



2016 State of the Judiciary

Mark S. Cady

Chief Justice of the Iowa Supreme Court

January 13, 2016

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the condition of justice is vital to the
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Madam president, madam speaker, distinguished members of the Iowa General Assembly, Governor Branstad, Lieutenant Governor Reynolds, state officials, colleagues, family, friends, and all Iowans.

I have been honored to present the Condition of the Judiciary message to this assembly on five occasions. It is an honor again today. Each time I have described the efforts of the Iowa Judicial Branch to build Iowa's justice system consistent with the priorities and needs of all Iowans. Justice is important to every Iowan, and the condition of justice is vital to the overall health and prosperity of this state. We celebrate justice when it prevails. We strengthen justice when it is unequal. We fight for justice when it is absent. Justice is the core value that inspired our founders when we became a nation, and it remains today our common bond as Iowans.

Justice is within us at this moment and is seen across this state in the everyday actions of Iowans. It is seen in the actions of judges. It is seen in the actions of legislators. It is seen in the actions of the governor, state officials, and all Iowans who see justice as a goal to achieve. It is seen in the actions of community leaders such as Kellie Markey in Des Moines, teachers such as Pete Dammel from Audubon, clerks of court such as Ruth Godfrey from Council Bluffs, and countless other Iowans. The actions of these Iowans, and others, capture the best of us as a people. Their actions are Iowa's stories of justice.

Their stories speak to the priorities for Iowa's justice system. We have expressed these priorities to you in the past, and we remain committed to fulfilling them today. The six priorities are:

- 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
- Operate in an open and transparent way
- Provide fair and impartial justice for all

These are priorities given to the Iowa Judicial Branch by Iowans. We are accountable to all Iowans and the constitution for making progress each year towards achieving each priority. Today, I

will describe the progress made by the justice system during the past year and share the stories of the efforts of Iowans who seek justice every day.

I. Protecting Iowa's Children and Families

Let me begin by sharing Sydney's story. When Sydney was seventeen years old, she was referred to juvenile court services on a possession of alcohol charge. In Iowa, juvenile court services are a part of the judicial branch. Juvenile court officers use a risk-assessment analysis to determine if youthful offenders should be referred to juvenile court or diverted to informal probation for services to address their needs. In speaking with Sydney, her juvenile court officer learned the possession of alcohol charge was only a symptom of larger problems. He discovered Sydney had been drinking heavily and was making poor choices in her life. The juvenile court officer placed Sydney on informal probation and found substance-abuse treatment services for Sydney and her mom. Sydney successfully completed substance-abuse treatment and has not returned to court. Today, Sydney is sober, a high school graduate, and a college student.

Stories similar to Sydney's are repeated across this state every day. They illustrate the value of our evidence-based, risk-assessment tool used to divert youthful offenders from juvenile court. As a result, fewer children are being referred to juvenile court. Instead, the needs of low-risk youthful offenders are met by services offered through juvenile court services, law enforcement, schools, and community service providers. In 2014, more than seventy-two percent of children diverted from juvenile court as low-risk offenders did not return to court. That means there were 5,392 children who, like Sydney, successfully completed treatment and avoided a criminal record. With successful diversion of low-risk youthful offenders, our highly skilled juvenile court officers have more time to work with the high-risk youthful offenders. These outcomes represent the progress we seek, and the justice our children deserve. When all children are provided the tools and opportunities for success, justice is achieved.

The governor, legislature, and the judicial branch have worked together during the past two years to pass legislation to give troubled young Iowans the same opportunities for success provided to Sydney. The legislation increased the confidentiality of eligible juvenile records, including dismissed complaints and informal probations. This new approach harmonizes the common goals of public safety and the best interests of our children. It has given greater meaning to juvenile justice.

Together, we are making our communities safer, protecting more children, and allowing more children opportunities to climb the ladder of success without the heavy weight of a criminal record.

In my past two reports on the condition of the judiciary, I have shared stories of families torn apart by substance abuse who were reunited by family treatment courts. With your help, we have established family treatment courts in all eight judicial districts. Now, more parents in Iowa have the opportunity to participate in family treatment courts and graduate with their children at their side. As of October 2015, thirteen family treatment courts across this state have served 823 parents with 1,345 children. I encourage all of you to attend a family treatment court graduation in your area. You will discover, better than I can describe with words, what it really means for a parent to reach a point in life never thought possible, with the support of a community team who never stopped believing it was possible.

When we provide broken families the tools and opportunities for success, justice is achieved.

II. Impartial Justice for All and Racial Disparity

Last year I raised the issue of racial disparity in the criminal justice system. The positive responses that followed from you and other Iowans have increased awareness of this complex issue. Let me tell you about the efforts of the judicial branch to address this issue.

One response has been to seek better understanding of the many causes of racial disparity. Last year, the judicial branch trained 716 judges, magistrates, and other judicial branch staff to recognize implicit biases that may contribute to racial disparities. We will continue this training this year.

Another response involves the juvenile justice system. Three counties—Johnson, Linn, and Scott—are collaborating with Georgetown University on juvenile court pilot projects. These projects seek to eliminate racial disparity in the juvenile justice system and its adverse consequences to our state. The Georgetown pilot project in Johnson County has reduced school referrals to juvenile court by sixty-one percent. The reduced number of juvenile referrals is encouraging, but the racial disparity remains too high. We know we have more work to do and will continue to work with communities to develop broad-based solutions to this complex issue.

Finally, in the adult criminal justice system, judges working on the front lines share with me that the existing standards and conditions for pretrial release in criminal cases can be improved. Research and new programs in other states reveal that standards for pretrial release can be modified

to increase the opportunity for release without compromising public safety. As you know, people who are arrested suffer significant adverse consequences when they are unable to meet the standards for release from jail. Examples include the loss of a job, separation from family, additional debt, and an increased likelihood of future incarceration. We will work with our partners, including the Iowa Department of Corrections, the District Department of Corrections, county attorneys, and criminal defense attorneys to find ways to improve the pretrial release system.

Racial disparity is a community problem requiring community solutions. The journey to identify and eliminate racial disparity continues for all of us. When racial disparity and all of its causes are eliminated, justice is achieved.

III. Faster and Less Costly Resolution of Legal Disputes

Progress in our justice system has been made by providing faster, less-costly resolution of legal disputes. During the past several years, the Iowa Judicial Branch has introduced problem-solving courts, business courts, and a process to expedite and lower costs of civil litigation. In addition, we are identifying better practices to resolve family law cases and cases involving guardianships and conservatorships. All of these innovations are designed to better deliver justice for all. Our regular review of these programs confirms we are making progress.

Last summer the judicial branch conducted its second comprehensive evaluation of the business court pilot project. According to the evaluation, the business court has been successful because it provides attorneys and litigants with specific judicial expertise in complex cases. The results of the evaluation can best be summarized by a post on The Iowa State Bar Association Facebook page. It reads: “Both the bench and the bar are highly satisfied with the program.” The evaluation found that attorneys who have had cases in the pilot project strongly support the business court and want it to become a permanent part of the Iowa civil litigation system. Based on our review, the supreme court is pleased to announce that business courts will continue as part of Iowa’s justice system.

We are also pleased to announce that close to 400 expedited civil action cases were filed within the first year of implementing this innovative process. This exceeded my expectations. The expedited civil action track is designed to provide Iowans a faster, less-costly process for resolving civil complaints. We will continue to monitor the results of this innovation to ensure it best serves the needs of Iowans.

A successful justice system serving the needs of Iowans must conduct trials on schedule and render timely decisions. Last year, the chief judges and court administrators of each judicial district came together to find new and more efficient ways to utilize our judges and court staff to give all litigants and attorneys the greatest possible confidence in the timely administration of cases. These early efforts show encouraging results. Our new case management techniques are improving the delivery of timely justice to Iowans.

Justice must be found in the way courts operate. We are committed to providing the best customer service to every person who enters our courthouses. It is part of a culture we are working to strengthen in every courthouse every day. Let me share with you the story of Ruth Godfrey, Pottawattamie County Clerk of Court. When the Pottawattamie County courthouse was renovated, Ruth was involved with the planning. She ensured that the reconfigured clerk of court office was designed so that customers came first and had easy access to her clerk's staff. The professionalism and care for customers that Ruth and her staff exhibit are found in courthouses and court staff throughout the state.

The Iowa Judicial Branch is deeply committed in every way to our promise of justice for all. When the timely, fair, and efficient administration of justice is consistently delivered to all Iowans, justice is achieved.

IV. Modernizing the Jury System

Part of the judicial branch's effort to deliver justice to all Iowans includes a modernization of the jury system. We are doing this in three ways. First, we provide training for judges on implicit bias and identify ways for judges to help jurors recognize the impact of implicit bias. Second, we have started planning to modernize our jury management software to give greater assurance that randomly selected jury pools represent a fair cross-section of each community. Third, we will begin to collect and maintain data on the racial composition of juries. This internal data will help us determine if the jury selection process we use could be further improved. The jury system holds a time-honored place in our system of justice, and it must be carefully maintained by us today. When all Iowans have full confidence in the fairness of our jury system, justice is achieved.

V. Operating with Openness and Transparency

For Iowans to have full confidence in our justice system, it is important for the judicial branch to operate with openness and transparency. The supreme court visits communities across

Iowa to show Iowans how we operate. Last year, we heard oral arguments in four communities and visited thirty high schools and colleges. In the past four years, we have held court in twenty communities and visited 123 high schools and colleges. For more and more students, a high school education in Iowa now includes an opportunity to watch a court session of the Iowa Supreme Court in their school and an opportunity to meet and interact with a justice from the supreme court in their classrooms. It is an opportunity that government teachers across the state have used to help our next generation understand the court system and its important role in administering justice equally to all.

Let me share with you the story of Pete Dammel. I met Pete in October when I visited his students at Audubon High School after the supreme court's visit to Harlan. The respectful and insightful questions his students asked left an impression on me and revealed as much about Pete as about his students. Pete teaches his students about the role of fair and impartial courts in our government and the importance of civil discourse between citizens. His teaching also reminds all of us that an open and transparent justice system enhances the public's understanding of the justice system.

The judicial branch is also working towards expanding access to court documents. With statewide electronic filing, court users and the public have more access than ever before to their court documents. Attorneys and parties to a case can access their documents at any time, even when the courthouse is closed. The public and the media can access electronic court documents from public computers in the courthouse where the case is filed. While electronic filing has expanded access for all people by eliminating the need to share paper files, the public and media do not have access from their own computers. The judicial branch is committed to being open and transparent, but access to court records is not just a matter of public convenience. Court records must remain safe and secure, and confidential information about Iowans contained in court records must remain private. It is expensive and time-consuming to expand online access to our secure court records, but we are working to find solutions that balance necessary security and convenience.

Like Pete Dammel, the judicial branch is committed to listening and providing Iowans with information about their justice system. This commitment benefits us all. When the judicial branch is open and responsive to the needs of Iowans, justice is achieved.

VI. The Injustice of Human Trafficking

As we strive to achieve justice, the injustice of human trafficking in Iowa has been brought to the forefront. Let me share with you the story of what Kellie Markey is doing to bring awareness to the problem and to help victims. Last July, Representative Zach Nunn invited me to visit Kellie at a shelter she established to care for children victimized by sex traffickers. The shelter is called Dorothy's House. The shelter provides a safe place for these young victims to heal.

We can no longer view human trafficking as a problem reserved for major cities in America. It exists as a dark underworld in many communities across Iowa and is associated with some of Iowa's most iconic places and events. There is no justice when children are abused and exploited. A prompt, comprehensive, and coordinated effort is needed to identify victims of human trafficking and provide the services and protection they need.

Last month, the judicial branch provided training on human trafficking to judges, juvenile court officers, law enforcement, and others. This training will allow our judges and juvenile court officers to better address the human trafficking cases that are emerging in our courts. We are also exploring how best to enable judges and juvenile court officers to work with the victims of human trafficking. We are encouraged and grateful for the response to this problem from the governor, members of this assembly, Commissioner Roxann Ryan and the department of public safety, local law enforcement, and many others. When we all stand up to join in the compassionate efforts of Iowans like Kellie Markey to address human trafficking, justice is achieved.

VII. The Importance of Fair and Impartial Courts

We hear the call from Iowans for our courts to remain fair and impartial, independent, and insulated from all political influences. It is a call we continue to answer as we have in the past. Fair and impartial courts are the foundation of Iowa's justice system. Fair and impartial courts have helped to give Iowa its proud history and has strengthened us as a state today. With a future of fair and impartial courts, justice is achieved.

VIII. Conclusion

I began today by reminding us of the important position justice occupied in the lives of our founders and in our lives today. I have spoken of progress and the need for more. But, as with our founders, our efforts to achieve justice will not be measured only by the actions we take to administer justice. The value of our efforts today will be measured by how our actions advance the

values and virtues of justice. These values are identified in our six priorities. Iowans want to protect more children. Iowans want greater access to justice. Iowans want more efficient resolution of legal disputes. Iowans want an open and transparent justice system. Iowans want racial disparity eliminated. Iowans want fair and impartial justice for all. These are the values and virtues advanced by the actions of Kellie Markey, Pete Dammel, Ruth Godfrey, and countless other Iowans. They are the values and virtues that we must continue to advance. We will always face challenges in delivering on our promise of justice for all, challenges that are overcome when our values and virtues guide the actions we take and the decisions we make. So, let us work together to advance Iowa's system of justice to make ours the best court system in the nation.

Thank you.