



**2019 Condition
of the Judiciary**

Mark S. Cady
Chief Justice of the Iowa Supreme Court
Wednesday, January 16, 2019

Carved Bench in the Historic Supreme Court Courtroom in the Iowa State Capitol

“When you look in the Supreme Court Courtroom, you will notice a lot of symbols. Notice the bench particularly, and its wood carvings. There was a 20-year-old man who answered an ad back in the early part of the 1880s who wanted a job, so they reluctantly gave it to



him. He carved a number of panels and his craftsmanship was verified 41 years later when they asked him to come back and do additional panels because the court membership had expanded from five to nine. He came back and carved the additional panels.”

A quote by William J. Wagner from, “A Celebration of Justice, 100 Years of the Iowa Supreme Court Courtroom.” June 8, 1986.

In all, the carver, William Metzger, carved sixteen panels in the walnut wood bench.

CONDITION OF THE JUDICIARY

2019

Mister president, madam speaker, distinguished members of the Iowa General Assembly, Governor Reynolds, Lieutenant Governor Gregg, state officials, colleagues, family, friends, and everyone who joins us this morning to hear the condition of Iowa's judicial system.

Today is the ninth time I have stood before you to report on the condition of Iowa's judiciary. Much has changed since the first time. For my wife Becky and me, our daughter was only a few years into her career as a speech therapist, our son had just started law school, and I had considerably less gray hair. Today, our family has grown with the addition of our four beautiful granddaughters. While we always look for opportunities to be together, when we cannot, today's technology allows us to share special moments in real time. We keep up with milestones and events with family group chat. We share photos of activities an instant after they are taken and respond just as fast with likes and comments. I have even watched my granddaughters in Des Moines and San Antonio while reading them a bedtime story from my living room in Fort Dodge. Technology has opened a new world and fortified the eternal hope of all grandparents for life to be better for their children and grandchildren. It is the same hope Iowans have always wished for each new generation.

Vital Importance of the Courts

I begin my message today where we all stand together united in our hope for the future and with hope my report to you on the work of the courts will strengthen our bond and help move us closer to that more perfect union for our children and grandchildren. As for my gray hair, I am afraid there is no hope.

The law binds all of us in this chamber together. Legislators and judges each hold unique and vital roles in Iowa's legal system. For judges and your justice system, our contribution to the law begins with the disputes Iowans bring into our courts. This work can be as difficult as life itself and every day have direct and real consequences for thousands and, at times, all Iowans. The work may involve a complex business dispute or something as simple as a speeding ticket. It may involve conduct of a young Iowan who has not yet grown up or is growing up in need of help not found in the home or involve an older Iowan no longer able to care for herself in her home. It may involve an Iowan with a physical or mental disability or involve an Iowan with a physical or mental illness. It may involve an Iowan with an alcohol or drug addiction or involve one who deals drugs to others. In each dispute, the justice Iowans deserve is what makes the courts vitally important and drives us to become better.

In past years, I shared with you the ways our court system has been changing to better meet the needs of Iowans. Year after year, our problem solving courts continue to improve the lives of Iowans. Drug courts, mental health courts, veterans' courts, family treatment courts, and juvenile diversion courts bring our judges and community providers together at the center of our comprehensive efforts to resolve the underlying problems of Iowans suffering from mental illness or substance abuse. In the same way, our juvenile court officers are using a systematic approach to help troubled youth and their families address their disruptive choices, reinforce positive behaviors, and in some cases, avoid a criminal record. I have shared powerful stories of families on the verge of destruction reunified and strengthened, children in the pipeline from juvenile court to prison placed on a path to a brighter future, and drug-addicted Iowans who have embraced sobriety and earned a second chance. These stories not only continue to be told across the state but also continue to give shape to the gift of justice.

Essential Work of Juvenile Court Services

In September, I visited the juvenile court services office in Iowa City. There, I met with the juvenile court service team, including their intern named Faith. The team told me the story of a sixteen-year-old girl referred to its office eight years ago. The problems began when she and her mom struggled to communicate. The situation then escalated into physical altercations. This young girl was at risk of losing her home and her dreams. She needed help and so did her mom. With treatment and help from Justin, the juvenile court officer assigned to her, she worked through her problems, reconciled with her mother, and graduated from high school with her dreams intact. She then went on to graduate from the University of Iowa with a Bachelor's Degree in Psychology and will graduate with a Master's Degree in Social Work in May.

The story the team told was Faith's story, the intern I met that day. Faith works in the same juvenile court services office that helped her and her mom, and put her on this path to success. Faith's story demonstrates the importance of juvenile court services. It is an example of how juvenile court officers and community providers across the state work together to use the appropriate levels of treatment and services to help youth and their families avoid the criminal justice system and reach their potential. Yet, this story tells us so much more.

Faith is now there to help others as she was helped, and the lives she impacts will help improve lives for generations to come. If there is any doubt about how justice serves to fulfill our hope of a better life for the next generation, there should be no more. It takes each one of us. It takes faith.

A Culture of Continuous Improvement

Iowans do not need to look far to see how past generations have paved the way for our current achievements and future successes. Iowa has a proud history of successful, multigenerational family businesses that contribute to our great state. Last summer, I traveled to Pella and Sheffield to meet with the leaders of two of Iowa's most successful, multigenerational family businesses: Jason Andringa from Vermeer Manufacturing and Steve Sukup from Sukup Manufacturing. Both companies have grown to the heights of international success, and it did not take me long to understand the reason. I witnessed their culture of continuous improvement, a culture devoted to improving their products and the lives of those who build them.

This successful culture is not unique to business. It is essential for the success of all, including the courts. Like the Vermeer and Sukup companies, and so many others, our court system must focus on where we are going, not where we have been. It is the Iowa way and the way for our courts. Let me explain how we are building this culture, beginning with our business courts.

Business Courts. We are committed to providing a dedicated court with specially trained judges who operate in ways that are compatible with the needs of businesses. Today, I am pleased to announce we have expanded the operation of our business courts so they will be available to more businesses. Since its inception five years ago, the business court program has been under the steady oversight of Justice Daryl Hecht. With his retirement from the supreme court last month, I am pleased Justice Thomas Waterman will now oversee the program. Expanding the business court to more businesses is just the next step. We are committed to exploring other ways to enhance the value of the business courts, especially to farmers and other ag-based businesses. We want a top-notch specialty court that contributes to a flourishing economy by working with Iowa's businesses to resolve their disputes efficiently and fairly.

Criminal Justice System. We are also working on changes to our criminal justice system. Justice Edward Mansfield is leading a task force of prosecutors and criminal defense lawyers to update and improve the rules of criminal procedure as a part of our continuing efforts to achieve greater fairness in the trial process. We also have a committee reviewing court rules governing the imposition and collection of criminal debt. Last year, Justice David Wiggins chaired a committee on jury reform that led to changes now making jury service more efficient and manageable. This is another step to expand Iowans' participation in jury service so all juries reflect their communities. At the same time, we have continued implicit bias training for all judges and court staff.

Our culture of continuous improvement applies to every component of Iowa's justice system, but no more than in the criminal justice system. We hope you know that we are always willing to be a partner with you, and the governor,

in discussions to reform the criminal justice system. We can and must work together to ensure Iowa's criminal justice system is fair to all Iowans regardless of wealth, geography, race, or gender.

Court Representation. Our judges and justices are changing too. As mentioned, Justice Hecht retired last year, as did Justice Bruce Zager. Justice Zager's retirement was planned, but, sadly, Justice Hecht retired in December after the cancer he has been valiantly battling took away his ability to meet the demands of his work on the court. Justice Susan Christensen of Harlan joined the court in September, and the process to fill Justice Hecht's vacancy is underway. We welcome Justice Christensen to the court, and I look forward to working with her for many years. I would like us to take this moment to express our appreciation and gratitude to Justice Hecht and Justice Zager for all they have done for our system of justice.

While Justice Christensen is the first new justice on the supreme court in 7½ years, the transition of judges is always occurring throughout our court system. Last year, eighteen judges retired. We are grateful for their service. Yet there is value in the transition of judges, and we are reminded that in the end it is justice that endures.

The new judges are giving us something else that is very important. The new judicial appointments are moving us closer to achieving greater diversity in our judicial ranks. Last year, the number of female and male judges appointed to the bench was equal. I would like to take this moment to thank those who serve on all judicial nominating commissions, and Governor Reynolds, for their commitment to selecting the best people to serve as judges. Iowa's judiciary has a strong, national reputation for fairness and impartiality. We should all be very proud of the quality and the changing face of our judiciary.

New Opportunities to Lead the Nation

The judicial branch is moving forward with our ongoing programs, our new judges, and a commitment to advance justice within a culture of continuous improvement. In doing so, we continue to follow the global expansion of technology that is rapidly shaping the future for all of us. We see the vast potential of technology to improve the operation of our justice system and justice itself. Few understood the benefits and value of a paperless court system when it launched ten years ago. Without those few people, the Iowa court system would not have the first-in-the-nation comprehensive electronic filing system on which lawyers and court users depend. Embracing change is the part of a culture of continuous improvement that is so critical to our success. Today, the age of technology is propelling courts into a new age of justice. With more opportunities to achieve justice than ever imagined, Iowa has new opportunities to lead the nation once again.

Digital Opportunities Initiative. The power of technology has stirred our imagination and allowed us to identify more than 130 critical projects to serve better more Iowans, who are our customers. Our “Digital Opportunities Initiative” contains projects such as electronic search warrants, text messages to defendants and other court users, remote court reporting and interpreting, and online dispute resolution.

Online dispute resolution has started in a few states with promising early results. The State of Utah established an online dispute resolution pilot project for small claims cases that substantially reduced the steps needed to resolve a case. It has streamlined the process and made it more convenient for court users. We want to do the same for the 75,000 Iowans who use our small claims courts each year.

Imagine an online process that will allow Iowans to resolve some of their legal disputes without taking time from work to go to the courthouse. Imagine a time when law enforcement officers will no longer need to drive from the scene of an investigation to a courthouse to request a warrant because judges will be able to transmit search warrants to officers in their vehicles. Imagine a time when defendants receive reminders of their court dates on their phones so there are fewer delays and fewer adverse collateral consequences for defendants who miss appearance dates.

Access to Justice Initiative. We developed many of our technology projects in response to an increase in the number of self-represented litigants in our civil justice system over the last decade. The cost of legal services today is preventing many Iowans with legal problems from obtaining the services of a lawyer. This problem can no longer be addressed by only legal aid programs and relying on lawyers to provide pro bono representation. With help from the Iowa Access to Justice Commission chaired by Justice Brent Appel, our “Access to Justice Initiative” will increase the availability of online access to court information. This will help self-represented Iowans provide the essential information for a judge to adjudicate their disputes fully and fairly. Imagine a time when self-represented litigants in Iowa will be able to access the courts and navigate through the legal system without being disadvantaged because they are unable to afford a lawyer. It is a problem shared across the nation. Imagine Iowa again leading the way to solving it.

Problem Solving Courts Initiative. Technology can also help expand Iowa’s problem solving courts into every county and improve the lives of more Iowans. We currently have no mechanism to collect, track, and analyze data from our thirty-nine specialty courts. The “Problem Solving Courts Initiative” we hope to pursue will enable us to draw data from problem solving courts to identify and develop consistent statewide practices and help ensure we are delivering the best possible outcomes for Iowans and their families. We want to know our work is helping Iowans.

Imagine if every Iowa veteran has access to a veterans' court, if every Iowan suffering from mental illness has access to a mental health court, if every Iowan suffering from drug addiction has access to a drug court, and if every Iowa family struggling with dependence has access to a family treatment court.

Imagine a coordinated court process that not only holds people responsible for their conduct but also works to identify and resolve the problems of those people ready for help. Some people need to be incarcerated. More people just need help. A justice system must do both.

Rural Courts Initiative. Your justice system is committed to utilizing data and research to make data-driven decisions and policies that promote efficiencies and better services for Iowans. Using data, we have developed other projects that will increase the efficiency of our internal operations. We propose the "Rural Courts Initiative," which will expand our presence in all ninety-nine counties and allow us to operate more efficiently by removing the artificial barriers preventing clerks in one county from assisting people in another county. We continue to look for new ways to make our clerk offices more efficient while still providing a physical presence in all counties. The judicial branch is committed to providing full-time, full-service access in all ninety-nine counties so Iowans can access their justice system. We see technology as a way to strengthen rural Iowa. Justice is a community responsibility, and a system of justice needs every community. Imagine a revitalized and bustling judicial branch presence in every courthouse in every county.

The Iowa Way: A Vision for the Future

Your justice system provides critical, unduplicated services to Iowans. We have a plan for the future that maintains our core services but maximizes our resources through technology and a physical presence in all ninety-nine counties. We are developing a culture of continuous improvement that is always searching for better ways to provide services to Iowans. We are committed to the transparency and accountability you need from us in order to make informed funding decisions. That is why we will issue an annual report next year with information on where we are succeeding and where there are opportunities for improvement. We will have the report to you by this time next year, with metrics and outcomes of our work. While this report will contain numbers, we promise to see each number as an Iowan to whom we are accountable to deliver on our promise of justice for all. Our annual report will showcase our culture, share our accomplishments and new endeavors, and lay the groundwork for greater justice for all. Imagine a justice system not only committed to achieving justice through its decisions but also using data it collects to advance justice and identify injustices that could not previously be seen.

While we have depended on technology to find improvements in the past, the technological revolution is coming at an unprecedented pace, and it will run

us over if we do not get up to speed. Let me illustrate. It took the telephone seventy-five years to reach fifty million users, air travel sixty-eight years, the automobile sixty-two years, and television twenty-two years. Compare that to the four years it took the Internet to reach fifty million users. Facebook did it in 3½ years. Twitter did it in two years and Pokémon Go in nineteen days. It has been suggested that the 100 years of the 21st Century will, when they are concluded, feel more like 20,000 years of progress when compared to the 20th Century.

We simply can no longer proceed into the future thinking it will be a modest linear extension from where we are today. Imagine how my grandchildren will someday read a bedtime story to their grandchildren. New tools and a new understanding of our transforming world truly create an opportunity to do what we could not have previously imagined.

The Iowa way is to improve continuously. It is to plan, with each step taking us forward to the next, with each step as important as the next. Our future can no longer be about taking small steps or standing still. We need to think big and take big steps. Every day, we must seek to achieve what can be imagined.

All of us in this great chamber came into public service to make a difference. So, let us imagine together. Let us imagine what your courts can be and where they can take us in our pursuit to achieve justice for all Iowans. When we have a chance to make a difference we should take it. Let us make that difference together.