

State of the Judiciary
Chief Justice Mark S. Cady, Iowa Supreme Court
Message to the Legislature
January 16, 2013

Madame President, Mr. Speaker, Members of the General Assembly, Governor Branstad, Lt. Governor Reynolds, state officials, colleagues and family, distinguished guests and friends:

The responsibility of the chief justice to appear before this joint assembly each year to report on the condition of the judiciary was made into law by you in 1978. Chief Justice Ward Reynoldson was the first chief justice to perform this task in response to that law. At the beginning of his speech, he quipped that he would have been just as enthusiastic to appear before you had he merely been invited. While I was invited today, I can assure you that I am just as enthusiastic as Chief Justice Reynoldson. I am excited to talk to you because every one of us in the Iowa Judicial Branch is poised to make the Iowa court system the best, most advanced, and the most responsive court system in the nation. I look forward with hope and promise to work with you to accomplish this goal. As we have proven in the past, a great vision can become a reality when we work together.

When my son was in grade school, I coached his school football team, along with a few other parents. We practiced on the school grounds after dinner in the same grassy area where the children played at recess during the day. One evening, two games into the season, both of which we had lost, I noticed a man and a girl standing off to the side. I spoke with the man, and he told me his daughter suffered from a profound hearing loss and could not hear without her hearing aids, one of which she lost on the field during recess that day. The hearing aid was very small and very expensive. We stopped practice, and the coaches had the boys line up shoulder to shoulder, heads down, and begin walking the field. Within a few minutes, the hearing aid lying in a sea of grass was found—and so too was the recipe for success as a team for the rest of the season and beyond. They all learned that, when all players do their jobs and trust others to do their jobs, success can be achieved. The boys went on to win the rest of their regular season games.

As is often the case, the lessons of our children are our lessons as well. We, the three branches of government, are a team poised for great success, and it is incumbent upon us—its leaders—to forge and implement a plan that achieves this success for all Iowans.

We are partners in this venture because our constitution—properly, I might add—has given you control over the purse strings of this state. My responsibility is twofold: first, to share with you a vision for our courts that will meet the expectations of Iowans today and into the future; and, second, to provide you with the information you need to make the best and most informed decisions possible for the funding and operation of our courts. This is the process of responsible government. I promise you that I will do everything I can to provide you with the information you need. On behalf of the judicial branch staff, we promise to work as hard as we can to make people's lives better and to enhance our state's economic vitality, so that all Iowans feel a sense of pride in the way their government operates and serves them.

In addition to my remarks today, I will continue to communicate with you by maintaining office hours here at the Capitol to answer your questions and expand upon our vision for the improvement of the judicial branch. Also, immediately following today's speech, we invite all of you to join us for a reception in our historic courtroom downstairs.

Since the last time I was before you, the supreme court has continued, and will continue, to hear supreme court proceedings across the state in the spring and fall of every year. We hear these oral arguments in the evening so as many people as possible may attend. The evening sessions also enable court members to meet with Iowans to answer questions and hear their expectations for our court system. The following morning, the members of the court fan out to nearby schools to talk with students, teachers, and administrators. Through our court-on-the road efforts during 2012, we visited five communities as a full court, and individual justices visited 40 schools, colleges, and universities. I would like to take this moment to say "thank you" to all the teachers, principals, school districts, college administrators, and community leaders who have welcomed us into their classrooms and communities. To gain an even broader perspective, I have met with many of Iowa's business leaders who rely so much on our system of fair and impartial courts. Likewise, all members of the court have met with civic groups, business organizations, legislators, local leaders, educators, students, and of course, those individuals who work so hard in the judicial branch on a daily basis. We have learned much from these experiences.

These Iowans have described for us what they expect and need from our courts. This list is fairly straightforward:

- Protect Iowa's children;
- Provide full-time access to justice;
- Operate an efficient, full-service court system;
- Provide faster and less costly resolution of legal disputes;
- Be open and transparent; and
- Provide fair and impartial justice for all.

Let me elaborate, starting with our state's most precious resource.

I. Protect Iowa's Children

Iowans expect the courts to be there for the children of this state. You have assigned this responsibility to us, which we embrace with the care and attention it demands. Young Iowans who turn to crime, or who must cope with shattered families, or who suffer from daily abuse, represent a tragic failing of our society. They also represent potential expenditures of millions, no billions, of future taxpayer dollars if they end up incarcerated or must be treated for more serious conditions as adults. We save taxpayer dollars when troubled children receive the full and timely services of the juvenile court system. In this critical area, our courts do not just hold juveniles accountable for their actions, we also construct, implement, and monitor a remedy until our assistance is no longer needed. We are not only the emergency room for these struggling

children and their families. We are the recovery room and, importantly, the rehabilitation center that follows. At each stage, we need the full complement of resources to do the job right. We all fail if our courts fail our children.

Today, juvenile court judges across the state have chosen to devote their professional lives to making a real difference in the lives of our troubled children. These men and women are dedicated to putting a stop to the otherwise likely cycle of delinquency and adult criminal behavior. They run innovative and inspiring courtrooms devoted to making positive changes in the lives of our children. A great example is our nationally recognized family drug courts that target families with parents who have substance-related disorders. These courts bring together members from the extended family, counselors, and community service providers to help keep children with their families. In the past five years, family drug courts have served 399 families, and 80% of those families are still together. Family drug courts are funded by a federal grant that was recently renewed. Family drug courts in Iowa have reunited families or prevented foster placement for 576 children. All these efforts have saved taxpayers more than \$2 million dollars in its five years of operation. Our family drug courts are examples of proven court innovations and collaborations that benefit our families and taxpayers.

For children who are themselves in trouble with the law, juvenile court officers work closely with our judges to assist children and their families to transform behaviors and attitudes before it's too late. Your court system helps mend the lives of thousands of young Iowans, helping them become good and productive citizens who will positively contribute to our society. Sadly, however, we are far from reaching all of our children and families in need. Sometimes even in the most fundamental ways.

I have visited with juvenile judges and juvenile court officers and learned firsthand that the most important and proven part of their job is to have an early face-to-face conversation with troubled youth. One conversation, between a child and a devoted and trained juvenile court officer asking the right questions, can often identify the underlying problems and help match the needs of the child with the services available in the community. With enough support, the juvenile court officer can then monitor the child's progress through treatment or therapy. We do not have enough juvenile court officers, however, to reach all of our children in need, and too often our first contact with a child is through a letter. That is just wrong. Every child deserves a face-to-face meeting with an assigned juvenile court officer. An impersonal letter from a stranger just does not cut it. We know that with early, personal intervention, more troubled children are saved from a life of crime and lifted out of a world of heartache. With your help this can be done. If we are going to accomplish any lasting good in our lives, we must begin by bringing lasting good to the lives of our children in need.

II. Provide Full-Time Access to Justice

Iowans expect and deserve to have full-time access to justice. Whether it's children in need, or you, your business, or your friends and neighbors who must at some time count on access to court services, it is clear that Iowans expect their government to operate a full-time, full-service, and efficient court system. Currently, all clerk of court offices in Iowa are closed every Tuesday and Thursday afternoon. Closures deny access to Iowans, including those seeking commitment of loved ones for mental illness and substance abuse and people seeking protection from

domestic violence. We have all heard stories about domestic violence victims having to wait for an order of protection because the clerk of court offices are closed. We also know more families in need of mental health services are turning to the courts every year. The number of adult mental health commitment petitions has grown 45 percent in the last decade, while the number of juvenile commitment petitions has grown 93 percent during the same time. When a mental health crisis strikes a family, our courts must be accessible. In addition, closures slow down the processing of child support checks, liens, garnishments, warrants, and other important matters. These closures should end. Iowans deserve and expect all clerk of court offices to be open every day during business hours.

III. Operate an Efficient, Full-Service Court System

The Iowa Judicial Branch does continuously work to improve access to the courts and make operations more efficient. We have made tremendous progress in these efforts in recent years, including, as you are aware, with EDMS—our electronic document management system. With EDMS, we are creating and implementing an efficient paperless court system. This project is on track to be nearly half done by the end of this year. We still have much work to do, and there are many expert and dedicated judicial branch employees making it happen, but it already has become a national model for other states to follow.

Since the first document was successfully filed electronically in the Plymouth County Clerk of Court Office in January 2010, court users have electronically filed nearly one million documents in 15 Iowa counties. We began with a county-by-county approach to implementing EDMS that included extensive training for all court users. In Woodbury County, our first move into a large county over a year ago, Sioux City Police Chief Doug Young says his officers now use and depend on EDMS every day without complaint. EDMS works and quickly passes critical information between the courts and police. I have heard similar reports from Humboldt County Sheriff Dean Kruger and Fort Dodge Police Chief Tim Carmody, who said that with EDMS, his officers receive search warrants and court orders faster than before and there is less administrative paperwork. Now his officers can spend more time out on patrol.

Many EDMS users are self-represented litigants, who can now file from their homes in the evenings when they are off work, or small business owners who do not have to interrupt their work day to race to the courthouse to file a lien or other court document. Judges using EDMS are also more efficient and are now able to prepare for court even when they are in a neighboring county. By the end of this year, we expect to bring EDMS to 30 more counties.

IV. Provide Faster and Less Costly Resolution of Legal Disputes

Iowans expect and deserve timely resolution of their legal disputes. The old axiom “justice delayed is justice denied” is more and more true in our increasingly fast-paced world. I hear repeatedly in my conversations with business community leaders across the state about the importance of resolving disputes quickly and inexpensively so the involved parties can move on. Often, the time waiting for a resolution can be time when capital is not invested, new employees are not hired, or economic development is put on hold. While EDMS will help, our court system is still plagued with costly, frustrating, and unnecessary delays. Technology can only do so much for a justice system. We have learned that potential efficiencies in our court system quickly fall

out of reach without sufficient personnel. Too many times, a case must be rescheduled because a judge is without some essential staff to allow the case to proceed. I have personally called lawyers to apologize for this unfortunate circumstance and for the additional costs. In peoples' lives, one courtroom delay is one too many. This is not how a justice system should operate, and it is not what Iowa litigants should endure. We can only have a full-service court system if our judges have the support they need to run an efficient courtroom.

This leads me to a related point. We are trying to operate our branch of government as any efficient, successful business or organization would operate, and we must pay competitive salaries to our judges and magistrates that reward superior performance, sustain committed service, and compete in the marketplace. We all know that adequate employee compensation is essential in any successful operation, including the operation of our courts.

Iowans expect our courts to give users more options to resolve civil disputes in a way that meets the changing needs of the 21st Century and provide better, faster, and less costly court services. Twelve months ago I spoke with you about the importance of a fair and predictable justice system to economic development in Iowa. Since that time, business owners from around the state continue to share their vision for a modern and responsive court system. We are moving forward with two innovations to provide faster and less expensive dispute resolution. First, we are in the process of streamlining the civil justice system by developing another track litigants can select that will reduce the costly and time-consuming discovery disputes that often accompany litigation. This track of litigation will offer users a means to obtain a less costly and more prompt resolution of legal disputes.

Second, we recently approved a pilot project to establish business courts in Iowa. Our Civil Justice Reform Task Force studied this exciting concept, and we have thoroughly discussed the project with many groups of Iowans, including business leaders. Importantly, our business courts will be staffed by judges specially trained in the complex issues facing businesses in our modern economy. These judges will offer commercial litigants the expertise needed and desired when courts are asked to resolve their disputes in a fair, efficient manner. Our business courts will spotlight the integrity and ingenuity of all the courts throughout Iowa as another example of the commitment by our court system to treat all litigants and their claims with respect and understanding. By relocating these complex litigation cases to a separate docket, other civil cases may proceed more efficiently. Additionally, we expect business courts to help all Iowans by contributing an important piece to the new wave of economic confidence in Iowa as a place to grow and prosper. We all can agree that America's core strength is its innovation, its ideas. Courts are a part of this innovation too.

V. Be Open and Transparent

Iowans demand the courts, as well as all of state government, to be open and transparent. As you know, the strength of our democracy requires well-informed citizens. The strength and effectiveness of our court system depends on public confidence in the courts. To this end, the Iowa Judicial Branch has been a national leader in allowing audio, photographic, and video coverage of the courts. Our rules governing media coverage are carefully designed to prevent disruption of the court hearing and to safeguard the rights of litigants to a fair trial and appeal.

These rules have worked well for many years. However, they have become outdated by smart phones and new ways of communication such as blogging and twitter. In response, the supreme court created a committee of journalists and court users to update the rules to address the new media covering our government. Working together we will be able to allow all Iowans, especially the next generation, to see for themselves how our justice system works for them. As we have in the past, we welcome transparency. It is a critical part of our future success because it enhances public understanding of our courts.

VI. Provide Fair and Impartial Justice for All

Iowans demand our courts provide fair and impartial justice for all. Through the judicial merit selection process, our courts continue to be free from political influence and provide fair and impartial justice to all Iowans. Our judges make decisions based on the facts of a case and the rule of law, not their personal beliefs or popular opinion. Allegiance to the law is the very core of our judicial system, embodied in our oath as judges and our rules of ethics, and it is our pledge to all Iowans. While some may disagree with the court's work from time to time, it is our hope that this pledge will always be visible in all our work. We must be devoted to fair and impartial courts because it is an important component in our future success as a state.

Throughout the last year, I have listened carefully to Iowans across this great state. These thoughtful voices continue to resonate today, and the caring faces of Iowans guide us in our commitment to our system of justice. I pledge to you that we will continue to engage all Iowans in conversations about the needs and expectations for our courts.

I stand before you today as the voice for our judicial branch of government, as the voice of the judicial branch staff who are "all in" to make our court system the best in the country. I am also the voice for the hundreds of thousands of court users in Iowa, including those Iowans suffering from mental illness and drug addiction. I am the voice for a committed and caring profession that relies on our court system in representing Iowans. I am the voice for victims of crime and victims of injustice; the voice for the accused; the voice for families torn apart; the voice for our troubled children who depend on our courts for their safety and success; and the voice for all those who believe, as I believe, that our courts must have a strong foundation for each generation to build on and flourish.

Together, we are the voice for Iowans. We must work to deliver on the grand vision of our forefathers—that the government they created will be the government operated by each generation to always make the lives of Iowans the healthiest, happiest, and most prosperous possible. It is a vision only today's leaders can deliver. The cause is just. So, today, I stand before you with this vision of a court system reaching its greatest potential, and with the information you need to help make that a reality.

Let today be a beginning when we walk together as my son and his teammates did, shoulder to shoulder. Let us work together to advance a just cause, to reach our greatest potential.

Thank you.