

State of the Judiciary  
Chief Justice Arthur A. McGiverin, Iowa Supreme Court  
Message to the Legislature  
January 12, 1994

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

We warmly thank the Legislature for the opportunity to speak here today. Our annual report is our best opportunity for promoting understanding about the judicial branch and improving the communication and cooperation between the legislature and the judiciary.

Let me begin by acknowledging some of the people present. We have with us our newest member of the Supreme Court, Justice Marsha Ternus. Also present is the judicial council composed of the chief judge of each judicial district, and representatives of Iowa's attorney organizations.

Last year I asked you to become acquainted with the courts by visiting your local judges, juvenile court officers, clerks and other court personnel. I hope you were able to do that. Iowans will be better served whenever those of us who serve in any branch of government reach a better understanding of the other two.

You may recall that my address to you a year ago was a somber one. The judicial branch had reached the point where budget cuts and rising caseloads threatened its ability to safeguard the rights of Iowans. By my remarks, I did not intend to convey that it was my desire, or the desire of the court, to close any local court offices. My purpose was simply to inform you of the serious problems confronting the judicial branch and to suggest that we explore alternative delivery of services if funding shortages were to continue.

You and the Governor deserve thanks for responding to our concerns. Though not the full amount we requested, the appropriation we received for this fiscal year was enough to restore most of the cuts made in previous years. It was enough to maintain reasonably accessible court services in all ninety-nine counties.

We have been busy. All judges, clerks of courts, juvenile court officers and other court personnel have been doing superior work trying to keep up with the load. We are very proud of all of them.

One of the ways you have assisted us with at least partially coping with the caseload is the senior judge program. I am pleased to report that senior judges are working beyond their obligations and beyond our expectations. Without this program there is no doubt that our courts would be further behind.

Meanwhile, the public's demand for court services has continued to grow. The caseload is the strongest indication we have of the public's demands on the courts and cases are continuing to come into the courts at an ever increasing and record pace.

The growth in the criminal case load is downright staggering. Between 1987 and 1992, the criminal case load experienced unprecedented growth. During this period, the number of criminal filings increased 60 percent. The trend continues; in 1993 the number of filings rose approximately 4 percent.

This explosion in criminal cases reflects a national trend. According to the National Center for State Courts, felony filings increased substantially throughout the country during the same period.

The National Center predicts no let up. Even more felony cases loom in the future. We project that the number of criminal filings in Iowa will grow an additional 49 percent by the end of this century.

The juvenile caseload is just as grim. From 1987 through 1992, the number of juvenile cases filed jumped 28 percent. Juvenile case filings increased another 9 percent in 1993 and we project a growth of 29 percent by the year 2000.

Last year, a legislator asked me why we have had such an increase in juvenile and criminal cases. I frankly did not have a good answer to that question at that time. Later, I found an article by a United States prosecuting attorney that cast some light on the matter by comparing the results of two Gallup polls — one in the 1940s and one in the 1980s. They demonstrate dramatically how juvenile behavior in our society has changed.

In the 1940s, according to the educators who were asked, among the more pressing discipline problems in the public schools were:

1. Talking
2. Chewing gum
3. Making noise
4. Running in the halls, and
5. Getting out of turn in line

In the 1980s, some of the biggest problems were:

1. Drug abuse
2. Alcohol abuse
3. Pregnancy
4. Suicide
5. Rape

The increase in juvenile filings is particularly disturbing because, sadly, many of the children now involved in the juvenile court system will be back in the courts in the future as adult criminal defendants.

Our courts have also experienced a relentless increase in civil filings since the late 1980s. Between 1987 and 1992, the number of civil filings increased 28 percent. Last year, the number of civil cases rose sharply, up 9 percent. We predict that civil cases will increase another 29 percent by the year 2000.

One reason for the sharp jump in the civil caseload is the surge in domestic abuse cases.

In 1990, the first year we began to collect statistics on these types of cases, there were 188 domestic abuse petitions filed. In 1993, more than 2600 domestic abuse petitions were filed in the courts. Domestic filings are increasing more rapidly than any other.

Domestic abuse can be expected to have a profound rippling effect. Physical abuse within families is generally passed on to succeeding generations. Children who witness abuse are more likely to attempt suicide, abuse drugs, run away from home, commit assault, and engage in other forms of delinquent behavior. It stands to reason that children victimized by domestic abuse are likely to end up in juvenile court or, further down the road when they are adults, in criminal court.

Iowa has progressive civil and criminal statutes governing domestic abuse. Traditional legal procedures, however, have not been sufficient to deal with the special problems presented by this crime. We see domestic abuse as a statewide crisis and have attempted to respond accordingly. The Supreme Court has, therefore, taken steps to develop specialized procedures and responses to improve access by victims, to assist with the processing of these cases, to provide more education to all participants, and to try to change attitudes.

Among other things, the court has:

- established a task force on domestic violence to make recommendations for improving judicial access and treatment of domestic abuse cases and to propose possible statutory reforms.
- adopted a court rule intended to provide guidance to domestic abuse victim advocates concerning their role in assisting victims with court proceedings.

We are also working with the Iowa State Bar Association and the judicial council to recruit lawyers to serve domestic abuse cases on a volunteer basis.

We cannot ignore the obvious. Our courts are swamped and in danger of sinking. Unless we can meet the demands of the criminal case load, it will be difficult to avoid delays in other matters, all of which are important to some Iowans. The civil caseload is especially at risk. Justice delayed is always thought to be justice denied. Nowhere is this more true than in domestic cases. Bear in mind that over 47 percent of our civil case load involves domestic relations cases. Think of the serious consequences when a child custody battle goes unresolved, or a domestic abuse hearing is delayed because the courts are tied up with criminal cases.

What should we do?

First of all, of course, we must continue to operate as efficiently as possible and channel available resources to meet our most pressing needs.

Last summer, the Supreme Court reallocated Clerk of District Court staff from rural counties to some of our busiest offices with severe backlogs. This step took some of the pressure off those operations. We are in the process of reviewing the staffing needs of our Clerk of Court Offices to help us determine where the need for additional personnel is most crucial.

Over the years, the Supreme Court has implemented every available policy and procedure in an effort to hold down court costs. Our project to computerize the court system is one of the most significant steps we have taken to operate more efficiently. We now have computers operating in twenty-eight counties.

Automation is an absolutely crucial factor in our ability to manage the flood of cases coming into our courts. The system will eventually benefit the other branches of government by providing them with more detailed information on cases. Specifically, we ask that you provide the funding to add computer systems to twelve more counties next year.

One of the side benefits of our computer system is its ability to track outstanding court fines and fees. For example, in Pottawattamie County the Clerk of Court, Sarah Tamms, has made an extra effort to improve collections of delinquent fines by sending out computer generated notices. Her hard work has paid off. Since Sarah started this procedure, her office has collected more than \$200,454.40.

Second, next only to efficiency is the need for tools to accomplish the task. The most immediate needs of the judicial branch are contained in our budget request and legislative program. We have already submitted them to you.

We urgently need more juvenile court staff to supervise the increasing number of children involved in the juvenile court system. We have a critical need for judges. Of course, our operational budget request is based upon the resources needed for the programs and services we currently provide.

Third, we need your help in the assignment of tasks. Many factors affect the demands placed on the judicial branch. As I stated to you last year:

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.

I am aware that one of the biggest concerns of the public is crime. We certainly share this concern. In response to the problem and the other issues you will be dealing with, we cannot invest all the state's available resources in one area to the exclusion of others. There are many components in the criminal and juvenile justice system, all of which must be kept functioning. If one breaks down, the effectiveness of the entire system suffers.

I ask that you approach these issues in a comprehensive fashion and allocate new resources appropriately to all groups. Do not neglect the courts where, after all, the cases are tried. Improvement won't happen overnight but improvements on all levels of the justice system will serve us better in the long run.

If you are going to mandate new responsibilities such as more intensive tracking and supervision of delinquent youths or the processing of more data by our Clerk of Court Offices, we will need more staff and equipment to get the job done.

If you are going to create new crimes or expand current laws, we will likewise need corresponding resources.

We look forward to working with you in developing realistic and effective solutions to these problems.

We also need to maintain the high quality of our judiciary and court staff. We endorse the recommendations of your legislative commission on judicial compensation. We have good judges and we desire to continue the high caliber of the persons applying for and being appointed to the judiciary. Accordingly, we need adequate compensation for our people. Justice is a poor place to skimp.

As we look to the future, we must anticipate, as best we can, the most pressing problems and seek to eliminate them. The Supreme Court recently resumed its long range planning process. A subcommittee of the court, chaired by Justice Linda Neuman, is in the process of creating a Futures Task Force.

Many states have established similar efforts. Some have already come back with recommendations to meet future demands. Our task force will have a more difficult time in one sense because, thanks in large part to your vision, Iowa already has undertaken many of the progressive changes that other state courts can only dream of. The anticipation of continued funding constraints and increased caseloads make planning for the future even more critical.

The Iowa Court of Appeals is one of the best examples of how the three branches of government have worked together in the past to plan for the future. The Iowa Court of Appeals was established in 1976 to take some of the pressure off the Iowa Supreme Court, which was inundated with appeals. Seventeen years later, the Iowa Court of Appeals remains a valuable asset to the people of Iowa.

The Iowa Court of Appeals carries an unusually heavy caseload. The six-member court disposed of 663 cases in 1993, or over 110 cases per judge. It decides some of the most difficult and emotional legal issues. More than half of the court's civil cases involve domestic relations, including: dissolutions of marriage and modifications, child custody and support, child placement, child in need of assistance proceedings, child abuse and neglect, domestic abuse, and termination of parental rights. These are grave matters that have an enormous impact on the lives of children and adults.

Since the Court of Appeals was established in 1976, it has disposed of 9,458 appellate cases. We rarely disturb Court of Appeals decisions. In 96 percent of their cases, the decision of the Court of Appeals is the final word.

I am sorry to report that soon we will be losing two valuable members of that court. Chief Judge Leo Oxberger plans to retire as of March 1. Judge Oxberger is one of the original members of the Court of Appeals. The term of Judge Dick Schlegel also ends in March. Judge Schlegel joined the court in 1982. I want to pay special tribute to them and the other members of the Iowa Court of Appeals for their fine service to the people of Iowa.

We also continue to strive to achieve equality in the courts for all persons. We are recommending to you in our budget request several ideas the court has adopted, most of which were initially recommended by the Equality in the Courts Task Force which you funded. I ask all of you to make a special effort to examine these proposals. Iowa has a remarkable history in matters of individual liberties. We urge you to continue that history by assuring all people a level playing field in your court system.

There is more I could tell you about our very busy court system, but that will come out during the budget hearings to be held soon. My purpose here today has been to give you an overview of our concerns and to propose some solutions.

Iowans expect and deserve the highest level of judicial service. With your help, we will continue our commitment to deliver the quality of judicial service that guarantees the rights and liberties of all our people under the rule of law.