

State of the Judiciary
Chief Justice Arthur A. McGiverin, Iowa Supreme Court
Message to the Legislature
January 15, 1997

Madam President, Mr. Speaker, Lieutenant Governor, Members of the General Assembly, State Officials, Judicial Colleagues and My Fellow Iowans:

It's an honor and a privilege to speak with you each year. On behalf of the Judicial Branch, I want to thank you for this opportunity to report on the condition of our court system.

I also want to extend a warm welcome to the new members of the Legislature. If you are not familiar with the operation of the Judicial Branch, I hope you will take some time from your busy schedules to become acquainted with it. One of the best ways to do that is to visit with your local district court officials – clerks of court, magistrates, judges, juvenile court officers and others. And please feel free to drop by our offices here in the Capitol at any time to visit. You're always welcome. I invite all of you to join me and the other members of the judiciary, who are with us today, for refreshments and conversation downstairs in the courtroom following these remarks.

My remarks today will focus on our past successes, our present challenges, and our high hopes for the future. I promise that I will not try to do the Macarena. I will, however, try to heed the words of one of my esteemed colleagues who said, "Never exhaust the topic or the audience."

We are especially gratified to be able to report a number of successes we've had this year. Here are some of the highlights.

By this summer, every courthouse in Iowa will be linked to our statewide computer network. The last of our clerk of court offices that have been waiting in line, dependent on the paper docket books used for over 150 years, will finally join the world of automation. Our computer network will serve as a foundation for the technological improvements that will be necessary to carry us into the twenty-first century. The benefits of our computer system extend beyond the courts. For example, we send over 1500 notices each week to the Department of Transportation so it can initiate license suspension procedures. This year, we started sending the information electronically rather than through the mail. In addition to speeding up the process, this means less work for the Transportation Department. We're working with the Department of Safety to create a domestic abuse registry. The registry will provide law enforcement officials with up-to-the minute information about protective orders in all ninety-nine counties. This will be a powerful weapon in Iowa's battle against domestic abuse. We're excited about our new jury management computer software that will streamline the jury system and make jury service more convenient for the public. How will it work? Well, right now nearly all of the counties use two jury commissions, one composed of three citizens and the other composed of three local officials, to create their lists of prospective jurors. It's all done by hand with thousands of pieces of paper. In a county the size of Story County, the entire process takes over four days. With our new program, it will take only a few hours.

Also, following the recommendations of our Equality in the Courts Task Force, this new program will make jury pools more representative of a county's population and answer any claim

there is subjectivity in the present system. How? Through the magic of technology, computers will sort the names and compile the lists. This program will help make jury service more convenient. The 1-trial /1-day option, which has been used successfully in Scott County, means that persons called for jury service are obligated to serve on only one trial. Once they've served they won't be called again for two years. Or, if they come to the courthouse on the first day of service and are not picked to serve, they're relieved from jury service for two years. It's much easier than being on call for jury service for three months. Contrary to vicious rumor, this program was in place long before I was called to appear for jury duty at the Wapello County Courthouse later this month. Our court improvement project for children in need of assistance cases, which is now in the implementation stage, will surely help brighten the future of hundreds of children and families living in limbo each year as they wait for the courts to sort out the wreckage of their lives. Six task forces are busy working on specific recommendations needed to implement this report. One of the groups is studying our juvenile laws for changes needed to improve our child in need of assistance process. We plan to present these recommendations to you next year.

We learned from the study phase of this program that our courts are doing a good job overall with these important cases. But, however well we have performed, we must find ways to do even better. We need to find more time for hearings. For instance, fifteen minutes for a non-contested case or one hour for a contested case is often not enough when the future of a child or the life of a family is on the line. At the same time, we need to bring closure to such cases sooner. Three to four years, from the time of filing a child in need of assistance petition to the time of entering an order finalizing an adoption, is simply too long. We also need to improve the quality of legal representation provided to children and families. These crucial cases call for careful preparation. An initial meeting between an attorney and clients in the courthouse hallway to discuss the case, just before a hearing, is not good enough.

Fine enforcement efforts are expanding. Last summer we started sending cases through our computer network to the Central Collection Unit of the Department of Revenue and Finance. It's amazing how quickly people pay their delinquent fines once they've received notice that the tax collectors are involved. Our magistrates and judges are continuing to take a tough attitude on the payment of fines and they are doing their best to crack down on scofflaws. One example of our "new attitude" comes from Lucas County where Magistrate Jim Mefferd expects defendants to pay their fines the moment it's ordered. He says the word has gotten around and it's rare when someone asks for time to pay. Naturally, some people will try to escape paying. One person told Magistrate Mefferd that he was flat broke, had no job and no job prospects. The magistrate didn't buy the story. When he explained to the gentleman the meaning of contempt of court with possible jail consequences -- a \$100 bill magically appeared and the fine was paid!

These are just a few of the many ways we're enforcing fines. The task is formidable because millions of dollars of unpaid fines are on the books and many offenders are incarcerated, or truly unable to pay. Nevertheless, we will continue to explore all avenues for improving the collection of unpaid fines. Iowa's first computer-integrated courtroom began operating a few months ago in Polk County. During a court proceeding, a computer instantly translates a court reporter's steno strokes into English text and displays the text on computer terminals or TV monitors located around the courtroom. Another process also translates the text into Braille. These systems will allow persons who are hearing or sight impaired to actively participate in court proceedings.

There's an added bonus --the equipment can be easily transported and set up in any courtroom around the state.

Our district courts in Linn County and Polk County are using local area networks to provide judges with complete and immediate information about the criminal defendants appearing before them at arraignment or sentencing. According to District Associate Judge Michael Newmeister of Cedar Rapids, many defendants are repeat offenders who have pending matters that should be made known to the court. With the new computer networks, judges can quickly check for prior records, failures to appear to answer charges, delinquent fines, and other matters while the defendant is standing before them. These systems make it much easier for busy courts to hold offenders accountable.

A full range of language interpreter services are now available to our courts thanks to a telephone interpreter program offered by one of the telephone companies. This service provides assistance in 140 languages, 7 days a week, 24 hours a day. Prior to using this service, it was almost impossible to find qualified interpreters on short notice in most parts of the state. Fred Nydle, one of our district court administrators, described the old process this way, "A person can be a defendant one day and an interpreter the next." That was not a good way to conduct court business. Our courts are dismantling language barriers in other ways. Tomorrow in Louisa County a group will "graduate" from the state's first program offered in Spanish for convicted drunk drivers. I want to commend District Associate Judge Thomas Brown of the Eighth District for recognizing the need for this program and for organizing it.

We're encouraged by all of this progress. However, it wouldn't be accurate for me to paint a picture of roses with no thorns. We continue to have our share of challenges. Two should be mentioned. First--more cases are pouring into the courts and, once again, crime continues to take most of our attention and time. Indictable criminal cases shot up 20% last year, marking almost two decades of steady growth. For the first time ever, more than 100,000 indictable criminal cases were filed in our courts in one year. The tremendous burden created by our high criminal caseload cannot be ignored. It continues to drain valuable court resources. What can be done?

First of all, I want to thank you for the help you've given us in the past. The additional judges, juvenile court staff, and other resources have taken the edge off a serious situation. We also appreciate your continued efforts to keep compensation competitive so that we can attract and retain talented people to handle the caseload. But problems remain.

Our budget request for the next fiscal year, although a modest one, has been tailored to address our most pressing problems. The details are included in the materials provided to you this morning. One request deserves your special attention -- our request for more clerk of district court staff. Our clerks' offices are important for so many reasons. Litigants depend on them to get complete records of their cases to the judges. Our state and local governments depend on them to collect and distribute fines and fees. Crime victims depend on them to collect and disburse restitution payments. Custodial parents depend on them to collect and disburse child support payments. Businesses And property owners depend on them to keep track of liens. Everyone depends on them as the trusted gatekeepers for our justice system.

I ask that you give this request special consideration.

Second – there is one other problem you should know about. Most of our courthouses have run out of room for storing court records. This is a problem the state government shares with the counties because they bear the responsibility to provide our courts with facilities. We can report some progress this year resulting from the use of CD-ROM and imaging systems to reproduce and store old court records. One compact disc can store about five or six file cabinets full of records. But even though this is an effective way to address the records storage problem, it's only a short-term solution. It's like bailing water out of a boat that has a gaping hole in the bottom. Water keeps gushing in until the hole is plugged.

The long-term solution will require electronic data management systems, commonly called EDMS. The applicability of EDMS to the courts has already been studied. Before committing scarce resources, we should study the cost of installing and operating EDMS. Our budget request includes a recommendation for such a study. The solutions I've mentioned are not simply answers to current problems; they will help us in the future as well. This brings me to our greatest success this year. When I addressed this assembly last year, we were eagerly awaiting the results of the first comprehensive study of our courts. The purpose of the study was to develop a long-range plan that would prepare our courts for the challenges we will face in the next century, which is fast approaching.

I'm pleased to report that our Commission on Planning for the 21st Century, which conducted this study, submitted its report to us last summer. A copy of the report has been provided to you this morning. We now have an outstanding blueprint for a model system of justice. It will serve Iowans well into the future. Who were the architects of this plan? They were more than sixty Iowans from many different walks of life including --farmers, a retired newspaper executive, a county supervisor, small business owners, union representatives, former and current members of the General Assembly, judges, business executives, attorneys, and heads of state agencies. And they came from every corner of the state--from Corwith to Carroll, Marathon to Bettendorf, and Burlington to Sioux City. We, indeed all Iowans, are indebted to every member of the Commission for the commitment and talent they brought to this project. We owe special thanks to Justice Linda Neuman, who chaired the Commission, and to Justices Bruce Snell and Marsha Ternus who served with Justice Neuman on the steering committee. And, of course, we are indebted to the many individuals and groups, including the Legislature, for their financial support that helped make this all possible. The creation of a formal planning process within the Judicial Branch is the cornerstone of the Commission's plan. With your support, we hope to add a professional planning staff this year so we can begin this important program. Because it is so obviously in the public interest, this is one of our very top budget priorities. We have created an implementation committee to help us sift through the Commission's other recommendations. We will be coming to you in the future to help us carry out the rest of our plan.

What does the future hold in store?

Start by thinking back twenty-five years--to 1971. Back then, I was a district court judge in the old Second Judicial District that included seven counties in South Central Iowa. My court reporter was a "pen-writer." He reported the testimony with a pen using Gregg shorthand symbols. The latest technology to hit the courts was the memory typewriter. And we couldn't operate without mass quantities of carbon paper. I must confess that I understand carbon paper easier than computers. I usually presided over a few divorce cases each month. Domestic abuse cases rarely came to the courts and were not identified as such. Unlike today, most district court

judges had time to hear juvenile cases. The juveniles who came before me were usually there for petty property crimes. I don't remember a single case involving a violent juvenile during my thirteen years as a district court judge. I handled a drug case on occasion. But not many. Meth or crank didn't exist in our world then. Most of the drug cases involved marijuana. Most of the offenders inhaled!

Who would have predicted the dramatic changes we've seen in just twenty-five years? The world is vastly different now. Yet the principles upon which our justice system is based remain the same. And those principles are the foundation upon which to build a court system that will best serve Iowans in the twenty-first century. No one can really predict the future, but with the Commission's help, we now have a clear image of what the future can be.

Imagine a court system that has multiple access points to basic services in every county, one that is comprehensible to the average person, and offers a full range of dispute resolution options to fit different needs.

Imagine going to a city library or a shopping mall and using a kiosk or the Internet to find information about the court system, pay a fine, or electronically file a small claims action.

Imagine a court system that operates without paper. It may come to that.

Imagine court proceedings taking place over interactive video, saving litigants and witnesses the time and expense of traveling long distances.

Imagine a court system in which legal services are widely available to all who need them regardless of their income.

Just imagine the possibilities!

We have just completed a year long celebration during which we looked back -- with considerable pride -- on 150 years of Iowa's statehood. We should seize this vantage point and use the lessons of the past, as we look to our future.

Iowa can certainly claim a demonstrated ability to adapt to an ever shifting scene, as history unfolds. In exceptional times, exceptional people from all three branches of state government have done more than simply react to changed circumstances. The brightest points in our proud history have been when leaders in state government have found the vision, the courage, and the dedication to shape the future.

Let this be such a time.