

State of the Judiciary
Chief Justice Arthur A. McGiverin, Iowa Supreme Court
January 14, 1993
Address to the Legislature

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

Thank you for the invitation to report on the state of the judiciary to you and the people of Iowa. The court also extends a warm welcome to the new members of the legislature. Approximately one-fourth of you are new to the General Assembly. If you are not familiar with the operation of the court system, I hope you will take some time to become acquainted with it. Please become acquainted with your local judges, clerks of district court, juvenile court officers and other court personnel. You will find them anxious to help you learn how the system works.

The role of the judicial branch is to resolve disputes between citizens and interpret our constitution and the laws. Although we are a separate branch of government under our Iowa constitution, we do not work in a vacuum. It is up to the legislature to provide the judiciary with the tools and resources to get the job done.

Since 1986, our judicial system has been largely state funded. We have no other resources. That means we have to operate the system on the money you provide to us. To any extent you choose not to fund the system, the court's services will not be available to Iowans.

The general theme of my previous messages has been that the state of the judiciary is good. This year, however, my message is a somber one. I cannot give such a favorable report.

The reason is that the work of our courts has continued to rise without corresponding increases in resources. Quite to the contrary, our resources have been drastically reduced.

For lack of these adequate resources, our criminal and civil caseloads have become a downright nightmare. The caseload is so staggering in some counties that the clerk of court offices cannot keep up. Files, even in cases going to trial, are not up-to-date. Certain discretionary duties have been stopped or indefinitely postponed. Because we do not have the funds to hire adequate staff, pay overtime or even fill some crucial vacant positions, the hours during which some offices are open to the public have been reduced. This is necessary to give the staff time to focus on filings and docketing without interruptions. This cannot be a long-term solution. The number of case filings continues to mushroom.

Since 1988, the number of criminal cases filed in our courts has increased more than forty-five percent. Last year alone, criminal filings jumped more than ten percent.

Civil filings have risen nearly thirty percent in the last five years. This year alone, there were almost fifteen percent more.

This growing burden is compounded by the fact that a greater percentage of the cases are going to trial. While the number of jury trials remained fairly constant from 1991 to 1992, the number

of civil cases tried to a judge without a jury jumped eight percent and non-jury criminal trials shot up twenty-five percent.

During the same period, we have been forced to cut our budget more than \$2 million and there are indications that further belt tightening might be expected.

There are those who say we can avoid a crisis by operating more efficiently. They simply do not know what has been going on. Over the years, the supreme court has implemented every policy and procedure we could find in a continuing effort to reduce the cost of running the court system. We are at the point where budget cuts threaten our ability to safeguard the legal rights of individuals. There is just no other way to say it: the quality of justice in Iowa's courts is at risk.

We simply cannot continue exercising our constitutional stewardship under these circumstances. Although we, as citizens, of course know of other demands being made upon you, we trust you will respond to the needs of the judicial branch of government. I say this, confident that you will agree that it is in the public interest to do so. Both our constitution and the needs of our citizens demand that response.

You should provide resources to match the demands the public places on the courts. The budget recommended by the supreme court for fiscal year 1994 contains a modest increase of six percent. The total budget request is \$83 million. This is only enough to maintain the status quo during the next fiscal year, and the status quo, as I have said, is scarcely adequate.

The cost of operating our courts is an incredible bargain for the people of Iowa when you consider that the court system generates about \$45 million from fines, fees, surcharges, and restitution. The net cost to taxpayers is a mere fraction of the state budget. Our budget is less than one percent of the total state budget after you consider the revenue the court system raises for the state.

If you are not inclined to provide the funding that is needed, we must face up to the possibility of further limiting access to the courts by both eliminating services and consolidating operations. I do not personally advocate this option, but we know of no other choices.

As I stated to you last year:

We are charged with the responsibility of impartially deciding controversies brought before us. We have no control over the number of cases presented.

Many of the court's duties are, of course, mandated by the legislative branch. When expanding on our responsibilities, you should carefully consider the impact your actions have on the court system.

The recent changes in domestic abuse laws provide a perfect example of how well-intentioned legislation can dramatically increase the burden on our courts. In 1991, lawmakers created a new process which facilitated pro se filings of domestic abuse petitions. The courts have been flooded with these cases. Domestic abuse petitions have increased more than three hundred percent.

These are without doubt very important cases, but because you have provided for a pro se action, which means it is handled by the litigant rather than by an attorney, this type of case requires far more court resources. The clerk of district court, in each of your counties, spends considerable time on each case assisting with the process. Judges spend substantially more time on these cases because they must sort out the evidence and act as prosecutor, defense counsel and judge all at the same time.

Because there is a statutory ten-day deadline during which hearings must be held on domestic abuse cases, many other cases, such as child custody and support hearings and other civil and criminal cases, are delayed in order to accommodate these actions.

The juvenile justice system is another example of how responsibilities are added to the system without a corresponding provision of the tools. Over the last several years, our government has focused on reducing the cost of juvenile justice treatment and services. As part of this effort, the legislature enacted procedures which require our juvenile court officers to spend much time attending committee meetings with local and state agencies and filling out forms. These demands have forced our juvenile court officers to spend more time pushing paper and less time dealing with the young people who need their immediate attention.

Our juvenile court officers are even more frustrated because they think treatment for delinquent youths is virtually nonexistent. There is a cap on the funds for court-ordered services, there is a cap on the training school at Eldora, and there is a cap on group foster care. These cuts in treatment resources, the officers say, threaten public safety. Once in the system, troubled juveniles quickly come to believe that they may not be held accountable for their conduct.

In recent years more resources have been poured into the arrest and prosecution of offenders for drug and alcohol abuse. Money has also been put into correction facilities for offenders. But corresponding resources have not been provided to the courts to process and try those cases.

Our judges, magistrates, clerks, juvenile court officers and other staff have been struggling to handle the caseload under the present conditions. I want to pay special tribute and thanks to these public officers for their service.

Despite these efforts, without adequate support for judicial operations, we must also consider the unfavorable prospect of eliminating court services altogether in some places. Present statutes require that we hold court in all the counties. If we were constructing a new Iowa court system today, we would probably not provide offices in one hundred locations. Some say it is an extravagance to continue to do so. I am not advocating this change. But it is obvious that you must review the wisdom of every expense you are called upon to fund.

Anticipating this, at the court's request, the state court administrator's office has begun developing a contingency plan which would eliminate court services in smaller counties. It paints a gloomy future for rural Iowans.

Recently, I received a thoughtful letter from Mr. John A. Myers, chairman of the Humboldt County Board of Supervisors. Mr. Myers wrote to express concern about the talk of closing county courthouses in favor of regional litigation centers. He pointed out that clerk of court offices are here to serve the citizens of Iowa. He stated:

“I have seen over the years the steady increase of crime and litigation in the courts.

[The courts] are there to serve the citizens of the state of Iowa. If courthouses are closed, you are taking away what all citizens in the state pay for, benefit of services and availability of process.”

Mr. Myers has reminded us of the high stakes involved.

Each of you can reflect on what the effect would be if the courthouse were closed in your home county.

No one can dispute that our beautiful state capitol building is not the most economically efficient office building in Des Moines and yet no one would dare to suggest tearing it down.

Iowa’s judicial system, though it may not be perfect, does provide the level of service the people of Iowa have come to expect.

The choice is yours. You can appropriate the resources needed to provide the level of services that has been promised to the public, and we promise to continue to carefully manage them. Otherwise, we must work together to radically change the delivery of justice in Iowa.

I believe the judicial branch is truly the people’s branch of government because it is the only one to which the people have a constitutional right of direct access. We have a constitutional mandate to operate a court system that properly serves the people of Iowa. We respectfully ask that you provide the resources to enable us to do our job.

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 rule of law.