

State of the Judiciary
Chief Justice Arthur A. McGiverin, Iowa Supreme Court
Address to the Legislature
January 16, 1992

Madam President, Mr. Speaker, Governor, Senators, Representatives, State Officials, Justices, Judges, my fellow Iowans:

On behalf of the entire Iowa court system, I thank the legislature for its invitation to report on the State of the Judicial Branch of government.

This past year has provided us with a unique opportunity to look back at our past and also to our future. December 15, 1991, marked the 200th anniversary of the ratification of the Bill of Rights to our United States Constitution. The freedoms guaranteed by the Bill of Rights are exercised by each one of us every day. Similar individual rights are embodied in our Iowa Constitution. They are the bedrock of freedom in our country. We should never take them for granted nor forget that our rights and liberties are given life through the court system. They are real to us only to the extent that we maintain an effective and efficient Judicial Branch of government.

Our world continues to change. Since we last met, the Persian Gulf War has been resolved, only to be replaced by new uncertainties. The Soviet Union has dissolved before our very eyes and we ponder the effect on our lives. Some things, however, have not changed. The recession continues and I need not tell you our state faces difficult financial problems. I know these problems will be a major concern during your deliberations during the next several weeks.

Facing up to the needs of government will require you to consider the operation of all three branches of government. As you begin, this message is our opportunity to inform you of the condition of the courts and issues that affect our service to the people.

I report to you that the condition of the Iowa judiciary is good. The condition remains good because of the integrity and dedication of all the people who serve in our branch of government.

We are charged with the responsibility of impartially deciding controversies brought before us. We have no control over the number of cases presented. Nor should we. To limit the number of cases would be to limit the ability of Iowans to have meaningful access to justice under our state and federal constitutions.

Rising caseloads, however, continue to concern us. During 1991, the number of criminal cases filed in courts jumped more than 7 percent to 65,000 cases.¹ In fact, we have experienced a rising criminal caseload in 12 of the last 13 years.

Last year, civil filings increased by more than 4 percent to approximately 54,000 cases.² During the past 4 years the combined number of civil and criminal cases increased over 26 percent.³

In like manner, at the appellate level, filings last year reached an all time high of 2009 cases.⁴

At the same time the caseload is rising, our resources are becoming more scarce. Consequently, we must find ways to manage the court system more efficiently and at the same time look for ways to improve it. Although the courts were not created to raise revenues, they do generate substantial funds for the state and local governments. During fiscal year 1991, the Judicial Branch remitted more than \$39 million to the state.⁵ This amount was collected from fines, surcharges, court fees, and interest on court accounts. In addition, more than \$4 million went to counties and cities.⁶

Given the proper tools, we believe we can do even better.

In calendar year 1990, more than \$11 million in fines, fees, and surcharges went unpaid.⁷ Almost \$3 million in restitution and \$3 million in court-appointed attorney fees owed to the state were not paid.⁸ But, more than lost revenue is implicated; The amount of unpaid fines, restitution and surcharges also suggest that some criminal defendants do not take their sentences seriously. I recommend that you review this problem and adopt changes to improve enforcement.

Most of the funds collected were processed manually in our clerk of district court offices. Automation of these procedures is the first and most important step we can take to increase the collection of these outstanding obligations.

With automation, we will be able to more closely monitor obligations and notify those who must pay them. Automation will provide executive agencies access to data to assist in their collections. These could include tax offsets, drivers license suspensions, vehicle registration renewals, and efforts by county attorneys. Other opportunities may occur to you.

In my previous messages to you, I have discussed our efforts to automate or computerize the courts by what we call the Iowa court information system. The system is now in place in 28 counties. The staff of the clerks of court, juvenile courts and administrative offices in those counties are being trained in the proper implementation of the system. I will mention later how we plan to expand the system into more counties.

We have submitted our budget for fiscal year 1993. For the fifth year the Judicial Branch has submitted its budget directly to the Legislature. We think this process, which you mandated by statute, is appropriate. As a co-equal branch of government, we should come directly to you.

We take our budgeting responsibility seriously and have submitted a budget which we believe is fiscally responsible, addresses the basic needs of the courts, and yet provides for improvements. It is the leanest budget since the state took over the cost of operating the entire court system.

For the fiscal year 1993, the court recommends a budget of \$76.5 million, an increase of less than 3 percent.⁹ This is the amount necessary to provide court services to Iowans in all 99 counties.

When you consider the amount of funds which the court remits to the general fund, the state is actually paying less than half of the cost of the court system.¹⁰ This is one of the taxpayers' best bargains.

There has been much discussion of late about reducing the number of court offices. I have raised this concept with leaders of our legal system in discussing our future and we are awaiting their reaction.

We understand our task to be to operate the system as required by present statutes and the Constitution. To the best of my knowledge, there is no information or study which shows we could better serve the interests of the people with fewer court houses. Nor does the Judicial Branch have a plan for reducing the number of offices.

In view of the financial crisis, the Judicial Branch has limited its requests for next year. These requests are cost effective and would improve our efficiency in serving the public.

The courts maintain hundreds of thousands of documents and records. We are the custodians of vital records, decrees and judgments affecting the transfer and ownership of property, orders affecting the lives of children, and countless rulings which regulate relationships between people. Storage of these documents and retrieval of the information contained in them is a major and increasing problem.

Yet, despite their tremendous importance, many district court records are stored in inadequate facilities which are in poor condition — many records are in jeopardy of being damaged or destroyed. Some offices have simply run out of space.

I might mention that although the recent destruction of the Page County courthouse was tragic, most of the records kept by the clerk of court and by county officials were not destroyed. This was fortunate because most of these records could not have been replaced.

We are recommending that you provide us the funds to implement a statewide program to organize district court records and improve our records management. The project would include uniform procedures for filing and reproduction of records. It is not a small undertaking. If adequately funded, the entire project will take approximately 4 to 6 years to complete.

Continued automation of the courts is another project which we recommend for funding. Earlier I mentioned that statewide automation of the courts can improve our ability to collect additional fines and fees. But that is not the primary purpose for the system.

Automation of the courts will provide many benefits to the public:

- It will reduce the heavy reliance on labor-intensive manual procedures and allow the courts to be more efficient in the delivery of services, (for example, it will improve our ability to keep track of accounts. Last year, our offices processed more than \$221 million.¹¹);
- It will increase the ability to gather and retrieve management and statistical information;
- It will streamline administration;
- It will improve coordination of operations between the courts and state and local government.

With the implementation of the system, we will no longer have to pay counties for data processing services. Although we have reduced or eliminated these payments in counties where ICIS has been installed, the state still pays about \$630,000 for those services where ICIS is not present.¹²

Computerization is another way to better manage our resources effectively. As you know, this technology is not a frill. The legislature has had the benefit of a computer system for many years. Most executive branch agencies are automated. We need to be.

Our request is to expand the system into 12 more counties. When we began this project 4 years ago, we had hoped to be done by this year. Inadequate funding has pushed back our completion date beyond next year. This project is decidedly in the public interest. It is an investment in Iowa's future.

Next, I want to convey a concern which has been expressed by many juvenile court judges, referees and officers. Last year, you appropriated approximately \$4 million for court-ordered services.¹³ You also capped the fund and stated no supplemental funds would be available. The fund provides services primarily for delinquent juveniles. It pays for evaluations, transportation of children to and from court proceedings and facilities, education expenses for juveniles placed out-of-state and for treatment.

The fund was significantly reduced by costs carried over from the previous fiscal year and other cuts. Some of our judicial districts have stopped court-ordered services because of inadequate funds. I ask that you review this matter and find some way to provide needed services for troubled juveniles.

We realize you have many difficult decisions to make this year. In the past, we have emphasized the importance of recruiting the most qualified lawyers to serve on the bench and to keep our good judges. If there is any new money for salaries, we ask only that you do for judges and court employees what you do for other state employees.

Finally, as you search for ways to balance the state budget, I hope you will not raise court fees again this year. You are all sensitive to tax increases. I trust you will be especially sensitive about court fees.

High court fees tend to deny access to the courthouses. They are particularly burdensome on the poor and older Iowans living on fixed income. High fees are a tax on the parties — the people who use the court system.

Access to the courts is a fundamental right. The court system is the only means we have to protect freedoms established in our bill of rights.

We are well into the last decade of the 20th century. Principles of justice, equality, and belief in the dignity of every human being under the Constitutions and the Bill of Rights have been our legacy as citizens of Iowa.

We gratefully acknowledge the legacy passed to us through the sacrifices of our predecessors on both the federal and state level.

With your help, the Iowa court system will continue to give the people of Iowa the service and protection they deserve under the constitution and the rule of law.

Thank you.

NOTES

1. Criminal filings include felony and indictable misdemeanors (serious and aggravated). In 1990, there were 60,942 criminal filings in the Iowa district court. Based upon actual filings for the first eleven months of 1991, the Judicial Department estimates 64,903 criminal cases were filed last year. Source: State Court Administrator's Office.

2. Civil filings include all law, equity and special proceedings, and appeals from decisions of magistrates in small claims actions. In 1990, there were 52,030 civil filings in the Iowa district court. Based upon actual filings for the first eleven months of 1991, the Judicial Department estimates 54,371 civil cases were filed last year. Source: State Court Administrator's Office.

3. In 1987, the combined number of civil and criminal filings totaled 98,136. Based upon actual filings for the first ten months of 1991, the Judicial Department estimated the combined number of civil and criminal filings will be 119,884. Source: State Court Administrator's Office.

4. For 1991, appellate filings totaled 2009. Appellate filings include appeals from the district court, original actions and bar disciplinary actions. Source: Clerk of Supreme Court.

5. In fiscal year 1991, the Judicial Department remitted \$36,574,592 to the state general fund; \$2,104,916 to the road use tax fund; and \$893,226 to the victim compensation fund. Source; State Court Administrator's Office.

6. The Judicial Department remitted \$4,385,205.51 to counties and cities in fiscal year 1991. Source: State Court Administrator's Office.

7. In the calendar year 1990, unpaid fines, court costs and surcharges totaled \$11,713,330.62. Source: State Court Administrator's Office.

8. In the calendar year 1990, the amount of unpaid victim restitution was \$2,941,985.69 and unpaid court-appointed attorney fees was \$3,229,018.40. Source: State Court Administrator's Office.

9. The Judicial Department budget for the current fiscal year is \$74,075,000. This includes \$875,000 separately appropriated for the Iowa court information system.

10. Source: State Court Administrator's Office.

11. During fiscal year 1991, the clerk of District Court Offices processed \$221,962,796. Source: State Court Administrator's Office.

12. Source: State Court Administrator's Office.

13. House File 479, section 119, 74th G.A., 1991 Session