Key:

R = Chief Justice Loretta Rush

R: Hi. Greetings to my colleagues on the federal bench. I'm Chief Justice Loretta Rush, Chief Justice of Indiana, and I was also co-chair along with Deborah Taylor Tate of the National Judicial Opioid Task Force.

What I want to talk about today is to share with you some of the findings and recommendations after about three years of work. So, to start, why did we create a National Judicial Opioid Task Force? In 2017, when I was asked to chair it, I was in my first term as Chief Justice -- they said, "Do you think we should have a national task force dealing with this public health crisis?" And I said, "Yes, we probably should have done it a couple of years ago." And they said, "Great, we're going to have you chair it."

So, I started off, what is the role? We had to figure out, what is our lane? And I read all the reports that were done nationally, and there are lots of them; I mean, the president had a commission that was led by Chris Christie, the National Association of Governors, attorney generals, state legislators -- there are a lot of medical ones. But the one piece that was missing from all those reports is, what is the role of the courts? So, I said, certainly there must be some go-to thing for us to look at, to get the resources. We all, as judges, want to use evidence-based services and treatment, but where do we find what they are?

So, I sort of started the work. I met with the Surgeon General, Dr. Adams, and he really talked to me about what levers; what is in our lane and what isn't in our lane? We had national convenings, we had experts from all over the country. We had 24 people; judges, court administrators and the executive committee, and we brought in content experts, literally hundreds from every state, to put together our report and final recommendations. And here are some statistics that stood out to me in the beginning, was the criminal justice system is the number one referral source to get somebody to treatment. Also, if you have opioid use disorder, you're 13 times more likely to be involved in the criminal justice system.

So, what we're looking at is, we're looking at the justice system really being at front and center for getting people to treatment. So, we've got to get it right. We've got a public health crisis; I don't need to tell you, I know you've had other segments, that we're losing more Americans than died in several of our last wars, cancer, car crashes. Literally, it's not about really reforming individuals sometimes in the court system, it's about keeping them alive.

In the state court system, we saw people dying while on probation, being released from jail detoxing, and it really hit the crisis point. So, we went and put together a series of tools and came up with some recommendations to deal with the urgency of this matter. We talked to tribal communities, we talked to Veteran's Courts, we looked at specialty courts. We worked with SAMHSA, we worked with Johns Hopkins with regard to what is evidence-based, to make sure that the bench cards and tools that we put together were correct.

So, after a series of field hearings and almost three years, we came to a final report with findings and recommendations, and we've also put together a series of several dozen bench cards for judges, probation officers and the like. We've done trainings on this. The Conference of Chief Justices and the Conference of Court Administrators have adopted these findings and recommendations. We've probably presented the final recommendations to training to literally tons of thousands of people around the country.

One of the things we do as chief justices, we're responsible for the administration of justice in our states, and we set up education and training protocols. And we are incorporating the findings and recommendations and the training protocols for all judges. Probation is under, just as in the federal system you've got pre-trial services and probation under the federal courts. We're also training our probation officers. And we think that judicial education is so important because sometimes judges hearing from judges hits home a little more. We have, for instance, in my state, I had judges, a couple of years ago telling me, "I don't believe in medication-based treatment," "I don't believe in the three FDA-approved -- buprenorphine, Suboxone and naloxone -- treatment." Or, "I'm a Vivitrol court," I'd have legislators come and say, listen, there's this new hydrogen therapy for people with opioid use disorder. So, it really hit home, the fact that we had to get the science right. And we had to start training judges on the science of addiction, and what works. And I know you've had training modules dealing with the science of the brain, so we start with that, and then we start talking about what medication words, because the realities are, and the science is solid, that nearly 90 percent of people with opioid use disorder can be effectively treated with medication-based treatment. But they need to have an individualized assessment and treatment plan. So we set up with a training that we have for judges and probation, and attorneys, because we also think that not only training judges, we need to train the attorneys, because sometimes the attorneys may have to get the information, look at the science, look at the best practice tools and that, and actually school their judges on what works.

So, part of the work of the National Judicial Opioid Task Force was to really start looking at what our governing principles are going to be. And some of those principles, that judges need to lead the way, go back to that statistic about the justice system being the primary referral source to get people to treatment. We also, after a lot of work, really

saw that one of the biggest impacts, if not the biggest impact of this opioid public health crisis is on children and families, and we had to bring in solutions and programs that would work with them. And then finally, we had to track it. We had to collect the data and start measuring outcomes. We're learning this throughout about every area of criminal justice, reform and other things, that you've got to get the data. You've got to start tracking recidivism to see what works and what doesn't. I started being a judge in the '90s; we used to think all these programs and things worked. But once we started tracking them, they weren't evidence-based, and it's very important that you stay faithful to the program and track it. So those three principals were going to be to guide our work.

So, when we were looking at the judicial response, and those guiding principles, we really sat down with different groups. We sat down with the tribal communities. And I know you have the same in the federal court system, what is working for them? What is evidence-based? We looked at tribal Wellness Courts. We brought in states that had large tribal populations; they've been particularly hit hard by the opioid crisis. And looking at model transfer agreements, because sometimes, sort of the devil's in the details. You can say this is a good program, but let's give our judges and our justice professionals examples. So, we have transfer agreements to transfer from federal court to state court, if you want to get a federal individual in a Veteran's Court, or a specialty court. We've got a model agreement; they're doing it with huge success in Montana and some other states. We're looking at transferring from state courts to tribal Wellness Courts, because we're tracking outcomes, and the outcomes we're seeing with the tribal Wellness Courts are stronger than the success that they're seeing in the state court system. And the over-arching thing that we learned through this, it's opioids today, but it's going to be another drug. So, we set up, and our final report talks about convening, connecting and collaborating courts as leader in the addiction’s crisis.

We get asked a lot, and you probably do too, why we didn't set up a judicial response during the crack-cocaine era that we all lived through, and we saw such destruction of communities and families. And really, the only response I have is, shame on us that we didn't do it. So, the model that we're setting up for dealing with addictions is to deal with this one, and future addictions. Our findings were that we didn't have enough judicial education on best practices. The medication-based treatment, which is also referred to as "MAT," is key. And we had to start breaking down the stigma. Some of the other initiatives that we highlighted were the -- and I know you have it in federal court system -- we have opioid treatment courts. Judge Hannah started, had the first one in Buffalo, where you have daily court appearances for 30 days with monitoring, really dealing with the addiction at the front of the case. Pre-trial reform -- we're doing a lot in the state court system on pre-trial, where it's not just based on a cash bond, that we're

looking at getting them assessed and into treatment, and not just sitting in jail waiting for their court case to come up, if they don't have the funding to deal with it.

We're working on medical-legal -- and again, these are convenings that judges are pulling together -- we're looking at medical-legal partnerships. And we're seeing those, and we're actually piloting those with money. And what that is, you take a treatment facility and you embed a civil legal aid lawyer in, because if somebody's struggling with addictions, they just have a bunch of unmet civil legal needs. It could be a homeless vet, they could be needing to get their license back, something expunged, a debt case that is through that impediment to them getting on the road to recovery. So, we're really working with our civil legal aid attorneys to have that, which would be sort of the last intercept. And the task force has a lot of good recommendations on that, because you think about somebody having a right to an attorney in a criminal case, they don't have that parallel right in a civil case. So quite often, they can get through the system, be on probation or parole, and have that warrant out on a debt, not able to get their license back, a housing issue -- then we need to make sure that they're represented. So that was one of the recommendations that we had on that.

Secondly, working with children, and children and parents and families -- we have a lot on trauma and trauma-based care for families involved in the system, and then best practices programs that work, including sort of a new court called the Family Recovery Court where, when can a child be safely kept with the parent while the parent's going through recovery? We're setting up extensive peer mentors, people that have seen -- gotten to the other side of recovery, whether it's in Veteran's Court or Family Recovery Court, working through those. And we're seeing some good promise. Working on telemedicine and getting services particularly in rural communities to the people that need them. Broadband -- I mean, we need to all support more broadband in rural communities, but there is an example, and we heard from a farmer in Montana who's actually doing yoga, the instructions from his phone, because it was part of his treatment protocol for getting over his opioid use disorder.

An over-arching theme in talking about dealing with the addiction crisis is sort of the state courts partnering with the federal courts, within their communities, sharing best practices, sharing what works -- it's just key. Because judicial leadership -- and again, I go back to these statistics that talk about the justice system being the primary referral source, these cases being before us. We have the ability with the litigants that come into our courtroom on really changing the direction of their life. So, using sort of the power -- it's not the power of the pulpit, the power of the bench -- in convening people together, working together. I am honored to serve on the Federal State Jurisdiction Committee, and I just started, had my first meeting, and really learning -- and I've learned a lot with regard to how we work parallel to each other, but we're working in tandem on some of the same issues. And this public health crisis really hits home on the

need for the federal and state courts to work together, to use our combined judicial leadership to advocate for better resources for those that come before us.

Working on these issues together is really going to be key to moving the needle on this, because what we're seeing in a lot of states right now, we're seeing with so many overdoses -- and I get a heat map of my state, and these kind of things are available to you, too -- I can see what counties had what overdoses, when. The prescription drug monitoring program, which is available to your probation officers, we're really worked on, how do you access that information so that you know if somebody's on your probation caseload, or before you, is pill hopping state to state? We've set up two regional traditional opioid task forces, one in New England and one in the Midwest, and we're sharing this information, because so much of what we deal crosses state lines -- so that information would be available to the federal judiciary as well.

So, when we're looking at the final recommendations, we're really looking at key judicial education, making sure all our judges know about the science of addiction. In Indiana, we had a 70-minute program -- and I know 70 doesn't seem like much, but every judge in the state got trained in the science of addiction. Because we're not just dealing with the litigants that come before us. In the state courts, we deal with attorney discipline as well as judicial discipline, and we've seen a number of our judges struggling with substance abuse. I'm seeing more now that I saw 10 years ago. So, and then our attorneys, the attorneys that come before us that are struggling, and when do you make that referral to your judge's lawyer assistance program to make sure that they don't keep going down the road? So, we're seeing those referrals are up in all of our states. And remember that, as a judge, if you see an attorney -- we had a judge that just had to get removed from the bench for methamphetamine addiction, and a lot of his colleagues said, you know, I knew something was wrong, but we didn't want to speak up. So, educating judges on the basis of addiction, what works, what doesn't work. And if you're a family court judge, you're dealing with children and families, make sure that you work the trauma element in with regard to assessment and treatment for that trauma. And I tell judges, it's not -- when you look at the materials, and it's not just -- you've got to be kind of smart on drugs. You know, we know how to be tough, I've been a judge for a couple of decades, we're good at being tough on drugs. But when do we become smart on drugs, to make sure within our disposition, within our sentencing, our disposition, our pre-sentence reports, that it includes an individualized assessment? Then as courts, we have to start at the tail end, as we talked about earlier, collecting the data to make sure that what we're doing is right, and we're staying faithful to the model.

We've seen a real resurgence of specialty courts, and what we're really driving home with regard to problem-solving in courts is, they have to stay faithful to the model. There has to be a rigorous process, you can't just call yourself a problem-solving court,

because you're not going to get the outcomes that you want. In Indiana, we have over a hundred problem-solving courts, but we're really looking at the over-arching behavioral health needs of the litigants that come before us. And we're seeing wonderful successes. It's a lot of work, with regard to bringing that community in. But that's what works with a problem-solving court, it's really that wrap-around services that go with that intensive community involvement. And really, you look at the reaching out to the faith community, the medical community, what all it takes with regard to from that 9-1-1 call to when a family is successfully recovering and ready to go on. So, we believe in specialty courts. We believe in specialty courts, to stay faithful to the model. And our role as judges is to make sure that they stay faithful to the model, and the states have a strong certification process.

So, this public health crisis -- did we ever think as judges we would be involved in a public health crisis, where we had to learn science? That we had to really learn what worked, what best worked, and then work together on it? The most powerful thing we can do as judges are for federal and state judges to work together, to understand, to get smart on addictions and mental health and behavioral health, so we can better deal with the litigants that come before us, to help stop that revolving door that we all see too often, and in a public health crisis to stop the dying. So many of the individuals that come before us with opioid use disorder may not be coming back through that door again, based on that.

So, the resources that we have through the National Judicial Opioid Task Force are readily available to you and to all your judges. They come in print form, so, I mean, they come in single, maybe one to four pages, they're in the style of a bench card. We have a substance use dictionary, we have a tool that talks about words matter -- how to talk about addiction in your court to lessen the stigma. Medication-based treatment -- how to deal with fentanyl, carfentanil, in courtrooms -- what are you doing with regard to your staff? What about Narcan? Does your court have a protocol for naloxone with regard to preventing overdose? I carry it with me, I've had other judges that have carried it with them, but it'll show you how to do that.

So, this public health crisis is not over. People are still dying every day. And we're seeing people maybe move some from opioid to methamphetamine around the country, we're seeing fentanyl and carfentanil being laced in a number of drugs. So, we can't wish our way around it. We've got to really deal with this crisis straight on. And we need to educate our judges and all those individuals in the justice services that work with us on what works, and keep going at it, because you may have to repeat it. I find myself sometimes repeating what works; medication-based treatment is not substituting one drug for another. It is the gold standard right now for saving lives for the people that come before us.

So, as we continue down this journey on working with substance abuse, we're looking at mental health, we're looking at co-occurring. We have a lot of work to do. But I think there's hope. I think we have to have -- we can look towards the resources and the science that we have; we can build on it. I'd love to have a next chapter where we work with the federal court systems on what you're finding works, with what we're finding works, and get even stronger on dealing with substance abuse and mental health. So, God bless you for taking this on with us, and I look forward to working with you in the future. Thank you very much.