer petitions. That number has risen consistently, topping out at the close of fiscal 2008 at a record 1,027 -- an increase of more than 30% in just seven years. The number of filings in early fiscal 2009 suggests another record year. So far, the Court has managed increase, boosting its transfer dispositions from 738 in fiscal 2001 to 1,015 in fiscal 2008.

Not surprisingly, the Supreme Court’s rising caseload tracks the overall trend experienced by the Court of Appeals. The Court of Appeals has likewise worked hard to keep current with its caseload under such a strain, itself annually reaching record levels in both the number of appeals received and the number decided.

As discussed more below, the strain of these increases has taken a toll on the Court’s administrative staff, in both its Clerk’s Office (which services all of Indiana’s appellate courts) and its Division of Supreme Court Administration, whose workloads are directly proportional to the number of cases received. It is also reflected in the Clerk’s Office Records Department, charged with housing the records of completed appeals for prescribed periods of time and microfilming those paper records.

***3. Web-based Public Information on Indiana’s Appellate Jurists: Helping Hoosiers cast informed retention votes.***

In response to a request from the Legislature to provide more information about the appellate judges who appear on the general election ballot, the Supreme Court and Court of Appeals have developed a new web page that consolidates information about Indiana’s appellate jurists that, until now, had been spread out over several web pages and, therefore, difficult to access. The site will give Hoosier voters a user-friendly, one-stop resource for biographies, opinions, on-line oral arguments and the results of the State Bar’s survey for each appellate jurist up for retention in November 2008. The courts intend to provide this web-based service to Hoosiers every election year that appellate judges are on the ballot.

**4. *Citizen Education: Effective educational outreach to Indiana's children, its citizens, and the world.***

We have expanded our award-winning "Courts in the Classroom" (CITC) initiative during this biennium. CITC seeks to educate the public about the legal process and about judicial history. It began in 2001 with installation of state-of-the-art webcast equipment in our courtroom, enabling live webcast of every oral argument and archiving for later viewing (over 460 arguments are currently available on the Court's website). The benefits from this webcasting are not limited to students. Attorneys report they use the webcast database to help prepare for their own oral arguments, as teaching tools in Continuing Legal Education sessions, for mentoring new lawyers, and to enable clients to view "live" the arguments in their cases without traveling to Indianapolis. We have also used the webcast equipment for bar admission ceremonies, public hearings, State Police promotion ceremonies, Court of Appeals retirement and robing ceremonies, Judicial Center training videos, and lectures sponsored through our Lecture Series, and a new weekly "CourtCast" featuring news and information about the state's judicial system.

CITC has created lesson plans for Indiana teachers and students in certain "featured cases" on topics of likely interest to teenagers, like due process, the right to a jury trial, and the structure of Indiana's courts. On-line lesson plans, aligned with Indiana's social studies standards, are posted with links to the oral argument videos and other legal resources. CITC also has museum-style exhibits that help educate the hundreds of students and tour groups who visit the Court's historical courtroom each year.

CITC also annually hosts events in our courtroom to educate citizens and students about Indiana's judicial system and legal history. During fiscal 2007-08, more than 600 attorneys attended three lectures, for free CLE credit, as part of the Indiana Supreme Court Legal History Lecture Series. And, more than 1000 students participated in interactive programs such as *Bound for Freedom* (an interactive play based on a freedom suit filed on behalf of a slave living in Indiana), and *Ex Parte Milligan Comes to Life* (an adaptation of the famous Indiana case).

CITC also provides materials about the history of Indiana's courts to libraries and schools. During fiscal 2008, we published a reprint of the 1816 Indiana Constitution, an article on the Court's slavery cases, and a pocket version of the present Indiana Constitution, all of which were distributed free to libraries and other educational institutions.

**5. *Lowering the Language Barrier: Making Indiana's judicial process fair and understandable to those who do not speak English.***

The number of Indiana residents for whom English is either a distant second language, or not a language at all, has grown at an exponential rate, and with it the number of non-English speaking persons who have need to interact with the judicial process. The Court has undertaken several initiatives to help such persons navigate their way through Indiana's court system.

First, in 2003 we joined the National State Court Interpreter Certification Consortium, through which state courts combine efforts to develop standard training and testing materials

used throughout the nation to certify qualified interpreters. We first focused on Spanish interpreters, and we now have some 56 who have been certified. During fiscal 2008, we expanded our testing to include the opportunity for French certification. Interest in this effort remains high, and orientation classes are often full before the application deadline. The Court has also renewed its contract with Language Line Services, which permits Indiana's trial courts to receive over-the-phone translations in dozens of languages. Arabic, Mandarin, Polish, and Swahili were just a few of the languages spoken in Indiana courts with the assistance of telephonic interpretation. Finally, in fiscal year 2008 we awarded nearly \$240,000 in court interpreter grants to 40 Indiana counties to lower local costs of interpretation.

Second, we partnered with Ivy Tech Community College in 2006 to offer a workplace Spanish curriculum to trial court employees. The curriculum features 24 hours of classroom instruction and a textbook with companion CD to help people maintain the skill learned in class. We offer these courses free to any trial court employee or any county clerk employee assigned to work with trial courts. Over 650 people have now participated or signed up to do so. The enthusiasm with which local court personnel have greeted this initiative reflect a strong determination to serve people of all backgrounds.

Third, through the Court's efforts, Spanish-speaking people and those who represent them now have access to portions of the Indiana Code in Spanish. Sections of the criminal code that come up most frequently and a glossary of terms is now available online.

#### **6. *Delivering better justice where children and families are involved.***

Providing effective justice for families and children is, of course, an important part of Indiana's public policy. More pertinent to this submission is the fact that whether the courts do a good job on child support, CHINS, delinquency, and foster care directly affects the State's budget in a host of ways.

Our biggest challenge in this field has been to implement the Legislature's decision of 2005 that every child involved in an abuse and/or neglect case should have an advocate. In 2007, the Governor and the Legislature made a major commitment (nearly \$3 million) to expand the network of GAL/CASA volunteers who speak for these children and represent their best interests as Guardians ad Litem or Court Appointed Special Advocates.

In 2007, 67 of Indiana's counties had certified GAL/CASA programs, whose volunteers advocated for 16,653 children involved in CHINS cases and 3,296 children involved in a termination of parental rights case. These volunteers donated 508,973 hours of their time to advocate for children. With the increased funds in the 07/09 budget, our GAL/CASA office is placing a very strong emphasis on building the number of volunteers. Even though great strides have been made, many urban areas still have children on waiting lists for advocates. One notable measure to expand the number of volunteers is a recent partnership with the Indiana Retired Teachers Association, through which retired teachers are encouraged and trained to become GAL/CASA volunteers. This partnership provides an excellent avenue for experienced, dedicated educators with a desire for community service.

We are also bearing down on the Family Court Project, which implements new ideas for coordinating case management and services to families, and for better-informed decision making, to avoid inconsistent and duplicative court orders. Beginning in 2000 with three counties, it has now grown to 23 counties participating in seventeen single-county and regional efforts. In 2007 over 12,000 children and adults received services through the local family court projects. These projects receive two-year seed funding from the Supreme Court to reform local practices. While all projects must include some type of judicial coordination of multiple case families, programming has expanded to include non-adversarial dispute resolution and other programming for high-risk, low-income, and/or pro se families.

We have pursued alternative dispute resolution (ADR) initiatives beyond the family court projects. In 2003, the General Assembly authorized creating ADR programs in domestic relations cases in every county, permitting a \$20 fee in each legal separation, paternity, or dissolution case. This fee may be used for mediation, reconciliation, nonbinding arbitration and parental counseling, primarily for the benefit of litigants who have the least ability to pay. Twenty-five Indiana counties now have approved ADR plans involving facilitation, conflict resolution classes, anger management classes, parenting coordination and intensive in-home case management. More than 2,700 children were affected by the ADR fund plans in 2007. Half of the cases accepted under ADR plans in 2007 were dissolutions involving children.

#### **7. *Continuity of Operations and Disaster Preparedness Planning.***

From the tragedy of 9/11, to the hurricanes that now seem annually to devastate our southern states, to the record flooding in Southern Indiana during the spring of 2008, governmental units have taken security, continuity of operations, and disaster preparedness to heart more than ever before. The judiciary is no exception.

From July 2006 through June 2008, the Court collaborated with the Judicial Center and the Bureau of Justice Assistance to develop and distribute a template for Indiana courts to use as a framework for constructing local continuity of operations plans (COOPs). Although the template was well received, the majority of courts were unable to use it, confined by small staffs with few resources to devote to the creation of local COOPs.

Accordingly, the Court hired a consultant to assist pilot counties in developing COOPs. The consultant worked this year with the first pilot county, Howard County, to develop a COOP and a pandemic plan for its courts. Our goal for the next two years is to help many more counties develop comprehensive COOPs for their courts. The Howard County experience demonstrated that the amount of time required to help courts fully develop such plans warrants having a full-time employee devoted to this enterprise. The Court intends to hire this employee during the current fiscal year with funds from its current fiscal year appropriation.

In addition, this fiscal year the Court adopted a new Administrative Rule 17, which became effective January 1, 2008. This rule provides a procedure under which the Supreme Court may issue emergency orders in the event of natural disaster, civil disobedience, widespread disease outbreak, or other exigent circumstances requiring closure of the courts or inhibiting the ability of the courts and litigants to comply with deadlines. The Rule's issuance

was timely, as it was invoked a few months later when the Morgan County courthouse roof was destroyed by a tornado, necessitating some of that county's courts and clerk to relocate.

#### **8. *Reform of Indiana's Code of Judicial Conduct.***

During this biennium, Indiana became the second state to adopt new judicial ethics rules based on the American Bar Association's revised national model. The new code, which will become effective on January 1, 2009, emphasizes the "three i's" of judicial conduct – independence, integrity, and impartiality. The new code specifies that judges may take measures to assist unrepresented litigants in gaining a fair hearing and encourages judges to promote *pro bono* work by lawyers; highlights the role of judges in promoting ethics and professionalism among lawyers and other judges; provides more concrete guidance for avoiding "the appearance of impropriety," a rule long criticized for its vagueness; imposes clear requirements for public disclosure of income, reimbursements, and gifts; includes ethical principles intended as guidance for judicial candidates; and encourages judges to reach out to the public to promote understanding of the judicial system.

#### **9. *Title IV-D Funds: securing federal funds from child support enforcement.***

Federal law allows federal reimbursement of certain direct and indirect state and county expenses associated with enforcement of child support orders under Title IV-D. When the salaries of prosecutors, deputy prosecutors, and magistrates who work on such cases were funded from local sources, the individual counties worked to secure Title IV-D funds from the federal government. As the General Assembly shifted the payment of these salaries to the state (and, in particular, the Supreme Court), no one in particular had responsibility for seeking federal reimbursements for state-level expenditures. Accordingly, for a period of time many otherwise available federal funds went unclaimed by Indiana.

In 2007, our Division of State Court Administration set out to rectify this problem. Not possessing staff designated specifically for this function, we entered into a successful arrangement with a contractor to help capture Title IV-D reimbursements. Now, in cooperation with, and with the approval of, the Department of Child Services, the Governor's Office, the State Budget Agency, and the Indiana Prosecuting Attorneys Council (IPAC), the reimbursed funds, net the contractor's fee, are shared 50/50 with IPAC and will be used for programs designated by each entity in a management plan submitted to the Budget Agency. The funds are shared with IPAC to encourage prosecuting attorneys to develop and provide the necessary documentation for the reimbursement claims.

The Court's portion of Title IV-D reimbursements will be used 20% for judicial education and scholarships, 50% for local court reform studies and implementation of court improvement projects, and 30% for a statewide analyses of shifting funding for trial courts from the counties to the state as a means of helping relieve the burden that the local courts place on property tax revenues. The IPAC portion will be used 50% for prosecutor training, education, and scholarships; 30% for technology enhancements to the current statewide computer system

that interfaces county prosecutor offices with the State Police criminal history repository; and 20% for other projects, including a study that will investigate ways other states use to attract and retain quality deputy prosecutors, development of standard brochures, videos and even public service announcements to help crime victims understand and feel at ease in the criminal justice system, and a study focusing on unification of court policies, more efficient management of criminal cases, cross-county unification of Drug Courts, and other cross-county benefits for Clark, Hamilton, Fountain, Warren, Allen, Marion, and Elkhart Counties.

#### **D. OBJECTIVES AND CHALLENGES IN THE NEXT BIENNIUM.**

The Supreme Court submits its budget requests recognizing the need for all arms of state government, including the Judiciary, to be fiscally responsible with the money entrusted to them by Indiana's citizens.

##### ***1. Providing cost-effective, legally effective indigent representation in a manner that relieves pressure on the property tax system.***

The Legislature has offered counties that are willing to meet minimum standards for indigent defense a state reimbursement of 40% in non-capital cases and 50% in capital cases. As a concept, it has rightly received much praise. Currently, 57 counties qualify to receive reimbursements in non-capital cases. The Public Defense Fund's current biennial appropriations are \$14.5 million and \$15.25 million, a substantial increase over the last biennium. Still, the increase was not enough to cover the entitlement of the counties, forcing the Fund to reimburse only pro-rated amounts to counties that have fully upheld their end of the bargain set forth in the statute. Indeed, the fourth quarter of fiscal 2007, the Fund met only 18.3% of its non-capital obligations due to insufficient funds, the lowest return to counties in the Fund's history. We anticipate continued shortfalls in FY 2009.

Current projections indicate that the Fund appropriation must be increased to \$18.7 million for fiscal 2010 and \$21.5 million for 2011 to meet the obligation to the counties. Thus, we request that approximately \$3 million and \$6.25 million be added to the Fund appropriation for 2010 and 2011. This request, of course, contemplates the continuation of the existing legislation, under which the State reimburses only a portion of the total indigent defense costs, with the remainder coming from local property tax revenues.

We urge an alternative arrangement for financing indigent criminal defense costs that completely lifts this burden on local property tax, as recommended by the Kernan-Shepard Commission.

State assumption of the total cost of indigent defense would provide significant property tax relief and improve the efficiency of the service. The total cost of indigent criminal defense would be approximately \$70 million per year. We propose a five-year implementation window, necessitating about an additional \$11 million plus \$300,000 in administrative costs for fiscal year 2010, and \$22 million plus \$400,000 in administrative costs for fiscal year 2011. In our budget submission, we have created a standard "New Services Summary" based on a five-year schedule.

State Court Administration would administer the payroll for this arrangement, much as it already does for trial judges, magistrates, and prosecutors' salaries.

## ***2. Improving public safety through state financing of probation***

Tens of thousands of convicted felons pass through a labyrinth of community corrections, probation, corrections, and parole each year. There is many a slip 'tween cup and lip.

Consistent with the Kernan-Shepard recommendations, we urge that the state undertake to finance all these arrangements so that they can be better integrated. Our trial courts currently employ 1494 probation officers and 523 support staff, paid by the counties to supervise convicts who are otherwise candidates for a bed at the Department of Correction. The probation costs are offset by probation user fees, but these fees fail to cover most of the costs. The net cost of probation services on county property tax rolls was \$3.5 million in 2005, \$33.5 million in 2006, and \$33.3 million in 2007. We propose state assumption of these costs over a five-year period, and have reflected this as a standard "New Service Summary" in our trial court operations budget request for this biennium.

## ***3. Increasing "automated record keeping fee" from \$7 to \$10.***

The work of the Court's Judicial Technology and Automation Committee (JTAC) is funded entirely from a statutory "automated record keeping fee" that the Legislature added to trial court filing fees in 2001 and 2002. That fee currently stands at \$7 per case. We request that the fee be increased by \$3 to \$10 per case filed, effective July 1, 2009.

This need for additional funding is the result of expansion of JTAC's program in four primary respects:

- First, JTAC is embarking on a much more aggressive schedule during the upcoming biennium for rolling out its statewide "Odyssey" case management system in Indiana's trial courts than originally anticipated at the time of the last biennial budget submission. This will require more resources than anticipated two years ago.
- Second, during the recent roll out of Odyssey in pilot counties, we learned that proper operation of the new system and maintaining the integrity of its database requires JTAC to assume responsibility for the conversion of a trial court's existing data, rather than requiring the local court to bear responsibility for converting its current and historical data to the new Odyssey system. This, too, will require more resources than we anticipated two years ago.
- Third, JTAC has undertaken substantial new initiatives for the transmission and receipt of information from trial courts, law enforcement, and state agencies (particularly the Bureau of Motor Vehicles, the State Police, local law enforcement, the State Department of Health, and the Department of

Revenue). Although much of this work at this point has been funded through federal and state grants, the cost of maintenance and expansion of these initiatives during the upcoming biennium will require more resources.

- Fourth, we have realized the need to expand the provision of “Help Desk” services for those courts and agencies using, or beginning to use, the Odyssey system as well as other JTAC initiatives. The expansion needs to occur both in the number of workers who staff the Help Desk, and in the hours during the day and week in which those services are provided.

***4. Staff Needs: One New Employee for Supreme Court Administration and Twenty-Five New Employees (formerly contract workers) for JTAC.***

As discussed earlier in this letter, the administrative burdens resulting from the Supreme Court’s dramatic caseload increases are taking their toll on the Supreme Court Administration Office and the Clerk’s Office, whose piecework rises with the number of cases and transfer petitions filed. Supreme Court Administration also manages the human resources and accounting functions for the Court. The administrative responsibilities and burdens in these two functions have grown appreciably over the last several years due to the Court’s assumption of responsibility for the Clerk’s Office, changes to and increases in the number of benefits available to state employees, and the required adoption of the ENCOMPASS financial program. Accordingly, these two offices require the addition of at least two administrative positions and one additional attorney to help shoulder the increased load.

However, in this budget submission the Court seeks increased funds for only one of the three positions the Court anticipates it will need for these two offices in the upcoming biennium. The Court has worked diligently to increase its efficiency and cut spending where possible during this biennium, resulting in a surplus in FY 2007/08 and a projected (albeit much smaller) surplus in FY 2008/09 in its personal services account. Assuming the base of this year’s budget to be equal to the Court’s FY 2008/09 appropriation, the Court intends to fund the second administrative staff position and the additional attorney position from its base appropriation amount, rather than seeking additional funds for them.

In addition, much of JTAC’s work has been performed through the years by “contract workers” – people paid out of JTAC funds but through private contractors. We have determined that we can provide better service at less cost if we were to employ 25 of these contract workers as JTAC employees. Accordingly, we are seeking to have these 25 positions added to JTAC’s staffing table. These positions, like the others in JTAC are funded entirely from the dedicated funds generated by the statutory “automatic record keeping fee.”

Finally, to maintain the stability of our valuable work force, we anticipate the need to make salary adjustments in the current and succeeding years in keeping with a performance-based Salary Administration Plan the Court has implemented, which involves periodic movements in a designated salary matrix for employees meeting certain specified performance criteria. To fund these merit-based adjustments, we request a 2% increase in the salary and benefit appropriations of all our budgets, effective on July 1<sup>st</sup> of each fiscal year.

In addition, the Court is seeking a small increase of 1.5% in the salary and benefit appropriations of all our budgets, effective January 1<sup>st</sup> of each fiscal year, to help its employees combat anticipated increases in health care costs and the cost of living generally.

**5. *Microfilming and digitization of appellate court records.***

The Court must seek additional funds to increase the level of microfilming the Clerk's Office performs as part of its statutory recordkeeping function, *see* IC 33-24-4-2(2). Because of the finite nature of the available storage space, the Clerk's Office has a document retention schedule under which it stores closed case files for a certain period and then has the documents microfilmed before sending them to the State Records Department. The growing number of appellate filings during the last several years necessitates increasing the rate of microfilming before the available storage space is completely exhausted. In addition, the Clerk's Office will be digitizing the microfilmed records that it stores on site, to increase the speed and efficiency of the service delivered to customers of the Clerk's Office's Records Department, eliminate the space taken up by the numerous cabinets of stored microfilm, and increase the Clerk's Office's ability to protect confidential court records, such as those in juvenile and adoption cases, from inadvertent public disclosure. The cost of this increase in microfilming and adding digitization will be about \$100,000 in 2010 and \$115,000 in 2011.

**6. *Technology needs for continuing appellate operations during times of disaster.***

As with our strides toward trial court disaster preparedness, the appellate courts are working together on similar efforts. For purposes of this budget submission, the appellate courts' joint efforts include two fundamental technological components. First, the Supreme Court and Court of Appeals intend to install a secondary server in the State House to act as a failover should hardware or electrical problems take down the main server located at 30 South Meridian Street. This mirrors the approach the Indiana Office of Technology takes on almost all mission critical applications, utilizing some form of redundant server configuration. Second, the appellate courts intend to implement a disaster recovery "hotspot" outside the Indianapolis metropolitan area that would allow Indiana's appellate courts to resume operations from a distant location should a catastrophe make continued operations in Indianapolis untenable. Several Indiana state government agencies have already implemented such "hotspots" as part of their disaster preparedness, including the Bureau of Motor Vehicles, the Department of Homeland Security, and the Department of Workforce Development.

The cost for each project is estimated at \$150,000, for a total of \$300,000. These costs shall be shared equally by the Supreme Court and Court of Appeals; therefore, each court seeks an appropriation for half the cost of each project in their respective budget submissions. We intend to pursue implementation of the redundant local server in the first year of the biennium and the disaster recovery "hotspot" in the second year.

**7. *Providing skilled interpreters for Spanish-speaking residents.***

As discussed earlier in this letter, the need for qualified interpreters continues to rise as Indiana's demographics continue to change. The grant program funded by the General Assembly has done much to help counties bear the financial burden of providing equal access to their courts, but much work remains to be done. To meet the expanding need and continue improving court interpretation, we request an additional \$100,000 for each year of the biennium.

**E. CONCLUSION.**

The budgets we submit today reflect moderate, necessary increases to meet the Court's important responsibilities. The Court will continue to meet challenges without significant General Fund support whenever possible, even though, in the grand scheme of things, the Court's call on the General Fund is relatively very small. In addition to the many examples of internal funding for judicial programs mentioned above, the Court has and will continue to take steps to find more efficient ways to operate and to identify alternative funding sources.

The Indiana Supreme Court has taken great strides in recent years toward making justice available to all the citizens of this State in a fair and efficient manner. We believe this budget submission advances those efforts.

Sincerely,

*Randall T. Shepard*

Randall T. Shepard  
Chief Justice of Indiana

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