

**Remarks of Chief Justice Marsha Ternus
Juvenile Judge Training Conference
October 29, 2009**

Welcome

It gives me great pleasure to welcome you all to this specialized training conference for juvenile judges.

Goals of Program

The goal of this program is to help ensure that our cadre of juvenile judges has the highly-specialized training required to expertly handle the complex and difficult issues presented by child welfare cases. All of you already have the talent, knowledge and commitment it takes to be a juvenile judge. This two-day course will help polish your skills, inform you of best practices, and bring you up-to-date on new developments that impact your work. There are additional benefits to bringing you all together for this conference. This event is an opportunity for all of us to become better acquainted and to learn from each other. If you're new to this group, you'll quickly learn that we have an enthusiastic and talented group of juvenile judges who are eager to assist and support you.

I want to take this opportunity to thank all the people who contributed their time, energy and wonderful ideas to make this program a reality. In particular, I want to thank Gail Barber, Kathy Thompson, Carl McPherson, Doyle Evans and Jane Keiler.

This conference is much more than just another CLE program—it symbolizes our conviction that the interests of children must come first in our justice system. This commitment to vulnerable children carries even greater meaning and importance in these difficult times. Hard economic times place more stress on families, which in turn can lead to more instances of substance abuse, domestic violence, and child abuse and neglect. The safety and well-being of even more children is at stake. You know because you see these problems everyday in your court. At the same time, the state's financial crisis will likely wipe out critical resources we need to effectively deal with these children's problems. Clearly, these difficult times test our resolve. For these reasons, your commitment to these children is even more important now. I applaud all of you for your unwavering support for troubled and vulnerable children.

The program for the next two days is filled with presentations that will be valuable to you in your role as a juvenile judge. I cannot offer you that type of substantive knowledge and assistance. So let me veer off topic for a bit and address what is on everyone's mind: the state's fiscal crisis and what it means for the judicial branch.

Challenging Times

To say that we live in challenging times is an understatement. The scope and depth of the state's financial problem is far greater than most state officials ever imagined. The governor's announcement earlier this month of ten percent cuts took my breath away. A ten percent cut in our budget is \$16 million. As you know, the court system's operating expenses are primarily

personnel. Any cut over two to three million dollars will compel a reduction of our workforce, which is already stretched to the limit. Imagine what we will need to do to cut \$16 million. There are no simple or easy options.

Looking forward, we will work closely with legislative leaders and lawyers to identify enhancements in court generated revenue as a way to help the legislature restore some of the budget cuts. We will also talk with legislative leaders about minimizing future reductions to prevent further erosion of court services. In the meantime, however, we must make painful cuts.

Furloughs

The court is well aware that many judges and employees favor furloughs over layoffs. Unfortunately, furloughs, even if approved, will not solve the serious budget problem we face. If we make a ten percent cut using furloughs alone, we would need to impose 34 furlough days for all judges and employees. However, we cannot require 34 days for everyone. Our collective bargaining agreements limit furloughs for contract-covered employees to twenty days each year. So furloughs alone cannot solve this problem. Moreover, the state's budget crisis is expected to linger for several years. We face the serious prospect of more cuts later this fiscal year and again in FY 2011. Furloughs are not an effective long-term solution because they do nothing to permanently reduce our overhead; they just kick the can down the road, a particularly dangerous path if more cuts are necessary. But as I said even if the court were to approve twenty furlough days, we would still be far short of cutting our expenses by 10% this fiscal year.

Substantial Furloughs and Substantial Layoffs

It's clear that the immense problem we face right now will require a mix of substantial furloughs and substantial layoffs, in addition to holding open vacancies and cutting routine non-personnel expenses. Naturally, we are striving to minimize the number of layoffs, but under the circumstances it will be impossible to avoid a large number of them. The budget problem is simply too enormous. It is likely that all components of the judicial branch, including both appellate courts and the SCA office, will lay off staff. The extent of those reductions has not yet been determined. We hope to have a final plan in a matter of days.

I understand that everyone in the judicial branch is upset and frustrated about this situation. You have good reason to be upset and frustrated. I also sympathize with our employees who are in agony over the prospect of losing their jobs. It is a painful time for everyone. The thought of so many of our loyal, hardworking employees losing their livelihood, particularly in this terrible economy, is heart-breaking. It is also painful because we know how these cuts will severely weaken our capacity to serve the public, and in particular, our capacity to help vulnerable children and troubled youths. To make matters worse, the large cut in DHS funds for juvenile programs, treatment and services further erodes our capacity to help these children.

One Judge/One Child

I've heard a few judges say that we cannot possibly continue the one child/one judge assignment because it is too time-consuming and takes valuable judge time from other cases. Let me be clear: Budget crisis or not, the interests of children will continue to be a top priority in the judicial branch. Although this budget crisis will force us to skimp on treatment and services for children, we can still provide a child with the same judge throughout the child's case. For many children in foster care, their judge may be the only constant figure in their life. I will never forget the young woman on the Elevate panel that spoke at the juvenile judge advanced training session three years ago. This woman broke down in tears while speaking fondly about "her judge." The simple fact that her judge was always there for her gave her a great deal of comfort and support while she was in foster care. I cannot emphasize enough the emotional support these children gain by having the same judge preside over their case. In addition, having the same judge preside over one case from beginning to end helps to produce a better outcome for the child. We have no plans to discontinue the one judge/one child assignment.

Rebuilding

Realistically, the cuts we face will set us back—but only temporarily. We must strive to quickly regain our footing, plot a new course and eventually emerge from this crisis as strong as ever. Today, I want to describe some of our plans for rebuilding the judicial branch in the aftermath of these devastating cuts.

Short-Term Plans

While we have been planning for the cuts, we have also been planning for how to maintain court operations with as little disruption as possible after the cuts. Barring another significant cut, the judicial branch will continue to operate a clerk of court office in each county and will continue to send judges to every county on a regular basis. Even so, a large reduction in our workforce will impede the delivery of justice. To help manage with fewer resources we will implement the following immediate steps:

- Every clerk of court office will have reduced public hours to some extent so these offices have some uninterrupted time to deal with backlogs.
- With advice from judges and clerks, we are developing lists that rank cases and duties in order of priority. These lists will provide clerks, judges and other employees with guidance about which cases and duties to address before others. Naturally, juvenile judges will not need this sort of guidance because your work in juvenile court is one of our top priorities.

Hopefully, these small but useful measures will keep the wheels of justice turning as much and as smoothly as feasible. Even so there will be gaps in services, some services may stop altogether, matters will fall between the cracks, delays will increase in size and number, and backlogs will mushroom. We do not like these problems, and we wish we could avoid them. That said—I know that our judges and employees will do everything in their power to serve the people's demands for justice. I know this because judges and employees have proven themselves in previous times of great challenges.

Rebuilding and Reengineering the Court System

Given the severe depletion of our workforce and other resources we cannot realistically expect to return to business as usual. We must reengineer our practices, procedures and tools. We are already planning along this line. For example,

- We have asked some employees, judges and advisory committees to identify changes in business practices and court rules that would streamline practices and procedures. We asked Judge Lathrop to put this assignment on the front burner of the juvenile rules committee. We need the committee to identify simple steps that will reduce the work of juvenile judges as well as the work of clerks of court and juvenile court officers, while still maintaining the best practices we have implemented. I also encourage the rest of you to forward your ideas of this kind to Judge Lathrop.
- In addition, we plan to have each district convene a collaborative process after the cuts that brings together representatives of all court components and levels of the bench with lawyers, local government officials, and other key stakeholders to search for ways to improve court operations.
- We are also working with advisory committees and others to identify statutory changes that will streamline procedures, eliminate obsolete practices, reduce expenses, and make our statutory framework more efficient and effective.

As part of our rebuilding and reengineering, we must consider technology. In the long run, modern technology holds great potential for increasing our efficiency and productivity without impairing the quality of our work.

EDMS

My first example: EDMS.

A number of employees have asked why we continue to spend money on EDMS. There are three reasons for continuing our efforts to implement electronic filing. First, the funds for this project are off-budget funds, specially earmarked by the legislature for court technology. In addition, these funds are contractually committed. This commitment occurred last year before the budget downturn. Finally and most importantly, EDMS is essential for the future of our court system. It is the most effective way we know of to maintain statewide access to the courts in the face of shrinking resources. It will help our understaffed clerk of court offices keep up with the caseload. EDMS will help us keep employees in the smaller counties because they will be able to take on some of the case processing work of the larger counties. In short, EDMS is a long-range solution.

DART

We must also explore other kinds of technology that have the potential for helping us process cases with a smaller budget. Digital audio recording may have this potential. I appreciate that judges and court reporters alike have concerns about the quality of records produced by digital audio recording equipment and the overall costs associated with changing to this type of

process. I also appreciate that judges are deeply concerned about the possibility of having no or little staff support if court reporters no longer keep the record. These concerns are very important and must be addressed as we move forward.

I do not know where the DART study will lead. I know, however, that given the successful use of digital recording in other jurisdictions and the serious condition of the state's finances, we cannot ignore any technology that might enable the courts to operate more efficiently and affordably. I want to reiterate that the court has not made a decision for or against DART. Even if the DART committee submits a favorable report, the court will have other considerations to weigh before it reaches a conclusion about the use of digital audio recording as an alternative to court reporting. I can assure you that the availability of skilled support staff for judges will be a primary consideration in reaching any conclusion about the use of digital audio recording technology.

Pooling Court Reporters

While I am on this topic, I want to address the cuts in our court reporter staff and our efforts to pool court reporters. I understand that this arrangement has been difficult, inconvenient, and frustrating for judges and court reporters alike. Unfortunately, pooling court reporters is one of many problematic changes compelled by our fiscal situation. I ask for your patience and cooperation as we work out the problems and learn how to adapt.

Conclusion

I've spent a good deal of time talking about how the state's bleak financial picture is forcing us to change. We have no control over this financial crisis, but we can control our response. We can choose to creatively shape our future or we can wait for the future to shape us and then face the consequences of our inaction. Under the circumstances, change appears to be the order of the time. Amid all this turmoil, however, we will preserve the features and fundamental qualities that define our court system:

We will serve the interest of the public,
We will be fair and impartial,
We will administer justice according to law equally to all,
We will provide dedicated, hard-working judges and employees who are committed to excellence and who truly believe in the cause of justice, and
We will strive to place the interests of children first.

Finally, let me say that I am immensely grateful for your sacrifices, heartened by your indomitable spirit and devotion to public service, and awed by your dedication to Iowa's children. Let's work together to continue to do the best we can for children and families in need.