

State of the Judiciary  
Chief Justice Kathleen A. Blatz, Minnesota Supreme Court  
Message to the Minnesota State Bar Association  
June 22, 2001, in St. Paul, Minnesota

Thank you for the invitation to address the MSBA about the State of the Judiciary this afternoon. Today my hope is to map out where the judiciary is headed over the next several years, with an eye toward how this path will specifically impact our friends in the bar. In the last year, the judicial branch has worked to identify four main strategic issue areas. Administratively, our energies will be devoted to these four priorities in the coming years. I believe that all of them will have some impact on your roles as attorneys.

### ACCESS TO JUSTICE

The first priority area is ensuring that our citizens are afforded greater access to justice. Now that I'm in my third year as chief justice, I can tell you that structurally the judiciary looks completely different than it did when I was sworn in. We have undergone a massive transformation, from a branch of government funded primarily by 87 different counties to one that is moving toward total state funding.

In the past, our courts were almost a confederacy, disconnected by the realities of being locally based and locally funded. The inconsistencies and lack of uniformity inherent in this disparate, county, based system are not in the best interest of the people—or the attorneys—who depend on us as they seek access to justice.

Today, 51 counties in the western half of Minnesota, the 5th, 7th, 8th and 9th judicial districts, have moved to state funding. The process will continue over the next several years until all judicial districts have moved to the same state funding source. There will continue to be significant challenges as we work to unify the funding mechanism but our end goals and the exciting possibilities they create make the effort worthwhile. Greater accountability, along with better consistency in policies, procedures and services, will help make us more efficient, effective and ultimately accessible to your clients.

While we began this journey to state funding many years ago, the current legislative session and the upcoming biennium will be a watershed era for not only this issue, but many others.

Providing citizens with equal access to justice means more than state funding—it also means having enough judges to get the job done right not just fast. It means having enough court interpreters for non-English speaking Minnesotans and guardians ad litem for children alleged to have been abused and neglected. It means making sure we can attract and retain qualified, competent judges and court staff while providing them with the information they need to do their jobs effectively. And, it means making the state's civil legal services a priority, fully funded and accessible to the citizens who need it the most.

Underscoring our request pending at the Capitol was a report released in December from the Legislative Auditor's Office. That office evaluated Minnesota's district courts and found that we're processing our caseloads in a reasonable amount of time, even though total filings per judge in Minnesota are 49 percent higher than the average caseload per judge in comparable

states. And filings of major cases statewide have increased twice as fast as state expenditures have increased for the judiciary.

As filings have gone up, time per case has gone down. The Legislative Auditor's report showed that both judges and attorneys are in agreement that judges need to spend more time on cases if people are to feel that their concerns are fully heard.

Judges and attorneys alike also reported that insufficient numbers of public defenders contribute to system problems and delay.

As you are acutely aware, we still do not know the outcome of our legislative request. Every time we think the end is near and a resolution is close at hand, some new twist or turn takes us back to the drawing board. It reminds me of the saying, "Careful! The light at the end of tunnel may actually be a train!"

But even though we are not yet sure of the outcome, what we do know is that as we have made our case for these needs at the Legislature this year, the bar has been with us every step of the way. The MSBA has worked with us shoulder to shoulder in the effort to secure the funding necessary to ensure access to justice. I want to thank you on behalf of the judiciary for your extraordinary commitment and assistance over the last few months. Every phone call, letter or meeting with a legislator has made a difference.

And I must single out your outgoing president, Kent Gernander, for special praise. Our work this year was a team effort, but Kent went far above and beyond the call of duty. He organized regional meetings and mobilized support throughout the session. He pounded the halls of the Capitol, he testified whenever able, and he sat through the kind of legislative hearings that make a lecture on the rule against perpetuities look exciting!

Kent is someone who has not only been involved, he has been completely committed. As Martina Navratilova once said, there's a big difference between being involved and committed. As she put it, "Think of ham and eggs. The chicken is involved, but the pig is committed!"

Through his commitment and the work of the MSBA, the judiciary's presence was felt at the Legislature like never before. Please join me in giving Kent Gernander a hand.

I also want to commend the phenomenal work of key lawyer-legislators:

- Senator Dick Cohen chaired our Senate funding committee, which approved nearly the entirety of our general fund request.
- Representative Dave Bishop has been an invaluable ally as the House author of the new judgeship bill.
- Representative Ron Abrams, chair of the House Tax Committee, has provided extraordinary legislative leadership on the transfer of our trial courts to state funding. And,
- House Majority Leader Tim Pawlenty and Senate Assistant Majority Leader John Hottinger, who have been key voices for our funding issues.

The judiciary and the legal system are fortunate to have their voices and leadership at the Capitol. Their work, in conjunction with that of other key legislative leaders, has made a huge difference.

It is our hope that the final result at the Legislature will allow us to make significant progress toward the Court's first strategic priority area, Access to Justice. But it will enable us to move ahead on the other three areas as well.

## TECHNOLOGY

The second of our four strategic priorities is to improve our technology. I'm not just talking about hard drives and software applications. I'm talking about the critical information that we need to do our jobs. The judicial branch is a huge consumer and supplier of data. Yet right now, our district judges often must make their decisions without timely, accurate or complete information about the people who appear before them.

Our current technology is decades old and very poorly integrated with other criminal justice agencies. As I stand here today, effective scheduling, electronic filing, and critical judicial support are just not possible.

That's why we've begun work on a whole new computer system for the courts, called MNCIS which stands for Minnesota Court Information System. MNCIS will significantly improve the collection, storage, retrieval, tracking and sharing of case information. It will also serve as the Court's component of the larger criminal justice integration effort, known as CrimNet.

I must make mention of two other friends of the judiciary who deserve much credit for their leadership on CrimNet in the Legislature. Senator Jane Ranum, a lawyer, working in tandem with Representative Rich Stanek, a captain of the Minneapolis Police Department, have provided the vision and voice for CrimNet. Given their vision, passion and devotion to marshalling this legislation, I am confident the Legislature will approve \$27 million for this purpose, of which \$15 million is slated for MNCIS.

But what will MNCIS really mean to you and your work? For one, it means that electronic filing is on the immediate horizon. Current plans for MNCIS include adding e-filing as one of the earliest working components of the overall project. This will allow you to file your pleadings electronically and immediately through our website, instantly updating case management files. This paperless process will save you time and money normally spent on making copies and physically serving them in court.

Another feature of MNCIS that will impact your work is our hope to provide cheap, web-based access to public case records. Again by using the Internet, MNCIS is being designed to allow you to query public information from a case file online. In addition, we will continue to look at ways to make court scheduling more efficient for all parties by using the tools available to us in MNCIS.

Overall, MNCIS will help us realize greater efficiencies, improve case processing effectiveness, and enhance the accountability of both offenders and "the system" itself.

## PUBLIC TRUST AND CONFIDENCE

The third of our strategic priorities is improving the public's trust and confidence in us. As I reported two years ago, national studies have shown positive, but mixed results about the public's perception of our work.

In 1999 and 2000, we conducted our own study of public perception right here in Minnesota, and today we are publicly releasing those results. They will also be available on our website beginning this afternoon.

As you know, the public often does not distinguish between the respective roles of lawyers and judges, so their reflections of the work of the bench and bar are to some extent, intertwined.

We are pleased to announce that the vast majority of Minnesotans—78 percent—are confident in the state's judiciary as an institution. Our confidence rating is similar to the results of national surveys conducted by the National Center for State Courts and the ABA.

Minnesotans also feel courts are quite capable in criminal, civil and small claims cases. They believe that judges are fair, treat people with respect, and have the skills they need to do their jobs well. They feel that courts protect people's constitutional rights, court staff are helpful and courteous, and courthouses are safe and conveniently located. Statewide, more than 90 percent said that courts try to ensure individuals have access to an attorney.

This is certainly news to be proud of, but I am a firm believer in something retired General Norman Schwarzkopf said recently here in the Twin Cities when asked to speak about the hallmarks of leadership. To paraphrase the general, he said that strong organizations work on their weaknesses, while weak organizations only focus on their strengths.

He is right. To grow stronger as a branch of government, I believe it's important that we take a hard look at the less glowing results as well.

For instance, Minnesotans have concerns about our handling of delinquency, child protection and family cases. They are concerned that judges don't give enough attention to each individual case and that litigants may not understand the court's rulings. A majority of Minnesotans disagreed with the statements, "most people can afford to bring a case to court" and "the court system is easy to use." And, nearly 40 percent claimed to know little or nothing about the court system.

But of particular interest to us is the concern among both Caucasian respondents and respondents of color that not all groups of people are treated fairly. Equal justice for all goes to the heart of the judiciary's responsibilities and we take very seriously the challenge of addressing this concern head-on.

Back in 1993, the judicial branch released a report that outlined 144 recommendations on eliminating bias in the courts. We have certainly made a good deal of progress on those recommendations, but there is more work to be done.

One of the primary recommendations of that 1993 report was to begin the collection of race data in court proceedings so we can empirically identify where bias may be occurring. In January of this year, Minnesota became the first state court system in the country to require the self-reported collection of race data in all criminal, juvenile and traffic proceedings.

Also in response to survey findings, the judiciary is working with our Race Fairness Implementation group and a variety of minority organizations to expand judicial outreach in a meaningful way. We look forward to continued input and direction from these groups as we tackle the issue of equal treatment. In the last year and a half, the judiciary has reviewed the survey findings and in conjunction with the national planning effort on this subject, developed strategies to address other challenges we see in the "less glowing" results I just mentioned.

For example, when we look at the issue of access to the court system—making it easier for people to use the judiciary—we must consider our treatment of jurors. We have convened a jury reform task force to look at easing issues of juror hardship and making the process more user-friendly. Their work is nearing completion and I am optimistic that recommendations to improve our jury system will be adopted.

In addition to jury reform, we have continued our efforts to assist self-represented litigants and we have translated more court forms into "plain English." In partnership with you, we're exploring ways to use our court system website to improve customer service and distribute more information about the courts to the public.

And to combat the issue of limited understanding about the work that we do in the legal profession and the judicial branch, last year we launched an extensive educational outreach program on October 13<sup>th</sup>—Constitution Day. On that day, volunteer judges and attorneys from across the state visited classrooms of middle school and high school students, played an educational videotape about the court system, and answered kids' questions about the judiciary.

We were overwhelmed with the positive response from judges and attorneys and can safely estimate that six to seven thousand students learned about the legal system that day. We know from national studies that people prefer to learn about the legal system from those who work in it, so this strategy may be one of our most effective. By reaching thousands of students each year, bridging the gap of public understanding is within our reach. We hope to build on our success last year and encourage you to participate in our second annual Constitution Day activities next October.

As I mentioned, the public is concerned about our handling of juvenile and child protection matters—and we are, too. That is why we have launched a new initiative to make significant improvements over the next five years. Children and families are the judiciary's fourth major priority area and our new effort is called the Children's Justice Initiative.

#### CHILDREN'S JUSTICE INITIATIVE

Given my passion for children's issues, this is an area for which I hold out great hope. And there is no subject that will have a greater impact on our future. And I don't just mean "future" in the broad sense of what will happen in the years ahead. I also mean "future" in the sense of individual boys and girls who surround us today and who will grow up to be our neighbors, our sons and daughters-in-law, and tomorrow's leaders, if given the chance.

Children are amazing—Having three of my own, I am often reminded that they don't miss a thing. Recently, there was a newspaper article that contained children's responses to various questions about dating and marriage. One eight-year-old boy was asked, "how can you tell if two people are married?" The boy answered – "You might have to guess, based on whether they seem to be yelling at the same kids." How observant is that!

This is a wonderful illustration of how kids never miss a beat. And as all of us who have worked with abused and neglected children in the child protection system know, they see and understand so much more than we expect them to.

But make no mistake, they are watching us, they are watching the system—and they are watching the months and years tick by on the calendar. Appreciating a child's perceptions and the

consequences of our collective actions is really approaching our jobs "through the eyes of a child." Not through the eyes of the judge, the prosecution, the defense, the social worker or the "system," but through the eyes of the child—because it is children's interests that are legally paramount. And that's what the Children's Justice Initiative is all about.

Even if your work as an attorney is outside the scope of child protection, you should be aware of this initiative because of its far-reaching implications and how it will touch on other aspects of criminal justice. The Children's Justice Initiative is the first of its kind in the country and is a joint collaboration between the courts and the Department of Human Services. Our goal is to move children into permanent homes faster. Many other states in the country have at least one "model court" designed to do a better job with some element of child protection. But we are not interested in having one "showcase court" in Minnesota. Instead, it is our vision to become a "model state," so every Minnesota child, regardless of location, has the best possible chance for a safe and permanent home, at the earliest possible time.

To do this, we've identified "lead judges" in 12 initial counties and they've pulled together teams from every element of the child protection system—guardians ad litem, county attorneys, public defenders, social workers, teachers, and law enforcement—to work together implementing best practices to achieve better outcomes for abused and neglected kids in each county.

Eventually, we'll phase in three more waves of counties until the entire state has significantly improved the delivery of services for maltreated children and meets state and federal timelines for permanency. But the real strength of this effort is the power of getting everyone together at the same table to discuss the challenges, have honest debates about the problems, and to be jointly responsible for finding solutions.

And find a solution we must. From the "big picture" perspective, statistics tell us that something isn't working. For instance, we know that 80 percent of our prison inmates spent time in child protection. As Karl Menninger once said, "What's done to children, they will do to society."

Recent studies have also shown that when measured over a period of 20 years, childhood abuse and neglect can lead to a whole host of lasting, negative effects, including: lower IQ's, less education, higher unemployment, more divorces, more personality disorders, more suicide attempts and yes, a greater risk of being arrested for a violent crime as both a juvenile and as an adult.

The National Commission on Children had this to say in a major report about the state of child protection in America:

If the nation had deliberately designed a system that would frustrate the professionals who staff it, anger the public who finance it, and abandon the children who depend on it, it could not have done a better job than the present child-welfare system... Marginal changes will not turn this system around.

But there's more than just the big picture and the aggregate to look at. There are stories of boys and girls, all across this state, who have somehow slipped through the cracks of our system. These children are fighting against the odds and battling lifelong effects of their experience—not just the experience of abuse and neglect—but also the experience of being caught up in the cogs of a bureaucracy for years upon years, longing for a family who will love them and hating how long it takes to find one.

There is no doubt that we cannot be held responsible for a parent's behavior and its impact on a child. But it's time we started asking ourselves whether the system's treatment of our neediest children is also a form of abuse and neglect. Just leave the initial maltreatment aside for a moment and think about the impact that a poorly functioning system can have on a child. Think about the multiple placements, the series of foster families, the repeated reunions with parents unequipped to care or nurture, and the time that ticks by as we shuffle paperwork between agencies and our courtrooms.

Now think about the term "child protection system." Can we really justify calling it that?

In addition to the "big picture," it's important to think about what I call the "little picture," the stories of our children. Although these stories are some- times difficult to hear, we must listen, because it is the stories of our children, more than anything or anyone, that will be the catalyst for needed change.

One such story is about a young man I know named Hank. Hank initially came to my attention because his life story was featured in the Star Tribune a year ago.

Hank spent his young life as an abused child. He was five years old when he started changing his sister's diapers, and he taught himself to cook so he and his sister could eat. He didn't know his father, and his mother, a heavy drinker, frequently beat Hank and his little sister. Between the ages of 11 and 18, he was in two different foster homes, but never a permanent home. Just as he became deeply attached to his first foster family, he was torn up and moved to the second. Not willing to open himself up for heartbreak again, he held the second family at arm's length, hoping a "real," permanent family would want to adopt him.

But it never happened. While he was never "reunified" with his parents, the system never terminated the rights of his parents. Instead, he "graduated" from foster care and went on to college. As a student, Hank did OK in school, but he excelled in sports and theater. He remembers in his freshman year being offered a theater scholarship.

To put this in perspective, he was the first in his entire family to go to college, let alone receive a scholarship.

The article in the Star Tribune described his phone call to his mom like this: "I was on top of the world," Hank recalls, " and called my mom right away to tell her the great news. She didn't say congratulations. The first words out of her mouth were 'Well, I went bowling last night and bowled a 162.' I hung up on her and cried for probably five days."

It was then, he claims, that he terminated his relationship with his mother.

Still desperate for a family, he tracked down his birth father in Milwaukee. His father was also a chronic alcoholic. Each of the three times Hank visited him, his father asked him who he was.

Finally, while he was in college, Hank began to accept the love of his second foster family and decided to claim them as "permanent" even though the child welfare system never told him he could. Today, at age 25, although he still bears the scars of abuse and longing for acceptance, he has been a social worker and now a teacher, befriending and mentoring other abused and neglected kids.

I think there are two things to learn from Hank's story. One is that we as a system owe him an apology for never giving him a home he could trust to be "permanent." Seven years in limbo is torture to a child or a teen who needs to feel safe and be loved unconditionally. Seven years is totally unacceptable when he made it clear from age 11 on that he wanted a family.

To deepen your understanding of this just try to imagine your own life without a family, without anyone you could trust to love and support you...how would you function? Where would you get your self-worth, your identity, your values? It's almost too difficult to fathom—yet for Hank and so many other children—it is a reality.

But Hank also teaches us to never lose hope. Hank's success should give us all faith in the resilience of children, in the strength of the human spirit and in the possibility for real change.

And I have great hope for our ability to improve child protection.

The Children's Justice Initiative is a major one for the court system and for our state, and we will need your help to do it. I am pleased to report that many of you have already stepped up to the plate and offered your assistance in a variety of areas.

One facet of child protection that is in dire need right now is our provision of guardians ad litem. Even though they are required under federal law, state law and court rule, 40 percent of children alleged to have been abused and neglected do not have anyone appointed to represent their interests in court due to significant shortages.

To help fill this gap in Hennepin and Ramsey counties, last year we called on the bar at large, as well as area law firms and local attorneys to volunteer their time on a pro bono basis and become guardians. Twenty-one law firms and 128 volunteers accepted what we called the "Pro Bono Challenge for Kids" and are working toward becoming guardians.

The challenge was also extended beyond attorneys in the firms, to paralegals, assistants, spouses and other family members. One lawyer got her recently retired father involved. He had always wanted to go to law school, but never realized his dream of being an advocate in court—until now. Today he serves as a volunteer guardian ad litem on four separate cases. He is making a difference in those children's lives. And he is making a difference in his own life.

There is an old Chinese proverb that I keep close at hand to describe the impact that serving others has on our lives. It reads:

If you want to be happy for an hour, take a nap.

If you want to be happy for a day, go fishing.

If you want to be happy for a month, get married.

If you want to be happy for a year, inherit money.

If you want to be happy for a lifetime, *serve others*.

In closing, I will tell you that when I appear before you at these bar conventions to give a State of the Judiciary speech, it is always my hope to cast light on what the court system's strategic priorities are and to identify the connections between our priorities and your work. But my greater goal in addressing you is to ask for your ideas, your expertise, and your partnership as we



improve the public's trust and confidence, provide greater access to justice, ensure adequate technology, and implement the Children's Justice Initiative.

I want you to know that I am very grateful for the enormous contributions of the MSBA and its individual members. Your time, your service and your commitment to the highest standards have made our system of justice better and stronger. I am proud to be one of you.

Thank you.