

FINDING THE BUS STOP

By Dr. James Fuller and Dr. Rebecca Blair '80



Judge L. Mark Bailey

Situated in the Indiana State Capitol Building behind tall, impressive wooden doors, his office imposes itself upon the observer. The barrister's bookcases lining the walls, the massive oak desk, the array of lawyers, clerks, assistants and interns working busily—all speak to the power that Judge L. Mark Bailey wields as a member of the Indiana Court of Appeals and for a period also served on the state's Pro Bono Commission. In such a context, it is tempting to focus on the trappings of power and success, or to pose lofty judicial questions, yet in conversation with Bailey, one finds that he defines the law not as a means to power or influence, but rather as a service profession in which he finds a priceless measure of satisfaction.

Bailey recalls a seminal conversation with a law school professor, whom he respected and admired, that shaped his approach to the practice of law. He inquired of his professor, “why are you teaching and not practicing law?” The professor replied, “I could be making a lot more money if I were practicing, but you’ll find that not everyone sees money as the appropriate bus stop for them. Money is one way to measure success, but not the only way. You’ll see it among your fellow students. Right now, almost all of you are about making money. But down the line, some will go into politics and government work, others will teach, some will go outside the traditional legal profession. You’ve got to find the appropriate bus stop and this is mine.”

Raised on a farm in rural Decatur County, Indiana, Mark Bailey, at an early age, chose the practice of law as his intended profession after observing the attorneys work with his father on legal issues concerning the farm, which his family originally homesteaded generations ago. The lawyers’ skills at settling estates and conducting business transactions to preserve the integrity of the farm impressed Bailey. He conceived a strong desire to serve others by assisting them in negotiating the legal labyrinths necessary to preserving their way of life. As Judge Bailey recollects, “You could make a difference in the community, in the lives of people, in the law.”

Though he had clarified his calling, Bailey’s educational path to realize it remained unclear. His family attended Union Chapel Evangelical United Brethren Church, so Indiana Central College, found-

ed by the predecessor United Brethren denomination in 1902, became one natural choice. Moreover, his sister had completed a nursing degree at Indiana Central, a fact which foregrounded the college in his deliberations. Still unsure, Bailey applied to Florida Southern University as well as ICC. Ultimately choosing Indiana Central, since employment opportunities abounded in Indianapolis and its location placed him in close proximity to home, he arrived on campus in 1974 at the age of seventeen and settled into college life.

In his first weeks on campus, Bailey pursued his next goal: finding a job. He pored over the yellow pages, looking for law firm listings and calling each one to inquire about available jobs. Eventually, a prestigious law firm in downtown Indianapolis hired him to file papers. While working at this office, he continued his search of local law firms, landing a job as a court runner, a position which allowed him access to various courts and offices around the city, prompting new insight into the legal profession. As he made important contacts, Bailey discovered that the Indianapolis legal community was smaller and more concentrated than he had imagined.

Coupled with his work experience, his educational experience at Indiana Central also helped him to mature personally and professionally. Bailey recommends his alma mater, affirming that “it offers students the opportunity to attend a small school, in a relatively safe environment, but also located in a big city. It allows the student to grow, to develop, to gradually become a part of the broader community. The location links the campus to the community. This allows for a kind of maturation that other schools, in more isolated locations, do not offer.”

While Bailey does not remember being aware of the school’s motto, Education for Service, as a student, he realized that the service impulse permeated campus life. For example, Professor James Riggs in Political Science, Bailey’s major, encouraged

his students to become involved in public life, even as he demonstrated political action in his own activities. Here, the school’s strategic location in Indianapolis proved invaluable, offering access to local, state, and federal levels of government. Professor David Noble in English also profoundly influenced Mark Bailey. In addition to engaging students in the study of literature, Professor Noble patiently nurtured students, like Bailey, who sought to overcome their initial lack of preparation for college. Today, he credits Professor Noble with eliciting the recognition and confidence to do any work required of him.

Beyond professors, President Gene Sease, who led by example, influenced Bailey greatly. As he puts it, President Sease “demonstrated in his own life that the campus was part of the community, that campus life was not the only life. He was very involved in civic affairs.” Mike Watkins, Dean of Students in the 1970s, also encouraged Bailey to succeed. He remembers Watkins as a “real cheerleader” for Indiana Central. Bailey took with him these examples of determination, patience, service, and action after graduation from the newly-renamed Indiana Central University.

After first attending Valparaiso Law School for a year, Mark Bailey transferred to the Indiana University School of Law in Indianapolis. Upon completing his law degree, he passed the bar exam, gaining admission to the Indiana State Bar in 1982. He practiced as a private attorney for eight years prior to his election to the bench. His decision to seek this elected position did not occur by accident. Running for office is a positive means for a

new attorney to attract publicity, so Bailey ran for state senate, a race that he lost. Yet, he counts this defeat as a learning experience: “Adversity and defeat cause you to reflect and learn lessons.” Losing helps “you learn what you did, what you could have done, and what you want to do.” Indeed, his initial taste of political campaigning prompted him to find his own personal bus stop in the judiciary.

Occasionally serving as judge *pro tem* for a day or as an arbitrator, Bailey realized a more fulfilling sense of professional satisfaction in helping to settle disputes rather than arguing them. With this discovery in mind, he put his political experience to use, running successfully for the bench in Decatur County. Once seated as a judge, he sought to make changes to help the community, such as shifting the county court to superior court status to provide a broader jurisdiction that offered the people of the county more options. He also worked with the sheriff’s office to set up a work release program for prisoners. Bailey believes that “people who violate the law are still part of the community.” In his view, “how a community treats those who are vulnerable and those who violate the rules reflects what kind of community it is. Do you lock up violators—or do you try to change them?” The Judge asserts that, “if possible, it is always best to keep violators in the community, keep them working. If you just lock them up in some prison, they come back as better-educated criminals. But if you keep them working, they learn and contribute.”

His work as a judge reflects his dedication to service in other ways as well. He helped to develop an education program for minor offenders in Decatur County. This initiative stemmed from his experience on the bench, where he saw a number of repeat offenders brought up on minor charges, such as shoplifting, operating

without insurance, and other such crimes. Realizing that these individuals were caught in a cycle of petty crime, Bailey worked with community leaders to set up an eight-week program to educate these offenders in basic life skills. Various members of the local community instructed these classes in how to shop for groceries, how to cook food, how to manage finances and shop for insurance as well as how to take advantage of community resources, such as parks and recreation activities. The program earned a successful reputation in the community because, as Bailey puts it, it provided hope.

As a result of his appointment to the Indiana Court of Appeals in 1998, Bailey also received a significant opportunity for service on the Pro Bono Commission. This commission was set up by the Chief Justice of the Indiana Supreme Court, Randall T. Shepherd, to use monies from Interest On Lawyers’ Trust Accounts (IOLTA) funds to support pro bono cases. IOLTA funds are drawn from the interest on accounts held by attorneys for short periods of time during legal proceedings. Prior to 1998, lawyers had been forbidden to take the monies themselves, but a Supreme Court ruling allowed the funds to be used for compensation in pro bono cases to cover filing fees, medical reports depositions, transcripts, and other such expenses. Lawyers are still not permitted to take and keep such funds for themselves.

Chief Justice Shepherd named Mark Bailey the first chair of the Pro Bono Commission and asked him to organize the system. The commission drew fourteen districts around the state, with local judges serving as representatives for each of the districts. Bailey and the other members of the Commission wanted to draw on local experience in their efforts. Local districts determine how to use the money, referring to a distribution system based on poverty and merit. The goal of the Pro Bono Commission is to provide a more equitable representation for individuals in the state’s legal system.

For his efforts in establishing the structure that implemented the Chief Justice’s vision, Judge Bailey was given the 2002 Randall T. Shepard Award by the Pro Bono Commission, a tangible recognition of his life of service in the legal profession. When asked to define service, Bailey replies, “Service is a willingness to participate in helping people before helping yourself.” And he thinks that the law is the way he can best help people and find deep personal satisfaction at the same time. He advises current students to invert the University of Indianapolis motto to read, *Service for Education*, observing that “if you’re not here to grow and create a life-long passion for learning, save your money and go get a job. But if you are here to grow and learn, realize that service is a way to learn. There is strength in diversity. Many of life’s most interesting moments are experienced when we come in contact with people who are different than us.”

His own experiences with service and education have marked Bailey’s personal and professional view of life. “Learn to be inclusive rather than exclusive,” he suggests. “When you meet different people, when you engage in service, you learn much more than you can possibly teach. Living a life of service makes it easier to get up in the morning and more difficult to get to sleep at night, because you have embraced the essence of one of life’s most essential things: learning from other people and being open to life’s possibilities.” Surely, Judge L. Mark Bailey has found his “bus stop.” His dedication to service through the law and public life stands as an inspiration to others.

INDEX OF PHOTOGRAPHS:
IDENTIFICATIONS & PERMISSIONS

1. Judge Mark Bailey at his office in the Indiana Court of Appeals; persons photograph used with permission of Mark Bailey.