

State of the Judiciary
Chief Justice Louis A. Lavorato, Iowa Supreme Court
Message to the Legislature
January 14, 2004

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

On behalf of all judges and court personnel, I want to thank the General Assembly for the invitation to talk about the condition of the Iowa Judicial Branch. Before I begin, I would like to invite you to join us for refreshments and conversation downstairs in the courtroom following my remarks.

I also want to acknowledge the newest member of the Iowa Supreme Court, Justice David Wiggins, and our newest chief judge, David Schoenthaler of the Seventh Judicial District. I also want to recognize our new state court administrator, David Boyd, who succeeds William O'Brien. Mr. O'Brien retired last summer after ably serving the Court and the state for more than thirty-two years.

Today, we mark an important milestone. From this podium twenty-five years ago, Chief Justice Ward Reynoldson delivered Iowa's first State of the Judiciary Address. Over the years, this report has come to serve four important purposes:

- It symbolizes the judiciary's status as a separate, but coequal branch of government.
- It reminds us of the vital mission of the judicial branch—to administer justice under the law equally to all.
- It reaffirms our dependence on the legislative and executive branches for the resources and tools we need to carry out our mission.
- And finally, it is the best forum we have to share with you and the people of Iowa our assessment of the state's judicial system.

This year our assessment is not uniformly positive. The judicial branch is struggling, but determined to perform its constitutional and statutory mandates. We are heartened by the indomitable spirit of our judges and employees, who are going to extraordinary lengths to serve the public. Their commitment to our state is truly remarkable and gratifying.

We are also encouraged by some exciting innovations under way and progress we've made on some important issues in the past year. I am going to discuss these topics first, and then I will review the condition of our day-to-day operation.

Statutory Improvements

We are grateful to you and the Governor for responding last year to some of our suggestions for statutory changes that will reduce costs and enable us to stretch our resources farther.

Your approval of the law to allow a clerk of court to manage more than one office is paying off in several ways. Not only is this saving the state about \$450,000 a year, in some offices this policy has resulted in more efficient operations, more uniform procedures between counties, and improved public service.

Last fall, we used the new statutory procedure that allows us to reallocate a vacant judgeship to reduce disparities in judicial resources among the judicial districts. The vacancy occurred in Judicial District 8A, which covers a portion of southeast Iowa.

Two of our busiest districts requested the judgeship: District 5, which covers south-central Iowa, including Polk County, and District 6, which includes Linn and Johnson Counties and other counties in that vicinity. Both districts demonstrated a clear and pressing need for more judicial resources. After careful consideration, the judicial council approved moving the judgeship to the Sixth Judicial District. I'm pleased to report that the additional judgeship has eased some of the pressures in that district.

I want to commend the chief judges for their cooperative spirit in moving this judgeship.

All of the new procedures I have just mentioned are steps in the right direction. They provide some relief to judges in our busiest courthouses; they enable us to allocate resources to our priorities; and they help keep down our operating expenses.

Searching for Savings

Last year, I announced that we had begun a program to identify best practices, streamline procedures, improve staffing formulas, and achieve uniformity throughout the state as much as possible. The first phase of the program involved four study committees composed of judges, court staff, and others—the people working in the trenches. This examination covers the clerks' office staffing formula, clerks' office management, juvenile court services, and district court administration.

Three of these committees have reported to the court, and the fourth committee will submit its report soon. The committee reports are full of good ideas for improving service and conserving resources. Although most of these ideas will not result in immediate improvements, they will pay off in the long run.

Innovations: Online Services

We're pleased to report that even in the present budget climate we're improving court services through the use of information technology. Here are some examples.

The success of our online records service, which provides basic court docket information at no charge, has exceeded our expectations. This service, which began in February 2002, averages about 200,000 hits a day.

Last year, the judicial branch added a subscription-based feature to this service. For \$25 per month, a subscriber can access more detailed court docket information such as court schedules, bonds, exhibits, liens, and judgments. Currently, we have 900 subscribers, including lawyers,

abstractors, private investigators, businesses, and individuals with a personal interest in court information.

Another component of our online service offers government agencies access to detailed court docket information at no cost. Presently, more than 2700 state, local, and federal government officials take advantage of this tremendously useful tool.

Our newest online service is E-Pay—a mechanism that enables one to pay traffic fines and court fees online. In the first four months of operation, we've collected \$73,000 through online payments. This is a good start.

E-Juror is an exciting online service under development. This feature will enable citizens called for jury duty to respond online to the summons. We expect to have this new service available in late fall.

Our online services provide significant benefits. They expand access to the courts. They are convenient to use. They enable state and local government officials to retrieve court information faster and at less cost. They also ease the burden on our clerk of court offices by reducing the number of telephone calls and walk-in customers they receive.

Innovation: Criminal Justice Information System

We are pleased to be working closely with the executive branch and others on long-range plans for an integrated criminal justice information system that will cover the entire state. This is an ambitious plan that will lead to the automated exchange of critical information among local, state, and federal agencies.

The benefits of this project will be far-reaching. An integrated information system will enhance public safety by providing agencies with faster access to information they need to effectively perform their duties. It will improve the efficiency of agency participants by reducing redundant data entry and by streamlining procedures. It will also expand the pool of statistical information that you need for making important policy decisions.

Innovation: Juvenile Court Assessment Program

We are also harnessing the power of information technology to benefit children under the jurisdiction of the juvenile court. Recently, we teamed with the Division of Criminal and Juvenile Justice Planning to design, develop, and implement an assessment tool for juvenile court services. This tool will eventually provide standardized assessments of children's needs, a key element in the new design for the child welfare system. Our overarching goal is, as always, to achieve better outcomes for children.

Technology Support and Funding

Innovative new services such as those I've described require careful planning, hard work, and a long-term commitment of resources. Many people deserve credit for our success. I want to recognize and thank our technology committees that have guided our efforts over the years. I also want to commend Larry Murphy, who skillfully manages our technology program, and his

highly talented staff of computer wizards, who patiently support our system every day. In addition, I applaud the General Assembly for having the wisdom and foresight to provide the judicial branch with a dedicated and reliable funding stream—an essential element for a program of this scope, magnitude, and importance.

Iowa's Trial Court Caseload: 2000 to 2003

While technology is a tremendous help to Iowa's courts, in the final analysis we depend on judges and court staff to fulfill our important mission. Judges serve the public by resolving disputes according to the rule of law. And in many cases, they use their legal expertise to interpret the laws you pass. Judges are indispensable, but their ability to perform their jobs effectively in our increasingly complicated and litigious society requires the assistance of a professional support team—clerks of court, court attendants, court reporters, law clerks, juvenile court officers, technology experts, and others. This team works closely with our judges to coordinate the disposition of hundreds of thousands of cases each year.

Collectively, the cases pouring into the courts reflect critical social issues of our time. Listen to this description from District Judge Artis Reis of what she observes every day in court, "I'm seeing people with tremendous life problems such as drug addiction, domestic violence, dissolution, delinquent children, and overwhelming debt. These problems cut across all economic classes."

Our statistics confirm many of the judge's observations: In the past three years, we've seen a disproportionate increase in serious cases. For instance, felony filings other than OWI have increased 23 percent. While drug charges account for nearly a quarter of our indictable criminal caseload, judges and law enforcement professionals will tell you that over 80 percent of all criminal cases have their roots in substance abuse.

Tragically for many people, substance abuse contributes to domestic violence, child abuse and neglect, delinquency, unemployment, and divorce. Our courts are seeing an increase in some of these cases. For instance, since 2000 the number of juvenile court cases has increased 20 percent and domestic abuse civil cases 22 percent.

Serious criminal cases, juvenile cases, and family law cases are time-consuming and labor intensive. Our latest calculation of judicial workloads bears this out. According to a workload model developed by the National Center for State Courts, recent data shows that in the past three years the amount of time required for our judges to address the caseload has increased 7 percent.

During this same period, the judicial branch has sustained a \$9.5 million dollar reduction to its budget. To handle the cuts, we've reduced our nonjudicial workforce by nearly 11 percent, drastically cut travel and supplies, and imposed other stringent measures.

Budgets vs. Justice

How do the competing demands of deep budget cuts and justice play out in the courtrooms? Chief Judge Alan Pearson recently said, "If I could have one thing, it would be more time."

Chief Judge Pearson is not alone. Our judges are so busy that they are increasingly turning to the most expedient means of addressing cases—through paper rather than personal appearances. For instance, in our busiest trial courts, most serious and aggravated misdemeanors are handled entirely by paper from arraignment to plea to sentencing. These defendants never see a judge. In other types of cases—such as dissolutions—hearings, if requested, are limited to thirty minutes. Time limits for hearings used to be rare; now such limits are routine. Another district judge told me of having to handle 38 pretrial orders in one hour. She had to do this entirely by paper, relying on forms completed by attorneys, and without the benefit of face-to-face meetings with anyone, not even the lawyers. This is a troubling state of affairs. In too many cases, justice has become an impersonal matter of shuffling papers.

We serve the same constituents you do, and for most of them justice means the right to come before a judge. Depriving them of this opportunity diminishes their confidence in the justice system and undermines the effectiveness of court orders and ultimately the effectiveness of the law.

The judicial time crunch is exacerbated by the shortage of support staff. When we cut our workforce in 2002, we cut back on court attendant services. Court attendants provide invaluable administrative assistance to judges. They manage juries, type and copy orders, retrieve files, and handle reception duties. Now, without the aid of court attendants, many judges are performing these administrative tasks themselves. By mentioning this, I do not intend to suggest that judges are above doing these tasks—not at all. I mention this to illustrate how scarce judicial resources are being diverted from decision-making. Unfortunately, this is a sacrifice we must bear for the time being.

Innovative Courtroom Programs

Amid the pressures of the current environment, judges and court personnel around the state are finding innovative solutions for easing courtroom congestion. I would like to mention one example—the compliance review procedure used in Black Hawk County for the batterer’s education program in domestic abuse cases.

State law requires all persons convicted of domestic abuse to attend a domestic abuse education program as part of their sentence. If they willfully refuse to comply, the court can find them in contempt. In Black Hawk County, the noncompliance rates were high, and contempt actions were piling up in the district court. This situation was unacceptable and something had to be done.

A group consisting of representatives from local justice system agencies and the courts found a solution. Before this, any number of different judges heard these particular contempt actions. Now, all such actions proceed before one district associate judge. This new procedure adds consistency to sanctions that gives them more teeth. According to District Associate Judge Nathan Callahan, the compliance rate for the education program has improved dramatically. Finally, this procedure frees up the schedules of other judges so that they may focus their time on different types of cases waiting to be heard.

Now, I want to turn to our other court components and describe how they are faring.

Clerks' Offices

As you know, more than sixty clerk of court offices cut back their public hours in 2002, after budget cuts necessitated drastic staff reductions. Reduced public hours provided offices with some uninterrupted time to catch up on filing, data entry, issuing notices, and other essential duties. The resulting increased efficiency compensated, in a small way, for the shortage of personnel. However, because of its impact on the public we viewed this measure as a temporary management tool only. Last October, most of these offices resumed regular public business hours. This action was prompted by an order of our court on the advice of the judicial council.

I want to emphasize that returning to traditional public hours does not mean these offices are having an easy time. To the contrary, staffing levels have not improved and all of our clerks' offices are struggling. The fact that they manage as well as they do reflects the immense pride they have in doing their jobs well.

Take for example Sharon Modracek, the Clerk for both Linn County and Jones County. Sharon frequently arrives at work before many people wake up in the morning. She also works most Saturdays. Sharon's effort is typical of the efforts of many clerks and their supervisors.

Some clerks' offices have adjusted their business practices and have found creative solutions for doing the job. For instance, Warren County Clerk of Court Sherry Sharp uses an inventive and complicated flextime schedule to keep her office running smoothly. Sherry says the schedule is also a morale booster—something we could all use these days.

Juvenile Court Offices

Juvenile court operates under similar circumstances. As a result of the budget cuts, juvenile court services like other court components lost a sizable share of its workforce. It also lost funds for successful programs such as peer court and juvenile victim restitution. But like other court personnel, our juvenile court judges and staff are determined to keep the system going.

Juvenile Court Officer Steve Bernemann is a shining example of this dedication. Steve works with children and families in Poweshiek County and Keokuk County. Since the first round of budget cuts, he has been working alone without support staff, handling all of the office's administrative tasks, while maintaining an active caseload of 75 children. Even though he's swamped with paperwork, Steve continues to meet regularly with all of the children and their families. This is not easy. To get the job done, Steve puts in long hours, working evenings and most Saturdays. We're proud of Steve and the other members of our juvenile court who are striving to provide high quality services during these difficult times.

Many juvenile court offices are finding ways to make the most of limited resources. For instance, Juvenile Court Officer Sharon Lamb coordinates the Early Services Project in Polk County. ESP, as the program is called, is a diversion program for children age 11 and under who are at risk of becoming repeat criminal offenders. Thirty to forty children participate in this program at any given time. These troubled children have done such things as assault teachers, destroy school property, set fires, and steal. When this happens, ESP steps in and provides the children with immediate consequences for their actions. They also receive intense supervision and counseling, and they perform community service.

Chief Juvenile Court Officer Marilyn Lantz says, “Successful intervention with these children at the time of their first offense will yield big payoffs down the line for the juvenile and adult correctional systems.”

Finally, I want to shift my focus from the trial courts to the appellate courts, specifically the fine work of the Iowa Court of Appeals. Our hard-driving appeals judges, with the help of their able staff, handle the bulk of the appellate cases that are disposed of by opinion.

In 1999 you increased the court of appeals from six to nine judges. Now your action, coupled with the outstanding work of the court of appeals, is paying off. In 1999 that court issued nearly 750 opinions; last year it issued around 1200—an increase of 60 percent. Moreover, the court has reduced the time it takes to dispose of an appeal. What used to take 18 months in 1999 now takes less than 12 months. This is a huge benefit for litigants anxiously awaiting final resolution of their cases. I applaud the court of appeals for these notable achievements.

Conclusion

Today, I have mentioned many examples of innovative programs, difficult problems, and exceptional people. These examples are the best way to describe the state of Iowa’s Judicial Branch. And I have only touched the surface. Regrettably, time does not permit me to mention more examples of the countless individuals who are making extraordinary efforts in the name of justice.

So what is the state of the judiciary?

In short, information technology continues to offer new and exciting methods for expanding access, improving service, and controlling costs. At the same time, we’re struggling to address Iowa’s heightened need for justice during a period of fiscal austerity. It’s a tribute to our exceptional judges and staff that we are balancing the competing demands of justice and budget cuts to the extent that we are. Words cannot express the pride and respect we have for them.

Now, I have some final thoughts.

We recognize that we are part of the budget equation and have a duty to the taxpayers of Iowa to operate as efficiently as possible, in good times and in bad. We pledge to continue doing everything in our power to conserve the state’s resources. However, the savings realized from further efficiency measures and innovations, though important, will be modest at best.

Given our efforts over the past few years and the current statutory framework within which we must operate, the state cannot realistically expect the judicial branch to achieve substantial budget savings while continuing to provide the current level of court services. By this statement, I do not intend to convey that it is my desire, or the desire of the court, to radically alter court services. Nor do I intend this as a criticism of your policies. I am simply stating reality.

We understand and appreciate the difficult choices you must make. Should you decide that significant reforms in the delivery of court services are necessary, we are open to ideas and will work closely with you to ensure the judicial branch continues to fulfill its vital mission. In the end, we trust you will respond to the people’s need for justice.

Thank you.