

State of the Judiciary
Chief Justice Louis A. Lavorato, Iowa Supreme Court
Message to the Legislature
January 16, 2002

Mr. Speaker, Madam President, Members of the General Assembly, Governor Vilsack, distinguished guests, and friends.

Thank you for the kind invitation to appear before you today. It is an honor for the Iowa Judicial Branch, as well as a personal privilege for me, to report to you on the condition of Iowa's court system. This address is our opportunity to share with you and the people of Iowa our current assessment of the administration of justice in this state. We have enjoyed a strong relationship with you based upon candor, cooperation, and mutual respect. Today, I wish to address you in that spirit.

First, permit me to digress for a moment so that I may recognize some special guests. I would like to acknowledge Justice Michael Streit, the newest member of the Iowa Supreme Court, and Judge Larry Eisenhauer, the newest member of the Iowa Court of Appeals.

This brings to me why we are here: the condition of Iowa's judicial branch. This year I must report that the state of the judiciary reflects the times in which we live; events beyond our control have thrown us into a state of uncertainty about the future. Access to justice is a paramount concern for us as we try to manage in the wake of the recent budget cut.

I intend to begin with a review of the steps we took to balance our operating budget and explain how we're coping. Then I will proceed to discuss some recommendations for streamlining the court system. I will conclude with our goals for the future.

BUDGET REDUCTIONS: FOCUSING ON OUR MISSION

Although the judicial branch is a separate branch of government, we do not work in a vacuum. It is up to you to provide us with the tools and resources we need to do the job. To any extent you choose not to fund the system, court services will not be available. We recognize that we are accountable to the taxpayers and must manage our resources wisely. This principle was foremost in our minds when we considered how to absorb the cut you imposed this fiscal year.

Although our budget cut was not imposed until the special session, the Court began planning as soon as it became apparent that reductions were inevitable. The Court began by settling upon three basic principles to guide our decisions.

The first principle was to reduce the budget in a manner that would allow the judicial branch to continue to fulfill its mission, which is to provide independent and accessible courts for the fair and prompt resolution of disputes. Maintaining consistency with our mission required that we impose differential cuts rather than across-the-board cuts in all components of our operation.

The second principle was based upon our understanding that the state's financial troubles would continue for more than a year. To that end we focused on cost-cutting measures that were long-

term solutions. From the start of the process, we viewed furloughs as an impractical measure that would undermine court operations in the long run.

The third principle was to reach a consensus among the judicial districts on cuts that affected the operation of the trial courts.

With these three principles as our guide, we scrutinized all aspects of our operation from top to bottom. In doing so, we had the help of the chief judges, district court administrators, and state court administration.

We cut as much as we could from non-personnel items such as travel, supplies, communications, furniture, and equipment. We also cut technology projects. In addition, we imposed a hiring freeze, stopped using contractual court reporter services, and eliminated funds for part-time judicial officers such as hospitalization referees and alternate district associate judges.

But we had to cut more.

So we eliminated programs that were not constitutionally and statutorily mandated. One was our highly regarded CASA program that recruits and trains volunteers to serve as advocates for abused and neglected children in 30 counties. We're very proud of the CASA program. Unfortunately, we were forced to make difficult choices: keep CASA or keep cases moving through the courts. This was an unpopular decision - one subject to easy attack - but it was necessary under the circumstances. We're grateful, however, that you stepped in and saved CASA by finding it a new home.

Even after making this difficult decision, we needed to reduce our expenses more to balance the budget. At this point, we were forced to take the unprecedented step of reducing our workforce.

Over 250 employees were adversely affected. We laid-off 107 employees; we cut the hours of 67 other employees; and we downgraded the positions of 79 supervisory employees. In addition, we eliminated more than 20 vacant positions around the state. The cuts in personnel affected every component of our operation.

Deciding to eliminate jobs was the most difficult decision that we have ever had to make. The difficulty of making the decision, however, pales in comparison to the difficulties faced by those employees who are now struggling to pay bills and support families.

BUDGET CUTS: FACTS AND MISCONCEPTIONS

Now let me make a few points about the budget cuts that I feel have been overlooked.

Probably the most common misconception about the budget cuts is the notion that we somehow arbitrarily singled out and treated rural communities unfairly. This is not true. In making the cuts to our clerk of court component, we focused on workloads, not geography or politics. The Court used a weighted caseload formula in making those cuts. We applied the formula uniformly to all 99 counties.

There's a simple reason why most of the cuts in clerks' offices occurred in small counties. The formula was developed in the mid-1990s through the use of time studies conducted in 32 counties. At the time of the study, most clerks' offices were not computerized; they were still operating with papers and clumsy docket books, which took more time. To account for this, the formula gave rural counties - all of which were not computerized - an advantage that resulted in a higher staffing ratio.

We continued to use this differential even after we computerized all of our clerks' offices in 1997. We did so because we wanted to provide the rural offices with a transition period. But the reductions required by the present financial crisis forced us to take immediate action. Knowing that any reduction would be unpopular, we felt it was imperative to treat all offices equally. Consequently, we decided to apply the automated workload standard to all clerks' offices. Any office that exceeded the formula was cut back. The budget cuts in the clerks' component affected primarily rural offices because it was primarily those offices that exceeded the formula.

Nevertheless, the cuts leave clerks' offices in some rural counties with a larger staff than the formula justifies. This is because we decided to deviate from the formula and maintain a minimum of two employees per office.

Critics contend that the formula is not perfect. Well, because the formula is the work of humans, it definitely is not perfect. However, it is the best objective measure that we have for making an equitable allocation of our clerk of court resources. Let me add that we have relied on this formula for years to justify our requests to you for more clerk of court staff.

I want to point out that nearly 10% of our clerks' offices have less staff than is called for by the formula. These offices are located in some of our busy urban areas. For example, for some time now, the Pottawattamie Clerk of Court office has operated 30% under the formula. Black Hawk has managed while 20% under, and Johnson gets by even though it is 17% understaffed. Despite being chronically short-handed, these offices have been able to cope, which is a big credit to their staff. My reason for mentioning these offices is not to suggest that we should operate all offices understaffed, but to point out that some offices were, and still are, worse off than those that were cut.

Some people have complained that we cut the clerks as a group more than their fair share. This also is not true. While it's true that the cut in the clerks' component contributed the most dollars, in terms of percentage of budget, state court administration and district court administration each contributed more. We reduced the budget of district court administration by 10.7%; state court administration by 10%; and the clerks by 8%. The reduction in the clerks' component was the largest dollar amount because that group consumes the most money - it takes up more than 30% of our operating budget.

Let me address another budget decision: the decision to eliminate eleven satellite magistrate offices, which caused a loud outcry from the affected communities. These offices were not budget busters, but they were an exception to our general practice. In the majority of counties, court services are located in the county seat only. The Court felt it would be unfair to cut basic services in many counties while operating extra services in a few.

ACCESS TO THE COURTS: MANAGING WITH LESS

Our most immediate challenge is managing the same amount of work with fewer resources. How do we meet that challenge? We meet it one day at a time.

Our districts are working with their staff to develop new strategies for providing court services. Clerk of court offices are rethinking their priorities and dropping unnecessary tasks. It won't be the level of service that some communities are accustomed to, but by taking these steps clerks' offices will continue to fulfill their statutory responsibilities.

As you know, the judicial council raised the issue of merging clerks' offices. To say

that the idea was short-lived is an understatement. The gist of the plan was to explore options for delivering court services in the wake of the budget cuts. Because of these cuts, many clerk of court offices have now reduced their hours. By merging the staff of several clerk of court offices into one location, we would have been able to provide full-time hours - perhaps even expanded hours - to the public. But the merger idea is a moot issue now. As far as the Court is concerned, consolidation of the clerks' offices is dead.

Although the Court dropped the plan, I want to recognize and commend our dedicated and talented chief judges, district court administrators, and state administrative team for their creativity and willingness to pursue the public interest with vision and courage.

SOLUTIONS: STREAMLINING THE COURTS AND REDUCING OPERATING COSTS

No doubt your attention will be consumed during the next few months by the serious condition of the state budget. We recognize the condition of the state budget is still uncertain. I must advise you, however, that any more cuts to the judicial branch budget may threaten our ability to provide adequate court services. Although we are aware of the other important demands being made upon you, we trust you will respond to the needs of the judicial branch.

In the same spirit, I ask that when you are debating new laws, you carefully consider the impact your actions have on the court system. Though well intentioned, legislation nearly always adds to our workload. Adding responsibilities without corresponding resources creates poor results.

Certainly, we understand that we need to be part of the overall solution for reducing the cost of state government. We have several recommendations for streamlining the court system that would help reduce costs and improve court services. All require legislative approval.

First, we recommend that you eliminate unnecessary tasks. I'm not suggesting that we stop hearing cases or drop important services, not at all. I'm suggesting we streamline some procedures, eliminate obsolete or unnecessary practices, and, where appropriate, shift some procedures to other agencies. We have a list of suggestions along this line for your review.

For instance, why are the courts involved in cemetery management or required to have a 24-hour probate court? Perhaps this made sense in the early years of the last century, but it does not make sense today. Someone once said: "There is nothing more useless than doing efficiently that

which should not be done at all." This is sound advice. Let's follow it and get rid of the needless work.

We also recommend a statutory change that would give the Court authority to determine the structure of the judicial districts. The configuration of the judicial districts has not been changed in thirty years. Although the judicial council's plan proposed reducing the number of districts from eight to five, we have not adopted that plan or any other. Further, there would be an opportunity for public participation before we would act on proposals for change.

By reorganizing the judicial districts, we could gain a significant improvement: a better allocation of our existing judicial resources. Preliminary results of a recent study by the National Center for State Courts indicate that Iowa has enough judges statewide; however, some districts have more judges than they need, and some have less than they need. By redrawing the districts, we can correct that imbalance.

We also believe that we can reduce some of our administrative costs by reducing the number of districts. If we had fewer districts, we would need fewer managers.

Finally, we recommend a statutory change that would eliminate the mandate that there be a clerk of court official in every county. If this were done, we could use one clerk of court to manage several small offices. The Court does not have a specific plan

in mind for reducing the number of clerks; however, we ask for authority to determine our staffing levels - including our management staffing levels. Let me make clear that this would not affect the presence of a clerk of court office in each county, which we will continue to maintain.

Our request to eliminate the mandate is based simply on our desire for more flexible management. Good management does not require that we have 99 managers.

The executive branch is reducing the number of managers it has. We should do the same. We could use the savings to add line staff to understaffed offices.

I want to emphasize that this request should not be taken as any reflection on the abilities of the present occupants of these offices. Our clerks are hardworking, dedicated public servants. We have great respect for their abilities.

All the recommendations that we are suggesting would not only make the court system more efficient, but would enable us to do more with our existing resources. We realize, however, that change will not occur overnight. It will come with time. And realization of all the benefits from the change will likewise come with time. Nevertheless, the recommendations we are proposing are steps in the right direction.

FUTURE GOALS: BETTER ACCESS WITH THE AID OF TECHNOLOGY

Clearly, Iowans want and deserve the greatest access to justice that we can afford.

The old and comfortable definition of access revolves around 100 county courthouses. But access to court services need not be limited to the brick and mortar of a courthouse. Access can come through other means.

We're all aware of the electronic revolution. The 2000 Census found that more than one-half of U.S. households own at least one computer, and most of these homes are connected to the Internet. According to Nielsen/NetRatings, the number of Web users in the United States soared to an all-time high of 115 million last October. The electronic revolution is transforming every sector of our society including the courts.

As I said to you last year at this time: "With the aid of information technology, we can provide a host of court services where they are needed, when they are needed, any time and any place." This is still true today. On-line services would provide busy Iowans more convenient public access to the courts - without taking time away from one's job or family, driving to the county seat courthouse, searching for a parking space, and waiting in line for help.

We will soon take the first step in that direction with our electronic public access program. This program will put the trial court dockets from all 99 counties and the appellate courts on-line, 24 hours a day, 7 days a week. The bulk of the information will be free. Iowans will be able to conduct routine searches of court information such as child support records, criminal records, and traffic fines through the Internet. Later this year, we'll provide a feature that will enable the public to pay court fines and child support obligations on-line.

In addition to the obvious benefits to the public, this service will help us operate

more efficiently. Because the court information is on-line there will be fewer telephone calls for court staff to answer, and fewer people waiting at the counter in the clerk's office. Court staff will be able to focus their time on other important duties such as processing child support cases, assisting litigants who are representing themselves in court, and collecting fines.

But this is only the first step. We can and must do more.

As I reported to you last year, we were poised to test a new system, known as EDMS, which would offer a broad spectrum of benefits. For example, it would: Enable on-line electronic filing and document retrieval - 24 hours a day, 7 days a week, provide access to court documents, which would allow a person to inspect or copy a record from a personal computer at their home, office or local library, and Eventually reduce the need for file cabinets, file systems, and storage space that is provided at county expense.

Regrettably, the budget situation has delayed our progress, but we will not abandon our goal to implement EDMS. We plan to implement EDMS as soon as funding permits.

CONCLUSION: FINDING COMMON GROUND

The state's financial problems present great challenges for all of us - challenges

that are not susceptible to a quick fix. If we are to meet those and other challenges in the next ten, twenty, or even fifty years, all of us - elected officials, appointed officials, and citizens -

must be willing to consider new ideas that, at first blush, may seem too radical for many Iowans. We cannot expect everyone to agree on every issue, but let's at least rise above our different opinions so that Iowa can move forward.

Perhaps the greatest challenge for Iowans is to work together to find solutions to problems that we share instead of belaboring parochial differences. Let's stop defining ourselves by where we live in this great state. Let's define ourselves by who we are: Iowans - who share the same values and the same hopes for a bright future. I am confident that if we join together on common ground and explore new ideas, we can forge a judicial system that will serve the best interests of all Iowans.

Thank you.